

LEGAL SERVICES

Comprehensive Study Guide

Chapters 1–8 | Providers | Regulation | Equality | Financial Services | Money Laundering | POCA 2002 | Funding | Legal Aid

This guide covers all 8 chapters of Legal Services including: providers of legal services, the SRA regulatory framework, the Equality Act 2010, financial services regulation, money laundering obligations, the Proceeds of Crime Act 2002, funding options, and legal aid.

Chapter 1 — Providers of Legal Services

The legal services market has evolved from a sector almost exclusively served by solicitors and barristers into a diverse market driven by globalisation, EU law, increased affluence, internet technology, and political pressure to increase competition.

1.3 Reserved Legal Activities

The Six Reserved Legal Activities (s 12 Legal Services Act 2007)

1. The exercise of a right of audience — right to appear before and address a court, including examining witnesses 2. The conduct of litigation — issuing and managing court proceedings 3. Reserved instrument activities — preparing formal documents for transfer or charge of land (not wills or powers of attorney) 4. Probate activities — preparing papers to obtain a grant of probate or letters of administration 5. Notarial activities — certification and authentication of documents 6. The administration of oaths — administering a sworn affidavit
CRIMINAL OFFENCE: Carrying out a reserved activity without authorisation = up to 2 years' imprisonment.

- **Authorised persons:** Must be authorised by an approved regulator (e.g. SRA for solicitors).
- **Exempt persons:** e.g. court grants a McKenzie friend right of audience; employees supervised by an authorised person for probate.

🗞 Media Protection Services Ltd v Crawford

Merely "laying information" for a summons constitutes conducting litigation.

🗞 JK v MK

Facilitating online document preparation where parties lodge documents themselves is NOT conducting litigation.

1.4 The Legal Services Board (LSB)

The LSB is the oversight regulator responsible for the eight separate approved regulators that manage different types of lawyers on a day-to-day basis. It must approve any body acting as a regulator and can impose penalties, make recommendations, or withdraw approval.

LSB Regulatory Objectives (s 1 Legal Services Act 2007)

- Protecting the public interest
- Supporting the rule of law
- Improving access to justice
- Protecting clients
- Promoting competition
- Encouraging a diverse and effective legal profession

1.5 Regulated Providers

Provider	Regulator
Solicitors	Solicitors Regulation Authority (SRA)
Barristers	Bar Standards Board
Chartered Legal Executives	CILEx Regulation
Licensed Conveyancers	Council for Licensed Conveyancers
Patent and Trade Mark Attorneys	Intellectual Property Regulation Board
Costs Lawyers	Costs Lawyers Standards Board
Notaries	Master of the Faculties
Chartered Accountants (probate only)	ICAEW

1.6 & 1.7 Non-Legal Services Act Providers and Unregulated Providers

Provider	Framework
Claims Management Companies	Regulated by the Financial Conduct Authority (FCA)
Immigration Advisers	Office of the Immigration Services Commissioner
Insolvency Practitioners	Insolvency Practitioners Association
Unregulated providers	Non-reserved work only (will-writing, employment advice, family advice) — voluntary self-regulation; not statutory

Chapter 2 — The Regulatory Role of the SRA

The SRA is the approved regulator responsible for regulating solicitors, the firms they work in (including non-lawyer employees), and registered European and foreign lawyers. It was created in 2007 when the Law Society's dual roles as regulator and representative body were separated.

The Seven SRA Principles

1. Act in a way that upholds the constitutional principle of the rule of law and the proper administration of justice 2. Act in a way that upholds public trust and confidence in the solicitors' profession and in legal services provided by authorised persons 3. Act with independence 4. Act with honesty 5. Act with integrity 6. Act in a way that encourages equality, diversity and inclusion 7. Act in the best interests of each client

2.4 Firm-Based Authorisation

Business Type	Definition
Recognised Sole Practice	A single solicitor practising alone
Recognised Body	Legal services body — at least 75% of managers and interest holders are legally qualified
Licensed Body (ABS)	Alternative Business Structure — allows non-lawyers to own or manage; at least one manager must be SRA-authorised

Compliance Officers — Every Authorised Firm Must Appoint

Recognised / Licensed Bodies: • COLP — Compliance Officer for Legal Practice • COFA — Compliance Officer for Finance and Administration Licensed Bodies (ABSs): • HOLP — Head of Legal Practice • HOFA — Head of Finance and Administration

2.5 Authorisation of Individuals

- **Admission:** Individual must have required qualifications and training; SRA must be satisfied with character and suitability. SRA considers criminal conduct (especially dishonesty, violence, or discrimination), plagiarism, and financial mismanagement. Ongoing duty to disclose material changes.
- **Practising Certificate:** Must hold a valid certificate to act as a solicitor or carry out reserved legal activities. Renewed annually by 31 October. SRA may refuse or impose conditions if in public interest.

2.6 Solicitors Working Outside Authorised Firms

Category	Key Rule
Freelance solicitor	Non-reserved work only — OR meet strict criteria: 3+ years' experience, no employees, adequate insurance
In-house solicitor	Reserved services to employer only — not the general public
Non-commercial organisation (charity/trade union)	Generally exempt from firm authorisation; can provide reserved services under organisation's insurance
Commercial unregulated organisation	PROHIBITED from carrying out reserved legal activities

2.7 Professional Indemnity Insurance (PII)

Requirement	Detail
Nature	Indemnifies against civil claims for loss or damage caused to third parties during practice; generally "claims-made" basis
Minimum cover	£3 million for recognised/licensed bodies; £2 million for other firms (per claim)
Extended cover	90-day extension if firm cannot secure insurance at renewal — must eventually stop taking new work
Adequate and appropriate	May need "top-up" cover beyond SRA minimums
Client information	Solicitors must tell clients the insurer's name and territorial coverage

Chapter 3 — Equality Act 2010

The Equality Act 2010 protects individual rights and ensures fair treatment. Solicitors' duties under the Act are separate from, but linked to, professional obligations under SRA Principles 2 and 6. Employment claims go to employment tribunals; non-employment claims go to the county court. The Equality and Human Rights Commission (EHRC) is the independent oversight body.

3.3 The Nine Protected Characteristics (s 4)

Characteristic	Key Definition
Race	Colour, nationality, ethnic or national origins
Religion and belief	Any religion or philosophical belief, including absence of belief
Sex	Inequality between men and women
Sexual orientation	Heterosexual, homosexual, and bisexual orientations
Age	Belonging to an age group — sometimes justifiable treatment
Disability	Physical or mental impairment with "substantial and long-term adverse effect" on normal day-to-day activities
Gender reassignment	Proposing to undergo, undergoing, or having undergone sex reassignment
Marriage and civil partnerships	Those legally married or in a civil partnership
Pregnancy and maternity	Specific protections for these conditions

3.4 Prohibited Conduct

Type	Definition
Direct discrimination	Treating someone LESS FAVOURABLY than a real or hypothetical comparator because of a protected characteristic — generally unjustifiable (except age in limited circumstances)
Indirect discrimination	Universally applied policy or practice that DISADVANTAGES a group sharing a protected characteristic — justifiable if "proportionate means of achieving a legitimate aim"
Disability discrimination	Treating a disabled person unfavourably because of SOMETHING ARISING in consequence of their disability
Victimisation	Subjecting someone to a "detriment" because they performed a "protected act" (e.g. bringing a claim or giving evidence)

Harassment	Unwanted conduct related to a protected characteristic that violates dignity or creates an intimidating or offensive environment
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3.5 Duty to Make Adjustments (s 20)

A positive duty to take reasonable steps to avoid disadvantage for disabled persons. Includes adjusting practices, addressing physical features (e.g. wheelchair access), and providing auxiliary aids.

3.6 & 3.7 Solicitors as Service Providers vs Employers

Feature	Service Providers	Employers
Claims venue	County court	Employment Tribunal (after mandatory ACAS conciliation)
Adjustment duty	ANTICIPATORY — must prepare for possibility of disabled clients before they encounter a problem	NOT anticipatory — arises when employer knows (or ought to know) of a specific individual's disability
Vicarious liability	Firm liable for discriminatory acts of employees in course of employment — even without firm's knowledge	Same rule applies
Remedies	Unlimited damages for financial loss or "injury to feelings"	Compensation; reinstatement

Positive Action (ss 158 & 159)

Firms may voluntarily take steps to address disadvantages or under-representation among protected groups. Includes a "tie-breaker" in recruitment where two candidates are equally meritorious and one is from an under-represented group.

Overlap with Professional Conduct

Failure to comply with the Equality Act 2010 can lead to SRA disciplinary action for breaching: • Principle 2 — upholding public trust and confidence • Principle 6 — encouraging equality, diversity and inclusion Professional standards often go further than the Act by prohibiting ANY unfair discrimination, even if not based on a statutory protected characteristic.

Chapter 4 — Financial Services

Financial services work may arise in conveyancing (mortgages), probate (selling assets), litigation (investing damages), and company work (buying/selling shares). Solicitors must ensure they are competent before undertaking such work and always act in the client's best interests.

4.2 & 4.3 Source Materials and Regulatory Structure

Source	Description
FSMA 2000	Primary legislation — governs the general prohibition and financial promotion prohibition
RAO 2001	Regulated Activities Order — defines specified investments and specified activities
FPO 2005	Financial Promotions Order — governs the communication of financial promotions
FCA (Financial Conduct Authority)	Market regulation, consumer protection, and competition — conducts oversight of all firms
PRA (Prudential Regulation Authority)	Subsidiary of Bank of England — "safety and soundness" of banks, insurers and major financial firms

4.5 The Need for Authority

Two Main Prohibitions

GENERAL PROHIBITION (s 19 FSMA 2000): No person may carry on a regulated activity in the UK unless authorised or exempt. Breach = criminal offence — up to 2 years' imprisonment. **FINANCIAL PROMOTION PROHIBITION** (s 21 FSMA 2000): Unauthorised person cannot communicate financial promotions. Also a criminal offence.

4.6 What is a Regulated Activity? — The Four Tests

Four Tests to Identify a Regulated Activity

1. Is it **BY WAY OF BUSINESS?** — Activities in solicitors' professional capacity generally satisfy this
2. Is there a **SPECIFIED INVESTMENT?** — Stocks, shares, debentures, gilts, insurance, regulated mortgages. NOT interests in land or some National Savings products
3. Is there a **SPECIFIED ACTIVITY?** — dealing as agent, arranging, managing, safeguarding, advising
4. Is there an **EXCLUSION?** — Introducing to authorised person; ATP; execution-only client; trustee/PR; takeover activities

4.7 The s 327 Exemption — Five Conditions

This exemption allows SRA-authorised firms to perform certain regulated activities WITHOUT FCA authorisation if all five conditions are met:

Condition	Rule
1. No pecuniary advantage	Must not receive and retain any commission from a third party without accounting for it to the client
2. Incidental	Activity must be INCIDENTAL to professional legal services — not a major part of overall activities
3. Permitted activities only	Must stay within scope of SRA Scope Rules
4. Not prohibited	Must not be specifically prohibited by the Treasury or FCA
5. No other FCA authorisation	Cannot use this exemption if already FCA-authorised for other regulated activities

4.8 SRA Financial Services (Conduct of Business) Rules

- Status disclosure — inform clients they are not FCA-authorised and explain redress mechanisms
- Best execution — transactions must be carried out as soon as possible in client's best interests
- Records — keep records of all client instructions and third-party transactions
- Commissions — record commissions received and how they were handled
- Execution-only clients — send confirmation letter that client is not relying on solicitor's advice
- Insurance distribution — stringent requirements for communicating insurance information clearly and fairly

Chapter 5 — Money Laundering

Definition of Money Laundering

The process criminals use to alter or "launder" proceeds of crime so they appear to come from a legitimate source — often using complex transactions and intermediaries to create an audit trail that is difficult to track.

Stage	Description
1. Placement	Introducing criminal money into the financial system
2. Layering	Distancing money from criminal activity through various transactions or parties
3. Integration	The money is returned to the criminal as seemingly "clean" funds

Four High-Risk Areas for Solicitors

1. Company and trust work — complex structures can hide ownership
2. Use of client account — passing money through the firm's account can "swap" illicit money for clean funds
3. Real estate — property bought with criminal funds, later sold for a "legitimate" profit
4. Sham litigation — creating fake disputes to move illicit funds across jurisdictions

5.3 & 5.4 The Regulatory Framework

The primary framework is the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017. The UK approach is risk-based, following international recommendations from the Financial Action Task Force. The SRA supervises anti-money laundering compliance.

5.5 – 5.7 Risk Assessment, Policies and Internal Controls

Requirement	Detail
Firm-wide risk assessment	Statutorily required — must cover nature of clients, services offered, industries in which clients operate
Written records	Must keep up-to-date written records of all risk assessment steps
Written policies	Proportionate to firm size — must cover risk management, CDD, reporting and record-keeping
MLCO	Money Laundering Compliance Officer — senior manager responsible for overall compliance
MLRO (Nominated Officer)	Receives internal reports of suspected laundering; liaises with the National Crime Agency (NCA)

Screening and audit	Screen relevant employees for integrity and skills; maintain independent audit function
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5.8 Client Due Diligence (CDD)

When CDD is Required

CDD is mandatory when: establishing a business relationship; occasional transactions exceeding €15,000; there is suspicion of money laundering; or there is doubt about the accuracy of previous identification. Verification must generally take place BEFORE a business relationship is established. If CDD cannot be completed, the solicitor must not establish the relationship and must consider making a report to the NCA.

Type of CDD	When Applied
Standard CDD	Default — verify identity using independent, reliable sources (passport/driving licence for individuals; company name, number and registered office for companies; beneficial owners with >25% control)
Simplified CDD	Low-risk clients — e.g. companies listed on a regulated market
Enhanced CDD	High-risk situations — e.g. Politically Exposed Persons (PEPs): senior public officials, family members, close associates. Requires senior management approval and establishing source of wealth.
Ongoing monitoring	Continuous monitoring to ensure transactions remain consistent with solicitor's knowledge of the client

Additional Obligation	Rule
Training	Mandatory regular training on recognising and dealing with money laundering. Records must be maintained.
Record keeping	Keep all CDD documents and transaction records for at least FIVE YEARS after the relationship ends
Criminal Finances Act 2017	Corporate offence: failing to prevent criminal facilitation of tax evasion by employees or associated persons. Strictly liable unless reasonable prevention procedures in place.

Chapter 6 — Proceeds of Crime Act 2002

The Proceeds of Crime Act 2002 (POCA 2002) is the primary UK anti-money laundering legislation. It creates two categories of offences: direct handling offences (ss 327–329) and action/inaction offences primarily targeting the regulated sector (ss 330, 331, 333A and 342).

6.3 Section 328 — Arranging (Most Relevant to Solicitors)

It is an offence to enter into or be concerned in an arrangement that one knows or suspects facilitates the acquisition, retention, use, or control of criminal property for another. Much of ordinary solicitors' work (property transfers, trusts) could fall within "arranging."

Element	Rule
Mental element (s 328)	SUBJECTIVE — "know or suspect." Suspicion = a possibility "more than fanciful." A vague feeling of unease is insufficient but suspicion need not be firmly grounded.
Criminal property	Any benefit (direct or indirect) from criminal conduct. Individual must KNOW OR SUSPECT it is criminal. Includes conduct abroad punishable by >1 year imprisonment if done in the UK.
Litigation exclusion	Taking steps in litigation (including pre-action) is excluded — does NOT apply to sham litigation or reinvestment of litigation assets
Penalty	Maximum 14 years' imprisonment

The Authorised Disclosure Defence (s 338) — KEY DEFENCE

Making an authorised disclosure to the firm's MLRO (who may file a SAR with the NCA) provides a complete defence to direct involvement offences. PRIOR to the act: Report before the transaction — must not proceed until "consent" received from NCA or time limits expire (7 working days) DURING the act: Defence if suspicion arose after act began and was reported as soon as practicable on own initiative AFTER the act: Requires a "good reason" for failing to disclose earlier

6.4 & 6.5 Sections 329 and 327

- **s 329 — Acquisition, use or possession:** Handling criminal property — relevant when receiving money for legal costs. "Adequate consideration" defence available: fees are reasonable and solicitor did not know services were helping criminal conduct.
- **s 327 — Concealing:** Concealing, disguising, converting, or transferring criminal property or removing it from the jurisdiction. Applies because transactions often "convert" money or "transfer" ownership.

6.6 Section 330 — Failure to Disclose

Key Differences: s 330 vs s 328

s 328 (arranging): SUBJECTIVE test — the solicitor must personally know or suspect
s 330 (failure to disclose): OBJECTIVE test — "reasonable grounds to know or suspect." A solicitor can be convicted even if they did not personally suspect anything, provided a REASONABLE PERSON in their position should have suspected.

Element	Rule
Who it targets	The REGULATED SECTOR — firms providing legal or notarial services involving financial or real property transactions
Information threshold	Must have information that could assist in identifying the launderer or the location of the property
Disclosure route	Report to MLRO or NCA as soon as practically possible
Training defence	Employee may have a defence if they lacked actual suspicion AND the firm failed to provide mandatory AML training
LPP defence	Solicitors not required to disclose privileged information — does NOT apply if information was communicated to further a criminal purpose
Penalty	Maximum 5 years' imprisonment

6.7 – 6.9 Sections 331, 333A and 342

Offence	Who	Rule
s 331 — Failure to disclose (nominated officers)	MLROs	Offence if MLRO receives an internal report, has reasonable grounds to suspect, and fails to report to NCA as soon as practical
s 333A — Tipping off	Regulated sector	(a) Disclosing that a SAR has been made if likely to prejudice an investigation; (b) Disclosing that a laundering investigation is underway. Penalty: unlimited fine + up to 2 years' imprisonment
s 342 — Prejudicing an investigation	ANYONE (not just regulated sector)	Offence to make a material disclosure likely to prejudice a known or suspected investigation

Confidentiality vs Reporting Duty

The statutory requirement to report money laundering suspicions OVERRIDES the solicitor's duty of confidentiality to their client. The SRA can take disciplinary action for breaches of Principle 1 (rule of law) and Principle 4 (honesty).

Red Flag Warning Signs

- Secretive or evasive clients
- Unusual funding sources (e.g. large cash payments)
- Transactions with no obvious commercial purpose
- Instructions outside the firm's area of expertise
- Third parties paying or controlling funds
- Complex corporate structures with no apparent business reason

Chapter 7 — Funding Options

Cost is a primary concern for clients and must be addressed at the earliest opportunity. Since Legal Aid has been severely restricted, law firms have developed a range of private funding methods to ensure access to justice whilst meeting business needs.

7.3 Professional Conduct and Costs

- Transparency — must provide the "best possible information" about pricing and likely overall cost (SRA Code)
- Fairness — charging unreasonable fees breaches SRA Principle 7 (client's best interests) and Principle 5 (integrity)
- No abuse of position — must not take unfair advantage of a client's circumstances
- Client redress — clients may challenge a bill through court assessment; if reduced by more than 50% in a non-contentious matter the SRA must be informed

7.4 – 7.6 Private Funding, Fixed Fees and Business Agreements

Funding Type	Key Rule
Private funding	Client personally responsible for fees and disbursements regardless of outcome; typically hourly rates
Fixed fees	Set amount for defined work — generally cannot be altered if work proves more expensive unless client agrees (Inventors Friend Ltd v Leathes Prior)
Non-contentious business agreement	Writing + client signature — for conveyancing, commercial drafting etc.
Contentious business agreement	Writing + signature + express statement it is a CBA — for court/arbitration work. Contingency fees NOT permitted.

7.7 Funding Civil Litigation

Funding Method	Key Features
CFA (Conditional Fee Agreement) — "No win, no fee"	If client wins: normal fee + SUCCESS FEE (uplift on normal fee, max 100%, not recoverable from opponent). Personal injury: success fee capped at 25% of general damages.
DBA (Damages-Based Agreement) — Contingency fee	Solicitor's fee = % of damages recovered. Caps: 50% (general civil), 35% (employment), 25% (personal injury). No fee if lost. Client may owe fees on early termination (Lexlaw v Zuberi).

BTE insurance (Before-the-Event)	Already held by client (e.g. home or motor insurance) — solicitors MUST check for this at first interview
ATE insurance (After-the-Event)	Purchased after dispute arises — usually covers opponent's costs and disbursements if client loses
Third Party Funding	Commercial funder (no prior connection) pays costs in exchange for % of win. Primarily for commercial claimants. Generally requires 60%+ chance of success.

🔗 **Lexlaw Ltd v Zuberi**

DBAs can include clauses requiring payment for work done if the client terminates the agreement early.

Chapter 8 — Legal Aid

Legal aid covers civil and criminal cases but eligibility and scope differ significantly. The Legal Aid Agency (LAA), an executive agency of the Ministry of Justice, administers the scheme, primarily governed by the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO).

8.2 The Solicitor and the LAA

- Must have a formal LAA contract covering specific areas of law
- Undergo annual audits by the LAA for correct file and case management
- Generally not obligated to accept legal aid instructions — except under duty solicitor scheme
- Must advise clients of potential eligibility for legal aid at outset (failure = firm denied fees: *David Truex v Kitchin*)
- **Duty to LAA OVERRIDES confidentiality:** Solicitors must notify the LAA if a client acts unreasonably or provides misleading financial information.

8.3 Civil Legal Aid

Form of Service	Type	Description
Legal Help	Controlled work	Basic advice and limited steps — drafts letters but does NOT extend to issuing court proceedings
Help at Court	Controlled work	Advice and advocacy for a specific hearing (e.g. possession proceedings)
Legal Representation (Investigative)	Licensed work	Assessing case strength — LAA authorises on case-by-case basis
Legal Representation (Full)	Licensed work	Conducting the case and advocacy — emergency representation available for imminent homelessness/domestic violence

Scope of Civil Legal Aid (LASPO Sch 1, Pt 1)

EXCLUDED: Most personal injury; divorce; family disputes regarding children; most business matters INCLUDED: Homelessness; domestic abuse; discrimination; immigration; care proceedings EXCEPTIONAL: If refusing legal aid would breach a client's human rights

8.3.3 & 8.3.4 Civil Legal Aid — Merits and Means Tests

Test	Key Threshold
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Merits — Legal Help/Help at Court	Sufficient benefit test
Merits — Legal Representation	Generally 50% or higher prospects of success; "reasonable privately paying client" test; CFA/insurance alternatives must be unavailable
Capital limit	Generally £8,000 (£3,000 for immigration)
Income — passporting benefits	Universal Credit, Income Support etc. = automatic eligibility on income
Income — gross monthly limit	£2,657
Income — disposable monthly limit	£733
Contributions required	Disposable income above £315 or capital above £3,000

The Statutory Charge

If a client preserves or recovers money or property, they may have to repay the LAA for fees not recovered from the opponent. If the charge relates to the client's home, enforcement can be postponed — a charge is registered against the property with interest applied.

8.4 Criminal Legal Aid

Stage	Key Rule
Police station advice	FREE regardless of means — solicitors paid a fixed fee
Duty solicitor scheme	Provides advice at police stations and magistrates' courts — CANNOT be refused on grounds of being unremunerative
Interests of justice test	Assesses merits: risk of loss of liberty, livelihood or reputation; complex questions of law; ability to understand proceedings. AUTOMATICALLY MET for Crown Court trials and under-18s.

Court	Means Test
Magistrates' Court	Adjusted income £12,475 or less = eligible; £22,325 or more = not eligible; between = full means test with disposable income limit of £3,398
Crown Court	Full means test if income above minimum threshold. Disposable income £3,389–£37,500 = potential contributions required
Under-18s and benefit recipients	Automatically eligible

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