

Guidance

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Public trust and confidence

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Status

This guidance is to help you understand your obligations and how to comply with them. We will have regard to it when exercising our regulatory functions.

Who is this guidance for?

All SRA-regulated firms, their managers, compliance officers and employees

All solicitors, registered European lawyers or registered foreign lawyers

Purpose of this guidance

To explain when you are likely to be found to have breached your obligation under SRA Principle 2 [<https://www.sra.org.uk/solicitors/standards-regulations/principles/>] to act in a way that upholds public trust and confidence.

Guidance

SRA Principle 2 requires you to act in a way that upholds public trust and confidence in the solicitors' profession and in legal services provided by authorised persons.

Public trust and confidence in the solicitors and firms we authorise is at the heart of the legal system. Clients often place their confidence in solicitors during times when they are at their most vulnerable; assuming they will protect their interests, money and assets and personal, often sensitive, information.

We will therefore act where we see conduct in a legal professional or firm which would question the trustworthiness and integrity of the profession, or delivery of regulated legal services.

The fact that there has been some misconduct, or a breach of our rules, does not always mean that there has been a breach of Principle 2. However, this is likely where we see dishonesty or lack of integrity.

The courts have stated that any solicitor who acts with anything less than complete integrity, probity and trustworthiness, must expect severe sanctions.

A number of solicitors involved in high risk or fraudulent investment schemes have been struck off by the Solicitors Disciplinary Tribunal (SDT). This was for failing to uphold public trust and confidence in the profession, as well as for being dishonest and/or lacking integrity.

Example 1

A solicitor allowed two individuals to use his sole practice for the purpose of attracting investors to what he must have known were dishonest schemes. In striking off the solicitor, the SDT said:

"In relation to harm caused the tribunal had not been given any evidence of direct harm caused to individuals. However, the harm caused to the reputation of the profession was significant. The very nature of the reputation of solicitors was the reason that he had been targeted and it was damaging to that reputation for the respondent to have gone along with it."

Example 2

A solicitor, who was on the Roll but did not hold a practising certificate, was sole director of a company that advertised fictitious Brazilian developments. The investors in the fraudulent scheme lost at least £21m.

In striking off the solicitor, the SDT decided his obligations to uphold public trust and confidence in the profession applied to his role in the company, even though that role was not as a solicitor. Despite not practising at the time, his status as a solicitor had supplied a veneer of respectability to the scheme.

However, failing to act in a way that upholds public trust and confidence goes wider than just dishonesty or lack of integrity cases.

Other misconduct

We will act where other conduct, either inside or outside of practice, would diminish the public's trust if they knew it was done by a solicitor or by someone in an SRA-regulated firm. This will include discriminatory conduct or behaviour involving violence or sexual harassment.

We will always investigate where a criminal offence has been committed. The solicitor is likely to have breached Principle 2, given the key role they play in the administration of justice and the high degree of trust placed in solicitors and law firms by the public. See our guide to criminal offences outside of practice. [<https://www.sra.org.uk/sra/corporate-strategy/sra-enforcement-strategy/enforcement-practice/criminal-offences-outside-practice/>]

Offensive communications

Our guidance on offensive communications [<https://www.sra.org.uk/sra/corporate-strategy/sra-enforcement-strategy/enforcement-practice/social-media-offensive-communications/>] explains likely breaches of our requirement to uphold public trust and confidence, particularly where the aggravating factors listed in that guidance are present.

Examples of the type of communications which have been sanctioned by the SDT include:

- referring to women in derogatory terms and making sexually explicit comments in the course of communications with a client
- making offensive social media posts in a private capacity which advocated violence and show hostility towards a particular ethnicity
- sending offensive and derogatory e-mails to the opponent's solicitor during litigation.

Conduct outside of practice

We do not expect everyone to conform to a perfect ideal of behaviour outside of practice. The threshold for us taking action relating to conduct in personal relationships is high but may well be crossed by unlawful or abusive behaviour.

For example, the exaggeration of personal attributes on a dating website is not a regulatory matter. But we will consider some conduct, for example using a false identity, as serious in this context as in any other.

Impact of misconduct

We are likely to find a failure to uphold public trust and confidence in cases where the misconduct has impacted a significant number of clients and/or particularly vulnerable clients. See example 1 above.

We have taken disciplinary action, and agreed a six-figure fine, against a firm that admitted unintentionally sending misleading leaflets and inserting inaccurate information in claim bundles. Given the high volume of claims and millions of leaflets sent out, we took the view that the firm's actions were likely to have a material impact on public confidence.

A regulated firm covering up for, or failing to report or address, behaviour by its managers or employees which is a serious breach of Principle 2 amounts to serious misconduct and is likely to lead to us taking action for failing to act in a way that upholds public trust and confidence.

One example would be the improper use of non-disclosure agreements to cover up misconduct by an employee. Both the SRA and the public would

expect firms to put the public interest before their own reputation or interests in these circumstances.

Further guidance

Enforcement Strategy [<https://www.sra.org.uk/sra/corporate-strategy/sra-enforcement-strategy/>]

Topic guide on offensive communications [<https://www.sra.org.uk/sra/corporate-strategy/sra-enforcement-strategy/enforcement-practice/social-media-offensive-communications/>]

Topic guide on criminal convictions outside of practice
[<https://www.sra.org.uk/sra/corporate-strategy/sra-enforcement-strategy/enforcement-practice/criminal-offences-outside-practice/>]

Guidance on acting with integrity [<https://www.sra.org.uk/solicitors/guidance/acting-with-integrity/>]

Case studies [<https://www.sra.org.uk/solicitors/guidance/sra-principle-2/>]

Further help

If you require further assistance, please contact the Professional Ethics helpline [<https://www.sra.org.uk/contactus/>] .