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Introduction

We provide regular updates to our Risk Outlook to keep you informed of key risks. You can then think about your firm’s exposure to them, and how you plan to manage them. In our previous Risk Outlook update, we discussed how effective risk management can deliver business benefits that clients value, such as systems to keep money safe.

However, risk management also has a role to play when considering the duties solicitors owe to third parties, the court and the wider public interest.

Managing the risks associated with balancing these duties is equally important.

Accompanying this update is a report on the balancing of duties in litigation. The report discusses how improper or abusive litigation can manifest itself when the differing duties in litigation are mishandled.

What’s new?

- Poor controls provide opportunities for financial misconduct
- Scrutiny over firm accounts used for client banking
- Bogus firm reports highest ever in 2014: mirrors rise in UK rogue traders
- 69 percent of UK companies hit by cybercrime
- New report on the balancing of duties in litigation out now

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1. Walking the line: the balancing of duties in litigation, Solicitors Regulation Authority, 2014
Current priority risks

Misuse of money or assets

Poor controls provide opportunities for financial misconduct

We have seen recent cases where poor systems and controls have been a factor in the misuse of money or assets, including:

- Failure to train staff appropriately
- Failure to supervise staff adequately
- Poor controls around who can access office and client accounts
- Poor accounting and records systems, which can make it more difficult to detect irregularities

We intend to cover this issue in more detail in our Risk Outlook 2015, to be published in July, which will include case studies.

Money laundering

Scrutiny over firm accounts used for client banking

In November 2014, we published Cleaning up: law firms and the risk of money laundering. We have since published warning notices on money laundering, suspicious activity reports and improper use of the client account as a banking facility.

The SRA Accounts Rules prohibit firms from providing banking facilities through their client account. We have published case studies on this issue, including holding money in escrow where there is no underlying retainer.

We are also currently visiting law firms to discuss money laundering controls. Money laundering remains a key risk and focus of our 2015 work programme.

Bogus firms

Bogus firm reports highest ever in 2014: mirrors rise in UK rogue traders

We received over 700 reports of bogus firms in 2014, which was the highest ever recorded. This reflects national trends in fraud across the economy. In January 2015, KPMG reported that the number of UK fraud cases significantly increased in 2014, and particularly mentioned rogue traders targeting vulnerable people. Our paper In the shadows: risks associated with bogus firms provides more information on the risks surrounding bogus law firms, including steps firms can consider to protect themselves and their clients.

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2. Cleaning up: law firms and the risk of money laundering. Solicitors Regulation Authority, 2014
3. Warning notices. Solicitors Regulation Authority, 2014
5. Fraud Barometer 2014 report. KPMG, 2015
6. In the shadows: risks associated with bogus firms. Solicitors Regulation Authority, 2014
Lack of a diverse and representative profession

New law firm diversity toolkit now available

In December 2014, we published our Law firm diversity toolkit. This resource can help firms make better use of their diversity data, and understand how they compare with other similar law firms. It includes an interactive comparison tool where you can select different diversity characteristics and types of law firm, and view charts of the chosen data.

Diversity in the legal profession remains a high priority for us and has been specifically highlighted by the government in a recent speech by the equalities minister.7

Poor standard of service to consumers

Consumer experiences of legal services still in focus

How consumers experience legal services, and whether the market is meeting consumer need, remains an important issue to us.

Through our Training for Tomorrow programme we have reaffirmed our commitment to ensuring services provided by solicitors are founded on a strong and effective system of education and training.8

Since our last update, the Legal Ombudsman is now able to deal with complaints about claims management companies, potentially broadening access to redress for consumers.

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8. Training for tomorrow, Solicitors Regulation Authority
Other priority risks

Breach of confidentiality: Information security and cybercrime

69 percent of UK companies hit by cybercrime

Cybercrime continues to represent a significant threat to the information and money held by law firms. Firms should take sensible security precautions, such as those set out in our report *Spiders in the web: the risks of online crime to legal business.*

The increasing risk of cybercrime in law firms mirrors the wider economy; 69 percent of UK companies had a cyber security incident in 2014, compared with 59 percent globally. Cyber security risk is something that affects all businesses, but the duty of confidentiality makes it something that law firms in particular cannot ignore.

Balancing duties in litigation, and lack of independence

Walking the line: the balancing of duties in litigation: new report out now

Abusing legal proceedings for the benefit of the firm or a client is a risk to the effective administration of justice. Not only can this affect individuals’ access to justice, it has the potential to significantly erode trust in the independence of the legal profession and the rule of law.

We have published the report *Walking the line: the balancing of duties in litigation* alongside this update. The report considers the difficulties that can occur when balancing duties to clients, the court, third parties and the wider public interest. For example, it is not in the public interest to spend the court’s time (and the associated costs) on cases that are so weak they should never have been brought. On the other hand, this needs to be carefully balanced so as not to deny access to justice for anyone with a reasonable case.

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11. *JRs without merit may see solicitors referred to SRA*, Law Society Gazette, 2014