

Ethics checks for law firms – explanatory notes

The law is not only a profession but a business. Lawyers sell legal services for profit within commercial enterprises and law firms like other commercial enterprises have workplace cultures that shape the ethical standards of the people who work for them, for better or worse.

It follows then, if we're serious about promoting high standards of conduct within the profession, that we should pay serious attention to helping law firms develop and maintain workplace cultures or 'ethical infrastructures' that enable them to deliver legal services to those high standards.

A law firm's ethical infrastructure includes not only its formal policies and procedures but the unwritten rules that also help determine what actually happens in the workplace - the values, attitudes, practices, incentives, disincentives and leadership behaviours explicitly stated or otherwise that motivate and sustain its employees to conduct themselves ethically or alternatively that leave them to their own ethical devices or worse, by actually encouraging them to conduct themselves unethically.

We have developed what we hope will be a varied and ever-expanding suite of short, sharp on-line surveys which allow law firms to review or audit their ethical infrastructure. The surveys comprise a series of questions that ask the people who are taking part to select an answer from a list of possible answers simply by 'ticking the box'. Some of the questions allow respondents to give a more detailed answer by adding comments in a free text box.

Individual members of law firms are most welcome to complete the surveys simply as interested individuals. The Ethics checks come into their own however if everyone at a law firm completes them or, in larger firms, if at least significant samples of the different levels and classifications of their employees - senior lawyers, junior lawyers and support staff.

That allows firms to check how their policies and procedures and systems are perceived and understood and implemented 'down the line' by the different levels and classifications of their staff and, if they have more than one office, by the staff at each of their different offices. That will be a rich source of information and a handy indicator of the strength and consistency of the firm's ethical culture. It might be reassuring or on the other hand might identify some potential gaps or problems. And that of course is the point – the whole point of the ethics checks is to help law firms continually improve their systems and processes to better deliver legal services to high standards.

We believe they will be helpful to any law firm that wants to test or review its 'ethical health' and we encourage firms to try them out. We approach particular firms or classes of firm from time to time to invite them to complete a survey on a purely voluntary basis but as part of a larger exercise involving a number of other firms. That allows the participating firms to compare their results with the (de-identified) results of other firms that have participated in the survey at the same time and that can provide a useful point of comparison.

We have no powers in relation to law firms generally and so we invite them to participate in the surveys on a voluntary basis. We do have powers pursuant to section 130 of the Legal Profession Act 2007 to undertake compliance audits of incorporated legal practices and we use the Ethics checks as one of a number of ways we exercise those powers.