

SRA Regulatory and Disciplinary Procedure Rules

Introduction

These rules set out how we investigate and take disciplinary and regulatory action, for breaches of our rules and regulatory requirements. They apply to solicitors, RELs, and RFLs as well as the firms we authorise and those who work for them.

The sanctions and controls we can impose as a result of our investigation will depend on the scope of our statutory powers, and will be determined in accordance with our Enforcement Strategy [\[link\]](#).

Rule 1: Assessing reports

- 1.1 The **SRA** shall assess any allegation which comes to, or is brought to, its attention in respect of a relevant **person** to decide if it should be considered under rule 3.
- 1.2 A matter is an allegation in respect of a **person** for the purpose of these rules if it raises a question that the **person**:
 - (a) is a **solicitor** or **REL** and has committed professional misconduct;
 - (b) has committed or is responsible for a serious breach of any regulatory obligation placed on them by the **SRA's regulatory arrangements**, section 56 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, or the Money Laundering, Terrorist Financing and Transfer of Funds Regulations 2017 or any equivalent legislative requirements that may succeed the same;
 - (c) is a **manager** or employee of an **authorised body** and is responsible for a serious breach by the body of any regulatory obligation placed on it by the **SRA's regulatory arrangements**;
 - (d) is not a **solicitor** and has been convicted of a criminal offence, or been involved in conduct related to the provision of legal services, of a nature that indicates it would be undesirable for them to be involved in legal practice;
 - (e) in relation to a **licensed body**, has committed or substantially contributed to a serious breach of any regulatory obligation of a nature that indicates it is undesirable for them to carry out activities as a **HOLP**, **HOFA**, **manager** or employee of an **authorised body**;
 - (f) has otherwise engaged in conduct that indicates they should be made subject to an order or finding under rule 3.1.

Rule 2: The Investigation process

- 2.1 The **SRA** may carry out such investigations, and in doing so may exercise any of its investigative powers under statute, as it considers appropriate:

- (a) to identify whether a matter comprises an allegation under rule 1.2, or
 - (b) to the consideration of an allegation under rule 3.
- 2.2 As soon as reasonably practicable after commencing an investigation under rule 2.1(b), the **SRA** will inform the relevant **person** accordingly and their **employer**, unless and to the extent that it considers that it would not be in the public interest to do so.
- 2.3 Before making a decision under rule 3, the **SRA** shall give notice to the relevant **person**:
- (a) setting out the allegation and particularising the facts in support;
 - (b) summarising any regulatory history relating to the relevant **person**, or any associated **person**, which is relevant to the allegation;
 - (c) where appropriate, making a recommendation as to the decision to be made under rule 3, regarding publication under rule [9], and costs under rule [10]; and
 - (d) accompanied by any evidence or documentation that the **SRA** considers to be relevant to the allegation, and

inviting the person to respond with written representations within such period as the **SRA** may specify (which must be no less than 14 days from the date of the notice).

- 2.4 At any stage, the **SRA** may decide to take no further action in respect of an allegation and to close the matter. If so, the **SRA** may decide to issue advice to the relevant **person**, or a warning regarding their future conduct or behaviour, but it must give notice under rule 2.3 before doing so. The **SRA** must inform both the relevant **person** and any person who reported the allegation to the **SRA** of any decision to close a matter under this rule, together with reasons.
- 2.5 At any stage the **SRA** may decide to refer an allegation for consideration as to whether it should exercise its powers of **intervention**.

Rule 3: Consideration by authorised decision makers

- 3.1. On finding that an allegation is proved (save for sub-paragraph (g)), an **authorised decision maker** may decide as appropriate in respect of a relevant **person** to:
- (a) give a written rebuke, in accordance with section 44D(2)(a) of the **SA** or Paragraph 14B(2)(a), Schedule 2 to the **AJA**;
 - (b) direct the payment of a financial penalty in accordance with section 44D(2)(b) of the **SA**; Paragraph 14B(2)(b), Schedule 2 to the **AJA** or section 95 of the **LSA**, together with the amount of any penalty;
 - (c) disqualify a person from acting as a **HOLP** or **HOFA**, **manager** or employee of a body licensed under the **LSA** in accordance with section 99 of the **LSA**;

- (d) make an order to control the person's activities in connection with legal practice, in accordance with section 43(2) of the **SA**;
- (e) impose a condition on the practising certificate of a **solicitor**, the registration of a **REL** or **RFL** or the authorisation of a body for such period as may be specified, in accordance with section 13A (1) of the **SA**; Paragraph 2A (1), Schedule 14 to the Courts and Legal Services Act 1990; section 9(2F) of the **AJA** or section 85 of the **LSA** and section 19 of The European Communities (Lawyer's Practice) Regulations 2000;
- (f) revoke or suspend authorisation to practise under the SRA Authorisation of Firms Rules;
- (g) make an application to the **Tribunal** under section 47 of the **SA** for the allegation to be considered.

3.2 At any stage, an **authorised decision maker** may:

- (a) pending a final decision under rule 3.1 or by the **Tribunal**, impose interim conditions on the practising certificate of a **solicitor**, the registration of a **REL** or **RFL** or the authorisation of a body, where satisfied it is necessary for the protection of the public or in the public interest to do so; or
- (b) following an application to the **Tribunal** under section 47 of the **SA** in circumstances in which the **solicitor, REL** or **RFL** has been convicted of an indictable offence or an offence involving dishonesty or deception, suspend or continue a suspension of their practising certificate or registration in accordance with section 13B of the **SA**.

3.3 As soon as reasonably practicable, the **SRA** shall give notice to the relevant **person** of any decision made under this rule, together with reasons, and will inform the person of any right they may have to apply for a review or appeal of the decision.

3.4 A decision is made on the date notice of it is given under rule 3.3.

Rule 4: Decisions to impose a financial penalty

4.1 An **authorised decision maker** may decide to direct the payment and specified amount of a financial penalty under rule 3.1(b), where this is necessary to remove any financial or other benefit arising from the conduct and to provide a credible deterrent.

4.2 Where the **SRA** recommends the imposition of a financial penalty on a relevant **person**, it may, by notice, require the person to provide a statement as to their financial means which includes a statement of truth, within such period as the **SRA** may specify (which must be no less than 14 days from the date of the notice).

4.3 Where an **authorised decision maker** has directed a person to pay a financial penalty:

- (a) such penalty shall be paid within a time and in the manner **prescribed**;

(b) the **SRA** may direct that the payment of all or part of the penalty be suspended on such terms as **prescribed**.

Rule 5: Decisions to disqualify a person

5.1 An **authorised decision maker** may decide to disqualify a **person** under rule 3.1(c) only where they are satisfied that it is undesirable for the **person** to engage in the relevant activity or activities.

Rule 6: Applications to the Tribunal

6.1 An **authorised decision maker** may decide to make an application to the **Tribunal** in respect of a firm or an individual under rule 3.1(g) only where they are satisfied that:

- (a) there is a realistic prospect of the **Tribunal** making an order in respect of the allegation; and
- (b) it is in the public interest to make the application.

6.2 Where an **authorised decision maker** has made an application to the **Tribunal**, the **SRA** may carry out such further investigations, and in doing so may exercise any of its investigative powers under statute, as it considers appropriate.

Rule 7: Review of certain decisions

7.1 Where a person has been:

- (a) disqualified from acting as a **HOLP** or **HOFA**, or a **manager** or employee of a body licensed under the **LSA**;
- (b) made subject by the **SRA** to an order under section 43(2) of the **SA**; or
- (c) made subject by the **SRA** to an order suspending their practising certificate or registration in the **register of European Lawyers** or the **register of foreign lawyers**,

where there has been a material change in circumstances, the relevant **person** may apply to the **SRA** seeking a decision that the disqualification or order should cease to be in force.

7.2 An **authorised decision maker** may decide that a disqualification should cease to be in force if they are satisfied that it is no longer undesirable for the disqualified person to engage in the relevant activity or activities.

Rule 8: Evidential and procedural matters

- 8.1 The **SRA** may vary the procedure set out in these rules where it considers that it is in the interests of justice, or in the overriding public interest, to do so.
- 8.2 A decision under rule 3 may be made by agreement between the relevant **person** and the **SRA**.
- 8.3 Before reaching a decision under rule 3, an **authorised decision maker** or adjudication panel may give directions for the fair and effective disposal of the matter.
- 8.4 Decisions of an adjudication panel must be made by simple majority.
- 8.5 Where an allegation is being considered by an adjudication panel, the proceedings will generally be conducted in private by way of a meeting. However, the panel may decide to conduct a hearing, which it may decide should be held in public, if it considers it in the interests of justice to do so.
- 8.6 Where an adjudication panel have decided to consider an allegation at a hearing:
- (a) the **SRA** shall send a notice informing the relevant **person** of the date, time and venue of the hearing, no less than 28 days before the date fixed for the hearing;
 - (b) the relevant **person** and the **SRA** shall have the right to attend and be represented; and
 - (c) the panel may, at any time, whether of its own initiative or on the application of a party, adjourn the hearing until such time and date as it thinks fit.
- 8.7 The civil standard of proof applies to all decisions made under these rules.
- 8.8 An **authorised decision maker** may admit any evidence they consider fair and relevant to the case before them, whether or not such evidence would be admissible in a **court**.
- 8.9 A certificate of conviction, or a finding by a **court** or disciplinary or regulatory body, certified by a competent officer of the **court**, or relevant body in the **UK** or **overseas**, shall be conclusive evidence of the offence committed or finding reached, and the facts relied upon.

Rule 9: Disclosure and publication

- 9.1 The **SRA** may disclose or publish any information arising from or relating to an investigation, either in an individual case or a class of case, where it considers it to be in the public interest to do so.
- 9.2 The **SRA** shall publish any decision under rule 3.1(a) to (f) or 3.2, when the decision takes effect or at such later date as it may consider appropriate, unless it considers the particular circumstances outweigh the public interest in publication.

- 9.3 The **SRA** shall notify the Legal Services Board as soon as reasonably practicable:
- (a) of any decision to disqualify a **person** under rule 3.1(c);
 - (b) of the results of any review of any decision to disqualify a **person** under rule 7; and
 - (c) of any decision that a **person's** disqualification should cease to be in force.

Rule 10: Costs

[To be completed following consultation]

Supplemental notes

Made by the SRA Board on [date]

Made under sections xxxx of the Solicitors Act 1974, section 9 of the Administration of Justice Act 1985, section 83(5)(h) of, and paragraph 20 of Schedule 11 to the Legal Services Act 2007

Approved by the Legal Services Board under paragraph 19 of Schedule 4 to the Legal Services Act 2007, on [date]

Commencing on [date] and replacing the [SRA Disciplinary Procedure Rules 2011]