



SRA proposals receive lukewarm response

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Thank you to everyone who contributed to our survey on the latest SRA consultation on deregulation. We received 62 responses, of which 41 were anonymous. The remaining 21 came from 20 different legal firms, ranging from sole practitioners through to several well-known mid-size firms in London and the South East. Here are the highlights along with our commentary on the results.

the background

On 16th April the SRA issued a consultation on regulatory reform which could have significant impacts on both the profession itself, consumers and other stakeholders in the provision of legal services. We studied the consultation and decided to canvas opinion from the legal community on the headline topics. An invitation to participate in our confidential online survey was distributed by email to our contacts in the legal profession and further promoted by the Kent Law Society and others who are active on social media.

SRA regulations and the use of cloud computing

There is general support for the easing of regulations to 'rubber stamp' the use of cloud computing, with only 21% actively against it and over 60% in favour of the concept of their (and clients') data being hosted by a third party provider.

reserved legal activities and SRA authorisation

Less than half (39%) believed that firms not carrying out reserved legal activities should be allowed to maintain their SRA authorisation and a quarter of respondents had no opinion either way.

partnerships entering administration

Perhaps unsurprisingly, there was strong agreement (87%) with the proposal that partnerships entering into administration should be subject to the same

conditions as LLPs or limited companies, when it comes to the renewal of their practising certificate.

client account handling and third parties

The part of the consultation on whether firms should be allowed to pass their client account handling to a third party received some support but only if 'safeguards' were in place (27%) or third party handlers were authorised by the SRA themselves (37%). However, of those questioned only 5% said that their firm would actually be interested in exploring this.

The two most important safeguards were deemed to be 'holding funds separately within a specified account' and 'third party has appropriate insurance cover'. One respondent suggested that it would be of greater interest to employment firms rather than conveyancing firms, and

several questioned whether it might raise costs to the client in the long run.

Around half of respondents indicated the potential motivations for exploring this change – with the majority (76%) eyeing up potential savings in administration and compliance effort, 39% interested in improving public perception and 30% hoping to save money on direct costs.

referral fees

Only 10% of those who responded were in favour of the removal of the current ban on referral fees in respect of clients who are subject to criminal proceedings or who are receiving legal aid; with two thirds wanting the ban to remain. The ban on referral fees has been a contentious one in the profession in recent years, and the results indicate that the current rules may be about right, with survey respondents seeking to maintain the status quo.

MCBRIDES' COMMENT

The SRA consultation doesn't seem to have engaged the legal sector. There is an appetite for less admin (as with most businesses) but the results of our survey show that while passing account handling to an outside provider has a positive rating (63%) provided safeguards are in place, most firms aren't actually interested in exploring this possibility themselves. When we look closer at this, the majority who voted in favour, also wanted a range of safeguards to be in place including:

- Escrow-style service, requiring dual authorisation
- The third party is independent of, and not associated with the firm or its clients
- Funds are held separately and within a specified account
- The third party has made arrangements for appropriate insurance cover

It's quite possible that providing these safeguards and the necessary monitoring by the SRA may in fact result in a

greater admin burden; added to which, the required mechanics of arranging the transfer of funds using a provider on say the last Friday of a month, will likely send shivers down the spines of many law firm accounts teams! Interestingly, of those firms who would explore outsourcing their client money holding, 39% would do so to create an improved public perception. Perhaps they see an opportunity to create competitive advantage over their rivals?

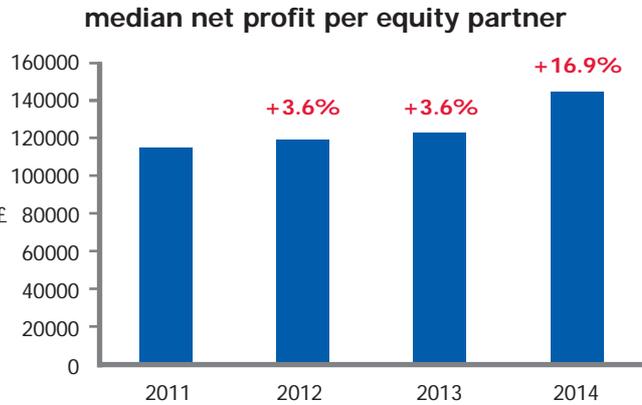
The mixed responses to this survey make sensible interpretation of the views of the profession difficult. But the SRA will need to guard against deregulation for deregulation's sake, as unchecked deregulation can have unwelcome consequences.

The full results of the survey can be downloaded from our website: mcbridesllp.com/wp-content/uploads/2015/06/McBrides-SRA-Consultation-Survey-Summary-Results-June-2015.pdf

net profits up in latest benchmarking survey



Each year the Law Management Section (LMS) commissions a report summarising the findings of their annual Financial Benchmarking Survey. This year, 159 law firms took part, of which 62% had a financial year end of 31 March or 30 April 2014 and so the findings typically reflect the economic environment for that 12 month period.

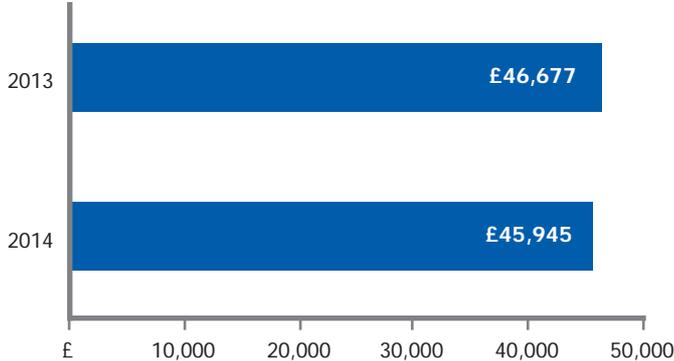


Overall there was positive news arising from the survey with increases seen in net profit per equity partner from the previous year. The survey is not currently sector specific but is looking to introduce this in future reporting.

some of the key findings:

- The median net profit per equity partner (before notional salary) has increased again, up from £123,621 in 2013 to £144,567 this year – a rise of nearly 17%. The 2014 and the 2013 numbers are all taken from the practices

median cost of an employed fee earner



participating in this year's survey, so it is a direct like-for-like comparison. This follows increases of 3.6% in both 2012 and 2013.

- The median practice fee income increased by 8.7% compared to 2013.
- The median cost of an employed fee earner, including fixed share partners and allowing for notional salaries for equity partners was £45,945 per fee earner, compared to £46,677 in 2013, which at first sight is a surprising feature of this year's survey. However, looking beneath the surface reveals that practices have generally increased their fee earner numbers by employing less senior staff, as the ratio of fee earners to partners has increased slightly, to 5:1 (from 4.7:1).

McBrides would be happy to analyse and discuss any aspects of your practice's results in comparison to the survey.

tax implications for partnership mergers



It is not uncommon in the legal world to see firms coming together in mergers, and we have certainly seen an increase in this over the past few years. There is undoubtedly much to consider on a practical level in such a scenario – logistical issues, IT and staff integration, as well as the management of client perceptions. In the midst of all these considerations, it is important that the partners of the merging businesses are aware of what the tax implications could be for them personally.

The tax treatment of a partnership or LLP merger (or combination of both) depends on the facts of each case and whether the trade is deemed to continue or cease. For the purpose of illustration, let's call two merging businesses A and B, and the merged business C.

Assuming the partners are all individuals, a cessation of trade would mean that they are taxed using the "closing year rules" which sees all of the profits of A or B to the cessation date taxed, with an offset allowed for any "overlap profits" generated when the individual became a partner of A or B. They will then be taxed on an "opening year basis" of the newly merged business C, which means that they are taxed initially on the actual profits arising in the first tax year of C's existence. Depending on the year end of C, there are likely to be overlap profits created (i.e. profits taxed twice) in its

early years for which the partners will not receive relief until their retirement from, or the cessation of, C. So, a cessation can both accelerate liabilities and cause some profits to suffer taxation twice!

Contrasting this with a scenario where the trade is deemed to continue, the partners will be taxed on a "current year basis" which means they will pay tax on the profits of the accounting period ending in the tax year, ignoring the fact that the businesses merged. Where C has the same accounting year end as A and B, this will mean that each partner will be taxed on only 12 months of profits, part of this arising from A or B, and the remainder from C. Where the year end of C does not match either A or B, there can be overlap profits either released (where the combined accounting period exceeds 12 months), or created (where the combined accounting period is less than 12 months).

HMRC considers that when two businesses come together which are involved in different activities, the newly combined business will, in the round, be different in nature to either of the two merging businesses. In this scenario a cessation treatment will apply to both businesses.

Conversely, where two businesses which are similar in nature merge to create a business which has the same essential

characteristics as these two businesses, the trades of each will be deemed to continue.

It is possible to have a hybrid scenario whereby partnership A is deemed to cease while partnership B is deemed to continue.

In considering the tax treatment of the merger it can honestly be said that size doesn't matter! HMRC states that "disparity in size between the old partnerships will not of

itself be a significant matter."

We would recommend that early advice is sought during the merger discussions to establish the most likely tax treatment and the implications for the individual partners on their tax liabilities. As mentioned above, in certain scenarios the merger could lead to an acceleration of tax liabilities for the partners – best to be aware of this upfront rather than wait for a not-so-nice tax bill from the taxman!



Many practices have historically adopted an informal basis for claims for business use of partners' cars when completing their tax returns. These may have been based on an assumed or calculated proportion of business miles covered, or any number of other methods we have seen over the years! They may, or may not, have been tested under the 'eagle eye' of HMRC and accepted or rejected by them.

In a little publicised move, HMRC allowed sole traders and partnerships to adopt a simplified, statutory flat rate basis from 2013/14 for the costs of buying, maintaining and running cars used in the business; this being based on the

'Approved Mileage Allowance Payment' (AMAP) rate for employees.

Under this regime, the practice can claim tax relief for business miles covered in the proprietors' own vehicles. The appropriate claim for the relevant vehicle for the period of account is $M \times R$ where M is the number of miles of 'business journeys' made by a person (other than as a passenger) using the vehicle in the period, and R is the rate applicable for that kind of vehicle. The rates are in the table overleaf.

If this fixed rate claim is made, no other deduction is allowed

Rates applicable	Each of the first 10,000 miles	Each mile over 10,000 miles
Cars and goods vehicles	45p	25p
Motorcycles	24p	24p

(for that or any other period) in respect of the vehicle. As regards other subsequent periods of account, the fixed rate

deduction scheme is then compulsory for that vehicle for every period for which it is used for the purposes of the trade. No capital allowances can be claimed either.

However, use of AMAPs is not compulsory. So if you have an alternative method or claim based on actual costs, then all is not lost, you can continue to use these methods. Just be aware that any 'unapproved' methods may be liable to greater scrutiny by HMRC, given that they are now offering an alternative.



Vishing (Voice Phishing) is a recently publicised scam which the banks are currently worried about and which concerns law firms in particular.

Firms are being targeted specifically due to the sizeable amounts of cash they typically hold on client account. There are two main ways that you can be targeted. The first is via phishing emails which plant a virus to monitor your activity, screen grabbing details of bank balances and other confidential information and sending it back to the fraudster. The fraudster will then call, impersonating the bank, and say there is a problem with your account and convince you to give them login details etc to resolve the problem.

The other main way involves the fraudster making calls to gather small amounts of information at a time, sometimes

posing as a supplier, maybe even a client, until they have the information required to start taking the money from the accounts.

In terms of security, the best policy is never to give out passwords, PIN's or other login details. A reputable company would never ask you for this information. If you are unsure of the credibility of the call, hang up and call the bank directly from the numbers on their website and make the call from a different phone. Fraudsters can keep the line open from their end of the connection and therefore when you pick up the phone to dial, they will be reconnected. Do not use any contact details given to you by the person on the call. Ensuring that the firm has a sensible policy in terms of regularly changing passwords will also help to prevent vishing attacks.

McBrides' legal team grows

Hannah Wilson has been promoted to manager and is now enjoying maternity leave with her new baby daughter Amelia. Joining the team and also recently promoted, we welcome Senior Chartered Tax Advisor **Emma Haggarty** (pictured), as well as ACCA qualified accountant



Andy Fuller (also pictured) who has 10 years' experience in compliance and accounts for law firms. Andy will become a familiar face to clients over the coming months as he visits to carry out our SAR work. Our congratulations and best wishes to all the new arrivals!



McBrides was proud to sponsor the awards for the second year running at the Kent Law Society annual dinner, which was attended by some 400 members of the profession on 22nd May. McBrides partner Tanya Hamilton (centre) is pictured with award winners Robin Murray (left) who received The Outstanding Achievement Award for his tremendous record in the profession and his tireless

campaigning for access to justice. The Junior Lawyer of the Year award went to Hannah Durston, of Whitehead Monckton, Maidstone. As members of the judging panel we were very impressed with all the submissions this year, and it was a genuinely difficult choice! Our sincere congratulations to Robin and Hannah, and to the organisers of the dinner for another fantastic occasion.

10% discount on ILFM training

The Institute of Legal and Financial Management runs a range of one day or half day training seminars around the country on topics close to our hearts such as the SRA Accounts Rules, COFA responsibilities and Practice Management. McBrides' clients and contacts can obtain a 10% discount on ILFM one day training seminars. To obtain the discount you must book four weeks in advance of the seminar date and quote 'McBrides' when booking. For more information regarding the training days please look at their website, www.ilfm.org.uk.

Tuesday 15 September	SRA Account Rules
Monday 19 October	VAT for Legal Accounting
Tuesday 20 October	COFA Workshops
Tuesday 17 November	Financial Management in the Legal Department
Tuesday 24 November	COFA Practical
Wednesday 25 November	Intro into Legal Finance
Monday 14 December	VAT for Legal Accounting
Tuesday 15 December	SRA Account Rules

important dates reminder

31 July is the next deadline for tax payments on account. (Don't forget to elect to reduce these 'POAs' if possible!)

30 September is the deadline for practices with a 31 March year end to submit their Accountants' SAR Report to the SRA.

31 October is the deadline for practices with a 30 April year end to submit their Accountants' SAR Report to the SRA.

31 December is the deadline for practices with a 30 June year end to submit their Accountants' SAR Report to the SRA.

31 January 2016 is the next deadline for tax balancing payments for 2014/15 and the first payment on account for 2015/16.

events

September The Kent Law Society (KLS) will hold its next networking event in September 2015 in Gravesend from 6.00-7.30pm. Member and non-member lawyers are equally welcome to this event which includes free drinks and nibbles. Drop in after work, on the way home!

For the date and venue, once announced, please refer to the KLS website – www.kentlawsociety.com/social-events.html or email jon.pitt@headley.co.uk

Wednesday, 30 September Our next **FaB** (Finance and Business) meeting will take place on Wednesday, 30 September 2015 at the London Golf Club, near Brands Hatch, starting at 8.00am. As usual, Terry Baldwin will be speaking on tax 'hot topics' and we will also have a guest speaker focused on a business topic.

To book your place, please reply to shirley.caddock@mcbridesllp.com or call Shirley on 020 8309 0011.

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