

News release

Updated plans on financial penalties following consultation feedback

23 May 2022

We have announced how we intend to move forward with plans to update our approach on issuing financial penalties to law firms and solicitors who fall short of the expected professional standards.

We launched a public consultation last year on proposed changes to our current approach to issuing penalties. The aim of these proposals is to make sure we have a robust approach in place which protects the public, provides a more appropriate deterrent and ensures cases can be resolved much more quickly - reducing costs and stress for all involved.

More than 7,500 people engaged with consultation, with most broadly in favour of the principles outlined, including the public, profession and their representative groups, although some did provide differing views on the detail of how specific proposals would be implemented.

Based on the feedback received, we will now move ahead with plans to:

- take into account, in all cases, the turnover of firms and financial means of individuals when setting fines
- seek an increase to the maximum fine we can issue internally to traditional firms, and those working in them, from £2,000 to £25,000
- amend our guidance to highlight that for cases involving sexual misconduct, discrimination or any form of harassment, financial penalties will only be considered in exceptional circumstances, with restrictions on practice, suspension or strike off the more appropriate sanction
- introduce a schedule of 'fixed penalties' for lower-level breaches - enabling cases to be dealt with more quickly for all concerned.

One key area of concern was around a lack of alignment in approach between the SRA and Solicitors Disciplinary Tribunal (SDT). This included feedback that the SDT regime provides more confidence due to greater transparency and independence, while an increase in our fining powers risked a misalignment with the SDT's approach.

We agreed that better alignment with the SDT should be aimed for. We have committed to working with the SDT to develop updated guidance on financial penalties, and the new rules that support the introduction of a fixed penalties scheme.

We will also be looking to develop our processes to increase transparency. This includes consultation on the [publication of regulatory decisions](https://www.sra.org.uk/sra/consultations/consultation-listing/publication-regulatory-decisions/?s=o) [https://www.sra.org.uk/sra/consultations/consultation-listing/publication-regulatory-decisions/?s=o], to make sure that information about our decisions is accessible, clear, transparent, and consistent.

We will also do further work to explain the checks and balances in place in our processes. We will communicate the safeguards in place, including our use of separate adjudicators in decision making, and the options to appeal decisions, including appealing SRA fines to the SDT.

Other examples of where feedback during the consultation helped shape our final proposals included:

- commissioning independent research on whether turnover was the best metric against which to consider firm fines.
- retaining the option to consider if a financial penalty is most appropriate for specific cases of sexual misconduct, discrimination or harassment, but only in exceptional circumstances
- recognising that firm misconduct is distinct from individual misconduct, and a financial penalty may be appropriate where poor systems of controls allow poor behaviour to occur or persist

Anna Bradley, SRA Chair said: 'The overwhelming majority of solicitors meet the standards we all expect, but when they don't, we step in to protect the public and maintain confidence in the profession. These changes mean we can resolve issues more quickly, saving time and cost for everyone and, importantly, reducing the inevitable stress for those in our enforcement processes.'

'It was good to see broad support for our proposals, as well as getting feedback that has helped us refine our approach. It is vital that everyone can be confident that our approach is fair and transparent.'

The ability to take account of turnover or individual income in setting fines would allow different levels of fine to be issued to a low-earning junior solicitor compared to a senior equity partner for similar offences.

Increasing our fining threshold to £25,000 would mean more disciplinary matters could be dealt with by us directly without being referred to the Solicitors Disciplinary Tribunal (SDT). Not only enabling cases to be resolved more quickly, but also freeing up the tribunal to focus on more complex issues.

A further consultation will also be held later this year on the detail of how a new fixed penalty regime would work. Such penalties would mostly deal with lesser or administrative breaches – such as failures to comply with requests for information or requirements under the [SRA Transparency Rules](https://www.sra.org.uk/solicitors/standards-regulations/transparency-rules/). [https://www.sra.org.uk/solicitors/standards-regulations/transparency-rules/]

In terms of both fines and fixed penalties, solicitors and firms would retain the right to appeal any outcome or penalty imposed at the SDT.

Our fining regime was introduced ten years ago. Since then there have been significant changes, including the 2019 introduction of a new [Enforcement Strategy](https://www.sra.org.uk/sra/corporate-strategy/sra-enforcement-strategy/enforcement-practice/social-media-offensive-communications/) [https://www.sra.org.uk/sra/corporate-strategy/sra-enforcement-strategy/enforcement-practice/social-media-offensive-communications/] and the SDT adoption of the civil standard of proof in line with that used by the SRA. The limit for fines applies to 'traditional' law firms. For alternative business structures, the SRA can fine up to a limit of £50 million for individuals and £250 million for firms.

Any fines we or the SDT go to HM Treasury.

Read our [consultation response](https://www.sra.org.uk/sra/consultations/consultation-listing/financial-penalties-2021/) [https://www.sra.org.uk/sra/consultations/consultation-listing/financial-penalties-2021/], next steps and full detail of feedback received.