

# Understanding the role of the COFA – personal liability

A compliance officer who ‘fundamentally misunderstood his obligations’ was fined £7,500 and ordered to pay costs of £2,250 by the Solicitors Disciplinary Tribunal and banned from being a COLP or COFA, after being in post for just one year.

Steven David Hulme was employed as assistant solicitor with Lancashire practice Orbis Solicitors, which was closed down by the Solicitors Regulation Authority in April 2016 following suspicion that the firm’s founder and director, solicitor Anne Bradley, had acted dishonestly.

Hulme qualified in 2003 and started work at Orbis in April 2006, becoming the firm’s compliance officer for finance and administration in January 2013. In February 2014, a forensic investigation by the SRA uncovered a £85,000 cash shortage in the firm’s client account which had arisen over a period between August 2011 and January 2014.



In his defence, Hulme argued that he was aware of the breaches which largely pre-dated his appointment as COFA. They had been discussed in board meetings and he had recorded them in the firm’s Accounts Rules Breach Record, which he maintained. He agreed these breaches should have been reported to the SRA but said he had reported them to Anne Bradley in her capacity as the firm’s COLP, who, he said, assured him that she reported them to the SRA.

The tribunal considered that his misconduct was serious. There was a substantial shortage that subsisted on the firm’s client account over an extended period of time. The respondent was aware of that amount, and indeed recorded the breach in the Accounts Rules Breach Record he maintained. He had agreed to act as the firm’s COFA, but had fundamentally misunderstood his obligations in that regard.

At **Financial Eye**, we work with COFAs to ensure they fully appreciate their personal liability within the role.

## The role of the COFA is to:

- take all reasonable steps to ensure compliance with the SRA's accounts rules
- take all reasonable steps to record all failures to comply
- report material failures to comply to the SRA as soon as reasonable practicable

## In order to be in a position to discharge their role fully, the COFA must consider whether they:

- have access to all accounting records
- carry out regular checks on the accounting systems
- carry out file and ledger reviews
- ensure that the reporting accountant has prompt access to all the information needed to complete the accountant's report if required
- take steps to ensure that breaches of the SRA Accounts Rules are remedied promptly
- can report all breaches, which are material either on their own or as part of a pattern, to the SRA and
- can monitor, review and manage risks to compliance with the SRA Accounts Rules.

In addition to the COFAs role in relation to the SRA's Accounts Rules, there is a role for COFA to report when the practice is in serious financial difficulties. They should therefore consider whether they are able to access information on the practice's overall financial status and be in a position to make an ongoing assessment of that status.

If you would like any help or guidance on the role of the COFA, please get in touch with the experts before it costs you personally.

Through our sister company **Legal Eye** we are also able to assist COLPs in their roles and responsibilities to ensure the entire firm is completely compliant and has the correct policies and procedures in place.



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