



# Lucky number seven

The profession has gone through change at an unprecedented rate over the last year and a half, and there is more to come, says **Susanna Heley**

**A**pril 2013 has seen a great many changes which will affect solicitors and legal professionals in a number of ways. The seventh edition of the SRA Handbook (that's seven editions in just under 18 months for those keeping track), introduced the ban on referral fees in personal injury matters required by the Legal Aid, Sentencing and Punishment of Offenders Act (LASPO) as well as introducing the first tranche of changes in the SRA's 'red tape initiative' and some other minor changes, including changes to the Suitability Test.

If that wasn't enough, the Jackson reforms kicked in, instituting far reaching reform on costs management in civil proceedings and affecting recovery of ATE premiums and success fees under Conditional Fee Agreements. The reforms place a heavy burden on solicitors dealing with affected cases and are likely to lead to extensive satellite litigation relating to recovery of costs and adequacy of costs budgeting.

1 April also saw the replacement of the Financial Services Authority by the Financial Conduct Authority and the Prudential Regulation Authority which, in case readers missed it in the flurry of other changes, means that changes will have to be made to information to be given to clients relating to insurance mediation activity. Just to add an extra element of uncertainty, the SRA has included in its 2013/14 work programme its intention to liaise with the Financial Conduct Authority about the removal of care outs from the FSA Handbook in relation to Authorised Professional Firms.

## Perfect storm

All of these changes are likely to increase pressure on firms, particularly firms which have adopted business models relying on no win, no fee funding. Considering the

SRA's recent concerns about the financial stability of law firms, these changes and the revelation that most firms have spent more time and money on compliance since the introduction of outcomes-focused regulation, the state of the profession seems uncertain. The SRA has also highlighted concerns expressed by conveyancing firms in light of a telephone poll revealing that 40 per cent of 100 firms questioned had

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had to make redundancies or implement cost cutting measures. 80 per cent of firms confirmed that they had seen fewer clients in the wake of the economic downturn.

Historically, of course, the profession has broadly relied on an upturn in litigation to carry it through periods of recession and non-contentious work during periods of strong growth. Now we are faced with a perfect storm of an extended conveyancing downturn and changes to legislation designed to curtail litigation, increased costs of compliance and a regulatory system which is seeking to promote competition.

## Unpredictable impracticality

The speed and impact of changes to the regulatory landscape is dizzying. Seven editions of the handbook in 18 months means changes are being made every quarter. More are planned for later in 2013 including changes to the rules on in-house and international practice and further tweaks identified by the red tape initiative.

It was always inevitable that the introduction of outcomes-focused regulation (OFR) would not be smooth sailing for the profession. The speed at which the handbook was drafted and the general

lack of response by large proportions of the profession to consultations meant that the impact of certain provisions was unchallenged at the drafting stage; the practicality of some arrangements could not have been predicted at the time the handbook was in development, stress testing was clearly required.

The SRA published a review of the impact of OFR in February in which 44 per cent

of firms stated their belief that compliance with OFR takes up too much time and 34 per cent claimed that it costs too much. Many of the firms reporting additional time spent on compliance noted that the time taken was in reading and researching. Normally, it may be expected that those time costs would diminish as the regime embedded but there is currently no sign of any reduction in the pace of change and COLPs and COFAs will have their work cut out in maintaining up to date knowledge. The April 2013 changes have made headlines for their major elements but there are smaller, less obvious and less well publicised changes which may catch out the unwary. Take for example the change to rule 13.2(c) of the authorisation rules which now requires that the SRA be notified at least seven days in advance of the proposed appointment of potential managers/owners of firms who will benefit from deemed approval.



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