

SOLICITORS FOR PROFESSIONALS

Professional indemnity
 ♦
 Anti-money laundering
 ♦
 Risk Management
 ♦
 Partnership
 ♦
 Conduct

In this issue

- Don't get caught! Money laundering latest...
- Conduct Rules: Rush for compliance
- Referral fees: are you legal? Few are!
- Conveyancing: the next hit
- Partnership issues
- Cross-border risks
- Events
- Insurance mediation (again)
- Risk management answer
- Professional indemnity renewal: spending the savings wisely
- Is your branch office making a monkey of your risk management?

RISK UPDATE is available electronically only. To subscribe and receive a free e-copy directly into your inbox, email us at info@legalrisk.co.uk. Alternatively download it from www.legalrisk.co.uk/news/shwNews.asp

GAZETTE 1903 2003
 The Law Society's Gazette Centenary Awards
 Excellence in Risk Management

THE LAWYER
www.thelawyer.com
 AWARDS 2006

In association with
ST PAUL TRAVELERS

FINALIST
 NICHE LAW FIRM OF THE YEAR

 **Lexcel Consultants**

Don't get caught! Money laundering latest...

Is Combating the Financing of Terrorism (CFT) on your radar? Focus is shifting in anti money laundering circles from having an 'ordinary' AML policy to a wider focus incorporating AML and CFT. This approach features highly in the new Joint Money Laundering Steering Group Guidance for the Financial Sector, already approved by the Treasury. The relevance of the Terrorism Act offences was always mentioned in Law Society guidance, though training courses often fail to touch on them, but now your approach to CFT should be an integral part of your AML strategy.

Nobody would want to find that theirs was the firm that carried out the purchase of a house for a terrorist on the Bank of England Sanctions List, even if they could tick every box on –

- Up to date training of staff (including recent recruits)
- Checking the Sanctions List
- Identity checks
- Record-keeping
- Reporting
- Systems to prevent money laundering, including senior management involvement.

The past year has seen a huge number of changes - updates to Law Society guidance, adoption of the EU Third Money Laundering directive, setting up of the Serious Organised Crime Agency, The Accident Group judgment on privilege, and changes in overseas crime reporting obligations to name but a few.

The conviction of solicitor Philip Griffiths for a reporting offence, coupled with his acquittal of involvement in the crime itself, shows that the conviction was for failing to suspect money laundering when objectively there were reasonable grounds to do so - reinforcing the need for training.

Are your systems in place? Do you audit them? Is your firm's senior management up to date on its obligations? More and more firms are now updating their training to ensure compliance. For update training and systems checks by practising solicitors contact sue.mawdsley@legalrisk.co.uk

Conduct Rules: Rush for compliance

The retrospective implementation of the rules on conflict and confidentiality – in force for over a week before the Department for Constitutional Affairs informed the Law Society – puts pressure on firms to sort their compliance out now.

With the rules expected to be implemented in the next three months, firms will need to ensure they can prove they have risk management and business continuity systems in place.

For help with compliance, or in house training on the new rules, contact info@legalrisk.co.uk.

Referral fees: are you legal? Few are!

The Law Society's Regulation Board has announced a crackdown on enforcement of the Solicitors' Introduction and Referral Fee Code, following an investigation into 135 firms which found only six per cent complying fully. Firms need to review their arrangements before they are visited by the Law Society.

Legal Risk is offering solicitors a fixed price confidential health check to check their house is in order in advance of regulatory inspections.

This is a major issue for thousands of firms, particularly those involved in personal injury and conveyancing but the Law Society's investigation shows that most areas of practice are affected. Fines are steep with one recent example of £9,000 plus £25,000 costs. The rules appear simple on paper, but it is the application of them to particular facts which is complex as the judgment in The Accident Group litigation showed.

For a confidential health check or other advice on referral fee issues contact frank.maher@legalrisk.co.uk.

Continued ...

Conveyancing: the next hit

Many conveyancing firms charge clients a larger amount for bank transfers than the bank charges them, making a secret profit. Law Society investigating accountants are on the look out and firms caught out can expect to be reported for disciplinary action. For advice on compliance and assistance on disciplinary and conduct issues contact frank.maher@legalrisk.co.uk.

Partnership issues

A surprising number of professional firms whom we advise on partnership issues still have no partnership agreement. A good partnership agreement provides clarity on the firm's affairs, helps provide a framework for the running of the firm, and makes clear that the parties have a shared understanding of their respective rights.

Like a will, it needs to be kept up to date as the needs of the practice change and the environment in which it practises, with age discrimination legislation being the most recent example in the headlines.

We advise many professional firms on partnership agreements and other issues, and resolution of partnership disputes. Partners Frank Maher and Sue Mawdsley are members of the Association of Partnership Practitioners. For partnership agreements, or advice on partnership disputes and other issues contact frank.maher@legalrisk.co.uk.

Cross-border risks

A variety of concerns raised by clients recently include the following selection. Due diligence exposures to third parties, and managing the risk of partner travel to unstable locations, client engagement where the firm has a complex structure, data protection issues in relation to client engagement through overseas offices. Jurisdiction for claims can also be important, as defence lawyers and experts may be hard to find overseas, and there may be different outcomes on either liability or quantum.

Events

Tony Summers, Legal Risk's own round-the-world yachtsman will address the Lexcel Forum on 22 November 2006 in Manchester.

Frank Maher will chair and speak at the Ark Group Risk Management in the Legal Profession conference: Harnessing the Benefits of an Effective Risk Strategy on 5-6 December 2006. Speakers include leading experts from Barlow Lyde & Gilbert, Clifford Chance, DLA, Herbert Smith, Lovells and Richards Butler.

Insurance mediation (again)

After an initial flurry of activity, many firms seem to have completely forgotten about this important area of regulation – important, because it may be more far reaching than they appreciated, and non-compliance may result in contractual arrangements being void. Potential risk areas include 'Speccking' litigation, which the profession has done informally for many years but which has potential for being an unregulated insurance contract, joint venture agreements, and even landlord and tenant. For advice on insurance mediation issues, contact frank.maher@legalrisk.co.uk

Risk management answers

Do you have a collection of miscellaneous risk management, compliance or anti-money laundering issues which you keep meaning to deal with some time but never quite do? An in-house workshop for your risk management team can be a cost-effective, practical solution. We have done this successfully for leading firms in Europe and in the UK. Contact us for further details info@legalrisk.co.uk

Professional indemnity renewal: spending the savings wisely

Most firms in England and Wales saved substantial amounts on renewal. While those who did not will be examining the reasons why, though it may simply be increased turnover, the remainder need to be planning for the almost inevitable increase next year. Common sense suggests that it cannot stay so cheap for so long, and it may be wholly extraneous events which impact on premiums, be it hurricanes or something else. So the case for implementing a risk management strategy is all the stronger, because it will be no use implementing one a fortnight before next year's renewal.



Is your branch office making a monkey of your risk management?

We use the term 'branch office' loosely – the issues are the same whether it is overseas or in the next town – but we frequently encounter firms who assure us, with some justification, that they have their risk management sorted. Closer examination reveals that they have it sorted in their main office but rather less so in other offices which may never even have been visited by the risk manager at all. Experience shows that the larger problems occur where controls are weaker, and that translates in to the other offices.

THIS NEWSLETTER IS A GENERAL GUIDE. IT IS NOT A SUBSTITUTE FOR PROFESSIONAL ADVICE WHICH TAKES ACCOUNT OF YOUR SPECIFIC CIRCUMSTANCES AND ANY CHANGES IN THE LAW AND PRACTICE. SUBJECTS COVERED CHANGE CONSTANTLY AND DEVELOP. NO RESPONSIBILITY CAN BE ACCEPTED BY THE FIRM OR THE AUTHOR FOR ANY LOSS OCCASIONED BY ANY PERSON ACTING OR REFRAINING FROM ACTING ON THE BASIS OF THIS.

Tel 0845 330 6791
Fax 0845 330 6792

International Tel +44 151 231 6230
International Fax +44 151 231 6231

E-mail info@legalrisk.co.uk
Web www.legalrisk.co.uk

28 Bixteth Street Liverpool L3 9UH England

Partners: Frank Maher, Sue Mawdsley

Regulated by the Law Society

The firm is not authorised under the Financial Services and Markets Act 2000 but we are able in certain circumstances to offer a limited range of investment services to clients because we are members of the Law Society. We can provide these investment services if they are an incidental part of the professional services we have engaged to provide.