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Freelance solicitors

11 September 2019

The Solicitors Regulation Authority (SRA) is introducing new regulations that will enable solicitors to work and offer services to the public in different ways, outside of the traditional legal entity models.

This practice note focuses on the freelance solicitors' model. This way of working is a new practice pathway that did not previously exist for solicitors.

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For queries or comments on this practice note, contact the Law Society's [Practice Advice Service](#).

SRA Standards and Regulations

On 25 November 2019, the SRA will introduce the SRA Standards and Regulations 2019. These will replace the SRA Handbook (2011) which will remain in force until then.

References in this practice note are to the SRA Standards and Regulations 2019 as the rules relating to SRA-regulated freelance solicitors come into force alongside the SRA Standards and Regulations 2019.

Solicitors can access the forthcoming SRA Standards and Regulations 2019 materials and guidance on the [SRA's beta website](#). These materials are regularly being updated so you should check them frequently.

We are developing our own materials to support members with this new regime and our guidance is likely to evolve.

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Must – A specific requirement in legislation or of a principle, rule or other mandatory provision in the SRA Standards and Regulations 2019. You have to comply, unless there are specific exemptions or defences provided for in relevant legislation or the SRA Standards and Regulations 2019.

Should – Outside of a regulatory context, good practice for most situations in the Law Society's view. In the case of the SRA Standards and Regulations 2019 it is likely to be an indicative approach which may not be the only means of complying with the legislation or regulatory requirements. There may be, for example, circumstances where the suggested route is not the best possible route to meet the needs of the court, the interests of justice, the public interest and the needs of your client. However, if you do not follow the suggested route, you should be able to justify to the regulator why the alternative approach you have taken is appropriate, lawful and complies with the SRA Standards and Regulations 2019 including the underlying ethical obligations which arise either in your practice or in relation to the particular retainer involved.

May – A non-exhaustive list of options for meeting your obligations. Which option you choose is determined by the profile of the individual practice, client or retainer. You might be required to justify why this was an appropriate option to your regulator.

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1 Introduction

1.1 Who should read this practice note?

This practice note should be read by all solicitors and in particular:

- those thinking of becoming a SRA-regulated freelance solicitor
- those working in SRA-regulated firms who may encounter a client matter where another party is represented by a freelance solicitor (refer to section 13 of this practice note)

1.2 What is the issue?

The new model of operating as a freelance solicitor is distinct from traditional forms of legal practice. For example, a freelance solicitor is exempt from the SRA minimum terms and conditions of professional indemnity insurance¹ and is strictly prohibited from adopting an entity structure such as a partnership, limited liability partnership or a limited company.

An individual choosing to practise as a freelance solicitor will therefore be operating under their own name and will be personally liable in the same way as a sole trader is in any other profession, sector or business.

This model of practice may be attractive to those with a personal client following, those with a relatively small practice such as a freelance advocate, or those who undertake advisory-focused work.

The SRA uses the term ‘freelance solicitor’² to describe a self-employed solicitor who:

- is practising on their own
- does not employ anyone else in connection with the services they provide
- is practising in their own name (rather than using a trading name, in a recognised sole practice or through a service company)
- is engaged directly by the client; and
- receives fees payable direct to the individual solicitor.

The SRA Standards and Regulations 2019 impose different restrictions on freelance solicitors performing reserved legal activities and non-reserved legal activities. For those adopting the freelance solicitor model will need to understand the impact of these differences and be able to explain any limitations in practice to their clients.

Purely non-reserved legal activities

A freelance solicitor who only provides non-reserved legal activities, as defined by section 12 Legal Services Act 2007 and Schedule 2 of that Act, will not need to have their practice as a freelance solicitor authorised,

but will need to notify the SRA. They are not required to hold professional indemnity insurance. If the solicitor is self-employed, does not have any employees, and has their fees paid directly to them, then their clients will have access to the SRA Compensation Fund, provided the solicitor meets certain conditions, notably the requirement under the SRA Compensation Fund Rule 5.2(b), that ‘the liability of the defaulting practitioner arises from private legal practice in connection with the defaulting practitioner's practice’. However, they will not be covered for civil liability losses, such as damages, judgments, and court orders to pay compensation for a contravention of any laws.

If a solicitor who only provides non-reserved legal activities wanted to be more confident that their clients would have access to the SRA Compensation Fund, and wanted to be able to access the level of PII protections that have traditionally marked out the solicitors’ profession, they could choose instead to register their practice as a recognised sole practice, and work as a sole practitioner, in the established mode.

Reserved legal activities

Under the Legal Services Act 2007, the six reserved legal activities are:

1. the exercise of a right of audience
2. the conduct of litigation
3. reserved instrument activities (which includes conveyancing and linked matters)
4. probate activities
5. notarial activities
6. the administration of oaths

Freelance solicitors providing any reserved legal activities will need to comply with Regulation 10.2 of the SRA Authorisation of Individuals Regulations 2019, which states:

“If you otherwise would be, you will not be regarded as acting as a sole practitioner and you will not therefore need to be authorised as a recognised sole practice if:

- (a) your practice consists entirely of carrying on activities which are not reserved legal activities; or
 - (b) any reserved legal activities you carry on are provided through an authorised body or an authorised non-SRA firm, or in circumstances in which you:
 - (i) have practised as a solicitor or an REL [registered European lawyer] for a minimum of three years since admission or registration;
 - (ii) are self-employed and practise in your own name, and not through a trading name or service company;
 - (iii) do not employ anyone in connection with the services that you provide;
 - (iv) are engaged directly by the client with your fees payable directly to you;
 - (v) have a practising address in the UK;
 - (vi) take out and maintain indemnity insurance that provides adequate and appropriate cover in respect of the services that you provide, whether or not they comprise reserved legal activities; and
 - (vii) do not hold client money, save that you may hold money which falls within the category of client money set out in rule 2.1(d) of the SRA Accounts Rules so long as:
 - (A) any money held for disbursements relates to costs or expenses incurred by you on behalf of your client and for which you are liable; and
 - (B) you have informed your client in advance of where and how the money will be held,
- and you choose for your practice not to be authorised as a recognised sole practice.”

It is important for freelance solicitors and those thinking of becoming freelance solicitors to assess whether their work involves reserved legal activities or is exclusively non-reserved legal activities.

1.3 Freelance solicitors are not consultants or freelancers attached to a law firm

Regulation 10.2 (b) of the SRA Authorisation of Individuals Regulations 2019 introduces a new model of practice designed for those genuinely working alone.

Freelance solicitors should not be confused with consultants attached to law firms or self-employed partners in a dispersed law firm model where the firm is authorised centrally and the individual practises under the name of that firm.

Freelance solicitors by contrast are those who are genuinely self-employed on terms that comply with Regulation 10.2 (b).

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2 Practice limitations

2.1 Notifying the SRA

If you intend to work as a freelance solicitor, you must first notify the SRA in advance of doing so, and state whether you intend to offer any reserved legal activities. These details will appear on the SRA's public digital register of solicitors. You should allow enough time to give this notice and to ensure the SRA has entered you on the register so clients and other professionals liaising with you can verify your status. Your status as a freelance solicitor will be recorded on the main register.

Notifying the SRA of an intention to start practice as a freelance solicitor is not the same as seeking authorisation as a law firm entity. All solicitors with a practising certificate free from practising conditions will be deemed approved and the SRA will not require any information beyond notification.

The notification forms are available on the SRA's application [firm-based authorisation](#) pages.

2.2 SRA Transparency Rules

If you provide reserved legal activities as a freelance solicitor you will be subject to the [SRA Transparency Rules](#) in relation to publishing costs information and details of your complaints procedure, provided that you offer legal services in the practice areas covered by those Rules.

The focus of the transparency requirements is on providing further information on firms' websites. As well as being an important marketing and promotion tool for you and your firm, your website will most likely be a significant gateway to your firm for consumers. The Rules do not require your firm to have a website. If you do not have a website, you are required to ensure that the same information is available for clients on request – for example, in a brochure or leaflet.

All freelance solicitors, whether you provide reserved legal activities or not, will need to expressly inform clients that they will not be covered by professional indemnity insurance subject to the SRA's minimum terms and conditions, but that alternative insurance arrangements are in place if this is the case. For more information see our [practice note on price and service transparency](#).

The SRA Transparency Rules also require you to publish details of your complaints process and when and how a complaint can be made to the Legal Ombudsman and the SRA. See our [practice note on handling complaints](#) for further information.

2.3 Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLR 2017)

These regulations require a freelance solicitor who provides legal or notarial services to others as a part of any financial or real property transactions to separately register with the SRA to comply with the MLR 2017.

You will need to comply with the requirements of Regulation 8 of the MLR 2017, which include having a risk assessment, policies and controls and procedures in place. The SRA has published [ethics guidance](#) on this.

2.4 Employing others

As a freelance solicitor you may not employ any other party, such as a secretary or paralegal, unless you are purely undertaking non-reserved legal services.

‘Employ’ is given its natural meaning and will include contracting with someone else in connection with the services, even if they are not an employee under section 230(1) of the Employment Rights Act 1996.

The SRA’s intention is to restrict the individual freelance solicitor method of working to solicitors who are genuinely working alone. The SRA has indicated that if you are undertaking reserved legal activities, contracting with third parties to provide administrative support (as opposed to legal services) is permitted so long as that service does not amount to employing others.

For example, taking an office in a serviced office environment, where receptionist staff do not work directly for you, is permitted. Employing a receptionist, secretary or paralegal is prohibited.

If the work you undertake is all non-reserved legal activities then you are free to employ others, although this will mean that your clients will not have access to the Compensation Fund. This exemption will need careful monitoring in order to demonstrate that none of the work you undertake amounts to any reserved legal activities. If reserved legal work arises you will need to decline to act or cease to be an employer before taking on such work (which may be impractical given the circumstances and your legal obligations as an employer).

2.5 Holding client money

As a freelance solicitor you are not permitted to operate a client account under the SRA Accounts Rules 2019. You cannot hold client funds (as defined by Rule 2.1 of the SRA Accounts Rules 2019) directly unless those funds are on account of your own fees or they are a disbursement payable by you on the client’s behalf and you meet the conditions set out in Regulation 10.2 of the SRA Authorisation of Individuals Regulations 2019 (as set out above).

In practical terms this means that:

- a) any money held for disbursements must relate to costs and expenses incurred by you as a freelance solicitor on behalf of your client for which you are personally liable, and you can demonstrate that liability;
- b) you must tell the client in advance where and how that money will be held. You should give this notification to the client in writing. Electronic notification is recommended in order to clearly show the exact time and date of when you provided that information; and
- c) if your client either needs to pay, or is due to receive, any other type of client money such as damages or money from an estate, then you cannot hold it and you will need to make other arrangements that safeguard the client’s funds. This may include the funds being paid through a third-party managed account (TPMA) or being held by the client themselves.

A freelance solicitor or law firm considering using a TPMA should read the relevant [SRA ethics guidance on TPMA’s](#).

2.6 Higher risk practice areas

Certain areas of practice are likely to be higher risk to freelance solicitors, because of the limitation on the use of funds and the absence of a client account. These may include transactional areas such as conveyancing and corporate work.

We note that the Bar Standards Board (BSB) entity escrow account which used a similar model to the TPMA's closed in July 2018 due to a lack of uptake among BSB entities.

Those seeking to undertake work where holding client money is central to the practice may want to consider the practicality of a TPMA and balance this option against the benefits and disadvantages of other ways of working, such as through a SRA-regulated firm.

Transactional work that may be linked to undertakings given in the ordinary course of business and the provision of funds is likely to be particularly difficult in practice.

If you are thinking of becoming a freelance solicitor, you will need to assess whether or not this restriction is a barrier to your own working methods or whether you can change your working methods to comply with the restriction.

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3 General obligations

3.1 The SRA Principles 2019

The SRA Standards and Regulations 2019 introduce a revised set of principles which set out the SRA's fundamental and ethical behaviour expectations. A freelance solicitor is bound by the principles in the same way as any other solicitor and must comply with the mandatory principles at all times.

The SRA Principles 2019 are:

“You act:

1. in a way that upholds the constitutional principle of the rule of law, and the proper administration of justice
2. in a way that upholds public trust and confidence in the solicitors' profession and in legal services provided by authorised persons
3. with independence
4. with honesty
5. with integrity
6. in a way that encourages equality, diversity and inclusion
7. in the best interest of each client”

In situations where the principles come into conflict you must comply with those that safeguard the wider public interest (such as the rule of law and public confidence in the trustworthiness of the solicitors' profession) over those obligations to an individual client's interest.

In such circumstances, you should usually inform your client of the circumstances in which your duties to the court or other public interest professional obligations outweigh your duties to them as an individual client.

The SRA has included this expressly in its explanation of the SRA Principles 2019 and therefore we recommend you record any reasoning for how you have applied the principles, particularly when they potentially conflict. You should also record, in writing, any guidance on this that you give to an individual client.

3.2 SRA Code of Conduct for Solicitors, Registered European Lawyers (RELs) and Registered Foreign Lawyers (RFLs)

As a freelance solicitor you must, as with every other solicitor, apply your judgement in meeting professional standards set by the SRA Standards and Regulations 2019 Code for Solicitors, RELs and RFLs (the Individual Code).

Each freelance solicitor shall be personally accountable and must act in compliance with the Individual Code which states in the introduction:

“...[you] must always be prepared to justify your decisions and actions.”

Further, Standard 6 of the Code goes on to provide:

“6.1 You do not act if there is an own interest conflict or a significant risk of such a conflict.”

Freelance solicitors may be more likely to encounter potential conflicts of interest because they are subject to:

- restrictions on how they can handle client money
- some practising restrictions (such as not employing others where they undertake reserved legal activities)
- a different professional indemnity insurance regime
- requirements to explain their different regulatory position clearly and unequivocally to clients (including potentially vulnerable clients) and to ensure that clients fully understand matters

You will want to make sure that you can demonstrate your efforts to meet obligation 6.1 of the Code by recording the risks assessed with each client. The Individual Code states:

“8.10 You ensure that clients understand whether and how the services you provide are regulated. This includes:

- (a) explaining which activities will be carried out by you, as an authorised person;
- (b) explaining which services provided by you, your business or employer, and any separate business are regulated by an approved regulator; and
- (c) ensuring that you do not represent any business or employer which is not authorised by the SRA, including any separate business, as being regulated by the SRA.

8.11 You ensure that clients understand the regulatory protections available to them.”

You may wish to provide this information to clients in your engagement letter and within your terms of business (if in a separate document).

If the client is vulnerable and, for example, English is not their first language, they have learning difficulties, they have a disability or their understanding may be affected by their age (due to being a child or elderly), you should expressly record on your file how you ensured compliance with these standards.

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4 Insurance requirements

4.1 Freelance solicitors undertaking non-reserved legal activities only

The SRA Standards and Regulations 2019 permit freelance solicitors to provide services direct to clients without any professional indemnity insurance if they only carry out non-reserved activities.

Although not compulsory, it is likely to be in your best interests to obtain insurance that is appropriate and sufficient to protect you and your personal assets when you are providing exclusively non-reserved legal services. If you do not have insurance, you will be personally liable.

It is also in the client's interest for you to have insurance and not to have to rely on enforcing against your personal assets if a successful claim is made.

In effect, if you make the decision not to be insured while undertaking exclusively non-reserved legal services you are self-insuring using your personal assets. This may place a strain on the solicitor-client relationship and is an unnecessary financial risk which can be mitigated by obtaining insurance, even though it is not a regulatory obligation.

You should inform your insurer if you intend to see clients at home and work from home on a regular basis.

4.2 Freelance solicitors providing reserved legal activities

Freelance solicitors undertaking any aspect of reserved legal services must obtain what the SRA has referred to as "adequate and appropriate" professional indemnity insurance cover in respect of the services they are providing or have provided (including both reserved and non-reserved legal services).

The SRA has indicated it will be providing separate guidance on this obligation and on the duty to inform clients that they will not be covered by insurance on the SRA's minimum terms and conditions. Guidance on what "adequate and appropriate" means will be published by the SRA in September 2019.

Factors to consider when setting, and justifying, your level of insurance may include:

- evidence that you have made a reasonable and rational assessment of the appropriate level and wider terms and conditions of professional indemnity insurance cover required
- your client profile
- the number, type, value and frequency of client engagements
- an assessment of the probable maximum loss for each type of work you undertake
- your claims history
- the need for 'top up' insurance for a particular matter or specific risk
- the information provided to clients on the limitations of cover, the contrast with other legal advisers and why and how the insurance offered meets the client's needs

Different levels of insurance are likely to be needed for different practice areas.

If you are seeking to become a freelance solicitor, you should ask yourself:

- a) How will you record your decision on the factors outlined above?
- b) Given your client base how often should you review your insurance cover?
- c) How will you explain the insurance matters to clients so that you can provide evidence that the client made an informed choice?
- d) Are you putting your own interests in wanting the client's instructions/work ahead of the client's best interests or needs?

You should inform your insurer if you intend to see clients at home and work from home on a regular basis.

4.3 Run-off cover

A major challenge for existing recognised sole practitioners and smaller law firms is the obligation to acquire run-off cover if the practice is to cease. We understand that a freelance solicitor (undertaking reserved or non-reserved legal services) ceasing to trade will not need to make provision for any claims received after they cease to practice as a freelance solicitor. The SRA will cover this in its guidance on adequate and appropriate insurance which will be published in September 2019.

Prudent freelance solicitors should take steps to make sure that they have suitable protections in place until the risk of claims has subsided.

You should consider the need to acquire cover on a long-term basis and not simply for the period of independent practice.

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5 SRA Compensation Fund

The SRA operates a fund for making discretionary grants to people whose money has been stolen, misappropriated or not accounted for by a solicitor where the solicitor or law firm should have been insured under the SRA's rules but was not.

Under Regulation 5.2 of the Compensation Fund Rules, access to the SRA Compensation Fund is restricted to clients of freelance solicitors who:

- were self-employed and practising in their own name, and not through a trading name or service company
- did not employ anyone in connection with the services they provided; and
- were engaged directly by their clients with their fees payable directly to them.

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6 Holding money on behalf of clients

As was set out in section 2.5 above, under Regulation 10.2 (b) of the SRA Authorisation of Individuals Regulations 2019 there are strict limitations on when a freelance solicitor can hold funds. Freelance solicitors should consider carefully Rule 2.1(d) of the Solicitors Accounts Rules 2019 which says:

“Client money is money held or received by you in respect of your fees and any unpaid disbursements if held or received prior to delivery of the bill for the same.”

This limits the circumstances in which a freelance solicitor can hold funds.

Rule 2.2 of the Solicitors Accounts Rules 2019 states:

“In circumstances where the only client money you hold or receive falls within rule 2.1(d) above, and:

- (a) any money held for disbursements relates to costs or expenses incurred by you on behalf of your client and for which you are liable; and
- (b) you do not for any other reason maintain a client account;

you are not required to hold this money in a client account if you have informed your client in advance of where and how the money will be held. Rules 2.3, 2.4, 4.1, 7, 8.1(b) and (c) and 12 do not apply to client money held outside of a client account in accordance with this rule.”

You should ensure therefore that your bank records and accounting records demonstrate that the only monies held are fees and disbursements and that these can be evidenced at all times.

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7 Required experience

Under the previous regulatory arrangements, a supervising solicitor at a law firm must have held a practising certificate for at least three years. This acts as a barrier against newly qualified staff starting a SRA regulated entity.

The position for freelance solicitors is different. Those who have held a practising certificate for less than three years may act as freelance solicitors if they undertake non-reserved legal activities only.

Those wishing to offer reserved legal activities will need to have held a practising certificate for three years after admission and have practised.

Freelance solicitors will again need to distinguish between reserved legal services and non-reserved legal services to ensure their position complies with the distinct rules.

7.1 Non-reserved legal services

There is no obligation on a freelance solicitor offering only non-reserved legal services to have practised for a minimum of three years since admission or registration.

This means that a newly qualified solicitor may set up as a freelance solicitor during the three-year period after they qualify on the basis of providing only non-reserved legal services.

If you are thinking of doing this, you may wish to assess how you would demonstrate your competency under the Individual Code (Standard 3 Service and Competence).

If you have less than three years' post-qualification experience you may wish to consider how you would evidence, if challenged, that it was in the client's best interest to instruct you given your relative lack of practising experience and the distinction in the rules between those with less than and more than three years' practising experience. For example, it may be more appropriate for you to take on work if you have prior experience in related areas or using similar skills. If you have come to the law from another profession, your previous professional experience may place you in good stead to take on particular work given your background and prior expertise.

7.2 Reserved legal activities

If you carry out reserved legal activities, you must have practised as a solicitor for a minimum of three years since admission or registration. This is demonstrated by holding a practising certificate, and having practised, for the years in questions.

7.3 The chambers option

Individuals contemplating using this model may wish to consider coming together with other solicitors who are similarly minded to pursue independent practice in a chambers arrangement as self-employed solicitors, potentially with complimentary practices.

As each freelance solicitor would be individually regulated and apply the rules to their own circumstances, each would be able to decide whether or not to offer reserved legal activities according to their preference (and if relevant, their PQE i.e. freelance solicitors with less than 3 years' experience could practice in such a chambers if they limited their services to non-reserved legal activities).

It may be appropriate to ensure that additional support and expertise is available to manage the risks of independent practice (such those identified above and holidays or sickness).

It is important to remember that, as a freelance solicitor, you may not employ any other party unless you are purely undertaking non-reserved legal services (see section 2.4 above).

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8 Communication with clients

You will need to communicate with clients to explain the meaning and potential impact of your freelance solicitor status. This should include any restrictions on the types of legal services you may offer (e.g. if you

are offering non-reserved legal services only).

You should confirm your regulatory status to your clients before they engage you. You can do this in the following ways:

- a) on your website (or in a leaflet or written documentation if you do not have a website)
- b) in an engagement letter to be signed and returned either physically or electronically to you to confirm that your clients have understood your explanation of your regulatory position
- c) in your terms of business if not entirely covered by a) and b) above

You must confirm to every client before they engage you that they are not covered by the SRA minimum terms and conditions of professional indemnity insurance. You must confirm what this means for them, i.e. that a claim could be rejected which would otherwise be payable under the SRA minimum terms and conditions, and that the cover that they receive from you as a freelance solicitor may be different.

You should clearly explain to clients the alternative professional indemnity insurance you have in place (if applicable) together with information about the level of cover and how it will give them sufficient protection. You should also confirm their position in terms of being able to make a claim from the SRA Compensation Fund.

You should consider only taking on work that you are comfortable is insured in order to protect your own personal assets, given that you are otherwise personally liable.

If applicable, you should tell clients that they can confirm your status as a freelance solicitor on the SRA's digital register as authorised to provide reserved legal activities (noting you will need to notify the SRA in advance of your intention to practise as a freelance solicitor).

The obligations in terms of complaints handling and signposting are the same as for a firm, as are the obligations under both the [Provision of Service Regulations 2009](#) and the [Consumer Contracts Regulations 2013](#). See our practice notes on these areas: [handling complaints](#) and [Consumer Contracts Regulations 2013](#).

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9 Practical considerations

If you are thinking of becoming a freelance solicitor, you should consider the following areas.

9.1 Storage of files

How will you store files in a way that maintains confidentiality and allows access to the files, particularly if you do not have office premises?

You should identify how you propose to tackle the issue of information storage and you should keep a centralised record of the arrangements that you have in place. This will allow you to demonstrate compliance with your professional obligations under the SRA Standards and Regulations 2019.

9.2 Data protection

You should consider the appropriate data protection policies and processes to put in place and the arrangements and policies you will need to share with clients. You may wish to carefully consider which systems you use for client communications and work – free systems may not have sufficient protections to safeguard client information.

You must be registered with the Information Commissioner's Office (ICO) as a data controller (in effect as a sole trader processing personal data), if any of your work involves personal data, such as personal contact details, name, address, date of birth, telephone number or address. It is likely that almost every freelance

solicitor will be obliged to report to and register with the ICO. Further information can be found on the [ICO website](#).

9.3 UK practising address

You are required to have a practising address in the UK.

You should consider what is an appropriate practising address for your freelance solicitor practice.

If you are going to practise from home, bear in mind that clients or disgruntled parties could turn up at your home address.

Do you wish to use a practice address and if so is that practice address acceptable to the SRA in terms of maintaining confidentiality and avoiding conflicts of interest? We anticipate that serviced offices that are rarely used will not be acceptable to the SRA unless arrangements are in place to manage that issue. If using a serviced office, you should ensure that client related calls cannot be overheard, client files are stored securely, and your computer equipment is unable to be used by others.

Again, we recommend that you record a note of your views in relation to these matters.

9.4 Undertakings

If you give an undertaking in the course of your business, it is a binding professional obligation as in any other form of legal practice. However, as a freelance solicitor you will not be entitled to hold client funds in the same way and TPMAs are likely to require revised wording for undertakings. You should make sure you are in a position to comply with any undertakings you give.

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10 Risks

As a freelance solicitor you will be contracting with clients directly and therefore you will have personal liability to those clients if your professional indemnity insurance (if you hold it) declines to meet any claim or does not cover the risk that arises. This means your personal assets may be at risk. You should consider whether you are comfortable with personal liability and whether you can manage those risks.

Law firms in England and Wales were, until relatively recently, predominantly partnerships under the Partnership Act 1890, until the regulatory changes which permitted solicitors to practice in limited liability partnerships and limited companies. Your liability status as an individual acting as a freelance solicitor is akin to that of a partner in a traditional partnership, i.e. personal, although of course as a freelance solicitor you do not have joint and several liability with partners as this is prohibited under the freelance solicitor model.

You may wish to undertake a personal risk assessment of your:

- practice area
- personal assets
- appetite for risk
- knowledge of your client base

You may wish to get advice from an insurance broker to make sure that you have considered whether the risks you are taking on are appropriate.

Our [Risk and Compliance Service](#) may also be able to help you with managing risk more generally.

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11 Reverting to traditional practice

As with any new business model, there is a risk that freelance solicitors who want to return to practice in a law firm may find firms reluctant to take them on unless the insurance position is clearly resolved, and future liabilities are addressed. You should consider insurance and liability with any future firm that you are considering joining.

In the future you may find firms reluctant to employ you or to offer you a partnership position unless you continue to pay for insurance. In the absence of run off cover as an obligation it is likely you will need to continue to pay for insurance to cover the risks.

Ultimately the future position is unclear, but some consider it to be a barrier for sole practitioners wishing to exit sole practice and join firms because firms do not want to accrue liabilities for historical legal work.

If you are thinking of practising as a freelance solicitor, you should consider this uncertainty and you may wish to negotiate your position with your potential insurer.

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12 Concluding notes for potential freelance solicitors

We encourage you to think about your long-term career goals and how the freedoms offered by this practice method fit within that plan.

We encourage you to focus on your appetite for risk and the practical application of operating as a freelance solicitor.

As with any new form of practice there may initially be some scepticism and reputational implications. You need to consider whether you have factored this into your long-term career plans and wider aspirations.

If, for example, you were thinking of becoming a freelance solicitor as a transitional step after leaving a firm, until you find a new role after leaving a firm, you would want to understand what the implications might be for your potential career in the short term, the medium term and the longer term.

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13 Implications for law firms

The SRA uses the term 'freelance solicitor' to describe a self-employed solicitor who is:

- a) practising in their own name and does not employ anyone else in connection with the services they provide
- b) not using a trading name or a service company
- c) engaged directly by clients with the fees payable directly to the individual by that client

It is one of a number of working methods that the SRA is introducing, taking effect on 25 November 2019 which can offer more flexibility to solicitors in the way they practise. Firms may wish to consider how:

- a) staff may perceive freelance solicitor status as an opportunity to create their own business and to enjoy more freedom
- b) it will impact on recruitment and retention of staff
- c) they will continue to maintain their client following in the face of increased competition

d) they will explain the status to clients

When firms are dealing with a freelance solicitor they will wish to assess and have trained their partners and staff on the limitations on freelance solicitors. For example, staff should be aware that freelance solicitors will not be able to accept client money during the course of a transaction and they may be asked to place funds through a TPMA.

Freelance solicitors are fully qualified solicitors who are regulated and authorised by the SRA. You should expect the same standards from them in terms of the SRA Principles 2019 and compliance with the Individual Code for Solicitors as you would expect from any other practising solicitor.

You may however want to explain to your clients the limitations of their role in terms of transactions and the ability to accept funds, and their distinct insurance position in comparison with your own, given that it could have implications for the clients.

You may wish to train all appropriate staff on the rules of the freelance solicitor model. This will ensure that funds are not paid to parties who are not entitled to them, which could give rise to a claim of negligence against you if your client's funds are lost.

Firms should be preparing to ensure that their systems and processes are updated so that payments are not made to freelance solicitors who are not entitled to hold those funds. This would include checking the status of solicitors on the digital register before making any payments.

If accepting an undertaking from a freelance solicitor, you may wish to consider the limitations arising from the fact they cannot hold client funds so will not be able to offer an undertaking to make a payment as they will not be in funds. The use of TMPAs as outlined above means you may need to amend the wording of standard undertakings. As with any other solicitor a freelance solicitor's undertaking is a binding commitment and thus enforceable.

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14 Feedback

This practice note is designed to support solicitors in complying with the freelance solicitor business model and regulatory regime.

We are committed to supporting all of our members, including those contemplating being and practising as freelance solicitors, in adapting to the changes and the changing risk profile both for the firms and for the individuals who are considering this model of practice.

It is likely that this practice note will be updated as further SRA guidance is published in due course, and the changes bed in and new issues arise. We are therefore interested in hearing from you about your experiences with the new regime so that we can develop further and more useful and relevant guidance for all of our members. If you have any feedback, contact regulation@lawsociety.org.uk.

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¹ Although if a freelance solicitor is practising reserved legal activities, they must still take out professional indemnity insurance that provides 'adequate and appropriate' cover in respect of all legal services being provided.

² See section 10.2 of the SRA Authorisation of Individuals Regulations.

