

### Head III – Professional conduct and accounts

Candidates should be able to demonstrate an understanding of:

1. the fundamental principles of professional conduct and a working knowledge of the relevant practice rules regulating the organisation of the profession, obtaining work and professional relations
2. the purpose and scope of the financial services regulatory framework in general and its application in particular to solicitors' firms, including the role of the Financial Services Authority (FSA) and The Law Society and the practice rules relating to financial matters
3. the broad principles of the legislation designed to counter money laundering and the Money Laundering Regulations 2003 (MLR), and the relevance of the money laundering regime for solicitors' firms
4. the Solicitors' Accounts Rules

#### 1. Professional Conduct

**Candidates' knowledge and understanding of the fundamental rules of professional conduct and a working knowledge of the relevant practice rules regulating the organisation of the profession, obtaining work and professional relations may be tested by questions on:**

- (a) the actions which can and cannot be taken to publicise the work of a practice
- (b) the circumstances under which solicitors may accept introductions or referrals of business and under which they may make introductions or refer business
- (c) the steps needed to provide the client with the best information concerning the costs of a matter
- (d) the steps needed to operate an in-house complaints handling procedure
- (e) conflicts of interest arising between themselves and a client or potential client or between two or more clients
- (f) the steps needed to fulfil solicitors' obligations to the court whilst maintaining their duty to the client
- (g) the obligations that arise when the conduct of a matter involves relationships with another solicitor
- (h) the obligations that arise when the conduct of a matter involves relationships with a barrister
- (i) the steps needed in giving and complying with undertakings
- (j) duties of confidentiality
- (k) duties to avoid discrimination

- (l) professional privilege

## 2. Financial Services

**Candidates' knowledge and understanding of the purpose and scope of the financial services regulatory framework in general and its application in particular to solicitors' firms, including the role of the FSA and The Law Society, may be tested by questions on:**

- (a) the implications of the Financial Services and Markets Act 2000 (FSMA), the Solicitors' Financial Services (SCOPE) Rules 2001 (SCOPE Rules) and the Solicitors' Financial Services (Conduct of Business) Rules 2001 (Conduct of Business Rules)
- (b) what is regulated by the FSA, the requirement for FSA authorisation; the consequences of carrying out a regulated activity without FSA authorisation and the method of obtaining such authorisation
- (c) what constitutes a regulated activity and the principal exclusions in the FSMA (Regulated Activities) Order 2001 (RAO)
- (d) the exemption in Part XX of the FSMA for professional firms not conducting "mainstream regulated activities" but carrying on "exempt regulated activities"
- (e) basic conditions which must be satisfied by firms wishing to undertake "exempt regulated activities" (Section 327 FSMA and FSMA (Non-Exempt Activities) Order 2001)
- (f) what constitutes a financial promotion and the principal exemptions in the FSMA (Financial Promotion) Order 2001
- (g) the type of regulated activities which may be undertaken under the SCOPE Rules and the consequences of a breach of the SCOPE Rules
- (h) the steps needed to comply with the SCOPE Rules, the Conduct of Business Rules and the practice rules relevant to regulated activities under the FSMA
- (i) the role of the solicitor in the financial services industry and the implications of the solicitors independence; the inter-relationship of financial services work with other areas of work in the firm
- (j) the steps needed to comply with the Conduct of Business Rules for exempt regulated activities
- (k) the need to maintain the required records and follow the firm's complaints procedure
- (l) how the receipts of commission should be dealt with under Practice Rule 10 and the SCOPE Rules and the significance of the receipt of commission in connection with some of the exclusions in the RAO
- (m) when an activity "arises out of or is complementary to" a particular professional service to a particular client

- (n) how to identify the appropriate authorised person for use in any particular situation

### **3. Money laundering**

**Candidates' knowledge and understanding relevance of the money laundering regime for solicitors' firms may be tested by questions on:**

- (a) the process of money laundering
- (b) the primary offences created by the legislation
- (c) the key requirements imposed upon solicitors by the Money Laundering Regulations
- (d) the recognition of circumstances in which solicitors might be assisting money laundering

### **4. Solicitors' accounts**

**Candidates understanding of the Solicitors' Accounts Rules may be tested by questions on:**

- (a) the need to maintain separate office and client accounts
- (b) the need to pay interest to clients where appropriate
- (c) the obligations to make payments into the client's account and of the restrictions on making payments into a client's account
- (d) the way in which payments may be split for the purpose of payment into a client's account
- (e) what can be drawn from the client's account
- (f) the obligation to prepare accounts which show all dealings with the client's money and any other money dealt with through a client account
- (g) the powers of the Law Society to secure compliance with the Solicitors' Accounts Rules