SIFA Professional

TWO YEARS ON FROM SARs, HAVE YOU ESTABLISHED A FIRM-WIDE THIRD PARTY REFERRAL PROCESS?

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It is now two years since I was asked to write an article for the Law Society's small firms community on the significance of the new SRA Standards and Regulations Firm Code of Conduct (SARs) and how processes at firm level needed to be implemented to abide by the new rules.

As an organisation, SIFA Professional focuses on supporting quality financial planning professionals in working hand in hand with solicitors, for the benefit and best interests of the mutual client. Before the introduction of the new SARs incorporating the firm code, there had been a disconnect between the role of the COLP and the fact that the 'referral rules' were in the individual code of conduct. Therefore, we welcomed the fact that the new firm code gave the COLP and practice management direct responsibility to ensure that individuals were acting in accordance with the seven Principles with enthusiasm, thus removing the previous anomaly.

For too long, individual solicitors had decided which external third parties they would refer to; and as such there had not necessarily been a consistent approach, and rarely was proper due diligence undertaken. As Crispin Passmore, then a director at the SRA, said to me in December 2018 as the draft rules were sent to the LSB, 'how can anyone ensure a referral is in the client's best interest, without first doing due diligence on the third party being referred to?'

This, of course, is the crux of the matter and it is why the regulator wanted more of a firm-wide view of all processes and procedures. In short, they hoped for a consistency of approach to all matters pertaining to the client experience - a uniformity to ensure the best outcome. SIFA Professional greeted this new regime with enthusiasm, hoping that it would see solicitor practices, under the direction of the COLP, implement serious research and due diligence on the third parties, including financial planners, to whom they would be referring. The SRA also anticipated that, due to the 'independence' principle, practices would work with more than one third party, as it was unlikely the same financial planning partner would be appropriate for every referral.

So, two years later, has the SRA regulated community embraced the new firm code? Have they installed established and recognised processes for third party referral to financial planners?

From both first-hand experience and anecdotally, the answer is a reserved yes; but we are still on a journey and by no means at the regulator's preferred final destination. Many of the financial planning firms we work with have assisted the COLPs of the firms they work with to look at what is important in a selected partner. Most COLPs I have presented to or spoken with - once they grasp the reasoning and logic behind the consistency and quality of the referral, and how that reflects on the solicitor firm and not just the individual making the recommendation - are keen to embrace and introduce a recognised process.

You only have to search 'compliance for solicitors', observing the increase in compliance support organisations that have emerged in the last two years, to appreciate the need to take firm-wide compliance seriously. There were far fewer of these COLP support providers pre-SARs, and it is obvious that legal services compliance is now following where financial services has been for many years. Every aspect of what a firm does that impacts a client outcome will have a recognised compliant process attached to it. For a law firm, the process of who to refer to and ensure the client's best interests are served is absolutely critical.

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