

Guide for people who give the SRA information about solicitors

This guide explains what you can expect if we ask you to provide witness evidence to support our investigation and disciplinary action against a solicitor or firm. We understand this can be difficult and have provided more information about available support below.

You can read more about what we do if you have also made a report to us in our information on 'reporting an individual or a firm'. You may also like to read our guidance on the obligations we impose on those we regulate to report matters to us and how we approach this, as well as when we might disclose information to the police.

Providing witness evidence during the investigation stage

When we receive information about possible misconduct, we assess the evidence provided and decide whether we should investigate. If we do investigate further, one of our investigation officers will gather more information about the case.

In some cases, we may ask for a statement from you, either to establish what has happened or to demonstrate the impact that certain actions have had. If you have any concerns about the process you can talk to the investigation officer who will be your SRA contact. We may be able to take a statement over the phone or it may be better to meet you to talk through the case in person.

If we do need to meet with you, we will contact you to arrange a mutually convenient time and location. The meeting will involve you speaking about the events in detail and reviewing any relevant documents in support. We might need to ask you for more information as a result. We will take a note of what you tell us and advise you what happens next. Let us know if you want to bring someone with you to the meeting for support, this could be a friend, relative or colleague.

What action we will take

We explain more about our enforcement action and how we evaluate the seriousness of misconduct in our Enforcement Strategy.

In some cases, we will take disciplinary action using our internal processes. This involves us making a decision, usually on the papers alone, on the allegations we have investigated. If proven, we can impose a range of disciplinary and regulatory sanctions such as a rebuke or a fine.

Where the misconduct is more serious we will take disciplinary proceedings at the Solicitors Disciplinary Tribunal [<http://www.solicitorstribunal.org.uk/>] (SDT) which is independent of the SRA. The SDT generally has more extensive powers than we do and can prevent a solicitor from practising or impose an unlimited fine.

If we do decide to take further action, we will let you know and explain what this means for you.

Witness evidence in cases at the Solicitors Disciplinary Tribunal (SDT)

If we decide to take a case to the SDT, we will continue to be in touch with you throughout the time that the case is prepared, including dealing with the hearing at the SDT and what happens afterwards. A case handler in our legal department will talk to you further about your evidence. They will explain the likely stages involved, how long the process may take and can answer any questions you may have.

The case handler will help you preserve your evidence. This will include guidance on how you should not discuss your evidence with anyone prior to a hearing or when you attend the SDT. It is vital that your evidence is not influenced by anyone else.

In some cases, we may ask if you would like to make a victim impact statement, so you can tell the SDT how the actions of the solicitor or firm have affected you. This could be physically, emotionally, psychologically, financially or in another way. We can discuss whether it would be helpful and how it will be used.

We will not always need you to give evidence in person at a hearing, for example, if the information in your witness statement is agreed or if the case is resolved without a hearing.

If we do need you to give evidence in person, we will let you know in good time and try to make sure the hearing date is convenient for you. The date is set by the SDT and sometimes it can be difficult to suit everyone's needs.

We will support you through the process.

SDT hearings are usually held in public, and if your evidence is about personal or sensitive matters or if you are particularly worried about giving evidence in person, we may be able to ask the SDT to provide 'special measures' to support you. Special measures are adjustments the SDT can make to assist witnesses in giving evidence and could include:

- Remote live video links so you can give evidence outside the room where the hearing is taking place.

- Screens to shield a witness from another party or the public while they are giving evidence.
- Holding the hearing or part of the hearing in private.
- Regular breaks when you are giving evidence.

Further information about special measures can be found on the SDT website. Whilst we can make the application for you, it is the SDT who will decide whether to provide such measures for the hearing.

What happens at the Solicitors Disciplinary Tribunal hearing?

In good time before the hearing we will send you directions to the SDT and when you need to arrive. The address of the SDT is Gate House, 1 Farringdon Street, London EC4M 7LG. The SDT reception is on the 3rd floor and we will meet you there.

In some cases, we will instruct external solicitors or a barrister to represent us and we will let you know if this is the case. You will have an opportunity to meet them before the hearing starts and in some cases, you may already have met them in preparing for the hearing. Your case handler will also be there to support you.

Sometimes there are several cases on the same day and the case in which you are involved may not start until later in the day. You may be waiting for some time, so it's a good idea to take something to read.

SDT hearings are usually in public and sometimes journalists will be there, but you will not be expected to talk to them. In exceptional circumstances, the hearing may be in private, so the media cannot report it.

A panel of three people from the SDT will hear the case, the Chair, a legally qualified person and a lay person. A clerk will record what is said.

When you are called to give evidence, you will be shown to the witness desk. The Chair will usually introduce the panel to you and ask if you prefer to take a religious oath on a holy book or to make an affirmation about the truth of your evidence.

The lawyer representing the SRA will ask you to confirm your witness statement and may ask a few questions about its content, but everyone involved in the hearing will have seen it in advance so you will not have to repeat it all at the hearing or read it out. You might be referred to some documents from a folder in front of you and asked to comment on important ones. We will make sure you have seen the documents which are relevant to your evidence before the hearing, so you should not be surprised on the day.

The people we are prosecuting, usually have their own legal representative but not always. They will ask you questions about things you have said in your statement that they do not agree with. This is called cross examination and you can take your time when answering a question or ask for it to be repeated or explained. A member of the SDT panel may ask you a question to make sure they have understood you correctly.

There will be a break for lunch during the hearing and if you have not finished giving your evidence by then, you will be asked not to discuss the case with anyone over the break.

Once you have finished giving your evidence, you can leave or sit at the back of the hearing room. Occasionally it is not possible to finish giving your evidence before the SDT concludes at the end of the day, usually about 17.00. If that happens you will be asked to come back again the following day and must not discuss the case with anyone overnight.

After the Hearing

The SDT usually announces the outcome at the end of the hearing. It will say whether there has been professional misconduct and if so, whether a penalty will be imposed. This could be a reprimand, fine, suspension or striking off from the Roll of Solicitors. The announcement will not include the names of the witnesses who gave evidence.

If you are not there to hear the outcome, or if the Chair decides to announce the outcome at a later date, we will let you know what happened as soon as we can.

The SDT will prepare a written judgement after the hearing, setting out the evidence and the reasons for the outcome. This may take several weeks, and we can send you a copy if you would like to read it. These judgments are usually published on the SDT's website. It is usual for judgments to anonymise details of any witness who has given evidence at the hearing. We can also ask the SDT to make orders that enhance anonymity. For example, to prevent third parties, such as the press, from publishing details about witnesses that might enable them to be identified.

Claiming your expenses

We will cover your expenses for attending the SDT, such as hotel accommodation and travel. Any such expenses would need to be discussed with your SRA contact prior to the hearing and we may be able to help make arrangements for you.

To claim your expenses, please send your original receipts to your SRA contact (keeping a copy for your records) and we will usually be able to reimburse you within 14 days.

Feedback

Please get in touch with your SRA contact if you have any questions or need any support during the process. We may ask you about your experience after the case has concluded so please share your thoughts with us. We will use your feedback to improve the way we work with witnesses in our investigation and disciplinary work.

Other proceedings

Sometimes we take legal proceedings before other courts, for example in the Magistrates Court if someone is pretending to be a solicitor when they are not.

Our processes for preparing witness statements is similar for these cases and we will let you know whether we need to call you to give evidence at the hearing and what will happen if you do need to attend. We can offer the same level of support and will cover your expenses.

Do you need extra support?

Please tell us if you have a disability, illness or condition which may affect your ability to provide evidence. We can then discuss whether you need any reasonable adjustments and how we can support you during the process.

For instance, you may want us to write to you in larger print or to have somebody help you through the process. If English is not your first language, we might be able to provide an interpreter or translator.

If your evidence is about sensitive or personal matters which are difficult to talk about, we may be able to provide further support or refer you to other agencies who can help. Please share your concerns with your SRA contact so we can do something to help.

Questions and answers about being a witness for the SRA

Although I feel it is right to report my concerns to the SRA, I do not want to give evidence at disciplinary proceedings and be responsible for someone losing their career

We understand how you might feel and will talk you through what is involved in giving evidence and the possible outcome of the matter you have reported to us. We will investigate the matter thoroughly and take a fair and proportionate approach. Solicitors are only struck off in the most serious cases, and these decisions are made by the Solicitors Disciplinary Tribunal, an independent body, after considering all the evidence. There may be other people who have been affected by the person you have

reported to us and it is our job to make sure the public is protected. You can read more about how we decide when it is right to take enforcement action.

If I agree to give a witness statement, will I be interrogated by the SRA about what has happened?

We understand that making a report and providing a statement can be daunting and we will provide you with a named contact at the SRA who will support and guide you through the process and explain what is happening. We will probably need to ask you about the information you provide to us, but that will never be an 'interrogation'. We just need to understand what has happened and how that has affected you. We will use this information to decide whether to take action about the person or firm that we are investigating.

Will I have to meet the person I am giving evidence about?

We understand you may feel worried about this, especially if your case involves sexual misconduct or harassment. You will not be expected to meet the person you are giving evidence about if the investigation is dealt with internally. If the case goes to a hearing at the Solicitors Disciplinary Tribunal and you are asked to give evidence in person, the SDT may put in place 'special measures' so you do not come into contact with the person you are giving evidence about. We will talk through your concerns and where the circumstances support it, will make an application for special measures to the SDT for you.