



Solicitors  
Regulation  
Authority

# Attitudes to regulation and compliance in legal services

2011 Research Findings

**Contents**

Introduction ..... 6

Purpose of the research..... 7

Evidence collection ..... 8

External consultants..... 9

Summary ..... 10

    1. Knowledge of the rules ..... 10

    2. Costs and benefits of obeying the rules..... 10

    3. Acceptance of regulation ..... 11

    4. Respect for authority ..... 11

    5. Non-official/social control ..... 12

    6. Risk of being reported..... 12

    7. Risk of inspection ..... 13

    8. Risk of detection ..... 13

    9. Selectivity ..... 14

    10. Risk of sanction ..... 14

    11. Severity of sanction..... 14

Compliance Benchmarking ..... 15

Conclusions ..... 15

Full report ..... 18

Preface: Compliance in the regulated community ..... 19

    Benchmarking compliance, exploring attitudes ..... 19

    Most firms have some level of non-compliance..... 20

Methodology..... 21

    Research questions ..... 21

    Exploring the reasons behind attitudes to compliance: the table of eleven..... 21

    Data collection: Face to face depth interviews and file reviews ..... 23

Chapter 1 - What influences firms' attitudes towards compliance with SRA rules? ..... 24

    1. Knowledge of the rules ..... 24

        How reliable a measure is knowledge of the rules? ..... 24

        How well do firms think they know the rules, and does this affect their perceptions of compliance and regulation? ..... 25

2. Costs and benefits of obeying the rules.....	27
How reliable a measure are costs and benefits of obeying the rules? .....	27
How do firms perceive the costs and benefits of regulation, and does this affect their perceptions of compliance and regulation?.....	28
3. Acceptance of regulation .....	29
How reliable a measure is acceptance of regulation? .....	30
Do firms accept the role of regulation, and does this affect their perceptions of compliance and regulation? .....	30
4. Respect for authority .....	32
How reliable a measure is respect for authority?.....	33
How do firms perceive the SRA as an authority figure, and does this affect their perceptions of compliance and regulation?.....	33
5. Non-official/social control.....	34
How reliable a measure is non-official and social control? .....	34
How do firms perceive non-official /social control, and does this affect their perceptions of compliance and regulation?.....	35
6. Risk of being reported.....	36
How reliable a measure is risk of being reported? .....	36
Do firms feel they are at risk of being reported for non-compliance, and does this affect their perceptions of compliance and regulation? .....	37
<i>Reporting</i> .....	38
7. Risk of inspection .....	39
How reliable a measure is risk of inspection?.....	39
Do firms feel they are at risk of being inspected, and does this affect their perceptions of compliance and regulation?.....	40
8. Risk of detection .....	40
How reliable a measure is risk of detection?.....	40
Do firms feel that the SRA is good at detecting non-compliance, and does this affect their perceptions of compliance and regulation? .....	41
9. Selectivity .....	45
How reliable a measure is selectivity? .....	45
Do firms feel that the SRA are selective in their use of resources (including visits), and does this affect their perceptions of compliance and regulation? .....	45

10. Risk of Sanction .....	47
How reliable a measure is risk of sanction?.....	47
Do firms feel that they are at risk of receiving a sanction if non-compliance is found, and does this affect their perceptions of compliance and regulation? .....	47
11. Severity of Sanction .....	49
How reliable a measure is respect for authority?.....	49
Do firms feel that when sanctions occur, they are timely and of the right level of severity, and does this affect their perceptions of compliance and regulation?.....	49
Influence on regulatory approach .....	51
Chapter 2 - How do firms rate their own compliance with SRA rules? .....	52
Reported compliance.....	52
How robust a measure is reported compliance?.....	53
How well do firms feel they comply with the regulatory requirements?.....	53
Relationships between reported compliance and the T11 dimensions: what can they tell us about what motivates firms to comply? .....	56
Concern about the prospect of being supervised by the SRA .....	59
How robust a measure is overall concern?.....	60
How concerned are firms about the prospect of being visited or supervised by the SRA? .....	60
Relationships between concern about being supervised and the T11 dimensions: what can they tell us about what makes firms concerned about supervision? .....	63
Conclusions .....	66
Different firms, differing perspectives.....	66
In a field of high compliance, a visit is worrying .....	66
Personal pride is invested in compliance and affected by supervision .....	67
Chapter 3 – Incorporating the findings into the SRA’s regulatory approach.....	68
SRA Compliance Estimate .....	68
Existing typology of regulated persons.....	68
SRA Compliance Estimate based on the T11 .....	69
SRA typology of attitudes to compliance.....	70
SRA Regulatory improvement tool hierarchy .....	72
Annex A – Visit methodology.....	73
Sampling.....	73
Sampling rationale .....	73

Attitudinal Questionnaire .....	74
Devising the questions.....	74
Addressing the regulator bias.....	74
Analysing the response data.....	75
File review .....	75
Mapping across from the old to new code of conduct.....	75
Inherent bias in file review .....	76
Thank you to participants .....	76
Annex B – Visit questionnaire .....	77
Annex C – File review checklist .....	113
Annex D – Original table of eleven compliance estimate .....	134
Introduction .....	134
Compliance estimate diagram .....	134
Typologies .....	135
Further guidance.....	135
Annex E – Compliance baseline findings.....	136
Introduction .....	136
Findings .....	136

## Introduction

On 6 October 2011, the Solicitors' Regulation Authority (SRA) began regulating solicitors and firms in a new way; moving from a more prescriptive and reactive approach to regulation to a more pro-active, risk-based outcomes-focused approach (OFR). The SRA is keen to build an understanding of the impact of this reform and for this purpose has formed a 'baseline' of firm attitudes towards compliance against which to measure the impact of OFR over time. This work has also provided us with an insight into the drivers of regulatory compliance and non-compliance by firms which will aid our supervisory activities. In particular, it will help us to understand what helps and motivates individuals and firms to comply with our regulatory requirements.

This attitudinal study uses social and behavioural science approaches to shed light on the factors that influence compliance behaviour. The SRA has incorporated the findings from this study into our regulatory approach, particularly into how we supervise firms.

Any queries regarding the research should be addressed to Karen Nokes at [Karen.Nokes@sra.org.uk](mailto:Karen.Nokes@sra.org.uk) or Laura Holloway at [Laura.Holloway@sra.org.uk](mailto:Laura.Holloway@sra.org.uk).

## Purpose of the research

Assessing effectiveness is a key component to any change in regulatory regime. In the SRA's April 2010 consultation<sup>1</sup>, we stated that;

*"We expect to undertake an initial baseline assessment of the delivery of the required outcomes later in 2010. We will use a random and representative sample of firms to establish a benchmark picture of the extent to which the required outcomes are being achieved, followed by a subsequent assessment, 12 or 24 months later to measure progress."*

We envisaged benchmarking to be focused on the delivery of outcomes. We took a broad approach to this and wanted to explore what particular factors motivate compliance or inhibit it and therefore affect the delivery of good outcomes to consumers.

We set out two high level objectives for the 'base lining' research:

- *Gathering data on firms' attitudes towards compliance and regulation, to understand enablers and barriers to compliance. Analysis of the data acts as a baseline against which we can monitor how attitudes are changing over time and to inform our regulatory approach.*
- *A compliance benchmarking exercise to capture a snapshot of firms' compliance with our Code of Conduct before the move to OFR.*

To explore firms' attitudes toward compliance and regulation, we used a compliance metric known as the Table of Eleven (T11). T11 was developed by the Dutch Ministry of Justice and is recognised by the Organisation for Economic Co-operation and Development (OECD). The Hampton Review of 2005, *Reducing administrative burdens: effective inspection and enforcement*, recommended use of the T11 as a framework for delivering better regulation through effective use of resources<sup>2</sup>. T11 helps a regulator to map the potential strong and weak points of compliance.

There are 11 'dimensions' of compliance within T11. Each dimension provides criteria from which a regulator can assess whether those particular factors motivate compliance or not. The eleven dimensions are split into two groups, *spontaneous compliance dimension group* and *the enforcement dimension group*. The *spontaneous group* focus on attitudes toward compliance generally, including knowledge of the rules and attitudes towards authority. The *enforcement group* concentrates on attitudes towards regulatory or enforcement activity, so examines attitudes to visits and likelihood of sanctions.

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<sup>1</sup> [\*Outcomes-focused regulation - transforming the SRA's regulation of legal services\*](#) – SRA, April 2010. This consultation has now closed, deadline for submissions was 28 July 2010.

<sup>2</sup> Hampton, Philip – [\*Reducing administrative burdens: effective inspection and enforcement\*](#), HM Treasury, 2005.

By looking at a sample of firms in the regulated population, it is possible to explore which of the T11 dimensions will be most effective for motivating increased compliance and delivery of good outcomes for consumers.

## Evidence collection

- We visited 200 SRA regulated firms (prior to the move to OFR) to explore their attitudes towards compliance and regulation and to carry out a compliance benchmarking exercise using file reviews.
- Each firm gave responses to approximately 100 questions based on an established behavioural science framework. Answers were given on a six point scale to allow statistical analysis.
- Firms also provided us with open text explanations on the reasons for their responses to provide insight into the reasons for their scoring.
- We used various statistical and qualitative analytical techniques to explore attitudes to compliance.
- We then explored how the findings could be used to support the SRA's development of effective regulatory strategies.
- We acknowledge in undertaking this research, that 'regulator bias' is a feature of the methodology and therefore have taken this into account when interpreting the findings. For this study, we were seeking to pilot a methodological approach and we also saw benefit in using SRA staff to embed an understanding of OFR. As a regulator, we are aware that those we regulate may 'tell us what we want to hear' during interview, or not feel comfortable discussing their own possible non-compliance or poor performance. We took a number of steps to control for this including assuring firms they had been randomly selected and using a range of questions about both the individual firm and firms in general. In addition, allowing firms to provide an explanation around the scores they gave helped to ensure that ratings were not given out of context and we assured firms that their answers were not being used to assess the firm but to explore motivators for compliance. Nonetheless, we recognise that despite these steps, regulator bias remains a feature of this research. When we undertake a second wave of visits in early 2013, to compare the results against the 2011 base line, we will attempt to further reduce regulator bias based on the lessons learnt from this study. We are exploring ways in which we might do this including using an independent third party to collect the data and /or submission of information online.



## External consultants

This research was undertaken with the help of:

- **Paul Domjan**, Director of John Howell and Company Ltd
- **Daniel Read**, Professor of Behavioural Science at Warwick Business School

## Summary

We have set out the key points arising from each of the T11 dimensions below together with a summary of the results of the compliance benchmarking exercise.

### 1. Knowledge of the rules

Knowledge and understanding of the rules and regulatory requirements are key contributors to firms being compliant as unfamiliarity may result in unintentional non-compliance. It is reassuring, therefore, that when assessed on *Dimension 1 – Knowledge of the rules*, the firms within our sample group feel that they, and other firms, know and understand the rules well. Of the 200 firms the SRA spoke to, 170 rated their firm as a 4, 5 or 6 on a scale of 1 -6 with 1 being very unaware of the regulatory requirements, and 6 being fully aware.

The importance of this dimension is that unfamiliarity with the rules can result in unintentional non-compliance with a resulting impact upon the regulator's resources. It was also reassuring to note that many firms were aware of their own ability to be inadvertently non-compliant. This dimension will be a key comparison point when we carry out further research in 2013. In the sample group, firms were evaluating their knowledge of the rules against the 2007 Code and associated requirements. It will be of interest to compare their attitude to and perception of 'knowledge of the rules' using the 2011 Code in the second study.

Our findings provide us with useful feedback on how we could further support good compliance by firms and individuals. The use of Frequently Asked Questions in the early days of OFR to support and influence firms would be useful, as would be highlighting the issue of unintentional non-compliance through the use of case studies, media articles, web articles and other channels. We know the areas of most common breach of the Code of Conduct are around information provision, so the first case studies could focus on this area. Firms can currently subscribe to *SRA Update*<sup>3</sup>, to receive 4 or 5 e-newsletters per year on regulatory issues, including any updates to the Handbook. Handbook updates also appear on the SRA website in 'track changes' form. The SRA should continue to promote these various means of keeping up to date.

### 2. Costs and benefits of obeying the rules

Is it more cost effective to break the rules and run the risk of sanction than it is to comply? We sought to test attitudes to this (the 'violation threshold') within *Dimension 2 – Costs and benefits of obeying the rules*. Costs may include both direct financial costs but also less tangible ones, such as effect on reputation.

Statistical analysis showed that firms felt the benefits of complying did outweigh the costs indicating that this is a core dimension of compliance. Only 6 firms out of 200 felt that their firm never derived benefits or advantages from complying with regulatory requirements, beyond avoiding regulatory action. The text responses added additional context around this and we saw aspects of segmentation within the sample firms. Whilst the majority within the sample group considered that

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<sup>3</sup> Subscription requires regulated individuals providing the SRA with a valid contact email address.

the benefits of complying outweighed the costs, smaller firms and those in sole practice were very aware of 'capacity' issues regarding compliance and would like more support around this. Other firms had greater capacity to comply but felt that the costs associated with compliance could be reduced. Whilst motivation to comply can be strong, perceived resources could act as a barrier to compliance and have a resulting effect on motivation levels.

Within this Dimension and linked to effect on reputation, we also see the theme of 'professional pride' start to emerge – this is evident across a number of dimensions including *Dimension 3 – Acceptance of Regulation* where analysis of the individual answers indicated that firms see the regulatory requirements as positively reflecting the ethics of the profession.

The research demonstrates that we should keep under constant review the perceived regulatory burden across different types of firms. We are exploring areas in which we need to take this into account such as our approach to annual reporting. We may consider ways in which we can reduce the regulatory burden on firms showing a good propensity to comply.

### **3. Acceptance of regulation**

This explores firms' acceptance of the rationale behind regulation. A low level of acceptance can result in intermittent compliance.

The statistical testing and the qualitative data indicate that many firms accept compliance as 'the right thing to do', rather than something imposed on them, indicating that they have strong ethical motivations to comply. This was reflected in the fact that 3 out of 4 firms (150 out of 200) scored 5 or 6 when asked if they thought the regulatory requirements positively reflected the ethics of the profession (on a scale of 1=wholly negative to 6=wholly positive). Many firms stated that they accept regulation because of their pride in being part of the solicitors' profession, and the role of regulation in upholding the standards of the profession. This relates to both upholding standards by removing any 'rogue' element (a common theme in responses), and contributing to public perception of solicitors as having high standards.

This is one area where we will review our range of questions for the next study. In using very broad questions, we received a wide range of responses which indicated that perceptions of 'regulation' ranged from looking at the whole regime, to experiences of visits, to views on enforcement. Notwithstanding this, some of the text responses indicated that firms are more accepting of the rationale behind the regulatory requirements than they are of the way that the SRA implements the regulatory objectives. We can incorporate these findings into how we provide information about the way we regulate to ensure that we are clear and transparent about the way in which we implement our regulatory policy.

### **4. Respect for authority**

This dimension tests the general approach of the target group to authority. Due to 'regulator bias', it was difficult to devise questions which would explore this dimension with objectivity. In addition, we appreciate that regulator bias may have affected the responses we received to those questions. The text responses concentrated on a general fear of enforcement rather than commenting on 'authority', so we recognise that our findings for this area are less robust than others. However, we

felt it was important to include this dimension in order to explore how we could collect useful data on respect for authority. We may need to consider using restructured questions and external interviewers to further explore this dimension, in order to overcome regulator bias.

## **5. Non-official/social control**

Non-official/social control explores attitudes about the consequences of detection of non-compliance other than SRA sanctions. Reputational damage could be said here to act as a social control.

The findings suggest that firms perceive that there are clear consequences for them when non-compliance is detected, other than SRA sanctions. Reputational damage as a result of detection of non-compliance was a concern for firms in the sample. Responses indicate that this included the views of their peers at other firms, as well as consumers and clients. 84 out of 200 firms also stated that the strongest driver of compliance at their firm was professional pride/adherence to professional principles.

## **6. Risk of being reported**

Dimension 6 looks at how firms perceive the likelihood of someone other than the SRA detecting non-compliance and reporting it. This links with dimension 5 above regarding the consequences of being reported. So what are firms' perceptions of whether other firms and consumers can detect non-compliance? The individual text responses to questions relating to dimension 5 and 6 provided insight into this.

The findings indicate that firms have a low awareness of the levels of compliance within other firms. For example, 130 out of 200 firms scored their firm a 1, 2 or 3 when asked how aware they were of non-compliance at other firms (on a scale of 1=no awareness, to 6=high awareness). This has an effect with regard to perceived social control and the perceived risk of reputational damage. Some of the text responses indicated that firms may only report other firms in question to the SRA as a 'last resort' and their attitude was that the level of non-compliance would have to be high to do so.

Firms also considered that consumers' had low levels of awareness regarding non-compliance within firms. This highlights the often significant perception of asymmetry of information between law firms and those they deal with.

There are a number of ways in which we could seek to influence these dimensions and therefore affect the approach to the reporting of non-compliance. We could assess whether increasing information available to consumers around what happens in a law firm - what they should expect of a compliant firm, what can go wrong and how to fix it, would help mitigate the risk of some firms taking advantage of clients' lack of knowledge around compliance. Exploring the use of whistle blowing policies and providing examples of how reporting information can assist us in dealing with non-compliance are two examples of how a regulator can help to encourage the reporting of non-compliance. In summary we need to examine the needs of, and support to, the consumer and individuals and firms to encourage reporting.

## 7. Risk of inspection

Risk of inspection measures firms' perceptions of the risk of a visit by the SRA. The 'actual' risk of a visit (as opposed to the perceived risk) will be affected the visit density set by the regulator and regulatory risk methodology. This is another area where we will review our methodological approach due to 'regulator biases. The fact that we were gathering data on a visit to the firm is highly likely to distort the results so we have taken that into account in the way in which we interpret the data.

Many firms commented that they have a fear of visits – many reported a visit as a worrying prospect and perceived a visit as meaning that they had done something wrong. Firms also feel that visits are likely; when asked to rate the percentage likelihood of an SRA visit to their firm, the average score across the 200 firms was 78 per cent.

Some firms commented that visits had been a positive experience for their firm. Some firms reported that visits had helped them to pick up on areas of non-compliance and had offered a chance to discuss different approaches to improvement within their firm. We acknowledge that visits are a useful tool in encouraging and supporting good compliance and regulatory behaviour.

Visits to firms are a critical component of our supervisory approach. This approach should encompass visits to firms for a range of different reasons – covering thematic risks, undertaking investigations (where necessary) and also random visits. Random visits assist in maintaining the unpredictability of visits and help to prevent firms trying to balance the objective and subjective risk of inspection. Ensuring that our 'visit density' is at the appropriate level will also be important.

## 8. Risk of detection

This dimension traditionally refers to the likelihood of a breach being detected via an inspection of or visit to the firm. Based upon our supervisory approach, we widened the scope of our questioning in this dimension to include questions about the perception of both desk based and visit based activity. Again, we are mindful of the effect of regulator bias in the analysis of the data.

Whilst the statistical testing indicated that firms felt that the SRA is very good at detecting non-compliance, many responses from firms indicated that they felt non-compliance was more likely to be detected on visits than through desk based supervision. This may reflect the fact that desk based supervision is a new approach that firms are less familiar with. Some firms, however, considered that desk based supervision would allow better use of resources. Whilst many firms mentioned a fear of visits some firms also referred to finding visits both positive and constructive.

This dimension is especially important to the SRA in our approach to the supervision of individuals and firms. Whilst we recognise the stress and anxiety that a regulatory visit can cause (always ensuring our staff work effectively on site to minimise the burden on firms), the perception of our ability to detect non-compliance on a visit can also motivate firms to comply. We should consider providing information about our detection and resolution of non-compliance. We also recognise that visits are a useful tool in encouraging and supporting good compliance in our regulated firms.

## 9. Selectivity

Selectivity measures whether the sample group considers that the SRA concentrates resources (including visits) on firms likely to be non-compliant, rather than those who are compliant.

Overall, the analysis of the data indicated that firms were more confident of the SRA's selectivity of visits than the overall approach to allocating resources to potentially non-compliant firms. The term 'resources', however, is very general and it is possible that firms did not understand how we were using the term. We consider that we could reframe our questions concerning this dimension for future studies. We could be more explicit about the term 'resources' and break the term down into areas of resource allocation within the SRA based on regulatory functions.

The SRA's approach to outcomes-focused, risk based regulation is outlined on our website. A risk based approach to regulation includes our allocation of resources, and we will continue to be transparent about risk based use of resources at the SRA, including through our external publications. We will continue to explore what additional information we could include on the way in which we use our resources. We will also be continuing to use cost benefit analysis to assess the proportionality of our regulatory approach.

## 10. Risk of sanction

This dimension explores the perceived risk of receiving a sanction, should non-compliance with the rules or regulatory requirements be detected.

The fear of reputational damage and a denting of 'professional pride' appeared to be of greater significance amongst the sample group than risk of receiving a sanction. The reputational and business impact of detection was often seen as a 'sanction' in itself. Some firms saw visits as a form of sanction, in that they could have reputational impact, regardless of whether any non-compliance was detected. Those that had not received a visit from us expected that sanctions would flow from any detection of non-compliance. Responses from firms indicated that some were aware that the SRA would work with firms to correct issues and not go straight to the imposition of a sanction.

Firms were worried about unintentional non-compliance and the effect this could have both in its being detected and the publicity surrounding this. This links back to our findings on knowledge of the rules.

## 11. Severity of sanction

This dimension explores the perceived severity and nature of the sanctions imposed by the regulator following detection of non-compliance.

Awareness of sanctions was high amongst the sample group. Firms had different ideas about whether they were too severe, not severe enough or about right. 130 out of 200 firms felt SRA

sanctions were neither too severe nor severe enough. The perceived reputational impact of the SRA detecting non-compliance affected firms' attitudes to compliance to a greater extent than the severity of any sanction imposed as a result of the detection.

Clearly our approach to enforcement following detection of non-compliance will have an impact upon whether the regulated community view enforcement as a 'credible deterrent'. The SRA will continue to implement a proportionate, robust approach to enforcement, and a considered approach to publicity around enforcement action.

## Compliance Benchmarking

As part of the visits to the 200 firms, we carried out a compliance benchmarking exercise to capture a snapshot of firms' compliance before the move to OFR. Data was gathered using a sample of client files and the files were assessed using the Solicitors' Code of Conduct 2007. We then carried out a mapping exercise to compare the areas of non-compliance found under the 2007 Code with the Solicitors' Code of Conduct 2011. The purpose of this was to highlight any potential areas of non-compliance with regard to the 2011 Code. We acknowledge that the 'mapping' between the two Codes is approximate as the two Codes differ in approach.

Across the sample firms, less than 1 in 10 firms were found to have no areas of non-compliance within the client file sample. Most firms in the sample had 4 or 5 incidences of non-compliance. The main area of non-compliance was around provision of information to consumers (costs, services, regulation and how to complain).

## Conclusions

Exploration of firms' attitudes to regulation and compliance can help shed light on the motivating factors of compliance with the regulatory requirements. In the SRA's initial study using the T11, we have highlighted a number of areas where we could seek to influence compliance by influencing some of the T11 factors.

Analysis of our results indicates that for our sample group, most non-compliance is likely to be unintended, whether consciously (such as not having the capacity to comply with a rule), or unconsciously (such as not knowing that they are breaking a rule). Firms accept the rationale behind regulation but a strong motivator for compliance is 'professional pride'. In particular, it was a strong element of responses around *Dimension 3 – Acceptance of regulation*. Many firms accept regulation because of their pride in being part of the solicitor's profession, and the role of regulation in upholding standards. Analysis of the individual answers indicated that firms see the regulatory requirements as positively reflecting the ethics of the profession.

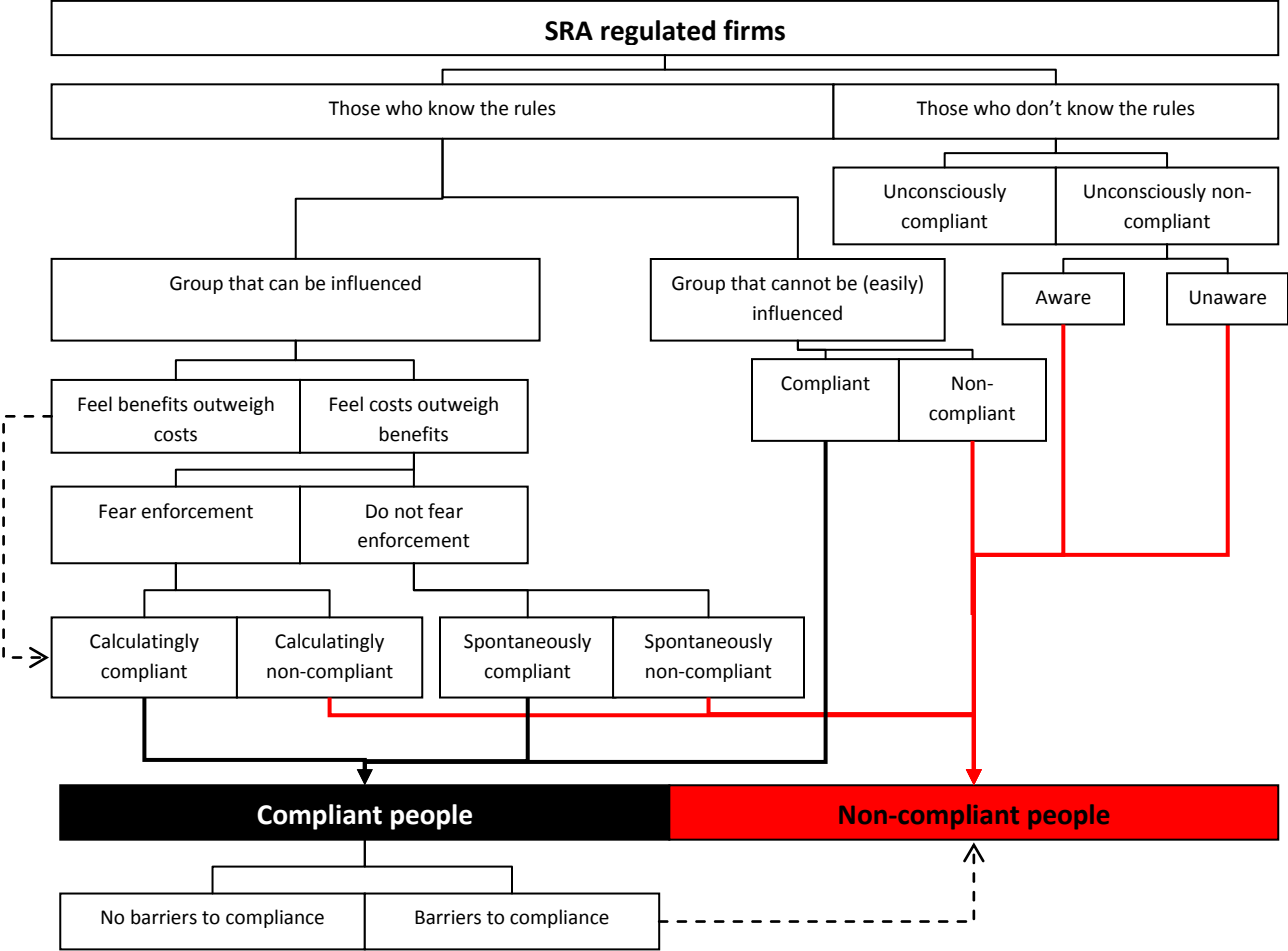
Firms generally feel that they and other firms are willing and able to comply and are generally compliant. The majority of firms were assessed as giving an accurate assessment of their own compliance (SRA staff reviewed firm files to assess compliance).

The majority of firms feel that the profession, including their own firm, is concerned about SRA visits. Firms were less concerned about desk based supervision, which is not surprising given that the SRA has only recently started to implement this type of supervisory approach. A number of firms expressed interest in understanding more about what it entails.

Alongside the T11, the Dutch Ministry of Justice devised a compliance estimate, looking at all eleven dimensions and mapping them through a flow diagram to create a range of 'attitude types'. This research has allowed the SRA to prepare its own 'compliance estimate', mapping the factors that may contribute to compliant and non-compliant behaviour. Whilst this will need revision over time and by subsequent research, it provides a tool for consideration for what factors influence compliance.



SRA compliance estimate



## Full report

This report contains:

- Commentary on the compliance benchmarking exercise ([Preface](#)).
- Findings for each of the dimensions within the Table of Eleven. Introductions to each dimension together with a summary of the findings for the individual dimensions are highlighted in the text ([Chapter 1](#)).
- Commentary on how firms rate their own compliance with the SRA rules and requirements (Reported Compliance) and concern about the prospect of being supervised by the SRA (Overall Concern) ([Chapter 2](#)).
- An SRA Compliance Estimate based on the Table of Eleven model using the findings from Chapters 1 and 2 ([Chapter 3](#)).
- A suggested SRA typology of attitudes to compliance – different regulatory tools are particularly effective in targeting typology-specific problems ([Chapter 3](#)).

## Preface: Compliance in the regulated community

### Benchmarking compliance, exploring attitudes

This attitudinal study explores firms' attitudes towards compliance, and how understanding those attitudes can improve the way the SRA regulates. We wanted to explore how individuals and firms approach compliance, and how they feel about it, so we could better understand how to supervise and support firms in achieving compliance, and delivering good outcomes for consumers.

The SRA regulates around 11,000 firms and around 120,000 individuals. The majority of firms have not been subject to regulatory action by the SRA (see table 1, 2010 data has been presented to reflect the year in which the research began). The SRA takes a risk-based, proportionate approach to regulation. The SRA would like to encourage those firms who show a good propensity to comply and achieve good outcomes whilst ensuring that there is a credible deterrent for those who are unwilling to do so

**Table 1: SRA Management Information data 2010**

	2010 (to 31 Dec)
Number of Practising Certificate holders	117,802
Number of solicitors on the Roll	156,628
Number of Registered Foreign Lawyers (RFLs)	1,619
Number of Registered European Lawyers (RELs)	294
Total number of solicitors' firms	10,961
Sole practitioner	3,777
Partnership	3,517
LLP	1,345
Incorporated Company	2,081
Multinational/overseas	151
Other	90
Number of new firms	1,100
Number of calls received to Ethics Guidance Helpline	58,193
Number of visits by Practice Standards Unit	923
Number of Forensic Investigation visits	466
Number of interventions	64
Number of referrals from the Legal Complaints Service	1,026
Disciplinary proceedings cases issued	252

The SRA ran a compliance benchmarking exercise alongside the attitudinal study, in order to get a snapshot of the main areas of non-compliance across firms in our regulated community. SRA staff recorded the number of breaches/areas of non-compliance of the Solicitors' Code of Conduct 2007 (2007 Code) detected in file reviews at the sample of 200 firms who participated in this study. Firm files

were reviewed against the regulatory checklist attached at [Annex C](#). For full details of the methodology and methodological issues around the file review, see [Annex A](#).

The breaches highlighted against the 2007 Code were then mapped across to the Solicitors' Code of Conduct 2011 (the 2011 Code). The 2011 Code is outcomes-focused, and some behaviours relating to process rather than outcome, (which is considered a breach under the old code), may not be considered an area of non-compliance under the 2011 code. Firms now have more flexibility in how they achieve and demonstrate achievement of the required principles and outcomes, and the SRA takes this into account when reviewing compliance. We have not attempted to link particular *attitudes* towards compliance and regulation to *actual incidences of breach* found at firms<sup>4</sup>. The main reason is that the compliance metric we have used is not a predictive method but rather a "*heuristic device which helps to organise and manage data*"<sup>5</sup>.

Notwithstanding the above, the information we have recorded regarding compliance with the 2007 Code has helped us to highlight possible areas of non-compliance under the 2011 Code where improvement is necessary. Information regarding the compliance benchmarking exercise is included below.

### **Most firms have some level of non-compliance**

Across a sample of 200 firms, there were 19 firms (just less than 1 in 10 firms) where no areas of non-compliance of the 2007 or 2011 Codes were found.

Most firms in the sample had around 4 or 5 incidences of non-compliance of each version of the code detected in the file review. The main area of non-compliance was around information provision to clients/consumers, and can be remedied through changes to client care procedures and letters, which are relatively easy to make. Those firms were found to be in need of improvement in providing information about costs, services, regulation, or how to complain.

We explored the comparison of non-compliance of the 2007 and 2011 Code by means of statistical analysis. The correlation between breaches of the 2007 and the 2011 code is relatively low<sup>6</sup>; those firms where a breach was detected under the 2007 code did not always have a breach detected under the 2011 code, and vice versa. This is not only because of a few outliers, since the correlation increases only slightly<sup>7</sup> when Spearman Rank Order correlations (which do not give outliers disproportionate weight) are used. This indicates that analysis of non-compliance can not necessarily be 'mapped over' from the 2007 code to the 2011 code.

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<sup>4</sup> We tested whether there was any statistical link between particular attitudes towards compliance and whether any non-compliance was found on the visits. We ran statistical tests (Pearson Correlation) to see if attitudes to compliance (measured by the Table of 11) had any relationship to breaches of rules found on the visits; they did not.

<sup>5</sup> Ostrovskaya, E, Leentvaar, J and Taniuscheva, N - *Compliance and enforcement of environmental regulations in the Volga-Caspian region: State-business interface*

<sup>6</sup> 0.36

<sup>7</sup> 0.41

For full details of the findings of the compliance benchmarking exercise, see [Annex E](#).

## Methodology

This study was a pilot looking not only to explore specific research questions, but to test the suitability of using a behavioural science methodology tailored to the SRA's regulatory context.

## Research questions

In undertaking this study, the SRA explored the following questions.

- What are firms' attitudes towards compliance with SRA regulatory requirements? ([Chapter 1](#))
- How do firms rate their own compliance with SRA regulatory requirements? ([Chapter 2](#))
- How can the SRA positively incorporate firms' attitudes towards compliance into our regulatory approach? ([Chapter 3](#))

This report is divided into three chapters, each of which discusses findings related to the questions above.

## Exploring the reasons behind attitudes to compliance: the table of eleven

The SRA used a compliance metric called the *Table of eleven* (T11) to explore firms' attitudes to compliance.

The T11 was originally developed by the Dutch Ministry of Justice. In 1994, the Ministry studied the possibility of using a monitoring tool that should provide insight into levels of compliance (in their case with legislation) and a structured view of the causes of compliance or non-compliance. Using the tool, compliance profiles of a targeted group can then be created. The tool, which became known as the Table of Eleven ([www.T11.nl](http://www.T11.nl)) was developed by Dr D Ruimschotel and the University of Amsterdam.

The initial concept was based on a study which used behavioural science (the Theory of Reasoned Action) and led to a compliance metric of 11 factors. It is recognised by academics and has been used by a number of regulators across Europe, and has been adopted by the Organisation for Economic Co-operation and Development (OECD) as a standard metric of compliance. The Hampton Review of 2005, *Reducing administrative burdens; effective inspection and enforcement*, recommended the use of the T11 as a framework for delivering better regulation through effective use of resources.

The basic theory of T11 lies in social psychology including reference to the Theory of Reasoned Action developed by Martin Fishbein and Icek Ajzen<sup>8</sup>. The components of the Theory of Reasoned Action are three general constructs, behavioural intention, attitude and the subjective norm. The theory suggests that behavioural intentions depend on the person's attitude to the behaviour and the subjective norm, the opinions or views of relevant others. In a domestic setting, these could include your parents, siblings, friends, teachers or work colleague. In the regulatory environment, the relevant others could be those within your firm, other firms in your local area or sector or those who you consider to be similar to yourself.

T11 is not a 'ready-made instrument' like an attitude survey or a psychometric tool. It is a conceptual device which can be adjusted to the environment it is being used in. Thus it can be used in a variety of different ways for a variety of different reasons.

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<sup>8</sup> Fishbein, M., & Ajzen, I. (1975) – *Belief, Attitude, Intention, and Behavior: An Introduction to Theory and Research*. Reading, MA: Addison-Wesley.

**Table 2: The table of eleven (T11) dimensions**

<b>Table of eleven</b>				
<b>Spontaneous compliance dimensions</b>				
1. Knowledge of rules a) familiarity with rules b) clarity of rules	2. Costs/benefits a) financial/ economic costs and benefits b) intangible costs and benefits	3. Extent of acceptance a) acceptance of the policy objective b) acceptance of the effects of a policy	4. Respect for authority a) respect for official authority b) respect for competing authority	5. Influence of non-official control a) social control b) horizontal supervision (by professional association etc)
<b>Enforcement dimensions</b>				
6. Risk of being reported	7. Risk of inspection a) inspection of records (desk based) b) physical inspection (visit)	8. Risk of detection a) detection in inspection of records b) detection in physical inspection	9. Selectivity Extent that authority inspects those violating rules, rather than those abiding by the law	10. Risk of sanction
11. Severity of sanction	Spontaneous compliance dimensions: solicitors' and firms' motivations to voluntarily comply; Enforcement dimensions: solicitors' and firms' perceptions of the risk and consequences of being caught by the SRA if they do not comply with a rule.			

## **Data collection: Face to face depth interviews and file reviews**

SRA staff conducted face to face in-depth interviews with a stratified random sample of 200 regulated firms, asking questions exploring each dimension of the T11.

We regulate a diverse range of firms, so we chose to stratify the sample in order to make sure a range of different types of firms were represented, while keeping selection of firms random to reduce bias and draw out trends. The purpose of the interviews was to look at trends in attitudes across the SRA's regulated community, rather than to determine the exact proportion of regulated firms who have a particular attitude. To get the best balance between the sample being of a suitable size to point us towards trends, but of a size to represent an effective and timely use of resources, we decided on a sample of 200 firms.

A full visit methodology document is available at [Annex A](#), and the questionnaire used is attached at [Annex B](#). On the same visits, SRA staff also reviewed files in order to collect benchmarking data on the areas of most common non-compliance across firms. A full file review checklist is attached at [Annex C](#).

## Chapter 1 - What influences firms' attitudes towards compliance with SRA rules?

This chapter explores the T11 dimensions (or factors) that influence compliance. See the [T11 section of the Methodology chapter](#) for background detail.

Each dimension is discussed in turn, with commentary on what is being explored by each dimension, interesting points in the findings and what this means for the SRA's approach to regulation. We have analysed the qualitative and quantitative data collected on each dimension, and have used quotes from qualitative text responses to illustrate points coming out of the analysis.

### 1. Knowledge of the rules

This dimension measures how far firms know the rules, including whether they keep up to date with them, how clear they think they are, and how far they consider they understand them. Knowledge of the rules is important because unfamiliarity may result in unintentional non-compliance.

#### How reliable a measure is knowledge of the rules?

*Knowledge of rules* is measured through taking an average of 6 questions scored on a scale from 1-6. In addition, we asked open ended questions to obtain qualitative data. The answers to those questions were then 'coded' into themes.

The questions and their rating scales were:

- How well do you think your firm knows the regulatory requirements? (1= very unaware, 6=fully aware)
- How easy is it for firms to find out about the regulatory requirements? (1=very difficult, 6=easy)
- How easy is it for your firm to find out about regulatory requirements? (1=very difficult, 6=easy)
- How easy is it for your firm to understand the regulatory requirements? (1=very difficult, 6=easy to understand)
- Open-ended question asking why they have given their rating about how easy it is for other firms to find out about regulations (rated for sentiment on scale of 1=weak to 6=strong)
- Open-ended question asking why they have given their rating about how easy it is for their own firm to find out about regulations (rated for sentiment on scale of 1=weak to 6=strong).



We wanted to test whether there was a relationship between the responses to these six questions, which would indicate that they all measure the same attitude; in this case, how firms feel about their knowledge of the rules. We tested this by calculating the *coefficient alpha*<sup>9</sup> for the six questions, which measures the correlation between each pair of questions, and the variance between these pair correlations. The coefficient alpha score can be equated to the likelihood that the questions are internally consistent (measuring the same thing). For example, a coefficient alpha of 0.7 would mean that the questions are 70% internally consistent in practice. The following table is an established precedent to converting coefficient alpha scores into internal consistency ratings.

**Table 3: Coefficient alpha scores and reliability of measures**

Coefficient alpha scores and reliability of measures	
Coefficient alpha score	Internal consistency of measure
0.9 and above	Excellent
Between 0.8 and 0.9	Good
Between 0.7 and 0.8	Acceptable
Between 0.6 and 0.7	Questionable
Between 0.5 and 0.6	Poor
Less than 0.5	Unacceptable

The 6 questions comprising *Knowledge of rules* had a coefficient alpha of 0.68, meaning that internal reliability was questionable, bordering on acceptable; they are somewhat likely to be measuring similar sentiment, but some of the variation in scores will relate to the fact that the questions are measuring slightly different things. For example, some people will perceive 'understanding' and 'knowledge' to be the same thing, and others will not. As a first attempt to measure firms' knowledge of SRA regulation, we consider this to have been successful, but we consider that it could be refined further and will take this into account in future research.

More questions were asked on Knowledge of rules than have been included into the 6 questions comprising the final measures, as can be seen from a full list of questions asked in the Knowledge section of the questionnaire, available at [Annex B](#). We wanted to test which questions would be the most reliable measures of whether firms knew and understood SRA regulations.

### **How well do firms think they know the rules, and does this affect their perceptions of compliance and regulation?**

Looking at the sample of 200 firms, the average score across all firms was 4.5 out of a possible 6 (high score indicating high knowledge), indicating that firms feel that they and other firms know the rules relatively well. The distribution of the scores indicates that it is likely that average *Knowledge of rules* scores across all firms will resemble those in the sample. When responses to a question are very similar across a sample, this shows a strong pattern which is likely to be found across the whole population from which the sample was taken. If responses are varied (similar numbers of people choosing 1, 2, 3, 4,

<sup>9</sup> Also known as Cronbach's alpha

5 or 6), then it is difficult to say whether this is due to a similar pattern of variation in the general population, or is particular to the sample. The scores for this dimension are all quite similar; the scores were tightly clustered around 4.5, with the majority scoring between 4 and 5 (median 4.7).

The data indicating that firms are scoring relatively high on *Knowledge of rules* is perhaps unsurprising, given the high rating firms gave to their own compliance, and the significant relationship between *Reported Compliance* and *Knowledge of rules* (see [Chapter 2](#)). This gives further weight to the finding that firms need to feel they have good knowledge and understanding of the rules in order to feel they have high levels of compliance. The statistical analysis points towards *Knowledge of rules* being a core dimension of compliance with SRA regulations across all firms. This is reflected in the qualitative responses to the knowledge questions, where many linked keeping up to date with rules and understanding them with compliance and good outcomes. Some commented on their worry about the consequences of not knowing about changes or updates to regulation, and were interested on more support around this. A number of those interviewed were unaware that the SRA sent update emails to subscribers, and the SRA staff conducting the visits provided them with information about how to subscribe.



It is reassuring that many firms were aware of their own ability to be inadvertently non-compliant if they did not feel they knew or understood the rules sufficiently. These firms would be classified as *unconsciously non-compliant* under the typologies of the original T11 Compliance Estimate<sup>10</sup>. However this description does not accurately describe their compliance type, due to the extra dimension of them being aware of their own lack of knowledge. This has led to the SRA Compliance Estimate having

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<sup>10</sup> From [The Table of Eleven - A versatile tool](#), published by the Dutch Ministry of Justice, 2004: "The so-called Compliance Estimate has been developed to get a better-founded insight into the potential number and types of people complying or not complying with the rules. With this method the target group is divided step by step into a number of different kinds of violating and complying people. It is for instance possible to distinguish people into different groups. [One of these is] Unconsciously non-compliant people: those who break the rules because they do not know the rules well."

adapted the *unconsciously non-compliant* typology into *unconsciously non-compliant (aware of danger of being so)* and *unconsciously non-compliant (unaware of danger of being so)*.

These findings provide useful feedback on how we could support good compliance by firms. This could be achieved via workshops, FAQs and via support from the Professional Ethics helpline. Highlighting the issue of unintentional non-compliance may also assist together with more publicity about how firms can subscribe to receive regular updates from the SRA regarding changes to the Handbook and other issues. Firms can currently subscribe to *SRA Update*<sup>11</sup>, to receive 4 or 5 e-newsletters per year on regulatory issues, including updates to the Handbook. We are exploring how we can provide further support in this area. We propose to conduct a further attitudinal study in 2013. It will be interesting to compare the post OFR findings with these based on the previous Code.

In summary, most firms have good knowledge of the SRA's regulatory requirements, and feel that *without* good knowledge of the rules it is difficult to achieve compliance. Firms are likely to respond well to opportunities to improve their knowledge of the rules.

## 2. Costs and benefits of obeying the rules

This dimension measures the costs and benefits to firms of adhering to SRA regulations, including both direct financial ones (usually costs) as well as less tangible effects, such as effect on reputation. It is also a useful indicator of the violation threshold - is it more cost effective to break the rules and run the risk than it is to comply?

### How reliable a measure are costs and benefits of obeying the rules?

The scores for *Costs and benefits* comprised the average of 8 questions scored on a six point scale, with an acceptable level of internal reliability. A coefficient alpha of 0.712 suggests that the questions are, for the most part, measuring the same attitudes. The measure covers defined costs, time, effort and money, and defined benefits in the form of running the firm well. It also allows the firm to define their own costs and benefits for themselves and other firms. We consider this measure to be robust, but it would be possible to further refine it through prompting with specific cost benefit examples. The questions and their rating scales were:

- Do firms consider that complying with the regulatory requirements costs a lot of time and effort? (1=strongly yes, 6=no)
- Do firms consider that complying with the regulatory requirements costs a lot of money? (1=strongly yes, 6=no)

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<sup>11</sup> Subscription requires regulated individuals providing the SRA with a valid contact email address.

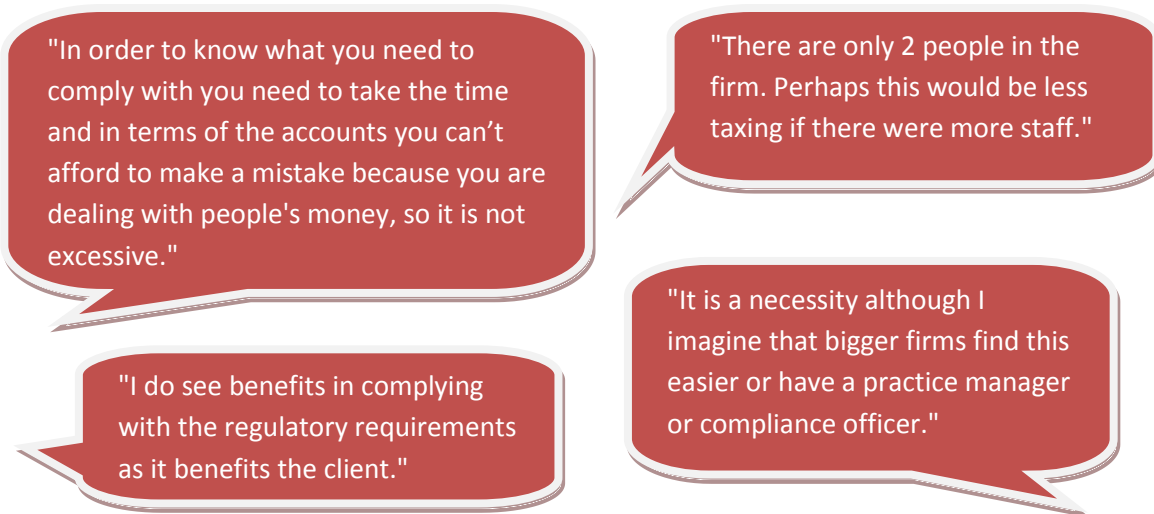
- Does your firm consider the time and effort it spends complying with the regulatory requirements to be excessive? (1=strongly yes, 6=no)
- Does your firm consider the money it spends complying with the regulatory requirements to be excessive? (1=strongly yes, 6=no)
- Do firms think that they derive benefits or advantages from complying with regulatory requirements beyond avoiding censure from the regulator? (1=never, 6=always)
- Do you believe that your firm derives benefits or advantages from complying with regulatory requirements beyond avoiding censure from the regulator? (1=never, 6=always)
- How much of what firms currently do to comply with regulatory requirements would firms continue to do anyway simply in order to run their firms well? (Percentage score given, and converted into 6 point scale, through the formula  $1+(\text{response}/20)$ )
- How much of what your firm currently does to comply with regulatory requirements do you think the firm would continue to do anyway simply in order to run the firm well? (Percentage score given, and converted into 6 point scale, through the formula  $1+(\text{response}/20)$ )

### **How do firms perceive the costs and benefits of regulation, and does this affect their perceptions of compliance and regulation?**

Looking at the sample of 200, the average score for *Costs and benefits* was 4.1 (mean and median were both 4.1) out of a possible 6 (high score indicating benefits strongly outweigh costs, and low score indicating costs strongly outweigh benefits), indicating that firms feel that the benefits of complying with regulation do outweigh the costs. It is likely that the distribution of *Costs and benefits* scores across all firms will be similar to that of the sample. Again the scores in the sample were clustered around the average (4.1), and the sample had a low standard deviation of 0.8.

The statistical analysis indicates that firms feel the benefits of complying with regulation outweigh the costs. However, benefits outweighing costs is indicated by a score between 3.5 and 6, and 4.1 is in the lower half of this range, suggesting that firms feel that there is still some financial burden involved in compliance. This is reflected in the qualitative text responses around costs and benefits.

A recurring theme from the text responses was that those in sole practice felt envious towards larger firms, presuming that compliance with regulation was easier for them. There was no statistically significant link between *Costs and benefits* score and size of practice. However, the scores and text responses across the sample indicate that firms generally see the benefits of regulatory compliance, but sole practitioners perceive a lack of capacity and therefore would like more support, whereas larger practices have capacity to manage the costs, but feel the costs could be reduced.



Capacity to comply with regulation is not a dimension of the T11<sup>12</sup>, but has emerged as a key theme for sole practitioners in this study. It has been worked into the SRA Compliance Estimate in Chapter 3, so as to recognise those that fall under the category *compliant firms*, but face capacity barriers to compliance. We also see the theme of 'professional pride' starting to emerge in this dimension. Text responses indicated that firms see regulatory requirements as positively reflecting the ethics of the profession.

We need to keep under constant review the perceived regulatory burden across different types of firms. We are exploring this and may need to consider ways in which we can reduce the regulatory burden for those firms showing a good propensity to comply.

In summary, whilst firms feel that the benefits of complying with regulation do outweigh the costs, there are firms who consider that complying with regulation could still be less costly and more beneficial. We take note of these points and as part of any outcomes focused regulatory approach we need to consider how to reward compliant firms by seeking to try and reduce the regulatory burden.

### 3. Acceptance of regulation

This dimension concerns firms' acceptance of the rationale behind regulation. This relates to both the regulatory objectives (what regulation is there to achieve), and the regulatory requirements (what firms are expected to do to achieve it). In addition, it seeks to indicate whether firms and individuals feel it is their responsibility to put it into practice. A low level of acceptance can result in intermittent compliance e.g. In the case of complying with speed limits the response might be 'I will comply when I can but if I am in a rush I will exceed the speed limit'.

<sup>12</sup> The T11 Compliance Estimate creates typologies for those who do and do not comply, but does not go into the actual delivery of compliance. This has been added to the SRA Compliance Estimate as an additional layer, as we have identified particular barriers around delivery of compliance, which are in some cases linked to the attitudes in the first layer (the original T11 Compliance Estimate).

### How reliable a measure is acceptance of regulation?

Combining the two elements above allows us to get a full picture of acceptance, with scores for individual questions and text responses adding depth to reasoning behind acceptance (or lack of acceptance). This was measured with the following seven questions, scored on a six point scale (or independently assessed on a six point scale) which have a coefficient alpha of 0.81, indicating a good level of internal reliability. This is interesting in itself, as it shows that attitudes towards the regulatory requirements and regulatory objectives are generally consistent with each other, indicating that acceptance of one is related to acceptance of the other.

The questions and rating scales comprising *Acceptance* were:

- How reasonable does the profession think that the regulatory requirements are? (1=not reasonable, 6=very reasonable)
- How reasonable does your firm think the regulatory requirements are? (1=not reasonable, 6=very reasonable)
- Explain why you have given the rating you have for the question above (rated for strength of sentiment on a scale between 1 and 6 by an external rater)
- To what degree do firms think the SRA implement the regulatory objectives in an acceptable way? (1=not acceptable, 6=very acceptable)
- To what degree does your firm think the SRA implement the regulatory objectives in an acceptable way? (1=not acceptable, 6=very acceptable)
- Do firms think the regulatory requirements positively reflect the ethics of the profession? (1=wholly negative, 6=wholly positive)
- Does your firm think the regulatory requirements positively reflect the ethics of the profession? (1=wholly negative, 6=wholly positive)

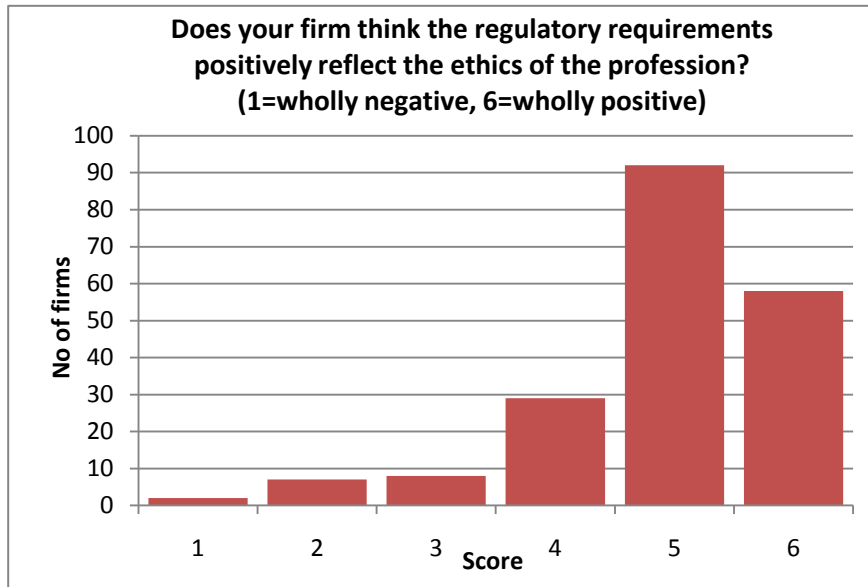
Note that the latter two items were originally included under section 4, *Respect for authority*, in the questionnaire (see [Annex B](#)). However, when the questionnaires were independently assessed by Warwick Business School, we came to the conclusion the wording of the questions was closer to a measure of *Acceptance*, and the alpha analysis confirmed that it hung together with these items, and not with the two direct measures of [dimension 4, Respect for authority](#). This link between ethics and acceptance is further reinforced in the text responses.

### Do firms accept the role of regulation, and does this affect their perceptions of compliance and regulation?

Looking at the sample of 200, the average score for *Acceptance* across all firms was 4.3 out of a possible 6 (high score indicating a high level of acceptance of the SRA's regulatory requirements, including the rationale behind them), indicating that firms accept regulation. It is likely that the distribution of *Acceptance* scores across all firms will be similar to that of the sample. As with the previous dimensions, the scores in the sample were clustered around the average of 4.3, and the sample had a low standard deviation of 0.9.

Analysis of the individual questions indicates that firms are more accepting of the rationale behind regulatory requirements than they are of the way the SRA implements the regulatory objectives. In particular, firms overwhelmingly see the regulatory requirements as positively reflecting the ethics of the profession, as can be seen from the score distribution in Figure 1.

**Figure 1: Firm views on how the regulatory requirements reflect the ethics of the profession (n=200)**



The text responses give an indication of the reasons behind the prevailing typology of acceptance: that the regulatory requirements are fit for purpose, but the SRA has more work to do in the way that it implements them. Interestingly, many firms seem to have equated implementation of the regulatory objectives with investigation and enforcement, rather than with other functions such as authorisation, supervision, education and training. It would be interesting to explore how some prompting about the different ways the SRA implements the regulatory objectives affected the scores for these questions which were clustered around 3 and 4. There are indications that this would improve scores, as a number of practitioners commented positively about an SRA visit as an effective approach to supervision.

This is one area where we will review the range of questions for the next study. Perceptions of 'regulation' ranged from a broad view of the whole regime to specific areas such as visits and views on enforcement.

"This baseline visit is a good example of the SRA's objective to be a respected regulator, to introduce OFR and to enhance client protection."

"There should be a dialogue with firms and more guidance provided. Too often it is an adversarial approach particularly with 'walk ins'."

"Regulations are there to ensure we provide a proper service to clients and they achieve that."

"There is a perception that [the SRA] are punitive and to be feared. This may change with new outlook."

In summary, firms are more accepting of the rationale behind regulatory requirements than they are of the way the SRA implements the regulatory objectives. Many firms see regulation as the codification of their professional ethics. We can incorporate these findings in how we provide information about the way we regulate. We will continue our approach to consulting those we regulate so we can take into account the views of the regulated community in the SRA's policy making. In addition, we can build upon the SRA's enforcement strategy by being clear about what approach we take to non-compliance.

#### 4. Respect for authority

This dimension reflects firms' views of authority and thus the SRA's authority. In its broadest sense the dimension tests the general approach of a group to authority. There are intrinsic drivers to this and responses can depend upon what views the individual answering the questions has to 'authority' in general. It can be hard for a regulator to influence this dimension because it relates to intrinsic and societal upbringing and wider social factors. Being clear about the reasons for regulatory requirements can however assist.



### How reliable a measure is respect for authority?

The *Respect for authority* dimension is different to the others in that it is the only one where the score is not derived from any questions scored on a 1-6 scale. Instead, we looked to investigate respect for authority through analysis of free text responses to the following two questions, which were then coded by an external rater onto a 1-6 scale, from 1=No effect to 6=Strong effect.

- What effect does the SRA have as an authority figure on the profession to comply?
- What effect does the SRA have as an authority figure on your firm to comply?

Responses to both questions were reasonably consistent<sup>13</sup>, which is not surprising given the similarity of these questions. Indeed, many of those interviewed gave the same response to both questions. The overall average score was 4.8.

### How do firms perceive the SRA as an authority figure, and does this affect their perceptions of compliance and regulation?

We recognise that this measure is less robust than the others. Devising the questions was difficult, as we perceived the regulator bias<sup>14</sup> to be a particular issue when asking if firms saw the SRA as an authority figure. However, there was some insight to be gained from a qualitative analysis of the text responses; there was a strong theme of fear of sanction, suggesting that firms perceive that others avoid non-compliance due to this fear. Firms' responses tended to concentrate on a general fear of enforcement as opposed to commenting on 'authority'. Notwithstanding this, the qualitative data is useful in adding detail to the relationship between spontaneous and enforcement dimensions of the T11; although firms appear to be influenced by spontaneous factors in their attitudes towards compliance, these responses remind us not to forget that firms also have a fear of enforcement.



<sup>13</sup> Coefficient alpha of 0.73

<sup>14</sup> For a detailed explanation of the regulator bias, see [Annex A](#)

In summary, we need to devise a more effective measure of respect for authority, as these questions did not accurately measure this concept. However, important messages about fear of enforcement came through, which support findings on the enforcement dimensions. We may need to consider using restructured questions and using external interviewers to explore this dimension, in order to overcome regulator bias.

## 5. Non-official/social control

This is the risk that there will be positive or negative consequences depending on whether firms comply or not, other than those imposed by the SRA. For legal services firms, this is likely to be reputational damage (referred to in T11 as informal sanctions), whether within their peer group, or among the public, including potential and current clients. Reputational damage acts here as a social control.

### How reliable a measure is non-official and social control?

The *non-official/social control* measure comprised six questions around firms' perceptions of whether the industry or public are aware of non-compliance, and on their attitudes towards non-compliance at other firms. All questions were scored on a six point scale.

- How aware is the profession of general compliance by other firms? (1=no awareness, 6=a lot of awareness)
- How aware is your firm of general compliance by other firms? (1=no awareness, 6=a lot of awareness)
- What is the profession's view of those firms that do not comply? (1=wholly positive, 6=wholly negative)
- What is your firm's view of those firms that do not comply? (1=wholly positive, 6=wholly negative)
- How aware are the public of general compliance by firms? (1=no awareness, 6=a lot of awareness)
- How aware are the public of general compliance by your firm? (1=no awareness, 6=a lot of awareness)

Although we are exploring different aspects of *non-official/social control* with these questions (how aware firms are of others, and how aware they think others are of them), a coefficient alpha of 0.70

suggests that to a large extent they are measuring the same attitudes. When we look at the responses for each question, firms have scored their own awareness/views of compliance at other firms in the same way they have scored their perception of the profession's awareness/views.

### How do firms perceive non-official /social control, and does this affect their perceptions of compliance and regulation?

Looking at the sample of 200, the average score for *Non-official/social control* across all firms was 3.5 out of a possible 6 (high score indicating that they perceive a high level of non-official and social control), with a low standard deviation of 0.8. This dimension was one of the most interesting, as exploring the individual questions gives far more insight than the dimension scores alone.

Most firms had a score of between 3 and 4, indicating that they do not perceive a high level of non-official or social control. Looking at the individual questions, it becomes clear why this is. Firms do feel that there would be a negative view of those firms who do not comply, but they also feel that the other firms and the public have low awareness of the level of compliance at their own firm (and also firms in general). Firms appear to feel that other firms and the public will view them negatively if they have non-compliance detected by the SRA. 84 out of 200 firms also stated that the strongest driver of compliance was professional pride/adherence to professional principles.



The responses indicated that firms feel the public and other firms are generally unaware of their compliance. More firms stated that they were unaware of compliance levels at other firms, than said they were aware, as can be seen from Figure 2.

Figure 2: Firm awareness of other firms' compliance with SRA regulation (n=200)



So in summary, firms appear to feel that they will be viewed negatively if they have non-compliance detected but the detection would be by the SRA and not by other firms or by clients. Firms generally considered that they were unaware of compliance at other firms.

## 6. Risk of being reported

This dimension looks at how firms perceive the likelihood of someone other than the SRA detecting non-compliance, and reporting it. In addition, this links with dimension 5 above; if there is a well-developed culture of reporting it ensures that in the interests of consumers, non-compliance can be detected and acted upon promptly and efficiently.

### How reliable a measure is risk of being reported?

*Risk of being reported* is an average score of the following series of eight questions, which have coefficient alpha of 0.74, indicating that they are measuring the same attitude to an acceptable extent.

- Does the profession think the general public report issues of non compliance to the SRA? (1=never, 6=always)
- Does your firm think the general public report issues of non compliance to the SRA? (1=never, 6=always)

- Do the profession report issues of non compliance arising outside of their own firm to the SRA? (1=never, 6=always)
- Do the profession report issues of non compliance arising within their own firm to the SRA? (1=never, 6=always)
- Does your firm report issues of non compliance arising outside of your own firm to the SRA? (1=never, 6=always)
- Does your firm report issues of non compliance arising within your own firm to the SRA? (1=never, 6=always)
- Does the profession think that whistle blowing to the SRA is an effective source of reporting of non-compliance? (1=never effective, 6=always effective)
- Do your firm think that whistle blowing to the SRA is an effective source of reporting of non-compliance? (1=never effective, 6=always effective)

The robustness of this measure is also reflected in the same scoring measure being used for each question. There was also more qualitative data for this dimension than for the others, as we included questions about the type of non-compliance that firms would be prepared to report to the SRA, both at their own firm and at other firms, and the reasons for this.

### **Do firms feel they are at risk of being reported for non-compliance, and does this affect their perceptions of compliance and regulation?**

Looking at the whole sample of 200, the average score for *Risk of being reported* across all firms was 3.3 out of a possible 6 (high score indicating that they feel a high risk of being reported if they do not comply with SRA regulation), with a standard deviation of 1.0. The average score of 3.3 is reflective of large variation in answers to each question across the sample, rather than scores of 3 to 4 across all the questions. This was the lowest average score for any dimension, and follows on from the attitudes expressed about non-official/social control: firms do not feel that others are particularly aware of compliance or non-compliance at their firm. 130 out of 200 firms scored their firm a 1, 2 or 3 when asked how aware they were of non-compliance at other firms (on a scale of 1=no awareness, to 6=high awareness).

"To report on another firm, would have to be criminal conduct and I'd have to have evidence. If something like a conflict of interest then I would raise with the solicitor first."

"Would only report [another firm] as a last resort"

"not particularly, it should be clients that lead on complaints."  
*Firm view on whether whistle blowing to the SRA is an effective source of reporting non-compliance*

"Solicitors virtually never complain about other solicitors, the reason being they are worried they will not get another job so whistle blowing (especially bigger firms) would never happen."

**Reporting**

On the subject of whether whistle blowing was an effective source of reporting non-compliance, most firms scored their answers in the middle of the scale. The mid-range score here may be related to the fact that firms feel whistle blowing is effective, yet infrequent. Text responses suggest that firms perceive whistle blowing would happen only in serious cases of non-compliance, and so we could usefully adapt the questions in the next study to ask about whether whistle blowing was an effective source of reporting for different types of non-compliance.

**Public informants**

In answering the questions about reporting by public informants, firms generally felt that the public were relatively unlikely to report issues of non-compliance at firms. This may be connected to their perceived lack of ability to detect non-compliance and the quotes below demonstrate this. The question for us is firstly, how do we get consumers to be aware of what good compliance looks like and secondly, how do we ensure that firms realise the benefits of working with well informed consumers of legal services.

"The profession do not think that the public are overly aware. It is unlikely that the public will look up the rules of conduct."

"How would the public know?"

**Professional informants**

On the questions about reporting others, responses were very mixed, and when discussing reporting issues of non-compliance at their own firm (whistle blowing), firms tended to go for either extreme:

1=never or 6=always. This is particularly interesting given the qualitative responses about the level of non-compliance which would result in a firm considering reporting another firm and also the perceived effect of reporting.

There are a number of ways in which the SRA could seek to influence this dimension. Increasing the information available to consumers around what happens in law firms – what to expect of a compliant firm, what can go wrong and how it could be fixed would help to mitigate the risk of some firms taking advantage of the perceived lack of consumer awareness around compliance. Exploring the use of reporting/whistle blowing policies and providing information about the effect of reporting non-compliance are two examples of how a regulator can help to encourage the reporting of non-compliance.

In summary, the variation in responses for each question making up the measure, and the mid-scale score of 3.3 for the measure over all, suggests that at the current time, risk of being reported is not a core dimension of firms' attitudes towards compliance with SRA regulation. However, the data relating to this dimension may indicate that there is more we as the regulator can do to increase the likelihood of reporting.

## 7. Risk of inspection

This dimension measures firms' perceptions of the risk of a visit by the SRA. The risk of a visit will be determined by the visit density, which in turn will be set according to the risk appetite and the regulatory risk methodology. Visit density can be impactful in various different ways. Firms may aim to balance the objective risk of inspection (based on published figures of the volume of visits undertaken by the regulator) with the subjective risk of inspection (based on knowledge of the approach to risk). Including an element of random inspection in any supervisory regime, can keep the perceived risk of inspection more unpredictable. In addition, rewarding good regulatory behaviour by fewer inspections for compliant firms is another approach.

### How reliable a measure is risk of inspection?

We used two standard questions, which asked for the percentage likelihood that a firm will be visited.

- Out of a possible 100 per cent, how likely do you think it is that a firm will be visited by the SRA? (Percentage score)
- Out of a possible 100 per cent, how likely do you think it is that your firm will be visited by the SRA? (Percentage score)

This measure is somewhat weak. We were visiting firms to ask the questions, and that would obviously make them feel that they (and other firms) were likely to be visited. We recognise that regulator bias is likely to have distorted the results and we take that into account.

## **Do firms feel they are at risk of being inspected, and does this affect their perceptions of compliance and regulation?**

Looking at the sample of 200, average percentage scores for both questions were 67% likelihood of a firm being visited by the SRA, and 78% likelihood of their own firm being visited. This reflected a perception among many firms that their own firm was more likely to be visited than others. The text responses revealed many reasons for this, from firms believing that the type of work they did made them more likely to be visited to having received previous visits.

Firms had different perceptions about how the SRA decides which firms to visit, and why. A number of firms were under the impression that all firms were certain to be visited at one point or another (and therefore some gave 100 per cent likelihood of visit). Other firms pointed out the difference between a visit such as these baseline visits, and a visit related to investigating regulatory problems.

Some firms commented that visits had been a positive experience for their firm. Some firms reported that visits had helped them to pick up on areas of non-compliance with a chance to discuss methods of improvement with SRA staff.

As the scores for this dimension were high, it appears that firms feel at significant risk of inspection, although the measure is relatively weak. Face to face interviews on visits are not the best way to test this dimension; the very fact that a visit is in progress distorts the result. A better way to measure this dimension would be a telephone or email survey or a baseline visit using an external/independent organisation. However, text responses to all questions suggest that there is an underlying fear of inspection, backing up the tentative results from the two questions.

In summary, further investigation of this dimension is needed, although the evidence so far indicates that there is an underlying fear of SRA inspection. Visits are a critical component of the SRA's supervisory approach. This approach should encompass visits for a range of different reasons – covering thematic risks, undertaking investigations and also random visits. Random visits assist in maintaining the unpredictability of visits and help to prevent firms trying to balance the objective and subjective risk of inspection/visit.

## **8. Risk of detection**

This dimension refers to the likelihood of a breach being detected, given an inspection of the firms' records. For the SRA, this could be detected through desk based supervision or by visiting or inspecting the firm. The original T11 dimension referred to the risk of detection during an inspection. Based upon the SRA's supervisory methodology, we have widened the scope of this dimensions to include both desk based and visit based activity.

### **How reliable a measure is risk of detection?**



We measured *Risk of detection* with the following eight items, which delivered a scale with a coefficient alpha of .77, indicating a reasonable level of internal consistency between attitudes expressed in each question. This is interesting as the set of questions are all looking at slightly different measures of risk of inspection; the likelihood of the SRA correctly identifying non-compliance through both desk based supervision and on a visit, and whether firms can effectively hide non-compliance to prevent it being detected, again during desk based supervision and on visits.

- How easy [is it] for firms to ensure that an actual non-compliance is not detected during a visit by the SRA? (1=very easy, 6=very difficult)
- How easy [is it] for your firm to ensure that an actual non-compliance is not detected during a visit by the SRA? (1=very easy, 6=very difficult)
- How effective do you think a visit by the SRA would be in correctly identifying areas of non-compliance across all firms? (1=not effective, 6=very effective)
- How effective do you think a visit by the SRA would be in correctly identifying areas of non-compliance in your firm? (1=not effective, 6=very effective)
- How easy does your firm think it is to ensure that an actual non-compliance is not detected by SRA desk based supervision of your firm? (1=very easy, 6=very difficult)
- How easy do firms think it is to ensure that an actual non-compliance is not detected by SRA desk based supervision of their firm? (1=very easy, 6=very difficult)
- Do firms think that desk based supervision by the SRA is an effective way to correctly identify areas of non-compliance? (1=not effective, 6=very effective)
- Do your firm think that desk based supervision by the SRA is an effective way to correctly identify areas of non-compliance in your firm? (1=not effective, 6=very effective)

**Do firms feel that the SRA is good at detecting non-compliance, and does this affect their perceptions of compliance and regulation?**

Looking at the sample of 200, the average score across all firms for *Risk of detection* was 4.2 out of a possible 6 (high score indicating that they feel the SRA is very good at detecting non-compliance), with a low standard deviation of 0.8.

Unsurprisingly, considering the theme in the text comments throughout about fear of a visit, many firms' responses showed they felt non-compliance was more likely to be detected on visits (Figure 3) than through desk-based supervision (Figure 4), and that it would be easier to hide non-compliance from desk based supervision, rather than on a visit.

Figure 3: Firm view of effectiveness of SRA visits in detecting non-compliance

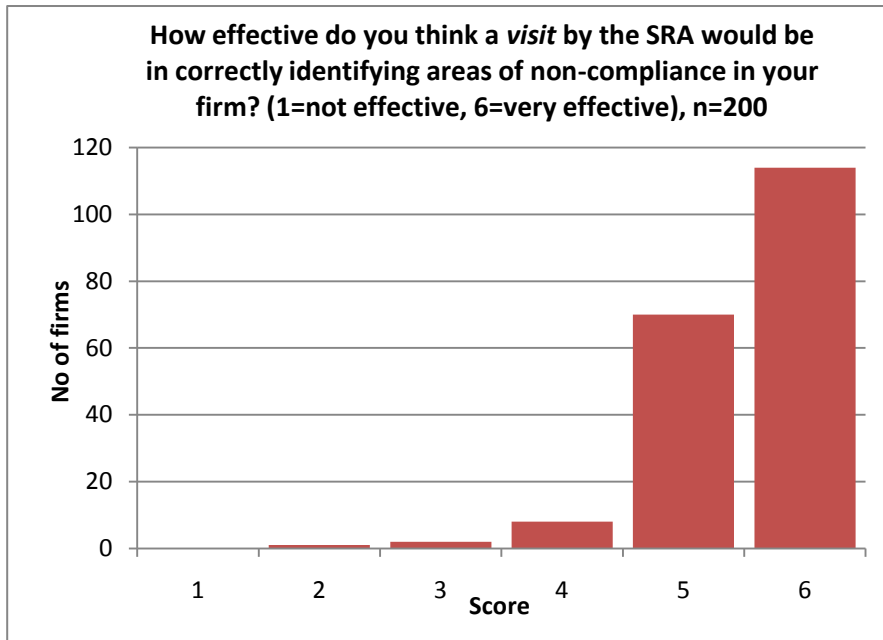
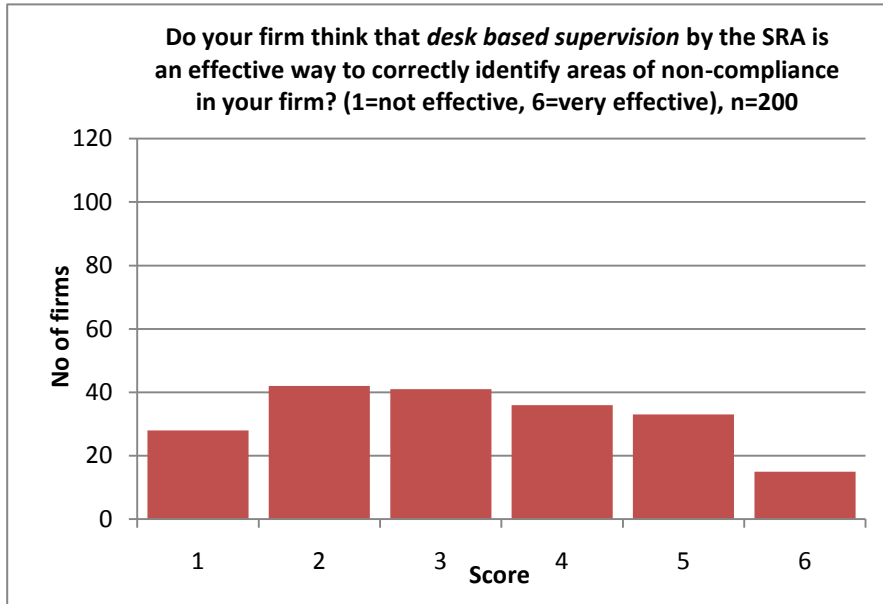


Figure 4: Firm view of effectiveness of SRA desk based supervision in detecting non-compliance



"I think the SRA understands the Regulations and take their jobs seriously, but it is not possible for the SRA to look at everything in the time available to them. I assume that if they saw something that worried them they would probably come back."

"Some firms may deliberately conceal information [on a visit]."

"The best way to identify things is to see them 'on the ground'."

"You have more time to prepare the stuff you are providing for the desk based assessment and therefore you are unlikely to send anything on which issues are likely to arise."

"[Desk based supervision] would be rife to abuse. I think it is part of the legal culture to alter paperwork. This would play to the worst aspects of the profession."

Although firms demonstrated a fear of visits, a significant number of firms mentioned that they found visits constructive and effective. Some firms also discussed how desk based supervision will allow better allocation of resources.

"We have already experienced a PSU visit and it was a positive experience and it did identify non-compliances."

"I've always found [visits] to be a very positive experience. Once a firm receives a visit any non-compliance will be picked up."

"Sometimes things can be dealt with by letter, then can spend more time with the worse firms and allocate resources and time better."

"[Desk based supervision is] no substitute for a visit but can cover more ground."

"[a visit] does what it is supposed to in focusing firms on compliance issues"

The findings from this dimension are especially significant for us in the SRA's new approach to supervision. Whilst the SRA's approach is to supervise through a combination of desk based and visit based approaches, these findings remind us of the importance of ensuring that our visit density is set at the right level. Firstly because our own practical regulatory experience informs us that detection of non-compliance is more likely on a visit and the findings confirm that the sample group also perceived this to be correct. Secondly, the findings also remind us that visits can have a positive impact upon the firm. All too often a visit can be viewed as something which is negative in regulatory terms. Whilst not underestimating the impact upon the firm of having the regulator conduct a visit, it is also reassuring from the findings that many of those we sampled who had received a visit had enjoyed a positive experience.

**In summary, firms perceive that an SRA visit is more likely to detect non-compliance than SRA desk based supervision and that the perception of our ability to detect non-compliance can also motivate firms to comply. Many firms consider that visits from SRA staff can have a positive impact. We need to ensure that the SRA's approach to supervision utilises an appropriate balance of visits and desk based supervision. We recognise that visits are a useful tool in encouraging and supporting good compliance in our regulated firms.**

## 9. Selectivity

This dimension measures whether the sample group considers that the SRA concentrates resources (including visits) on firms likely to be non-compliant, rather than those who are compliant. It therefore gives us a view of the perceived effectiveness amongst the sample group of the risk based approach.

### How reliable a measure is selectivity?

We asked four questions related to this dimension, scored on a six-point scale, looking at whether firms feel that SRA visits and concentration of SRA resources are directed proportionately towards those who do not comply.

- How much more likely do firms think the SRA are to visit a firm that has not complied with the regulatory requirements, compared with a firm that has? (1=no difference, 6=much more likely)
- How much more likely does your firm think the SRA are to visit a firm that has not complied with the regulatory requirements, compared with a firm that has? (1=no difference, 6=much more likely)
- How far do you think the profession considers the SRA to concentrate resources on firms that do not comply with the regulatory requirements? (1=the SRA never do this, 6=the SRA always do this)
- How far does your firm consider the SRA to concentrate resources on firms that do not comply with the regulatory requirements? (1=the SRA never do this, 6=the SRA always do this)

These items did not naturally fall into a single measure; when all four were analysed together, they produced a questionable coefficient alpha of 0.65, indicating that they are not necessarily measuring the same attitudes. When measured as two sets of two questions, with one measure concentrating on *visit selectivity* and one on *resource selectivity*, both sets had a high level of internal consistency (coefficient alpha of 0.90).

One possible explanation for the lack of consistency between answers to each set of questions could be that firms feel that the SRA resource is spent on their firm, and yet they comply with the requirements. However, as detailed in [Chapter 2](#), there was no significant link between how firms rated their own compliance and how they answered the questions about *resource selectivity*.

**Do firms feel that the SRA are selective in their use of resources (including visits), and does this affect their perceptions of compliance and regulation?**

Overall, firms were more confident about the SRA's selectivity of visits, rather than of resources. 'Resources' is a more general term than 'visits', and apart from visits, firms were less aware of how much SRA resource is spent on their firm. This goes some way to explaining why the average firm score for *visit selectivity* was 5 (out of 6, with a high score meaning the SRA is more likely to visit a firm that is not complying with the regulatory requirements), and the average score for *resource selectivity* was 4.1. The text responses shed further light on this; some of those interviewed felt that the SRA could do more to target resources, but many stated that they did not know much about this measure. Mid range responses can sometimes be an expression of a lack of understanding, and this is likely in the case of the *resource selectivity* scores. In light of this, we consider that in the next study we could reframe our questions concerning this dimension. We could be more explicit about what we mean by resources and ask specific questions about different regulatory functions within the SRA.

*Visit selectivity* had the highest average score of all the dimension measures, with an average of 5; one third of the respondents scored the measures 6, the top score. There is a link here with the views expressed about fear of visits and the effect of visits on reputation. If firms feel that the SRA only visit firms where non-compliance is suspected, then they would be very worried if the SRA were visiting them. The idea of there being 'no smoke without fire' (or 'no visit without an investigation') when it comes to visits is a theme throughout the interviews, and indicates that fear of visits can be a compliance motivator. This fits with the views of the majority of firms around fear of detection. Selectivity of visits is effective because firms also feel that visits are effective in detecting non-compliance. When mapping compliance across the SRA's regulated community (see [Compliance estimate](#)), these two dimensions appear to sit together.

**In summary, firms in the sample group were more confident about the SRA's selectivity of visits, rather than of resources in general. Visits are a useful regulatory tool and they can act as a motivator for compliance. We will continue to explore further information we could provide on the way in which the SRA uses its resources.**

## 10. Risk of Sanction

This dimension explores the perceived risk of receiving a sanction, should non-compliance or a breach of the rules have been detected. The regulator's approach to enforcement following detection of non-compliance will have an impact upon whether firms consider there is a 'credible deterrent'. A clear well publicised enforcement policy referring will assist.

### How reliable a measure is risk of sanction?

*Risk of sanction* was directly tested with the following four questions on a six point scale, which have a coefficient alpha of 0.87; a high level of internal consistency. This was one of the highest observed in this study, and likely reflects the similar wording of the questions, and the fact that sanctions are publicised by the SRA, so people may have felt more confident in their responses (compared to, for example, the questions on the SRA's use of resources.)

- Do firms think the SRA is likely to impose a sanction/regulatory action against them when non compliance is found on a visit? (1=never impose a sanction/action, 6=always)
- Does your firm think the SRA is likely to impose a sanction/regulatory action against your firm when non compliance is found on a visit? (1=never impose a sanction/action, 6=always)
- Do firms think the SRA are likely to impose a sanction/regulatory action against them where non compliance is found through desk based supervision? (1=never impose a sanction/action, 6=always)
- Does your firm think that the SRA are likely to impose a sanction/regulatory action against your firm where non compliance is found through desk based supervision? (1=never impose a sanction/action, 6=always)

### Do firms feel that they are at risk of receiving a sanction if non-compliance is found, and does this affect their perceptions of compliance and regulation?

The average score for this dimension was relatively low, at 3.9 out of a possible 6, with a standard deviation of 1.0. The text responses went some way to explaining this, as those who had not previously had an SRA visit expected that sanctions would follow detection of non-compliance, whereas those who had experienced a visit were much more aware of the SRA being prepared to work with them to correct non-compliance.

Comparing this with some of the previous text responses about fear of visits, it appears that many firms see SRA attention in itself as a sanction, as they perceive that it affects their reputation, and so their attitudes towards compliance and regulation are not particularly influenced by *risk of sanction*. Overall, firms appear to have an accurate perception of when sanctions would be applied, and when the SRA would work with the firm to correct the issue.

"I don't think [a sanction would be imposed] as they would allow us to put it right. If it was serious then it might lead to sanctions being taken."

"[a firm] may be given the opportunity to correct it, or if it is more serious then a sanction would be imposed."

"[a sanction] depends on the size of the breach"

The reputational damage caused by detection of non-compliance appears to hold more weight than the fear of sanction. This makes sense in the context of firms being unconsciously, rather than consciously, non-compliant - they fear something they were not aware of will be detected, rather than worry about sanctions around intentional non-compliance.

One hypothesis emerging from the T11 analysis overall is that a key concern is around detection and publicity of unconscious non-compliance. The lower scores on *risk of sanction* add weight to this theory, and makes it less likely that it is due to regulatory bias (as discussed in [Annex A](#)), and more likely that it reflects firms' genuine attitudes towards regulation and compliance.

We could support firms in trying to avoid unconscious non-compliance, which would in turn help them achieve compliance, as well as allaying some of the fears discussed in the text responses about not realising they had made errors. We could do this by providing information about common unconscious non-compliance on the SRA's website; hints and tips along the lines of 'you wouldn't expect to be non-compliant here, but we have found that...'.

**In summary, the reputational impact of SRA detection of non-compliance affects firm attitudes to compliance more than the fear of sanction. The fear of reputational damage and a denting of professional pride appeared to be of greater significance amongst the sample group than the risk of receiving a sanction.**



## 11. Severity of Sanction

This dimension explores the perceived severity and nature of the sanctions imposed by the regulator following detection. It also includes the perception of the speed at which the regulator imposes sanctions.

### How reliable a measure is respect for authority?

The *sanction severity* measure was comprised of four questions, which appeared to be measuring the same attitudes due to a coefficient alpha rating of 0.73. Despite this, the scales do not naturally fit together; for the first two questions, if firms feel SRA sanctions are at the right level of severity, they score in the middle of the scale, and for the second two questions, if firms feel SRA sanctions are timely, they score at the high end of the scale. Therefore, someone who felt that SRA sanctions were both timely and appropriate would have a score of 4 or 5 (3 for first two questions and 6 for second two, or 4 and 6 respectively). We need to review the scales for these two question sets for the next study.

- What do firms think of the severity of SRA sanctions, given the nature of the breach? (1=sanctions are too severe, 6=sanctions are not severe enough)
- What does your firm think of the severity of SRA sanctions, given the nature of the breach? (1=sanctions are too severe, 6=sanctions are not severe enough)
- Do the firms think the SRA is always imposing sanctions with appropriate speed? (1=never, 6=always)
- Does your firm think the SRA is always imposing sanctions with appropriate speed? (1=never, 6=always)

### Do firms feel that when sanctions occur, they are timely and of the right level of severity, and does this affect their perceptions of compliance and regulation?

The average score for *Severity of sanction* 3.3 out of 6. However, as discussed before, the measure appears flawed as a high score does not necessarily indicate that firms think that sanctions are timely and at the right level.

It is helpful, therefore, to look at the responses to the questions on severity of sanctions as a whole, and take a more qualitative approach, rather than go by the scores alone.

Awareness of the sanctions that exist was high among the sample of 200 firms, but firms had different ideas about whether they were too severe, not severe enough or about right. One common theme was that the type of sanction was often irrelevant; the fear is of sanctions generally, rather than a specific type or severity.

"the potential of what could happen is a good deterrent"

"Firms generally try to comply with regulations and the impression is you will get sanctioned for minor breaches"

Unsurprisingly, it was often those who had experience of sanctions who felt they were too harsh.

"I have no experience of sanctions being applied so I don't know. I would like to think they are proportionate."

"We had a sanction in relation to referrals which we felt was too harsh."

"A written reprimand I received at a previous firm was inappropriate to my personal circumstances/situation"

In summary, firms have different ideas about whether SRA sanctions are set at the right level. It appears to be the fear of sanctions in general that most affects firm attitudes to compliance, rather than the severity of the sanction.

## Influence on regulatory approach

We have provided commentary on some of the actions we can take as a result of the findings under the individual dimensions. In addition, the SRA can choose to act to increase the influence of those lower scoring dimensions, to improve compliance among firms who are not influenced to comply by the other factors. Secondly, the SRA can choose to use resource on those dimensions which show high values – such as Acceptance, Respect for authority, and Selectivity – that are a stronger basis for sustainable good behaviour among the majority of firms. Chapter 3 discusses further how we intend to use these findings.

Through the pattern of high scores across the dimensions, combined with main themes from the text responses, the following hypothesis around perception seems likely, and is worth further exploration. Firms perceive that the SRA is visiting the right firms (selectivity – dimension 9), and accept that the rules are effective (acceptance – dimension 3). A reasonable conclusion could be therefore that they respect the SRA (respect for authority- dimension 4) and are motivated to comply. Non-compliance is likely to be primarily unintended, whether consciously (such as not having the capacity to comply with a rule), or unconsciously (such as not knowing that they are breaking a rule).

By combining this analysis of attitudes relating to the T11 dimensions ([Chapter 1](#)) with analysis of data on firm's perceptions of their own compliance ([Chapter 2](#)), the SRA can map the attitudes to compliance and regulation of those we regulate, and look at how to support and improve compliance (Chapter 3).

## Chapter 2 - How do firms rate their own compliance with SRA rules?

This chapter looks at the relationship between the dimensions of the T11 and firms' perception of their own compliance and concern about SRA inspection. The analysis of the T11 dimensions in chapter 1 indicates which factors are likely to be influencing firms' attitudes towards compliance and regulation. Chapter 2 seeks to build on this, testing whether there are statistical relationships between attitudes to each dimension, and attitudes to compliance and concern about SRA inspection – a relationship would suggest that the attitudes are linked.

Chapter 2 adds an additional layer of analysis, looking at how firms' perceptions of their own compliance and regulation are shaped, and how they interact with the T11 dimensions. We developed two measures to test which could contribute towards this, both drawn from the questionnaire at [Annex B](#).

### Reported compliance

The first measure is Reported Compliance. This measures how firms rate their own compliance. It is a composite variable which allows us to test whether attitudes to each dimension of the T11 are influencing how firms feel about their own compliance.

The measure for *Reported Compliance* is the mean of two ratings by the firm's spokesperson concerning whether their firm or others actually do abide by the rules. *Reported Compliance* assumes that firms have good awareness of their level of compliance with the regulatory requirements, and feel able to express this to the SRA. This measure was made more robust by also asking firms about regulatory compliance in the profession as a whole, which allowed us to explore whether firms overestimate (or over-report) their own compliance.

The responses to the first two questions that comprise *Reported Compliance* involved rating on a six point scale between completely disagree and completely agree. The responses to the second two were on a six point scale of 15 per cent increments (for verbatim questions, see [Annex B](#)). The scores for each question were then averaged, to provide an overall score for this measure. The questions were:

- Do you think other firms actually comply with the regulatory requirements?
- How well do you think your firm complies with the regulatory requirements?
- What percentage of the profession do you think are willing to comply with the regulatory requirements?
- What percentage of the profession do you think actually comply with the regulatory requirements?

### **How robust a measure is reported compliance?**

We wanted to test whether there was a relationship between these four questions, which would indicate that they all measure the same attitude; in this case the firm's perception of how well they comply with the rules.

The coefficient alpha for the four questions that comprise *Reported Compliance* was .63, a level considered questionable. However, as can be seen below, *Reported Compliance* had a significant relationship with a number of the T11 dimensions, and so we consider it to be significant as a measure, even though each composite question may be measuring a slightly different aspect of perception.

### **How well do firms feel they comply with the regulatory requirements?**

Looking at the spread of firm responses to each component question (Figures 5-8), it is clear that firms generally feel that the profession, including their own firms, are willing and able to comply with the regulatory requirements, and are generally reasonably compliant with them. As part of the visits we conducted, SRA staff assessed whether they felt firms had a good awareness of their own level of compliance so whether firms were good at 'self assessment'.

The majority of firms visited were assessed as giving an accurate assessment of their own compliance. In cases where firm representatives had over-estimated their compliance, SRA staff discussed what the specific problems were and how they might be remedied.

When asked for reasons for their responses, most firms noted that they tried to comply with requirements as much as they could, and that any non-compliance was unintentional. Many recognised that there was always room for improvement. Many gave examples of internal improvement that had already taken place, whether through SRA advice or visits, gaining external accreditation or becoming more up to date after carrying out an internal review. A number of firms also commented that these 'baseline' visits had brought issues of non-compliance to their attention, which they would now address.

Figure 5: Firm views on other firms' compliance with the regulatory requirements (n=200)



Figure 6: How well firms feel they comply with the regulatory requirements (n=200)



Figure 7: Firms' views on the percentage of the profession willing to comply with the regulatory requirements (n=200)

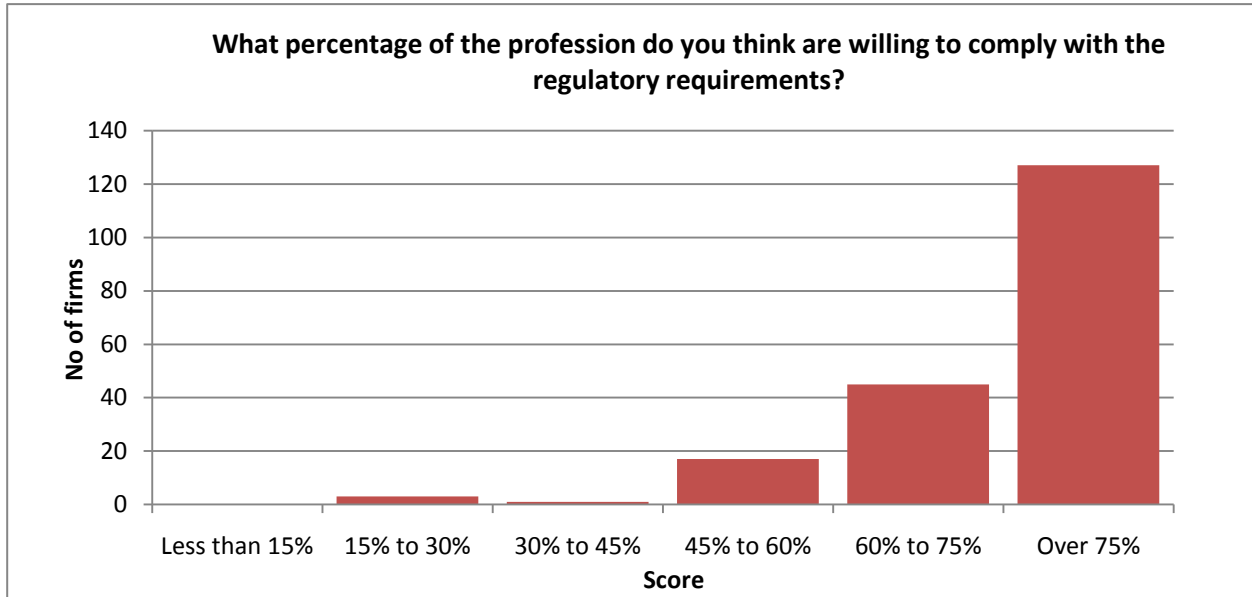
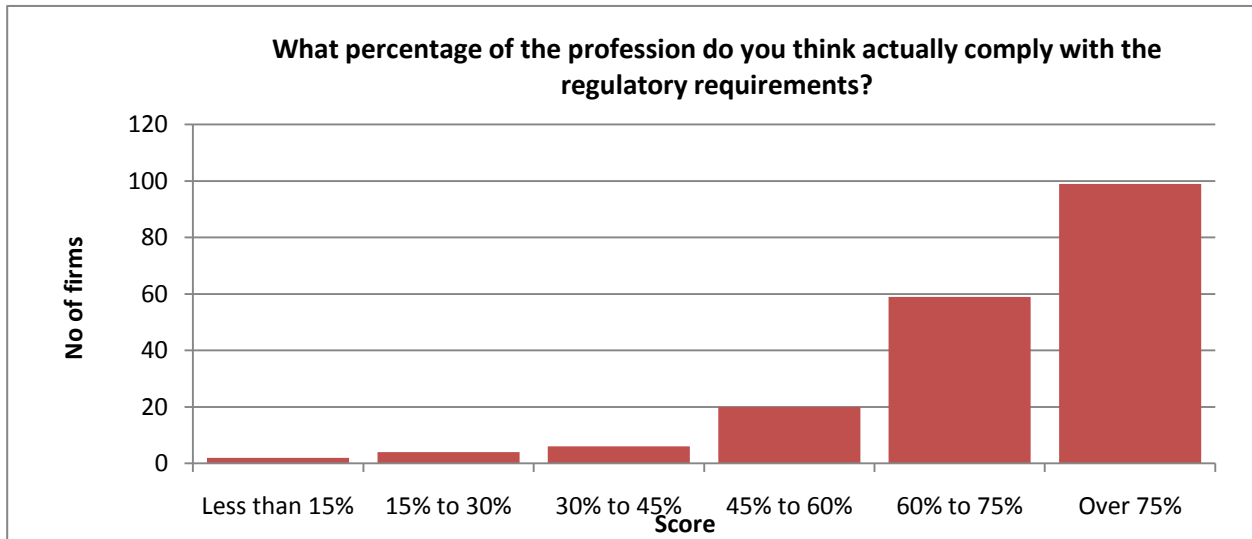


Figure 8: Firms' views on the percentage of the profession who they feel comply with the regulatory requirements (n=200)



## Relationships between reported compliance and the T11 dimensions: what can they tell us about what motivates firms to comply?

When we tested *Reported Compliance* for relationships with the T11 dimensions, we found relationships with a number of dimensions, indicating that it is a useful measure of firms' overall attitude towards complying with the rules. By analysing which dimensions of the T11 have a relationship with *Reported Compliance*, we are testing the extent to which each dimension motivates firms to comply. This can then be cross-referenced with trends in responses for each dimension ([Chapter 2](#)), to give an overall picture of what is motivating firms to comply, which we can use to improve the way we regulate and specifically, how we supervise firms ([Chapter 3](#)).

As can be seen from Table 5, a number of dimensions have a significant relationship with Reported Compliance. Relationships have been calculated using Pearson's correlation coefficient (Pearson Correlation<sup>15</sup>). We used the established precedent to interpreting the significance of Pearson Correlation scores, which is shown in Table 4. The higher the level of significance, the more likely it is that *Reported Compliance* and the T11 dimension are linked, and the more likely it is that the dimension motivates firms to comply. Please note that findings for each T11 dimension are discussed in depth in [Chapter 1](#).

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<sup>15</sup> The Pearson Correlation tells us how far the two sets of data (*Reported Compliance* and *Knowledge of rules* etc) vary together (if one value is high, is the other value consistently high or low), and then further draws out whether this signifies a relationship by multiplying the standard deviations of the two sets of data together, and dividing the initial correlation by this. This second step makes the figure more robust, as it looks at the variation in the sample, meaning that the correlation is less likely to be skewed by a few very high or low scores.



**Table 4: Pearson correlation levels of significance**

Level of significance	Pearson correlation score
None	Between -0.09 and 0.09
Small	Between -0.3 and -0.1, and between 0.1 and 0.3
Medium	Between -0.5 and 0.3, and between 0.3 and 0.5
High	Between -1 and -0.5, and between 0.5 and 1

The above correlations and their significance are a general guide for use in natural sciences. When applied to social sciences, a correlation above 0.2 is considered significant, as there are multiple factors involved and we are not measuring products of measurable laws (e.g. the laws of physics).

**Table 5: Relationship between T11 dimensions and reported compliance at legal services firms (n=200)**

T11 Dimension	Relationship with <i>Reported Compliance</i>	What this may indicate about firm attitudes to compliance
Spontaneous compliance dimensions	Pearson correlation	Informed hypotheses
Knowledge of rules	0.300 (significant - a relationship is likely)	Firms who feel they have good knowledge of the rules also feel they comply well with them. Those firms who lack knowledge of the rules report a lower level of compliance. We could make these firms feel more able to comply by increasing their knowledge of the rules. Providing information and support on the regulatory requirements and how to comply with them could have a beneficial effect on compliance and make firms more confident in their ability to comply.
Costs/benefits	0.296 (significant - a relationship is likely)	Firms, who perceive that the benefits of complying with the rules outweigh the costs, feel they comply well with the rules. Firms who do not feel the benefits of compliance outweigh the costs are less motivated to comply with the rules. It is not enough to explain what the rules are; for firms to feel confident in their compliance they need to understand the rationale behind the rules and feel that compliance is worth investing in.
Extent of acceptance	0.333 (significant - a relationship is likely)	Firms who feel that the rules are necessary and appropriate rate themselves as more compliant than those who don't.

		Acceptance of the rules motivates firms to comply, as they see a purpose to compliance that goes beyond 'box-ticking'. Again, if firms understand the rationale behind the rules, they feel they comply with them better.
Respect for authority	0.082 (not significant - a relationship is unlikely)	Firms are more motivated to comply by factors such as whether they understand the regulatory requirements and feel they are justified, than motivated by their respect for authority.
Influence of non-official control	0.209 (significant - a relationship is likely)	Firms that feel they are complying well also feel that others are aware of whether they are or aren't complying. Feeling that the public or the profession may look upon them negatively if they do not comply is likely to motivate many firms to comply with the rules. Awareness of how well other firms comply makes firms more aware of their own compliance.
<b>Enforcement dimensions</b>	<b>Pearson Correlation</b>	<b>Informed hypotheses</b>
Risk of being reported	0.205 (significant - a relationship is likely)	Firms who report high levels of compliance are also often firms who feel that if they break the rules they will be reported. Fear of being reported makes firms more likely to comply with the rules. If firms are not worried about being reported for non-compliance, they often report a lower level of compliance.
Risk of inspection	0.023 (not significant - a relationship is unlikely)	Whether or not firms feel they are at risk of SRA inspection has little impact on how well they feel they comply with the rules. Firms who report lower levels of compliance are not, as might be expected, less worried about being inspected.
Risk of detection	0.193 (marginally significant - a relationship is possible)	Some firms are motivated to comply with the rules because they worry that the SRA would find out if they did not. However, for other firms this is less of a motivator. One reason for a lack of relationship could be that risk of detection may be related to personal experience - those who have had non-compliance detected fear a repeat.
Selectivity	0.071 (not significant - a	Firms who rate themselves as highly

	relationship is unlikely)	compliant have no particular pattern of attitude towards selectivity. Whether a firm feels the SRA is visiting the right firms does not affect how well they feel they comply.
Risk of sanction	0.075 (not significant - a relationship is unlikely)	Firms who feel there is a high risk of sanction if they do not comply are no more or less likely to rate themselves as highly compliant.
Severity of sanction	0.102 (not significant - a relationship is unlikely)	Firms who feel sanctions for non-compliance are severe are no more or less likely to rate themselves as highly compliant. This is unsurprising given the lack of a link between risk of sanction and perception of compliance.

### Concern about the prospect of being supervised by the SRA

The second measure is how concerned the firm is about being supervised by the SRA (referred to throughout as Overall Concern). Overall Concern supplements Reported Compliance as a measure of firms' perceptions of regulation, as it explores whether any of the T11 dimensions are related to the firm's concern about supervision.

By measuring firms' attitudes towards being supervised (*Overall Concern*) against the T11 dimensions, we can build up a picture of what causes firms to be concerned about supervision. This measure was made more robust by also asking firms about attitudes to supervision in the profession as a whole, which allowed us to explore where firms see themselves overall in the regulated community.

The responses to the questions that comprise *Overall Concern* involved rating on a six point scale between not at all concerned and very concerned (for verbatim questions, see [Annex B](#)). The scores for each question were then averaged, to provide an overall score for this measure. The questions were:

- How do firms view the prospect of a visit by the SRA?
- How does your firm view the prospect of a visit by the SRA?
- How do firms view the prospect of desk based supervision by the SRA?
- How does your firm view the prospect of desk based supervision by the SRA?

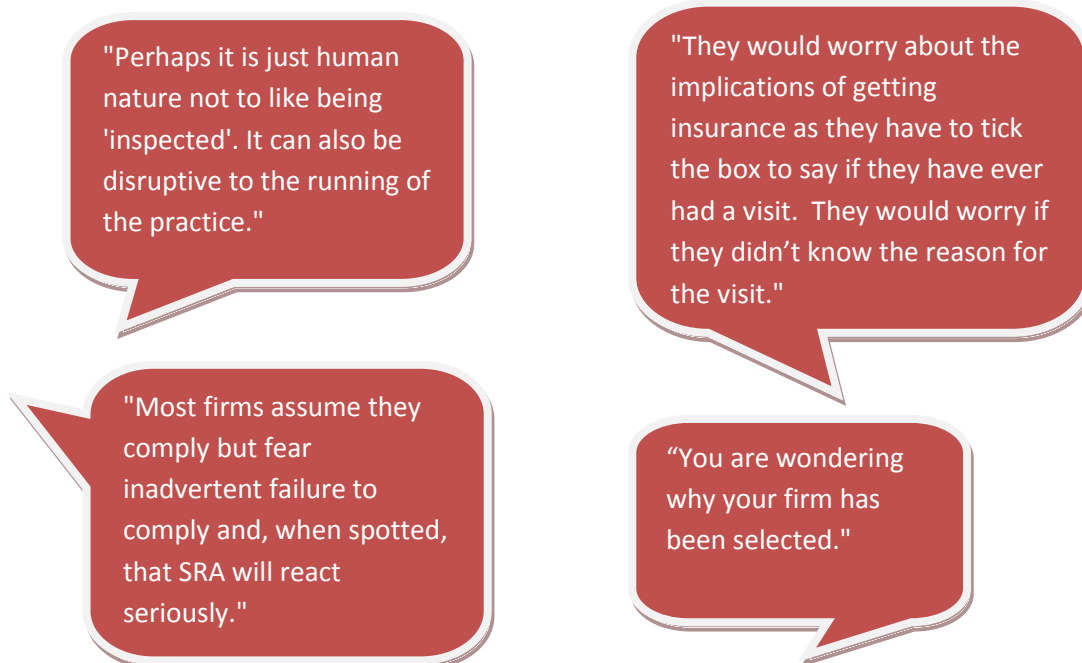
### How robust a measure is overall concern?

Coefficient alpha was .71 for these four items, suggesting that the questions are measuring the same thing to an acceptable extent<sup>16</sup>.

### How concerned are firms about the prospect of being visited or supervised by the SRA?

Looking at the spread of firm responses to each component question (Figures 9-12); the majority of firms feel that firms, including their own firm, are concerned about SRA visits.

The following reasons were given by firms as to why the prospect of visit by the SRA might make their firm and other firms concerned.



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<sup>16</sup> For full range of significance of coefficient alpha scores, refer to Table 2

Firms are less concerned about desk based supervision, and perceive firms in general to be less concerned about this. A number of firms also expressed interest in understanding further what desk based supervision actually involved; some were worried about lowering standards if it was to be an alternative to visits.



Figure 9: SRA visits - how firms view other firms (n=200)



Figure 10: SRA visits - firm concern (n=200)



Figure 11: Desk based supervision - how firms view other firms (n=200)

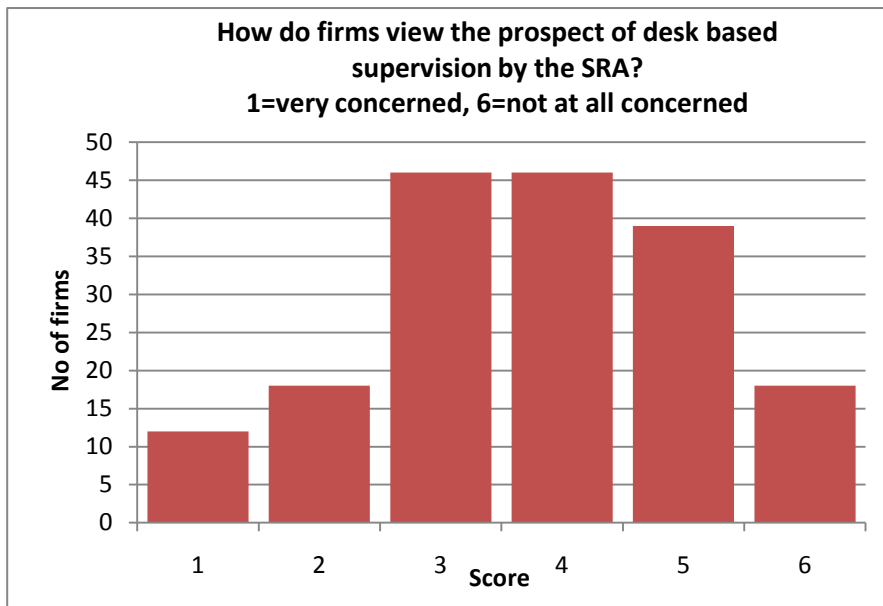
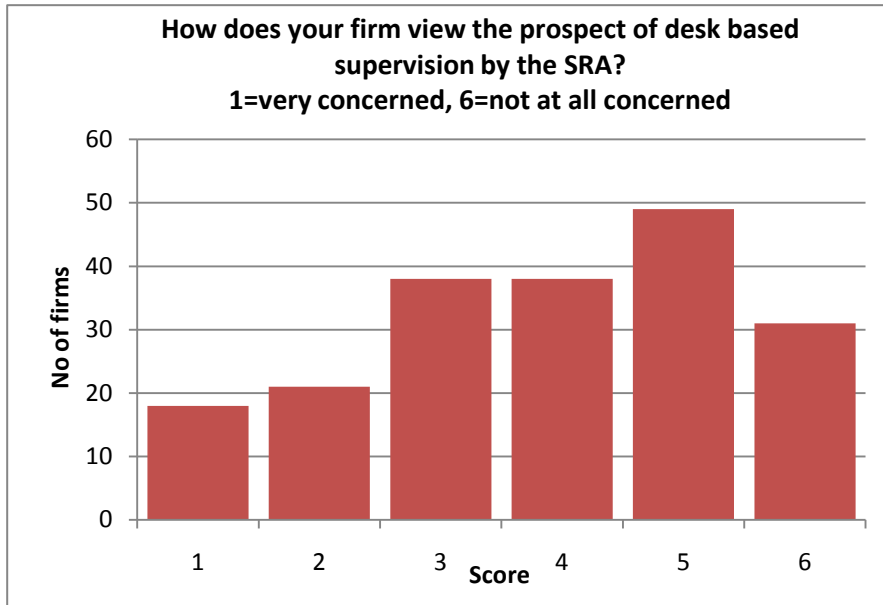


Figure 12: Desk based supervision - firm concern (n=200)



**Relationships between concern about being supervised and the T11 dimensions: what can they tell us about what makes firms concerned about supervision?**

As can be seen from Table 6, only one dimension, *Selectivity*, appears to have a significant relationship with *Overall Concern*. Relationships have been calculated using Pearson's correlation coefficient (Pearson Correlation<sup>17</sup>). We used the established precedent to interpreting the significance of Pearson Correlation scores, which is shown in [Table 3](#). The higher the level of significance, the more likely it is that *Overall Concern* and the T11 dimension are linked, and the more likely it is that the dimension is something that firms associate with concern about supervision by the SRA. Please note that findings for each T11 dimension are discussed in depth in [Chapter 2](#).

<sup>17</sup> The Pearson Correlation tells us how far the two sets of data (*Overall Concern* and *Knowledge of rules* etc) vary together (if one value is high, is the other value consistently high or low), and then further draws out whether this signifies a relationship by multiplying the standard deviations of the two sets of data together, and dividing the initial correlation by this. This second step makes the figure more robust, as it looks at the variation in the sample, meaning that the correlation is less likely to be skewed by a few very high or low scores.

Table 6: Relationship between T11 dimensions and concern about SRA supervision at legal services firms (n=200)

T11 Dimension	Relationship with <i>Overall Concern</i>	What this may indicate about firm attitudes to compliance
Spontaneous compliance dimensions	Pearson correlation	Informed hypotheses
Knowledge of rules	0.055 (not significant - a relationship is unlikely)	Firms who feel they have good knowledge of the rules are no more or less concerned about the prospect of a visit or desk based supervision by the SRA.
Costs/benefits	0.030 (not significant - a relationship is unlikely)	Firms who perceive that the benefits of complying with the rules outweigh the costs are not more or less concerned about the prospect of a visit or desk based supervision by the SRA.
Extent of acceptance	-0.081 (not significant - a relationship is unlikely)	Firms who feel that the rules are necessary and appropriate are not more or less concerned about the prospect of a visit or desk based supervision by the SRA. This, combined with the finding that <i>Extent of acceptance</i> has a significant relationship to <i>Reported Compliance</i> , suggests that firms may be motivated by the reasons behind the rules (i.e. protecting consumers, providing a good service, preventing poor practice), rather than the fear of an SRA visit or other supervisory activity.
Respect for authority	-0.027 (not significant - a relationship is unlikely)	Firms who have high or low respect for authority have no particular pattern of concern about the prospect of a visit or desk based supervision by the SRA. This is of interest as it shows that respect for the SRA as an authority is not linked to whether or not firms are concerned about a visit. This suggests that firms who are concerned about supervision are not concerned because the SRA is an authority figure, but for other reasons.
Influence of non-official control	0.075 (not significant - a relationship is unlikely)	Firms who are influenced by non-official control are no more or less likely to be concerned about a visit of desk based supervision by the SRA. This is significant, as it shows that non-official control and official (SRA) control are two distinct influences on firms.



Enforcement dimensions	Pearson Correlation	Informed hypotheses
Risk of being reported	0.042 (not significant - a relationship is unlikely)	Firms who are concerned about a visit or desk based supervision by the SRA are no more or less likely to also be firms who feel that if they break the rules they will be reported.
Risk of inspection	-0.059 (not significant - a relationship is unlikely)	Whether or not firms feel they are at risk of inspection has little impact on whether they are concerned by the prospect of an SRA visit or desk based supervision. This is interesting as it suggests that it is something other than the worry that they will be visited or supervised that causes concern at the prospect of a visit. In other words, just because a firm feels they are likely to be visited, does not necessarily mean they are concerned by the prospect of that visit.
Risk of detection	-0.072 (not significant - a relationship is unlikely)	Whether a firm feels non-compliance is likely to be detected is not related to whether they are concerned by the prospect of an SRA visit or desk based supervision. This is interesting as it indicates that concern about supervision is not the result of firms feeling they are non-compliant and that this will be detected. It is possible that instead, firms are worried that there is non-compliance that they are unaware of and it.
Selectivity	0.138 (marginally significant - a relationship is possible)	Selectivity measures whether firms think the SRA are more likely to visit a firm that has not complied with the regulatory requirements, than a firm that has. For some firms, it appears that this is related to how concerned they are at the prospect of a visit or desk based supervision by the SRA. Those firms who feel the SRA are selective in who they visit are less likely to be concerned about the possibility of a visit. This adds to the robustness of Selectivity as a measure, because we would expect these variables to be linked.
Risk of sanction	-0.016 (not significant - a relationship is unlikely)	Firms who feel there is a high risk of sanction if they do not comply are no more or less likely to be concerned about the

		prospect of a visit or desk based supervision by the SRA.
Severity of sanction	-0.016 (not significant - a relationship is unlikely)	Firms who feel sanctions for non-compliance are severe are no more or less likely to be concerned about the prospect of a visit or desk based supervision by the SRA. This is unsurprising given the lack of a link between risk of sanction and concern. It is not the severity of the sanction they may receive if non-compliance is detected that makes firms concerned about SRA supervision.

**Conclusions**

**Different firms, differing perspectives**

The variables *Reported Compliance* and *Overall Concern* are not correlated with each other<sup>18</sup>. Therefore those that report the highest levels of compliance do not have the highest or lowest level of overall concern about the prospect of supervision. This suggests that there are other motivating factors contributing towards both how well a firm reports they comply, and how concerned they are about a visit, reflecting the complexity and diversity of the legal services market.

From the analysis detailed in [Chapter 1](#), we can explain some of these additional influences through the T11. However, not all of the variation in scores for Reported Compliance and Overall Concern can be explained this way. Firms repeatedly discussed how their attitudes are shaped by the size, location and nature of their firm, the types of legal activities they carried out, their client base, and their staff. These types of factors need to be taken into account when supervising firms, and also illustrate the need for the qualitative information (free text responses) we have analysed alongside the quantitative data (rating answers on a scale from 1-6).

**In a field of high compliance, a visit is worrying**

In general, firms feel they comply with the regulatory requirements, in common with the other firms around them. However, this perception may intensify the feeling that a visit from the SRA is a worrying prospect, as firms perceive this as meaning they have done something wrong.

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<sup>18</sup> Pearson Correlation 0.027 - not significant

### Personal pride is invested in compliance and affected by supervision

A number of firms expressed distress at the thought of being seen as non-compliant. Stress, worry and personal responsibility relating to compliance is a theme that runs through the visit responses. It is important for the SRA note the strong feelings of personal failure and achievement that come from being viewed as non-compliant or compliant. Fear of non-compliance or SRA 'interest' may prevent some firms engaging with consumers in areas of law they perceive to be 'difficult' or being innovative through fear of inadvertently falling into non-compliance. This is an area which requires further research if the SRA is to understand potential barriers to innovation and diversification.



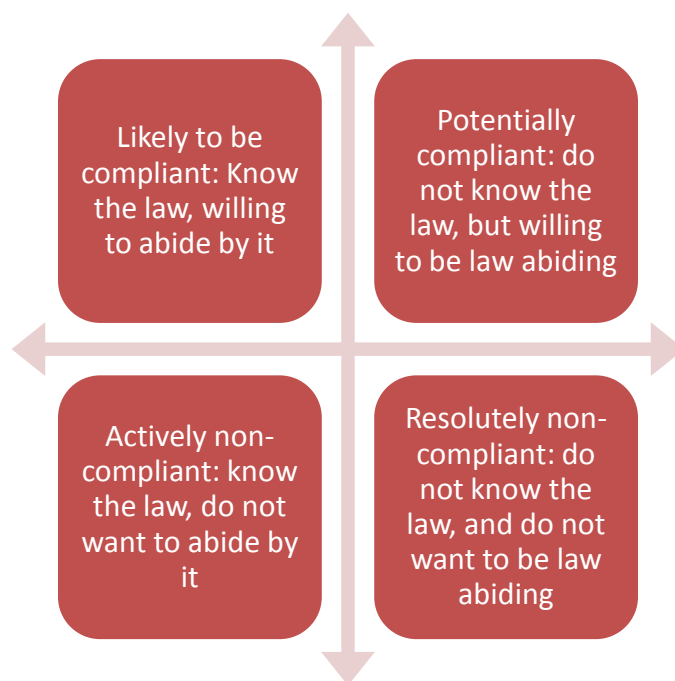
## Chapter 3 – Incorporating the findings into the SRA’s regulatory approach

### SRA Compliance Estimate

#### Existing typology of regulated persons

Established literature on regulation<sup>19</sup> has recognised four types of regulated persons, as summarised in Figure 13.

Figure 13: Established typologies of regulated persons



This typology is a matrix of two compliance factors: willingness to comply, and knowledge of the rules. Classifying compliance attitudes in this way can be useful as a starting point for targeting regulatory interventions, but until they are combined with attitudes towards regulation, it is difficult to plan interventions in a meaningful way. For example, firms who are of the ‘actively or resolutely non-

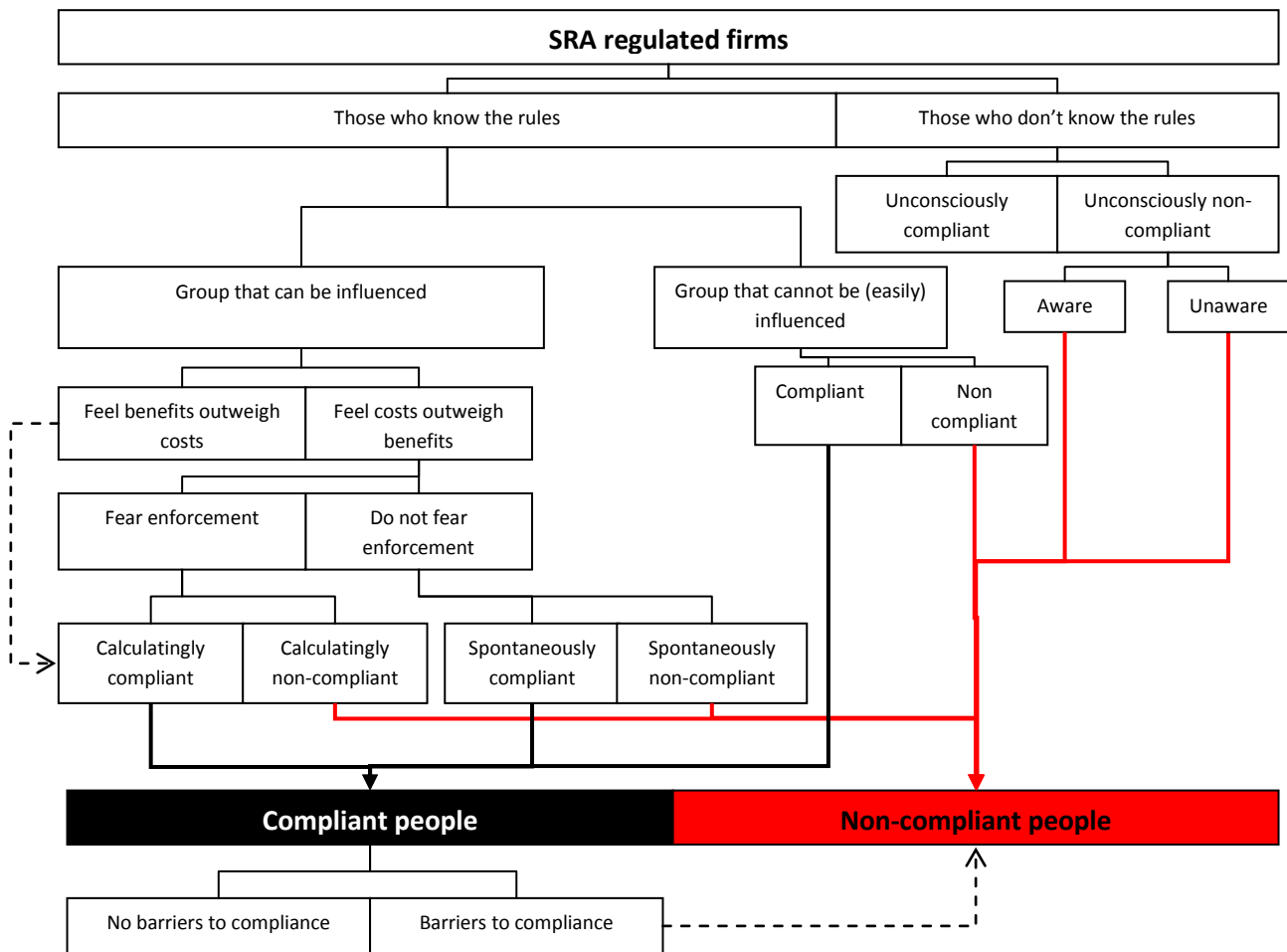
<sup>19</sup> Two examples being Baldwin, R & Cave, M - *Understanding Regulation: Theory, strategy and practice*, 1999, and Ayres, I & Braithwaite, J - *Responsive Regulation: Transcending the deregulation debate*, 1992. Headings for the four groups are devised by the SRA, rather than taken from the referenced literature.

*compliant* types could be compliant because they are sufficiently afraid of sanctions. Firms who are of the *'likely to be compliant'* type could be non-compliant because they do not have the capacity or resources to implement compliance.

### SRA Compliance Estimate based on the T11

The Dutch Ministry of Justice devised a *Compliance Estimate* alongside the *T11*, looking at all eleven compliance dimensions, and mapping them through a flow diagram to create eight types, attached at [Annex D](#). To expand on the above typology, we have applied the findings from [Chapter 1](#) and [Chapter 2](#), to combine attitudes to compliance (Figure 14) with attitudes to regulation and barriers to compliance explored through the T11. We have mapped the attitudes of those regulated by the SRA to form a *Compliance Estimate* and formulated the SRA's own typology. We have developed the SRA Compliance Estimate in Figure 16, which is the same, apart from acknowledging that compliant people may face barriers, and incorporating cost/benefit into the model.

Figure 14: SRA compliance estimate



## SRA typology of attitudes to compliance

We have adapted the original T11 typology at [Annex D](#) into the SRA's own typology, tailored to the attitudes of those we regulate. Different regulatory tools are particularly effective in targeting typology-specific problems.

Figure 15: SRA typology of attitudes to compliance

T11 type	Details	Effective regulatory tools
1. Spontaneously compliant, value motivated	<p>Would be compliant with the rules whether or not the SRA existed, because they independently share the values underlying the regulatory requirements. Do not require SRA support to comply, beyond the SRA Handbook. More likely to be highly motivated by professional ethics and reputation, and score highly on spontaneous compliance dimensions of the T11.</p> <p><u>Achieve compliance through:</u>                      Access to the Handbook                      Clarity of the Handbook                      Capacity to deliver</p>	Handbook
2. Spontaneously compliant, non-official control motivated	<p>Would be compliant with the regulatory requirements as fear non-official enforcement. Do not require SRA support to comply, beyond the Handbook. These types are more likely to be highly motivated by the behaviour of those around them and professional pride, and score highly on non-official control dimension of T11.</p> <p><u>Achieve compliance through:</u>                      Compliant peers                      Associating compliance with a good reputation                      Associating non-compliance with poor reputation</p>	Publishing sanctions Publishing good practice Quality/accreditation schemes
3. Consciously/calculatingly compliant, value motivated	<p>Know and understand the rules, and see compliance as more valuable than non-compliance, <i>as a result of the SRA</i>. Value could be reputational, monetary, or another self-defined value. Likely to score highly on spontaneous compliance dimensions of the T11. These types are likely to ask for help from the SRA when they need it, and to self-assess and self-report accurately.</p> <p><u>Achieve compliance through:</u>                      SRA demonstrating value of compliance                      Continuing professional development</p>	Information demonstrating value of compliance
4. Consciously/calculatingly compliant, enforcement motivated	<p>Know and understand the rules, do not necessarily see compliance as more valuable than non-compliance, but motivated by risk of SRA enforcement. Likely to score highly on enforcement dimensions of the T11.</p> <p><u>Achieve compliance through:</u>                      Existence of formal sanctions                      Supervision and enforcement when necessary</p>	Formal sanctions Publicity of the credible deterrent

	Severity of sanctions	
5. Consciously/ calculatingly non-compliant	<p>Know and understand the rules, do not see compliance as more valuable than non-compliance, accept the risk of SRA enforcement. Know that they break the rules, and see value in doing so. Value could be reputational, monetary, or another self-defined value.</p> <p><u>Could comply if:</u>            Persuaded that value of compliance outweighs value of non-compliance            Persuaded that sanctions are likely and severe</p>	<p>Stronger formal sanctions            Publicity of these cases            Emphasizing ability of consumers and others to detect non-compliance</p>
6. Spontaneously non-compliant	<p>Know the rules and would always break them spontaneously, regardless of the risk of inspection, the risk of detection, the risk of punishment or the severity of the potential punishment.</p>	<p>Detection            Investigation            Formal sanctions</p>
7. Unconsciously non-compliant	<p>Break the rules because they do not know the rules well. Can be divided into those who are aware they do not know the rules, and those who are not, each of whom will require a slightly different regulatory approach.</p>	<p>Provision of information around the regulatory requirements            Publicity about the possibility of inadvertent non-compliance</p>

## SRA Regulatory improvement tool hierarchy

Figure 16: SRA improvement tools

Regulatory tools
<p><b>SRA content</b></p> <ul style="list-style-type: none"> <li>- Handbook</li> <li>- SRA website</li> <li>- Examples of good practice</li> <li>- Examples of poor practice</li> <li>- Road shows</li> <li>- Webinars</li> <li>- Ethics helpline</li> <li>- Contact centre</li> </ul>
<p><b>Education of individuals and firms</b></p> <ul style="list-style-type: none"> <li>- Continuing Professional Development</li> <li>- Firm-based education (self-directed)</li> </ul>
<p><b>Education of consumer</b></p> <ul style="list-style-type: none"> <li>- Best/poor practice</li> <li>- What to expect (minimum standard setting)</li> <li>- 'Name and shame'</li> </ul>
<p><b>Supervision (all firms are supervised)</b></p> <ul style="list-style-type: none"> <li>- Desk based</li> <li>- Thematic visits</li> <li>- Firm visits (specific issues)</li> <li>- Relationship management (Firm based supervision)</li> </ul>
<p><b>Informal Sanctions</b></p> <ul style="list-style-type: none"> <li>- Bad publicity</li> <li>- Reputational damage</li> </ul>
<p><b>Formal Sanctions/Regulatory or other action</b></p> <ul style="list-style-type: none"> <li>- Fines</li> <li>- Intervention</li> <li>- Disciplinary proceedings</li> <li>- Consequences for individuals - e.g. striking from the roll, conditions on practicing certificate</li> </ul>



## Annex A – Visit methodology

SRA staff visited 200 firms to collect data for this research into attitudes to compliance. The objectives of the visits were:

- to gather data relating to attitudes towards compliance across the SRA’s regulated community, and explore any trends arising from this data;
- to set a base line of attitudinal data
- to test the suitability of a behavioural science methodology tailored to the SRA’s regulatory context;
- for SRA staff undertaking visits to raise awareness of OFR.

### Sampling

A stratified random sample of 200 firms (sampled from all regulated firms in England and Wales open at 22/10/2010, excluding the top 100 largest firms - a total of 10,913 firms). Sample was stratified by size, whether the majority of regulated individuals at the firm were black or minority ethnic (BME), and geographical location. This stratification was chosen in order to explore variation across diverse types of firms, and to ensure views from all types of firms were captured for the open-ended questions, while remaining random and proportionate in order that the data be able to be extrapolated.

SRA staff visited each firm to:

- undertake a structured interview with a representative from the firm, asking the questions from the questionnaire at [Annex B](#), and filling out the responses on an electronic version of the questionnaire form; and
- check for compliance under a selection of rules and outcomes under the old and new codes of conduct (2007 and 2011), through review of files against the checklist at [Annex C](#).

Visits were undertaken by SRA staff.

Visits to the 200 firms took place between November 2010 and March 2011. Firms did not have prior sight of the questions, but were informed that file review would take place.

### Sampling rationale

The size of the sample was chosen as the best balance between being suitably large as to point us towards trends across all firms<sup>20</sup>, but small enough to represent an effective and timely use of resources.

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<sup>20</sup> A sample size of 200 has a confidence interval of +/- 6.78% at the 95% confidence level

## Attitudinal Questionnaire

### Devising the questions

Questions for the attitudinal questionnaire link the SRA's regulatory framework with the dimensions of the established framework for measuring what motivates regulated entities to comply with the rules (T11). The questionnaire at [Annex B](#) is the same version used on the visits, and is divided into sections representing each dimension of the T11.

A six point rating scale was chosen for most of the questions, and each question contained an open text box for the interviewee to explain their rating. This approach was chosen for the following reasons:

- A six point scale forces the interviewee to assert a preference for 'agree' or 'disagree', even if only slight. This avoids the 'middle choice' bias.
- Open text boxes allow the participants to explain their response, meaning that they are more likely to express their opinions. Previous experience of conducting surveys at the SRA indicates that interviewees are less likely to respond with negative answers if they have no opportunity to explain themselves.
- Open text boxes allow the participants opportunity to reflect on, their own behaviour- adding value for the participant as well as the SRA.
- Open text boxes allow the SRA to collect qualitative data about participants' experiences, adding colour and value to the quantitative data provided, and insight into the reasons behind trends identified. Understanding attitudes towards compliance, rather than simply recording them, was the SRA's ultimate aim, and so qualitative data was important in achieving this.

### Addressing the regulator bias

We recognise that 'regulator bias' is a feature of the research and therefore take into account its effect on our findings. As a regulator, we were aware that those we regulate may 'tell us what we want to hear' during interview, or not feel comfortable discussing their own possible non-compliance or poor performance. We took a number of steps to control for this:

- Asking all questions in reference to the participant's firm, but also to firms in general, so that firms did not have to discuss non-compliance in relation to their own firm if they did not feel comfortable. Attitudinal measures were then devised through combining responses to both types of question.
- Allowing interviewees to provide explanations for all answers scored on a scale, to reduce the feeling that any answers would be taken out of context.

- Assuring firms of confidentiality of data, and assuring that responses were not going to be used to assess their firm, but to contribute towards improvement of regulation. We hope that this helped participants feel more comfortable giving responses, and helped to get across that the questionnaire was about understanding attitudes across the SRA's regulated community, not at individual firm level. Data was anonymised before analysis.
- Selecting a stratified random sample, so we could reassure firms that they had been randomly selected for their visit, rather than because of any compliance or performance reasons.

We were also aware that answers could differ depending on who answered the questions; for example, a senior partner might answer questions differently to a more junior partner or a person appointed to a compliance role. We spoke to members of firms with varying job titles, and SRA interviewers used their judgement to determine that those interviewed were in an appropriate role to represent the specific firm they were visiting.

We collected a significant volume of qualitative data. Participants were prepared to admit instances and areas where they needed support to comply. This has given us some confidence that 'regulator bias' has to some extent been controlled. However, we are considering how to further reduce regulator bias in our next study. Considerations include use of non-SRA independent interviewers, and rephrasing some of the questions.

### **Analysing the response data**

Depth statistical analysis was undertaken by Professor Daniel Read at Warwick Business School, using anonymised data. Analysis of compliance benchmarking data was undertaken in house. Enquiries relating to data analysis can be directed to Laura Holloway at [sraresearch@sra.org.uk](mailto:sraresearch@sra.org.uk), and Professor Daniel Read of Warwick Business School at [Daniel.Read@wbs.ac.uk](mailto:Daniel.Read@wbs.ac.uk).

The comprehensive range of questions asked to all 200 firms resulted in approximately 100,000 data points for analysis.

## **File review**

### **Mapping across from the old to new code of conduct**

Potential non-compliance under the 2011 code has been assessed through mapping 2007 code breaches onto the 2011 code. For example, under the 2007 code, the visits assessed breach of rule 2.1 (1) (b), which concerns taking on clients with insufficient resources/lack of competence. Under the 2011 code, the visits looked at the same evidence and assessed Chapter 1 (4), which concerns whether you have the resources, skills and procedures to carry out your clients' instructions, and Chapter 1 (5), concerning the service you provide to clients is competent, delivered in a timely manner and takes account of your clients' needs and circumstances. This does not necessarily reflect how the SRA approaches with regard

to the 2011 Code. However, it is necessary in order for us to be able to measure change over time, and compare new patterns of compliance with past trends.

In the course of the mapping, there are some outcomes under the 2011 code that apply to more than one area of non-compliance under the 2007 code. For example, all the individual breaches that previously fell under rule 2.3, concerning information about costs, now map onto the outcome at Chapter 1 (1), *you treat your clients fairly*, as well as the more similar Chapter 1 (13), *clients receive the best possible information, both at the time of engagement and when appropriate as their matter progresses, about the likely overall cost of their matter*.

Therefore, when recording breaches on the baseline visits, there have been incidences of the firm failing multiple times on the same outcomes of the 2011 code. In analysing the findings, there was a decision to be made as to whether we aggregate multiple breaches of the same outcome under the 2011 code, or present them separately. The approach taken here has been to add all breaches of the same outcome together, to present a view of the most common outcomes breached, rather than the nature of the breaches. Further work has then been done on the most commonly breached outcomes, to drill down into the areas where the breaches occurred.

### **Inherent bias in file review**

The file reviews detected more breaches around information provision than around any other type of compliance behaviour. We consider this finding to be significant, as it fits with other SRA analysis<sup>21</sup> indicating that poor or lack of, information provision to clients is a recurrent problem in legal services. However, there is an element of inherent bias in comparing different types of breach detected in file review: some breaches are detected by looking for evidence that a firm *has* done something *non-compliant*, such as representing both sides of a case, breaking conflict of interest rules, and others are detected by looking for evidence that a firm *has not* done something *required for compliance*, such as providing information about the Legal Ombudsman to clients at the outset of a matter. This creates bias; non-compliant behaviour is more difficult to detect as it may not be present in every case and may be revealed or not depending on the type of evidence and the level of detail explored. However something required for compliance that is missing from a file is easier to spot - if it's not there, with the result being that the firm has failed to comply.

### **Thank you to participants**

The SRA would like to take this opportunity to thank the firms and individuals that took part in these visits for their contribution to SRA research; your time and insight is much appreciated.

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<sup>21</sup> Analysis of first and second tier complaints data indicates that a large number of complaints relate to poor information provision, whether as the subject of the complaint or the root cause. The SRA will be publishing findings around complaints analysis over the next year.

## Annex B - Visit questionnaire

### Section 1 - The firm's view on the profession (A), and itself (B)

#### Today's date

Date of interview

Name of interviewer

#### Identification of firm

Regis ID

Firm Name

MUL Matter Reference

Name of interviewee

Interviewee job title

#### Preliminary questions

We are interested in whether you are considering becoming part of an ABS (Alternative Business Structure). Please type x in the box if you are.

If you would be willing to discuss future ABS status with our ABS research team, please email [ABScontact@sra.org.uk](mailto:ABScontact@sra.org.uk)

Top 3 activities carried out by the firm (by frequency)

1)

2)

3)

Top 3 activities carried out by the firm (by value)

1)

2)

3)

# 1 - Knowledge of rules

## Question

A1. On a scale of 1-6, how well do you think **firms** know the regulatory requirements? 1 is very unaware, 6 is fully aware (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

## Notes

Regulatory requirements means SCC and SAR i.e. regulations the SRA make internally

## Why?

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

B1a. On a scale of 1-6, how well do you think your **firm** know the regulatory requirements? 1 is very unaware, 6 is fully aware (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

B1.b.i. When did the change to rules on referral arrangements take place, and what were the main changes? 1 is no knowledge, 6 is full knowledge (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

B1.b.ii. What recent changes have there been to the complaints process? 1 is no knowledge, 6 is full knowledge (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

Box for interviewer to type comments on whether firm's rating is accurate

Box for interviewer to type comments on whether firm's rating is accurate

A2. On a scale of 1-6, how easy is it for **firms** to find out about the regulatory requirements? 1 is very difficult, 6 is easy (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

Ask the respondent why they have answered the question in the way they have, and type the answer here.

B2.a. How does **your firm** find out about regulatory requirements?

Type answer here

B2.b. On a scale of 1-6, how easy is that? 1 is very difficult, 6 is easy (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

Ask the respondent why they have answered the question in the way they have, and type the answer here.

A3. On a scale of 1-6, how easy is it for **firms** to understand the regulatory requirements? 1 is very difficult, 6 is easy to understand (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

Ask the respondent why they have answered the question in the way they have, and type the answer here.

B3. On a scale of 1-6, how easy is it for **your firm** to understand the regulatory requirements? 1 is very difficult, 6 is easy to understand (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

A4. Do you think **other firms** actually comply with the regulatory requirements? 1 is do not comply, 6 is fully comply (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

B4. How well do you think **your firm** complies with the regulatory requirements? 1 is not well, 6 is very well (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

**Notes**

If interviewee thinks their firm is up to date and compliant, but interviewer's review of files/procedures show firm is not up to date, there is opportunity here for interviewee to explain why firm's perception is different from reality

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

*Box for interviewer to comment about differences between perception and reality of compliance.*



## 2 - Cost/Benefit

### Questions

A1.a. On a scale of 1-6, do **firms** consider that complying with the regulatory requirements costs a lot of time and effort? 1 is strongly yes, 6 is no (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

A1.b. On a scale of 1-6, do **firms** consider that complying with the regulatory requirements costs a lot of money? 1 is strongly yes, 6 is no (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

### Why?

*Ask the respondent why they have answered the questions in the way they have, and type the answer here.*

B1.a.i. How much time and effort does **your firm** spend in complying with regulatory requirements?

Type answer here

B1.a.ii. Do you consider that excessive? 1 is strongly, 6 is no (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

B1.b.i. How much money does **your firm** spend in complying with regulatory requirements?

Type answer here

B1.b.ii. Do you consider that excessive? 1 is strongly, 6 is no (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

A2. Do you think **firms** think breaking the regulatory requirements would ever be worthwhile compared to the effort to comply? 1 is yes always, 6 is never (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

B2. How often might the cost of complying with the regulatory requirements lead **your firm** to not comply? 1 is frequently, 6 is never (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

A3.a. In your opinion do **firms** think that they derive benefits or advantages from complying with regulatory requirements beyond avoiding censure from the regulator? 1 is never, 6 is yes always (Type x box)

- 1
- 2
- 3
- 4
- 5
- 6

A3.b. What are the benefits or advantages?

*Type answer here*

B3.a. Do you believe that **your firm** derives benefits or advantages from complying with regulatory requirements beyond avoiding censure from the regulator? 1 is never, 6 is yes always (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

B3.b. What are those benefits or advantages?

*Type answer here*

B3.c. How would you value those benefits or advantages?

*Type answer here*

A4. How much of what **firms** currently do to comply with regulatory requirements would firms continue to do anyway simply in order to run their firms well, if they knew they would not be caught out by the regulator?

%

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

B4.a. How much of what **your firm** currently does to comply with regulatory requirements do you think the firm would continue to do anyway simply in order to run the firm well, if you knew you would not be caught out by the regulator?

%

B4.b.

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

B4.c. What are some examples?

*Type answer here*

### 3 - Degree of acceptance

#### Question

A1. How reasonable do **the profession** think that the regulatory requirements are? 1 is not reasonable, 6 is very reasonable (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

B1. How reasonable does **your firm** think the regulatory requirements are? 1 is not reasonable, 6 is very reasonable (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

A2.a. How much responsibility does **the profession** take to ensure its members comply? 1 is none, 6 is high (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

A2.b. How?

#### Why?

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

*Type answer here*

B2.a. How much responsibility does **your firm** take to ensure its members comply? 1 is none, 6 is high (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

B2.b. How does your firm take responsibility?

Type answer here

B3.c. Does your firm consider this to be a high level of responsibility?

Type answer here

A3. What areas of the regulatory requirements would **the profession** change and why?

Type answer here

B3. What areas of the regulatory requirements would **your firm** change and why?

Type answer here

A4. On a scale of 1-6, to what degree do **firms** think the SRA implement the regulatory objectives in an acceptable way? 1 is not acceptable, 6 is very acceptable (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

**Notes**

List the SRA objectives: 1) regulatory reform through the introduction of OFR, 2) organisational reform, 3) be a recognised and respected regulator, 4) enhance client and consumer protection

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

B4. On a scale of 1-6, to what degree do **your firm** think the SRA implement the regulatory objectives in an acceptable way? 1 is not acceptable, 6 is very acceptable (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

## 4 - Respect for authority

### Question

A1. On a scale of 1-6, do **firms** think the regulatory requirements positively reflect the ethics of the profession? 1 is wholly negative, 6 is wholly positive (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

B1. On a scale of 1-6, does **your firm** think the regulatory requirements positively reflect the ethics of the profession? 1 is wholly negative, 6 is wholly positive (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

A2.a. What percentage of the profession do you think are **willing** to comply with the regulatory requirements? (Type x in box)

- Less than 15%
- 15% to 30%
- 30% to 45%
- 45% to 60%
- 60% to 75%
- Over 75%

### Why?

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

A2.b. Why are some firms not **willing** to comply?

*Type answer here*

B2. What would make **your firm** more **willing** to comply?

Type answer here

A3.a. What percentage of the profession do you think **actually** comply with the regulatory requirements? (Type x in box)

- Less than 15%
- 15% to 30%
- 30% to 45%
- 45% to 60%
- 60% to 75%
- Over 75%

A3.b. Why do some firms not comply?

Type answer here

A4. What does **the profession** think would make firms more likely to comply?

Type answer here



B4. What would make **your firm** more likely to comply?

*Type answer here*

A5. What effect does the SRA have as an authority figure on **the profession** to comply?

*Type answer here*

B5. What effect does the SRA have as an authority figure on **your firm** to comply?

*Type answer here*

## 5 - Social control

### Question

A1.a. On a scale of 1-6, how aware is **the profession** of general compliance by other firms? 1 is no awareness, 6 is a lot (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

A1.b. How do **the profession** obtain that information?

*Type answer here*

B1.a. On a scale of 1-6, how aware is **your firm** of general compliance by other firms? 1 is no awareness, 6 is a lot (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

B1.b. How does **your firm** obtain that information?

*Type answer here*

A2. On a scale of 1-6, what is **the profession's** view of those firms that do not comply? 1 is wholly positive, 6 is wholly negative (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

B2. On a scale of 1-6, what is **your firm's** view of those firms that do not comply? 1 is wholly positive, 6 is wholly negative (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

A3. On a scale of 1-6, how aware are the public of general compliance by **firms**? 1 is no awareness, 6 is a lot of awareness (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

B3. On a scale of 1-6, how aware are the public of general compliance by **your firm**? 1 is no awareness, 6 is a lot of awareness (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

A4. Please rank the following drivers of compliance for **the profession**. 1 is highest driver, through to 7 being the lowest driver (Type rank number in each box)

- Professional pride/adherence to professional principles
- Fear of professional censure
- Fear of regulatory censure
- Fear of criminal censure
- Good management of firm
- Fear of loss of revenue/clients
- Other (please specify)

*Use this space if needed to type specific 'other' reason*

B4. Please rank the following drivers of compliance for **your firm**. 1 is highest driver, through to 7 being the lowest driver (Type rank number in each box)

- Professional pride/adherence to professional principles
- Fear of professional censure
- Fear of regulatory censure
- Fear of criminal censure
- Good management of firm
- Fear of loss of revenue/clients
- Other (please specify)

*Use this space if needed to type specific 'other' reason*

## 6 - Risk of reporting

### Question

A1. On a scale of 1-6, do **the profession** think the general public report issues of non compliance to the SRA? 1 is never, 6 is always (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

B1. On a scale of 1-6, does **your firm** think the general public report issues of non compliance to the SRA? 1 is never, 6 is always (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

A2.a. On a scale of 1-6, do **the profession** report issues of non compliance arising **outside of their own firm** to the SRA? 1 is never, 6 is always (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

A2.b. On a scale of 1-6, do the **profession** report issues of non compliance arising **within their own firm** to the SRA? 1 is never, 6 is always (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

B2.a. On a scale of 1-6, does **your firm** report issues of non compliance arising **outside of your own firm** to the SRA? 1 is never, 6 is always (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

**Rule 20.06 of the Code provides that you must report to the SRA if:**  
- You become aware of serious misconduct by a solicitor  
- You have reason to doubt the integrity of a solicitor  
- You have reason to believe that a solicitor is in serious financial difficulty which could put the public at risk

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

B2.b. On a scale of 1-6, does **your firm** report issues of non compliance arising within **your own firm** to the SRA? 1 is never, 6 is always (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

B2.c.i. If there was non compliance that did not fall within Rule 20.06, what matters would you report to the SRA arising **outside your own firm**?

Type answer here

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

B2.c.ii. If there was non compliance that did not fall within Rule 20.06, what matters would you report to the SRA arising **within your own firm**?

Type answer here

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

A3. Does **the profession** think that whistleblowing to the SRA is an effective source of reporting of non-compliance? 1 is never effective, 6 is always (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

B3. Do **your firm** think that whistleblowing to the SRA is an effective source of reporting of non-compliance? 1 is never effective, 6 is always (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

A4. How likely do you think it is that **firms** who fail to comply will be identified by the SRA? 1 is will never be identified, 6 is will always be identified (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

B4. If **your firm** fails to comply, how likely do you think it is that you will be identified by the SRA? 1 is never, 6 is always (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*



A5. Through which avenue do you think **the profession** would be most likely to be identified as having failed to comply? Rank from 1 - most likely avenue, through to 5 - least likely avenue (Type rank number in each box).

- Whistleblower
- Complaint by another firm
- Complaint by client
- SRA supervision (PSU, caseworking etc.)
- Investigation/supervision by another body (e.g. police)

B5. Through which avenue do you think **your firm** would be most likely to be identified as having failed to comply? Rank from 1 - most likely avenue, through to 5 - least likely avenue (Type rank number in each box).

- Whistleblower
- Complaint by another firm
- Complaint by client
- SRA supervision (PSU, caseworking etc.)
- Investigation/supervision by another body (e.g. police)

A6.a. What would encourage **the profession's** reporting of **other firms'** non-compliance to the SRA?

Type answer here

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

A6.b. What would encourage **the profession's** reporting of **their own firm's** non-compliance to the SRA?

*Type answer here*

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

B6.a. What would encourage **your firm's** reporting of **other firms'** non-compliance to the SRA?

*Type answer here*

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

B6.b. What would encourage **your firm's** reporting of **their own** non-compliance to the SRA?

*Type answer here*

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

## 7 - Risk of inspection, risk of detection, risk of sanction

### Visits by the SRA

#### Question

A1. Out of a possibly 100 per cent, how likely do you think it is that **a firm** will be visited by the SRA?

%

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

B1. Out of a possibly 100 per cent, how likely do you think it is that **your firm** will be visited by the SRA?

%

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

A2. On a scale of 1-6, how effective do you think a visit by the SRA would be in correctly identifying areas of non-compliance across **all firms**? 1 is not effective, 6 is very effective (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

B2. On a scale of 1-6, how effective do you think a visit by the SRA would be in correctly identifying areas of non-compliance in **your firm**? 1 is not effective, 6 is very effective (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

A3. On a scale of 1-6, how easy do you think it is for **firms** to ensure that an actual non-compliance is not detected during a visit by the SRA? 1 is easy, 6 is very difficult (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

*Ask the respondent how they think a firm would do this, and type answer here*

B3. On a scale of 1-6, how easy do you think it would be for **your firm** to ensure that an actual non-compliance is not detected during a visit by the SRA? 1 is easy, 6 is very difficult (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

*Ask the respondent how they think their firm would do this, and type answer here*

A4. On a scale of 1-6, do **firms** think the SRA is likely to impose a sanction/regulatory action against them when non compliance is found on a visit? 1 is never impose a sanction/action, 6 is always (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

B4. On a scale of 1-6, do **your firm** think the SRA is likely to impose a sanction/regulatory action against your firm when non compliance is found on a visit? 1 is never impose a sanction/action, 6 is always (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

A5. On a scale of 1-6, how do **firms** view the prospect of a visit by the SRA? 1 is very concerned, 6 is not at all concerned (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

B5. On a scale of 1-6, how does **your firm** view the prospect of a visit by the SRA? 1 is very concerned, 6 is not at all concerned (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

**Desk based supervision by the SRA**

**Question**

A1. On a scale of 1-6, do **firms** think that desk based supervision by the SRA is an effective way to correctly identify areas of non-compliance? 1 is not effective, 6 is very effective (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

B1. On a scale of 1-6, do **your firm** think that desk based supervision by the SRA is an effective way to correctly identify areas of non-compliance in your firm? 1 is not effective, 6 is very effective (Type x

- 1
- 2
- 3
- 4
- 5
- 6

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

A2. On a scale of 1-6, how easy do **firms** think it is to ensure that an actual non-compliance is not detected by SRA desk based supervision of their firm? 1 is easy, 6 is very difficult (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

B2. On a scale of 1-6, how easy do **your firm** think it is to ensure that an actual non-compliance is not detected by SRA desk based supervision of your firm? 1 is easy, 6 is very difficult (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

A3. On a scale of 1-6, do **firms** think the SRA are likely to impose a sanction/regulatory action against them where non compliance is found through desk based supervision? 1 is the SRA will never impose a sanction/action, 6 is that they always will (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

B3. On a scale of 1-6, does **your firm** think that the SRA are likely to impose a sanction/regulatory action against your firm where non compliance is found through desk based supervision? 1 is the SRA will never impose a sanction/action, 6 is that they always will (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

A4. On a scale of 1-6, how do **firms** view the prospect of desk based supervision by the SRA? 1 is very concerned, 6 is not at all concerned (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

B4. On a scale of 1-6, how does **your firm** view desk based supervision by the SRA? 1 is very concerned, 6 is not at all concerned (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*



## 8 - Selectivity

### Question

A1. On a scale of 1-6, how far do you think **the profession** consider the SRA to concentrate resources on firms that do not comply with the regulatory requirements? 1 is the SRA never do this, 6 is the SRA always do this (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

### Notes

### Why?

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

B1. On a scale of 1-6, how far do **your firm** consider the SRA to concentrate resources on firms that do not comply with the regulatory requirements? 1 is the SRA never do this, 6 is the SRA always do this (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

A2. On a scale of 1-6, what do you think is **the profession's view** on how much more likely the SRA are to visit a firm that has not complied with the regulatory requirements, compared with a firm that has? 1 is no difference, 6 is much more likely (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

B2. On a scale of 1-6, how much more likely do **your firm** think the SRA are to visit a firm that has not complied with the regulatory requirements, compared with a firm that has? 1 is no difference, 6 is much more likely (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

*Ask the respondent why they think that, and type the answer here.*

### 9 - Severity of sanction

**Question**

A1. On a scale of 1-6, how effective are sanctions in deterring breaches in **the profession**? 1 is not effective, 6 is very effective (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

**Notes**

Try to find out from those who think the sanctions are not effective, whether it is because firms think they will not be caught, or because firms are not afraid of the sanctions being applied

**Why?**

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

B1. On a scale of 1-6, how effective are sanctions in deterring breaches in **your firm**? 1 is not effective, 6 is very effective (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

**Notes**

Try to find out from those who think the sanctions are not effective, whether it is because they think they will not be caught, or because they are not afraid of the sanctions being applied

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

A2. On a scale of 1-6, how aware are **firms** of the range of sanctions the SRA can impose? 1 is not aware, 6 is fully aware (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

B2.a. On a scale of 1-6, how aware are **your firm** of the range of sanctions the SRA can impose? 1 is not aware, 6 is fully aware (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

B2.b. Please list the range of sanctions you understand that the SRA can impose

Type answer here

B2.c. How did you gain this level of awareness of the sanctions?

Type answer here

A3. On a scale of 1-6, what do **firms** think of the severity of SRA sanctions, given the nature of the breach? 1 is sanctions are too severe, 6 is sanctions are not severe enough (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

B3. On a scale of 1-6, what do **your firm** think of the severity of SRA sanctions, given the nature of the breach? 1 is too severe, 6 is not severe enough (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

A4. On a scale of 1-6, do **the firms** think the SRA is always imposing sanctions with appropriate speed? 1 is never, 6 is always (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

B4. On a scale of 1-6, do **your firm** think the SRA is always imposing sanctions with appropriate speed? 1 is never, 6 is always (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

A5.a. Think about what the impact on sanctioned **firms** might be. What would the profession see as the obvious impacts, good and bad?

*Type answer here*

**Notes**

Following this question, try probing the interviewee further to think about the less tangible implications of imposing sanctions, and how these might affect firms.

A5.b. Now think about the less obvious impact of the SRA imposing sanctions on firms. Any less tangible impacts can be recorded here.

*Type answer here*

B5.a. Think about what the impact might be if **your firm** was sanctioned. What would be the obvious impacts, good and bad?

*Type answer here*

**Notes**

Following this question, try probing the interviewee further to think about the less tangible implications of imposing sanctions, and how these might affect them.

B5.b. Now think about the less obvious impact of the SRA imposing sanctions on your firm. Any less tangible impacts can be recorded here.

*Type answer here*

A6. On a scale of 1-6, do **firms** think it is important that details of sanctions against firms are publicised? 1 is never, 6 is always (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

B6. On a scale of 1-6, do **you** think it is important that details of sanctions against firms are publicised? 1 is never, 6 is always (Type x in box)

- 1
- 2
- 3
- 4
- 5
- 6

*Ask the respondent why they have answered the question in the way they have, and type the answer here.*

## Conclusion

1. What is your assessment of the overall level of compliance in the profession?

2. Which sectors of the profession do you think are most compliant and why?

3. Which sectors of the profession do you think are least compliant any why?

4. Please rank the following measures from 1-4 (or 1-5 if including 'other') in order of which would be most effective in improving compliance (1=most effective).

Making regulatory requirements clearer

Educating the profession about regulatory requirements

More effectively targeting firms that fail to comply

Increasing the severity of sanctions

Other (please specify)

*Use this space if needed to type specific 'other' reason*

5. Type x in the 'agree' box next to each statement if the statement applies to your firm. In the 'this drives compliance box', rate each factor 1 if it is a very strong reason for compliance at your firm, through to 6 if it is never considered as a reason for compliance at your firm.

	Agree	This drives compliance
We understand the rules	<input type="checkbox"/>	<input type="checkbox"/>
We fear we might lose clients or revenue if we don't comply	<input type="checkbox"/>	<input type="checkbox"/>
We want our firm to be well managed	<input type="checkbox"/>	<input type="checkbox"/>
We are proud of our professionalism	<input type="checkbox"/>	<input type="checkbox"/>
We accept the rules and so keep to them	<input type="checkbox"/>	<input type="checkbox"/>
We have the procedures in place to allow us to comply	<input type="checkbox"/>	<input type="checkbox"/>
We fear professional censure	<input type="checkbox"/>	<input type="checkbox"/>
We fear being reported	<input type="checkbox"/>	<input type="checkbox"/>
We fear a regulatory inspection visit	<input type="checkbox"/>	<input type="checkbox"/>
We fear regulatory desk based supervision	<input type="checkbox"/>	<input type="checkbox"/>
We fear regulatory censure	<input type="checkbox"/>	<input type="checkbox"/>
We fear criminal censure	<input type="checkbox"/>	<input type="checkbox"/>

**Thankyou for completing this survey. We will ensure that the time and effort you have taken in completing the survey is put to use in providing a better supervision function.**



## Annex C – File review checklist

### Client Care

Solicitors' Code of Conduct 2007  Rule 2.02	Breaches identified (crossed box indicates breach; blank assumes compliance – no evidence of breach seen)	Mapped Outcomes	Mapped provisions not achieved
Rule 2.01 (1) (b) Taking on clients: insufficient resources/lack of competence	<input type="checkbox"/>	Chapter 1 O (4)  O (5)	<input type="checkbox"/>  <input type="checkbox"/>
Rule 2.01 (1) (c) Taking on clients: Joint clients - consent with instructions	<input type="checkbox"/>	Chapter 1 O (1)  O (2)	<input type="checkbox"/>  <input type="checkbox"/>
Rule 2.01 (1) (d) Taking on clients: Duress/undue influence	<input type="checkbox"/>	Chapter 1 O (1)  O (2)	<input type="checkbox"/>  <input type="checkbox"/>
Rule 2.01 (2) Taking on clients: ceasing to act	<input type="checkbox"/>	Chapter 1 O (1)  O (3)	<input type="checkbox"/>  <input type="checkbox"/>
Rule 2.02 (1) Client Care: objectives, issues, options, next steps, progress	<input type="checkbox"/>	Chapter 1 O (5)  O (12)	<input type="checkbox"/>  <input type="checkbox"/>
Rule 2.02 (2) Client Care: level of service, responsibilities	<input type="checkbox"/>	Chapter 1 O (5)  O (12)	<input type="checkbox"/>  <input type="checkbox"/>

Rule 2.02 (2) Client Care: name, status, overall supervision	<input type="checkbox"/>	Chapter 1 O (12)	<input type="checkbox"/>
Rule 2.02 (2) Client Care: Limitations/conditions imposed by referrer	<input type="checkbox"/>	Chapter 1 O(1)  O(2)  O (12)  Chapter 9  O (3)  O (4)	<input type="checkbox"/>  <input type="checkbox"/>  <input type="checkbox"/>  <input type="checkbox"/>  <input type="checkbox"/>
Where any of the outcomes have not been achieved tick if the firm is considered to be in breach of Principles.	Principle 4 – act in the best interests of each client;	4	<input type="checkbox"/>
	Principle 5 – provide a proper standard of service to your clients;	5	<input type="checkbox"/>
	Principle 8 – run your business effectively and in accordance with proper governance and sound financial and risk management principles.	8	<input type="checkbox"/>

## Costs Information

Solicitors' Code of Conduct 2007	Breaches identified (crossed box indicates breach; blank assumes compliance – no evidence of breach seen)	Mapped Outcomes	Mapped provisions not achieved
<b>Rule 2.03</b>			
Rule 2.03 (1) Information about costs: Overall costs	<input type="checkbox"/>	Chapter 1 O (1)  O (13)	<input type="checkbox"/>

information at the outset			<input type="checkbox"/>
Rule 2.03 (1) Information about costs: Overall costs information as matter progresses	<input type="checkbox"/>	Chapter 1 O (1)  O (13)	<input type="checkbox"/>  <input type="checkbox"/>
Rule 2.03 (1) (a) Information about costs: basis/terms of charges	<input type="checkbox"/>	Chapter 1 O (1)  O (13)	<input type="checkbox"/>  <input type="checkbox"/>
Rule 2.03 (1) (b) Information about costs: Charging rates to be increased	<input type="checkbox"/>	Chapter 1 O (1)  O (12)	<input type="checkbox"/>  <input type="checkbox"/>
Rule 2.03 (1) (c) Information about costs: Likely payments to others	<input type="checkbox"/>	Chapter 1 O (13)	<input type="checkbox"/>
Rule 2.03 (1) (d) Information about costs: How client will pay – public funding/insurance, TU, employer	<input type="checkbox"/>	Chapter 1 O (1)  O (2)  O (5)  O (12)	<input type="checkbox"/>  <input type="checkbox"/>  <input type="checkbox"/>  <input type="checkbox"/>
Rule 2.03 (1) (e) Information about costs: Lien	<input type="checkbox"/>	Chapter 1 O (12)	<input type="checkbox"/>
Rule 2.03 (1) (f) Information about costs: Liability for other party costs	<input type="checkbox"/>	Chapter 1 O (12)  O (13)	<input type="checkbox"/>  <input type="checkbox"/>
Rule 2.03 (1) (g) Information about costs: BTE/ATE insurance?	<input type="checkbox"/>	Chapter 1 O (1)  O (2)	<input type="checkbox"/>  <input type="checkbox"/>

		O (5)	<input type="checkbox"/>
		O (12)	<input type="checkbox"/>
Rule 2.03 (2) Information about costs: CFA	<input type="checkbox"/>	Chapter 1 O (6)	<input type="checkbox"/>
		O (12)	<input type="checkbox"/>
		O (13)	<input type="checkbox"/>
Rule 2.03 (3) Information about costs: Public funding	<input type="checkbox"/>	Chapter 1 O (5)	<input type="checkbox"/>
		O (12)	<input type="checkbox"/>
		O (13)	<input type="checkbox"/>
Rule 2.03 (4) Information about costs: fee share with charity	<input type="checkbox"/>	Chapter 1 O (12) Chapter 9 O (4)	<input type="checkbox"/>
			<input type="checkbox"/>
Rule 2.03 (5) Information about costs: Clear and in writing	<input type="checkbox"/>	Chapter 1 O (12)	<input type="checkbox"/>
Rule 2.03 (6) Information about costs: Cost/risk/benefit	<input type="checkbox"/>	Chapter 1 O (1)	<input type="checkbox"/>
		O (2)	<input type="checkbox"/>
		O (13)	<input type="checkbox"/>
Where any of the outcomes have not been achieved tick if the firm is considered to be in breach of Principles.	Principle 4 – act in the best interests of each client;		<input type="checkbox"/>
	Principle 5 – provide a proper standard of service to your clients;		<input type="checkbox"/>

	Principle 8 – run your business effectively and in accordance with proper governance and sound financial and risk management principles.	<input type="checkbox"/>
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<b>Solicitors' Code of Conduct 2007</b>	<b>Breaches identified</b> (crossed box indicates breach; blank assumes compliance – no evidence of breach seen)	<b>Mapped Outcomes</b>	<b>Mapped provisions not achieved</b>
<b>Rule 2.04</b>			
Rule 2.04 (1) Contingency Fees: in permissible contentious contingency fee arrangement	<input type="checkbox"/>	Chapter 1 O (6)	<input type="checkbox"/>
Where any of the outcomes have not been achieved tick if the firm is considered to be in breach of Principles.	Principle 4 – act in the best interests of each client;		<input type="checkbox"/>
	Principle 5 – provide a proper standard of service to your clients;		<input type="checkbox"/>
	Principle 8 – run your business effectively and in accordance with proper governance and sound financial and risk management principles.		<input type="checkbox"/>

## Complaints

<b>Solicitors' Code of Conduct 2007</b>  <b>Rule 2.05</b>	<b>Breaches identified</b> (crossed box indicates breach; blank assumes compliance – no evidence of breach seen)	<b>Mapped Outcomes</b>	<b>Mapped provisions not achieved</b>
Rule 2.05 (1) (a) Complaints handling: Written complaints procedure	<input type="checkbox"/>	Chapter 1 O (1)  O (11)	<input type="checkbox"/>  <input type="checkbox"/>
Rule 2.05 (1) (b) Complaints handling: Information at the outset	<input type="checkbox"/>	Chapter 1 O (9)  O (10)  O (14)	<input type="checkbox"/>  <input type="checkbox"/>  <input type="checkbox"/>
Rule 2.05 (1) (c) Complaints handling: Procedure on request	<input type="checkbox"/>	Chapter 1 O(12)	<input type="checkbox"/>
Rule 2.05 (1) (d) Complaints handling: Information when complaint made	<input type="checkbox"/>	Chapter 1 O (11)  O (14)	<input type="checkbox"/>  <input type="checkbox"/>
Rule 2.05 (1) (e) Complaints handling: LeO information at conclusion	<input type="checkbox"/>	Chapter 1 O (10)	<input type="checkbox"/>
Does the firm have an effective complaint handling process and culture?	Yes	No	
Does the firm have systems and procedures in place to record complaints and provide them with due consideration and quality assurance?	Yes	No	
Did the firm respond promptly and keep to	Yes	No	

timescales?			
Did the firm make the client aware of their rights of complaint in accordance with the signposting requirements?	Yes	No	
Was there a written explanation provided for the conclusions that were reached by the firm at the completion of the complaint process?	Yes	No	
What redress or remedial action was offered and was it promptly provided?	Detail of redress/remedial action:  Yes	No	
Where any of the outcomes have not been achieved tick if the firm is considered to be in breach of Principles.	Principle 5 – provide a proper standard of service to your clients;		<input type="checkbox"/>
	Principle 6 – behave in a way that maintains the trust the public places in you and the provision of legal services;		<input type="checkbox"/>
	Principle 8 – run your business effectively and in accordance with proper governance and sound financial and risk management principles.		<input type="checkbox"/>

## Commissions

Solicitors' Code of Conduct 2007	Breaches identified (crossed box indicates breach; blank assumes compliance)	Mapped Outcomes	Mapped provisions not achieved
Rule 2.06			

	– no evidence of breach seen)		
Rule 2.06 Commissions: Disclosure and consent to retain	<input type="checkbox"/>	Chapter 1 O (15)	<input type="checkbox"/>
Rule 2.06/Rule 1.04 Commissions: No consideration for retaining	<input type="checkbox"/>	Chapter 1 O (15)	
Where any of the outcomes have not been achieved tick if the firm is considered to be in breach of Principles.	Principle 2 – act with integrity;		<input type="checkbox"/>
	Principle 3 – not allow your independence to be compromised;		<input type="checkbox"/>
	Principle 4 – act in the best interests of each client;		<input type="checkbox"/>
	Principle 6 – behave in a way that maintains the trust the public places in you and the provision of legal services;		<input type="checkbox"/>

## Limitation of Liability

Solicitors' Code of Conduct 2007	Breaches identified (crossed box indicates breach; blank assumes compliance – no evidence of breach seen)	Mapped Outcomes	Mapped provisions not achieved
<b>Rule 2.07</b>			
Rule 2.07 (a) Limitation of civil liability by contract: Below minimum level of cover	<input type="checkbox"/>	Chapter 1 O (8)	<input type="checkbox"/>
Rule 2.07 (b) & (c) Limitation of civil liability by contract:	<input type="checkbox"/>	Chapter 1 O (8)	<input type="checkbox"/>



brought to client's attention/in writing		O (12)	<input type="checkbox"/>
Where any of the outcomes have not been achieved tick if the firm is considered to be in breach of Principles.	Principle 4 - act in the best interests of each client;		<input type="checkbox"/>
	Principle 5 - provide a proper standard of service to your clients;		<input type="checkbox"/>
	Principle 6 - behave in a way that maintains the trust the public places in you and the provision of legal services;		<input type="checkbox"/>
	Principle 10 – protect client money and assets.		<input type="checkbox"/>

## Conflict

Solicitors' Code of Conduct 2007	Breaches identified (crossed box indicates breach; blank assumes compliance – no evidence of breach seen)	Mapped Outcomes	Mapped provisions not achieved
<b>Rule 3</b>			
Rule 3.01 (2) (a) Duty not to act: separate duties for two or more clients	<input type="checkbox"/>	Chapter 3 O (3)  O (4)  O (5)	<input type="checkbox"/>  <input type="checkbox"/>  <input type="checkbox"/>
Rule 3.01 (2) (a) Duty not to act: own interests conflict	<input type="checkbox"/>	Chapter 3 O (2)	<input type="checkbox"/>
Rules 3.09/3.10 Conveyancing transaction at arm's length: buyer and seller	<input type="checkbox"/>	Chapter 3 O (4)  O (5)	<input type="checkbox"/>

conditions			<input type="checkbox"/>
Rule 3.18 (1) (b) Notification to Lender: acting for buyer/seller/lender	<input type="checkbox"/>	Chapter 1 O (1)  O (2)	<input type="checkbox"/>  <input type="checkbox"/>
Where any of the outcomes have not been achieved tick if the firm is considered to be in breach of Principles.	Principle 2 – act with integrity;		<input type="checkbox"/>
	Principle 3 – not allow your independence to be compromised;		<input type="checkbox"/>
	Principle 4 - act in the best interests of each client;		<input type="checkbox"/>
	Principle 5 - provide a proper standard of service to your clients;		<input type="checkbox"/>
	Principle 6 - behave in a way that maintains the trust the public places in you and the provision of legal services;		<input type="checkbox"/>

## Confidentiality

Solicitors' Code of Conduct 2007	Breaches identified (crossed box indicates breach; blank assumes compliance – no evidence of breach seen)	Mapped Outcomes	Mapped provisions not achieved
Rule 4			

Rules 4.01/4.02 Duty of confidentiality/disclosure:	<input type="checkbox"/>	Chapter 4 O (1)  O (2)  O (3)	<input type="checkbox"/>  <input type="checkbox"/>  <input type="checkbox"/>
Rules 4.03-05 Duty not to put confidentiality at risk	<input type="checkbox"/>	Chapter 4 O (4)  O(5)	<input type="checkbox"/>  <input type="checkbox"/>
Where any of the outcomes have not been achieved tick if the firm is considered to be in breach of Principles.	Principle 2 – act with integrity;		<input type="checkbox"/>
	Principle 3 – not allow your independence to be compromised;		<input type="checkbox"/>
	Principle 4 - act in the best interests of each client;		<input type="checkbox"/>
	Principle 5 - provide a proper standard of service to your clients;		<input type="checkbox"/>
	Principle 6 - behave in a way that maintains the trust the public places in you and the provision of legal services.		<input type="checkbox"/>

### Policies/Systems/Procedures

Solicitors' Code of Conduct 2007	Breaches identified (crossed box indicates breach; blank assumes compliance – no evidence of breach seen)	Mapped Outcomes	Mapped provisions not achieved
Rule 5			

Rule 5.01 (1) (a) Supervision and management responsibilities: Duties of principal, law, conduct, supervision, and direction	<input type="checkbox"/>	Chapter 7 O (1)	<input type="checkbox"/>
Rule 5.01 (1) (b) Supervision and management responsibilities: Money Laundering Regulations	<input type="checkbox"/>	Chapter 7 O (5)	<input type="checkbox"/>
Rule 5.01 (1) (c) Supervision and management responsibilities: key regulatory requirements	<input type="checkbox"/>	Chapter 7 O (2)  O (5)	<input type="checkbox"/>  <input type="checkbox"/>
Rule 5.01 (1) (d) Supervision and management responsibilities: conflicts of interest	<input type="checkbox"/>	Chapter 3 O (1)	<input type="checkbox"/>
Rule 5.01 (1) (e) Supervision and management responsibilities: Rule 2	<input type="checkbox"/>	Chapter 7 O (2)  O (3)	<input type="checkbox"/>  <input type="checkbox"/>
Rule 5.01 (1) (f) Supervision and management responsibilities: undertakings	<input type="checkbox"/>	Chapter 11 O (2)	<input type="checkbox"/>
Rule 5.01 (1) (g) Supervision and management responsibilities: safekeeping of documents/assets	<input type="checkbox"/>	Chapter 11 O(4)	<input type="checkbox"/>
Rule 5.01 (1) (h) Supervision and management	<input type="checkbox"/>	Chapter 2 O (1)	<input type="checkbox"/>

responsibilities: Equality & diversity		O (2)	<input type="checkbox"/>
Rule 5.01 (1) (i) Supervision and management responsibilities: training and competency	<input type="checkbox"/>	Chapter 7 O (6)	<input type="checkbox"/>
Rule 5.01 (1) (j) Supervision and management responsibilities: financial controls	<input type="checkbox"/>	Chapter 7 O (4)	<input type="checkbox"/>
Rule 5.01 (1) (k) Supervision and management responsibilities: Continuation of practice	<input type="checkbox"/>	Chapter 7 O (3)  O (4)	<input type="checkbox"/>  <input type="checkbox"/>
Rule 5.01 (1) (l) Supervision and management responsibilities: management of risk	<input type="checkbox"/>	Chapter 7 O (3)  O (4)	<input type="checkbox"/>  <input type="checkbox"/>
Rule 5.02 Supervision and management responsibilities: Qualified to supervise	<input type="checkbox"/>	Practising Requirements Annex G	<input type="checkbox"/>
Rule 5.03 Supervision and management responsibilities: Quality of work	<input type="checkbox"/>	Chapter 7 O (7)  O (8)	<input type="checkbox"/>  <input type="checkbox"/>
Are there effective governance and reporting lines?	Yes	No	
Where any of the outcomes have not been achieved tick if the firm is considered to be in breach of	Principle 6 - behave in a way that maintains the trust the public places in you and the provision of legal services;		<input type="checkbox"/>

Principles.	Principle 8 – run your business effectively and in accordance with proper governance and sound financial and risk management principles;	<input type="checkbox"/>
	Principle 9 – run your business or carry out your role in the business in a way that encourages equality of opportunity and respect for diversity;	<input type="checkbox"/>
	Principle 10 – protect client money and assets.	<input type="checkbox"/>

## Equality and Diversity

Solicitors' Code of Conduct 2007	Breaches identified (crossed box indicates breach; blank assumes compliance – no evidence of breach seen)	Mapped Outcomes	Mapped provisions not achieved
<b>Rule 6</b>			
Rule 6.01-2 Equality and diversity: Duty and evidence of discrimination	<input type="checkbox"/>	Chapter 2 O (2)  O (4)	<input type="checkbox"/>  <input type="checkbox"/>
Rule 6.03 Equality and diversity: Policy	<input type="checkbox"/>	Chapter 2 O (1)  O (3)	<input type="checkbox"/>  <input type="checkbox"/>
Where any of the outcomes have not been achieved tick if the firm is considered to be in breach of Principles.	Principle 9 – run your business or carry out your role in the business in a way that encourages equality of opportunity and respect for diversity.		<input type="checkbox"/>

## Publicity

Solicitors' Code of Conduct 2007  Rule 7	Breaches identified (crossed box indicates breach; blank assumes compliance – no evidence of breach seen)	Mapped Outcomes	Mapped provisions not achieved
Rule 7.01 and 7.02 Publicity: Misleading/inaccurate publicity/clarity as to charges	<input type="checkbox"/>	Chapter 8 O (1)  O (2)	<input type="checkbox"/>  <input type="checkbox"/>
Rule 7.03 Publicity: Unsolicited approaches	<input type="checkbox"/>	Chapter 8 O(3)	<input type="checkbox"/>
Rule 7.07 Publicity: Letterhead, website and emails	<input type="checkbox"/>	Chapter 8 O(4)  O(5)	<input type="checkbox"/>  <input type="checkbox"/>
Where any of the outcomes have not been achieved tick if the firm is considered to be in breach of Principles.	Principle 2 – act with integrity;		<input type="checkbox"/>
	Principle 6 - behave in a way that maintains the trust the public places in you and the provision of legal services.		<input type="checkbox"/>

## Fee Sharing and Referrals

<b>Solicitors' Code of Conduct 2007</b>  <b>Rules 8 and 9</b>	<b>Breaches identified</b> (crossed box indicates breach; blank assumes compliance – no evidence of breach seen)	<b>Mapped Outcomes</b>	<b>Mapped provisions not achieved</b>
Rule 8.02 Fee sharing: Non-lawyers	<input type="checkbox"/>	Chapter 9 O (1)  O(2)	<input type="checkbox"/>  <input type="checkbox"/>
Rule 9.01 Referrals of business: General	<input type="checkbox"/>	Chapter 9 O (1)  O (2)	<input type="checkbox"/>  <input type="checkbox"/>
Rule 9.02 (a) Financial arrangements with introducers: Agreement in writing	<input type="checkbox"/>	Chapter 9 O (1)  O (2)	<input type="checkbox"/>  <input type="checkbox"/>
Rule 9.02 (b) Financial arrangements with introducers: undertakings	<input type="checkbox"/>	Chapter 9 O (1)  O (2)	<input type="checkbox"/>  <input type="checkbox"/>
Rule 9.02 (c) Financial arrangements with introducers: marketing and publicity	<input type="checkbox"/>	Chapter 9 O (2)	<input type="checkbox"/>



Rule 9.02 (d) Financial arrangements with introducers: compromise/infringe/constrain duties and professional judgement	<input type="checkbox"/>	Chapter 9 O (1)  O (2)	<input type="checkbox"/>  <input type="checkbox"/>
Rule 9.02 (e) Financial arrangements with introducers: agreement contents - disclosure by introducer	<input type="checkbox"/>	Chapter 9 O (4)	<input type="checkbox"/>
Rule 9.02 (f) Financial arrangements with introducers: monitoring introducer	<input type="checkbox"/>	Chapter 9 O (1)  O (2)	<input type="checkbox"/>  <input type="checkbox"/>
Rule 9.02 (g) Financial arrangements with introducers: solicitor disclosure	<input type="checkbox"/>	Chapter 9 O (3)  O (4)	<input type="checkbox"/>  <input type="checkbox"/>
Rule 9.02 (h) Financial arrangements with introducers: criminal proceedings/public finding	<input type="checkbox"/>	Chapter 9 O (6)	<input type="checkbox"/>
Rule 9.03 (1) Referrals to third parties: Good faith, best interests	<input type="checkbox"/>	Chapter 6 O (1)  O (2)	
Rule 9.03 (5) Referrals to third parties: Tied – notify client	<input type="checkbox"/>	Chapter 6 O (1)  O (2)	<input type="checkbox"/>  <input type="checkbox"/>
Rule 9.03 (6) Referrals to third parties: IFA – endowment/life policy	<input type="checkbox"/>	Chapter 6 O (1)  O (2)	<input type="checkbox"/>  <input type="checkbox"/>
Where any of the outcomes have not been achieved tick if	Principle 2 – act with integrity;		<input type="checkbox"/>

the firm is considered to be in breach of Principles.	Principle 3 – not allow your independence to be compromised;	<input type="checkbox"/>
	Principle 4 - act in the best interests of each client;	<input type="checkbox"/>
	Principle 5 - provide a proper standard of service to your clients;	<input type="checkbox"/>
	Principle 6 - behave in a way that maintains the trust the public places in you and the provision of legal services.	<input type="checkbox"/>

## Relations with Third Parties and Undertakings

Solicitors' Code of Conduct 2007 Rule 10	Breaches identified (crossed box indicates breach; blank assumes compliance – no evidence of breach seen)	Mapped Outcomes	Mapped provisions not achieved
Rule 10.1 Relations with third parties: Not taking unfair advantage	<input type="checkbox"/>	Chapter 11 O (1)	<input type="checkbox"/>
10.02 Relations with third	<input type="checkbox"/>	Chapter 11 O (1)	<input type="checkbox"/>

parties: Agreeing costs			
10.04 Relations with third parties: Contacting other party	<input type="checkbox"/>	Chapter 11 O (1)	<input type="checkbox"/>
10.05 Relations with third parties: Undertakings	<input type="checkbox"/>	Chapter 11 O (2)	<input type="checkbox"/>
10.06 Relations with third parties: Dealing with more than one buyer	<input type="checkbox"/>	Chapter 11 O (3)	<input type="checkbox"/>
Where any of the outcomes have not been achieved tick if the firm is considered to be in breach of Principles.	Principle 2 – act with integrity;		<input type="checkbox"/>
	Principle 6 - behave in a way that maintains the trust the public places in you and the provision of legal services.		<input type="checkbox"/>

## Reporting Obligations

<b>Solicitors' Code of Conduct 2007</b>	<b>Breaches identified</b> (crossed box indicates breach; blank assumes compliance – no evidence of breach seen)	<b>Mapped Outcomes</b>	<b>Mapped provisions not achieved</b>
<b>Rule 20</b>			
Rule 20.05 Rights and obligations of practice: Duty to co-operate	<input type="checkbox"/>	Chapter 10 O (1)  O (2)	<input type="checkbox"/>  <input type="checkbox"/>
Rule 20.07 Rights and Obligations of practice: obstructing complaints	<input type="checkbox"/>	Chapter 10 O (6)  O (7)	<input type="checkbox"/>  <input type="checkbox"/>
Rule 20.08 Rights and obligations of practice: Production of	<input type="checkbox"/>	Chapter 10 O (2)	<input type="checkbox"/>

documents/information		O (8)	<input type="checkbox"/>
		O (9)	<input type="checkbox"/>
		O (10)	<input type="checkbox"/>
Where any of the outcomes have not been achieved tick if the firm is considered to be in breach of Principles.	Principle 7 – comply with your legal and regulatory obligations and deal with your regulators and ombudsmen in open, timely and co-operative manner.		<input type="checkbox"/>

### Separate Businesses

Solicitors' Code of Conduct 2007	Breaches identified (crossed box indicates breach; blank assumes compliance – no evidence of breach seen)	Mapped Outcomes	Mapped provisions not achieved
<b>Rule 21</b>			
Rule 21.01-4 Separate Businesses: Permitted separate businesses	<input type="checkbox"/>	Chapter 12 O (1)  O (2)  O (3)	<input type="checkbox"/>  <input type="checkbox"/>  <input type="checkbox"/>
Rule 21.05 Separate Businesses: Safeguards	<input type="checkbox"/>	Chapter 12 O (4)  O (5)  O (6)	<input type="checkbox"/>  <input type="checkbox"/>  <input type="checkbox"/>
Where any of the outcomes have not been achieved tick if the firm is considered to be in breach of Principles.	Principle 2 – act with integrity;		<input type="checkbox"/>
	Principle 3 – not allow your independence to be compromised;		<input type="checkbox"/>

	Principle 4 - act in the best interests of each client;	<input type="checkbox"/>
	Principle 6 - behave in a way that maintains the trust the public places in you and the provision of legal services.	<input type="checkbox"/>

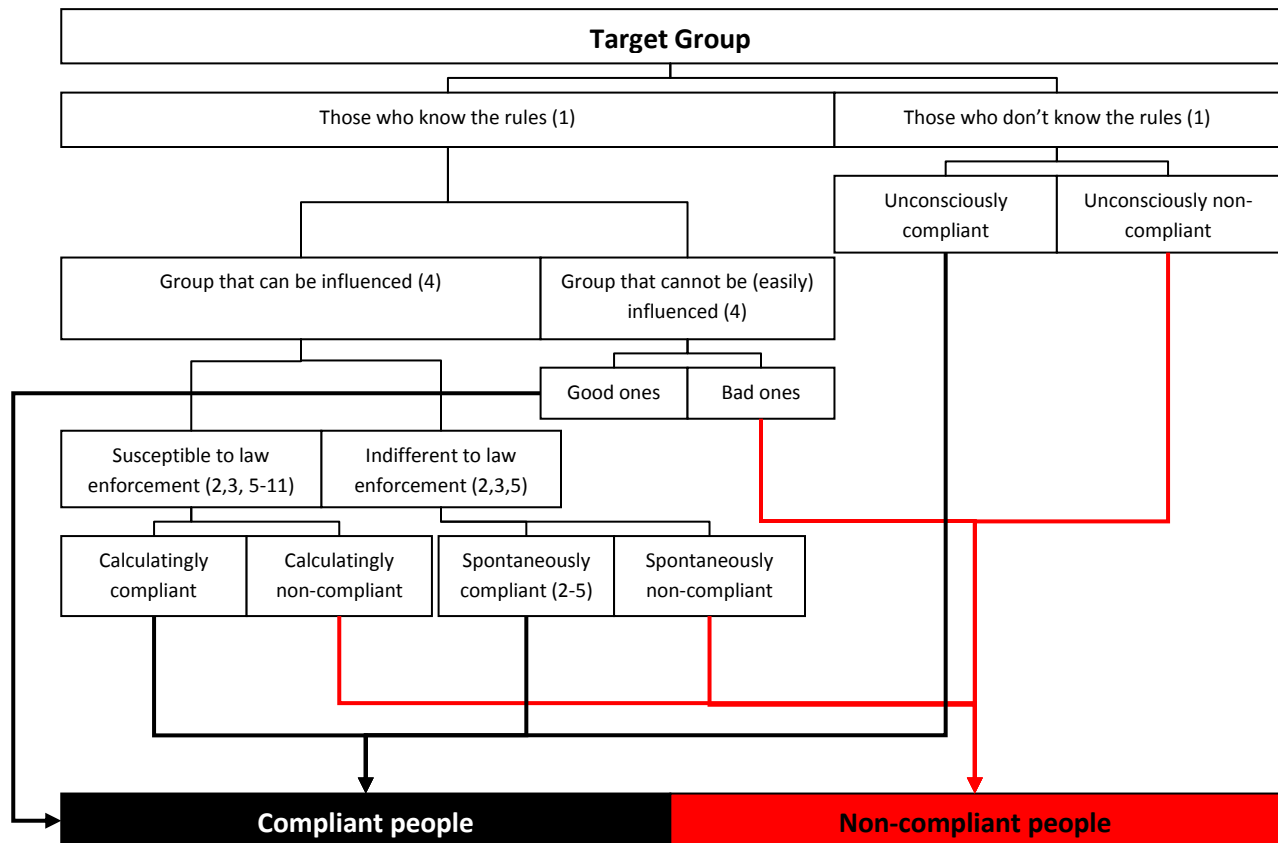
<b>Solicitors' Accounts Rules 1998</b>	<b>Breaches identified</b> (crossed box indicates breach; blank assumes compliance – no evidence of breach seen)	<b>Mapped Outcomes</b>	<b>Mapped provisions not achieved</b>
Please state:	<input type="checkbox"/>	Principle 10 - Protect client money and assets	<input type="checkbox"/>
Record those files where, having considered the whole job holistically, the clients' best interests have not been served and/or a proper service has not been received	Files:	Details of outcomes not met/principles breached:	

## Annex D – Original table of eleven compliance estimate

### Introduction

The *Compliance Estimate* devised by the Dutch Ministry of Justice in accompaniment to the Table of Eleven attempts to map typologies across the population of compliant and non-compliant individuals. The diagram and text below are extracts from *The Table of Eleven: A versatile tool*, published by the Dutch Ministry of Justice, 2004. The SRA compliance estimate in [Chapter 3](#) has been adapted from this model, using the further guidance around *disturbing variables* given below.

### Compliance estimate diagram



## Typologies

Typologies derived from this compliance estimate are:

- **Unconsciously compliant people:** those who do not know the rules very well and who unknowingly comply with them (for instance, because they copy other behaviour, such as people do in traffic)
- **Unconsciously non-compliant people:** those who break the rules because they do not know the rules well.
- **Spontaneously compliant people:** those who know the rules and would comply with them off their own accord, even if (in theory) there were no enforcement whatsoever.
- **Spontaneously non-compliant people:** those who know the rules and would always break them spontaneously, regardless of the risk of inspection, the risk of detection, the risk of punishment or the severity of the potential punishment.
- People deterred by enforcement or **calculatingly compliant people:** the people who know the rules and who would break them, but rather decide against it with a view to enforcement activities.
- **Consciously or calculatingly non-compliant people:** those people who knowingly break the rules and consciously accept the risk of being caught.
- Next to these, there is a group that will not be influenced, or is very hard to influence, this group can be either very respectful to authority (the **good ones**) or very disrespectful to authority (the **bad ones**).

## Further guidance

The compliance estimate diagram is not a complete picture. All motivations from the 'Table of Eleven' that can explain compliance are included, but some disturbing variables can occur between the intention to comply with rules and the actual compliant behaviour. These variables can also be linked to a specific situation (e.g. physical barriers, chance opportunities) or may have to do with irrational actions (violating a rule by accident, not being accountable for one's actions). Therefore, it is conceivable that the outcome of the estimate has to be adjusted for these variables. The chart could make this visible by adding arrows, which enable 'cross-fertilization' between those ultimately violating rules and those complying. A person can, for instance, violate a rule knowingly, but ultimately comply with it, and vice versa. These complicating factors have been left out for reasons of clarity.

## Annex E – Compliance baseline findings

### Introduction

Compliance checks were carried out through a file review at 200 firms, according to the methodology in Annex A, and using the checklist at Annex C. The following is an analysis of the most common areas of breach of the 2007 and 2011 Codes of Conduct at these 200 firms.

### Findings

**Figure 17: Summary table of most common breaches (more than 10 incidences, equivalent to more than 5% of the sample of 200) of the 2007 code of conduct**

Rule under 2007 Code of Conduct	Breaches	% Breach
Rule 7.07 Publicity: Letterhead, website and emails	85	43%
Rule 2.03 (1) Information about costs: Overall costs information at the outset	78	39%
Rule 2.03 (1) Information about costs: Overall costs information as matter progresses	62	31%
Rule 2.05 (1) (b) Complaints handling: Information at the outset	58	29%
Rule 2.02 (2) Client Care: level of service, responsibilities	54	27%
Rule 2.02 (2) Client Care: name, status, overall supervision	52	26%
Rule 2.03 (5) Information about costs: Clear and in writing	39	20%
Rule 2.03 (1) (c) Information about costs: Likely payments to others	32	16%
Rule 2.03 (1) (a) Information about costs: basis/terms of charges	31	16%
Rule 2.05 (1) (a) Complaints handling: Written complaints procedure	30	15%
Rule 2.05 (1) (e) Complaints handling: LeO information at conclusion	30	15%
Rule 2.02 (1) Client Care: objectives, issues, options, next steps, progress	27	14%
Rule 6.03 Equality and diversity: Policy	26	13%
Rule 5.01 (1) (k) Supervision and management responsibilities: Continuation of practice	24	12%
Rule 2.03 (1) (e) Information about costs: Lien	20	10%
Rule 9.02 (g) Financial arrangements with introducers: solicitor disclosure	20	10%
Rule 5.03 Supervision and management responsibilities: Quality of work	16	8%
Rule 5.01 (1) (b) Supervision and management responsibilities: Money Laundering Regulations	15	8%
Rule 5.01 (1) (l) Supervision and management responsibilities: management of risk	15	8%
Rule 5.01 (1) (e) Supervision and management responsibilities: Rule 2	14	7%
Rule 7.01/7.02 Publicity: Misleading/ inaccurate/ publicity/ clarity as to charges	13	7%
Rule 2.03 (1) (d) Information about costs: How client will pay - public funding/insurance, TU, employer	11	6%
Rule 2.03 (6) Information about costs: Cost/risk/benefit	11	6%
Rule 5.01 (1) (d) Supervision and management responsibilities: conflicts of interest	11	6%

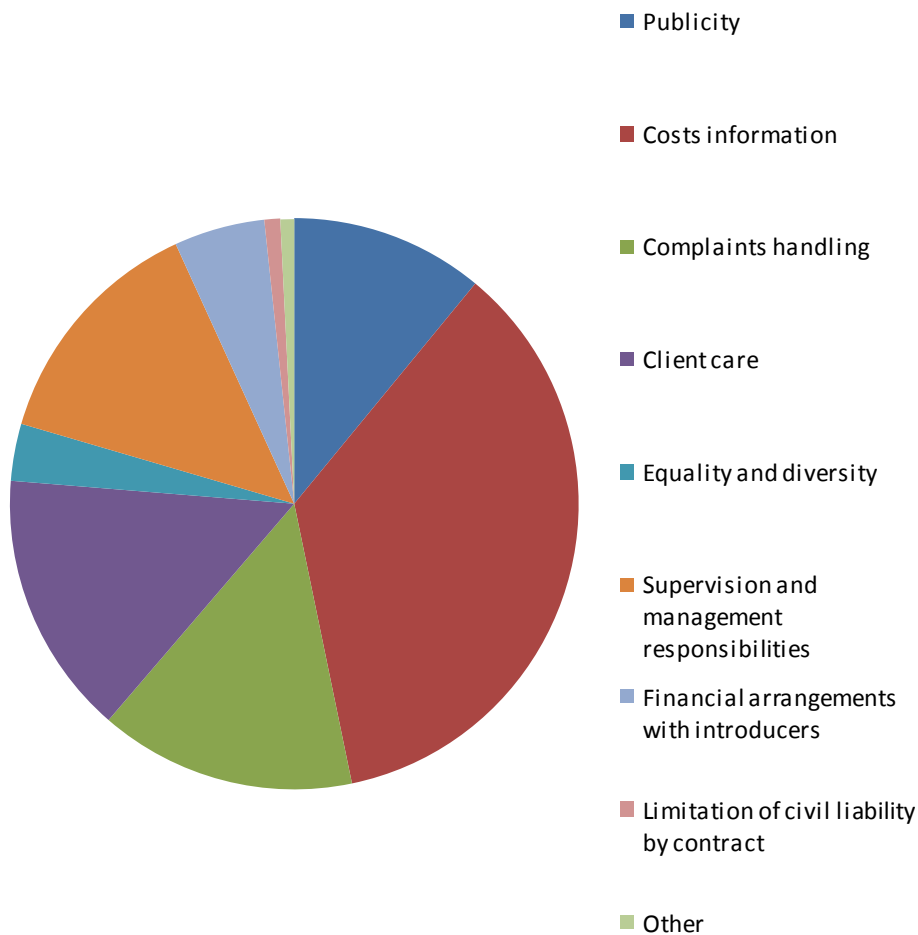
Source: 2010/11 supervision baseline visits



As can be seen from Figure 17, the most frequent breaches of the old code related to publicity, client care, costs information, complaints handling.

In total there were 894 breaches of the 2007 code found on the visits. Figure 18 shows that most of the breaches fell into one of five categories; publicity, supervision and management responsibility, costs information, complaints handling and client care.

**Figure 18: Pie chart showing the distribution of the 894 breaches of the 2007 code of conduct across different areas of conduct**



Source: 2010/11 Supervision baseline visits, categories from 2007 Code of Conduct for Solicitors

Figure 19 looks at the most common outcomes breached under the new code, which came into force in October 2011. Findings are not dissimilar to those from the old code, with a few notable exceptions.

These findings can be used to predict those areas of compliance where most breaches of the new outcomes are likely to occur. They may provide insight for thematic work by the supervision and risk teams.

**Figure 19: Summary table of most common breaches (more than 10 incidences) of outcomes in the new 2011 Code of Conduct**

<b>Rule under new Code</b>	<b>Breaches</b>
All Chapter 1 (13) clients receive the best possible information, both at the time of engagement and when appropriate as their matter progresses, about the likely overall cost of their matter	171
All Chapter 1 (12) clients are in a position to make informed decisions about the services they need, how their matter will be handled and the options available to them	124
All Chapter 1 (10) clients are informed in writing, both at the time of engagement and at the conclusion of your complaints procedure, of their right to complain to the Legal Ombudsman, the time frame for doing so and full details of how to contact the Legal Ombudsman	70
All Chapter 8 (5) your letterhead, website and e-mails show the words "authorised and regulated by the Solicitors Regulation Authority" and either the firm's registered name and number if it is an LLP or company or, if the firm is a partnership or sole practitioner, the name under which it is licensed/authorised by the SRA and the number allocated to it by the SRA	59
All Chapter 1 (1) you treat your clients fairly	48
All Chapter 8 (4) clients and the public have appropriate information about you, your firm and how you are regulated	35
All Chapter 1 (14) clients are informed of their right to challenge or complain about your bill and the circumstances in which they may be liable to pay interest on an unpaid bill	33
All Chapter 7 (3) you identify, monitor and manage risks to compliance with all the Principles, rules and outcomes and other requirements of the Handbook, if applicable to you, and take steps to address issues identified	32
All Principle 5 - provide a proper standard of service to your clients	24
All Chapter 2 (1) you do not discriminate unlawfully, or victimise or harass anyone, in the course of your professional dealings	19
All Chapter 1 (9) clients are informed in writing at the outset of their matter of their right to complain and how complaints can be made	17
All Chapter 1 (5) the service you provide to clients is competent, delivered in a timely manner and takes account of your clients' needs and circumstances	16
All Chapter 1 (11) clients' complaints are dealt with promptly, fairly, openly and effectively	15
All Chapter 7 (2) you have effective systems and controls in place to achieve and comply with all the Principles, rules and outcomes and other requirements of the Handbook, where applicable	15
All Chapter 7 (5) you comply with legislation applicable to your business, including anti-money laundering and data protection legislation	14
All Chapter 7 (8) you have a system for supervising clients' matters, to include the regular checking of the quality of work by suitably competent and experienced people	14
All Principle 8 - run your business effectively and in accordance with proper governance and sound financial and risk management principles	14

Source: 2010/11 supervision baseline visits

As can be seen from Figure 19, the majority of breaches are around providing the client with appropriate information. Figure 19 differs from Figure 17 in that multiple breaches of the same outcome are possible, as the old code was mapped on to the new code. However, these are still likely to be the areas where most breaches take place.

**Figure 20: Table showing average number of breaches per firm, highest number of breaches per firm, and lowest number of breaches per firm, and numbers of firms where no breach was detected (out of 200) under the new (2011) and old (2010) codes**

	<b>average</b>	<b>high</b>	<b>low</b>	<b>no breach detected</b>
<b>Breaches (old code)</b>	4.45	21	0	21
<b>Breaches (new code)</b>	4.09	34	0	44
<b>Breaches (total)</b>	8.54	55	0	19

Source: 2010/2011 supervision baseline visits

Figure 20 illustrates the average number of breaches per firm under the old and new codes. It also shows the number of firms (out of the 200 visited) who did not breach at all under the old, new or both codes. Under the old code, only around 10 per cent of firms did not breach, and under the new code this rose to about 20 per cent. This could be expected to be broadly reflective of firms as a whole. However, some firms were found to have made high numbers of breaches, as can be seen from the 'high' column. More analysis could be done of patterns of breaches among those firms with high numbers of breaches, looking at whether they fall across similar areas or are across a range of areas.