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LATE CHANGES TO THE SRA HANDBOOK

With the SRA Handbook now in place, firms will be adjusting to the new regime and waiting to see (through the experience of others, they will hope) whether the much promised approach by the SRA to regulate the profession in a way that is *'proportionate, outcomes-focused and risk-based'* will come about.

Rather frustratingly, the version of the Handbook now appearing on the SRA's website is different to the version that most training – including that delivered by my colleague Matthew Moore and myself for the BLS in September – was based on. A revised version of the Handbook was issued on 16 September – this version being described as *'Edition 1'* since it is the first to take actual effect on 6 October. There are some material differences between this latest version and its immediate predecessor from April 2011, but a preliminary point is that the Adobe document appearing on screen has had its page numbers removed, making piloting one's way through the document more difficult. The reference in last month's column to the compliance plan is a prime example.

Further references to the roles of COLP and COFA (Compliance Officer Legal Practice and Compliance Officer Finance and Administration) might produce a certain *ennuie* on the part of regular readers of this column. Attention is required, however, to some significant late changes made to these critically important provisions in *'Edition 1'*. Originally it was proposed that the COLP and COFA would be obliged to report all breaches in their firms. In the light of the significant feedback from the profession on this point the reporting duty was limited to *'material'* breaches. The latest version of the Handbook varies this by continuing to oblige these office holders to take all reasonable steps to ensure that the firm and its personnel comply with relevant obligations and to record any failure to do so, but then re-instates the obligation to report to the SRA *'any failure so to comply'*. The new provision states, however, that *'non-material'* failures will be *'taken to have been reported as soon as reasonably practicable'* if they are reported with the annual report to the SRA.

We are still some way off (31 March 2012 for existing firms) for the roles of COLP and COFA to be confirmed to the SRA. As these requirements finally take shape it will no doubt bear upon the minds of

those compiling the records that not only might the SRA see them, as would have been the case on a monitoring visit, but it will now certainly have the opportunity to do so as they will have to be submitted as part of the annual registration renewal process.

We must also wonder about the amount of information that the SRA is saying that it wishes to receive. If it is, for example, a *'non-material breach'* to fail to provide sufficient costs information, or to keep that information updated (contrary to O(1.13) then how many reports is the regulator likely to receive from the largest firms if they take their obligations seriously to monitor the levels of compliance (see IB(10.1-2))? Furthermore, what of the many indicative behaviours that also form part of Chapter 1 of the Code of Conduct, covering minor lapses of client information such as the status of the fee earner (IB(1.3)) or giving insufficient emphasis to the issue of limitation of liability (IB1.8)? Given that indicative behaviours are not mandatory but are, as was claimed on the SRA roadshows, *'risk free pointers to good practice'* are lapses of them breaches at all to be recorded and thus reported?

So far as the Code of Conduct is concerned there is only one late change to report – to IB(2.1) on the need for a policy on equality and diversity. In response to pressure from the Legal Services Board the SRA has confirmed that it will be collecting monitoring data from firms as to their composition under the Equality Act 2010. The revised IB(2.1) therefore adds requirements for the policy to be adopted by the firm to include *'details of the firm's arrangements for workforce diversity monitoring'* and also details of *'how the firm will communicate the policy to employees, managers (partners) and clients'*.

Those with compliance responsibilities in firms might also have noticed that the Law Society department that is responsible for the issuing of Practice Notes has seemingly gone into overdrive with its *'Practice Notes'*, to be found under the *'Practice Support'* tab on the Society's main website. As well as a number of new titles there are many re-issues of more familiar titles – the revised client care practice note of the 19th September being one good example. We will look at some of this latest advice from Chancery Lane in next month's *Bulletin*. ■