



# THE NEW SRA HANDBOOK

By Jayne Willetts | Solicitor Advocate, Jayne Willetts & Co - Specialists in Professional Regulation

The final version of the new Handbook was published on 6 April. It will come into force on 6 October the date when alternative business structures go live. This is the first in a series of articles preparing members for the new regime.

This month I concentrate on an outline of the new Handbook.

The new online Handbook for the first time brings together the entire regulatory regime. The Handbook includes not only the new Code of Conduct but also the Accounts Rules; the new Practice Framework Rules and Authorisation Rules for ABSs; the Training Regulations; the Disciplinary Procedure Rules and much more. In fact it contains all you need to know about the new style legal services market.

The new Code of Conduct is comprised of ten core mandatory Principles that apply to all and define the fundamental and ethical professional standards. These Principles will apply to all solicitor and non solicitor staff who are regulated by the SRA in the delivery of legal services.

Six of the core Principles will be familiar as they represent the six constituent parts of Rule 1 of the Solicitors Code of Conduct 2007 such as the duty to act in the best interests of clients. There are also four new core Principles namely to co-operate with your regulator (more of this in a subsequent article); to run your business effectively; to encourage equality and diversity and to protect client money and assets.

The new Code of Conduct is divided into Chapters. Each Chapter contains outcomes which are mandatory and indicative behaviours which are not. Provided the outcome is achieved by demonstrating an indicative behaviour then firms will be considered to be compliant. If an outcome is achieved via a different route then firms will need to show how they did so.

For example in Chapter 1 on Client Care Outcome (6) provides that *"you only enter into fee agreements that are legal and which you consider are suitable for the client's needs and take account of the client's best interests"*. The corresponding Indicative Behaviour (14) provides that *"where you are acting for a client under a fee arrangement governed by statute such as a conditional fee agreement, giving the client all relevant information relating to that arrangement"* There are also "negative" indicative behaviours. Indicative Behaviour (24) states you have not achieved the outcome i.e Outcome 6 by *"entering into unlawful fee arrangements such as an unlawful contingency fee"*.

You will note that the regulatory focus in this example is very much on 1. the *"legality"* of the agreement with the client and 2. the solicitors' subjective view of what is in the best interests of the client. This is more flexible than the current approach which concentrates on the SRA's view or rather a more objective analysis of the fee agreement.

The Code does not contain any notes or guidance so firms will not be able to check compliance on a step by step basis as with the current Code. Practitioners will need to make a judgment reflecting their own clients' needs and the nature of their practice as to how to achieve the desired outcomes. It may be worthwhile retaining a copy of the present 2007 Code for reference purposes.

The SRA has stated that the new outcomes focused approach is *"modern regulation that treats solicitors as grown-ups"*. Firms will be asked to demonstrate that they are acting in a *"principled manner and achieving the desired outcomes for clients i.e less box ticking all round"*. There will be more concentration on self reporting and risk management within the firms. Whilst this brings flexibility there will also be a risk of firms escaping the regulatory radar because of this new freedom to practice. The SRA will have a difficult task on its hands to maintain the balance. ■