

***'And then there are the things we don't know we don't know'* (Donald Rumsfeld) - Is it time for your firm's compliance health check?**

The foundation of a law firm's reputation is the quality of its people and their legal expertise and as history has shown, once a law firm loses its reputation it has nothing and will be destroyed. Clients are entitled to assume that the firm they instruct is not only an expert in their matter but is aware of and complies with its own legal and regulatory requirements.

Being compliant (and shown to be compliant) not only helps to enhance a firm's reputation but is likely to lead to additional instructions, as can be seen by the growth of clients requesting law firms to provide them with legal and regulatory advice and undertake risk and compliance due diligence on their businesses. Most importantly it ensures that partners and employees are protected from action being taken against them.

Recently we have seen the SRA issue a reminder to the legal profession that the Solicitors Disciplinary Tribunal (SDT) can award unlimited fines and, the onset of GDPR in May has seen potential fines for data breaches rise from £500,000 to £18million or 4% of annual revenue, whichever is higher.

And law firms cannot say they have not been warned:

- In March 2018 the SRA stated that in a review of money laundering procedures undertaken across 50 firms, two-thirds were found lacking in compliance procedures and 6 of those firms are now subject to disciplinary processes.
- Over the past three years the SRA has closed 8 law firms over money-laundering concerns, 14 firms have voluntarily closed after compliance concerns were raised

and 49 solicitors have been referred to the SDT (12 solicitors were struck off, 13 were suspended and fines of over £800,000 were imposed).

- One 'City' firm was fined £50,000 for failure to comply with money laundering regulations and accounting rules and 3 individual lawyers at the firm were each fined £10,000.
- A US firm in London was fined £500,000 after admitting four allegations of misconduct relating to its failure to have effective systems and controls in place to spot potential conflicts of interest and its failure to supervise a solicitor and prevent the solicitor from directing or requesting payments in and out of the client account which were not related to an underlying legal service.
- Another US firm in London was fined £250,000 for failings in relation to conflicts of interest and client confidentiality.

Given the risks to law firms of non-compliance, the key question is how do partners know that their law firm has the right systems, controls, policies, procedures and training in place? The most obvious and effective way, no matter what size of firm you are and whether or not you have a dedicated risk and compliance partner or team, is for your firm to commission an independent audit from compliance experts. An audit should, as a minimum, review a firm's compliance with the areas listed below, should highlight where further attention or action is required and make recommendations as to the processes which will need to be followed to ensure compliance.

- SRA Handbook
- Anti-Money Laundering
- Data Privacy and GDPR
- Anti-Bribery
- Criminal Finances Act
- Conflict of interests
- Insider Trading
- Modern Slavery Act

As well as providing clarity as to a firm's position, the audit will enable the firm to see clearly where time and resource will need to be focused, preventing overspend and lost time in areas which are not business critical and will enable regulators and clients to see that the firm takes its responsibilities seriously.

A firm that is seen to manage its own risks well will also be seen by its clients as being better able to manage their risks and, as a result will **gain a clear competitive advantage** over its rivals.

Can any law firm now risk not having itself compliance audited?

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