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### What has changed?

	2007	2017
Policies & procedures	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Written risk assessment	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Client screening	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Training	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Board level compliance officer	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Independent audit function	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
International offices	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Screening of staff	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Money Laundering Regulations 2017: key changes

## Articles

[Draft Money Laundering Regulations 2017: What to look out for and where to start](#)

Sue Mawdsley highlights key changes the new Regulations will bring. First published in Issue 49, Legal Compliance Bulletin, May 2017.

## Events

[Risk and Compliance for Law Firms, Amsterdam](#)

Partners Frank Maher and Sue Mawdsley will be speaking at Ark's one day seminar which will provide risk and compliance partners, lawyers and managers from across Europe with an understanding of the key risks that legal services businesses face.

[Law Firms: Under the Microscope](#)

Legal Risk have teamed up with Hazlewoods LLP to deliver a series of seminars on what lies in store for law firms in the coming 12 months. The last in the series is in Bristol on 21 June.

Contact [info@legalrisk.co.uk](mailto:info@legalrisk.co.uk) for further information on any of the above.

## Anti-money laundering

We reported in our March Risk Update on the draft Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLR 2017), which are intended to implement the provisions of the Fourth EU Anti-Money Laundering Directive (4MLD) with effect from 26 June 2017. The consultation process has been affected by the purdah imposed by the pending general election.

There have been objections to some of the provisions by the Law Society and others on the grounds that they are 'gold-plating' the requirements of 4MLD. However, the UK is required to implement 4MLD by 26 June 2017, and even if other EU countries may fail to achieve compliance by this date, for the present, we have to assume that the government will meet its commitment for implementation on time.

It follows that although there may be areas of uncertainty as to the extent of the new requirements, there are matters for which firms cannot adopt a 'wait and see' approach. In particular, written risk assessments will have to be prepared by all firms undertaking regulated sector activity, which for law firms includes real estate, trusts, managing client money, corporate and tax. We are advising many law firms, large and small, and property sector clients on their risk assessments. Firms will also need to update their training, and our experience of providing this includes the largest US and UK based international firms as well as many small practices and those in between.

We are also advising firms on other key areas of compliance. Areas firms will be needing to consider include policies and procedures, client screening, staff screening, board level compliance officers, independent audit function and, where applicable, responsibility for compliance in their international offices.

More information on the proposed changes can be found in our March [newsletter](#) and an [article](#) by Sue Mawdsley for the May issue of the Law Society's Compliance Bulletin.

There have been several recent instances of substantial fines on law firms, partners, Money Laundering Reporting Officers and Compliance Officers, some attracting significant publicity, but there have been other cases too.

Fines may concentrate minds in the firms affected and may raise awareness in other firms. However, they do not in themselves raise standards of compliance. One weapon in the armoury of the Financial Conduct Authority for raising standards is the skilled person's report under section 166 of the Financial Services and Markets Act 2000, under which a regulated person may be required to appoint an independent person from an approved list at their own expense. The report may be used for diagnosis, monitoring, prevention and remedy.

While the Solicitors Regulation Authority (SRA) does not have the same statutory power, it would potentially be available as a term of a Regulatory Settlement Agreement compromising disciplinary action.

## Enterprise Insurance

Solicitors who have suffered losses and inconvenience from the collapse of Enterprise may be pleased to note that the Gibraltar Financial Services Commission (GFSC) has appointed independent inspectors to investigate the insolvency of Enterprise and the conduct of its directors and auditors.

We have advised several firms on making successful claims against the Financial Services Compensation Scheme, following the collapse of various professional indemnity insurers, where the claims had initially been rejected on eligibility grounds relating to their turnover exceeding the £1m limit which broadly applies.

## SRA Accounts Rules: Banking facility

Rule 14.5 of the SRA Accounts Rules 2011, which prohibits the provision of banking facilities, continues to claim scalps, and new angles continue to emerge, increasing the risk of unwitting breach. It is a particular regulatory concern because it exposes firms to risk of money laundering. We have advised a number of firms who are subject to SRA investigation, including major City firms, and there have been several substantial fines imposed on firms and individuals.

This will be covered at a seminar which Legal Risk are hosting with Hazlewoods, Chartered Accountants, in Bristol on 21 June 2017. The event will also address emerging risk issues and anti-money laundering and financial crime. The event is primarily aimed at COLPs and COFAs, MLROs, Risk Managers and Managing Partners. Further details are [here](#).



## ENCRIPTING RANSOMWARE

*Have your staff received training?  
Insurers have identified people as  
one of the biggest areas of  
vulnerability to cyber-attack.*

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### Note

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.

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## Cyber

Cyber-attacks have been the main news headlines following the WannaCry ransomware which hit thousands of computers in over 150 countries, particularly because it paralysed much of the National Health Service. Technical [guidance](#) on this was released by the FBI in the United States.

Almost half of UK businesses experienced a cyber-attack in the last year, according to the government's [Cyber Security Breaches Survey 2017](#) published in April 2017 .

We are aware of recent instances of law firms being attacked by ransomware too and of ransom payments being made.

We mentioned in our November 2015 newsletter that the Financial Action Task Force's report on Emerging Terrorist Financing Risks (October 2015), citing examples in the UK, noted that vishing frauds have been seen as a terrorist financing method and that the funds have been used to finance travel to Syria.

Protecting the firm's systems against these risks is not an option. There is a significant risk of regulatory action for two reasons in our view. First, the SRA cannot be expected to be complacent on the subject in a changing environment of terrorist activity and, if the government proposals for the new Office for Professional Body AML Supervision (OPBAS) come into effect (see [March Risk Update](#)), the SRA may itself be under pressure to act. Secondly, the General Data Protection Regulation (GDPR) will raise the stakes significantly: it has been said that the £400,000 fine on TalkTalk for loss of data would have been £59m under the GDPR.

Although investigation by security provider Sophos shows that WannaCry, unlike many other instances of ransomware, may not have been released through an email, many are, with unwitting recipients clicking on links. Insurers have identified people as one of the biggest areas of vulnerability to cyber-attack.

We provide cost-effective training through our online course, Phishing for Trouble 2. This is designed to bring law firm staff up to date on the latest scams – including phone calls from people masquerading as a firm's bank, email and other internet scams.

We have advised firms on the regulatory and insurance issues arising from cyber-attacks.

## Conflicts of interests

When can a client legitimately prevent you from acting, not because of a legal conflict, but because you know how they work, how they think and their tactics? How will provisions in an American client's outside counsel guidelines applying US conflicts rules impact on your ability to work for other clients? How should you respond to an SRA investigation into an allegation of a conflict of interests? Does the panel solicitor appointed by your insurer to represent you have a conflict of interests even though a separate firm is advising on coverage?

These are just some of the questions we advise on regularly. Links to cases and rules from many jurisdictions can be found on our website: [www.legalrisk.co.uk/conflicts](http://www.legalrisk.co.uk/conflicts)

## Leasehold issues

There have been several press reports of claims against law firms arising from ground rents on residential property, including suggestions that there will be a group action and that claims may run to £500m. Escalating rents affect properties by certain developers. Although Taylor Wimpey have set aside £130m to compensate home buyers, this will not solve all the problems, and in particular we understand that it will not apply where properties have been resold. There are particular difficulties where the freeholds have been sold by the developers.

For those with long memories in the field of solicitors' professional indemnity claims, the issues are reminiscent of the Blue Dolphin leases which Solicitors Indemnity Fund successfully tackled in the early 1990s through a coordinated response on behalf of the profession.

The problems are not all the same, and they are not the only lease-related problems generating claims against conveyancers. Among other problems, there are issues under the Housing Act 1988, where the ground rent exceeds certain prescribed amounts and is unpaid and the court must make an order for possession in favour of the freeholder. High fees for consent to alterations have also caused problems for some homeowners.

Nationwide Building Society has announced that it will refuse to lend money on new-build leasehold properties which have onerous terms. This may change behaviours for the better in the long term, but could cause problems in individual cases in the short term.

Firms need to consider whether they should be making block notifications to insurers. This is an area on which we have advised many firms.