

SRA BOARD

6 June 2023

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SRA Standards and Regulations: Minor Amendments Consultation

Between December 2022 and March 2023 we [consulted](#) on nine technical amendments to our Standards and Regulations (StaRs). The amendments were a response to a “snag list” of issues that had been identified through our regular engagement with our regulated community, advice agencies and consumer groups, as well as issues identified through our formal [one-year evaluation](#).

We received 25 responses to the consultation. Most respondents were organisations, including the Law Society, local law societies, law firms, accountancy firms and the Legal Services Consumer Panel. A summary of the responses is available on Directors Desk.

The feedback on the proposed amendments was generally positive and all proposals received support. We set out below the proposals where objections or concerns were raised with our response.

Firms operating a client's own account: this is where a solicitor is appointed as a deputy or has a power of attorney and can control the client's bank account or other financial facility. This proposal caused the most concern.

We issued guidance on 25 November 2019, to clarify that our focus was on the firm's internal controls in this respect rather than compliance with the detailed requirements in our rules. The aim of the amendment consulted upon was to reduce those detailed requirements, however these remained more onerous compared with the guidance.

Stakeholders told us that the proposal was burdensome and, in some cases, impossible to comply with but also that the requirements did not go far enough in protecting consumers (Legal Services Consumer Panel raised concern that many of the consumers are likely to be vulnerable). Others raised concern about the impact of the proposal in relation to deputyships and the role already played in this area by the Office of the Public Guardian.

We have reflected on the feedback carefully. Noting the very small number of concerns of consumer detriment where a solicitor operates a client's own account, we recommend that we align our new rules more closely with the current guidance. However, mindful of the feedback we have received regarding the risk to this vulnerable group of consumers, we will review this area as part of our three-year evaluation of the StaRs. We will also continue working with the Office of the Public Guardian.

Clarifying the definition of client money: the aim of our proposal was to make it clear that money held or received by a firm for costs not yet incurred is client money.

The Law Society, a local law society and a property solicitor raised concerns that this would prevent firms invoicing for work that has not yet been completed in circumstances that are currently permitted. A particular concern raised was that this would deter firms offering fixed fees where the legal work may take a considerable amount of time to complete. The Law Society and a local law society were concerned that we will create two-tier regulation by treating firms that have a client account differently to those that do not.

The proposed amendments do not prevent firms invoicing clients in advance of work being completed and transferring this money into their office account. Our [guidance](#) makes it clear that this is permissible under the Accounts Rules as long as firms are complying with our requirements, including acting in the best interests of their client. We will make sure this is

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clearly explained in our consultation response, alongside reiterating our requirements around how freelancers hold client money.

New Rule 4.4 to the SRA Accounts Rules: we proposed adding a new rule to make it clear that there is no requirement to deliver a bill or other written notification of costs before moving money from the client account in full or partial reimbursement of money which has been spent by the firm on behalf of the client.

Most respondents supported the changes. The Legal Services Consumer Panel raised concerns that in a prolonged matter, a written notification of costs is important to ensure clients are kept informed of how their money is being used. An accountancy firm raised concerns that the new rule will cause confusion in the profession and reverse some good practice.

Both our StaRs and guidance make it clear that firms must ensure clients receive the best possible information about how their money will be used or is being used during the course of a matter. This means being clear about any funds that are being paid over on their behalf and for which they will be liable to the firm. We therefore consider sufficient protections are in place without the specific requirement for a written notification of costs or a bill being sent in every case before the transfer of funds from client account is made.

Solicitors administering oaths or statutory declarations outside their normal practice will not be regarded as a freelance solicitor, subject to specific criteria: this received overwhelming support from respondents to the consultation. One law firm felt this was an area of risk if a client was dishonest about the legitimacy of the documentation; however this risk is not impacted by our proposed amendment and so we recommend that we proceed.

Removing the requirement for solicitors providing pro bono services outside their firm or organisation to notify us of their intention to practise as a freelance solicitor: the Law Society objected to this. They argued that the notification requirement is not onerous and offers protection to the public and the individual solicitor, enabling us to be informed of the activities of those we regulate. However, both before and as part of the consultation we were told that the requirement is a barrier to some solicitors offering pro bono services. We have not identified any risks arising from the removal of this notification requirement. We therefore recommend that we proceed with this amendment.

No objections were raised in relation to the remaining proposed amendments.

Where respondents raised queries or sought assurances, but did not object to the proposals, We will address all of the queries and comments raised by respondents in our response to the consultation, as well as outline how feedback on the drafting of the amendments has been considered and taken into account in the final rules. Where points of note were made that were not relevant to the current consultation, these will be considered as part of our three-year evaluation of the StaRs.

We recommend that the Board make the new rules on minor amendments to the SRA Standards and Regulations as outlined at annex 2.