

# Professional Obligations Thematic review

13 December 2024

## Executive summary

Consumers and the public rely on the legal profession to provide competent legal advice and safeguard their interests.

This requires individuals to maintain relevant knowledge, skills, and abilities in legal, regulatory, and ethical areas. This is a professional obligation of all solicitors and managers that we regulate.

The legal and regulatory landscape is constantly shifting and so too are the opportunities and risks it presents. To help firms navigate their obligations, we set out rules in our Standards and Regulations and provide information such as guidance, warning notices and webinars. These resources are provided to help the profession meet high standards and protect the interests of consumers and the public. These regulatory resources are found through various channels including our website and the SRA Update email. We offer further support at engagement events and our annual compliance officer conference.

We expect firms to read and understand these regulatory resources. These should prompt thought, discussion, and drive learning and development activity. This is a vital part of individuals and firms achieving and demonstrating competence.

## Key Findings

### What are professional knowledge and skills?

Firms acknowledged the distinction between legal, regulatory, and ethical requirements. In practice however, more emphasis is placed on legal training and knowledge.

Cultivating professional knowledge and skills enables individuals to deliver better outcomes for consumers. Few people acknowledged this key purpose, and most were motivated by avoiding negative regulatory, commercial or personal consequences. However, where individuals acknowledged the link between client outcomes and compliance it often led to a more engaged and meaningful approach to our requirements.

Some firms are regulated and audited by third parties such as the Financial Conduct Authority and the Legal Aid Agency. While this often led to better regulatory systems and processes, some firms mistakenly aligned our requirements with other third parties. This view occasionally led to a lack of understanding about our requirements.

## **Promoting and maintaining professional knowledge and skills**

Each firm we visited had regulatory controls, processes, and systems. Each fee earner was also able to produce a training record. However, there was a significant lack of regulatory knowledge which was exacerbated by a failure by some firms to review our free regulatory resources.

Most firms and individuals reviewed regulatory resources on a reactive basis. This can undermine the value of our guidance and limit the opportunity to understand, anticipate and avoid risks and problems. Dealing with an issue after it has occurred is likely to be more stressful and require the expenditure of greater resources time and money.

There is a general lack of systemised reflection about our requirements and dissemination of our resources by both firms and individuals. Firms often rely on ad-hoc and undocumented means of dissemination, while individuals and firms failed to acknowledge regulatory training. These combined issues make it difficult to detect evidence of reflection and promotion of regulatory knowledge and skills. This heightens the risks of firms inadvertently creating a culture that allows poor regulatory knowledge to persist.

There is a culture of reliance in some firms on Compliance Officers for Legal Practice ('COLPs'), compliance teams and external compliance companies. Each individual is personally accountable for compliance with our regulatory requirements. An unchecked reliance on others can encourage a lack of responsibility and a dependency on the knowledge and skills of others. This increases the pressure, stress and workload of others in the firm.

## **What support do solicitors and firms want?**

Firms were broadly positive about the information and services we offer. The level of contact was also generally considered to be good.

Firms' aspirations and challenges were often linked to their size. We received several requests for specific guidance for firms based on size and type.

We asked firms how we could improve their understanding and knowledge. They often suggested the creation or promotion of an existing resource. This suggests firms and individuals are unaware of the available regulatory resources.

We provide a range of sources to help educate firms including our website, the SRA Update emails and webinars (which are available live and as recorded sessions on our website/You Tube channel).

Although many individuals expressed a preference for receiving emailed material, some did not recall receiving the monthly SRA Update e-bulletins. We provide information on our website advising solicitors how to make sure their email settings are not blocking/re-directing the bulletin to junk/spam folders.

Many solicitors we spoke to found it difficult to navigate the website and find information. This is likely to contribute to the failure of firms to review our guidance.

## **Next steps**

All firms we spoke to have systems and controls in place, however there are things they can do to make them more effective. Our report demonstrates that there are significant issues with how individuals and firms respond to the information we provide. There is often a reliance on ad-hoc and reactive responses to regulatory issues. This approach may harm the interests of consumers and the public and is financially and reputationally costly to firms.

Solicitors are responsible for maintaining their own professional obligations. Whilst COLPs, commercial/regulatory third parties and compliance teams can support the maintenance of professional obligations, the responsibility is personal to each solicitor and cannot be delegated. Risks to consumers are heightened when firms and solicitors fail to recognise this.

Fundamentally, we are all mutually interested in upholding the reputation of the legal profession. Regulatory knowledge and skills are a key aspect of this and should be more clearly recorded and explored by firms.

A thematic review is not an investigation, and its purpose is not to uncover wrongdoing. If potential misconduct is discovered, the solicitors or firms involved may be referred to our disciplinary system for investigation

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## **Introduction**

We evaluated how firms and individuals accessed the information we provide. We also wanted to know how firms used the information and to what extent it was embedded in their daily routines.

This report sets out our findings and some of the good practices we encountered. We also highlight areas where we think there is scope for improvement.

## **Who we approached**

To learn how firms approached the promotion and maintenance of professional obligations, we:

- undertook a survey of 250 individuals ('the respondents')
- visited 20 firms and spoke with an individual responsible for compliance and a fee earner ('the interviewees')
- reviewed the training records of 20 fee earners.

[More information about our sample is provided in Annex \[heading\\_ee0d\].](#)

## **What we did**

We have sought to understand what managers and fee earners think about their:

- professional obligations
- interactions with us
- regulatory strengths and weaknesses.

Our visits gave us an opportunity to listen to interviewees' thoughts about regulation and their perception about their own knowledge, abilities, and performance. We then tested their knowledge and looked at their approach. We concentrated our review in five areas ('the review areas') that apply to all firms:

- reporting obligations
- continuing competence
- the SRA Transparency Rules
- cybercrime
- anti-money laundering.

By reviewing these areas, we were able to look beyond the self-assessment provided by our interviewees and evaluate their knowledge and understanding about the information we produce.

## **What do we expect?**

All firms and solicitors must comply with our [Standards and Regulations \[https://rules.sra.org.uk/solicitors/standards-regulations/\]](https://rules.sra.org.uk/solicitors/standards-regulations/). These include a range of requirements. We set out some of the requirements relevant to our review below:

## **Principles**

Our principles set out the fundamental ethical behaviours that we expect everyone to uphold. They allow firms and solicitors to apply their professional judgment. This flexibility helps firms and individuals respond to the evolving legal services market while safeguarding the interests of consumers and the public.

Solicitors and firms must have the required knowledge, skills, and experience to competently advise their clients. Our principles require firms and solicitors to:

'...act in a way that upholds public trust and confidence in the solicitors' profession and in legal services provided by authorised persons' (SRA Principles – Principle 2)

'...act in the best interests of each client' (SRA Principles – Principle 7)

## **Codes of Conduct**

Additional expectations and requirements are outlined in our Codes of Conduct. These describe the standards of professionalism that we and the public expect of firms and individuals. Solicitors must:

'...maintain (their) competence to carry out (their) role and keep (their) professional knowledge and skills up to date' (Paragraph 3.3 of the Code of Conduct for Solicitors)

'...ensure that the individuals (they) manage are competent to carry out their role, and keep their professional knowledge and skills, as well as understanding of their legal, ethical and regulatory obligations, up to date' (Paragraph 3.3 of the Code of Conduct for Solicitors)

Firms must:

'...ensure that (their) managers and employees are competent to carry out their role, and keep their professional knowledge and skills, as well as understanding of their legal, ethical and regulatory obligations, up to date.' (Paragraph 4.3 of the Code of Conduct for Solicitors)

However, solicitors remain '...personally accountable for compliance with this code and our other regulatory requirements.'

## **Further requirements**

We also require firms and solicitors to understand their [reporting obligations](https://rules.sra.org.uk/solicitors/guidance/reporting-notification-obligations/) and the [enforcement strategy](https://rules.sra.org.uk/sra/corporate-strategy/sra-enforcement-strategy/). These documents provide context to our expectations.

## **What are professional knowledge and skills?**

We expect professionals to look at the information we produce and apply it to their areas of practice and individual needs. This is a key aspect of maintaining and developing professional knowledge and skills and meeting our continuing competence requirements. This helps to safeguard the interests of consumers, the public and those we regulate.

We were interested in views about professional obligations and what motivates individuals to comply. We believe the reasons for compliance have an impact on an individual's level of effort and approach. The greater the belief in the purpose, the greater the effort to achieve the outcome.

## **What did we find?**

We expect solicitors to maintain their legal, ethical, and regulatory knowledge and skills. This is integral to maintaining competence.

Most of the interviewees recognised that professional knowledge and skills comprised of legal, ethical, and regulatory dimensions. Firms reflected this operationally by distinguishing between legal, ethical, and regulatory training. This recognises the importance of each aspect and promotes a broad approach to continuing competence.

Despite this acknowledged distinction, it was not always reflected in fee earners' training records. Although fee earners said they were undertaking regulatory training, it was routinely not recorded. In practice, more emphasis and importance were attributed to legal training.

Half of the firms were also reliant on ad-hoc methods of disseminating regulatory information, such as informal discussions and via e-mail. Again, these activities were rarely recorded by interviewees.

We also explored interviewees' and respondents' knowledge of the review areas. These regulatory areas should be understood by those we regulate. We invited respondents to reflect on their knowledge. respondents overwhelmingly described their understanding of the review areas as knowledgeable or very knowledgeable. Although we were unable to test the respondents' views, most interviewees showed a lack of knowledge and understanding of these areas and/or the resources we offer. This suggests that many solicitors may overestimate their actual levels of regulatory knowledge and skills.

## **What motivates compliance?**

To understand what motivates firms and solicitors to comply with their professional obligations, we asked everyone about the associated benefits and risks of compliance. The motivations of interviewees and respondents reflected their self-interest:



- COLPs and respondents focused on potential breaches and the impact on firms. This included the financial benefits of retaining clients and repeat work and the risks of regulatory action.
- Fee earners were more concerned about personal implications. This included professional pride, the risks of regulatory action and stress.
- Less than half of the responses we gathered referred to the impact on consumers or the collective reputation of the profession.

Compliance with our rules appeared to be motivated by a fear of negative consequences and benefits for firms and employees, rather than the potential benefits for consumers. This was illustrated by a fee earner, who stated: 'The threat of being struck off is the stick which drives compliance.'

This may support a misconception that regulation is a purely administrative burden, of no inherent social value. interviewees occasionally referred to it detracting from 'real' legal work. One interviewee stated: 'Lots of lawyers want to get on with the job but it is difficult in light of all the emphasis on reviews and audits.' This potentially undermines the purpose and benefits of regulation and supports a negative narrative.

## **Commercial and consumer benefits**

A small number of firms aligned compliance and best practice with mutual benefits for consumers and the firm. These firms recognised the benefits of complying with professional obligations, were more engaged with us, proactive and used regulation to the advantage of their clients and business. This is good practice and supports our objective to [drive confidence and trust in legal services \[https://rules.sra.org.uk/sra/corporate-strategy/1\]](https://rules.sra.org.uk/sra/corporate-strategy/1).

These positive perceptions influenced firms' systems and processes and ultimately fee earner attitudes and behaviours. COLPs told us about challenging the narrative of 'compliance as a painful necessity' and championing compliance as '...an important part of the job which makes us stand out from the competition'. This was achieved by repeatedly emphasising the value of regulatory controls such as file audits and complaints. Regulatory information was reframed in more positive terms, for example 'getting it right'. COLPs reiterated there was no quick fix and changes were dependent on a continued reaffirmation of this belief. This change in focus was associated with the following benefits:

- increased profit and business resilience
- improved health and wellbeing (peace of mind/reduced stress)
- increased consumer confidence
- upholding the reputation of the profession.

Firms that recognised the commercial benefits of regulation were more motivated, proactive and often implemented systems which exceeded

our requirements. Sophisticated systems were used to analyse data and drive continuous improvements to deliver the best standards of service for consumers. Firms and individuals reported that this had a positive impact on the firms' culture and values and delivered benefits for consumers, the reputation of the profession and the profitability of the business.

### **Third party requirements**

Half of the firms we visited were regulated and/or audited by third parties who had their own requirements. This included the Financial Conduct Authority, the Legal Aid Agency, the Law Society (in relation to accreditations), ISO (accreditations) and Lexcel.

These relationships often led firms to develop enhanced controls and policies, but occasionally led to misunderstandings. Whilst some of these requirements may overlap, they sometimes have a different focus and are not always aligned. This can cause issues. For example, one firm told us that their adherence to SRA requirements had been reviewed by a third party during an accreditation. Despite a positive review by the third party, we found the firm had little knowledge of our guidance and information. We highlighted these issues with the firm and provided relevant guidance about our requirements.

### **Rewarding and promoting positive behaviours**

Cultures are determined by the behaviours that are permitted and rewarded. We were interested in whether firms promoted outcomes for clients.

Cultures can be established and enforced by the activities which are measured during appraisals. We found a broad range of considerations reviewed by firms, including financials (65%), contributions to the firm's culture (50%), training (85%) and career development (40%).

Most of the firms we interacted with had formal reward systems which recognised a range of behaviours. Typically, firms acknowledged positive cultural deeds and team performances. There was a widespread recognition that only rewarding individuals for their financial performance risked encouraging the wrong behaviours. This focus on encouraging positive behaviours and supportive cultures was welcomed by the fee earners. Some firms went further and introduced firm-wide values. These sat at the heart of the business and were reflected in the way firms rewarded individuals.

### **Case studies - What positive things did we see in this area?**





Our interviews provided an opportunity to meet with individuals and find out more about the steps they were taking to meet our requirements. Below is a range of positive ideas and activities that people shared with us:

- A firm adopted organisational values that put the consumer at the heart of their work. They believed in looking beyond the minimum regulatory requirements. They focused on increasing client satisfaction by improving communication and learning from feedback. This helped them to provide a better service and distinguished them from their competitors. Improved client satisfaction led to repeat business and an increased revenue.
- A small firm received third party assistance from an external compliance company. The company provided the firm with support and feedback. The small firm used this information to supplement their own regulatory research. By utilising the SRA's free regulatory resources, the firm reduced their reliance on the compliance company and saved money.
- A COLP was concerned about making a self-report. By reviewing the SRA's Enforcement Strategy and associated topic guide, they understood the mitigatory steps they could take and the likely outcome. This provided reassurance to the COLP.
- A sole practitioner bookmarked various pages of the SRA website in their website browser. By learning to navigate the website, the sole practitioner located webinars, free templates, and Q&As. These provided a practical understanding of key requirements in set areas and could be accessed at any point.
- An unadmitted practice manager wanted further information about the SRA and ongoing regulatory developments. They signed up for the SRA Update via the SRA website. This provided prompts about SRA guidance and enabled them to check that employees were reviewing relevant information.
- A firm recently redesigned their appraisal system to occur more frequently. It was aligned with their published values and incentivised the behaviour of staff. In addition, cultural impact was occasionally recognised by rewarding individuals with an additional day of annual leave.

### **Promoting and maintaining professional knowledge and skills**

We require solicitors to maintain their competence to carry out their role. This means keeping knowledge and skills up to date, including any relevant legal, ethical and regulatory obligations relevant to their role.

In meeting this requirement, we expect professionals to consider and meaningfully respond to the risks and challenges we outline. We produce regulatory resources to support them to do this. While individuals remain

personally responsible for their compliance with our regulatory requirements, firms must also take steps to support them.

We sought to understand how our information influenced behaviours and structures.

## What we found

All firms deployed regulatory systems, controls, and processes. This included supervision, file reviews, appraisals, and training. Each fee earner was also able to provide a training record, but the nature and quality of these documents varied. These tools can help promote and document an individual or firm's approach to our requirements.

We were interested whether interviewees reviewed and understood the regulatory resources we produce. By reviewing interviewees' knowledge and understanding of five areas that apply across legal fields, we were able to practically assess the perceived value and knowledge of our resources.

However, interviewees' understanding of the review areas and associated regulatory concepts was poor. This is probably because interviewees do not proactively review our regulatory resources or, in some cases, know they exist.

## Proactive or reactive consideration?

Our regulatory resources supplement the [Standards and Regulations](https://rules.sra.org.uk/solicitors/standards-regulations/) [https://rules.sra.org.uk/solicitors/standards-regulations/]. This information helps explain emerging risks and the associated regulatory requirements. Firms should proactively review this material to safeguard the interests of clients and firms. Ultimately, prevention is better than cure. It is typically easier, less expensive, and better for consumers. This was not always reflected in practise:

<b>Information - When do COLPs use it?</b>	<b>Proactively</b>	<b>Reactively</b>	<b>Don't use</b>
<b>Rules</b>	8	12	0
<b>Guidance</b>	11	6	3
<b>Warning notices</b>	8	6	6
<b>Webinars</b>	7	2	11
<b>Enforcement strategy</b>	5	6	9
<b>Thematic reports</b>	8	4	8
<b>Business reports</b>	3	0	17

Only three COLPs told us that they looked at each type of material proactively. Seven firms acknowledged they were completely reactive and looked at information once an issue occurred.

A lack of knowledge fundamentally hinders an individual's ability to make meaningful decisions. COLPs at 20% of the firms were not able to answer any of our technical questions about reporting obligations and had not reviewed our resources in this area. They had also never made a report to the SRA.

## Knowledge about the review areas

Having reviewed interviewees' typical use of our regulatory resources, we evaluated the general understanding and knowledge of our resources in the review areas.

Our expectations were high following the unvalidated responses of respondents:

<b>Survey - How knowledgeable are you about our resources?</b>	<b>Very Knowledgeable</b>	<b>Not</b>
<b>AML</b>	37% 60%	3%
<b>Cyber</b>	11% 76%	13%
<b>Transparency</b>	20% 72%	8%
<b>Continuing competence</b>	17% 77%	6%
<b>Report</b>	21% 75%	5%

The positive self-assessments by respondents were not reflected by interviewees under scrutiny:

- basic understanding of the review areas was limited
- interviewees rarely reviewed the available regulatory resources
- fee earners routinely knew less about each area and reviewed less resources than COLPs. This placed a reliance on the COLPs, notwithstanding everyone's personal regulatory responsibilities.

Information about each of the review areas is provided below. Where we detected a lack of knowledge during our interviews, we provided guidance, support, and information. We also provided links to all relevant regulatory resources at the conclusion of our visits.

## Cybercrime

Cybercrime was regarded by most to be a significant and widespread risk. Cybercrime is not just a hypothetical risk. Eight of the firms we visited had been affected by cybercrime.

Knowledge and approach in this area was mixed. Seventeen firms had developed a cybercrime policy. The remaining three firms had no policy, had not carried out training and had not reviewed our regulatory resources. One of these firms had also been the victim of a cybercrime attack.

Notwithstanding that firms viewed cybercrime as a significant risk, interviewees routinely failed to review our material:

**Cybercrime - What have you reviewed? Fee earner COLP**

<b>Guidance</b>	2	8
<b>Compliance conference session</b>	0	5
<b>Thematic review</b>	0	1
<b>Webinars</b>	0	1

**Reporting obligations**

All solicitors have a regulatory obligation to report facts or matters that they reasonably believe may amount to a serious breach of our Standards and Regulations. Our previous thematic reports have noted a low level of reporting across various areas. Encouragingly, the majority of COLPs (16) had reported a matter to us.

A lack of knowledge about how to report matters, what we consider to be serious, and the support we offer, is likely to undermine an individual's ability to identify and report appropriate matters to us.

To evaluate the knowledge of each Interviewee, we asked them to explain basic concepts from our guidance on obligations. Results were poor:

<b>Reporting - Who could explain our requirements?</b>	<b>Fee earner</b>	<b>COLP</b>
<b>How to make a report?</b>	4	12
<b>What is the difference between reporting and notifying?</b>	3	6
<b>What support can we give vulnerable people?</b>	0	5
<b>What support can we give witnesses?</b>	1	4
<b>What is the red alert line?</b>	0	3

COLPs are often the focal point of a firm's approach to reporting and, perhaps inevitably, displayed a greater familiarity with these concepts. However, this structure is unlikely to work if fee earners do not understand our expectations. Furthermore, only 14 fee earners could explain what a COLP was and who occupied the position at the firm.

Interviewees rarely reviewed our guidance in this area:

**Reporting - What have you reviewed? Fee earner COLP**

<b>Using report form/contact centre</b>	4	12
<b>Reporting guidance</b>	3	6
<b>Enforcement strategy</b>	2	12

Our Enforcement Strategy sets out which issues we consider to be serious. This helps the profession understand our expectations about what should be reported. Although most COLPs had reviewed our Enforcement Strategy, 90% of fee earners had not. Ultimately, COLPs are reliant on fee earners to make internal reports. This is unlikely to happen if fee earners do not have relevant knowledge.

Interviewees often sought to justify their lack of knowledge about concepts and our resources by saying they would review further information when necessary. This approach is flawed. Ultimately, our expectations are outlined in our guidance. A lack of familiarity with this information undermines an individual's ability to identify and proactively respond to the issues we outline. In some cases, it could also lead to a complete lack of knowledge about what we expect. As one firm told us '...you know (what to report) when you see it'. Despite this, the firm had failed to report a cybercrime incident to us.

## **Continuing competence**

Our rules require solicitors to maintain their professional knowledge and skills. This applies to all aspects of their role including their legal, ethical, and regulatory obligations. Firms have a similar obligation to make sure their employees and managers are competent to carry out their role.

We provide a range of resources to explain and help solicitors and firms meet our continuing competence requirements. We asked interviewees to explain the basic concepts of continuing competence. This includes the requirement to systematically consider competence by reflecting and identifying, planning and addressing and recording and evaluating information. Only seven COLPs and five fee earners could provide an accurate description.

All fee earners did however produce a training record. Seven of these training records failed to demonstrate that the solicitor had fully met our continuing competence expectations, for example reflect and identify, plan and address, record and evaluate.

We subsequently shared our training record template with the fee earners and discussed our findings with the COLP. Whilst use of our template is not mandatory, it is a useful, free tool. It helps individuals reflect on their competence and target their learning and development in relevant areas. It also prompts reflection about whether the activity they have undertaken addresses the need.

Use of our resources was marginally better in this area:

### **Competence - What have you reviewed? Fee earner COLP**

<b>Rules</b>	8	13
<b>Guidance</b>	5	11

<b>Templates</b>	6	9
<b>Webinars</b>	0	4
<b>Qs &amp; As</b>	0	3
<b>Compliance session</b>	0	2

## **SRA Transparency Rules**

All firms must have the clickable logo and their complaints information on their website. In addition, some firms must also produce costs and service information for in-scope areas such as conveyancing and immigration. Firms must make this information available in writing if they do not have a website.

We asked interviewees whether their firm was covered by the rules. Correct answers were provided by 12 COLPs and four fee earners.

We did not expect fee earners to have reviewed information in this area, so we only made enquiries with COLPs:

### **Transparency Rules - what have COLPs reviewed? COLP**

<b>Rules</b>	10
<b>Guidance</b>	9
<b>Templates</b>	5
<b>Webinars</b>	1
<b>Qs &amp; As</b>	1
<b>Compliance session</b>	0

We are committed to improving the information firms provide to consumers. Our rules have been in place since 2019 and we have steadily developed our regulatory resources. Knowledge in this area was poor and we encouraged firms to review our free resources. We have introduced fixed financial penalties to drive greater compliance in this area.

## **Anti-money laundering**

Anti-money laundering regulations help protect the public and limit the risk that criminals use the legal profession to facilitate criminal activity. The regulations are detailed and the penalties for errors can be severe, including potential criminal liability for individuals.

The understanding in this area was confused:

- seven COLPs inaccurately believed they fell within scope of the regulations
- seven fee earners did not know whether their firm fell within scope



- seven fee earners also did not know the identity of their firm's Money Laundering Reporting Officer.

Most of the regulatory resources we have produced in this area were not reviewed by interviewees:

<b>Anti-Money Laundering - What have you reviewed?</b>	<b>Fee earner</b>	<b>COLP</b>
<b>Guidance</b>	6	13
<b>Warning notices</b>	3	9
<b>Client matter risk assessment template</b>	2	8
<b>Compliance conference sessions</b>	0	7
<b>Webinars</b>	2	7
<b>Thematic review</b>	0	6

### **Review areas: General conclusions**

Our review suggests that firms and employees place a reliance on COLPs to review and understand regulatory risks.

In addition to our findings about the review areas, interviewees were asked whose responsibility it was to gather and disseminate regulatory information. COLPs provided a range of views:

- 100% said responsibility fell to compliance officers
- 40% also mentioned individuals should also be responsible
- 40% also mentioned that team leaders should also be responsible.

As mentioned, individuals are personally responsible for maintaining awareness and compliance with our expectations. These requirements cannot be solely delegated to a COLP and firms must make sure they have competent managers and employees. This appeared to be recognised by most fee earners:

- 80% believed the firm and the individual are both responsible for maintaining regulatory knowledge
- 15% believed firms alone are responsible
- 5% believed the individual alone was responsible.

### **Systems vs ad-hoc approaches**

Positive habits are formed by promoting, monitoring, and rewarding appropriate behaviours. An effective system promotes an approach that delivers consistent behaviours. This enables outliers and inconsistent behaviours to be detected and remedied. Systems and processes also help establish cultures and positive behaviours.

Interviewees often relied on ad-hoc activities to share regulatory information. This, coupled with the lack of record keeping by fee earners, meant it was often difficult for interviewees to explain and evidence how compliance with professional obligations were promoted within firms.

An ad-hoc approach and poor record-keeping hinders a firm's ability to monitor the competence of its employees. This may inadvertently create a culture that enables low levels of understanding to persist or allow a failure to identify and address systematic competence issues.

Interviewees frequently highlighted a reliance on e-mailed material. We found that around half of the firms relied on a presumption that employees had read and understood this information. Interviewees often acknowledged the pressure and time constraints that they all face. This suggests relying on individuals to read and understand each e-mail is unrealistic. There were however some limited attempts by some firms to check or question understanding:

- 15% required individuals to make a declaration of competence
- 55% used some degree of testing to review understanding
- 20% sought some tangible evidence during interactions.

These activities allow firms to gather information, monitor outcomes and take corrective action. It also reiterates the importance of the fee earners' regulatory requirements.

## **Training/reliance**

Having established an apparent lack of controls, we wanted to know how individuals had subsequently maintained their knowledge.

Interviewees were asked whether they undertook training in review areas:

### **Training across areas Fee earner COLP**

<b>AML</b>	14	18
<b>Cybercrime</b>	9	14
<b>Transparency</b>	0	3
<b>Competence</b>	5	11
<b>Reporting</b>	8	11

These results show:

- COLPs were more likely to have received training in the review areas
- there was a slight emphasis on cybercrime and anti-money laundering
- most fee earners did not receive training in the review areas.



These results are more significant when considered alongside the lack of knowledge about our regulatory resources in these areas:

<b>Review areas: Who reviewed our materials?</b>	<b>Both</b>	<b>Only COLP reviewed</b>	<b>Only fee earner reviewed</b>	<b>Neither</b>
<b>AML</b>	6	8	4	2
<b>Cybercrime</b>	0	9	2	9
<b>Transparency</b>	0	12	0	8
<b>Competence</b>	8	6	1	5
<b>Reporting</b>	3	8	0	9

These findings suggest that there is a reliance placed on COLPs within firms.

Reliance on a single individual's knowledge to determine a firm's approach to risk can be problematic. One COLP told us that money laundering was a reoccurring threat that required continual vigilance. This view was reflected in the extent of the firm's policies and the controls they employed. Surprisingly, the COLP subsequently told us that 'you don't see much cybercrime'. We found the firm's controls and approach in this area were inadequate.

The issue had not been given sufficient attention by the firm's management, and the firm was not familiar with our guidance. Firms should ensure that understanding and complying with our requirements is not viewed as being the sole responsibility of the COLP. To develop a rounded view of the risks a firm faces and to meet professional obligations in that context, requires engagement from fee earners and managers, not just the COLP.

As mentioned, we also saw a lack of recording about regulatory areas in training records:

<b>Fee earner training: Recorded?</b>	<b>Training with record</b>	<b>Training No record</b>	<b>No evidence of training</b>
<b>AML</b>	4	4	12
<b>Cybercrime</b>	4	5	11
<b>Competence</b>	2	3	15

Typically, fee earners were less likely to record regulatory training. Fee earners did not appear to consider this as 'proper' training. Fee earners typically said they received regulatory training during team meetings, one to ones and online research. However, it was routinely not recorded in their training records. Such conversations play an important role in sharing knowledge and upskilling staff. We encourage firms and solicitors to recognise the value of these conversations, and our [continuing](#)



[continuing competence guidance \[https://www.sra.org.uk/solicitors/resources/continuing-competence/cpd/continuing-competence/plan-address/\]](https://www.sra.org.uk/solicitors/resources/continuing-competence/cpd/continuing-competence/plan-address/) reflects this:

- Attending regular meetings with colleagues to discuss developments in your area(s) of practice and share knowledge and good practice.
- Meeting your competence requirement to maintain an adequate and up-to-date understanding of relevant law, policy and practice by setting aside time (for example newsletters, law journals and blogs).

Furthermore, these omissions within the training records were not acknowledged by firms or COLPs. We concluded this may reflect a broader misunderstanding of our expectations by the firms.

The lack of understanding and recording of learning and development activity has several negative outcomes for fee earners and firms:

- they do not have an accurate picture of their training or competence levels
- they miss an opportunity to reflect and demonstrate their relevant knowledge and competence.

A failure to reflect raises concerns that not all learning and development needs are being identified and addressed. It is good practice for training records to evidence reflection and identify learning and development needs, not just present a list of activities undertaken.

Systems, processes, and documents should also be routinely supervised and reviewed to make sure they yield the desired outcome. During our review, seven firms had introduced a training document that failed to reflect the continuing competence guidance. A comprehensive training record will help individuals and firms demonstrate their continuing competence.

## **Internal compliance teams**

An effective internal compliance team will help a firm comply with rules and monitor internal controls and processes. They can also be a crucial element in establishing and promoting a positive regulatory culture at a firm.

Half of the firms we visited had a compliance team. Understandably, it is not always possible for firms to have a dedicated team, but we found compliance teams at various sized firms.

- 100% of the large firms had a compliance team
- 50% of the medium firms had a compliance team
- 25% of the small firms had a compliance team.



Compliance teams improved each firm's capacity to undertake regulatory activities. Firms with a compliance team more frequently used:

- the professional ethics team in the last year (80% of firms with a compliance team vs 40% of firms who did not have a compliance team)
- our website (70% 'each month' or 'regularly' vs 30%)
- systematic controls (80% vs 60%).

They were also more likely to know about:

- the compliance conference (100% knew it existed vs 70%) and regularly attend (40% vs 10%)
- the virtual compliance conference (100% vs 60%) and use it (60% vs 20%)
- webinars (70% vs 20%)
- each type of regulatory resource that we offer.

Compliance teams also had an impact on the culture at firms. Firms that retained a compliance team were:

- more likely to systematically disseminate regulatory information (70% vs 30%)
- more likely to test individual's understanding (80% vs 30%)
- place less reliance on presumed understanding (30% vs 70%)

Firms with compliance teams were also more likely to:

- reward cultural performance and achievements (70% vs 30%)
- distinguish between legal and regulatory skills (100% vs 50%)
- have a training budget (70% vs 30%)
- consider the risks to clients when evaluating the risks of failing to maintain professional obligations (60% vs 10%)
- aspire to improve controls (70% vs 40%).

Internal compliance teams clearly provide firms with additional time and resource to check regulatory compliance. By sharing these responsibilities among more people, it reduces the reliance on the COLP and provides an opportunity to amplify the message about compliance. However, this is achievable by all firms by promoting and encouraging personal responsibility for understanding and complying with our regulatory requirements.

## **External compliance companies**

All firms used external compliance companies. We acknowledge firms may find this useful given the demanding and technical nature of the legal services market.

We found firms regularly sought advice from external parties in at least one of our review areas. The size of firms appeared to influence the frequency and type of assistance sought. For example, sole practitioners didn't seek commercial advice about anti-money laundering or reporting. Most small firms consistently sought commercial advice across all the review areas:

**Who sought commercial advice? Sole Small Medium Large**

<b>AML</b>	0%	75%	83%	67%
<b>Cybercrime</b>	25%	100%	100%	100%
<b>Transparency</b>	25%	75%	50%	33%
<b>Competence</b>	75%	75%	67%	50%
<b>Reporting</b>	0%	75%	83%	17%

Interviewees and respondents mentioned the cost of regulation. Seeking regulatory assistance from an external compliance company has an associated cost. Significantly, COLPs often appeared to be relying on this advice without reviewing our free regulatory resources:

<b>COLPs: Where did you source your advice?</b>	<b>External provider only</b>	<b>SRA only</b>	<b>Both None</b>	
<b>AML</b>	45%	5%	15%	35%
<b>Cybercrime</b>	45%	0%	40%	15%
<b>Transparency</b>	15%	20%	30%	35%
<b>Competence</b>	25%	25%	40%	10%
<b>Reporting</b>	15%	25%	30%	30%

We found:

- four firms exclusively used external advice
- there were 29 occasions where firms told us they had taken external advice without reviewing our guidance.

Outsourcing regulatory compliance to an external compliance company can also be problematic. Two firms had relied exclusively on external advice about continuing competence from an external company. We still found problems with the firms' training record templates that they employed and this presumably affected all fee earners.

**Case studies - What positive things did we see in this area?**

Our regulatory requirements provide flexibility for the profession to meet our expectations. This is necessary to reflect the range of firms and individuals that we regulate. Our meetings with interviewees explored the issues that they faced and the actions they took to mitigate risks and promote regulatory knowledge and skills.



- A fee earner used their firm's training record template. The firm modified the SRA's template and the fee earner was encouraged to record training on a weekly basis. The fee earner also kept a training plan. This was updated regularly and reviewed by their manager.
- A firm introduced a new compliance team. The compliance team's main role was to monitor and review SRA publications and signpost all relevant information. They also monitored the file review and audit process. This prompted training in key areas which was delivered during team meetings. It also helped the firm to detect and modify ineffective processes and saved time.
- A small firm was audited by a separate organisation. This organisation insisted on numerous requirements and these aided the firm's approach to customer service. However, these requirements were understood to supplement and not supersede our expectations.
- A medium firm specialised in criminal litigation. They were provided with curated regulatory information by an external compliance company. This helped the firm understand and react to risks within their field. The firm also sought out additional information from our website about the risks facing the profession.
- A fee earner received two job offers from competing firms. The fee earner was offered a larger wage from the bigger firm. However, the larger firm was known to have experienced a high turnover of staff. The fee earner decided to join the smaller firm because of their reputation in the local legal market to be a supportive and collegiate organisation. The fee earner particularly appreciated the help and guidance that the firm provided to foster their employee's careers and competence.
- A firm acknowledged that fee earners were jointly responsible for making sure they achieved the regulatory requirements. By placing an importance on professional knowledge and skills all staff members were able to review, share, and discuss relevant information. This used the skillset of the entire organisation and reduced the need for external assistance.
- Two firms looked to merge. During the initial negotiation, one of the firms revealed it had an incorrect process for raising bills. The negotiation was abandoned because the management of the other firm did not believe they were culturally compatible. The COLP reported the firm via the Red Alert Line.

## **What support do firms and solicitors want?**

We are committed to providing support to those we regulate to help themselves and safeguard the interests of clients. We explored with firms how they wanted to be supported.

To understand how we could help firms and individuals, we sought to understand their aspirations and concerns.

## **What we found**

We regularly encountered:

- concerns about the cost and time constraints of practice and compliance
- acknowledgments about the need to undertake training and reduce regulatory reliance on others.

These concerns could be reduced by firms reviewing, disseminating, and reacting to the regulatory resources we make freely available. By proactively reviewing and understanding emerging risks and our expectations, firms can reduce their exposure to risks and/or mitigate the likely impact.

## **What would COLPs like to improve?**

We asked COLPs about their firms' aspirations for the future. Results varied, but the top three areas were:

- improving general processes and controls
- increased training
- diversifying roles and responsibilities and removing the dependency on COLPs.

We found that similar sized firms often shared similar aspirations:

- large, medium and small firms were focused on improving processes and controls
- medium firms were also focused on improved training and diversifying roles/responsibilities
- small firms were interested in expansion and diversifying roles/responsibilities
- sole practitioners were interested in technological improvements, diversifying roles/responsibilities and training.

## **What would fee earners like to improve?**

A significant minority of fee earners (45%) mentioned that they would like to receive more guidance and updates from their firms. Beyond this, there was no consensus, with many single requests such as technological improvements, better communications and improved bonuses.

## **What were the perceived challenges that lay ahead?**

In general, COLPs considered the top three challenges they faced were:

- responding to regulatory requirements/changes (50%)
- maintaining regulatory knowledge and skills (45%)



- improving the cost of business/profitability (35%).

In addition to these areas, some further challenges were noted by COLPs at specific sized firms:

- most small firms mentioned the difficulty of scaling up their culture
- most sole practitioners mentioned challenges around time.

We also invited COLPs to discuss the issues that fee earners faced. They concluded:

- time constraints (35%)
- staying competent and knowledgeable (30%)
- workload/prioritising (30%).

Significantly, fee earners agreed:

- time constraints (45%)
- workload (25%).

We invited interviewees and respondents to outline the challenges facing the profession. Time constraints were widely acknowledged. Other popular opinions included:

- recruitment shortages
- regulatory knowledge/concerns about the SRA's approach
- market risk complexities such as AI & cybercrime
- a lack of acknowledgment about the problems/resources available for small firms.

## **Firm views on improving our interactions and services**

There was widespread satisfaction about the level of contact and the service that the SRA provide. These views should be tempered by our other findings such as:

- the lack of regulatory understanding we encountered
- firms'/individuals' requests for us to send additional regulatory resources by e-mail.

## **Level of interactions**

We were interested whether firms wanted us to increase the frequency of our interactions:

- 75% of interviewees said the level of contact was good
- 23% of interviewees said there was not enough
- only 3% said there was too much.

Respondents provided similar answers:



- 92% said the contact level was good
- 5% too much
- 3% too little.

## **Available services**

Firms provided views about the services we offered:

- Professional Ethics: Most COLPs (90%) and survey respondents (81%) had engaged with our Professional Ethics team. However, less than half of the fee earners (30%) had contacted the team. The feedback from everyone who had contacted Professional Ethics was broadly positive.
- Our website: This is a key tool for individuals looking to reflect on and maintain their professional knowledge and skills. Interviewees and respondents generally used the website on an ad-hoc basis. While a reactive approach could still suggest frequent use, we were doubtful. This was based on further information about typical user experiences.

Interviewees frequently raised issues about our website and only 25% were without complaint. Typical issues included problems with searching and navigating our website.

A lack of frequent interaction with our website is likely to impact on an individual's knowledge and ability to access the information we provide. This is likely to hinder an individual's attempts to maintain their professional knowledge and skills.

## **What do firms think we could do better?**

### **Information about the review areas**

We asked how we could improve understanding about the review areas.

Despite our enquiries, we received little feedback. We commonly received requests for the provision of resources and services we already offer. This suggests once more, a lack of awareness about our guidance and resources. This is likely to contribute to the low levels of understanding about concepts and expectations within the review areas.

Other ideas included better publicity and promotion of our regulatory resources, increased use of emails, compulsory training, further guidance for small firms and improving our relationship with the profession. We consider that some of the requests for more prompts and targeted information may stem from some of the challenges people reported in using our website.

### **[Further information and resources](#)**



Our [Professional Ethics team](https://rules.sra.org.uk/contact-us/) provide assistance and guidance on all topics. They can be contacted by email, letter or telephone.

Information and resources about a range of topics are available on our website and our [YouTube channel](https://www.youtube.com/@SRAsolicitors). This includes information about what we expect from those we regulate and resources to help you comply.

Our visits focused on key areas which affect all firms. Further information about these is below:

- [SRA Enforcement strategy](https://rules.sra.org.uk/sra/corporate-strategy/sra-enforcement-strategy/)
- [SRA Transparency Rules](https://rules.sra.org.uk/solicitors/standards-regulations/transparency-rules/)
- [Your reporting obligations](https://rules.sra.org.uk/solicitors/guidance/reporting-notification-obligations/)
- [Continuing Competence requirements](https://rules.sra.org.uk/solicitors/resources/continuing-competence/understanding-continuing-competence/)
- [Continuing competence – templates](https://rules.sra.org.uk/solicitors/resources/continuing-competence/templates/)
- [Cybercrime resources](https://rules.sra.org.uk/solicitors/resources/cybercrime/cybercrime/)
- [Anti money laundering resources](https://rules.sra.org.uk/solicitors/resources/money-laundering/guidance-support/)

## **Annex: Our sample and approach**

### **Overview**

All firms and solicitors are required to maintain their professional obligations. The approach to this will vary across the profession and may reflect the organisation type, size, and practice areas.

The purpose of this project is to gather a range of views and experiences from firms and solicitors. By sharing what people have told us, and giving our views, we hope to support others reflect on their own practices. The information will also inform our actions.

We used visits and a survey to gather quantitative and qualitative information. The visits also provided an opportunity to practically review the actions, controls, processes and products of individuals and firms.

The size of our sample is relatively small and is not intended to provide statistical significance – that is not important to achieve our objectives.

We also understand that our position as the firms' regulator, and the mandatory nature of the visits and survey, may lead to some response

bias. We attempted to mitigate this by using a mix of interview and survey data and by testing underlying knowledge of interviewees.

## **Visit - Sample**

We visited 20 firms. Our sample reflected broadly the ratio of firm sizes across the profession. This was achieved by separating the firms we regulate into four pots:

- Sole practitioners
- Small firms: Ten solicitors or less
- Medium firms: Seventy solicitors or less
- Large firms: More than seventy solicitors

We then randomly selected the relevant number of firms from these pots. The visits were mandatory for firms.

## **Visit - Approach**

Each firm was given an opportunity to select a date for our visit.

Visits were split into two parts. We spoke with:

- the COLP and/or the person with overall responsibility for compliance at the firm. We explored views, controls, policies, and procedures.
- a randomly selected fee earner. This helped us contextualise the information we had already received and gave us an opportunity to evaluate how fee earners maintained their professional obligations and outcomes at the firm. We also reviewed each fee earner's training record.

We used a structured list of questions during the visits to ensure we covered the same topics with all firms and recorded responses in a consistent format. We also used multiple interviewers to reduce the impact of any personal bias.

## **Survey - Sample**

To build on the information obtained from our visits, we issued a survey to 250 randomly selected solicitors. The sample included 190 COLPs, 30 firms engaged with our Regulatory Management Team (typically larger firms) and 30 in-house solicitors.

The survey was compulsory and explored views about regulation, the SRA and knowledge of the review areas. Our survey sample excluded the firms we visited, and those under investigation.