

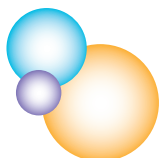
DEVELOPING THE ROLE OF THE COLP

The legislation set out in the Solicitors Regulation Authority (SRA) Authorisation Rules means you will have already filled the Compliance Officer for Legal Practice "COLP" role, however, personnel in any organisation do change over time. With this in mind we have written this guide should the role of COLP become vacant again, or, you require help with developing the role within your organisation. You can use this flyer as a reminder of the responsibilities associated with the position along with the skill set and personality traits required of an individual to perform these tasks. This is particularly important as COLPs have to be nominated and then approved by the SRA according to criteria set out in the SRA Suitability Test.

The importance therefore of having the right people in place in these key compliance positions cannot be overestimated especially as over 1,200 nominees failed the basic verification test to become COLPs and COFAs (Compliance Officer for Finance & Administration) at the end of 2012 when the legislation was introduced. Furthermore COLP and COFA appointments have been created as an essential part of the SRA's approach to improving regulation and public confidence in legal services.

What is a COLP?

The COLP role came about as a result of the Legal Services Act 2007. This introduced the concept of "Alternative Business Structures" which allows external (non lawyers) to own or invest in law firms. The new regulatory framework that was produced subsequently by the Legal Services Board (LSB) made it mandatory for all ABS firms to have at all times an individual who is designated as Head of Legal Practice.



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This individual was responsible for compliance with the terms of a firm's licence and they also had to report to the licensing authority any failures to comply with the terms of the licence. The regulation has since been extended to include all legal firms and the role renamed to COLP.

Every firm is now required to have a manager or employee designated as their COLP, at all times. This is because the changes as a result of the creation of ABS firms mean it is likely in the future that some law firms will come under the ownership and control of a large organisation. Firms therefore need someone in the role who values their own reputation, career and personal wealth to ensure compliance rather than just looking to the larger parent company to pay out on penalties for breaches.

The specific requirements and responsibilities of the role

A COLP must:

- Ensure compliance with the terms and conditions of the firm's authorisation
- Ensure compliance with any statutory obligations of the firm, its managers, employees and stakeholders in relation to carrying out authorised activities
- Implement (and create where necessary) effective systems and controls to monitor and comply to the rules and outcomes set out in the SRA handbook
- Identify, monitor and manage risks to the fulfilment of all outcomes and rules
- Record breaches and failures to comply and make the details of these instances available to the SRA on request

The existence of the COLP is not a substitute for the firm's and managers' own responsibilities to comply with the SRA's regulations. The role creates accountability and lines of responsibility in a firm and among its partners and senior personnel. It should also be noted that the task of ensuring compliance with the principals, outcomes, rules and provisions in the SRA handbook is a full time job and not something that can be done by a partner between client work.

Who can be a COLP?

The individual must be:

- A lawyer in England or Wales, a registered European lawyer or European lawyer regulated by the Bar Standards Board
- An employee or manager of the firm
- Of sufficient seniority and in a position of sufficient responsibility to fulfil the role
- Approved by the SRA and have consented to undertake the role
- Authorised to do one or more of the reserved activities specified in the firm's certificate of authorisation.

A person cannot be a COLP if they have been disqualified from acting as a HOLP. There is no definition as to what sufficiently senior or responsible might mean. However guidance indicates that COLPs should have:

- Clear reporting lines between themselves and the governing body of the firm i.e. the partners, members or directors
- Access to all management systems and arrangements and all other relevant information.

There may be no one who is ideally positioned to take on the role within your practice and in many cases, those at a senior level may not have sufficient detailed knowledge of the compliance systems.

An alternative could be to appoint a senior person to delegate some of the day-to-day functions (but not responsibility) to other members of staff. The COLP will however, need to monitor delegated work and there will need to be reporting lines between the COLP and those carrying out day-to-day functions.

Qualities needed for the role?

The COLP has to be someone at a senior level in the firm and in a position of sufficient responsibility to fulfil this role. This is because they will need access to wide range of information so as to build up detailed knowledge of the firm's activities in order to perform their functions effectively. The role forms a key part of the risk management policy and adherence to statutory regulations. It therefore needs an individual who:

- Will maintain a degree of independence for the purposes of reporting and potential breaches
- Demonstrate leadership to drive and implement necessary changes in terms of systems and reporting

- Has the ability to stand up for themselves when challenged by senior partners
- Has solid knowledge of the SRA Handbook
- Can influence owners and members of staff to correct procedures and methods
- Does not have any adverse regulatory history such as findings and warnings, reprimands or findings from a Solicitors Disciplinary Tribunal

How Wellers can help you

Selecting the COLP:

- A review of the business to identify the main areas of risk
- Conduct an audit of existing systems and controls, and produce a report on any gaps in compliance
- The creation of a compliance plan to refer to and prevent potential breaches in practice
- Set up systems, policies and procedures that enable the COLP to monitor, report and record adherence to rules and outcomes regulation
- Help your firm's management build criteria to review and assess the effectiveness of a COLP

On-going support:

- Compliance and risk management meetings and quarterly reporting
- Assistance with reporting any breaches
- Help the COLP in formulating and implementing policies effectively with on-going support

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