

Automated Compliance

Colin McArdle examines the risk and compliance challenges of outcome-focused regulation

The countdown to the enforcement of the Legal Services Act 2007 (LSA 2007) is ticking by fast. October this year will see the transformation of the legal landscape with the formation of legal advisories based on alternative business structures. The rationale behind these changes is to promote diversity, increase competition and improve public access to justice, and ultimately to protect consumers' interests.

To this end, LSA 2007 requires the Solicitors Regulation Authority (SRA) to support the Act by encouraging transparency and accountability among legal service providers. The SRA believes that this is an opportunity to modernise the regulation of the profession. It has developed an "outcome focused" approach in an attempt to move away from the current prescriptive style of regulation to a more qualitative way of evaluating professional conduct and quality of legal service delivery to consumers. The onus of compliance rests squarely with legal service providers and they face potentially severe financial penalties in the event of non-compliance. The creation of new roles such as compliance officer for legal practice (COLP) and compliance officer for finance and administration (COFA) will become mandatory to ensure organisations deliver to the high professional and business standards expected of both individual solicitors and firms alike.

Inception

As an example, a key target is the client inception process. Firms must conduct anti-money laundering checks, establish proof of client identity, ensure the client has funding in place and that they are aware of all relevant funding options, have templates for client care letters, inform the client in writing of the firm's complaints

procedure and make available a published "equal opportunities and diversity" policy on request.

In addition, organisations must assign practitioners with the right level of experience to the client and then closely monitor service delivery for quality. Law firms need to put in place safeguards around conflict of interest, confidentiality and disclosure that comply with common law, including information barriers such as ethical walls and file access restrictions. The responsibility for ensuring that all necessary checks are conducted and processes are followed rests with legal service providers via periodic self-checks and the furnishing of evidence to the SRA when requested.

Self-regulation

The challenge for legal service providers is that these new regulations are open to interpretation thus increasing their risk of non-compliance. Providers are expected to self-assess, self-certify and self-report their level of compliance to the SRA. This challenge will be compounded for providers who outsource delivery of their legal services. The SRA can, at any time, request access to records or entry to third party premises in relation to outsourced activities or functions.

Needless to say, manually executing and monitoring all these processes is administratively burdensome, time consuming, costly and prone to human error. In contrast, adoption of workflow technology, which can automate such processes, delivers substantial benefits. For example, automated anti-money laundering checks enable firms to conduct client screening quickly and easily and provide complete audit trails evidencing the process undertaken and the results obtained.

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Automation

Using technology to automate a risk-based approach to compliance allows organisations to quantify and manage the risk potential of a client or matter as a matter of course. It is the safest solution to ensure a consistent approach across all departments, office locations and processes. Evidence of such an approach, mandated and operationalised across the firm, can substantially reduce an organisation’s professional indemnity insurance and minimises the financial and reputational risks of non-compliance. The SRA’s objectives are not so different from those of any well-managed law firm – ensure the business is run in accordance with sound financial and risk management principles and deliver the best possible service to customers. The solution is straightforward, the benefits are many.

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If you would like to find out more about how LexisNexis Enterprise Solutions can assist your firm in managing risk and compliance in light of the pending legislation, then please contact Natasha Langton on natasha.langton@lexisnexis.co.uk

