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LAW SOCIETY PRACTICE NOTES

The department in the Law Society responsible for issuing Practice Notes has gone into overdrive recently to provide up to date advice on issues arising from the introduction of the SRA Handbook. The Practice Notes, which can be accessed through the Law Society website as part of 'Practice Support' are a good starting point whenever doubts arise as to what firms should be doing on particular issues. Furthermore, with a list of titles now approaching 100, there is usually a title to meet most regulatory and management concerns.

For those firms still coming to terms with the new Handbook certain of the recent titles are likely to prove helpful. A general title on 'OFR: an Overview' (20.09.11) explains the concepts of the principles that underpin the entire Handbook, and then the operation of outcomes and indicative behaviours that are the basis of the Code of Conduct. The roles of the Compliance Officers for Legal Practice and for Finance and Administration are explained, as is the timetable for their appointments. This leads into a summary of the increased management responsibilities that emerge from the new Handbook.

Two mainstays from the list of titles that have been re-issued which most firms will benefit from are those dealing with the key issues of "Client care letters" and "Complaints Management". Many firms have problems in ensuring that they provide all of the required information to clients. These notes do suggest some sample wording on most of the points that must or should be covered. Both the client care letters and complaints management Practice Notes were re-issued on 19 September and are bound to be helpful for anyone checking whether their terms of engagement precedents are sufficiently comprehensive and up to date.

The notes all follow much the same sequence, with an identification of the issues covered and its relevance to the profession. The status of the notes is always explained as representing the Society's view of good practice, but not amounting to legal advice or even a defence to complaints of misconduct or inadequate professional service. The one exception is the important note on Money Laundering and Terrorist Financing dated 29 October 2009, now updated as of 6 October 2011. This note has special

importance in that it has been approved by HM Treasury under the Money Laundering Regulations 2007, with the result that a court would be required to take the note into account in any prosecution. This note is therefore of special significance to Reporting Officers in firms, especially chapter 4 on the client identity evidence required where clients are unable, for whatever reason, to produce the usual evidence.

Other titles that are more topical include one from 13 October on outsourcing, an area of growing importance in the light of certain of the outcomes in the SRA Code of Conduct, especially O(7.10) on the outsourcing of services that are critical to the delivery of legal services. This Practice Note lists the sorts of issues that this might include, along with a useful summary of the regulatory risks implicit in any such arrangements. A common reaction to the notes, however, is that the section which generally appears on 'Law Society good practice' could be more specific. Rather, therefore, than simply saying that 'you should also consider whether specific consent is needed from clients prior to outsourcing taking place' it would have been so much better if a more robust view could have been taken on this. Likewise, it would have been much more helpful if the authors had felt able to express an opinion on quite what is involved in taking 'all appropriate steps to ensure that your clients' confidential information will be protected' – such as a template agreement to such individual or entities.

Finally, and on a more practical level than some of the titles, most firms would benefit from the note dealing with 'Information on letterheads, e-mails and websites' dated 23 September, but addressing the obligations in force from 6 October. Many firms have still not made all of the necessary changes to their notepaper and related items, such as the change to being 'authorised and regulated by the Solicitors Regulation Authority' as detailed in this column recently.

In summary, the Practice Notes are useful for any firms considering what they should do in terms of management, compliance and professional issues. The notes are generally a summary of the main issues to be addressed and the risks that arise under the headings being covered, but sometimes a little short on advice on the specifics of what to do next. ■