

**RULE 5(2) OF THE SOLICITORS' PRACTICE RULES
AND
RULE 9(2) OF THE FOREIGN LAWYERS PRACTICE RULES**

**Common Pitfalls when Completing
Notification of Changes to a Practice Forms**

1) *The problem:*

The person originally responsible had left and the replacement was unaware of the requirements.

The suggested solution:

The responsible Principal must properly supervise by ensuring that there is sufficient handover time for the person about to leave to properly brief his replacement. The person to whom the responsibility is delegated should have easy access to a note of or guidelines to the firm's internal procedures and the applicable Law Society circulars (which can be downloaded from the Law Society website <http://www.hklawsoc.org.hk>).

The preparation of an internal regulatory procedures manual might be considered.

2) *The problem:*

The person responsible was busy.

The suggested solution:

The responsible Principal must ensure that the person to whom the responsibility is delegated is aware of the importance of compliance.

3) *The problem:*

The person responsible was absent from office for a period longer than expected.

The suggested solution:

The responsible Principal must ensure there is a contingency plan and that the reserved staff is properly briefed of the importance of compliance.

4) *The problem:*

There was a high turnover of staff during the period.

The suggested solution:

The responsible Principal must ensure that the person to whom the responsibility is delegated is aware of the importance of compliance.

5) *The problem:*

The person responsible believed notifications could be collated and periodically filed in bulk.

The suggested solution:

The responsible Principal must ensure that the responsible person is aware that there are no "short cuts" to regulatory compliance.

6) *The problem:*

The staff concerned were either temporary, part-time or permanent staff members still on probation, there was a misconception that changes of particulars relating to these persons need not be notified.

The suggested solution:

The responsible Principal must ensure that the responsible person is aware of the full extent of the firm's statutory obligations and has ready access to discuss matters of concern with him.

The preparation of an internal regulatory procedures manual might be considered.

7) *The problem:*

Use of outdated notification forms.

The suggested solution:

The responsible Principal must properly supervise by ensuring that the person to whom the responsibility is delegated has easy access to a note of or guidelines to the firm's internal procedures and the applicable Law Society circulars (which can be downloaded from the Law Society website <http://www.hklawsoc.org.hk>).

Updating an internal regulatory procedures manual is important.

8) *The problem:*

There was confusion over the notification of commencement of trainee contracts (these often commence after the actual date of employment; the Trainee Solicitors Rules refer) and as a consequence there was a failure to notify the employment of an intending trainee who was initially a paralegal or a clerk falling within rule 5(2) of Solicitors' Practice Rules.

The suggested solution:

The responsible Principal must ensure that the responsible person is aware of the full extent of the firm's statutory obligations and has ready access to discuss matters of concern with him.

The preparation of an internal regulatory procedures manual might be considered.

9) *The problem:*

There was confusion about an impending application for admission as a solicitor (the Admission and Registration Rules refer) and as a consequence there was a failure to appreciate that during the period following completion of the training contract, the former trainee is a paralegal or a clerk falling within rule 5(2) of Solicitors' Practice Rules.

The suggested solution:

See Law Society circular 17-1027 (COM) of 11th December 2017.

The responsible Principal must ensure that the responsible person is aware of the full extent of the firm's statutory obligations and has ready access to discuss matters of concern.

The preparation of an internal regulatory procedures manual might be considered.

10) *The problem:*

In relation to newly admitted solicitors, there was confusion about whether the date of admission of the individual or the date of the issuance of the practising certificate or the effective date of the practising certificate was the effective date of change.

The suggested solution:

See Law Society circular 17-1027 (COM) of 11th December 2017.

The responsible Principal must ensure that the responsible person is aware of the full extent of the firm's statutory obligations and has ready access to discuss matters of concern with him.

The preparation of an internal regulatory procedures manual with a reminder to newly admitted solicitors that they should immediately notify the responsible Principal once they had received their first practising certificates.

11) The problem:

See Law Society Circular 10-541(COM) of 13th September 2010 and Law Society Circular 19-69(SD) of 4th February 2019.

There was confusion about the date that an employee left the firm as required under the Notification Form.

The suggested solution:

The departure date as required under the Notification Form is the last working date of an employee rather than the last pay date of an employee. The insertion of an incorrect departure date of an employee may result in overlapping of employment of the same employee in two firms which may constitute a breach of Rule 4B of the Solicitors' Practice Rules or Rule 8(4) of the Foreign Lawyers Practice Rules by both firms.