

Risk Outlook: managing regulatory risk during economic uncertainty

28 July 2023

Law firms of all sizes are currently managing regulatory risk in a period of economic uncertainty. This report will support you in identifying areas of risk and managing those well. Here we:

- give our view of forces shaping the legal sector
- look at some key risks during this period of economic uncertainty and increased global geopolitical tension
- consider the latest changes to regulatory requirements for solicitors and law firms, and the importance of keeping pace.

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Economic drivers

The financial year ending March 2022 was generally positive for the legal sector. Many firms came out of the pandemic with [strong growth in turnover and profits](https://www.pwc.co.uk/industries/legal-professional-business-support-services/law-firms-survey.html) [https://www.pwc.co.uk/industries/legal-professional-business-support-services/law-firms-survey.html].

Towards the latter part of 2022, and into 2023, business confidence in the [sector weakened](https://communities.lawsociety.org.uk/law-management-news/quarterly-pulse-survey-report-q4-october-to-december-2022/6002537.article) [https://communities.lawsociety.org.uk/law-management-news/quarterly-pulse-survey-report-q4-october-to-december-2022/6002537.article]. This was also a trend, to a much greater extent, in the wider UK economy.

Generally, law firms continue to forecast growth. However, forecasts have been revised in light of increasing costs, particularly increased staffing costs. At the same time, there is a need to make sure pricing remains competitive where clients are also facing inflationary pressures. Increased borrowing costs are also likely to [affect some law firms](https://www.financialaccountant.co.uk/news/interest-rate-rise-a-further-squeeze-on-businesses) [https://www.financialaccountant.co.uk/news/interest-rate-rise-a-further-squeeze-on-businesses].

Following the highest rates of inflation for more than 40 years and sustained interest rate rises, the [Bank of England](https://www.bankofengland.co.uk/monetary-policy-report/2023/may-2023) [https://www.bankofengland.co.uk/monetary-policy-report/2023/may-2023] is forecasting that inflation will fall in 2023. UK GDP is now expected to remain broadly flat in 2023.

Inflation has affected UK business confidence, with company insolvencies reaching their [highest levels since 2009](https://www.gov.uk/government/statistics/company-insolvency-statistics-october-to-december-2022/commentary-company-insolvency-statistics-october-to-december-2022#:~:text=One%20in%20202%20active%20companies.COVID%2D19)%20pandemic) [https://www.gov.uk/government/statistics/company-insolvency-statistics-october-to-december-2022/commentary-company-insolvency-statistics-october-to-december-2022#:~:text=One%20in%20202%20active%20companies.COVID%2D19)%20pandemic].

The Office for National Statistics ([ONS](https://www.ons.gov.uk/businessindustryandtrade/business/businessservices/bulletins/businessinsightsandimpactontheukeconomy/latest)

[https://www.ons.gov.uk/businessindustryandtrade/business/businessservices/bulletins/businessinsightsandimpactontheukeconomy/latest]) measures showed possible early signs of improving business confidence in early 2023. It was not possible to say whether these indicated a lasting change. Most industries included in the ONS survey (11 of 13) reported a greater proportion of businesses anticipating an increase rather than a decrease in performance during 2023.

Consumer confidence [diminished markedly in 2022](https://www.gfk.com/press/uk-consumer-confidence-up-two-points-in-march) [https://www.gfk.com/press/uk-consumer-confidence-up-two-points-in-march] against a background of rising inflation. Average real household disposable income fell by 3.3%, or £800 per household - [the biggest annual fall in a century](https://www.resolutionfoundation.org/publications/new-years-outlook-2023#:~:text=Average%20real%20household%20disposable%20income,annual%20fall%20in%20a%20century) [https://www.resolutionfoundation.org/publications/new-years-outlook-2023#:~:text=Average%20real%20household%20disposable%20income,annual%20fall%20in%20a%20century].

Consumer confidence has improved during 2023, though the full effect of interest rate rises will only be felt as fixed-rate mortgage terms come to an end. Financial Conduct Authority ([FCA](https://www.fca.org.uk/data/financial-lives-2022-early-survey-insights-vulnerability-financial-resilience) [https://www.fca.org.uk/data/financial-lives-2022-early-survey-insights-vulnerability-financial-resilience]) research suggests 27% of the UK population has low financial resilience (defined as being over-indebted, having a low or erratic income or low savings).

Economic pressures on law firms

Some sectors of the legal market are more affected by economic pressures than others. For instance:

- Global merger and acquisition activity and private equity investment [reduced during 2022](https://www.reuters.com/markets/deals/dealmakers-brace-slow-2023-recovery-after-global-ma-sinks-2022-12-21/) [https://www.reuters.com/markets/deals/dealmakers-brace-slow-2023-recovery-after-global-ma-sinks-2022-12-21/].
- Claims in the [London Commercial Court](https://portland-communications.com/publications/commercial-courts-report-2022/) [https://portland-communications.com/publications/commercial-courts-report-2022/] reduced, though that was in comparison to a record 2021.
- Residential conveyancing transaction volumes started to level off at the end of 2022 and [decreased into 2023](https://www.gov.uk/government/statistics/monthly-property-transactions-completed-in-the-uk-with-value-40000-or-above/uk-monthly-property-transactions-commentary#:~:text=Headline%20statistics,Headline%20statistics%20from&text=the%20provisional%20non%2Dseasonally%20adjusted,4%25%20higher%20than%20October%20,compared%20with%20the%20same%20period%20in%20the%20previous%20year) [https://www.gov.uk/government/statistics/monthly-property-transactions-completed-in-the-uk-with-value-40000-or-above/uk-monthly-property-transactions-commentary#:~:text=Headline%20statistics,Headline%20statistics%20from&text=the%20provisional%20non%2Dseasonally%20adjusted,4%25%20higher%20than%20October%20,compared%20with%20the%20same%20period%20in%20the%20previous%20year], compared with the same period in the previous year. Wider inflationary pressures affecting consumer confidence and the availability of mortgages has slowed the housing market. A decrease in transaction volumes is expected during 2023.
- Personal injury claim [volumes have not recovered](https://www.gov.uk/government/publications/compensation-recovery-unit-performance-data/compensation-recovery-unit-performance-data) [https://www.gov.uk/government/publications/compensation-recovery-unit-performance-data/compensation-recovery-unit-performance-data] to pre-pandemic levels. Some firms say that the level of fixed recoverable costs for cases progressed via the [Official Injury Claim portal](https://www.lawgazette.co.uk/news/one-in-four-pi-firms-out-of-whiplash-work-as-market-contracts/5114008.article) [https://www.lawgazette.co.uk/news/one-in-four-pi-firms-out-of-whiplash-work-as-market-contracts/5114008.article] means that work is no longer commercially viable. And they are withdrawing from offering those services to the



public. [Fixed recoverable costs](https://www.gov.uk/government/organisations/civil-procedure-rules-committee/about) [https://www.gov.uk/government/organisations/civil-procedure-rules-committee/about] are due to be extended to a wider range of civil claims this year.

- Inflationary costs are likely to be a pressure for the declining number of firms providing legal aid services. Solicitors have highlighted concerns about the impact on access to justice for people on lower incomes. Following the, independent review of criminal legal aid, the Ministry of Justice has confirmed that there will be a review of the sustainability of [civil legal aid provision](https://www.gov.uk/government/news/government-review-to-explore-options-to-improve-civil-legal-aid-market). [https://www.gov.uk/government/news/government-review-to-explore-options-to-improve-civil-legal-aid-market]
- Borrowing costs have increased and the availability of lending to SME businesses generally is [reported to be tight](https://www.bankofengland.co.uk/monetary-policy-report/2023/may-2023) [https://www.bankofengland.co.uk/monetary-policy-report/2023/may-2023].

We recently reminded firms of their obligation to [obtain an accountant's report](https://upgrade.sra.org.uk/sra/news/sra-update-113-accountants-reports/) [https://upgrade.sra.org.uk/sra/news/sra-update-113-accountants-reports/], within six months of the relevant accounting period and send any qualified report to us within that same period. This allows us to confirm that our objective to keep client money safe is being met. Non-compliance with our Accounts Rules can lead to disciplinary action.

Unincorporated firms, Limited Liability Partnerships and sole practitioners with an accounting period that does not align with the financial year will need to plan for HM Revenue and Customs changes to the [basis period](https://www.lawsociety.org.uk/topics/tax/basis-period-reform-what-does-it-mean). [https://www.lawsociety.org.uk/topics/tax/basis-period-reform-what-does-it-mean]. Your planning will need to address any potential risks to your firm's cash flow.

Rising interest rates mean it is important you take the time to check that you remain compliant with the requirement of [Accounts Rule 7.1](https://upgrade.sra.org.uk/solicitors/standards-regulations/accounts-rules/) [https://upgrade.sra.org.uk/solicitors/standards-regulations/accounts-rules/] that: 'You account to clients or third parties for a fair sum of interest on any client money held by you on their behalf'. Or that any different arrangement under [Accounts Rule 7.2](https://upgrade.sra.org.uk/solicitors/standards-regulations/accounts-rules/) [https://upgrade.sra.org.uk/solicitors/standards-regulations/accounts-rules/] includes sufficient information to enable clients and third parties to give informed consent.

You will also need to make sure that publicity relating to the circumstances when interest is payable is accurate and not misleading as set out at [Rule 8.8 of the Code of Conduct for Solicitors, RELs and RFLs](https://upgrade.sra.org.uk/solicitors/standards-regulations/code-conduct-solicitors/) [https://upgrade.sra.org.uk/solicitors/standards-regulations/code-conduct-solicitors/]

Reports of financial difficulty

Last year saw an increase in firms reporting financial difficulties to us. Those reporting challenges were generally managing them effectively and complying with their regulatory obligations.

Where we do identify an inappropriate level of risk to clients, the public, or trust and confidence in legal services, then we will take further action. That includes, in a very small number of cases, exercising our powers of intervention.

Our [Code of Conduct for Firms](https://upgrade.sra.org.uk/solicitors/standards-regulations/code-conduct-firms/) [https://upgrade.sra.org.uk/solicitors/standards-regulations/code-conduct-firms/], paragraph 2, sets out your obligations including that you:

- Actively monitor your financial stability and business viability. Once you are aware that you will cease to operate, you effect the orderly wind-down of your activities.
- Identify, monitor and manage all material risks to your business, including those which may arise from your connected practices.

If you are considering the merger or sale of your firm:

- Mergers and sales should be planned well in advance and implemented properly to avoid the risks to clients associated with a disorderly closure.
- You are likely to benefit from taking expert advice at an early stage.
- You must ensure that you tell us in good time that your firm is [ceasing because of an acquisition or merger](https://upgrade.sra.org.uk/solicitors/firm-based-authorisation/firm-closures/). [https://upgrade.sra.org.uk/solicitors/firm-based-authorisation/firm-closures/]

You must tell us promptly if you or your firm are in serious financial difficulty or are subject to a relevant insolvency event. Where serious financial difficulties arise firms should have a contingency plan for closure, merger or sale.

Regulated firms must notify us of any intention to close by completing the [firm closure notification](https://upgrade.sra.org.uk/solicitors/firm-based-authorisation/firm-closures/) [https://upgrade.sra.org.uk/solicitors/firm-based-authorisation/firm-closures/]. You should also make sure that other parties receive appropriate notice as well.

Regulated Freelancers must notify us if they cease to practice as a freelance solicitor. You can read more about these requirements in our [guidance on closing down your practice](https://upgrade.sra.org.uk/solicitors/guidance/closing-down-your-practice/). [https://upgrade.sra.org.uk/solicitors/guidance/closing-down-your-practice/]

Political and regulatory drivers

The UK, working with other nations, has introduced a broad range of sanctions against Russia with more than £18 billion of assets frozen. The Government has also prioritised legislative change targeted at the prevention and detection of economic crime.

Law firms continue to play an important part in preventing economic crime and its impacts on, often vulnerable, individuals.

Sanctions regime

Sanctions in response to Russia's invasion of Ukraine are being regularly updated, with a prohibition on providing [legal advisory services coming into force on 30 June 2023](https://www.gov.uk/government/publications/professional-and-business-services-to-a-person-connected-with-russia/professional-and-business-services-to-a-person-connected-with-russia#:~:text=For%20the%20legal%20advisory%20services,the%20regulations%20came%20into%20force.).
[\[https://www.gov.uk/government/publications/professional-and-business-services-to-a-person-connected-with-russia/professional-and-business-services-to-a-person-connected-with-russia#:~:text=For%20the%20legal%20advisory%20services,the%20regulations%20came%20into%20force.\]](https://www.gov.uk/government/publications/professional-and-business-services-to-a-person-connected-with-russia/professional-and-business-services-to-a-person-connected-with-russia#:~:text=For%20the%20legal%20advisory%20services,the%20regulations%20came%20into%20force.)

And with institutions like the [World Economic Forum](https://www.weforum.org/reports/global-risks-report-2023?DAG=3&gclid=FAIalQobChMI65ly7Ym7_gIVk2DmCh2hWgVQEAAYASAAEgLGsPD_BwE1) [https://www.weforum.org/reports/global-risks-report-2023?DAG=3&gclid=FAIalQobChMI65ly7Ym7_gIVk2DmCh2hWgVQEAAYASAAEgLGsPD_BwE1] forecasting a decade of increased geopolitical tension, we may see sanctions extended further and more frequently in the coming years.

Sanctions compliance is a vital part of the UK's national security and important to maintaining trust and confidence in the solicitors' profession.

All law firms are subject to the sanctions regime regardless of the services they offer, and whether these services are outside of scope of the anti-money laundering (AML) regime. It is essential that all firms make sure they have processes in place to identify those subject to sanction and know what to do if they encounter them.

For most firms this will include:

- Making sure client acceptance arrangements, and transaction monitoring, enable you to effectively identify those subject to sanctions, ie 'designated persons'. These can be individuals, entities or ships and those that are controlled (either directly or indirectly) by designated persons.
- Making sure any sanctions screening software is up to date and matched to your firm's needs.
- Training relevant staff on a regular basis.

You must not undertake paid work for a designated person unless doing so is permitted by Office of Financial Sanctions Implementation. Unpaid work for a designated person can also be prohibited in some circumstances. You must make sure you fully understand your obligations before agreeing to carry out unpaid work, just as you would for paid work.

We know that most firms want to get this right and are committed to doing so. We will continue to support you in adapting to that pace of change. We have provided, and will continue to update, [guidance](https://upgrade.sra.org.uk/solicitors/guidance/financial-sanctions-regime/) [<https://upgrade.sra.org.uk/solicitors/guidance/financial-sanctions-regime/>] for firms to assist in ensuring compliance with the sanctions regime.

We will uphold high standards by considering enforcement action where firms and individuals breach our Standards and Regulations by failing to comply with the sanctions regime.

Anti money laundering and terrorist financing

As with sanctions, the pace of change in requirements and guidance for firms whose services fall within the scope of the money laundering and terrorist financing regulations intensified in 2022. Updates and additions include but are not limited to:

- [Legal Sector Affinity Group AML Guidance 2023 including a summary of July 2022 changes](https://upgrade.sra.org.uk/solicitors/resources-archived/money-laundering/guidance-support/).
[<https://upgrade.sra.org.uk/solicitors/resources-archived/money-laundering/guidance-support/>]
- [Legal Sector Affinity Group guidance on Chinese underground banking and funds from China](https://upgrade.sra.org.uk/globalassets/documents/sra/research/chinese-funds-ml-lsag-guidance-5-pages-62kb-pdf.pdf?version=493794).
[<https://upgrade.sra.org.uk/globalassets/documents/sra/research/chinese-funds-ml-lsag-guidance-5-pages-62kb-pdf.pdf?version=493794>]
- The National Crime Agency update to its guidance on requesting a defence from the NCA under POCA and TACT.
- The [Register of Overseas Entities](https://companieshouse.blog.gov.uk/2023/03/07/register-of-overseas-entities-the-story-so-far/) [<https://companieshouse.blog.gov.uk/2023/03/07/register-of-overseas-entities-the-story-so-far/>], came into force on 1 August 2022 and discrepancy reporting, under The Money Laundering and Terrorist Financing (Amendment)(No2) Regulations 2022, extends to the Register from 1 April 2023.

Further change is on the horizon with a proposed amendment to section 1 of the Legal Services Act 2007 in the Economic Crime and Corporate Transparency Bill. This would, if passed, add 'promoting the prevention and detection of economic crime' to the existing legal services regulatory objectives.

HM Treasury

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1085407/MLRs_Review_Report_-_2.5_for_publication.pdf] has confirmed that there will be a consultation on a range of options for the future of the professional body supervision regime, which includes the legal and accountancy sectors.

In our [AML annual report 2021-22](https://upgrade.sra.org.uk/sra/research-publications/aml-annual-report-2021-22/) [<https://upgrade.sra.org.uk/sra/research-publications/aml-annual-report-2021-22/>], we shared information about best practice and areas of weakness identified from our work. We have increased our internal resources to prevent and detect money laundering, which allows us to engage directly with more firms and to increase our supervision.

Take a look at updated [AML resources](https://upgrade.sra.org.uk/solicitors/resources-archived/money-laundering/guidance-support/) [<https://upgrade.sra.org.uk/solicitors/resources-archived/money-laundering/guidance-support/>].

Environmental, governance and social (ESG) risks

As governments around the world respond to climate and societal changes, ESG risk has become a key strategic consideration for corporations and large businesses. There is increasing demand for legal expertise in ensuring compliance with international legislation related to environmental sustainability and transparency, and in addressing ESG related disputes. So this is a growing area of legal practice.

Large corporate clients also increasingly expect ESG transparency from the law firms they work with. This expectation is likely to increase as requirements about supply chain sustainability and transparency do.

Law firms, like all UK businesses, will have a part to play in achieving the UK government's commitment to its Net Zero 2050 target. Some firms are already working together to support increased sustainability within the legal sector, and others are at the start of this journey.

Our own work over recent years reflects a growing expectation that business, including the legal sector, contributes positively to society in its relationships with employees, clients, suppliers, and investors. This includes our work on promoting [equality, diversity and inclusion](https://upgrade.sra.org.uk/sra/research-publications/edi-work-2021-22/) and addressing the risks posed by [poor workplace environments](https://upgrade.sra.org.uk/solicitors/guidance/workplace-environment/).

It is important to us that we are transparent about how we, as an organisation, are seeking to ensure equality, diversity and inclusion. We have [published](https://upgrade.sra.org.uk/sra/research-publications/edi-work-2021-22/) our workforce progress report as well as our gender and ethnicity pay gap reports. Our proposed [Corporate Strategy 2023-26](https://upgrade.sra.org.uk/sra/consultations/consultation-listing/corporate-strategy-2023-26/) includes the publication of a policy statement on ESG, providing our view of the broad spectrum of related regulatory issues and obligations.

Debate is increasing about whether lawyers' ethical obligations should extend to issues related to climate change and what those obligations might be in the future. We are monitoring the evolving views of what constitutes ethical behaviour. Both [The Legal Services Board](https://legalservicesboard.org.uk/our-work/ongoing-work/professional-ethics-rule-of-law-and-regulation/) and [The Law Society](https://www.lawsociety.org.uk/topics/regulation/a-changing-ethical-landscape-findings-from-our-roundtables/) have ongoing programmes of work looking at this issue.

Consumer behaviour drivers

Firms providing personal legal services are keeping pace with a consumer landscape that is experiencing the largest fall in UK living standards since records began. Competition is increasing, including from a growing number of non-regulated providers.

Service and price transparency

Given the widely reported cost-of-living crisis it is understandable that consumers are increasingly focused on price. Across the economy, 58% of customers say that low prices will become more important when choosing an organisation, product or service across all sectors in the next two years ([Institute of Customer Service reporting, 2022](https://ip.instituteofcustomerservice.com/hubfs/UKCSI%20July%202022/ICS%20UKCSI%20Exec%20Summary_July22_Interactive.pdf)).

Though [consumers](https://www.instituteofcustomerservice.com/trust-pr/) do not want low prices at any cost, as:

- 64% say they are willing to pay a little more with companies they trust.
- 82% say they are more likely to trust an organisation that gives them better service.

Long-running monitoring by the [Legal Services Consumer Panel](https://www.legalservicesconsumerpanel.org.uk/wp-content/uploads/2023/07/How-consumers-are-choosing-legal-services-report.pdf) shows positive changes over the long-term in how people choose and use legal services. There has been a small decline in the 2023 results compared to 2022.

We will be looking at these in more detail to seek to understand whether or not they are post-pandemic adjustments that remain in line with the long-term positive trend.

- 39% of consumers now shop around and compare prices before choosing a provider, compared with 22% in 2021. Price and reputation are the most important factors to consumers when choosing a provider.
- Comparing prices is getting easier. 66% of consumer respondents said comparing was easy in 2023, up from 59% in 2021, though down slightly on 2022 measures. Over time more consumers are using providers' websites or advertisements to make comparisons – 18% in 2023, though a decrease of 24% in 2022, this is an increasing trend over the longer term. Most consumers still find out about pricing by talking to a potential provider.
- Consumer satisfaction with providers' value for money continues to increase over the long-term, though with a slight decrease against 2022 figures. 85% of consumers were satisfied with the service they received continuing a long-term improving trend. And the number of 'silent sufferers' (dissatisfied consumers who do not complain) is decreasing over the long term.

We want it to be as easy as possible for consumers to make comparisons when choosing a legal services provider. If you provide relevant services your firm's pricing information must fully comply with our [Transparency Rules](https://upgrade.sra.org.uk/solicitors/standards-regulations/transparency-rules/).

Our [guidance on transparency in price and service](https://upgrade.sra.org.uk/solicitors/guidance/transparency-in-price-and-service/) [https://upgrade.sra.org.uk/solicitors/guidance/transparency-in-price-and-service/] provides helpful examples of how you can display pricing and service information for the benefit of potential clients.

Over the course of our 2023-26 strategy, we want to see improved information available to legal service consumers, particularly in relation to the quality of legal services. We are proposing to enhance the Transparency Rules, and the supporting resources available to firms and consumers.

Non-regulated services

Our [recently published research](https://upgrade.sra.org.uk/sra/research-publications/understanding-unreserved-market/) [https://upgrade.sra.org.uk/sra/research-publications/understanding-unreserved-market/] on the unreserved legal services market found that non-regulated services account for 6-8% of the total legal services sector by turnover. In some consumer and small business focused sectors, non-regulated services account for a much greater market share.

Growth in the non-regulated sector means consumers will increasingly view regulated and non-regulated legal services together when browsing online for potential providers. We know consumers find the regulatory landscape challenging to navigate. Our [evaluation of the Transparency Rules](https://upgrade.sra.org.uk/globalassets/documents/sra/research/year-one-evaluation-of-transparency-rules_research-report.pdf) [https://upgrade.sra.org.uk/globalassets/documents/sra/research/year-one-evaluation-of-transparency-rules_research-report.pdf] found that 43% of individual consumers, and 45% of small business owners, believed all legal services are regulated.

We aim to support consumers choosing legal services by the information we make available on our own website, and our support of the [Legal Choices website](https://www.legalchoices.org.uk/) [https://www.legalchoices.org.uk/].

You must make sure that your firm complies with the [Transparency Rules](https://upgrade.sra.org.uk/solicitors/standards-regulations/transparency-rules/) [https://upgrade.sra.org.uk/solicitors/standards-regulations/transparency-rules/], including prominently displaying on your website:

- the SRA clickable logo
- your firm's regulatory information
- your complaint-handling information.

This helps consumers find a provider that best suits their needs in an increasingly complex market.

Litigation funding

Securing funding can play an important part in supporting individuals and businesses to enforce their legal rights and secure their long-term financial interests. Investment in third party litigation funding has grown markedly in recent years. It provides a method to fund legal claims that clients might not otherwise be able to afford, so potentially increasing access to justice.

While some types of funding, including some types of crowdfunding, require the funder to be regulated by the FCA, not all activity is regulated. The unregulated nature of some funding could be associated with higher risk.

You must make sure you:

- Are transparent with clients about the risks and benefits of different funding options.
- Have regard to [the Code of Conduct for Solicitors](https://upgrade.sra.org.uk/solicitors/standards-regulations/code-conduct-solicitors/) [https://upgrade.sra.org.uk/solicitors/standards-regulations/code-conduct-solicitors/] when advising clients on funding and likely costs, including your obligations to:
 - act with independence, honesty, integrity and in the best interests of each client
 - consider and take account of your client's individual attributes, needs and circumstances
 - give clients information in a way they can understand so they can make informed decisions about the services they need, how their matter will be handled and the options available to them
- Are familiar with the provisions of the [SRA Financial Services \(Scope\) Rules](https://upgrade.sra.org.uk/solicitors/standards-regulations/financial-services-scope-rules/) [https://upgrade.sra.org.uk/solicitors/standards-regulations/financial-services-scope-rules/] and [SRA Financial Services \(Conduct of Business\) Rules](https://upgrade.sra.org.uk/solicitors/standards-regulations/financial-services-conduct-business-rules/) [https://upgrade.sra.org.uk/solicitors/standards-regulations/financial-services-conduct-business-rules/]

Vulnerable parties

Research by the FCA indicates that the proportion of the population in [financial difficulty](https://www.fca.org.uk/data/financial-lives-2022-early-survey-insights-vulnerability-financial-resilience#lf-chapter-id-low-financial-resilience) [https://www.fca.org.uk/data/financial-lives-2022-early-survey-insights-vulnerability-financial-resilience#lf-chapter-id-low-financial-resilience] rose from 7% of adults in 2020 to 8% in 2022. This is expected to increase as more consumers report that keeping up with bills and credit commitments is a heavy burden.

Ill-health can also lead to vulnerability. The [ONS](https://www.ons.gov.uk/employmentandlabourmarket/peoplenotinwork/economicinactivity/articles/halfmillionmorepeopleareoutofthelabour11-101) [https://www.ons.gov.uk/employmentandlabourmarket/peoplenotinwork/economicinactivity/articles/halfmillionmorepeopleareoutofthelabour11-101] reports that the number of working age adults out of the labour market because of long-term sickness has increased from around 2 million in 2019 to 2.5 million in 2022.

These changes make it more likely that your firm may be acting for vulnerable clients or conducting a dispute involving a vulnerable party. We know from our own work that the consequences of [poor legal services for vulnerable individuals](https://upgrade.sra.org.uk/solicitors/guidance/proper-standard-service/) [https://upgrade.sra.org.uk/solicitors/guidance/proper-standard-service/] can be severe, long-lasting and difficult to rectify.

You must take account of your client's vulnerability and we published new guidance on [accepting instructions from vulnerable clients](https://upgrade.sra.org.uk/solicitors/guidance/accepting-instructions-vulnerable-clients/) [https://upgrade.sra.org.uk/solicitors/guidance/accepting-instructions-vulnerable-clients/] last year.

You should also be aware of your duties to potentially vulnerable third parties. Our [Conduct in disputes guidance](https://upgrade.sra.org.uk/solicitors/guidance/conduct-disputes/) [https://upgrade.sra.org.uk/solicitors/guidance/conduct-disputes/] explains: ‘Special care is needed when dealing with or corresponding with an opponent who is unrepresented or vulnerable. Solicitors must make sure that such opponents are not taken advantage of, for example, by being given artificially short or wholly unnecessary deadlines to reply to correspondence’.

Our [enforcement strategy](https://upgrade.sra.org.uk/sra/corporate-strategy/sra-enforcement-strategy/) [https://upgrade.sra.org.uk/sra/corporate-strategy/sra-enforcement-strategy/] explains we will consider a matter to be particularly serious where a party’s vulnerability is relevant to alleged misconduct.

Firm behaviour drivers

Since the introduction of the Alternative Business Structure (ABS) model in 2011, the pace of change in how law firms are structured and provide their services has accelerated significantly. However, increased diversification in structures and how staff are rewarded is not limited to those firms that have decided that the ABS model works for them.

Changes accelerated by the Covid-19 pandemic have also led more firms to look at how they can best meet the needs of clients and staff in future. In particular, in remote delivery of legal services and more flexible working arrangements.

Innovation

Change driven by innovation is visible in:

- The use of the ABS model to support external investment and growth plans.
- The number of firms operating many more of their services online and the growth of the consultant platform model.
- A small number of firms adopting employee-ownership, B-Corp and Community Interest Company status.
- Increasing diversification of law firm remuneration models away from the traditional lockstep model.

Practising as a consultant or freelancer can offer a way of providing services to your clients that suits their needs and the way you want to practice. You must make sure you fully understand how your [regulatory obligations](https://upgrade.sra.org.uk/solicitors/standards-regulations/authorisation-individuals-regulations/) [https://upgrade.sra.org.uk/solicitors/standards-regulations/authorisation-individuals-regulations/] differ if you move from employed practice to working as a self-employed consultant or a [freelance solicitor](https://upgrade.sra.org.uk/solicitors/standards-regulations-resources/) [https://upgrade.sra.org.uk/solicitors/standards-regulations-resources/]. This includes your obligations in relation to compliance with our [Accounts Rules](https://upgrade.sra.org.uk/solicitors/standards-regulations/accounts-rules/) [https://upgrade.sra.org.uk/solicitors/standards-regulations/accounts-rules/].

If you are a firm with self-employed consultant solicitors, you must make sure your compliance and supervision arrangements provide effective oversight of that form of practice ([Code of Conduct for Firms, paragraphs 2 and 4.4](https://upgrade.sra.org.uk/solicitors/standards-regulations/code-conduct-firms/)) [https://upgrade.sra.org.uk/solicitors/standards-regulations/code-conduct-firms/]. You may also find our [effective supervision guidance helpful](https://upgrade.sra.org.uk/solicitors/guidance/effective-supervision-guidance/) [https://upgrade.sra.org.uk/solicitors/guidance/effective-supervision-guidance/].

We have seen examples of solicitors failing to comply with their authorisation obligations and we will take enforcement action where this happens. For example:

- A solicitor authorised to work as a consultant was found to have been operating as a sole practitioner without authorisation. They were struck off by the Solicitors Disciplinary Tribunal. The solicitor had failed to arrange letters of engagement with clients and the firm, or to open files. They had also received payment directly from a client rather than the payment being made to the firm.
- A solicitor, authorised as a consultant with a firm, set up a non-authorised online divorce business. They were found to have been practising unauthorised in relation to that business and had diverted prospective clients away from the firm to their non-authorised business. The solicitor was struck off by the Solicitors Disciplinary Tribunal.

Taking on new types of work

Firms and individuals looking to adapt by taking on new types of work should be alert to the potential risks, as well as the opportunities. We have published reminders about ensuring ongoing competence and skill in the areas of law you practice. This has included reminders of competence obligations in relation to:

- [advising on leasehold provisions including ground rent clauses](https://upgrade.sra.org.uk/solicitors/guidance/leasehold-provisions-including-ground-rent-clauses/) [https://upgrade.sra.org.uk/solicitors/guidance/leasehold-provisions-including-ground-rent-clauses/]
- [immigration work](https://upgrade.sra.org.uk/solicitors/guidance/immigration-work-guidance/) [https://upgrade.sra.org.uk/solicitors/guidance/immigration-work-guidance/].

Addressing new and ongoing training/skill-development needs is likely to be especially important where an area of practice is new to you or to those you supervise. Successfully managing the risks associated with this is likely to include updating your and/or your staff’s knowledge and skills and enhancing your supervision arrangements for a period. You may find our [continuing competence resources](https://upgrade.sra.org.uk/solicitors/resources-archived/continuing-competence/) [https://upgrade.sra.org.uk/solicitors/resources-archived/continuing-competence/] and [effective supervision guidance helpful](https://upgrade.sra.org.uk/solicitors/guidance/effective-supervision-guidance/).

Lawtech

Development of technology that supports efficiency savings in delivering legal services has accelerated over recent years. Changes offer benefits to clients and firms, as well as potential future access to justice improvements.

Earlier this year we published a Risk Outlook report looking at [cryptocurrencies and other distributed ledger technologies](https://upgrade.sra.org.uk/sra/research-publications/risk-outlook-crypto-dlt/). This included the likely transition of legal contracts from paper to distributed ledger technology over time. Our report also looked at the developing use of crypto currencies, a subject we have provided [specific guidance](https://upgrade.sra.org.uk/solicitors/resources-archived/money-laundering/guidance-support/aml-questions-answers/) on.

There have been many recent developments in Artificial Intelligence (AI) and particularly the development of natural language processing models, like ChatGPT4. This has led to further debate about what their impact will be on the future of legal services and how quickly those impacts might be felt. Some firms have been developing the use of this technology for some time.

You must make sure that:

- Your development and use of technology enables you to be certain that you remain fully compliant with your regulatory obligations. [SRA Innovate](https://upgrade.sra.org.uk/solicitors/resources-archived/sra-innovate/) can assist with any ethical or regulatory queries you have in developing or using technology.
- You remain up to date with your obligations in relation to information security and aware of any relevant requirements in your Professional Indemnity Insurance cover. The Information Commissioner's Office provide useful resources, including [toolkits covering AI and Data Analytics](https://ico.org.uk/about-the-ico/what-we-do/our-work-on-artificial-intelligence/#guidance).

We offer direct support to law firms and technology providers through [SRA Innovate](https://upgrade.sra.org.uk/solicitors/resources-archived/sra-innovate/) and you can [subscribe to our Lawtech Insight newsletter](https://upgrade.sra.org.uk/sra/news/lawtech-insight/).

[LawtechUK](https://lawtechuk.io/) offers helpful resources for those wanting to know more about the benefits that lawtech can offer, including short free introductory courses on smart contracts and AI. We are part of the Regulatory Response Unit operated by Lawtech UK, which aims to make it easier for innovators to navigate regulations.

Cybersecurity

Technology developments, including AI, are also being exploited by criminals. You must remain vigilant in protecting against cybersecurity threats, including testing your level of protection at regular intervals, so that clients are not exposed to unnecessary risk.

The [National Cyber Security Centre](https://www.ncsc.gov.uk/cyberessentials/overview) has guidance on cybersecurity risk and developing technologies. They provide other useful resources, including practical guidance for sole traders and small businesses.

We outlined more detail on information security in [our Risk Outlook report: information security and cybercrime in a new normal](https://upgrade.sra.org.uk/sra/research-publications/risk-outlook-report-information-security-cybercrime-in-a-new-normal/).

Workplace culture and embedding ethical practice

As firms innovate and change how they do business, the importance of firm culture in achieving both strategic and regulatory objectives is increasingly recognised. We have seen a link between poor workplace culture and the risk of unethical behaviour. We explored these issues in our [Workplace Culture Thematic Review](https://upgrade.sra.org.uk/sra/research-publications/workplace-culture-thematic-review/). It explains our expectation that firms create and maintain the right culture for the delivery of competent and ethical legal services.

Maintaining a positive and ethical workplace culture can be particularly important when adapting to change. For example, during a period of merger or acquisition, or when adapting to more challenging trading conditions. Following a consultation we have introduced [new rules](https://upgrade.sra.org.uk/solicitors/guidance/workplace-environment/) requiring all solicitors to treat colleagues with dignity and respect and law firm managers to challenge unfair treatment.

Law firm managers and compliance officers should ensure that the SRA Principles underpin your firm's culture. This includes making sure that duties to the court, the public and clients have been [suitably balanced](https://upgrade.sra.org.uk/solicitors/guidance/conduct-disputes/). We take action where our Principles have not been followed by firms and solicitors.

In relation to balancing duties, we are looking at concerns about:

- Advice given on non-disclosure agreements in relation to allegations of sexual harassment and assault. We issued a [warning notice about non-disclosure agreements](https://upgrade.sra.org.uk/solicitors/guidance/non-disclosure-agreements-ndas/).
- Considering how in-house solicitors are managing ethical pressures. We have published a [thematic review](https://upgrade.sra.org.uk/sra/research-publications/in-house-solicitors-thematic-review/) looking at in-house practice.
- Investigating solicitor involvement in strategic litigation against public participation (SLAPPs). We issued a [warning notice in relation to SLAPPs](https://upgrade.sra.org.uk/solicitors/guidance/slapps-warning-notice/).

We shared examples of firms and authorised individuals failing to appropriately balance their ethical duties in our [conduct in disputes](https://upgrade.sra.org.uk/solicitors/guidance/conduct-disputes/) guidance. You can use this guidance to assure yourself that ethical risk is being appropriately managed by your own firms' systems and procedures.

In-house solicitors

We know that solicitors working in-house can face particular challenges in relation to maintaining independence and upholding ethical and regulatory obligations. This is especially the case where there are compelling commercial incentives for an organisation to consider action that may not align with legal or regulatory obligations.

We will be increasing our support for in-house solicitors in upholding their ethical obligations. This will include increasing engagement with the sector to build on the success of our well-attended in-house conference, as well as developing guidance:

- On conducting internal investigations, including how and when to disclose wrong doing.
- On managing potential conflicts effectively within an in-house context.
- For those employing in-house solicitors which can, if needed, be used in defining the in-house role and setting boundaries with an organisation's senior leaders.

We know that balancing ethical obligations can, at times, be both complex and challenging. Guidance from our [Professional Ethics Team](https://upgrade.sra.org.uk/home/contact-us/) is open to all firms, trainees and solicitors, including those working in-house.

Conclusion

Change is accelerating both in terms of external factors in the legal services market and how law firms are choosing to operate. Regulatory expectations continue to evolve as the market changes. You need to make sure that you and your staff keep pace with your regulatory obligations.

Support for you in keeping pace is available by:

- [Subscribing to SRA Updates](https://upgrade.sra.org.uk/sra/news/sra-update/).
- Being familiar with [our AML and sanctions resources](https://upgrade.sra.org.uk/solicitors/resources-archived/money-laundering/).
- Being familiar with [our online guidance which is regularly updated](https://upgrade.sra.org.uk/solicitors/guidance/).
- contacting our [Professional Ethics helpline](https://upgrade.sra.org.uk/home/contact-us/) or [SRA Innovate if your query relates to technology](https://upgrade.sra.org.uk/solicitors/resources-archived/sra-innovate/).
- Subscribing to the Legal Ombudsman's [LeO News](https://www.legalombudsman.org.uk/information-centre/news/).
- Keeping up to date with [The Law Society's practice notes](https://www.lawsociety.org.uk/topics/practice-notes/).