



Solicitors UPDATE

Summer 2014

Welcome to the first edition of the Allotts Solicitors Newsletter. At Allotts, we are proud of the relationship we have built up with our many solicitor clients over the years. We have a dedicated solicitor service team who have vast experience in all areas of the legal sector.

Services we offer include:

- Expert advice on the requirements of the SRA Accounts Rules 2011
- Preparation of your annual accounts
- Tax planning and compliance
- Growth and business development advice, including advice on mergers and acquisitions
- VAT advice
- Partner and partnership tax returns
- Assistance with COLP and COFA roles
- Limited company incorporations and LLP conversions



Useful Links

Solicitors Regulation Authority
www.sra.org.uk
Law Society
www.lawsociety.org.uk
Law Gazette
www.lawgazette.co.uk
COLP/COFA information
<http://www.lawsociety.org.uk/advice/practice-notes/compliance-officers/>

Our reputation is based on the high quality service which we provide. We appreciate that each legal practice is different and that's why our services are tailored to meet your individual needs.

For more information or for a free initial no-obligation consultation, call one of the solicitors team, Mark Garrison, David Waining or Lindsey Birley on 01709 828400 or email mark.garrison@allotts.co.uk.

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SRA accounting report changes



The recent move, from the Solicitors Regulatory Authority, to issue a consultation on several issues surrounding solicitors reporting and insurance has caused quite a stir in the industry. As accountants, we have an interest in the future of the accountants report for solicitors.

The paper was initially brought out on 8 May with a short consultation period of six weeks meaning all results and comments had to be submitted by 18 June. The results are not yet available as the authority have deferred the decision until their next meeting, giving themselves additional time to consider the potential implications.

That the fundamental principles of the SRA accounts rules and the related accountants report have been unchanged for many years is something that has been discussed within the profession with regards to a need for a revamp and modernisation. The system is very dated and has not fully embraced the move forward into the business world that we now exist in. There is also minimal allowance for proportionate testing within the current regulations, often meaning a small firm feels over audited when compared to the level of testing required in much larger practices. The accountants report is also very much backwards looking, meaning issues can be undiscovered for nearly a full year, and alterations could be made to make the report more current, looking at transactions up to the audit date rather than just in the year.

Whilst accepting the changes would mean an end to the need for an external accountants report, there would still appear to be some requirement for a declaration of compliance with the regulations. The date of ceasing to require a report is supposedly October 2014, although no official date has yet been finalised. This is likely to be delayed further still now that the decision has been deferred. It is not clear when in October 2014 this would be or which year-ends would be the first that would no longer need a report. This needs clarifying sooner rather than later so as to help firms who are considering whether to go ahead with their year-end audits.

The proposals seem to go against more recent changes in other similar industries such as the Financial Conduct Authority who have recently been tightening the regulations on the holding of client money.

Currently talk within the industry indicates that even if the SRA abolish the need for an external annual report there will still be a requirement for one to be performed to satisfy other regulators, such as professional indemnity insurance providers. There is also discussion as to the value an external review has to the person on the street in increasing their trust of the profession.

The main change, if the accountants report is abolished, would appear to be more emphasis being put upon the role of the Compliance Officer for Finance and Administration (COFA) and the Compliance Officer for Legal Practice (COLP) in terms of submitting a declaration each year to confirm the firm has complied with the SRA accounting regulations. The full details of this declaration are not yet clear but what is apparent is the greater responsibility within this role going forward.

Previously the role of the COFA was relatively wide ranging and included the following:

- To ensure the firm complies with the SRA accounts rules
- To keep a record of any failure to comply
- To report any material failure to comply with the SRA accounts rules to the authority

Similarly the role of the COLP was relatively similar and included the following:

- To ensure the authorised body complies with its authorisation
- To ensure the firm complies with relevant statutory requirements
- To record any failure to comply
- To report any material failure to comply to the regulators

These roles were introduced only a few years ago and were, in a lot of cases, seen as minor roles to work alongside the annual accountants report. There was very little training involved, as a working knowledge of the SRA accounts

rules was the main requirement and the individuals' judgement was then to be used to decide on whether a report was required to be sent to the authority on issues that were brought to the COLP and COFA's attention by colleagues.

The change to the regulation would result in much greater responsibility for the COLP and COFA to look for breaches of the accounts rules within their organisation. This would, as a minimum, require an amount of further training and would need the responsible individuals to perform some sort of internal audit at least once a year for the declaration they are likely to need to submit. It would seem the individuals would be responsible for the report and, therefore, any comeback could also be against the individual rather than the firm giving the role a greater level of risk. The internal audit could take the same lines as the current accountants report audit and, therefore, rather than building up the knowledge themselves (at some expense and personal time) it may be easier to continue using an external provider such as your accountants.

File closure management

This has been identified as an area needing improvement within solicitor practices by the Law Society and was the subject of a recent article in the Law Society Gazette. It is an area that often causes headaches for fee earners and accounts staff alike as, whilst the majority of files can be signed off and closed quite simply, there are always a few cases that either drag on for years or finish with long term loose ends to finalise, particularly cases such as Personal Injury.



The Solicitors Accounts Rules Handbook outlines the need for timely closure of completed files and the requirements of notifying clients when funds are retained on old, or inactive, files.

The procedure for file management and final closure should be standardised across the firm so as to enable the appointed staff member to monitor and report on a regular basis as to any long term client balances. The procedure for closing files should also include the policy on file storage and data protection to allow a complete system to be in place. The procedures will differ dependent on the size of the firm with smaller practices dealing with the process at a partner level whereas larger firms will be able to delegate down to accounts staff to operate the controls.

The majority of files will naturally come to a conclusion or completion point where, in the majority of cases, a final bill can be issued and any remaining funds handed back to the client. There will, however, be certain types of cases where funds are required to be retained, such as probate cases with a legacy held for minors. In these instances funds can be retained but careful management of these matters is required to ensure the firm is acting within the rules of the Solicitors Regulatory Authority.

A good way of monitoring the relevant files is to appoint a member of the accounts team, where the firm is large enough to have such a team, to produce a report each month of all open files with balances and no activity for over 12 months. This list can then be sorted by fee earner and passed out for them to act upon. Fee earners should then send out letters to those with funds held giving the reasons for the funds being retained or look into closing the file if there is no reason to retain funds further.

Funds should only be retained at the end of a matter when there is good reason to do so and the client has agreed the retained amount. Where money is retained on matters it should be communicated in writing to the client at least once in every calendar year. It is acknowledged that some matters will run on whilst not being completed but in these cases the client should also be informed once every calendar year during any inactivity.

If a client cannot be located at the time a file is being closed with remaining funds then the standard procedures for locating a client or writing off the balance should be followed. This should include attempting to locate the client by all available means, doing relevant searches (as recommended by the Law Society) and finally confirming with the Law Society that the balance is cleared to be written off.

New government proposal would outlaw corporate members of LLP's

In recent years, many solicitor practices, particularly those that are LLP's have introduced corporate members as a means of encouraging growth.

Unfortunately a recent response paper issued by the Department of Business Innovation and Skills (BIS) has laid out government plans to block this practice going forward. This response paper followed an initial government paper issued in July 2013 titled "Transparency and trust: enhancing transparency of UK company ownership and increasing trust in UK business" which was issued as part of the governments' plans to fight corporate crime and better understand tax evasion.



Whilst this has not yet come into force, and may therefore be adapted before finally becoming law, it is apparent that BIS is proposing a change from a business law perspective and to simplify the corporate ownership of businesses. There also appear to be ongoing plans to simplify the excessively complex partnership tax regulations.



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