



Autumn 2011

Menzies Legal Team Update

Welcome to the latest update from the Menzies legal team.

In this edition we provide details on:

- The role of COLPs and COFAs
- Our Legal Sector LinkedIn page
- The pension scheme auto-enrolment guide to employers
- Our upcoming autumn seminar.

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COLP and COFA - are you ready?

From 31 March 2012 all firms will be required to have a Compliance Officer for Legal Practice (COLP) and a Compliance Officer for Finance and Administration (COFA). Read on to find out how your firm can effectively implement the COLP/COFA requirements.

LinkedIn Legal Sector Group

Have you joined our LinkedIn Legal sector group yet? Having launched our initiative over a year ago and have had very positive feedback and now have over 175 members and rising.

Pension scheme auto-enrolment guide to employers

The Pensions Act 2008 makes employers responsible for ensuring that all employees contribute to their retirement needs. As an employer, you will need to ensure you are aware of the actions you need to fulfil to ensure compliance with the new rules.

Free autumn legal seminar

The autumn legal seminar is less than 4 weeks away. Book your place now to ensure you are kept up to date on key changes affecting your practice.

For further information, please contact Peter Noyce at or further information, pnoyce@menzies.co.uk or your regular Menzies LLP relationship partner.

COLP and COFA - are you ready (Continued)

With the introduction of outcomes-focused-regulation, the legal press has principally concentrated on Alternative Business Structures (ABSs) largely ignoring the Accounts Rules changes and the requirement to appoint compliance officers.

Compliance now rests with all managers of law firms. Rather confusingly, the manager title is the Legal Services Act 2007 term for sole practitioners, partners, members and directors depending on what legal body the legal firm trades as.

Under the Legal Services Act 2007, ABSs are required to appoint a head of legal practices and head of finance and administration. The SRA have decided that not just ABSs but all firms are required to appoint a compliance officer for legal practice (COLP) and a compliance officer for finance and administration (COFA).

Timetable

ABSs will need to appoint individuals from when they are authorised. For all other legal practices the roles must be appointed by 31 March 2012.

Although firms have effectively six months to appoint their compliance officers, they will have to submit their first annual report to the SRA in October 2012 detailing any breaches arising. Our advice, would, therefore be to appoint as soon as possible so that they may set up any reporting systems to identify these breaches now!

Who can be appointed?

A COLP must be an individual who:

- Is a lawyer of England or Wales; registered European lawyer (REL) or European lawyer regulated by the Bar Standards Board
- Is an employee or manager of the firm
- Is of sufficient seniority and in a position of sufficient responsibility to fulfil the role
- Is approved by the SRA
- Has consented to undertake the role; and
- Is authorised to do one or more of the reserved activities specified in the firm's certificate of authorisation.

A COFA must be an individual who:

- Is an employee or manager of the firm
- Is of sufficient seniority and in a position of sufficient responsibility to fulfil the role
- Is approved by the SRA for that role; and
- Has consented to undertake the role.

Unlike a COLP, a COFA does not need to be a lawyer but will need a good understanding of the Accounts Rules, rather than just a general financial understanding.

Roles

A COLP has to ensure compliance with the terms and conditions of their firm's authorisation and any statutory obligations to take all reasonable steps to record all failures to comply and to report any such failures to comply to the SRA as soon as reasonably practicable. In the case of non material breaches, the firm will still be deemed compliant if they are reported as part of the Information Report required under Rule 8.7 of the Authorisation Rules.

A COFA has to ensure compliance with the SRA's accounts rules. Data should also be captured in such a way that the compliance officers can identify any patterns of breaches, which on their own are trivial but together could be regarded as material. A centralised reporting system would seem appropriate.

Materiality

When deciding if a breach is material the compliance officers will need to consider:

- The detriment, or risk of detriment, to clients
- The extent of any risk of loss of confidence in the practice or in the provision of legal services
- The scale of the issue
- The overall impact on the practice, its clients and third parties.

For further information, please contact Peter Noyce pnoyce@menzies.co.uk or Mark Crosson mcrosson@menzies.co.uk from Menzies Legal Team on 01483 755000.

LinkedIn Legal Sector Group (Continued)

The group provides a forum for our Legal team and members to comment on topical news issues that may be of interest to solicitor firms, together with our Menzies legal updates and details of future seminars.

Below is the link for you to join the group and please feel free to pass it on to any colleagues or contacts that may be interested in joining our Legal Sector Group.

[Menzies Legal Group](#)

Pension scheme auto-enrolment guide to employers (Continued)

Whilst the latest pension scheme is a tremendous concept, all employers regardless of size must be aware of potential increases in related staff costs.

Below are the details of the auto-enrolment. As a minimum employers must:

- Work out when they need to implement auto-enrolment consult the pension regulator website, if they do not know
- Estimate how much additional contribution they will have to make to comply and ensure they are added to their business plans and costs forecasts
- Assess if their current pension scheme can be adapted to meet the new regulations; and
- Ask for support from their advisers, if required.

The legislation, introduced by The Pensions Act 2008, is intended to make employers responsible for ensuring that all employees contribute to their retirement income needs, through the establishment of in-work pension schemes. The legislation stated "The employer must make prescribed arrangements by which the jobholder becomes an active member of an automatic enrolment scheme...". In other words, employers must make available, and enrol employees into, a pension scheme to which both they and the employee must contribute.

It is intended that this pension scheme may be either:

- set up by the employers themselves; or
- a scheme set up by the government – known as NEST (National Employment Savings Trust).

Under the proposals, the main rules will be as follows:

1. From 2012, initially large employers but eventually all employers, regardless of size (some single employee companies may be exempt), will be required to auto-enrol their qualifying employees into a suitable pension scheme. The largest employers will be required to comply immediately and a programme to include small employers will be rolled out from October 2012 to September 2016. This is known as staging and employers will be given 12 months notice by The Pension Regulator of their requirement to comply.
2. Qualifying employees will be those who have been employed for at least three months, are aged over 22 and are earning at least the personal tax allowance (£7,475 in 2011). This is a higher income level than was originally proposed.
3. A suitable scheme (one that passes the scheme quality test) will need to be in place or NEST could be used.
4. Qualifying earnings is all earnings (basic pay, bonuses, overtime etc), between the lower earning level for National Insurance Contributions and an upper limit (currently £38,185).
5. The minimum contribution levels will be phased in to help employees and employers adjust to the costs of the reforms. From October 2012 the total contribution level will be 2% of qualifying earnings, with at least 1% coming from the employer. This will rise to 5% with a minimum 2% employer contribution in October 2016 and then rising again to 8% with at least 3% coming from the employer in October 2017. Where contributions are set at 9% of basic pay rather there is no requirement to use qualifying earnings to calculate the contributions due.
6. There will be a waiting period of three months for new employees to see if they remain in employment. This is to avoid the cost to the employer of short term employees. However, employees will not be able to opt out during the waiting period. All employees must be auto-enrolled and will have the opportunity to opt out a month after enrolment.
7. Employers can certify that their scheme meets the minimum standards and this certification must be done on an annual basis.

For further information or to discuss any of the points mentioned, please contact Eric Norman-Walker from Menzies Wealth Management Ltd on 0207 3875868 or email enormanwalker@menzieswm.co.uk

Free autumn legal seminar (Continued)

With less than 4 weeks to go before the Menzies' autumn legal seminar, Menzies Legal team are preparing to host an update on the key changes that affect legal practices. For further information please contact Prabs Sidhu.

Dates & Venues:

15 November 2011
Woking - Holiday Inn

17 November 2011
London - Hilton London Euston

24 November 2011
Solent - The Solent Hotel

This free seminar will qualify for CPD and is an excellent way to keep up-to-date with the latest issues and a chance to network with industry experts. Should you wish to reserve a place please email Prabs Sidhu on psidhu@menzies.co.uk.

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