

# The SRA's Risk Outlook

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In late July, the SRA published its latest Risk Outlook. In that document the SRA sets out what it considers to be the key areas of risk for law firms, along with its recommendations on how those risks can be managed. The Risk Outlook gives an insight into the SRA's current priorities and where the profession can expect the SRA to turn its attention next in the context of disciplinary proceedings.

This year, the SRA highlights two 'new' risks, namely:-

1. **Managing claims.** It is no coincidence that, in recent years, we have seen an increase in professional negligence claims in the context of personal injury. The SRA has highlighted concerns about the practices of personal injury firms, including holiday sickness claims. Firms bringing PPI claims are also under the spotlight.

Concerns relate to insurance fraud, lack of client care/incompetence, the use of prohibited referral fees, misleading the Court and cold calling. Misconduct arising in a personal injury context, according to the Risk Outlook, is almost twice as likely to be referred to the Solicitors Disciplinary Tribunal than any other work.

2. **Cyber security.** The profession is constantly having to adapt and to tighten security measures it takes in order to prevent and combat increasingly sophisticated cyber frauds. The Risk Outlook confirms that the SRA sees no sign of those risks abating. In 2017, the SRA received 157 reports about incidents of cybercrime, a 52% increase on the previous year. Many of these arise from the now well-known "Friday-afternoon frauds".

New, more subtle threats arise from agile working and new technology. Law firms' employees working away from the office are more vulnerable to an attack if adequate security measures are not in place on home or public Wi-Fi networks. Smart devices, such as printers, video conferencing facilities and even smart thermostats can help fraudsters intercept sensitive data or discover when a building is unoccupied in order to obtain physical data.

The SRA also focuses on the requirement for the profession to act ethically and with integrity. In 2017, the SRA received over 2,000 reports about concerns in this respect. 439 such reports were made in the first quarter of 2018.

Particular areas of concern include tax avoidance schemes, particularly where solicitors are found to have 'enabled' those schemes through developing and advising upon them as well as advertising them to clients.

Cases involving attempts to abuse the Court's processes for personal gain, such as in the case of some immigration solicitors, are also singled out.

Non-disclosure agreements are also under the spotlight, particularly as a consequence of the '#MeToo' movement. On 12 March 2018, the SRA issued a new Warning Notice in relation to the illegitimate use of NDAs. They should not be used to prevent a party from reporting to a regulator or to law enforcement agencies criminal behaviour which would otherwise be reportable, or to exert inappropriate influence over individuals not to report breaches of the law. Solicitors using NDAs for this purpose will risk a finding that they have demonstrated a lack of integrity.

We anticipate that, in the year ahead and beyond, we will increasingly see examples of cases where the SRA has taken solicitors to task in failing to take heed of the warnings and advice contained in the Risk Outlook.

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