

DEVELOPING THE ROLE OF THE COFA

The Compliance Officer for Finance and Administration (COFA) role is a statutory requirement which means you will have already filled the position, however, personnel in any organisation do change over time. With this in mind we have written this guide should the role of the COFA become vacant again in your law firm, or, you require help with developing the role within the finance function in 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 COFAs have to be nominated and then approved by the Solicitors Regulation Authority (SRA) according to criteria set out in the SRA Suitability Test.

The need therefore to have the right people in place in these key compliance roles cannot be over emphasised especially as around 1,200 nominees failed the basic verification test to become COFAs and COLPs (Compliance Officer for Legal Practice) at the end of 2012 when the legislation was introduced. Furthermore COFA and COLP 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 COFA?

The COFA role came about as a result of the Legal Services Act 2007. This introduced the concept of "Alternative Business Structures" (ABS) 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 a Head of Finance and Administration.



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This regulation was then extended to include all legal firms and the role was renamed to COFA.

What this means is every firm is now required to have a COFA as part of the process of managing and minimising risks at the right level. The SRA Accounts Rules 2011 requires both individuals within the firm and the organisation itself to be fully compliant. Both are responsible and accountable for compliance failures and the COFA is there to ensure compliance across the board with the SRA Accounts Rules. In effect the COFA is a self policing function within the firm with client protection and specifically the treatment of client money high on the agenda of priorities.

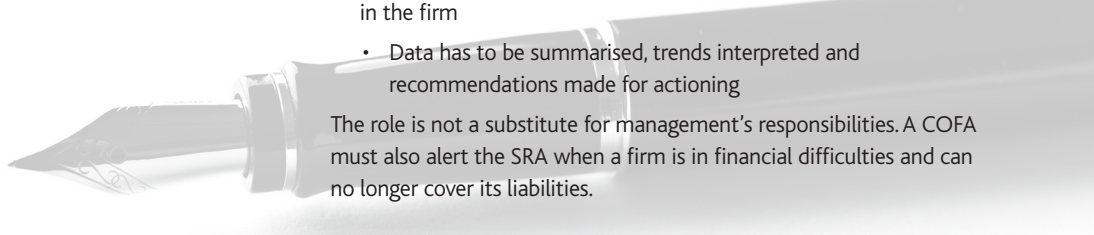
The specific responsibilities of COFAs

The role of the COFA is to review the firm's financial systems, controls and reporting practices so that risks are managed and compliance requirements fulfilled. Most importantly a COFA has to record any failure to comply with the Accounts Rules and this has to be made available to the SRA upon request. Reports on material failures to comply have to be submitted as soon as is reasonably practical once steps have been taken to correct any breach(es).

This means a COFA must:

- Understand how the accounts department is run and does things. The position brings personal liability and disciplinary sanctions can also include warnings, rebukes or even striking off. Investment in training and a thorough knowledge of regulations is a necessity as only then can an individual assess properly the accounts function, identify any breaches and implement the required changes.
- Read thoroughly and refer to the Code of Conduct, Accounts Rules and Authorisation Rules.
- Work closely with the COLP (Compliance Officer for Legal Practice) on all compliance issues. Implementing new Finance or IT policies for example. There will likely be regular compliance meetings and collaboration on reports to the SRA.
- Provide management reporting information to the decision makers in the firm
 - Data has to be summarised, trends interpreted and recommendations made for actioning

The role is not a substitute for management's responsibilities. A COFA must also alert the SRA when a firm is in financial difficulties and can no longer cover its liabilities.



Who is best suited to this role? Does a COFA have to be a lawyer?

Many firms have appointed legal cashiers and practice managers as COFA's. They are an obvious choice because of their knowledge of the Accounts Rules and the accounting function of the practice. However, this should not be the default selection as there are many aspects to the role that need to be addressed when recruiting a replacement candidate.

A COFA does not need to be a lawyer. They do need to be someone of sufficient seniority and responsibility to act in this role. The position forms a key part of the firm's risk management and adherence to statutory regulations. It needs an individual who:

- Is of sufficient seniority and responsibility to fulfil the role
- 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 financial processes and reporting
- Can stand up for themselves when challenged by senior partners
- Has good knowledge of the SRA Accounts Rules and Guidelines.
- 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

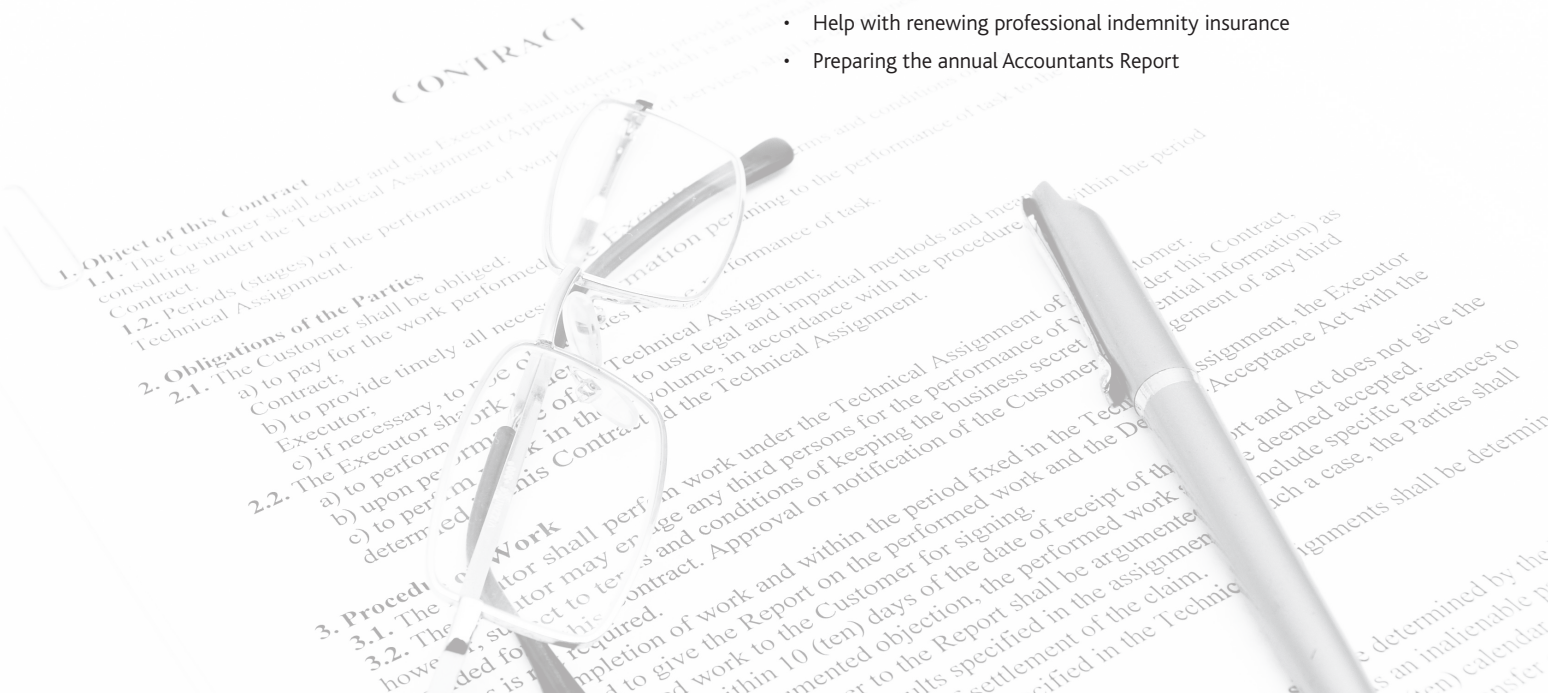
How Wellers can help you

Selecting the COFA:

- A review of the business to identify the main areas of risk
- Conduct an audit of existing systems and financial practices, 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 a back office function and software (or to work with software already in place) that enables the COFA to monitor and report on the performance of the organisation
- Help your firm's management build criteria to review and assess the effectiveness of a COFA
- Setting up systems to collect and record evidence

On-going support:

- Compliance and risk management meetings as well as quarterly reporting
- Assistance with reporting any breaches
- Help the COFA to implement policies and procedures effectively with on-going support
- Coaching on the accounting function and its application
- Assistance with putting together the annual information report
- Help with renewing professional indemnity insurance
- Preparing the annual Accountants Report



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