

Research on lawyer-client relationships in large firms

Impact on independence, risk and representation

Independence, representation and risk report October 2015

[<https://www.sra.org.uk/globalassets/documents/sra/research/independence-report.pdf?version=4a1ab7>]

Researchers interviewed 53 senior corporate and finance lawyers from 20 of the largest corporate law firms in England and Wales to understand how the lawyer-client relationships works in larger firms.

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Independence, representation and risk executive summary October 2015

[<https://www.sra.org.uk/globalassets/documents/sra/research/independence-report-summary.pdf?version=4a1ab7>]

This executive summary outlines the key findings in the research on lawyer-client relationships in large firms: Impact on independence, risk and representation report.

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[<https://www.sra.org.uk/globalassets/documents/sra/research/independence-report-summary.pdf?version=4a1ab7>]

Introduction

We regulate solicitors and more than 10,000 law firms - ranging from sole practitioners to large firms with a global presence and thousands of lawyers.

We recently commissioned independent research to improve our understanding of how the lawyer-client relationships works in larger corporate firms, focusing on:

- how these relationships impact, or may impact, professional independence, ethics, standards and risk



- how risk is transferred to firms under client terms of engagement, and how effective firms are at identifying, monitoring and mitigating potential liability and
- whether powerful clients are influencing their law firm's engagement decisions

Why commission this research?

We wanted to better understand these relationships and the impact they can have on solicitors' professionalism so we can refine our regulatory model as needed.

We thought this was particularly important in the wake of the Tomlinson report [<http://www.tomlinsonreport.com/docs/tomlinsonReport.pdf>] , which raised concerns about how financial institutions were influencing their law firms.

How did we conduct the research?

The independent researchers interviewed 53 senior corporate and finance lawyers from twenty of the largest corporate law firms in England and Wales. Their names and firm details were not given to the SRA to ensure anonymity of respondents.

The researchers and SRA established an external steering group made up of City law firm representatives, leading academics and the SRA's City adviser. The researchers also met with a small group of senior in-house lawyers working at financial institutions to discuss their interim findings.

What did we find out?

- Respondents reported that there has been a shift in the balance of power in the City's legal services market - from law firms to clients. This is shown in how the major corporate and financial institutions seek to impose their own terms of engagement on law firms.
- The researchers suggest that there is no common understanding of the concept or value of independence amongst transactional lawyers.
- Some firms routinely push back on terms of engagement proposed by clients that they deem incompatible with professional responsibilities, and continue to get instructions.
- The research identified an issue of third party shadow clients imposing their influence on law firm appointments and dictating their roles.
- Some see the Compliance Officers for Legal Practice (COLP) as the 'holder' of professional values for the whole firm - potentially eroding the essential concept of individual professionalism.

- The research suggests an increase in the risks accepted by firms, particularly with regard to wrapping liability of third party advisers; working on an uncapped liability basis; and signing indemnities.
- There is no conclusive evidence on access to legal services being restricted by terms of engagement. However some litigants are unable to secure their law firm of choice due to contractual restrictions in place by other clients.

How will we use the findings?

- The research will help us refine our regulatory model and handbook in an evolving legal services market.
- We will encourage corporate lawyers and firms to think carefully about issues raised in this research to ensure they remain focused on ethical practice.
- Our role is to ensure solicitors remain competent and ethical; this research furthers our understanding of this area of the legal sector and its lawyer-client relationships.

Notes

1. We commissioned Dr Steven Vaughan, University of Birmingham and Claire Coe Smith, an independent legal researcher to conduct the research.
2. The fieldwork took place between December 2014 and March 2015.