

## **Guidance**

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#### **Preparing to become a sole practitioner or an SRA-regulated freelance solicitor**

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### **Status**

This guidance is to help you understand your obligations and how to comply with them. We will have regard to it when exercising our regulatory functions.

### **Who is this guidance for?**

Solicitors intending to set-up a business trading on their own account providing legal services to the public. For the purposes of this document the term solicitor includes SRA registered European lawyers (RELS).

### **Purpose of this guidance**

This guidance is intended to help you understand:

- whether the nature of your business requires you to obtain authorisation as a recognised sole practice (RSP)
- whether the nature of your business means you can provide services as an freelance solicitor, without your business being authorised as an RSP
- some of the main things you will need to consider before setting up a sole practice, or as an freelance solicitor.

### **General**

Nearly a quarter of all firms we authorise are sole practitioner firms and it remains a popular way to practise.

Previously, it has been necessary (with only limited exceptions) for any solicitor practising alone to get their practice authorised by us as an RSP.



However, following our regulatory reforms, it is now possible for some services to be offered without the practice itself being authorised.

Even where the practice itself does not require authorisation, there are a lot of considerations for any solicitor setting up alone. This guidance gives you some of the key information you need to consider.

## **Do you need to be authorised to practise on your own?**

**You will not need to get your practice authorised** if you only provide non-reserved legal services. However, you can still choose to have it authorised if you wish. For example, you may wish to reassure clients that your practice has the protections that arise from being authorised by us, such as the requirement to have indemnity insurance.

We use the term freelance solicitor to describe a self-employed solicitor who is:

- practising on their own, and does not employ anyone else in connection with the services they provide
- practising in their own name (rather than under a trading name or through a service company)
- engaged directly by clients with fees payable directly to them without that practice being authorised.

**You must get your practice authorised** if you provide immigration, claims management (including employment claims) or regulated financial services and are not regulated by another suitable regulator. See our [Firm authorisation guidance](https://higher-rights.sra.org.uk/solicitors/guidance/firm-authorisation/) [https://higher-rights.sra.org.uk/solicitors/guidance/firm-authorisation/] for further information.

**You will need to get your practice authorised** if you provide reserved legal services, unless you meet the criteria to provide such as an freelance solicitor who offers reserved legal services. These criteria are defined in section 10.2(b) of the SRA Authorisation of Individuals Regulations (see below).

It is important to understand the distinction between those who trade on their own account (such as sole practitioners and freelance solicitors) and those who are the sole owner and manager of their own company. If a solicitor provides their services through a limited company, it is the company that is providing the services. If these services include reserved legal activities, this company must be an SRA-authorized law firm.

If you need to seek authorisation for your business, that needs to be applied for before you begin trading. It typically takes about three months to make a decision on these applications, so you need to apply sufficiently in advance.

## **Freelance solicitors and reserved legal services**



Generally, you will only be able to provide reserved legal services as a solicitor through an entity that is authorised to do so – see our guidance on [firm authorisation](https://higher-rights.sra.org.uk/solicitors/guidance/firm-authorisation/) [https://higher-rights.sra.org.uk/solicitors/guidance/firm-authorisation/]. However, if you are a solicitor practising on your own account, you can provide reserved legal services without being authorised as a recognised sole practice if you meet a number of conditions set out in regulation 10.2(b) of the Authorisation of Individuals Regulations:

- i. You have practised as a solicitor for a minimum of three years since admission or registration.
- ii. You are self-employed and practise in your own name, and not through a trading name or service company.

This also means, for example, that you cannot be practising in a partnership, as a consultant on behalf of someone else, or through a limited company.

- iii. You do not employ anyone in connection with the services that you provide.

'Employ' is given its natural meaning and can include contracting with someone else in connection with the services you provide even if you do not call them an employee.

The intention is to restrict this exception to solicitors who are genuinely working alone. Those who employ assistants, or delegate their service provision to others cannot provide reserved legal services under this exception. If you decide to delegate all the reserved work so that you are not providing any reserved legal services then you do not need to meet the conditions in regulation 10.2(b) of the Authorisation of Individuals Regulations. Instead you will fall within regulation 10.2(a) of those regulations because your practice consists entirely of carrying on activities which are not reserved legal activities.

However, this provision is not intended to prevent you from contracting with others for them to provide administrative support activities (as opposed to legal services) which enable you as an individual to provide your service as long as this does not amount to employing those others. One distinction may be, for example, that those that supply the support services do so for others as well as yourself and are not otherwise treated as your employees.

So, for example you will be able to

- o some together with others in a chambers arrangement as self-employed solicitors. where the chambers provides administrative and business support



- see clients from a “maintained office” where the host provides reception and other administrative and secretarial services
  - employ support staff such as cleaners as this would not be sufficiently connected to the services that you provide.
- iv. You are engaged directly by the client, and the client pays their fees directly to you.

If you are in a chambers arrangement, for example, the contract for the legal services must be between you and the client, not the chambers and the client, and payments for fees cannot be made in the name of the chambers.

- v. You have a practising address in the UK.
- vi. You take out and maintain indemnity insurance that provides adequate and appropriate cover in respect of the services that you provide or have provided (including both reserved and unreserved legal services) and that takes into account any alternative arrangements you or your clients may make.

We have issued separate guidance on this obligation and on your duty to inform clients that they will not be covered by insurance on the SRA's minimum terms and conditions and that alternative arrangements are in place.

- vii. You only hold client money when it is for payments on account of costs and disbursements that you have not yet billed where:
- a. any money held for disbursements relates to costs and expenses incurred by you on behalf of your client and for which you are liable, and
  - b. you have told the client in advance where and how that money will be held.

If your client needs to pay, or is due to receive, other types of client money (for example, damages or money from an estate) then you cannot hold it. You will need to make other arrangements that safeguard the client's funds – for example, through a third-party managed account. See our separate [guidance on third party managed accounts](https://higher-rights.sra.org.uk/solicitors/guidance/third-party-managed-accounts/) [https://higher-rights.sra.org.uk/solicitors/guidance/third-party-managed-accounts/] and the definition of client money in Rule 2.1 of the Accounts Rules and associated guidance.

Remember that any fees that you charge must be payable to you in person.

## **Other requirements**

You will need to comply with the Code of Conduct for Solicitors, RELs and RFLs in full, including the obligations relating to client identification, complaints handling, client information and publicity, and making sure that clients understand the regulatory protections available to them.

This will include informing your clients that they will be able to claim on the Compensation Fund for losses caused by your dishonesty or failure to account for their money. You will still be required to contribute to the Compensation Fund.

As an freelance solicitor providing reserved legal services you will be subject to the requirements of the Transparency Rules to:

- publish costs information if you offer any of the services listed in the rules
- publish details of your complaints' procedure, including how and when a complaint can be made to the Legal Ombudsman and the SRA, and
- inform clients that they will not be covered by insurance on the SRA's minimum terms and conditions and that alternative arrangements are in place (see above).

See the [separate guidance \[https://higher-rights.sra.org.uk/solicitors/guidance/transparency-in-price-and-service/\]](https://higher-rights.sra.org.uk/solicitors/guidance/transparency-in-price-and-service/) on these obligations.

Note that as you will not be practising as an authorised body, you will not be entitled to display the SRA clickable logo for authorised bodies on your website.

If you constitute an 'independent legal professional' (ILP) as defined by the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLR 2017), you will be subject to various requirements, including the need to seek our approval for your role as beneficial owner, manager or officer of your practice.

In simple terms, an ILP is a firm or sole practitioner who provides legal or notarial services to others as part of financial or real property transactions. While freelance solicitors are not treated as 'sole practitioners' under our rules, they are under the MLR.

These approvals are a statutory requirement and separate from notifications or approvals made under our own regulations.

If you are unsure if you are subject to the MLR 2017, or what additional requirements apply to your practice under the regulations, [please read our guidance \[https://higher-rights.sra.org.uk/solicitors/guidance/money-laundering-terrorist-financing-transfer-funds-information-payer-regulations-2017/\]](https://higher-rights.sra.org.uk/solicitors/guidance/money-laundering-terrorist-financing-transfer-funds-information-payer-regulations-2017/).

## **Notifying us**

If you are eligible to operate as an freelance solicitor, and intend to do so, you must notify us and specify whether you intend to deliver reserved legal services. This information will be included in our public register. You can find out how to make this notification below under 'Next steps'.

## **Examples of arrangements complying with the rules**

### **Example 1**

Three solicitors, A, B and C, decide to join together in a chambers. They will be offering specialist advocacy services. They have all been practising for more than three years and decide that they do not wish to have the chambers authorised as a recognised body but that they want to operate as three freelance solicitors.

They set up Chambers Ltd a limited company. Chambers Ltd will not employ A, B or C but has a contract with them to provide support and administration. Chambers Ltd rents the premises from which A, B and C will practise. It employs a clerk and secretary, but no staff that provide legal services, such as a paralegal.

A, B and C each notify us that they will be practising as an freelance solicitor providing some reserved legal services to the public, giving the practising address as that of the chambers.

A, B and C set up a joint website, but the website makes it clear that the services are provided by each of them as individual solicitors.

They arrange professional indemnity insurance that covers them each individually.

Letters (including client care and engagement letters) go out in the individual name of A, B or C as appropriate and not in the name of Chambers Ltd. Bills are also sent out in their individual names, and costs are payable into accounts held in their individual names. They do not hold client money, except payment on account of costs and disbursements for which they are liable. Clients provide informed consent to share their data with Chambers Ltd for administrative purposes.

### **Example 2**

D is returning to practice after a period of extended leave. D has been contacted by a former client company and decides to get back into work by carrying out ad hoc work for them. This is likely to include the occasional commercial property transaction.

D will not employ anyone else and will operate in their own name. D has more than three-years practice experience and decides to operate under

the conditions of regulation 10.2(b) of the Authorisation of Individuals Regulations.

D therefore obtains adequate and appropriate indemnity insurance and notifies us that D will be acting as an freelance solicitor providing some reserved legal services to the public. D bills the client monthly in their own name for any work that they have done and does not need to hold client money.

## **Changing from being a sole practitioner to an SRA regulated freelance solicitor**

If you are currently a sole practitioner and your practice is authorised as a recognised sole practice, you may also be considering transitioning to become a freelance solicitor. Here are some key points you need to think about in deciding whether to make the transition:

- A recognised sole practice is a type of firm authorised by us, whereas a freelance solicitor is authorised by us as an individual.
- So, if you move from being a sole practitioner to serving all of your clients as a freelance solicitor, you must therefore ‘close’ your recognised sole practice. By this we mean your business will cease to operate as an authorised firm. We have published [guidance \[https://higher-rights.sra.org.uk/solicitors/guidance/closing-down-your-practice/\]](https://higher-rights.sra.org.uk/solicitors/guidance/closing-down-your-practice/) about what you have to do to close your practice. This includes having run-off cover in place.
- The cost of run-off cover should be one of the things you take into account as you consider changing from being a sole practitioner to being a freelance solicitor.
- It is possible for you to have both a recognised sole practice and work as a freelance solicitor in which case your recognised sole practice would not need to close. For example, you may wish to provide some non-reserved legal services, such as legal advice, independently of any reserved work you do through your recognised sole practice. As such work can be done outside of authorised practice, and therefore without many of the obligations attached to a regulated firm, you may wish to do that in a freelance capacity while maintaining your regulated firm for other work.
- Be aware, however, that it would be important that clients understood the difference between the two and were not confused as to the regulatory protections that applied. Such an arrangement would also not be suitable for case-splitting (ie dividing a case so non-reserved work was done by you as a freelancer and reserved work was done through your recognised sole practice) but may be suitable where the non-reserved work was distinct from, and independent of, that being done through the recognised sole practice.

## **Setting up your own practice**



Deciding to run your own business is a serious commitment in any profession or trade, but it is especially so in the legal arena, where your clients may be dependent on you for some of the most significant events in their lives.

If you are considering setting up a business trading on your own account, please refer to our [regulatory starter pack for sole practitioners and small firms](https://higher-rights.sra.org.uk/solicitors/guidance/sole-practitioners-small-firms-regulatory-starter-pack/). [<https://higher-rights.sra.org.uk/solicitors/guidance/sole-practitioners-small-firms-regulatory-starter-pack/>].

This covers key risks you may face and how they can be managed depending on the characteristics of your practice such as work type and client base. Below are some additional things you should consider before you begin trading as a sole practitioner or an freelance solicitor.

### **Set-up costs**

Setting up on your own can be costly and it can take time before sufficient money comes in for the business to be self-sustaining. You will need to allow for the following expenses:

- professional indemnity insurance premium
- business banking costs
- business materials - letterheaded paper, publicity etc
- IT - computers, printers, data storage, network security, case management system, website and email hosting etc
- other hardware - office furniture, phones, etc
- office space, signage, and rates (unless you intend to practise from home)
- annual accountant's report (if you hold client money)
- staff training costs (if you employ staff)
- application fees and annual regulatory fees
- sufficient funds to keep you and your business operating until you start making a profit.

### **Professional indemnity insurance**

If you require authorisation of your practice as an RSP, you must have qualifying indemnity insurance from a participating insurer providing cover at an appropriate level, with a minimum cover of £2m. There will be an annual premium for that. You also need to understand your obligation that, if you decide to close your practice, you will have to pay a run-off premium to the insurer to cover claims in the six years following that closure. That is typically around three times the annual premium.

If you do not require separate authorisation of your business and are providing reserved legal services, you are still required to maintain indemnity insurance that provides adequate and appropriate cover in respect of the services you provide (see above).



## Next steps

If you need or want to get your business authorised, please see our '[Can my business be authorised \[https://higher-rights.sra.org.uk/solicitors/guidance/can-my-business-be-authorised/\]](https://higher-rights.sra.org.uk/solicitors/guidance/can-my-business-be-authorised/)' checklist for all the requirements. You will then need to make an application for authorisation.

If you wish to provide legal services as a freelance solicitor whether offering reserved or unreserved services, you must notify us of your intention to practise in this way.

If the work you intend to conduct falls under the MLR 2017, you will also need to submit the necessary application forms for us to approve you under those regulations.

The application and notification forms for the above are available on our [application Firm based authorisation \[https://higher-rights.sra.org.uk/solicitors/firm-based-authorisation/\]](https://higher-rights.sra.org.uk/solicitors/firm-based-authorisation/) pages.

## Further guidance

[Case studies on complaints about solicitors working outside SRA-regulated firms \[https://higher-rights.sra.org.uk/solicitors/guidance/complaints-solicitors-working-outside-sra-regulated-firms/\]](https://higher-rights.sra.org.uk/solicitors/guidance/complaints-solicitors-working-outside-sra-regulated-firms/)

## Further help

If you require further assistance, please contact the [Professional Ethics helpline \[https://higher-rights.sra.org.uk/home/contact-us/\]](https://higher-rights.sra.org.uk/home/contact-us/).