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The new legislation means that COLPs and COFAs, and not just the firm, can be held personally responsible for breaches or oversights in compliance.

The way compliance is managed in legal practices has changed, following the introduction of the Solicitors Regulatory Authority (SRA) Code of Conduct in 2011.

What does this mean?

Individuals who work for an SRA regulated solicitors firm may face new personal exposures. Firms are now required to appoint a Compliance Officer for Legal Practice (COLP) and a Compliance Officer for Finance and Administration (COFA).

These roles are responsible for ensuring the firm is complying with regulatory requirements that focus on the identification, mitigation and management of risk. They must also report all breaches of compliance. There was no equivalent before COLPs and COFAs – firms would either have someone who took on the responsibility for risk management or it would be shared amongst the partners. Or the managing partner took on responsibility for it.

There was no specific requirement by the SRA that someone was responsible, only that the firm had to have risk management procedures in place under the Management Rule (Rule 5) and of course that the firm complied with the Accounts Rules.

The new legislation means that COLPs and COFAs, and not just the firm, can be held personally responsible for breaches or oversights in compliance. Unlike the Legal Services Act 2007, this legislation applies to all legal practices.

What can firms do?

Legal practices need to ensure their newly appointed COFAs and COLPs have sufficient powers to fulfil their roles - including access to management systems and other relevant information such as client files and business data.

Robust procedures will help COLPs and COFAs with any defence, and companies should have clear compliance plans communicated to all staff. Plans could include checking agreements and facilitating staff discussions to ensure that no compliance breaches or oversights occur.

How does MFL's Management and Firm Liability insurance for Solicitors address these changes?

It helps mitigate the personal risk of regulation breach or oversight that COLPs and COFAs are exposed to when performing their roles.

It provides cover for the costs of legal advice, preparation and representation that might be incurred if COLPs or COFAs are required to attend official investigations into a breach of compliance.

It covers civil fines and penalties imposed on COLPs or COFAs unless uninsurable by law.

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