

Something for the weekend...?

Hot on the heels of the introduction of LDPs yet more change: The SRA Practising Regulations 2009 came into force yesterday, 1 July. On the face of it a rather dull collection of rules relating to the renewal of Practising Certificates (PCs) they contain the kernel of what is known as entity based regulation which will swing into full effect in this year's PC renewal season.

The SRA will require much more information from firms about their work, introducers of that work the risks they face and how they manage those risks. Such information will be shared with other regulators such as the FSA and the Claims Management Regulator at the Ministry of Justice

The information will be used to determine which firms should receive visits from the Practice Standards Unit or the Forensic Investigation Unit. Prior to such visits the SRA visit firms' websites to check compliance with the rules. Before the new regime swings into full effect take a few minutes to get your firm ready by checking your stationery and your firm's website. There is some debate about whether all the rules apply to emails. Our advice is to play safe, make sure your firm's emails contain the information you need to provide.

What follows is a timely reminder of the simple requirements in rule 7 of the Code of Conduct, 2007 (2009 revision).

Rules 7.01 to 7.05 apply to all forms of publicity including the name or description of your firm, stationery, advertisements, brochures, websites, directory entries, media appearances, promotional press releases, and direct approaches to potential clients and other persons, and whether conducted in person, in writing, or in electronic form (i.e. check your email auto signatures — the number of firms who email us in breach of this rule in their emails is legion).

Identifying your firm

Rule 7.07(1) as amended on 31 March 2009, applies to the letterhead, fax heading, website and e-mails of a recognised body or recognised sole practitioner. The effect of the rule is that:

- A) a sole practitioner must state his or her SRA number and the name under which he or she is recognised and that he or she is regulated by the SRA (in force from 01.10.10);
- B) a partnership must state its SRA number and the name under which it is recognised and that it is regulated by the SRA (in force from 01.10.09); and
- C) an LLP or company must state its registered number from Companies House and its corporate name and, with effect from 01.10.09, that it is regulated by the SRA.

Statutory requirements and voluntary codes

You must ensure that your firm complies with the general law which includes legislation such as the Data Protection Act, 1998, The Business Names Act, 1985 which requires you to publish lists of partners.

Do not overlook EU Directives such as the E-Commerce Directive 2000/31/EC and the Electronic Commerce (EC Directive) Regulations 2002 (SI 2002/2013) which require your firm to state:

- * Qualifications of your lawyers
- * Jurisdiction in which they are qualified
- * Location of your professional rules
- * Your firm's VAT number

Who is a “solicitor” and who is a “partner”?

Remember holding someone out as a solicitor when they are not may be a criminal offence and invite sanction.

Holding someone out as a partner when they are only a salaried or associate partner means that the salaried/associate partner will be treated as a principal for the purpose of complying with the Solicitors Accounts Rules and the rules about professional indemnity insurance. He or she could also become liable in contract for the debts of the firm. Holding him or her out if not qualified to be a partner will invite sanction.

In the context of limited companies, LLPs and LDPs care must be taken to ensure that those who are owners, directors and managers are clearly identified if describing them as partners to ensure that no-one is misled as to their status.

Naming non-partners

Dividing non-partners from partners by a line is not enough. The status of non-partners must be clearly stated.

This is a big topic but given a few minutes careful consideration it should be easy to avoid breaches. In our experience too many solicitors overlook what should be the obvious and are sanctioned for those breaches.

This technical paper has been written as a general guide only. It should not be relied upon as a substitute for specific legal advice. No responsibility can be accepted by the author or the firm for any loss occasioned as a consequence of acting or refraining from action on the basis of this paper.

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