



# PROFESSIONAL ETHICS

SQE 1 PREP

LAW ANGELS

## **PROFESSIONAL ETHICS**

© 2025 by LAW ANGELS

### **ALL RIGHTS RESERVED**

No part of this book may be reproduced, distributed, or transmitted in any form or by any means without the prior written permission of the publisher, except in the case of brief quotations embodied in critical reviews and certain other noncommercial uses permitted by copyright law.

First Edition

April 07, 2024

**LAW ANGELS**

[admin@usedtotech.com](mailto:admin@usedtotech.com)

[www.usedtotech.com](http://www.usedtotech.com)

# PREFACE

Professional ethics is the conscience of the legal profession. It is not a peripheral set of rules but the very framework that defines a solicitor's identity, governs their conduct, and upholds the integrity of the entire justice system. This textbook is designed to be your guide through this critical landscape, transforming abstract principles into the daily practices of a trustworthy legal advisor.

Our approach is built on a simple belief: to excel as a solicitor, you must internalise your ethical duties, not just recall them. We have therefore structured this text to do more than list the *SRA Principles* and *Codes of Conduct*. It deconstructs them, illustrating how these core obligations apply in the complex, often ambiguous scenarios you will face in practice. You will find a consistent focus on navigating conflicts of interest, upholding confidentiality, maintaining independence, and acting in the best interests of your clients and the administration of justice.

The SQE1 assessment and your future career demand a deep, application-based understanding of professional conduct. This book is tailored to that challenge. We integrate the *SRA Standards and Regulations* and pivotal regulatory tribunal decisions not as a dry codex, but as the essential toolkit for professional life. Real-world case studies, reflective questions, and strategic analyses are woven throughout to transform your understanding from passive knowledge to active, ethical decision-making.

Our goal is to equip you with the moral compass and practical judgment to navigate the inevitable ethical challenges of practice. Whether you are balancing duties to different clients, managing client money, or upholding your duty to the court, the following pages will provide the clarity, depth, and analytical rigour you need to succeed with integrity.

Welcome to the study of professional ethics. This is not merely another subject to be mastered for an exam; it is the foundation upon which a respected and resilient legal career is built.

*Law Angels*

# ACKNOWLEDGEMENTS

The development of this textbook was a significant endeavor, and we extend our sincere gratitude to the collective efforts that made this publication possible.

At Law Angels, we are fortunate to be supported by a dedicated team whose commitment to legal education and excellence is the cornerstone of our work. The collaborative spirit, legal expertise, and tireless effort of our entire organization were instrumental in shaping this text from concept to completion.

We also extend our appreciation to the broader legal community. The insightful feedback from our academic and practitioner reviewers greatly enhanced the accuracy and clarity of the material. Their contributions, offered in a spirit of scholarly collaboration, have been invaluable in ensuring this resource meets the rigorous demands of the SQE curriculum.

We are also thankful for the unwavering support from our personal networks, whose understanding provided the foundation that allowed this project to thrive.

It is our privilege at Law Angels to contribute to the education of future solicitors, and we hope this text serves as a reliable guide for the next generation of legal professionals.

# TABLE OF CONTENTS

PREFACE	3
ACKNOWLEDGEMENTS	4
TABLE OF CONTENTS	5
TABLE OF STATUTES AND REGULATIONS	11
GLOSSARY OF KEY TERMS	12
CHAPTER 1 INTRODUCTION TO PROFESSIONAL ETHICS AND LEGAL REGULATION	16
1.1 The Importance of Ethics in the Legal Profession	16
1.2 Core Ethical Values: Integrity, Independence, and Trust	17
1.3 Overview of the <i>Legal Services Act 2007</i> and the Regulatory Framework	18
1.4 The Role of the Solicitors Regulation Authority (SRA)	18
1.4.1 <i>SRA Principles</i>	19
1.4.2 <i>SRA Code of Conduct for Solicitors, RELs and RFLs</i>	19
1.4.3 <i>SRA Code of Conduct for Firms</i>	20
1.4.4 <i>SRA Authorisation of Individuals and Firms</i>	20
1.5 The Role of the Legal Ombudsman (LeO) and the Legal Services Board (LSB)	21
1.6 The Solicitors' Disciplinary Tribunal (SDT)	21
1.7 Distinction between Conduct, Regulatory Requirements, and Criminal Law	22
1.8 The Duty to Report Serious Misconduct (Self and Others)	22
1.9 Conclusion	23
CHAPTER 2 THE SRA PRINCIPLES AND FUNDAMENTAL OBLIGATIONS	24

2.1 A Detailed Analysis of the <i>SRA Principles</i>	24
2.1.1 <i>Upholding the Constitutional Principle of the Rule of Law and the Proper Administration of Justice</i>	25
2.1.2 <i>Upholding Public Trust and Confidence in the Profession</i>	26
2.1.3 <i>Acting with Honesty</i>	27
2.1.4 <i>Acting with Integrity</i>	29
2.1.5 <i>Acting with Independence and in the Best Interests of the Client</i>	30
2.1.6 <i>Providing a Proper Standard of Service</i>	31
2.1.7 <i>Behaving in a Way that Promotes Equality, Diversity, and Inclusion (EDI)</i>	32
2.2 The Overarching Nature of the Principles	33
2.3 Balancing Conflicting Principles in Practice	33
2.4 Conclusion	34
CHAPTER 3 CLIENT CARE AND THE RETAINER	35
3.1 Establishing the Client-Lawyer Relationship	35
3.1.1 <i>Taking Instructions and Client Capacity</i>	36
3.1.2 <i>Identifying the Client (Individuals, Companies, Vulnerable Clients)</i>	36
3.1.3 <i>Retainers: Express, Implied, and Conditional Fee Agreements (CFAs)</i>	37
3.2 The Client Care Letter and Terms of Business	38
3.2.1 <i>Mandatory Content and Best Practices</i>	38
3.2.2 <i>Information on Costs and Complaints Handling</i>	38
3.3 The Duty to Act in the Client's Best Interests	39
3.4 The Duty of Confidentiality	39
3.4.1 <i>Scope and Limits</i>	39
3.4.2 <i>Data Protection and the UK GDPR in a Legal Context</i>	41
3.4.3 <i>Use of Confidential Information and Whistleblowing within a Firm</i>	42

3.5 Duties Owed to Third Parties and Other Stakeholders	43
3.6 Financial Services and Business Management: An Overview of the SRA Accounts Rules and SRA Indemnity Insurance Rules	44
3.7 Conclusion	44
CHAPTER 4 CONFLICTS OF INTEREST	46
4.1 Defining a Conflict of Interest	46
4.2 Distinguishing Between Different Types of Conflicts	47
4.2.1 Client-Client Conflicts (Acting for Multiple Parties)	47
4.2.2 Lawyer-Client Conflicts (Personal Interest Conflicts)	48
4.2.3 Own Interest Conflict vs. Duty to Client	48
4.3 The Prohibition on Acting in Conflict Situations	48
4.4 Exceptions and When You Can Act	49
4.4.1 Substantially Common Interest	49
4.4.2 Competing for the Same Asset	49
4.4.3 Informed Consent from All Affected Clients	50
4.5 Confidentiality and the "Information Barrier" (Chinese Walls)	51
4.6 Practical Steps for Conflict Checking and Management	51
4.7 Conclusion	52
CHAPTER 5 FINANCIAL SERVICES AND BUSINESS MANAGEMENT	53
5.1 The SRA Accounts Rules: An Overview and Core Duties	53
5.2 Client Money vs. Office Money: The Fundamental Division	54
5.3 Key Rules in Detail	55
5.3.1 Holding and Receiving Client Money	55
5.3.2 Proper Use of Client Accounts	56
5.3.3 Returning Client Money Promptly	56
5.3.4 Payment of Interest	57

5.4 Accounting Systems, Record Keeping, and Reconciliation	57
<i>5.4.1 The Imperative for Systems and Controls</i>	57
<i>5.4.2 The Core Components of the Accounting System</i>	58
<i>5.4.3 The "Three-Way Check": The Gold Standard of Control</i>	60
<i>5.4.4 Frequency, Responsibility, and Consequences of Failure</i>	61
5.5 Financial Stability and Management of the Firm	61
5.6 Introduction to the SRA Indemnity Insurance Rules	62
5.7 Conclusion	63
CHAPTER 6 DUTIES TO THE COURT, THIRD PARTIES AND THE ADMINISTRATION OF JUSTICE	64
6.1 The Overriding Duty to the Court and the Administration of Justice	64
6.2 Duties of an Advocate and Litigator	65
<i>6.2.1 Candour and Disclosure: The Duty Not to Mislead the Court</i>	65
<i>6.2.2 Presentation of Evidence and Legal Argument</i>	66
6.3 Dealing with Unrepresented Parties and Litigants in Person (LiPs)	68
6.4 Duties Owed to Third Parties	69
6.5 Dealing with Mistakes and Correcting the Record	69
6.6 Conclusion	70
CHAPTER 7 INTEGRITY, CONFIDENTIALITY, AND DISCLOSURE	72
7.1 The Duty of Disclosure: When Must You Reveal Information?	72
7.2 Balancing Confidentiality with Disclosure Obligations	73
<i>7.2.1 Money Laundering Reporting Obligations under POCA 2002</i>	73
<i>7.2.2 Terrorism Financing and the Terrorism Act 2000</i>	77
<i>7.2.3 Prevention of Fraud and Crime</i>	77
7.3 The Professional Privilege Exceptions	77
<i>7.3.1 Legal Advice Privilege</i>	78



7.3.2 <i>Litigation Privilege</i>	79
7.4 Conclusion	81
CHAPTER 8 EQUALITY, DIVERSITY AND INCLUSION IN THE PROFESSION	82
8.1 The SRA Principle on Equality, Diversity, and Inclusion	82
8.2 Legal Framework: <i>The Equality Act 2010</i>	83
8.2.1 <i>Protected Characteristics</i>	83
8.2.2 <i>Prohibition of Discrimination, Harassment, and Victimisation</i>	84
8.3 Promoting EDI within a Law Firm	87
8.4 Reasonable Adjustments for Clients and Colleagues	87
8.5 Unconscious Bias and its Impact on Professional Practice	88
8.6 The Business Case for a Diverse and Inclusive Profession	89
8.7 Conclusion	90
CHAPTER 9 PROFESSIONAL CONDUCT AND DISCIPLINE	91
9.1 Overview of the SRA's Disciplinary Powers and Procedures	91
9.2 Common Types of Professional Misconduct	92
9.3 The Solicitors' Disciplinary Tribunal (SDT): Jurisdiction and Sanctions	93
9.4 Outcomes for Breaches: Fines, Reprimands, Suspension, and Strike-off	94
9.5 The Role of Case Studies and Precedents in Understanding Enforcement	95
9.6 The Importance of Reflective Practice and Continuing Competence	95
9.7 Conclusion	96
APPENDIX A	97
SRA PRINCIPLES	97
APPENDIX B	99
SRA CODE FOR SOLICITORS	99
APPENDIX C	103

SRA ACCOUNT RULES 2019	103
APPENDIX D	106
SAMPLE CLIENT CARE LETTER AND TERMS OF BUSINESS	106

# TABLE OF STATUTES AND REGULATIONS

1. Civil Procedure Rules 1998
2. Data Protection Act 2018
3. Equality Act 2010
4. Legal Services Act 2007
5. Proceeds of Crime Act 2002 (POCA)
6. Solicitors Act 1974
7. Solicitors Regulation Authority (SRA) Accounts Rules 2019
8. Solicitors Regulation Authority (SRA) Code of Conduct for Firms 2019
9. Solicitors Regulation Authority (SRA) Code of Conduct for Solicitors 2019
10. Solicitors Regulation Authority (SRA) Indemnity Insurance Rules 2019
11. Solicitors Regulation Authority (SRA) Principles 2019
12. Terrorism Act 2000
13. UK General Data Protection Regulation (UK GDPR) 2021

# GLOSSARY OF KEY TERMS

## A

**Advocate:** A solicitor who represents a client in court, owing duties both to the client and to the court to act honestly and uphold the administration of justice.

**Authorisation (SRA):** The formal approval granted by the Solicitors Regulation Authority (SRA) allowing an individual or firm to provide reserved legal services, subject to ongoing compliance with regulatory standards.

## C

**Client Care Letter:** A mandatory document provided to a client at the outset of a matter, outlining the scope of work, costs, service standards, and complaints procedures, ensuring clarity and transparency.

**Client Money:** Funds held by a solicitor on behalf of a client or third party in relation to a legal matter. Such funds must be held in a designated client account and not mixed with the firm's own money.

**Code of Conduct:** A set of mandatory rules issued by the SRA that governs the professional behaviour of solicitors, RELs, RFLs, and authorised firms.

**Confidentiality:** The solicitor's duty to keep all client information private and to refrain from using it for any purpose other than the client's matter, subject to limited exceptions such as legal compulsion or prevention of serious crime.

**Conflict of Interest:** A situation where a solicitor's duty to one client conflicts, or may conflict, with duties owed to another client or with the solicitor's personal interests.

**Continuing Competence:** The SRA's requirement that solicitors maintain and develop their knowledge, skills, and ethical awareness throughout their careers through reflective practice and professional learning.

## D

**Disciplinary Tribunal (Solicitors Disciplinary Tribunal – SDT):** An independent statutory body that hears the most serious allegations of misconduct against solicitors and firms and can impose sanctions such as suspension or strike-off.

## E

**Equality, Diversity and Inclusion (EDI):** A professional and regulatory principle requiring solicitors and firms to actively promote fairness, equality, and inclusion in all professional dealings and workplace practices.

## F

**Fiduciary Duty:** A duty of loyalty and trust owed by a solicitor to their client, requiring the solicitor to act in the client's best interests and avoid any conflict of interest.

## H

**Honesty:** A core ethical principle requiring solicitors to be truthful and transparent in all professional and regulatory dealings, avoiding deceit or misrepresentation.

## I

**Independence:** The duty to exercise professional judgement free from external pressure or personal interest, ensuring impartial advice and integrity in all matters.

**Integrity:** The broader moral obligation to act fairly, consistently, and ethically, even when not under scrutiny. It goes beyond honesty and reflects moral soundness.

## L

**Legal Ombudsman (LeO):** The independent body responsible for handling service complaints from clients about legal professionals, with powers to order remedies such as apologies or compensation.

**Legal Professional Privilege (LPP):** The right protecting certain solicitor-client communications from disclosure, encompassing both legal advice privilege and litigation privilege.

## M

**Misconduct (Professional Misconduct):** Behaviour by a solicitor or firm that breaches SRA Principles, Codes, or other regulatory requirements, undermining trust in the profession.

**Money Laundering Reporting Officer (MLRO):** The individual within a firm responsible for ensuring compliance with anti-money laundering legislation, including reporting suspicious activity to the National Crime Agency (NCA).

## P

**Proceeds of Crime Act (POCA) 2002:** Legislation imposing obligations on solicitors to report knowledge or suspicion of money laundering and prohibiting “tipping off” clients about such reports.

## R

**Reflective Practice:** The process by which solicitors review and analyse their work to identify areas for improvement, strengthen ethical awareness, and ensure continuing competence.

**Retainer:** The contract between a solicitor and a client defining the scope of legal services and the terms of engagement. It can be express, implied, or conditional (CFA).

**Rule of Law:** The constitutional principle that all individuals and authorities are subject to the law, which must be applied fairly and consistently.

## S

**Sanction:** A disciplinary penalty imposed by the SRA or SDT for professional misconduct, ranging from a rebuke or fine to suspension or being struck off the Roll of Solicitors.

**Solicitors Regulation Authority (SRA):** The independent regulatory body for solicitors in England and Wales, responsible for setting standards, authorising practice, and enforcing professional discipline.

**SRA Accounts Rules:** The regulatory framework governing how solicitors must handle, record, and protect client money, ensuring strict separation between client and office funds and promoting transparency and accountability in legal practice

**Strike-Off:** The ultimate disciplinary sanction removing a solicitor's name from the Roll, thereby prohibiting them from practising law.

**Suspension:** A temporary removal of a solicitor's right to practise, imposed as a disciplinary measure for serious but potentially remediable misconduct.

## T

**Trust:** The essential foundation of the solicitor-client relationship, built on honesty, integrity, and confidentiality, ensuring clients can rely on their solicitor's word and judgement

# 1

## INTRODUCTION TO PROFESSIONAL ETHICS AND LEGAL REGULATION

Ethics lie at the heart of the legal profession, shaping how solicitors uphold justice, fairness, and public trust. The profession's responsibilities extend beyond serving clients to protecting the integrity of the legal system itself. Integrity, independence, and trust are the core values that sustain confidence in solicitors and the rule of law. A solicitor's reputation and professional standing depend on consistently applying these values in every aspect of practice.

To preserve this trust, the profession operates within a strong regulatory framework. The *Legal Services Act 2007*, the Solicitors Regulation Authority (SRA), and oversight bodies such as the Legal Ombudsman and Legal Services Board collectively ensure accountability and ethical compliance. These structures uphold the principle that solicitors must not only act lawfully but honourably, maintaining the highest standards of professionalism in the public interest.

### **1.1 The Importance of Ethics in the Legal Profession**

The legal profession is not merely a commercial service industry; it is a vital pillar of a democratic society, entrusted with upholding the rule of law and ensuring access to justice. At the heart of this profession lies a profound commitment to professional ethics, which serves as the bedrock of public confidence and the cornerstone of a solicitor's daily practice. Unlike many other professions, a solicitor's duties extend beyond their immediate client to the court,



the legal system, and the public at large. This unique position of trust demands a framework of ethical conduct that is both rigorous and reflective of the profession's core values.

For a newly qualified solicitor, understanding and integrating these ethical obligations is not an optional extra but a fundamental aspect of professional competence. A strong ethical compass is the most critical tool a solicitor possesses, guiding them through complex situations where the legally permissible course of action may not align with the professionally right one. Ultimately, a reputation for integrity is a solicitor's most valuable asset, and its preservation begins with a deep and unwavering commitment to the ethical standards of the profession.

## **1.2 Core Ethical Values: Integrity, Independence, and Trust**

Three interconnected values form the ethical bedrock of the solicitors' profession: integrity, independence, and trust. Integrity is the quality of being honest and having strong moral principles. For a solicitor, this means more than just avoiding dishonesty; it necessitates probity, fairness, and candour in all professional dealings. It is about doing the right thing, even when no one is watching, and forms the basis of the client's and the public's reliance on a solicitor's word. Independence is the state of being free from undue influence or control. A solicitor must exercise their independent professional judgement, free from pressure from the client, the firm, or third parties.

This ensures that the advice provided is objective and given solely in the interests of the client and the administration of justice. The culmination of acting with integrity and independence is the establishment of trust. Trust is the currency of the legal profession. Clients must trust their solicitor with their most sensitive personal and financial information. The courts must trust solicitors to present cases fairly and honestly. Society must trust the profession to operate the legal system effectively. Without this trust, the profession cannot function, and the rule of law is undermined.

### **1.3 Overview of the *Legal Services Act 2007* and the Regulatory Framework**

The modern regulatory landscape for legal services in England and Wales was fundamentally reshaped by the *Legal Services Act 2007 (LSA 2007)*. This Act was introduced to create a more independent, consistent, and competitive regulatory environment. Prior to the *LSA 2007*, the legal profession was largely self-regulating, with the professional bodies themselves setting and enforcing the rules. The Act established a new, overarching regulatory body, the Legal Services Board (LSB), to oversee the frontline regulators, such as the Solicitors Regulation Authority (SRA).

It also defined "reserved legal activities," such as the exercise of a right of audience, the conduct of litigation, and reserved instrument activities, which can only be carried out by persons who are authorised or exempt. Furthermore, the Act introduced Alternative Business Structures (ABS), allowing non-lawyers to own and manage law firms, a significant shift designed to encourage innovation and competition. The *LSA 2007* created a coherent framework where the LSB supervises approved regulators like the SRA, who in turn regulate the individuals and firms that provide legal services, all with the statutory objectives of protecting and promoting the public interest, supporting the constitutional principle of the rule of law, and improving access to justice.

### **1.4 The Role of the Solicitors Regulation Authority (SRA)**

The Solicitors Regulation Authority (SRA) is the independent regulatory body for solicitors and most law firms in England and Wales. It operates as an approved regulator under the *LSA 2007*, with its powers derived from the *Solicitors Act 1974* and other legislation. The SRA's primary role is to regulate the profession in the public interest by setting the standards for education and training, authorising individuals and firms to practise, monitoring compliance, and taking enforcement action where necessary. Its focus is on ensuring that solicitors and firms meet the high professional standards required to protect clients and the public.

### 1.4.1 SRA Principles

The *SRA Principles* are the ten fundamental rules of ethical conduct that underpin all aspects of a solicitor's practice. They are mandatory and apply to all those regulated by the SRA, as well as to their firms. The *Principles* are overarching; they define the fundamental ethical and professional standards expected of all solicitors. A breach of a principle is a serious matter and can lead to disciplinary sanctions, even if no specific, more detailed rule has been broken.

They require you to:

1. Uphold the constitutional principle of the rule of law and the proper administration of justice;
2. Act in a way that upholds public trust and confidence in the profession;
3. Act with honesty;
4. Act with integrity;
5. Act in the best interests of each client;
6. Behave in a way that encourages equality, diversity, and inclusion;
7. Act in the best interests of a client, subject to duties to the court and the administration of justice;
8. Maintain your independence;
9. Provide a proper standard of service to your clients;
10. Protect client money and assets.

These Principles are not mere aspirations; they are enforceable obligations that must guide your judgement and actions.

### 1.4.2 SRA Code of Conduct for Solicitors, RELs and RFLs

The *SRA Code of Conduct for Solicitors, Registered European Lawyers (RELs) and Registered Foreign Lawyers (RFLs)* translates the high-level Principles into more specific, mandatory obligations. This Code is the primary day-to-day rulebook for individual practitioners. It is structured into chapters that cover key areas of practice, including: client care, confidentiality and disclosure, conflicts of interest, relations with third parties, duties to the court, and your responsibilities regarding your practice and to the regulator.

The Code sets out the outcomes you must achieve for your clients and the public, and it provides indicative behaviours that illustrate how the outcomes may be met. It is essential to understand that the Code is not merely a checklist; you must use your professional judgement to apply the Code's requirements to the specific circumstances you face, always ensuring you adhere to the overarching Principles.

### **1.4.3 SRA Code of Conduct for Firms**

Parallel to the Code for individuals, the *SRA Code of Conduct for Firms* applies to all authorised firms, including recognised bodies, licensed bodies (ABS), and sole practices. This Code recognises that a firm has its own responsibilities to create and maintain an environment where compliance and ethical practice can flourish. It imposes duties on the firm as a whole, and on its managers, to ensure proper governance, sound operational and financial stability, and the protection of client money.

It also mandates that firms have effective systems and controls in place to ensure compliance with the SRA's regulatory requirements, including supervision of staff, training, and the proper handling of complaints. The firm's Code works in tandem with the individual Code to ensure that ethical standards are embedded at both the organisational and individual levels.

### **1.4.4 SRA Authorisation of Individuals and Firms**

The SRA operates a gatekeeping function through its authorisation processes. For an individual to practise as a solicitor, they must be admitted to the roll of solicitors and hold a practising certificate. The SRA sets the education and training requirements for this, which are now centred around the Solicitors Qualifying Examination (SQE). For a firm to provide reserved legal services, it must be authorised by the SRA. The authorisation process for firms involves demonstrating that the firm, and its managers and owners, are suitable, that the firm will comply with the SRA's regulatory arrangements (including the Codes of Conduct and the SRA Accounts Rules), and that it has adequate arrangements in place for the effective management of the firm.

This includes ensuring that the firm is financially stable and has suitable indemnity insurance. Authorisation is not a one-time event; it is an ongoing obligation to remain compliant and to report any material changes to the SRA.

### **1.5 The Role of the Legal Ombudsman (LeO) and the Legal Services Board (LSB)**

The regulatory framework includes two other key bodies with distinct but complementary roles. The Legal Ombudsman (LeO) is a scheme that provides a free and independent service for resolving complaints about legal services made by consumers. If a client is dissatisfied with their solicitor's service and the firm's internal complaints procedure has failed to resolve the issue, the client can refer the complaint to the LeO.

The LeO has the power to investigate and can order the solicitor or firm to apologise, correct the mistake, and/or pay compensation of up to £50,000. It is important to note that the LeO deals with service complaints, whereas the SRA deals with conduct issues that engage its regulatory requirements.

The Legal Services Board (LSB), as mentioned, is the oversight regulator established by the *LSA 2007*. It supervises the frontline regulators like the SRA to ensure they are regulating their professions effectively, efficiently, and in accordance with the *LSA 2007*'s statutory objectives. The LSB does not handle individual complaints but ensures the overall regulatory system is working in the public interest.

### **1.6 The Solicitors' Disciplinary Tribunal (SDT)**

The Solicitors' Disciplinary Tribunal (SDT) is an independent statutory tribunal that hears and determines applications alleging professional misconduct against solicitors. While the SRA has its own internal disciplinary powers (such as issuing a rebuke or fine), the most serious cases are typically referred to the SDT. The SDT has wider powers than the SRA, including the power to strike a solicitor off the roll, suspend them from practice, or impose unlimited fines.

Proceedings before the SDT are formal and public, and its decisions are published. The existence of the SDT provides an independent and robust mechanism for dealing with the most significant breaches of professional ethics, thereby protecting the public and maintaining the reputation of the profession.

## **1.7 Distinction between Conduct, Regulatory Requirements, and Criminal Law**

A solicitor must navigate a complex web of legal and professional obligations, and it is crucial to understand the distinctions between them. Criminal law imposes obligations on all citizens, and a breach can lead to prosecution by the state, resulting in penalties such as imprisonment or fines. A criminal conviction, particularly for an offence involving dishonesty or deception, will almost certainly also amount to serious professional misconduct.

Regulatory requirements are the rules specifically imposed by the SRA on those it authorises, such as the *SRA Principles, Codes of Conduct, and Accounts Rules*. A breach of these requirements is a matter of professional discipline, not criminal law, and is enforced by the SRA or the SDT. The consequences can be professional sanctions, including fines, suspension, or being struck off. Conduct is a broad term encompassing a solicitor's behaviour.

Poor professional conduct that falls short of the standards in the SRA's handbook is a regulatory matter. However, conduct can also be a criminal matter if it breaks the law. The key distinction is that regulatory breaches are judged against the professional standards set for solicitors, while criminal offences are judged against the laws applicable to everyone.

## **1.8 The Duty to Report Serious Misconduct (Self and Others)**

The profession's system of self-regulation relies heavily on a culture of accountability and transparency. This is enshrined in the regulatory duty to report serious misconduct to the SRA. This duty has two aspects: reporting your own serious misconduct and reporting that of others. You must promptly inform the SRA if you have committed a serious breach of the SRA's regulatory requirements, or if you have been convicted of a criminal offence.

More challenging, perhaps, is the duty to report another person or firm if you have reasonable grounds to believe that there has been a serious breach of the SRA's requirements, or that a person's fitness to practise is impaired. This is not a duty to investigate, but to report your reasonable belief. The purpose of this obligation is to protect the public and uphold public confidence in the profession. A failure to report serious misconduct where you have a duty to do so is, in itself, a serious disciplinary matter.

## 1.9 Conclusion

Professional ethics remain the cornerstone of the legal profession, ensuring that solicitors maintain public trust and uphold the rule of law. Integrity, independence, and trust form the core values that guide all professional conduct, reinforced by the *Legal Services Act 2007*, which established the Legal Services Board and introduced Alternative Business Structures to modernise regulation. The Solicitors Regulation Authority (SRA) serves as the primary regulator, enforcing high standards through its Principles, Codes of Conduct, and authorisation processes. These frameworks ensure that solicitors act not only in the best interests of clients but also in accordance with their wider duties to the court and society.

Oversight and accountability are central to maintaining these standards. The Legal Ombudsman addresses service complaints from clients, while the SRA and the Solicitors' Disciplinary Tribunal handle professional misconduct, with the latter dealing with the most serious breaches. Solicitors must understand the distinction between criminal law, regulatory requirements, and professional conduct obligations, recognising that breaches in any area can have serious consequences. Ultimately, the duty to report both personal and others' misconduct reinforces the profession's integrity, ensuring continued public confidence in those entrusted to administer justice.

# 2

## THE SRA PRINCIPLES AND FUNDAMENTAL OBLIGATIONS

Ethical principles are the foundation of every solicitor's professional conduct. The *Solicitors Regulation Authority (SRA) Principles* serve as the moral and professional compass for all solicitors in England and Wales. They are binding, not aspirational, and apply in every situation; from client dealings to advocacy and firm management. A breach of any Principle is serious and may lead to sanctions, even without a specific rule being broken.

The *SRA Principles* work together as a unified ethical framework that protects the public, upholds the rule of law, and maintains the profession's integrity. They require honesty, integrity, independence, fairness, and respect for equality and diversity. In practice, solicitors often face situations where these principles appear to conflict. Sound professional judgement and commitment to justice guide the correct course of action.

### **2.1 A Detailed Analysis of the *SRA Principles***

The *SRA Principles* are the ethical DNA of the solicitors' profession in England and Wales. They are not a mere preamble or a list of ideals; they are the ten mandatory, enforceable core duties that define what it means to be a solicitor. Their authority is absolute. As stated in the SRA's guidance, "You are always subject to the Principles, and they underpin all our requirements."

A breach of a Principle can lead to disciplinary sanctions, including fines, suspension, or being struck off the roll, even if your conduct did not contravene a specific, more detailed rule in the



*Code of Conduct*. Understanding their nuance, their weight, and their practical application is the most critical skill for any legal practitioner.

### **2.1.1 Upholding the Constitutional Principle of the Rule of Law and the Proper Administration of Justice**

This is the solicitor's paramount public duty. It acknowledges that a solicitor is not just a private advisor but an integral part of the justice system. The rule of law means that all persons and authorities, including the government, are bound by and entitled to the benefit of laws publicly and fairly applied. The proper administration of justice refers to the fair, efficient, and orderly functioning of the courts and legal processes.

#### **Practical Application and Scope**

##### **Duty to the Court**

A solicitor's primary obligation is to the court, which represents their highest public duty. This means they must act with complete honesty and candour, ensuring that the court is never misled, whether by false statements, omissions, or by allowing clients or witnesses to present inaccurate information. A solicitor must disclose relevant legal authorities, even those unfavourable to their client's case, and must balance their duty to the client with their overriding responsibility to the administration of justice.

##### **Respect for Legal Processes**

Solicitors must avoid any abuse of process, such as filing frivolous claims, causing unnecessary delays, or using litigation as a tool to harass or pressure opponents. Every step taken in a matter should serve a legitimate purpose consistent with justice, efficiency, and fairness, reflecting the solicitor's role as an officer of the court rather than merely an advocate for private interests.

##### **Wider Public Role**

Beyond the courtroom, this duty extends to all aspects of legal practice. Whether drafting contracts, advising on compliance, or assisting in regulatory matters, solicitors help sustain the framework that is essential to maintaining public confidence in the rule of law.. Their work

supports confidence in legal institutions, reinforces the predictability of the law, and ensures that individuals and organisations alike operate within fair and transparent boundaries. In this way, solicitors serve not only their clients but the wider public interest.

This Principle also extends to your conduct outside of litigation. For instance, when drafting contracts or advising clients on regulatory compliance, you are facilitating a system that depends on the rule of law.

**Example:** Chloe is acting for David in a child custody dispute. David tells Chloe in confidence that he has secretly taken the child abroad for a holiday without the other parent's consent, in breach of a court order. Chloe's duties are now in conflict. Her duty of confidentiality to David is profound. However, her duty to the administration of justice is paramount.

She must advise David in the strongest terms to immediately return the child and to inform his own lawyer on the record. If he refuses, she cannot simply withdraw quietly. She is obliged to cease acting and may, depending on the circumstances, be required to disclose the breach to the court, despite the duty of confidentiality, as the welfare of a child and the authority of a court order are engaged.

### **2.1.2 Upholding Public Trust and Confidence in the Profession**

This Principle recognises that the profession's legitimacy depends entirely on the public's trust. It acts as a "catch-all" provision, covering conduct that may not be explicitly detailed elsewhere but which would bring the profession into disrepute. The test is objective: would a reasonable person, aware of all the relevant facts, consider that the conduct has damaged public trust?

### **Practical Application and Scope**

#### **Off-Duty Conduct**

Because solicitors are viewed as officers of the court and representatives of the justice system, their personal conduct directly affects public perception of the profession. A criminal conviction, even for matters unrelated to work such as drink-driving, assault, or public disorder, can raise questions about a solicitor's fitness to practise and adherence to the values

of integrity and responsibility. The SRA expects solicitors to demonstrate good character at all times, recognising that trust in the profession depends not only on technical competence but also on moral credibility.

### **Financial Probity**

Solicitors are often entrusted with large sums of client money, and their personal financial affairs must reflect prudence, honesty, and responsibility. Instances of reckless borrowing, insolvency due to poor judgment, or failure to meet personal tax obligations can suggest a lack of reliability and self-discipline incompatible with the fiduciary duties of a solicitor. Even where no dishonesty is involved, financial irresponsibility may indicate a risk to clients and the wider public, thereby undermining confidence in the profession's stewardship of money and assets

### **Use of Social Media**

Solicitors must exercise the same restraint, courtesy, and respect online as they do in professional settings, since posts made publicly or even privately can easily circulate and reflect poorly on the individual and the profession as a whole. Sharing or endorsing discriminatory, offensive, or inflammatory content breaches the ethical obligation to uphold dignity, equality, and respect. A solicitor's online presence should demonstrate integrity and judgment, recognising that their words and actions, both on and offline, contribute to public trust in the legal system.

**Example:** Ben is a respected commercial property solicitor. He is convicted of drink-driving after a colleague's wedding. This is a criminal offence that the SRA would view seriously. The public must be able to trust solicitors as law-abiding and responsible citizens. A conviction for an offence involving dishonesty or lack of integrity would be even more severe. Ben has a duty to report this conviction to the SRA. The SRA would then consider whether the conviction impacts his fitness to practise and whether it has undermined public trust.

### **2.1.3 Acting with Honesty**

Honesty is one of the most basic yet vital ethical duties of a solicitor. It requires truthfulness in every professional dealing; with clients, colleagues, the courts, regulators, and the public.

Honesty is the refusal to lie, steal, or cheat. It is about truthfulness in statements and representations. A solicitor must never lie, mislead, or conceal material facts, and must present information accurately and transparently.

## **Practical Application and Scope**

### **Communications**

Every statement made to clients, the court, opponents, or regulators must be truthful, clear, and not misleading. A solicitor must avoid exaggeration, omission of material facts, or selective presentation of information that could distort the truth. This applies equally to written correspondence, verbal advice, and formal submissions. Even when advocating vigorously for a client, the solicitor's role as an officer of the court requires candour and accuracy.

### **Time Recording**

Accurate time recording is directly tied to client trust and firm integrity. A solicitor must ensure that every hour billed genuinely reflects the time spent and the work undertaken. Inflating time records, rounding up excessively, or billing for administrative tasks disguised as legal work constitutes dishonest behaviour and can amount to misconduct. Honest timekeeping promotes efficiency, accountability, and confidence in the solicitor's professionalism.

### **Applications**

All professional and regulatory applications submitted by solicitors, whether for practising certificates, firm authorisations, or other approvals, must be completed with absolute honesty and accuracy. Any false statement, omission, or misrepresentation, however minor it may seem, can amount to professional misconduct and undermine the applicant's fitness to practise. Solicitors are expected to demonstrate the same standard of honesty in administrative dealings as they would in court or client matters to reinforce the trust placed in them by both the regulator and the public.

### **2.1.4 Acting with Integrity**

Integrity extends beyond honesty; it demands fairness, moral courage, and the strength to uphold ethical standards even when doing so is inconvenient or unpopular. It is often described as "doing the right thing when no one is watching." It encompasses moral soundness and consistency of actions with values. It involves fairness and straight dealing, even where the strict letter of the law might permit sharp practice.

#### **Practical Application and Scope**

##### **Not Taking Unfair Advantage**

Acting with integrity means treating others fairly and not exploiting mistakes for personal or client gain. If an opponent or third party makes an obvious error, a solicitor must act honestly and professionally by correcting or clarifying it rather than using it to secure an advantage. The duty of integrity prioritises fairness and respect for the justice system over tactical victory, ensuring that trust and ethical standards are upheld in all dealings.

##### **Dealing with Vulnerable Clients**

Solicitors must go beyond basic legal requirements to ensure full understanding and genuine consent. This includes explaining matters clearly, checking comprehension, and preventing undue influence from others. Acting with care and patience protects the client's autonomy and demonstrates the solicitor's commitment to fairness, empathy, and professional responsibility.

##### **Conflicts of Interest**

Solicitors must remain objective and avoid situations where personal or external interests could compromise their professional judgement. Even the perception of bias can damage trust, so potential conflicts should be identified, disclosed, and managed promptly. Integrity requires putting the client's lawful interests first and maintaining independence from pressures that could distort advice or decision-making.

**Example:** Liam is in negotiations. The other side's lawyer, new and inexperienced, emails a draft settlement agreement that mistakenly offers a £100,000 payment to Liam's client,

instead of £10,000. Liam's client, Mr. Jones, spots the error and excitedly tells Liam to "sign it immediately before they realise." Acting with mere honesty would mean not actively lying. But acting with integrity requires Liam to do more. He must point out the obvious error to the opposing lawyer. To do otherwise would be to take dishonest advantage of a known mistake, which is a clear breach of integrity, even if a court might later find the agreement unenforceable due to the mistake.

### **2.1.5 Acting with Independence and in the Best Interests of the Client**

This Principle requires you to provide objective, unbiased advice. Your professional judgement must be free from the corrupting influence of your own financial interest, the pressure of a demanding client, the instructions of a third-party funder, or the internal commercial pressures of your firm.

#### **Practical Application and Scope**

##### **Third-Party Pressure**

A solicitor must stay independent when a third party, such as a family member or funder, is paying for a client's legal services. While their input may be relevant, they cannot control the solicitor's advice or decisions. The solicitor's duty is solely to the client, and professional judgement must remain free from any external influence that could compromise fairness or objectivity.

##### **Internal Pressure**

Within a firm, solicitors must resist internal or commercial pressures that could affect their independent judgement. Management or colleagues may not dictate actions that conflict with a solicitor's ethical obligations or a client's best interests. Professional integrity requires acting on sound legal judgement, even when it conflicts with firm priorities or client expectations.

##### **"Best Interests" vs. "Instructions"**

Acting in a client's best interests means providing objective, lawful advice, not simply following instructions. If a client's demands are unethical, impractical, or legally unsound, the solicitor must advise against them and, if necessary, withdraw from acting. Professional

independence ensures that a solicitor's guidance protects the client's lawful objectives while maintaining integrity and compliance with ethical standards.

**Example:** Mary discovers that the aggressive strategy demanded by Felicity's father is not only emotionally damaging for the family but is also running up unnecessary legal costs that will deplete the matrimonial assets Felicity is trying to protect. Mary's duty to act in Felicity's best interests requires her to provide clear, firm advice on this, recommending a more conciliatory approach. She must ensure it is Felicity, not her father, giving the instructions.

### **2.1.6 Providing a Proper Standard of Service**

This Principle translates the ethical duties into a requirement of professional competence. It is the foundation for the detailed client care rules discussed in Chapter 3. Clients are entitled to a service that is timely, competent, and efficient, delivered by individuals with the appropriate knowledge and skill.

#### **Practical Application and Scope**

##### **Competence**

A solicitor must only undertake work they are qualified and equipped to handle. If additional expertise is required, they should either obtain it promptly, seek guidance from a more experienced colleague, or refer the client to another professional. Acting beyond one's competence risks errors that could harm the client and breach professional standards.

##### **Diligence**

Clients are entitled to timely and attentive service. A solicitor must progress matters efficiently, avoid unnecessary delays, and respond promptly to client communications. Diligence reflects respect for the client's time, trust, and interests, ensuring that their legal affairs are handled with consistent care and focus.

## **Supervision**

Partners and managers are responsible for ensuring proper oversight of junior staff and delegated work. Effective supervision maintains quality, prevents mistakes, and ensures that all team members meet the profession's standards of competence and integrity.

## **Systems and Controls**

Law firms must have robust administrative and monitoring systems to manage workloads, track deadlines, and safeguard client matters. Reliable systems prevent negligence, maintain efficiency, and demonstrate the firm's commitment to delivering a consistently high standard of service.

### **2.1.7 Behaving in a Way that Promotes Equality, Diversity, and Inclusion (EDI)**

This Principle moves beyond the legal minimums of the *Equality Act 2010*. It imposes a positive duty to "promote" EDI, meaning you must actively encourage it, not just avoid discrimination. It applies to your dealings with clients, colleagues, staff, other lawyers, and third parties.

## **Practical Application and Scope**

### **Recruitment and Career Progression**

Promoting equality, diversity, and inclusion begins with fair and transparent recruitment and advancement processes. Solicitors and firms must provide equal opportunities for all candidates and employees, ensuring that selection and promotion are based solely on merit.

### **Work Allocation**

Firms should monitor how tasks and opportunities are distributed to ensure fairness and avoid unconscious bias. Equal access to meaningful work, training, and client exposure allows all team members to develop their skills and progress. Fair allocation promotes morale, productivity, and inclusivity within the workplace.



## **Service Delivery**

Solicitors must make reasonable adjustments for clients or colleagues with disabilities and remain sensitive to cultural, religious, or linguistic differences. Tailoring service delivery to meet diverse needs ensures accessibility and fairness, reinforcing trust and professionalism.

## **Challenging Prejudice**

Promoting inclusion also means addressing discrimination and prejudice when it arises. Solicitors have a duty to challenge inappropriate language, behaviour, or “banter” that undermines dignity or respect in the workplace. Speaking up against such conduct fosters a culture of equality, respect, and professionalism.

## **2.2 The Overarching Nature of the Principles**

The *SRA Principles* are not standalone rules; they form an interconnected web of ethical obligations. They are "overarching" because they apply in all circumstances and inform the interpretation of every other rule in the SRA's regulatory arrangements. When a specific rule in the *Code of Conduct* does not directly address a situation, you must revert to the *Principles* to guide your conduct. They are the constant background against which all professional decisions are made.

## **2.3 Balancing Conflicting Principles in Practice**

A significant challenge in professional ethics arises when *Principles* appear to conflict. There is no simple hierarchy, and the correct path requires careful professional judgement.

### **Scenario**

Fatima acts for Kareem, who is seeking asylum. Kareem confesses to Fatima in a privileged meeting that he has given her a false name and nationality, and has previously been deported for a serious crime. He insists she must not tell anyone, citing his right to confidentiality.

**Conflict:** Here, Fatima's duty to act in the best interests of her client and maintain his confidentiality (*Principles 5 & 7*) conflicts with her duty to uphold the administration of justice and not to mislead the court (*Principle 1*).

**Resolution:** Fatima cannot continue to act if it would involve knowingly putting false evidence or submissions before the court. She must advise Kareem that she cannot continue to represent him under these false pretences and that she may have a duty to withdraw from the case in a way that alerts the court without necessarily breaching confidentiality (e.g., by citing "professional reasons"). The duty to the court ultimately trumps the duty to follow the client's instructions in this instance.

## 2.4 Conclusion

The *SRA Principles* form the ethical core of the solicitor's profession, setting out ten mandatory and enforceable standards that govern all aspects of practice. They are overarching in nature, guiding conduct in every situation and shaping the interpretation of the more detailed Codes of Conduct. At their heart lies *Principle 1*, the duty to uphold the rule of law and the proper administration of justice, which takes precedence over all other obligations, including those owed to clients. Honesty and integrity remain fundamental, with honesty requiring truthfulness in all dealings and integrity demanding deeper moral soundness and fairness beyond mere compliance with rules.

Equally, solicitors must maintain independence, exercising professional judgement free from external or internal pressures, and provide a proper standard of service marked by competence, diligence, and timeliness. Promoting equality, diversity, and inclusion is a proactive duty, ensuring fairness both within the profession and in service to clients. When Principles appear to conflict, solicitors must apply careful professional judgement, guided by the overarching aim of protecting the public and preserving confidence in the integrity of the legal system.

# 3

## CLIENT CARE AND THE RETAINER

The solicitor-client relationship lies at the heart of legal practice, defined by trust, confidence, and professionalism. This fiduciary relationship is formally established through a retainer, which serves as the contractual foundation governing the provision of legal services. It demands clarity from the outset; identifying the client correctly, confirming their capacity, and setting clear terms of engagement. These initial steps ensure that the solicitor fulfils their regulatory duties, protects both parties' interests, and establishes a transparent working relationship grounded in honesty and accountability.

Beyond forming the relationship, solicitors are bound by duties that preserve its integrity; acting in the client's best interests, maintaining strict confidentiality, and managing information responsibly under both ethical and statutory frameworks such as the *SRA Code of Conduct* and *UK GDPR*. At the same time, solicitors must act fairly toward third parties, uphold financial propriety under the *SRA Accounts Rules*, and maintain adequate professional indemnity insurance to safeguard clients from loss. Together, these duties uphold the profession's ethical standards and reinforce public confidence in the legal system.

### 3.1 Establishing the Client-Lawyer Relationship

The solicitor-client relationship is a fiduciary one, built on trust and confidence. It is formally established through a "retainer," which is the contract between the solicitor and the client for the provision of legal services. Getting this foundation right is crucial, as it sets the tone for the entire matter and ensures compliance with your core regulatory duties.

### 3.1.1 Taking Instructions and Client Capacity

A solicitor can only act on the instructions of a client who has the mental capacity to provide them. Capacity means the client has the ability to understand, retain, and weigh the relevant information to make a decision, and can communicate their decision. You must start from a presumption of capacity, but be alert to signs that it may be impaired, such as confusion, memory loss, or an inability to grasp core concepts.

**Example:** Eleanor, an elderly client, instructs Liam, a solicitor, to change her will to disinherit her daughter. Eleanor sometimes forgets her daughter's name and cannot explain the value of her estate or the consequences of her instructions. Liam must not simply proceed. He has a duty to assess capacity and may need to seek a medical opinion. If Eleanor lacks capacity for this decision, Liam cannot act on these instructions.

### 3.1.2 Identifying the Client (Individuals, Companies, Vulnerable Clients)

Clearly identifying who your client is seems simple but is fundamental. For an individual, it is straightforward, but you must verify their identity to comply with money laundering regulations. For a company, the client is the corporate entity itself, not its directors or shareholders. You take instructions from the company's authorised individuals, usually the directors. Special care is needed with vulnerable clients, who may be susceptible to undue influence or require additional support to understand and engage with the legal process.

**Example:** Mr. Chen, a director of "Apex Ltd," instructs Sophia, a solicitor, in a commercial dispute. Mr. Chen demands that Sophia take a highly aggressive stance that she believes is not in the best interests of Apex Ltd and could expose the company to cost penalties. Sophia's client is Apex Ltd. She must advise the company (through its directors) objectively on the legal risks, even if Mr. Chen disagrees. Her duty is to the corporate entity, not the individual director.

### **3.1.3 Retainers: Express, Implied, and Conditional Fee Agreements (CFAs)**

#### **Express Retainer**

This is a clear, agreed-upon contract, typically set out in a Client Care Letter. It outlines the scope of work, costs, and terms of business. It provides transparency, prevents misunderstandings, and ensures compliance with SRA requirements. This is the preferred form of engagement, as it gives both parties a clear, enforceable record of their rights and obligations.

#### **Implied Retainer**

A retainer can be formed by conduct, even without a formal letter. If a solicitor provides detailed advice or takes action on a client's matter without expressly confirming they are not instructed, a court may find that a solicitor-client relationship exists. It carries the same professional duties as a formal retainer, so solicitors must avoid acting informally unless the engagement terms are made explicit.

**Example:** David emails Fatima, a solicitor, detailing a potential employment tribunal claim. Fatima replies with detailed, specific legal advice on the merits and next steps, without stating she is not acting. A tribunal may find an implied retainer was created, and David could reasonably expect her to be his solicitor.

#### **Conditional Fee Agreements (CFAs)**

They are often known as "no win, no fee" agreements. The solicitor's fees are contingent on a successful outcome, usually with a "success fee" payable by the client from the damages recovered. CFAs are strictly regulated, and the client must receive clear, written explanations of the terms, including the success fee percentage and what happens if they lose (e.g., whether they are liable for the opponent's costs).

## 3.2 The Client Care Letter and Terms of Business

The *SRA Code of Conduct* makes it mandatory to provide the client with the best possible information about the cost, the service, and their rights. This is primarily achieved through the Client Care Letter and Terms of Business, which are often combined into one document.

### 3.2.1 Mandatory Content and Best Practices

The letter must be clear and easy to understand. Mandatory content includes:

1. The identity of the client and the matter.
2. The scope of the work you will and will not do.
3. Who will carry out the work and their supervisor.
4. Details of charges, expenses, and how they are calculated.
5. Whether you will use a third party (e.g., a barrister) and how they will be paid.
6. The client's right to complain.
7. Information on the Financial Services Compensation Scheme and the Legal Ombudsman.

Best Practice goes beyond the minimum. Ensure the use plain English, avoid excessive legal jargon, and confirm the client's objectives at the outset.

### 3.2.2 Information on Costs and Complaints Handling

**Costs:** You must give a clear costs estimate at the outset and keep the client updated if it changes. For private clients, this must be in writing. The information should cover the basis of your charges (e.g., hourly rates), when bills will be sent, and whether you may seek an interim payment on account.

**Complaints handling:** You must inform the client about your firm's complaints procedure, including the name of the person to contact (often the Compliance Officer for Legal Practice - COLP). You must also tell them about their right to complain to the Legal Ombudsman (LeO),

the timeframes for doing so (usually within six months of your final response), and the LeO's contact details.

### **3.3 The Duty to Act in the Client's Best Interests**

This is a core fiduciary duty. It means you must use your skill and judgement to advance the client's legitimate objectives, protect their position, and avoid any conflicts of interest. This duty is not absolute; it is subject to your overriding duties to the court and the law (*Principle 1*).

**Example:** Ben is acting for a buyer, Sarah, in a property purchase. The seller's survey reveals minor dampness. Sarah is emotionally attached to the house and wants to proceed regardless. Ben's duty to act in her best interests requires him to advise her to get a specialist damp survey to understand the full cost of repairs, even though she has instructed him to "just get it done." He must protect her from making a potentially costly mistake.

### **3.4 The Duty of Confidentiality**

The duty of confidentiality is one of the most fundamental and enduring obligations a solicitor owes to a client. It is the cornerstone of the relationship of trust and confidence, without which clients could not speak freely or provide the information necessary for effective representation. This duty is both a core principle of common law and a codified regulatory requirement in the *SRA Code of Conduct*. It is broader than the legal professional privilege and continues indefinitely, even after the retainer has ended or the client has died.

#### **3.4.1 Scope and Limits**

##### **The Scope of the Duty**

The duty of confidentiality is exceptionally wide. It applies to all information concerning a client's business and affairs, irrespective of the source, and whether it is publicly available or not. This includes:

1. Information provided directly by the client.

2. Information obtained from third parties, such as witnesses or experts.
3. Information generated by the solicitor in the course of the retainer (e.g., strategy memos, internal emails).
4. The very fact that the client has consulted you.

The duty obliges you not only to keep the information confidential but also not to *use* it for any purpose other than for which it was provided, that is, for the client's matter. Using a former client's confidential information for the benefit of a new client, or for your own benefit, is a serious breach.

### **The Limits of the Duty**

While profound, the duty is not absolute. There are critical circumstances where disclosure of confidential information is permitted or even required.

1. **Consent:** The most straightforward limit is the client's express, informed consent. For example, a solicitor, Fatima, acting for a seller in a property transaction would need the client's consent to disclose certain title documents to the buyer's solicitor. Consent can sometimes be implied by the nature of the retainer (e.g., by instructing a solicitor to conduct litigation, you impliedly consent to them disclosing information to the court as necessary).
2. **Where disclosure is required or permitted by law:** This is a crucial and complex area. There are statutory obligations that compel disclosure, overriding the duty of confidentiality. The most significant are:
  - **The *Proceeds of Crime Act (POCA) 2002*:** If a solicitor knows or suspects, or has reasonable grounds for knowing or suspecting, that a person is involved in money laundering, they must make an authorised disclosure to the National Crime Agency (NCA) without "tipping off" the client. This is a positive legal obligation.
  - **Prevention of terrorism legislation:** Similar obligations exist regarding the funding of terrorism.



- **Court order:** A judge can order the disclosure of documents, even if they are confidential.
3. **To prevent a serious crime or risk to life:** The *SRA Code of Conduct* explicitly permits disclosure where it is necessary to prevent a client (or a third party) from committing a criminal act that the solicitor reasonably believes is likely to result in serious bodily harm. This is a permissive, not mandatory, exception that allows the solicitor to exercise professional judgement.

**Example:** David tells his solicitor, Chloe, in confidence, that he is so enraged by a business partner that he intends to cause them serious physical harm. Chloe has a right, and arguably a moral duty, to disclose this information to the police to prevent the assault, even without David's consent.

4. **To defend yourself or your firm:** A solicitor may disclose confidential information to the extent necessary to defend themselves, their employees, or their firm against any allegation of negligence, misconduct, or a formal complaint made by the client to the firm, the Legal Ombudsman, or the SRA.

### 3.4.2 Data Protection and the UK GDPR in a Legal Context

The duty of confidentiality operates in tandem with the *UK General Data Protection Regulation (UK GDPR)* and the *Data Protection Act 2018*. While confidentiality is an ethical and common law duty, data protection is a statutory framework governing the processing of "personal data" (any information relating to an identifiable individual).

A law firm is a "data controller" and must process personal data lawfully, fairly, and transparently. For most legal services, the lawful basis for processing will be that it is "necessary for the performance of a contract" (the retainer) or "necessary for compliance with a legal obligation" (e.g., anti-money laundering checks).

#### Requirements

1. **Security:** Both the duty of confidentiality and the *UK GDPR* require you to have appropriate technical and organisational security measures in place. This includes

encrypted emails, secure file storage, and staff training to prevent accidental data breaches.

2. **Confidentiality breach as data breach:** An accidental disclosure of a client file is both a breach of confidentiality and a personal data breach, which may be reportable to the Information Commissioner's Office (ICO) and the affected individual(s).
3. **Transparency:** The *UK GDPR* requires you to provide a "privacy notice" to clients, explaining how you will use their personal data. This complements the Client Care Letter and reinforces the transparent handling of their information.

In practice, a modern solicitor must be mindful of both frameworks simultaneously. A failure in data protection (e.g., losing a laptop containing client files) is also a serious breach of the duty of confidentiality.

### **3.4.3 Use of Confidential Information and Whistleblowing within a Firm**

This addresses the internal management of confidential information and the difficult scenario where a solicitor must report misconduct within their own firm.

#### **Use of Confidential Information**

The prohibition on using one client's confidential information for the benefit of another is strict. This is a key aspect of managing conflicts of interest. Firms must have robust information barriers (often called Chinese Walls) to prevent the flow of confidential information between teams acting for different clients on opposing matters. Simply moving a solicitor to a different floor is unlikely to be sufficient; the barrier must be proven to be effective.

#### **Whistleblowing within a Firm**

The SRA expects a culture of accountability. If you discover serious misconduct within your firm, such as systematic overcharging, misappropriation of client funds, or covering up a serious mistake you have a professional duty to act.

1. **Internal reporting:** The first step should usually be to report the concern internally, typically to the Compliance Officer for Legal Practice (COLP) or a designated partner.
2. **External reporting to the SRA:** If internal reporting does not resolve the issue, or if you reasonably believe it would be ineffective (e.g., because the COLP is involved in the misconduct), you have a duty to report the matter to the SRA. This is mandated by the SRA Code of Conduct.
3. **Protection for whistleblowers:** The Public Interest Disclosure Act 1998 protects employees from being subjected to a detriment or dismissed for making a "protected disclosure" (whistleblowing). The SRA also prohibits firms from using confidentiality agreements to prevent individuals from reporting concerns to the regulator.

**Example:** Ruth, a junior solicitor, discovers that a senior partner, Mark, has been routinely transferring small amounts of client money from the client account to the office account to cover temporary cash-flow shortages, in clear breach of the *SRA Accounts Rules*. Ruth reports this to the firm's COLP, who is also a close friend of Mark. The COLP does nothing. Ruth now has a clear duty to report this serious misconduct directly to the SRA. Her duty to the public and the profession overrides any internal loyalty or fear of reprisal, and the law protects her for doing so.

In conclusion, the duty of confidentiality is a nuanced and powerful obligation. It requires solicitors to be vigilant information guardians, while also possessing the courage to make ethically difficult disclosures when the law, public safety, or the integrity of the profession demands it.

### 3.5 Duties Owed to Third Parties and Other Stakeholders

While your primary duty is to your client, you must not abuse your position as a solicitor in your dealings with third parties. This includes acting with courtesy and fairness towards opposing parties, witnesses, and other professionals. You must not make unwarranted allegations against another party or their representative. Importantly, you must not take unfair advantage of a third party, such as an unrepresented litigant.

### **3.6 Financial Services and Business Management: An Overview of the SRA Accounts Rules and SRA Indemnity Insurance Rules**

This section provides a foundational overview; for a detailed analysis, see Chapter 5 below.

#### ***SRA Accounts Rules***

These rules exist to protect client money. The core duty is to keep client money safe, separate from the firm's own money, in a client bank account. You must maintain proper accounting records and perform regular reconciliations. Breaches of the Accounts Rules are treated with the utmost seriousness by the SRA and can lead to severe disciplinary action.

#### ***SRA Indemnity Insurance Rules***

These rules ensure that clients have a means of redress if they suffer loss due to a solicitor's negligence. All authorised firms must have qualifying professional indemnity insurance (PII) that meets the minimum terms and conditions set by the SRA. This provides crucial financial protection for both the client and the firm.

### **3.7 Conclusion**

The solicitor-client relationship is founded on trust, clarity, and accountability, established through a retainer that confirms client identity, capacity, and the terms of engagement. The Client Care Letter formalises this understanding by setting out the scope of work, costs, and the client's rights, including access to complaints procedures. Central to this relationship is the solicitor's duty to act in the client's best interests; providing independent, objective advice, even where it conflicts with the client's immediate wishes. The duty of confidentiality reinforces this trust, protecting client information except where disclosure is legally required to prevent crime or serious harm.

Alongside these ethical duties, solicitors must also comply with data protection obligations under the *UK GDPR*, ensuring that personal information is handled lawfully and securely. Fairness must extend beyond clients to third parties, requiring integrity and professionalism in all dealings. Financial probity is equally essential; the SRA Accounts Rules and Indemnity Insurance Rules safeguard client money and provide protection against loss through

negligence, ensuring that both clients and the public can continue to place confidence in the legal profession.

# 4

## CONFLICTS OF INTEREST

Conflicts of interest strike at the heart of professional integrity and trust in the solicitor-client relationship. A solicitor's duty of undivided loyalty requires that advice be given free from any competing obligations, whether to another client, a third party, or the solicitor's own personal interests. The appearance of divided loyalty can be as damaging as an actual conflict, undermining public confidence in both the solicitor and the wider profession. Recognising and managing potential conflicts early is therefore vital to maintaining the fairness and objectivity expected of solicitors under the *SRA Code of Conduct*.

Conflicts may arise in many forms; between clients, between a solicitor and their client, or even from competing financial or personal interests. The default rule is strict prohibition, as acting where interests diverge risks breaches of confidentiality and loyalty. However, limited exceptions exist, such as where clients share a substantially common interest or have provided fully informed consent. To uphold ethical standards, firms must have robust conflict-checking systems, effective information barriers, and clear reporting procedures to identify and manage risks before they compromise professional judgement or client trust.

### 4.1 Defining a Conflict of Interest

A conflict of interest arises whenever your duties to one client, your own personal interests, or your duties to a third party, threaten to materially interfere with your ability to act in the best interests of another client. It is a situation where your professional judgement and loyalty, the core of the solicitor-client relationship, could be compromised. The fundamental principle is one of undivided loyalty. A client is entitled to expect that their solicitor will be free from

any influence that might prevent them from providing single-minded advice and representation. Conflicts are not merely about actual impropriety; the rule also exists to prevent any appearance of impropriety, thereby upholding public trust and confidence in the profession.

## 4.2 Distinguishing Between Different Types of Conflicts

Understanding the distinct categories of conflicts is the first step towards identifying and managing them correctly. The *SRA Codes of Conduct* treat different types of conflicts with varying levels of severity, with some being absolutely prohibited and others being manageable under strict conditions.

### 4.2.1 Client-Client Conflicts (Acting for Multiple Parties)

This is the most common type of conflict. It occurs when you are asked to act for two or more clients in the same or a related matter, and their interests are, or have a significant risk of becoming, adverse.

#### Direct Adversity

This is the clearest form, where you are acting for two clients who are directly opposed to each other in a litigation or negotiation.

**Example:** Fatima's firm is asked to act for both the employer and the employee in an unfair dismissal claim. Their interests are directly opposed from the outset. This is prohibited.

#### Significant Risk of a Conflict

This is a more subtle but equally dangerous situation. The clients may start with aligned interests, but there is a foreseeable and significant risk that a dispute may arise between them.

**Example:** Liam is asked to act for both a husband and wife in setting up a joint business. While they are amicable now, there is a significant risk that their interests could diverge in the future regarding profit share, management responsibilities, or if the relationship breaks down. Acting in this situation is high-risk and often prohibited unless the strict exceptions apply.

### 4.2.2 Lawyer-Client Conflicts (Personal Interest Conflicts)

This conflict arises when your own personal, financial, or professional interests clash with your duties to your client. Your independent judgement must be free from any taint of self-interest.

#### Example 1 (Financial Interest)

Chloe is asked to advise a client on investing in a start-up company. Unbeknownst to the client, Chloe is a major shareholder in that company. Her personal interest in the company's success conflicts with her duty to give the client impartial advice on the risks of the investment.

#### Example 2 (Personal Relationship)

Ben is asked to act against a former client who is now his next-door neighbour and with whom he has a close personal friendship. Ben's desire to maintain a good personal relationship could conflict with his duty to robustly advance his current client's position.

### 4.2.3 Own Interest Conflict vs. Duty to Client

This is a specific and particularly serious category of lawyer-client conflict where the solicitor's own interest is in direct competition with the client's interest. The SRA treats these as virtually impossible to manage, and the prohibition is near-absolute.

**Example:** David, a commercial property solicitor, is acting for a developer looking to purchase a piece of land. David himself decides to make a rival bid for the same land. His own financial interest in acquiring the asset is directly opposed to his client's interest. He cannot possibly act in the client's best interests in this scenario. He must decline to act for the client in this matter and should not personally pursue the asset.

## 4.3 The Prohibition on Acting in Conflict Situations

The default position for conflicts is prohibition. You must not act if there is a conflict, or a significant risk of a conflict, between you and your client, or between two or more of your current clients. This prohibition is strict for two primary reasons:



1. **Protection of confidential information:** You owe each client a duty of confidentiality. Acting for two clients with adverse interests creates an unacceptable risk that confidential information from one client could be used for the benefit of the other, or that you would be unable to use confidential information for the benefit of a client because of your duty to the other.
2. **Duty of undivided loyalty:** A client is entitled to your single-minded loyalty. You cannot "ride two horses" in the same race. If your duty to Client A requires you to take a course of action that harms Client B, you are inevitably in breach of your duty to one of them.

## 4.4 Exceptions and When You Can Act

While the prohibition is strict, the *SRA Code of Conduct* provides limited exceptions where you may be able to act in a situation that would otherwise be a conflict. The burden is firmly on the solicitor and the firm to prove that all conditions are met.

### 4.4.1 Substantially Common Interest

You may act for two or more clients in a matter where there is a conflict, or a significant risk of a conflict, if the clients have a "substantially common interest" in relation to the matter. This is more than just a vague alignment of goals; it requires a strong, shared legal interest.

**Example:** Two companies, Company A and Company B, are jointly accused of infringing a patent. They have a substantially common interest in defending the claim and proving the patent is invalid. It may be efficient for one firm to act for both, as their defence strategy will be aligned. However, you must still obtain both clients' informed consent in writing, and you must be satisfied that it is reasonable to act for both.

### 4.4.2 Competing for the Same Asset

This is a very narrow exception. You may act for two or more clients competing for the same asset (e.g., at an auction or in a tender process) only if:

- There is no other conflict between the clients.

- The clients have provided informed consent in writing.
- The procedure for the acquisition (e.g., the auction rules) is transparent and fair.

**Example:** A firm specialising in agricultural law acts for multiple, unrelated clients who are all bidding on different lots of land at the same public auction. This may be permissible with informed consent, as the process is transparent and the clients are not directly negotiating against each other.

#### 4.4.3 Informed Consent from All Affected Clients

This is the most critical and commonly invoked exception. You may be able to act if all the affected clients have given their informed consent. However, "informed consent" is a high threshold. It is not enough to simply get a signature on a form. You must:

1. **Disclose all relevant information:** Explain the nature and extent of the conflict, including the risks and potential disadvantages to each client.
2. **Explain the implications:** Ensure the clients understand how their confidential information will be protected and the limits on the advice you can provide.
3. **Ensure the client can give consent:** Confirm the client has the capacity and is making the decision freely, without any pressure from you.
4. Provide the information in writing.
5. **Be satisfied it is reasonable to act:** Even with consent, you must be satisfied that the clients' best interests are protected and that the benefits of you acting outweigh the risks. For own interest conflicts, consent is rarely sufficient.

**Example:** Sophia acts for a long-standing corporate client, "Stable Ltd." Stable Ltd. wants to sue a former director, Mr. Jones, for breach of fiduciary duty. Mr. Jones is also a client of Sophia's firm for an unrelated personal matter. This is a clear client-client conflict. Sophia could only potentially act for Stable Ltd. with the informed consent of both Stable Ltd. and Mr. Jones. She would have to explain to Mr. Jones that her firm is suing him and that she cannot advise him on this matter. It is highly unlikely that Mr. Jones would consent, and even

if he did, Sophia would have to be satisfied it was reasonable, which in a litigation context, it almost never is.

## 4.5 Confidentiality and the "Information Barrier" (Chinese Walls)

When a conflict arises between a current and a former client, the primary risk is the misuse of the former client's confidential information. In very limited circumstances, it may be possible to act against a former client if your firm has an effective "information barrier" (often called a Chinese Wall).

This is not a physical wall but a set of procedures and systems designed to prevent the flow of confidential information from the part of the firm that acted for the former client to the part that now acts against them. For a barrier to be effective, it must be:

1. **Established in advance:** It should be a permanent, institutional barrier, not hastily created when the conflict is identified.
2. **Robustly implemented:** It should include physical separation of teams, separate IT systems and databases, restricted access to files, and training and warnings for staff.
3. **Policed and monitored:** A senior manager should be responsible for ensuring the barrier is not breached.

The courts and the SRA view such barriers with scepticism. The burden of proving the barrier is effective is on the firm, and it is rarely a viable solution for conflicts between two current clients.

## 4.6 Practical Steps for Conflict Checking and Management

Effective conflict management is a proactive, not reactive, process. It requires robust firm-wide systems.

1. **Centralised conflict database:** Maintain a single, searchable database of all clients and matters, including former clients and potential clients who were consulted but did not instruct.

2. **Search at the earliest opportunity:** Conduct a conflict check as soon as a potential new matter is discussed, before any confidential information is received.
3. **Broad search criteria:** Search not just for client names, but for related parties (subsidiaries, directors, key opponents), and the subject matter of the case.
4. **Escalation procedure:** Have a clear procedure for when a potential conflict is identified. This should involve referring the matter to a senior partner or the Compliance Officer for Legal Practice (COLP).
5. **Regular training:** Ensure all staff, including fee-earners and support staff, understand how to identify a potential conflict and the procedure for checking.
6. **Document everything:** If you proceed based on an exception, meticulously document the advice given to the clients and the consent obtained.

## 4.7 Conclusion

Conflicts of interest undermine the trust and loyalty that form the foundation of the solicitor-client relationship. They arise when a solicitor's duty to one client conflicts, or appears to conflict, with duties owed to another client or with the solicitor's own personal interests. The general rule is clear; solicitors must not act where such a conflict exists, as doing so compromises independence, confidentiality, and professional integrity.

While limited exceptions allow action with clients' fully informed consent, these must be approached with caution and transparency. Effective conflict management requires strong internal systems, thorough checks, and continuous awareness across the firm. Maintaining these safeguards not only fulfils regulatory obligations but also preserves public confidence in the fairness and integrity of the legal profession.

# 5

## FINANCIAL SERVICES AND BUSINESS MANAGEMENT

The *SRA Accounts Rules* form one of the most critical safeguards of professional integrity, ensuring that solicitors protect client money with absolute care and transparency. These rules establish the foundation for how solicitors handle, record, and reconcile client funds, drawing a strict line between client and office money. The *2019 reform* of the *Accounts Rules* marked a shift toward a principles-based approach, focusing less on prescriptive technicalities and more on accountability, sound judgment, and the overarching duty to protect client assets.

Beyond safeguarding funds, the Accounts Rules reflect a broader ethical obligation to uphold public trust in the profession. Firms must maintain effective accounting systems, reconcile records regularly, and operate with financial stability. Coupled with mandatory professional indemnity insurance, these measures ensure clients are protected not only from mismanagement but also from losses caused by negligence. Together, they form the financial backbone of legal regulation, reinforcing confidence in the solicitor's role as a trusted fiduciary.

### **5.1 The SRA Accounts Rules: An Overview and Core Duties**

The *Solicitors' Accounts Rules* (SAR) represent one of the most fundamental pillars of professional practice and a cornerstone of public trust in the legal profession. At their heart, these rules exist for one paramount reason: to protect client money. Client money is held by a solicitor in a position of utmost trust; it does not belong to the firm and must be safeguarded with scrupulous care. A breach of the Accounts Rules is considered among the most serious

disciplinary offences a solicitor can commit, as it directly jeopardises client assets and undermines the integrity of the entire profession.

The current framework, the *SRA Accounts Rules 2019*, marked a significant shift in regulatory philosophy. Moving away from a long, prescriptive set of rules, the *2019 Rules* are shorter and more outcomes-focused. They set out the core principles and obligations, placing greater responsibility on the solicitor and the firm to implement systems and controls that achieve the overriding objective: the safekeeping of client money. This principles-based approach requires a deeper understanding of the underlying ethics rather than just rote compliance with detailed procedures. The core duties can be distilled into several key obligations: to keep client money safe, separate from the firm's money, in a client bank account at a bank or building society authorised by the Financial Conduct Authority; to use client money only for the purpose for which it is entrusted to you; to maintain proper accounting records; and to return client money promptly when it is due.

## **5.2 Client Money vs. Office Money: The Fundamental Division**

The entire edifice of the Accounts Rules is built upon a critical and unambiguous distinction: the separation of client money and office money. The ability to correctly identify and categorise funds the moment they are received is the first and most crucial step in compliance.

Client Money is defined as money held or received by you for a client or a trust of which you are a trustee. This includes, but is not limited to:

- Money held for the payment of professional disbursements (e.g., barrister's fees).
- Money held for the payment of stamp duty land tax or Land Registry fees.
- Money received from a lender on behalf of a borrower in a conveyancing transaction.
- Money held as a deposit or advance payment for costs.
- Money held in a joint account for multiple clients.

Office Money is money that is due and belongs to the firm. This primarily includes:

- Money paid for your professional fees, once a bill of costs (or other written notification of costs) has been delivered to the client and the client has been notified that the money is held as office money.
- Money paid for any disbursements (expenses) already paid by the firm.
- Money that is paid in advance for costs and disbursements, but only if it is paid specifically on account of costs and disbursements that are yet to be incurred, and it is held in an office bank account, not the client account.

The golden rule is that all client money must be paid into a client bank account without delay. The only exception is if you immediately pay the money over to the client or a third party on the client's behalf. Office money must never be paid into a client account unless it is a refund to a client or it is a payment for professional fees that complies with the strict rules for transfer from client to office account.

## 5.3 Key Rules in Detail

### 5.3.1 Holding and Receiving Client Money

*Rule 2.1* of the *SAR 2019* is unequivocal: "You ensure client money is paid promptly into a client account." Promptly is generally interpreted as no later than the end of the second business day following receipt. When client money is received, it must be paid into a client account. The rules also strictly govern how money is held. You must not hold client money in a personal or office account. The client account must be clearly designated as such with the bank, and the bank must be one authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority.

A vital concept here is the prohibition on "cheque washing." This is the practice of receiving a cheque made up of both client and office money (e.g., a cheque from an opponent for costs, which includes your profit costs and a barrister's fee) and paying the entire sum into the client account, with the intention of later transferring the office money element out. The *2019 Rules* explicitly forbid this. You must, where possible, have the payer split the payments. If that is not possible, you must pay the entire sum into the correct account for the majority of the payment, or the account that is in the best interests of the paying party.

### 5.3.2 Proper Use of Client Accounts

The client account is not a general banking facility. Its use is strictly limited to holding and processing client money. *Rule 3.1* states that, “You must not use a client account to provide banking facilities to clients or third parties”. The repeated payment in and out of money with no underlying legal transaction is a classic red flag. For example, a client cannot simply use the firm’s client account as their own personal bank for storing funds or processing their business transactions. There must be a genuine underlying legal service justifying each movement of funds.

Furthermore, you must only withdraw client money from a client account when it is:

- For a payment to or on behalf of the client (e.g., sending completion monies to a seller’s solicitor).
- For a payment of a professional disbursement (e.g., paying a barrister’s clerk).
- For a payment of your properly agreed costs, once the necessary steps for transfer have been completed.
- For a payment of money to the firm for the reimbursement of a disbursement already paid from the office account.

### 5.3.3 Returning Client Money Promptly

You have a positive duty to return client money promptly when it becomes due. This obligation arises when:

- The client asks for the money to be returned.
- The money has been paid to you for a specific purpose that cannot be fulfilled (e.g., a property transaction falls through).
- You have held the money for a completed matter and there is no longer any proper reason to hold it.

Holding onto client money without a valid reason is a breach of the *Rules*. Firms must have systems to identify dormant balances and take active steps to locate clients and return their



funds. If a client cannot be found, the money may eventually need to be paid to a charity or, in certain circumstances, to the SRA.

### **5.3.4 Payment of Interest**

The duty to account for interest on client money is a key aspect of acting in the client's best interests. The core principle is that you must account to the client for a fair sum of interest on any client money held by you, unless the amount of interest is so small that it would be unreasonable to account for it, or you have a separate agreement in writing with the client.

In practice, this means you must have a policy on the payment of interest. This policy should be fair and you must be able to justify it. Many firms operate a policy whereby they pay interest on client money held in the client account if the amount held, or the period for which it is held, is likely to earn a significant amount of interest (e.g., over £50) when calculated at the interest rate payable on the designated client account. For general client accounts, the interest rate is typically very low. For larger sums held for a long period (e.g., damages held for a child until they reach 18), it may be appropriate to place the money in a separate designated deposit account that earns a higher rate of interest for the benefit of that specific client.

## **5.4 Accounting Systems, Record Keeping, and Reconciliation**

The principles of the *SRA Accounts Rules 2019*, safeguarding client money and maintaining transparency, are given practical effect through rigorous accounting systems, meticulous record keeping, and a robust process of reconciliation. This section moves from the "what" to the "how," detailing the operational backbone of a compliant legal practice. For a solicitor, understanding these processes is not merely an administrative task; it is a fundamental aspect of their professional duty and a primary line of defence against errors, misuse of funds, and serious disciplinary action.

### **5.4.1 The Imperative for Systems and Controls**

The *SRA Accounts Rules* are not self-executing. *Principle 6* of the *SRA Principles* mandates that you "behave in a way that upholds public trust and confidence," while the *Code of Conduct for Firms* requires you to have "effective governance structures, accountability and

sound operational and financial risk management principles." This translates into a positive obligation to design, implement, and maintain systems and controls that ensure compliance with the *Accounts Rules*.

The SRA does not prescribe a specific software or filing system; instead, it holds firms to an outcomes-focused standard: the system must be effective for the size and complexity of the firm's practice. A sole practitioner's system will differ from a multinational firm's, but both must be equally effective in achieving the core outcome: the safekeeping of client money.

### 5.4.2 The Core Components of the Accounting System

An effective system is built on three interdependent pillars: the Client Ledger, the Client Cash Book, and the Bank Reconciliation. Together, they form a closed loop of financial information that allows for continuous verification and control.

#### 1. Client Ledgers: The Granular Record of Trust

A client ledger (or client matter ledger) is the fundamental building block of the accounting system. It is a separate record for each individual client and matter, detailing every financial transaction associated with that matter. Think of it as a dedicated bank statement for each individual client.

Each ledger must chronologically record:

- **All receipts:** Every payment of client money received, including the date, source, and purpose (e.g., "£10,000 from Client A on account of costs," "£250,000 from ABC Lender for property purchase").
- **All payments:** Every payment of client money made out, including the date, payee, and reason (e.g., "£245,000 to Seller's Solicitors for completion," "£2,500 to Counsel for advice").
- **Running balance:** The current balance of client money held for that specific matter must be calculable at any moment.

The client ledger is the first point of entry for financial data. Its accuracy is paramount. It allows a solicitor to instantly see the financial position for any given matter and provide

the client with a clear breakdown of funds held and spent. It is the primary document a client would expect to see in a bill of costs.

## **2. The Client Cash Book: The Firm's Central Financial Log**

While client ledgers provide a micro-view, the Client Cash Book provides the macro-view. It is a single, chronological record (a "book of prime entry") of *all* transactions passing through the firm's general client bank account(s). It is the firm's own internal record of the client account's activity.

The cash book lists every transaction in date order, typically showing:

- Date of transaction.
- Payee/Payer details.
- A unique reference number (e.g., cheque number or bank transfer reference).
- A narrative describing the transaction.
- The amount paid out.
- The amount paid in.
- The resulting cumulative balance of the client account.

The cash book provides a complete, sequential history of the client account. It is the master document against which the bank statements are checked. Any transaction appearing on the bank statement must be recorded in the cash book, and vice-versa.

## **3. The Bank Reconciliation: The Essential Independent Check**

The Bank Reconciliation is the most critical control procedure. It is the process of verifying that the balance shown in the firm's Client Cash Book matches the balance shown on the statement from the bank for the client account. It is the independent check that proves the firm's internal records are accurate and complete.

The reconciliation process is not a simple comparison of two totals. It is a line-by-line process of accounting for the differences between the cash book and the bank statement, caused by "timing differences." The key steps are:

- **Identify unpresented cheques:** Cheques you have written and recorded in your cash book but have not yet been presented to and paid by the bank.
- **Identify uncredited lodgements:** Cheques or bank transfers you have received and recorded in your cash book but have not yet been cleared and credited to your account by the bank.
- **Check for bank charges and interest:** Items that the bank has recorded on your statement but you may not have entered into your cash book yet.
- **Check for errors:** Any discrepancies, such as a transposed number or a missing entry, must be identified and corrected.

The outcome of a reconciliation process is a formal Reconciliation Statement that starts with the bank statement balance, adds the unpresented cheques, subtracts the uncredited lodgements, and (after accounting for bank entries) arrives at the cash book balance. If it does not, the discrepancy must be investigated and resolved immediately.

#### 5.4.3 The "Three-Way Check": The Gold Standard of Control

For a system to be truly robust, these three components must be interlocked in a "Three-Way Check." This means that the sum of the balances on all the individual Client Ledgers must equal the balance in the firm's Client Cash Book, which in turn must be reconciled to the balance on the Bank Statement.

- **Client Ledgers Total = Client Cash Book Balance:** This confirms that every penny in the client account is properly allocated to a specific client matter. A difference here indicates a fundamental error in posting transactions to the correct ledger.
- **Client Cash Book Balance = Reconciled Bank Statement Balance:** This confirms that the firm's internal records accurately reflect the reality of the bank account.

A failure at either stage signals a breakdown in the system that could mask a serious issue, such as misappropriation or a significant accounting error.

### 5.4.4 Frequency, Responsibility, and Consequences of Failure

#### Frequency

The SRA mandates that a reconciliation must be performed at least once every five weeks. For most firms with significant client account activity, a weekly or even daily reconciliation is considered best practice. The more frequent the reconciliation, the sooner errors can be caught and rectified.

#### Segregation of Duties

A foundational principle of internal control is that the person who records the transactions (e.g., maintains the cash book) should not be the same person who performs the reconciliation. This creates an essential independent check and helps prevent and detect fraud or error. In a small firm, this may require a partner to perform the reconciliation.

#### Consequences of Failure

A failure to reconcile regularly and accurately is a serious breach of the *Accounts Rules* in itself. It demonstrates a lack of proper systems and controls. More importantly, it means the firm is operating blind, unaware of whether client money is safe, whether the account is overdrawn, or whether fraud is being perpetrated. The SRA will view such a failure as indicative of a systemic lack of compliance and a significant risk to clients.

## 5.5 Financial Stability and Management of the Firm

The SRA's regulatory interest extends beyond client money to the overall financial health of the firm. A financially unstable firm poses a direct risk to clients. The *SRA Code of Conduct for Firms* requires you to ensure your firm has adequate resources and systems in place, including effective financial and business management.

This encompasses:

1. **Financial planning:** Ensuring the firm has a viable business plan, manages its cash flow effectively, and does not trade while insolvent.

2. **Management of overdrafts:** A client account must not be overdrawn. If an overdraft occurs (e.g., due to a banking error or a cheque being presented before a paying-in cheque has cleared), it must be rectified immediately. An office account may be overdrawn, but this is a sign of potential financial difficulty that must be managed.
3. **Reporting serious financial difficulty:** You have a duty to report to the SRA any facts or matters that you reasonably believe are likely to materially affect your firm's financial stability and therefore its ability to protect clients' interests.

## 5.6 Introduction to the SRA Indemnity Insurance Rules

While the *Accounts Rules* protect client money, the *SRA Indemnity Insurance Rules* protect clients from professional negligence. These rules ensure that if a solicitor makes a mistake that causes a client to suffer a financial loss, the client has a means of redress. All authorised firms must have qualifying Professional Indemnity Insurance (PII) that meets the minimum terms and conditions set by the SRA.

### Key Features of the SRA's PII Scheme

1. **Compulsory cover:** It is mandatory for all firms in private practice.
2. **Minimum level of cover:** The minimum level of cover is £2 million for partnerships and £3 million for companies (LLPs and Ltds), per claim.
3. **Minimum terms and conditions (MTCs):** These standardise the core cover, ensuring all clients have the same basic protections, regardless of their solicitor's insurer. This includes, for example, a "run-off" cover, which protects clients if a firm ceases practice.
4. **Successor practice rule:** This rule ensures that where a firm takes over the practice of another, it may also take on the PII liabilities of the former firm, providing continuity of cover for clients.

The existence of this compulsory insurance scheme is a vital consumer protection measure and a key component of the regulatory framework, providing a safety net for clients and maintaining public confidence.

## **5.7 Conclusion**

The SRA Accounts Rules are designed to ensure absolute protection of client money, demanding that solicitors maintain strict separation between client and office funds. Every transaction must be handled with transparency, with client money paid promptly into a client account and withdrawn only for authorised purposes. Solicitors must also account for a fair sum of interest where appropriate, reflecting their fiduciary duty to act with honesty and care in managing client assets.

Compliance relies on robust accounting systems including accurate ledgers, cash books, and regular reconciliations to maintain oversight and prevent misuse. Financial stability is equally vital, as a firm's solvency directly affects client security. Complementing these safeguards, the SRA Indemnity Insurance Rules guarantee a safety net for clients through compulsory professional indemnity cover, ensuring that even when mistakes occur, public confidence in the legal profession remains intact.

# 6

## DUTIES TO THE COURT, THIRD PARTIES AND THE ADMINISTRATION OF JUSTICE

A solicitor's role as an officer of the court extends far beyond client representation; it encompasses a paramount duty to uphold the rule of law and the proper administration of justice. This overriding duty takes precedence over loyalty to the client, ensuring that the court is never misled and that proceedings remain fair and transparent. The integrity of the legal system depends on solicitors maintaining honesty, and professionalism in every interaction with the court.

These duties extend beyond advocacy to dealings with witnesses, opponents, and unrepresented parties, all of whom must be treated with fairness and respect. Solicitors must act with candour, correct errors promptly, and avoid conduct that could distort justice or damage public confidence in the legal process. Whether in advocacy, disclosure, or managing mistakes, the solicitor's ultimate responsibility is to protect the integrity of the judicial system while serving clients within the bounds of ethics and law.

### **6.1 The Overriding Duty to the Court and the Administration of Justice**

The role of a solicitor extends far beyond that of a mere agent for their client. A solicitor is an "officer of the court," a designation that carries with it a profound and non-negotiable duty to



uphold the integrity of the legal system itself. This duty, often referred to as the "overriding duty," is paramount and takes precedence over the duty to act in the best interests of the client when the two come into conflict. It is enshrined in *SRA Principle 1*: "You uphold the constitutional principle of the rule of law and the proper administration of justice."

This obligation means that a solicitor must not, under any circumstances, mislead or deceive the court, either actively or passively. The administration of justice depends on the court being able to rely on the honesty and integrity of the advocates and litigators who appear before it. A solicitor's duty to the client is to present their case as forcefully and persuasively as possible, but always within the boundaries set by law, professional ethics, and the duty to the court.

This unique position creates a delicate balance: you are the client's champion, but you are also a guardian of the legal process. The public's confidence in the fairness of the system hinges on this balance being correctly maintained. A victory achieved through deception or sharp practice is a pyrrhic one, damaging the profession, the court, and ultimately, the client's own long-term interests in a just system.

## **6.2 Duties of an Advocate and Litigator**

Whether as an advocate presenting a case in open court or as a litigator managing a case from their desk, a solicitor's duties to the court are engaged from the moment litigation is contemplated until its final conclusion.

### **6.2.1 Candour and Disclosure: The Duty Not to Mislead the Court**

The duty of candour is the positive obligation to be open and honest with the court. It is not limited to telling the truth when asked; it requires proactive disclosure in certain circumstances. This duty applies to all communications with the court, including written submissions, correspondence, and oral submissions.

#### **Disclosure of Relevant Legal Authority**

A solicitor must bring to the attention of the court all relevant legal authorities, whether they support their client's case or not. This means you must research and disclose any binding

precedent or statutory provision that is directly on point, even if it is unfavourable to your client's position. To knowingly conceal an adverse authority is a serious breach of duty.

**Example:** Sophie is representing a client in a contractual dispute. During her research, she finds a Court of Appeal decision that is directly against her client's legal argument, but which the opposing counsel has not cited. Sophie has a duty to bring this authority to the attention of the judge and opposing counsel, and to seek to distinguish it or argue that it should not be followed. She cannot simply ignore it.

### **Correcting a Mistaken Impression**

If you, or your client, have said something in court that you later discover was incorrect or misleading, you have a duty to correct the record at the earliest opportunity. This duty persists even if the error was unintentional and its correction will damage your client's case.

**Example:** Liam is representing a defendant in a fast-track road traffic claim. He tells the district judge that his client has no previous convictions. After the hearing, the client informs Liam that he had forgotten about a speeding conviction from three years ago. Liam must immediately inform the court and the opposing solicitor of this error, as the client's credibility is a material fact.

### **Presentation of Witness Evidence**

You must not coach or encourage a witness to give evidence that is not a truthful representation of their honest recollection. While you can prepare a witness by explaining the process and discussing their evidence, you must not script their answers or encourage them to be "more helpful" to the case by altering their story.

#### **6.2.2 Presentation of Evidence and Legal Argument**

The duty to the court governs how a solicitor presents the building blocks of their case: evidence and legal argument.

## **Knowingly False Evidence**

A solicitor must not knowingly allow the court to rely on evidence that is false or misleading. If a client informs you that they intend to give false evidence, you must advise them strongly against it, explaining the serious consequences of perjury. If the client insists, you must cease to act. You cannot continue to represent a client whom you know is committing a fraud upon the court.

**Example:** Fatima's client, Mr. Jones, confides in her that he was not at the scene of the accident at the time he claims in his witness statement. He says he will stick to his story in court. Fatima must first advise him that this is perjury. If he refuses to change his evidence, she must stop acting for him. She cannot call him as a witness, and she would need to withdraw from the case in a way that does not breach confidentiality but also does not mislead the court (e.g., by applying to come off the record for "professional reasons").

## **The "Hearsay" Rule and the Duty of Fairness**

While the rules of evidence permit the introduction of hearsay in civil proceedings, a solicitor has a duty to ensure its presentation is fair. You should not seek to adduce hearsay evidence in a way that is unfairly prejudicial, and you must be prepared to identify it as such and acknowledge its limitations.

## **Duty as an Officer of the Court**

This extends to procedural matters. You must comply with court orders and timetables. You must not issue claims or make applications that are frivolous, vexatious, or an abuse of the court's process. Your role is to assist the court in dealing with cases justly and efficiently, which includes identifying the real issues in dispute and not wasting the court's time on irrelevant matters.

## 6.3 Dealing with Unrepresented Parties and Litigants in Person (LiPs)

The rise in litigants in person (LiPs) presents unique ethical challenges. While your primary duty is to your client, you must not take unfair advantage of an unrepresented party. The court expects a higher standard of fairness in such situations.

### The Prohibition on Unfair Conduct

You must not bully, intimidate, or mislead a LiP. This includes using overly complex legal jargon with the intention of confusing them or pressuring them into an unfavourable settlement.

### The Limits of Your Duty

You are not the LiP's adviser. You must not provide them with legal advice. However, you have a duty to ensure they understand the process. This may involve:

- Clearly identifying yourself and who you represents.
- Ensuring they understand the nature of any documents you send them (e.g., "This is a formal offer under *Part 36* of the *Civil Procedure Rules*, which has cost consequences if you do not accept it.>").
- Making it clear that they may wish to seek independent legal advice.

### Correcting a LiP's Misunderstanding of the Law

If a LiP makes a clear and material mistake about the law or procedure that is to their significant detriment, you may have a duty to correct them. For instance, if a LiP misses a deadline due to a fundamental misunderstanding of the court rules, and you are aware of this, it would be proper to point out their error to avoid an unfair outcome. The line is a fine one; you are correcting a procedural misapprehension, not providing legal advice on the merits of their case.

## 6.4 Duties Owed to Third Parties

Your professional obligations extend to all those you interact with in the course of your practice. The *SRA Principles*, particularly upholding public trust and confidence (*Principle 2*) and acting with integrity (*Principle 4*), govern your conduct towards third parties.

### Witnesses

You must not harass, pressurise, or otherwise seek to influence a witness. Contact with a witness who is represented by another solicitor should generally be through that solicitor. When contacting an unrepresented witness, you must make your role and who you represent clear. You must not offer any inducement to a witness to give evidence that is other than their honest opinion.

### Opposing Parties and their Lawyers

You must act with courtesy and professionalism towards your opponents. While robust representation is expected, this does not extend to making unfounded allegations of fraud or dishonesty without credible evidence. Correspondence should be constructive and not unnecessarily aggressive or hostile. The wasted costs regime exists, in part, to penalise solicitors who engage in unreasonable conduct that causes the other side to incur unnecessary costs.

### The Public and the Profession

Your duty to uphold public trust means your conduct in the public sphere, including on social media, should not bring the profession into disrepute. Making derogatory public comments about a judge, a case, or an opponent could be a breach of your professional duties.

## 6.5 Dealing with Mistakes and Correcting the Record

Inevitably, mistakes will happen in the course of litigation. A document may be disclosed in error, a misleading statement may be made to the court, or a deadline may be missed. The solicitor's ethical duty in such situations is clear: the mistake must be rectified promptly and transparently.

## **Inadvertent Disclosure of Privileged Documents**

If you receive a document from the other side that you realise has been sent in error and is clearly subject to legal professional privilege, the professional conduct rules are strict. You must:

1. Cease Reading the document immediately.
2. Notify the Other Side that you have received it and that it appears to be privileged.
3. Return, Destroy, or Delete the document as per the other side's instructions, without making copies. you must not use the document for any purpose, as to do so would be a serious breach of integrity.

## **Your Own Mistakes**

If you make a mistake that has misled the court or the other party, you must correct it as soon as you become aware of it. This could involve writing to the court and the other side to clarify a factual inaccuracy in a statement, or applying for relief from sanctions if you have missed a deadline. Attempting to cover up a mistake is almost always more serious professionally than the original error itself. The duty to report serious misconduct to the SRA extends to your own conduct; a serious, unremedied error may need to be self-reported.

## **6.6 Conclusion**

A solicitor's duty to the court and the administration of justice overrides all other professional obligations, including loyalty to the client. This duty demands absolute honesty and fairness, ensuring that the court is never misled, all relevant authorities are disclosed, and any mistaken impressions are promptly corrected. A solicitor must never allow false evidence to be presented and must withdraw from acting if the client insists on doing so, as the integrity of the legal process takes precedence over the outcome of any single case.

Professionalism and fairness must also extend to dealings with witnesses, opponents, and litigants in person. Solicitors must not take unfair advantage, must act courteously and with integrity, and must address mistakes openly and without concealment. Upholding these

principles preserves both the fairness of proceedings and the public's confidence in the legal system as a whole.

# 7

## INTEGRITY, CONFIDENTIALITY, AND DISCLOSURE

Confidentiality lies at the heart of the solicitor–client relationship, forming the foundation of trust that enables clients to speak freely. However, this duty is not absolute. In certain circumstances, the law compels solicitors to disclose confidential information, particularly where public interest, prevention of crime, or statutory obligations under laws like the *Proceeds of Crime Act (POCA) 2002* and the *Terrorism Act 2000* demand it. Balancing the competing duties of confidentiality and disclosure requires sound judgment, as solicitors must navigate complex ethical and legal boundaries while upholding both client trust and the integrity of the justice system.

Equally vital is the recognition of Legal Professional Privilege (LPP), a cornerstone protection that shields confidential communications between a solicitor and their client from disclosure. Understanding when privilege applies and when statutory duties override it is essential to practising ethically and lawfully. This chapter explores these intersecting duties, guiding solicitors in maintaining confidentiality without breaching their obligations to report, prevent crime, or act in the public interest.

### **7.1 The Duty of Disclosure: When Must You Reveal Information?**

The duty of confidentiality is a cornerstone of the solicitor-client relationship, but it is not absolute. A solicitor’s role as a trusted advisor exists within a wider legal and social framework that, in certain prescribed circumstances, demands the disclosure of information. Navigating



the tension between the imperative of confidentiality and the obligation to disclose is one of the most challenging ethical landscapes a solicitor must traverse. This chapter explores the critical situations where the law, or the public interest, requires a solicitor to reveal what would otherwise be confidential. The key to resolving this tension lies in a clear understanding of the specific, limited exceptions to the duty of confidentiality, which are mandated by statute or established in the public interest to prevent harm or serious crime. A solicitor must be able to identify these scenarios accurately and act upon them with integrity and courage, even when doing so is difficult or contrary to a client's instructions.

## **7.2 Balancing Confidentiality with Disclosure Obligations**

The solicitor's default position is one of strict confidentiality. However, this duty must be balanced against positive legal obligations to disclose information in the fight against crime and the protection of the public. The most significant of these obligations arise in the context of financial crime.

### **7.2.1 Money Laundering Reporting Obligations under *POCA 2002***

The *Proceeds of Crime Act (POCA) 2002* represents one of the most significant statutory incursions into the solicitor's traditional duty of confidentiality. As key "gatekeepers" of the financial system, solicitors in the regulated sector are vested with a legal responsibility to prevent and report money laundering. The obligations under *POCA* are not merely ethical guidelines; they are strict statutory duties, the breach of which can lead to criminal prosecution, an unlimited fine, and imprisonment for up to five years, in addition to severe professional disciplinary consequences.

#### **The Core Offences and the Solicitor's Role**

*POCA* establishes a suite of offences, but for the practising solicitor, the following are of paramount importance:

##### **1. The Principal Money Laundering Offences (*Sections 327-329*)**

These make it a crime to:

- Conceal, disguise, convert, or transfer criminal property (s.327).
  - Enter into or become concerned in an arrangement which you know or suspect facilitates the acquisition, retention, use, or control of criminal property by another person (s.328).
  - Acquire, use, or possess criminal property (s.329).
2. For a solicitor, simply proceeding with a transaction where you know or suspect the funds or assets are criminal property can constitute an offence under s.328. This makes it impossible to "turn a blind eye."

### **3. The Failure to Disclose Offence (Section 330)**

This is the most frequently encountered and operationally critical offence for solicitors. It imposes a positive duty to report. A person in the regulated sector commits an offence if they meet all of the following conditions:

- They know or suspect, or have reasonable grounds for knowing or suspecting, that another person is engaged in money laundering.
- The information on which their knowledge or suspicion is based, or which gives reasonable grounds for such, came to them in the course of their business in the regulated sector.
- They do not make the required disclosure to a nominated officer (the Money Laundering Reporting Officer - MLRO) or directly to the National Crime Agency (NCA) as soon as is practicable.

### **4. The Tipping Off Offence (Section 333A)**

This offence prohibits disclosing anything that is likely to prejudice an investigation that is being, or could be, conducted following a disclosure under POCA. Once a disclosure (a Suspicious Activity Report - SAR) has been made internally or to the NCA, you must not do anything that might alert the person you suspect to the existence of the report.

## Key Concepts in Practice

1. **Criminal property:** This is property that constitutes a person's benefit from criminal conduct, either in whole or in part, and whether directly or indirectly. The criminal conduct can have occurred anywhere in the world, provided it would be a crime in the UK.

2. **The threshold for reporting:** "Knowledge," "Suspicion," and "Reasonable Grounds"

Understanding these mental states is crucial for compliance.

**Knowledge:** This is a high threshold, meaning actual, firm knowledge that something is true. It is difficult to prove and less common than suspicion.

**Suspicion:** This is the key concept. It is a subjective state of mind. It is more than mere speculation but falls short of knowledge or proof. The Court of Appeal has described it as "a degree of satisfaction, not necessarily amounting to belief, but at least extending beyond speculation as to whether an event has occurred or not." It is a feeling that something is wrong.

**Reasonable grounds to suspect:** This is an objective test. It asks whether a reasonable, honest, and prudent person, with the solicitor's training and experience, and aware of the same facts, would have suspected that the property was criminal. This is a safety net provision. Even if a solicitor is personally naive or wilfully blind, they can still be convicted if a reasonable solicitor in their position should have suspected money laundering.

**Example of reasonable grounds:** Eleanor, a commercial solicitor, is acting for a new client, Mark, who wishes to set up a UK company to invest in a series of cash-intensive businesses (like car washes). Mark cannot provide a verifiable source of funds, his business plan is vague, and he is using a complex offshore corporate structure for no clear commercial reason. Eleanor might personally feel that Mark is just a shrewd businessman. However, a reasonable solicitor would identify multiple classic red flags for money laundering. Eleanor therefore has reasonable grounds for suspicion and is legally obliged to make a disclosure, regardless of her personal view.

## The Reporting Process: The Protected Disclosure

To avoid committing a principal offence or the failure to disclose offence, a solicitor must make an "authorised disclosure" under s.338 of *POCA*. This provides a defence and a "safe harbour."

1. **Internal disclosure:** The standard procedure is for the fee-earner to make a disclosure to the firm's nominated officer, the MLRO. This must be done as soon as is practicable after the suspicion is formed.
2. **The MLRO's role:** The MLRO must then consider the internal disclosure and decide whether they also know, suspect, or have reasonable grounds to suspect that money laundering is occurring. If they do, they must make a disclosure to the NCA via the UK Financial Intelligence Unit (UKFIU).
3. **Defence against the principal offences (Consent):** If a solicitor has a suspicion and wishes to proceed with a transaction that might constitute a s.328 offence (becoming concerned in an arrangement), they must seek "appropriate consent" from the NCA. This is done by submitting a SAR and requesting consent. The NCA then has seven working days to respond. If they do not refuse consent within that time, you may proceed. If they refuse, you must not proceed for a further 31 calendar days, during which time they may seek a court order to restrain the transaction.

## The Peril of "Tipping Off" (Section 333A)

This is a major practical challenge. After a disclosure has been made, you must continue to act for the client with extreme caution. You cannot tell the client, "I am sorry, I cannot proceed because I have filed a suspicious activity report." Any such disclosure would be a criminal offence. This can lead to very difficult situations where you must find a neutral, non-prejudicial reason to delay or cease acting, such as citing "professional reasons" or a "breakdown in the solicitor-client relationship," without revealing the true cause.

### 7.2.2 Terrorism Financing and the *Terrorism Act 2000*

Similar, and in some ways even stricter, obligations exist under the *Terrorism Act 2000* and subsequent legislation. The duty to disclose arises if you believe or suspect that a person has committed a terrorist financing offence. The threshold of "belief or suspicion" is subjective and potentially higher than under *POCA*, but the consequences of involvement, even unwittingly, with terrorist funds are severe. The reporting process is analogous to that under *POCA*, with a corresponding prohibition on tipping off.

### 7.2.3 Prevention of Fraud and Crime

Beyond specific statutory regimes, a solicitor may be permitted to disclose confidential information to prevent a client from committing a criminal act that is likely to result in serious bodily harm. This is a permissive, rather than mandatory, exception found in the *SRA Code of Conduct*. It allows for the exercise of professional judgement in extreme circumstances.

**Example:** Chloe is advising Sarah in a bitter child contact dispute. Sarah confides in Chloe that she is so distraught by a recent court decision that she intends to take her children and disappear, in breach of a court order, and has made threats of violence against her former partner. Chloe judges that this constitutes a credible threat of serious bodily harm and the criminal act of abduction. She is permitted, under the Code, to disclose this information to the police and relevant social services to prevent the crime from occurring.

## 7.3 The Professional Privilege Exceptions

In the midst of the stringent disclosure obligations imposed by statutes like *POCA 2002*, the law carves out a paramount and fundamental protection: Legal Professional Privilege (LPP). LPP is not merely a rule of evidence or a professional ethical standard; it is a fundamental common law right, long described as a "basic and substantive right" and now recognised as an essential condition for the proper administration of justice. It is a right that belongs to the client, not the solicitor, and its purpose is to enable a client to consult their legal advisor with absolute candour and security, free from the fear that their confidential communications may later be revealed to their prejudice. The importance of LPP cannot be overstated; it is the bedrock upon which the entire solicitor-client relationship is built. In the context of disclosure,

it acts as a "super-privilege", information protected by LPP is immune from the statutory duty to disclose under *POCA*. A solicitor is not only entitled but is professionally obliged to assert and maintain this privilege on behalf of their client, unless the client provides informed consent to waive it.

### 7.3.1 Legal Advice Privilege

Legal Advice Privilege (LAP) protects confidential communications between a solicitor and their client which come into existence for the dominant purpose of seeking or giving legal advice. Its scope is broad in one sense, applying to all legal advice, whether or not litigation is contemplated, but narrow in another, as it is strictly limited to the continuum of communication between the lawyer and the client.

#### Defining the Client

An often misunderstood aspect of LAP is the definition of "the client," particularly within a corporate context. The privilege does not automatically extend to every communication between a solicitor and every employee of a corporate client. The client is limited to those employees or officers who are authorised to seek and receive legal advice on the corporation's behalf. This typically includes the "directing mind and will" of the company, such as the board of directors, and specific individuals tasked with instructing the solicitor on a particular matter.

**Example:** Ben, an in-house solicitor for a large retailer, is conducting an internal investigation into a potential fraud. He interviews a junior shop assistant, Katie, about her till procedures. Katie's communications with Ben are not covered by Legal Advice Privilege. Katie is not "the client" for the purpose of seeking legal advice; she is a source of factual information. Ben's notes of the interview would not be privileged, whereas his email to the Head of Legal and the Board of Directors summarising his legal advice based on the investigation would be privileged.

#### The "Dominant Purpose" Test

For LAP to apply, the communication must have been made for the "dominant purpose" of seeking or providing legal advice. This means the primary reason for the communication must

be legal advice. If a communication has multiple purposes, the courts will examine which purpose was the ruling, prevailing, or most influential one.

**Example:** Chloe, a solicitor, receives an email from her client, David, the CEO of a company. The email states: "Please find attached the Q3 financial reports for your information. Also, on page 5, I've outlined a proposed redundancy process; can you advise on its legal compliance?" The financial reports were not created for the purpose of legal advice and are not privileged. David's question about the redundancy process, however, is a clear request for legal advice. Chloe's reply giving that advice would be privileged, but the attachment of the financial reports would not, in itself, attract privilege.

### **What is "Legal Advice"?**

The concept of "legal advice" has been interpreted broadly by the courts. It is not confined to telling the client the law. It includes advice as to what should prudently and sensibly be done in the relevant legal context. This can encompass strategic, tactical, and commercial advice, provided it is directly related to the solicitor's professional legal capacity.

### **7.3.2 Litigation Privilege**

Litigation Privilege (LP) is broader in its scope of protection but narrower in its application. It protects confidential communications between a solicitor or their client and a third party, which are created for the dominant purpose of existing or reasonably contemplated litigation.

#### **The Conditions for Litigation Privilege**

For LP to apply, three key conditions must be satisfied:

1. Litigation must be in reasonable prospect. This is more than a mere possibility. It requires that litigation is more likely than not, or that there is a "distinct likelihood" of litigation. An internal investigation, or a regulatory inquiry, may not be sufficient on its own unless and until it crosses the threshold into adversarial proceedings.

**Example:** A company is notified that the Competition and Markets Authority (CMA) is conducting a preliminary investigation into its practices. At this early, investigative stage, litigation may not be in reasonable prospect. However, once the CMA issues a

Statement of Objections, alleging an infringement and proposing a fine, litigation is now clearly in reasonable prospect.

2. The communication must be made for the sole or dominant purpose of that litigation. This is the same test as for LAP but applied in the litigation context. The purpose must be to use the communication in the litigation, or to obtain advice or evidence in relation to it.
3. The litigation must be adversarial, not investigative or administrative. LP applies to court proceedings, arbitrations, and other adversarial contests. It generally does not apply to non-adversarial processes, such as a public inquiry or a purely regulatory fact-finding mission.

### **Scope of Protection**

The great strength of LP is that it protects communications with third parties. This includes:

1. **Communications with witnesses:** Statements taken from potential witnesses.
2. **Communications with experts:** Instructions to and reports from expert witnesses.
3. **Communications with other third parties:** For example, private investigators or forensic accountants hired to assist with the case.

**Example:** Fatima is acting for a hospital trust following a serious clinical incident. A patient has been harmed, but no claim has been issued yet. However, Fatima reasonably anticipates a clinical negligence claim. She instructs an independent medical expert to prepare a report on the standard of care provided. This report is created for the dominant purpose of anticipated adversarial litigation. It is therefore protected by Litigation Privilege. The expert's report, Fatima's instructions to the expert, and any internal communications about the report are all privileged.

### **The Critical Distinction and its Consequences**

The distinction between LAP and LP is not academic; it has profound practical consequences, particularly in corporate and regulatory investigations.



### **LAP is Narrower**

LAP only protects lawyer-client communications. Internal company documents, even if created to help a solicitor understand the facts, are not privileged unless they are a direct communication with the lawyer for the purpose of seeking advice.

### **LP is Broader but Harder to Trigger**

LP protects communications with third parties, but only once the high threshold of "litigation in reasonable prospect" is met.

This creates a "gap" in protection. During the early stages of an internal investigation, before litigation is clearly on the horizon, communications between the company's lawyers and third-party witnesses (like employee interviewees) are not protected by LP, and they are not lawyer-client communications for LAP. This is why great care must be taken in how such investigations are structured to maximise the chances of a privilege claim.

## **7.4 Conclusion**

The duty of confidentiality remains a defining feature of the solicitor–client relationship, yet it operates alongside powerful statutory obligations requiring disclosure in the public interest particularly under laws combating money laundering and terrorism. Solicitors must report suspicions to the National Crime Agency (NCA) under *POCA 2002* and avoid “tipping off” clients once a disclosure is made. In limited cases, disclosure may also be justified to prevent serious crimes or imminent harm.

At the same time, Legal Professional Privilege (LPP) provides a crucial safeguard, protecting communications made for the purpose of legal advice or anticipated litigation. Identifying when privilege applies is vital, as it overrides disclosure duties under *POCA*. The solicitor’s challenge lies in maintaining this delicate balance; protecting client trust and privilege while fulfilling mandatory legal and ethical duties to uphold justice and prevent wrongdoing.

# 8

## EQUALITY, DIVERSITY AND INCLUSION IN THE PROFESSION

Equality, Diversity, and Inclusion (EDI) are no longer optional ideals—they are core professional duties embedded in the ethical fabric of legal practice. Under *SRA Principle 6*, solicitors must actively promote EDI, not merely avoid discrimination. This duty demands conscious effort to create an environment where everyone; clients, colleagues, and the wider public, is treated with fairness, dignity, and respect. Upholding EDI is not just about compliance; it is about integrity, credibility, and maintaining public trust in a profession that serves an increasingly diverse society.

Beyond moral and ethical imperatives, EDI is both a legal obligation under the *Equality Act 2010* and a strategic advantage. A truly inclusive profession fosters innovation, strengthens client relationships, and enhances reputation. By embedding fairness into every level of professional practice, from recruitment to client service, solicitors not only comply with the law but also shape a profession that reflects the justice it upholds.

### 8.1 The SRA Principle on Equality, Diversity, and Inclusion

The commitment to Equality, Diversity, and Inclusion (EDI) within the legal profession has evolved from a peripheral concern to a central, mandatory tenet of professional practice. *SRA Principle 6* explicitly requires that you "behave in a way that encourages equality, diversity, and inclusion." This is not a passive obligation to simply avoid discrimination; it is a positive and proactive duty to actively promote a culture of fairness and respect.

For a solicitor, this means that EDI is not just an HR policy, but a fundamental aspect of professional ethics that impacts every interaction with clients, colleagues, the judiciary, and third parties. Upholding this principle is essential for upholding public trust, as a profession that does not reflect and respect the diverse society it serves will inevitably lose its legitimacy and credibility.

## 8.2 Legal Framework: *The Equality Act 2010*

The *Equality Act 2010* is the principal legislation governing anti-discrimination law in England and Wales, consolidating and strengthening previous anti-discrimination statutes. For a solicitor, this Act is not merely a piece of legislation to be aware of; it is a fundamental component of their regulatory and ethical landscape. The *SRA Principles*, particularly *Principle 6* ("behave in a way that encourages equality, diversity and inclusion") and *Principle 2* ("uphold public trust and confidence"), are given concrete expression through the Act.

A breach of the *Equality Act* is not just a legal issue for the firm as an employer or service provider; it is a direct breach of professional ethics that can lead to disciplinary action by the SRA, separate from any civil claim an individual might bring. Understanding the Act's provisions is therefore essential for competent and ethical practice.

### 8.2.1 Protected Characteristics

The Act's protection is targeted and specific, focusing on nine defined "protected characteristics." It is crucial to understand the statutory definitions, as they can be broader than common understanding.

1. **Age:** This refers to a person belonging to a particular age group (e.g., 21-30) or a range of ages (e.g., "over 50"). It protects both young and old persons.
2. **Disability:** A person has a disability if they have a physical or mental impairment which has a 'substantial' and 'long-term' adverse effect on their ability to carry out normal day-to-day activities. "Long-term" means has lasted or is likely to last for at least 12 months. This includes conditions such as cancer, HIV, and multiple sclerosis from the point of diagnosis.

3. **Gender reassignment:** The Act protects a person who is proposing to undergo, is undergoing or has undergone a process (or part of a process) to reassign their sex by changing physiological or other attributes of sex. A person does not need to be under medical supervision to be protected.
4. **Marriage and civil partnership:** Protection is for being married or in a civil partnership. Notably, this characteristic does not cover being single, divorced, or widowed.
5. **Pregnancy and maternity:** Protection is against discrimination because of pregnancy or maternity. This covers the period of pregnancy and any statutory maternity leave.
6. **Race:** This encompasses colour, nationality, and ethnic or national origins. An ethnic group can have a long-shared history and a distinct cultural tradition.
7. **Religion or belief:** This includes any religion (e.g., Christianity, Islam, Hinduism) and any religious or philosophical belief (e.g., atheism, humanism). It also includes a lack of religion or belief.
8. **Sex:** Referring to being a man or a woman.
9. **Sexual orientation:** This covers a person's sexual orientation towards persons of the same sex (gay/lesbian), the opposite sex (heterosexual), or either sex (bisexual).

The protection applies across the professional sphere: in employment (recruitment, terms and conditions, promotion, training, dismissal), in the provision of services (to clients and the public), and in the exercise of public functions. This means a solicitor must be mindful of the Act when dealing with a client, instructing a barrister, opposing another firm, and managing their own staff.

### **8.2.2 Prohibition of Discrimination, Harassment, and Victimisation**

The Act outlines several distinct forms of unlawful conduct. A solicitor must be able to identify these not only to avoid liability but to foster a compliant and inclusive professional environment.

## 1. Direct Discrimination

This is the most straightforward form of discrimination. It occurs when someone is treated less favourably because of a protected characteristic. The key is the reason for the treatment. There is no defence of justification for direct discrimination, save for very limited exceptions (e.g., an occupational requirement).

**Example:** Thomas does not hire Emma because he holds a stereotypical view that women are less assertive and therefore less suited to a tough negotiation role. This is direct discrimination. The "less favourable treatment" is the failure to hire, and the "reason" is her sex. The fact that Thomas genuinely holds this belief is irrelevant; the motive is discriminatory.

## 2. Indirect Discrimination

This is more subtle but equally unlawful. It occurs when a seemingly neutral Provision, Criterion or Practice (PCP) is applied to everyone, but it puts, or would put, persons who share a particular protected characteristic at a particular disadvantage, and it cannot be shown to be a proportionate means of achieving a legitimate aim.

The Test for Justification: The firm must prove both parts:

- **Legitimate aim:** The goal of the PCP must be legal and non-discriminatory, such as ensuring an efficient workflow or maintaining a professional standard.
- **Proportionate means:** The PCP must be an appropriate and necessary way to achieve that aim. The firm must show there were no less discriminatory alternatives available.

**Example:** The firm's "full-time work" PCP has a legitimate aim of ensuring maximum coverage and collaboration. However, is it proportionate? Could the same aims be met by allowing flexible hours or job-sharing? If so, the blanket ban is not proportionate and is therefore indirectly discriminatory.

### 3. Harassment

Harassment is defined as unwanted conduct related to a protected characteristic, which has the purpose or effect of violating a person's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment for them. The perspective of the victim is central, and a tribunal will consider whether it was reasonable for the conduct to have that effect.

Harassment can be a one-off incident or a pattern of behaviour. The conduct does not need to be intentionally malicious; the effect on the victim is what matters. Also, it can occur even if the conduct is not directed at the complainant (e.g., overhearing a racist joke).

**Example:** David's "jokes" are unwanted conduct related to Ben's religion. Even if David claims it was "just banter," the tribunal would assess the impact on Ben. Ben has already stated it is unwanted, and a reasonable person could see how such comments create a hostile environment. This is clear harassment.

### 4. Victimisation

This protects individuals who, in good faith, take action under the Equality Act. It prevents perpetrators or employers from punishing someone for making a complaint or supporting someone else's complaint. The detriment can be any less favourable treatment.

The scope of protection is broad. It covers:

- Bringing proceedings under the Act.
- Giving evidence or information in connection with proceedings.
- Doing any other thing for the purposes of or in connection with the Act (e.g., raising an informal grievance).
- Alleging that someone has committed an act that would contravene the Act.

**Example:** Sophie's complaint is a "protected act." Excluding her from client meetings is a clear detriment that would not have occurred "but for" her complaint. This is victimisation, and it serves to silence those who would challenge discrimination, which is why it is treated so seriously.

## 8.3 Promoting EDI within a Law Firm

The *SRA's Principle* requires solicitors and firms to go beyond legal compliance and actively promote EDI. This involves a strategic and sustained effort to create a fair and inclusive culture. Key actions include:

### 1. Leadership and Accountability

Firm leadership must visibly champion EDI and be held accountable for progress. This includes appointing senior leaders with responsibility for EDI and setting clear, measurable objectives.

### 2. Inclusive Policies and Practices

Reviewing and updating all people-related processes, from recruitment and promotion to work allocation and flexible working, to ensure they are fair, transparent, and free from bias.

### 3. Data Collection and Monitoring

Collecting and analysing diversity data (anonymously) to understand the composition of the workforce and identify any areas of under-representation or disadvantage.

### 4. Networks and Mentoring

Supporting employee resource groups (e.g., for women, LGBTQ+ staff, or ethnic minority staff) and establishing mentoring schemes to support the development of talent from all backgrounds.

## 8.4 Reasonable Adjustments for Clients and Colleagues

An essential duty under the *Equality Act 2010* is the obligation to make "reasonable adjustments" for disabled people. This duty is anticipatory; you must think in advance about what barriers disabled people might face and take steps to remove them.

1. **For clients:** This means ensuring your services are accessible. This could include:
  - Providing documents in large print or Braille.

- Arranging for a British Sign Language interpreter for meetings.
  - Ensuring your office is physically accessible.
  - Being prepared to communicate with clients via their preferred method (e.g., email if a phone call is difficult).
2. **For colleagues:** As an employer or manager, you must make adjustments to enable a disabled employee to perform their role. This could include:
- Providing specialised software or equipment.
  - Allowing flexible working hours.
  - Making physical modifications to the workspace.

The test is what is "reasonable," considering factors like cost, effectiveness, and the resources of the firm. A refusal to make a reasonable adjustment is a form of discrimination.

## 8.5 Unconscious Bias and its Impact on Professional Practice

Unconscious biases are social stereotypes about certain groups of people that individuals form outside their own conscious awareness. Everyone holds unconscious beliefs, and these can directly contradict our conscious, committed values. In a legal context, unconscious bias can have a pernicious effect, undermining fairness and objectivity.

### Impact on Client Service

Bias can subtly shape how solicitors communicate and engage with clients, leading to unequal treatment without malicious intent. For instance, a solicitor might inadvertently use a condescending tone with an older client or make assumptions about a client's competence or financial awareness based on their accent, dress, or ethnicity.

### Impact on Decision-Making

influence the strategic and evidential decisions a solicitor makes in a case. For example, a solicitor might favour witnesses who share their communication style or underestimate the credibility of others due to subtle stereotypes. Even decisions about which arguments to emphasise or how to present a case can be coloured by implicit bias.



## **Impact within the Firm**

Within the workplace, unconscious bias can shape who is hired, promoted, or entrusted with important tasks, often to the detriment of diversity and meritocracy. It might manifest as favouring individuals who “fit in” culturally, assigning complex work to familiar faces, or rating performance based on personality alignment rather than results.

Combatting unconscious bias requires self-reflection, education, and the implementation of structured processes (like blind CV screening or structured interview questions) that mitigate the influence of bias on critical decisions.

## **8.6 The Business Case for a Diverse and Inclusive Profession**

Beyond the clear ethical and legal imperatives, there is a powerful business case for EDI.

### **Better Client Service**

A diverse legal team reflects the society and clients it serves, allowing for a deeper understanding of different backgrounds, values, and needs. This diversity of perspective enhances communication, cultural sensitivity, and problem-solving.

### **Enhanced Reputation and Talent Attraction**

Firms that prioritise inclusivity are seen as progressive, fair, and socially responsible and these qualities resonate with modern clients and employees alike. By fostering a culture where everyone feels valued and supported, firms can attract and retain exceptional talent from a wide range of backgrounds, driving long-term growth and sustainability.

### **Improved Decision-Making**

Teams composed of individuals with different experiences and viewpoints challenge assumptions, question biases, and bring fresh insights to complex legal and business problems. In legal practice, this leads to more robust strategies, reduced blind spots, and better outcomes for clients, strengthening both the quality and credibility of professional advice.

## Financial Performance

Diversity is not only ethically and intellectually beneficial but economically advantageous. Organisations with diverse leadership outperform less diverse counterparts in profitability and innovation. Inclusive workplaces tend to have higher employee engagement, lower turnover, and improved productivity, which directly enhance a firm's financial stability and long-term success.

## 8.7 Conclusion

Equality, Diversity, and Inclusion are not optional values but essential professional obligations that underpin the integrity and legitimacy of the legal profession. The *Equality Act 2010* and the *SRA Principles* together establish a clear expectation that solicitors must go beyond avoiding discrimination to actively fostering inclusion, fairness, and respect in all professional interactions. This includes making reasonable adjustments, addressing unconscious bias, and ensuring that opportunities and services are accessible to all.

Beyond compliance, promoting EDI strengthens the profession itself. Inclusive firms are more innovative, attract top talent, and deliver better client outcomes through broader perspectives and greater cultural awareness. A genuine commitment to EDI therefore enhances not only fairness and trust but also the sustainability and reputation of the profession as a whole.

# 9

## PROFESSIONAL CONDUCT AND DISCIPLINE

The Solicitors Regulation Authority (SRA) enforces the highest professional standards within the legal profession through a structured system of investigation, discipline, and sanctions. Its disciplinary powers are designed not merely to punish, but to protect the public, uphold the rule of law, and maintain confidence in the integrity of solicitors and law firms. By applying a proportionate, risk-based approach, the SRA ensures that its focus remains on serious breaches that threaten client protection or undermine the reputation of the profession.

Understanding the SRA's disciplinary process is essential for every practising solicitor. From the initial investigation of complaints to hearings before the Solicitors Disciplinary Tribunal (SDT), the system reflects the core regulatory values of transparency, fairness, and accountability. Familiarity with common types of misconduct, potential sanctions, and the lessons drawn from disciplinary case precedents helps solicitors not only avoid regulatory breaches but also strengthen their commitment to ethical, competent, and trustworthy practice.

### **9.1 Overview of the SRA's Disciplinary Powers and Procedures**

The Solicitors Regulation Authority (SRA) wields a comprehensive suite of powers to investigate and take action concerning solicitors and firms who breach its regulatory requirements. This disciplinary framework exists not to punish for its own sake, but to uphold the SRA's regulatory objectives: to protect the public, to support the constitutional principle

of the rule of law, to improve access to justice, and to promote public confidence in the profession.

The SRA's approach is risk-based and proportionate, focusing its resources on the most serious breaches. The disciplinary process typically begins with a report or complaint, which may come from a client, a member of the public, another solicitor, or through the firm's own mandatory reporting. The SRA then conducts an investigation, which can involve requesting documents, interviewing witnesses, and taking statements. Based on the findings, the SRA will decide on the appropriate outcome, ranging from no action for minor issues to severe sanctions for serious misconduct.

## **9.2 Common Types of Professional Misconduct**

Professional misconduct can take many forms, but certain types of breach are recurring themes in SRA and Solicitors Disciplinary Tribunal (SDT) decisions. Understanding these common pitfalls is a crucial part of risk management and ethical practice.

### **1. Breaches of the SRA Accounts Rules**

This is one of the most serious categories. Examples include using client money as office money ("teeming and lading"), allowing a client account to become overdrawn, failing to perform reconciliations, and holding client money without a proper reason. These breaches strike at the heart of client trust.

### **2. Lack of Integrity**

This is a broad concept, often described as "the most important of the core principles." It encompasses conduct that is dishonest, but also conduct that is morally culpable and falls short of the ethical standards expected by the public. Examples include misleading the court or an opponent, failing to be candid with a client, or taking unfair advantage.

### **3. Conflicts of Interest**

Acting where there is a conflict between two clients, or between the solicitor's own interest and the client's interest, without the proper safeguards and informed consent, is a serious breach of the duty of undivided loyalty.

### **4. Failure to Provide a Proper Standard of Service**

This includes persistent neglect, chronic delay, failing to advise a client properly, or taking on work for which one is not competent. While a single minor error may not be misconduct, a pattern of poor service or a single instance of gross incompetence will be.

### **5. Breach of Confidentiality**

Wrongfully disclosing or using a client's confidential information is a fundamental breach of trust.

### **6. Failure to Co-operate with the SRA**

This is a misconduct in itself. Ignoring requests for information, providing misleading responses, or obstructing an investigation will be treated very seriously and can aggravate an otherwise minor breach.

## **9.3 The Solicitors' Disciplinary Tribunal (SDT): Jurisdiction and Sanctions**

The Solicitors Disciplinary Tribunal (SDT) is an independent statutory tribunal that operates separately from the SRA. It hears the most serious cases of professional misconduct. While the SRA can itself issue rebukes and impose fines of up to £25,000, it must refer cases where a more severe sanction is likely to be needed to the SDT.

The SDT has the power to:

1. Strike a solicitor off the Roll of Solicitors.
2. Suspend a solicitor from practice for a fixed or indefinite period.

3. Impose unlimited fines on a solicitor or a firm.
4. Order a solicitor to pay restitution or costs.
5. Place conditions on a solicitor's practising certificate.

Proceedings before the SDT are formal and public, and its decisions are published online, creating a powerful deterrent and a transparent record of the profession's standards.

## 9.4 Outcomes for Breaches: Fines, Reprimands, Suspension, and Strike-off

The sanctions imposed by the SRA and SDT follow a sliding scale of severity, reflecting the principle of proportionality.

1. **Rebuke (or Reprimand):** A formal, published statement that a solicitor's conduct has been unacceptable. This is a serious matter that remains on the solicitor's record and is used for less serious but still culpable misconduct.
2. **Fines:** Financial penalties can be imposed by both the SRA (up to £25,000) and the SDT (unlimited). The level of the fine will reflect the seriousness of the misconduct, the harm caused, and the solicitor's means.
3. **Suspension:** This temporarily removes a solicitor's right to practise. It is used for serious misconduct where the tribunal believes the solicitor may be able to return to the profession in the future after a period of reflection and remediation.
4. **Strike-off:** This is the ultimate sanction, effectively ending an individual's career as a solicitor. It is reserved for the most serious cases, typically those involving dishonesty, a profound lack of integrity, or a persistent and reckless disregard for regulatory obligations. Dishonesty, in particular, is almost always considered to justify strike-off, as it is fundamentally incompatible with being a solicitor.

## 9.5 The Role of Case Studies and Precedents in Understanding Enforcement

Studying published decisions of the SDT and SRA regulatory decisions is an invaluable tool for understanding the practical application of the Principles and Codes of Conduct. These cases are not just stories; they are the living law of professional discipline. They provide concrete examples of:

- How abstract concepts like "integrity" and "public trust" are interpreted in real-world scenarios.
- The types of conduct that the profession and the regulator consider to be at the most serious end of the spectrum.
- The aggravating and mitigating factors that influence the severity of the sanction.
- The consequences for individuals and firms.

By analysing these precedents, a solicitor can develop a nuanced understanding of the "red lines" that must not be crossed and the standards that are expected in complex situations.

## 9.6 The Importance of Reflective Practice and Continuing Competence

The best way to avoid disciplinary proceedings is to prevent misconduct from occurring in the first place. This requires a proactive commitment to lifelong learning and reflective practice. The SRA's Continuing Competence regime requires every solicitor to reflect on their practice, identify their learning and development needs, and undertake relevant training. This is not about collecting a set number of hours; it is about a genuine process of self-assessment and improvement.

Reflective practice involves critically analysing your own work. When a matter concludes, ask yourself: What went well? What could have been done better? Were there any ethical dilemmas and how were they resolved? Did I comply with all my regulatory obligations? This habit of mind fosters a culture of continuous improvement and ethical vigilance, ensuring that a solicitor's knowledge and skills remain sharp and their ethical compass true. It is the most

effective defence against the complacency and poor practice that can lead to professional discipline.

## **9.7 Conclusion**

The SRA's disciplinary framework plays a vital role in safeguarding the integrity of the legal profession and protecting the public from misconduct. By enforcing strict standards and proportionate sanctions, the SRA and the Solicitors Disciplinary Tribunal (SDT) ensure that breaches such as dishonesty, conflicts of interest, or poor service are dealt with firmly and transparently. The independence of the SDT reinforces public trust, while the principle of proportionality guarantees that each case is treated fairly in light of its seriousness and impact.

For solicitors, understanding this system is both a professional and ethical necessity. Studying past disciplinary cases provides valuable insight into how principles like integrity and competence are applied in practice. More importantly, maintaining reflective practice and ongoing professional development helps prevent breaches before they occur to safeguard the clients and the public as well as the honour and credibility of the profession itself.



# APPENDIX A

## SRA PRINCIPLES

The *SRA Principles* comprise the fundamental tenets of ethical behaviour that all individuals and firms regulated by the Solicitors Regulation Authority must uphold. They are set out in the SRA Standards and Regulations and are mandatory. A breach of the Principles is a serious matter and can lead to disciplinary sanctions.

The *Principles* are overarching and apply to all aspects of practice. They define the fundamental ethical standards that the SRA expects of all those it regulates, and they inform the application of all other, more specific rules within the SRA's regulatory arrangements.

### ***The SRA Principles***

You act:

1. in a way that upholds the constitutional principle of the rule of law, and the proper administration of justice. This is your paramount duty. You must not allow your obligations to a client to override your responsibility to act in the interests of justice and to uphold the rule of law.
2. in a way that upholds public trust and confidence in the solicitors' profession and in legal services provided by authorised persons. This requires you to act with probity and in a manner that justifies the public's trust in you and the profession, in both your professional and personal life.
3. with independence. Your judgement and advice must not be subject to improper influence from your client, your firm, or any third party. You must exercise your own independent professional judgement.
4. with honesty. You must be truthful in all your professional and business dealings.

5. with integrity. This fundamental Principle requires you to behave in a way that is morally sound, even when no one is watching. It encompasses fairness, candour, and straight dealing.
6. in a way that encourages equality, diversity and inclusion. You must not discriminate unfairly, and you must take positive steps to promote a culture of equality, diversity and inclusion in the profession and in the provision of legal services.
7. in the best interests of each client. You must always act in good faith and do your best for each of your clients. This duty is subject to your duties to the court and the administration of justice (*Principle 1*).

The following three Principles are supplementary and apply to authorised bodies (firms):

8. You ensure your business is carried out in a way that encourages equality, diversity and inclusion. This imposes a positive duty on firms to embed a culture of EDI within their organisation.
9. You ensure your business is carried out in a way that is consistent with the proper service of your clients. This requires firms to have effective systems and controls in place to ensure a proper standard of service is delivered.
10. You protect client money and assets. This is a core duty for firms, requiring robust financial management and strict adherence to the *SRA Accounts Rules* to keep client money safe.

# APPENDIX B

## SRA CODE FOR SOLICITORS

This Code sets out the standards of professionalism that we, the SRA, and the public expect of you. You are required to:

- uphold the constitutional principle of the rule of law and the proper administration of justice.
- act with integrity, in a way that upholds public trust and confidence in the solicitors' profession and in legal services provided by authorised persons.

These are key extracts from the Code and are not exhaustive. The full Code contains additional provisions, guidance and exceptions.

### **Chapter 1: Maintaining Trust and Acting Fairly**

- 1.1 You do not abuse your position by taking unfair advantage of clients or others.
- 1.2 You provide services to clients in a manner which protects their interests in their matter, subject to the proper administration of justice.
- 1.3 You do not, unless there is a proper reason, act for clients whose interests conflict, or there is a significant risk that their interests may conflict.
- 1.4 You ensure that your clients understand the overall cost of their matter, both at the outset and as their matter progresses.
- 1.5 You do not discriminate unlawfully, or victimise or harass anyone, in the course of your professional dealings.

## **Chapter 2: Service and Competence**

2.1 You only act for clients in matters where you are competent to do so.

2.2 You provide a proper standard of service, which includes:

- (a) exercising competence, skill and diligence
- (b) providing a timely service
- (c) providing any information in a way the client can understand
- (d) properly taking the client's instructions
- (e) keeping clients informed
- (f) protecting confidentiality

2.3 You ensure that clients receive a costs estimate at the outset and updated appropriately.

2.4 You ensure that clients are informed in writing at the outset of their matter of:

- (a) who will be carrying out the work
- (b) the name and status of the person responsible for overall supervision
- (c) the name and contact details of the person the client should contact with any queries
- (d) details of the client's right to complain and how to complain

## **Chapter 3: Conflicts of Interests**

3.1 You do not act if there is an own interest conflict, or a significant risk of such a conflict.

3.2 You do not act in relation to a matter or a particular aspect of it if you have a conflict of interest, or a significant risk of such a conflict, in relation to that matter or aspect of it, unless:

- (a) the clients have a substantially common interest in relation to that matter or aspect of it;
- or (b) the clients are competing for the same objective.

**Chapter 4: Confidentiality and Disclosure**

4.1 You keep the affairs of clients confidential unless disclosure is required or permitted by law or the client consents.

4.2 You ensure that where you outsource services, all service providers keep their clients' affairs confidential.

4.3 You do not use confidential information about a client acquired in the course of your professional duties for your own benefit or the benefit of another client.

**Chapter 5: Your Client and the Court**

5.1 You do not attempt to deceive or knowingly or recklessly mislead the court.

5.2 You comply with court orders made against you.

5.3 You draw to the court's attention:

- relevant cases and statutory provisions
- any material procedural irregularity

**Chapter 6: Your Client and your Business**

6.1 You do not use your professional status to take unfair advantage of anyone.

6.2 You ensure that your clients' money and assets are safeguarded and kept secure.

6.3 You do not make unwarranted payments from a client account.

6.4 You properly account for interest on client money.

**Chapter 7: You and your Regulator**

7.1 You comply with your legal and regulatory obligations and deal with your regulators and ombudsmen in an open, timely and co-operative manner.

7.2 You ensure that you do not become involved in any money laundering or terrorist financing activities.

7.3 You report to the SRA promptly, in writing:

- any facts or matters that you reasonably believe are capable of amounting to a serious breach of these regulatory arrangements by any person regulated by us,
- the commencement of certain insolvency events.

# APPENDIX C

## SRA ACCOUNT RULES 2019

These *Rules* set out the requirements for keeping and maintaining client money. The purpose of these Rules is to keep client money safe. You must comply with the *Principles* set out in the SRA Standards and Regulations in relation to your practice, including your handling of client money.

These are key extracts from the *SRA Accounts Rules 2019* and are not exhaustive. The full Rules contain additional provisions, guidance and exceptions.

### **Rule 2: Client Money and Client Accounts**

2.1 You ensure client money is paid promptly into a client account.

2.2 You ensure that client money is held in a client account at a bank or building society authorised by the Prudential Regulation Authority.

2.3 You only withdraw client money from a client account:  
(a) for the purpose for which it is being held, or (b) following receipt of instructions from the client, or the third party for whom the money is held.

### **Rule 3: Use of a Client Account**

3.1 You do not use a client account to provide banking facilities to clients or third parties. Payments into, and transfers or withdrawals from, a client account must be in respect of the delivery by you of regulated services.

### **Rule 4: Duty to Report Breaches**

4.1 You report promptly to the SRA any serious breach of these Rules, or any serious failure to comply with these Rules, and take any necessary steps to address any resulting issues.

**Rule 5: Accounting Systems and Records**

5.1 You keep and maintain written accounting records of your practice to show accurately the position with regard to:

- (a) the money held for each client and third party, and
- (b) any other money dealt with through a client account.

5.2 You keep and maintain:

- (a) all accounts, including client ledgers, and (b) a record of all bills of costs and other written notifications of costs.

5.3 You keep and maintain a record of all reconciliations.

**Rule 6: Reconciliations**

6.1 You at least every five weeks:

- (a) compare the balance on the client ledger with the balance on the client account, and
- (b) prepare a reconciliation statement.

6.2 You investigate and resolve any differences shown by the reconciliation.

**Rule 7: Duty to Correct Breaches**

7.1 You correct any breaches of these Rules promptly upon discovery.

**Rule 8: Interest**

8.1 You account to clients or third parties for a fair sum of interest on any client money held by you on their behalf.

**Rule 9: Accounting for Costs**

9.1 You only withdraw your costs from client money if:

- (a) you have given a bill of costs or other written notification of costs to the client or the paying party, and



(b) the client or the paying party has been notified that the money held will be used for payment of the costs.

**Rule 10: Client Money Withheld**

10.1 You return client money to the client promptly, as soon as there is no longer any proper reason to hold those funds.

**Rule 11: Outsourcing**

11.1 If you use a third party to carry out any function under these Rules, you remain accountable for the work done and ensure that the third party complies with these Rules.

# APPENDIX D

## SAMPLE CLIENT CARE LETTER AND TERMS OF BUSINESS

This is a sample template for illustrative purposes only. It must be tailored to the specific matter and client circumstances. Firms should ensure their client care documentation complies with all current SRA requirements and other legal obligations.

[FIRM NAME]

[Firm Address]

[Phone Number]

[Email Address]

[Website]

VAT Number: [Number]

SRA Number: [Number]

[Date]

[Client Name]

[Client Address]

Dear [Client Name],

Re: [Matter Description]

Our Reference: [Matter Number]

## **1. Introduction and Basis of Our Engagement**

We are pleased to confirm our appointment to act on your behalf in connection with the above matter. This letter and the enclosed Terms of Business set out the basis of our engagement. Please sign and return the enclosed copy of this letter to indicate your acceptance of these terms.

## **2. Responsibilities**

Our Responsibilities:

- We will act in your best interests, subject to our duties to the court and the administration of justice.
- We will explain relevant legal issues and provide clear, timely advice.
- We will keep you informed of progress and costs.
- We will maintain appropriate professional indemnity insurance.

Your Responsibilities:

- To provide us with clear, timely instructions.
- To provide all information and documentation relevant to your matter.
- To be truthful in all your dealings with us.
- To make payments towards costs and disbursements as requested.

## **3. People Responsible for Your Matter**

The following people will be handling your matter:

- Overall Responsibility: [Name of Supervisor], [Position]
- Day-to-Day Conduct: [Name of Fee Earner], [Position]
- Contact Details: [Email and Phone Number for queries]

## **4. Costs and Billing**

Our Charges:

Our fees will be calculated based on:

- Time spent at the following hourly rates:
  - [Name]: £[X] per hour
  - [Name]: £[Y] per hour
- The complexity, urgency, and value of the matter
- Our responsibility in handling your case

We estimate our total fees will be between £[MIN] and £[MAX], excluding VAT and disbursements. This is an estimate only and not a fixed quote. We will update you if this estimate changes.

### **Disbursements**

These are payments we make on your behalf to third parties (e.g., court fees, expert reports, barrister's fees). We will seek your approval before incurring significant disbursements.

### **Billing Arrangements:**

- We will send interim bills [monthly/quarterly/at key stages]
- Payment is due within [14/21/30] days of invoice
- We may request payments on account

### **5. Interest Payment**

We hold client money in an instant access account. We will account to you for a fair sum of interest where the amount of interest is more than £50.

### **6. Confidentiality and Data Protection**

We will maintain the confidentiality of your information in accordance with our professional duty and the *UK General Data Protection Regulation (GDPR)*. Please see our Privacy Notice for details of how we process your personal data.

### **7. Complaints Procedure**

We are committed to providing high-quality service. If you have any concerns about our service, please contact [Name of Complaints Handler]. If you remain dissatisfied, you may refer your complaint to the Legal Ombudsman. Their contact details are:

- Address: PO Box 6167, Slough, SL1 0EH
- Phone: 0300 555 0333
- Website: [www.legalombudsman.org.uk](http://www.legalombudsman.org.uk)

Time limits apply; you must usually refer your complaint within six months of our final response.

## **8. Termination**

You may end your instructions to us at any time by giving written notice. We may stop acting for you only with good reason (e.g., non-payment of bills, conflict of interest). We will give you reasonable notice if we stop acting.

## **9. Financial Services**

We are not authorised by the Financial Conduct Authority. If you need advice on investments, we may have to refer you to someone who is authorised.

## **11. Client Protection**

We are covered by compulsory professional indemnity insurance. We participate in the Financial Services Compensation Scheme.

Please sign and return the enclosed copy of this letter to confirm your acceptance of these terms.

Yours sincerely,

[Name of Supervisor]

[Position]

ACKNOWLEDGEMENT

I/We acknowledge receipt of this Client Care Letter and Terms of Business and confirm acceptance of its terms.

Signed: \_\_\_\_\_

Name: [Client Name]

Date: \_\_\_\_\_

---

## Master the Principles and Application of Professional Ethics for the SQE1

*Law Angels SQE Series: Professional Ethics* provides a clear, comprehensive, and strategically focused guide to the SRA Standards and Regulations. Meticulously designed for the SQE1 curriculum, this textbook moves beyond mere rule-recitation to cultivate the ethical judgment and professional integrity essential for a successful legal career.

Inside, you will find:

- **Foundational Framework:** A rigorous exploration of the core SRA Principles, the fundamental duty to the court, and the overarching objective of upholding public trust in the legal profession.
- **Core Duty Deconstruction:** In-depth chapters on key ethical obligations, including confidentiality, conflicts of interest, client care, and the proper administration of justice, each broken down with practical examples.
- **Financial Integrity:** A thorough analysis of the ethical duties surrounding client money, costs and billing, and the management of financial compliance in line with the Accounts Rules.
- **Ethics in Context:** Real-world scenarios and case-driven discussions that show you how to apply ethical principles in complex situations across different practice areas, from litigation to transactions.
- **Regulation and Risk:** Essential coverage of the SRA's regulatory framework, the consequences of professional misconduct, and the importance of effective risk management and systems of control.
- **Exam-Focused Approach:** Scenario-based problems, decision-making flowcharts, and key regulatory checklists designed to hone your analytical skills and build confidence in tackling SQE1 questions.

This book is more than a textbook; it is an essential guide to professional formation. It is the definitive resource for any candidate seeking not just to pass the SQE1, but to build a solid foundation for an honourable and respected career in the law.

*Law Angels, Empowering Future Solicitors with Knowledge and Purpose.*