Solicitors Regulation Authority

# Upholding Professional Standards 2019/20

July 2021

English Cymraeg [https://rules.sra.org.uk/sra/research-publications/cynnal-safonau-proffesiynol-2019-20/]

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## About us

The Solicitors Regulation Authority (SRA) is the regulator of solicitors and law firms in England and Wales.

We work to protect members of the public and support the rule of law and the administration of justice. We do this by overseeing all education and training requirements necessary to practise as a solicitor, licensing individuals and firms to practise, setting the standards of the profession and regulating and enforcing compliance against these standards.

We are the largest regulator of legal services in England and Wales, covering around 80% of the regulated market. We oversee some 206,000 solicitors and 10,100 law firms.

Open all [#]

## Foreword

Welcome to the 2019/20 Upholding Professional Standards report. I know that the overwhelming majority of solicitors and firms we regulate do a good job, providing high-quality legal services to the public, and meeting the standards we set.

But, when those standards are not met and things go wrong, we can step in to take action and make sure that service users are protected and confidence in the profession is well placed. This report covers our work to do that.

This third report looks again at such things as: the key areas we see in our enforcement work, the number of concerns we receive, and the type of enforcement action we took during the year.

Themes we continue to see strongly represented are: sexual harassment, money laundering, and dubious investment schemes. These are complex, high-profile areas of our work, and we have specialist teams in place to investigate concerns that are raised with us. New themes have also emerged this year, such as workplace bullying and harassment, and law firm compliance with

publishing consumer information on websites, following the introduction of our Transparency Rules.

For the second year, this report looks at the diversity characteristics of the people involved in our enforcement processes. We continue to see the longstanding overrepresentation of men and people from an ethnic minority background in concerns raised with us and those we investigate. It's time for change and, as we said we would last year, we are now commissioning research looking into the societal and structural factors underpinning the picture we are seeing. This research will provide a bedrock from which to work, with others, to change the pattern and to make the difference we all want to see. I am grateful to the many diversity groups and organisations that have offered to help with this work. We are looking forward to the insight the research will offer.

I hope, as ever, that this report shines a light on what is a critical, complex and often challenging area of our work.

**Anna Bradley**

**Chair of the SRA Board**

## Our approach to enforcement

## Our enforcement work

### Our role

The role of our enforcement work is to:

- Maintain and uphold standards of competence and ethical behaviour.
- Protect clients and the public – we control or limit the risk of harm by making sure individuals and firms are not able to offend again or are deterred from doing so in the future.
- Send a signal to the people we regulate more widely with the aim of preventing similar behaviour by others.
- Uphold public confidence in the provision of legal services.

### Our Enforcement Strategy

Our Enforcement Strategy [https://rules.sra.org.uk/sra/corporate-strategy/sra-enforcement-strategy/] , as revised in February 2019, sets out how we will use our enforcement powers when a business or person we regulate has not met the standards we expect. It provides clarity on how we decide whether we should act in given circumstances, and what we take into account when assessing the seriousness of misconduct and the action to take.

### Our powers

Our own powers to impose sanctions are limited. For example, our fining powers for individual solicitors are limited to £2,000, and we are not able to strike off a solicitor. If we think this sort of action is necessary, we must take the case to the Solicitors Disciplinary Tribunal (SDT). We can, in some

circumstances, place restrictions on a solicitor's practice or on the people who work in law firms but are not solicitors.

We have more robust powers in relation to an alternative business structure (ABS), also known as a licensed body, which will have non-lawyer ownership or control of the business. We can impose a fine of up to £250m on the firm and up to £50m on its managers and employees. This is in contrast to more traditional types of firms, such as limited liability partnerships or partnerships, where only the SDT can issue an unlimited fine for these types of firms.

A table of sanctions we and the SDT impose can be found at annex 1 [#collapse_8a2a].

**Helping firms and solicitors get it right**

To help firms and solicitors know when they could be most at risk of falling short of the standards we expect, or not complying with our rules, we provide a range of services and publications, such as:

- our Professional Ethics helpline and webchat service, on hand to answer questions about our rules and regulations
- guidance to help firms understand how our rules and regulations work
- our annual Risk Outlook publication, which highlights the biggest risks in the sector and how firms and solicitors can tackle them
- thematic reviews of key areas within the legal sector, highlighting risks and raising awareness about what good and bad practice looks like.

## Key themes

We regulate approximately 153,000 practising solicitors and we received around 9,600 reports of concerns in 2019/20.

The number of reports that result in some form of sanction is small, reflecting that the overwhelming majority of solicitors and law firms do a good job and earn the trust we all place in them.

Some of the matters reported to us relate to concerns that are raised regularly, for example, issues of confidentiality, misleading the court, or taking advantage of a third party. We also receive concerns about areas of the law commonly used, such as conveyancing and probate.

Each case is different, however, and many are complex, with a mixture of potential breaches of our regulations. And, although there is variation, we monitor reports to identify any particular issues that emerge year on year.

The work of solicitors and law firms often becomes involved in areas of wider public interest. For example, in recent years, cases concerning sexual harassment in the workplace, the use of certain clauses in non-disclosure agreements (NDAs), money laundering, and leasehold issues have all been topical. This can lead to a rise in the numbers of related reports to us. If appropriate, we take steps to remind the profession of its responsibilities through, for example, warning notices.

Such topical issues are often high profile and attract public – and therefore press and parliamentary – interest. Our work to maintain professional standards can play an important part in addressing these concerns, alongside other activity, perhaps by law enforcement agencies or through legislative reform.

**Sexual harassment**

During 2019/20, we continued to investigate new matters reported to us, 83 in total, concerning harassment and inappropriate sexual behaviour in work-related environments. As of February 2021, we had more than 130 open investigations. Allegations of sexual harassment can include sending inappropriate messages, making inappropriate comments, non-consensual physical contact and sexual assault.

This is the third year where sexual harassment has been a key theme in our enforcement work, following the rise of the #MeToo movement in 2017. We have published and updated warning notices [https://rules.sra.org.uk/solicitors/guidance/non-disclosure-agreements-ndas/] and provided guidance on reporting obligations [https://rules.sra.org.uk/solicitors/guidance/reporting-notification-obligations/] to guide firms on how to improve workplace cultures and practices.

These are difficult and sensitive matters, and we have a dedicated team to investigate the concerns raised. We want to do everything we can to provide a safe and supportive environment for the people involved in our proceedings.

In 2019/20, three cases we brought to the SDT where there were allegations relating to sexual harassment resulted in the solicitors involved being fined between £10,000 and £21,000 each.

In a high-profile appeal brought by the respondent in one case, the High Court overturned the SDT's finding of a failure to act with integrity in a case where there were allegations of sexual harassment. The High Court also overturned the £35,000 fine the SDT handed to the solicitor concerned.

Following this case, we have been working to make sure we develop our approach to decision-making in this complex and sensitive area. We welcomed the High Court's firm confirmation in this case that the public is entitled to expect that junior staff and members of the profession are treated with respect by more senior colleagues. Solicitors must not, as the High Court emphasised: 'take unfair advantage of others', whether in a professional or personal capacity.

Allegations of sexual misconduct and sexual harassment are matters that we take very seriously and will continue to act upon.

**Non-disclosure agreements**

Using NDAs to suppress disclosure of wrongdoing is, itself, a high-profile issue, given its relation to issues such as #MeToo. Other cases have the potential to be high profile because of the subject matter of the dispute or the parties involved, both of which can be concealed through using an NDA.

In November 2020, we updated our warning notice [https://rules.sra.org.uk/solicitors/guidance/non-disclosure-agreements-ndas/] on NDAs, reminding the profession of its obligations when drafting them. As of February 2021, we had 11 open investigations concerning their inappropriate use. The majority of these concerned the use of NDAs in commercial disputes.

There are legitimate uses for NDAs and such agreements are not illegal or unethical in themselves. What we are concerned with is those NDAs that seek to restrict disclosure of misconduct to a regulator, or reporting a criminal offence to the police, even though they are unenforceable. We want to make sure that those we regulate do not take unfair advantage of their opposing party when drawing up an NDA. Solicitors who draw up such agreements may well be failing to act with integrity and uphold the rule of law. They could be found to have failed to uphold public trust and confidence in the legal profession.

**Money laundering**

The legal sector is attractive to criminals because it can give the appearance of legitimacy to the holding or transfer of money gained from criminal activity. Law firms and solicitors often hold large sums of money in their client accounts and can transfer money through property or other transactions.

As part of our role in the Legal Sector Affinity Group, made up of organisations supervising anti-money laundering efforts and representative bodies in the legal services sector, we published updated guidance [https://rules.sra.org.uk/globalassets/documents/solicitors/firm-based-authorisation/lsag-aml-guidance.pdf?version=4903b4] on what firms can do to help combat money laundering. This is against a backdrop of new and amended money laundering regulations, as well as increased and emerging risks in the sector.

To monitor risks and check compliance, we have an ongoing programme of reviewing firms' approaches to preventing money laundering and carried out 74 visits in 2019/20 [https://rules.sra.org.uk/sra/how-we-work/archive/reports/anti-money-laundering-visits-2019-2020/] . Although the firms we visited were, for the most part, working to prevent money laundering, there were key areas we identified in need of improvement. These were: having an independent audit carried out on anti-money laundering systems, checks and processes; screening new employees; carrying out risk assessments; and, checking a client's source of funds. We engaged with some firms to make sure they were compliant with our money laundering rules and the regulations, and we referred nine for investigation.

In total, we opened 153 new investigations concerning money laundering in 2019/20. We used our own powers to take action and rebuked or fined firms where we found breaches of the money laundering regulations. Issues included failing to perform the necessary due diligence on clients, failing to identify a client's source of funds, and failing to train staff on the relevant regulations.

We also brought prosecutions where the matters were more serious, including two where the solicitors concerned had been convicted for money laundering offences. Both were struck off. In the past five years, we have taken 125 solicitors to the SDT, with nearly 70 losing their rights to practise through either strike offs or suspensions. The SDT also issued £1.4m in fines.

In 2020/21, we also started taking action against firms who failed to declare that they had a firm-wide anti-money laundering risk assessment in place.

**Dubious investment schemes**

In 2019/20, we investigated 15 new matters concerning solicitor involvement in dubious or risky investment schemes. At a time of low interest rates, and, in the light of the Covid-19 pandemic and its effect on the economy, many people may find investment schemes offering high returns attractive. In some cases, they lose substantial sums of money. In a thematic review we carried out in 2020 [https://rules.sra.org.uk/sra/how-we-work/archive/reports/investment-schemes-that-are-potentially-dubious/] , we found that losses were typically more than £1m per scheme.

In many instances, the involvement of a law firm in a dubious investment scheme does not form part of the usual business of a firm or solicitor. This can be a key reason why our compensation fund (and often the firm's insurance) cannot help with restoring the money people have lost.

But, we do investigate the solicitors involved, and we take action where we find misconduct. In one case in 2020, the SDT fined one partner £20,000 and another £7,500 for, among other breaches of our rules, allowing money relating to an investment scheme to pass through their client account. This was despite no underlying legal transaction taking place. This is not allowed under our rules.

In the last five years, we have taken 50 individuals and three firms to the tribunal for their involvement in investment schemes. This saw 20 individuals stopped from practising through strike offs or suspensions, with the tribunal issuing a further £967,000 in fines.

In August 2020, we updated our warning notice [https://rules.sra.org.uk/solicitors/guidance/investment-schemes-including-conveyancing/] on solicitor involvement in dubious investment schemes in light of our findings in the thematic review, reminding solicitors of the warning signs of when they could be involved and of the impact on the public and the reputation of the profession.

## Health of respondents and solicitor wellbeing

We know that people in our sector can become unwell as they do in any sector, and that working in law can be challenging and stressful. When this stress has a negative impact on the work of a solicitor or a firm, it can affect competence and lead to mistakes and, potentially, serious breaches of our standards, such as dishonesty. This can result in regulatory engagement and action, which may be avoided if solicitors recognise the warning signs early on and seek the correct support and help. To support solicitors who are unwell, we have published a range of resources [https://rules.sra.org.uk/solicitors/resources-archived/your-health-your-career/] and work with organisations, such as LawCare, which can assist those in need of support.

We have seen an increase in cases where respondents have said the issues that have brought them into our processes were related to pressure of work, in

addition to the harassment and bullying issues covered below. We have also seen a rise in medical evidence in proceedings before the SDT relating to solicitors' fitness to participate in our proceedings.

We are also mindful that the investigations process can be stressful and can exacerbate or trigger health issues. If we see this is the case, and depending on the health issue and evidence available, we will consider carefully any reasonable adjustments or case management directions that may assist. We can look at whether it might be more appropriate to resolve matters through practising conditions, or an agreed outcome, rather than a hearing at the SDT.

Our guidance [https://rules.sra.org.uk/solicitors/guidance/sra-investigations-health-issues-and-medical-evidence/] can help people to understand the approach we take to health issues that are raised by those we are investigating and what we look for when it comes to medical evidence.

## Workplace bullying and harassment

We are receiving a growing number of concerns where individuals have reported to us that workplace bullying was a factor in them breaching our Standards and Regulations. In cases we have seen, individuals have, for example, concealed mistakes by misleading clients, falsifying time recording and covering up missed deadlines. We are currently investigating almost 140 such matters where there are links to allegations of bullying and harassment, and we will look to take enforcement action where appropriate.

We are developing guidance on workplace culture and a healthy working environment for firms. It focuses on the need to have in place appropriate policies, systems and controls to minimise the risk of this type of situation arising. This is due to be published later this year. We have also started work on a thematic review to better understand the issues and good and poor practice taking place in firms.

## Publishing key consumer information on law firm websites

Introduced in December 2018, our transparency rules [https://rules.sra.org.uk/solicitors/standards-regulations/transparency-rules/] mean that firms with a website should publish basic, indicative information about the price of certain services, details about who might carry out the work, and avenues for complaint. They should also display our clickable logo [https://rules.sra.org.uk/solicitors/resources-archived/transparency/clickable-logo/] , which was made mandatory in December 2019, to help explain the protections the public gets from using a regulated law firm.

Our research shows [https://rules.sra.org.uk/news/news/press/2020-press-release-archive/transparency-research-2020/] that, since the rules were introduced, more potential clients believe solicitors are affordable, and firms would recommend the business benefits that greater transparency about prices bring. However, there are a small number of firms falling short of the information we expect them to publish. We are carrying out regular reviews of law firms' websites to check compliance. Some firms are only partially complying, while others are not complying at all.

We have provided support for firms [https://rules.sra.org.uk/solicitors/resources-archived/transparency/clickable-logo/] to get this right and will continue to do so, but, where firms are not providing the type of information that the public expects and our rules set out, we are taking enforcement action.

We have sanctioned nine firms for breaches of the rules after investigations in 2019/20, and action has included rebuking or fining firms. We will continue to check that firms are complying with the rules and take enforcement action where necessary.

## Acting in compensation claims

In 2019/20, we opened 16 investigations into claims being improperly brought against payday loan companies, cavity wall insulation (CWI) installers and, where the issue related to mis-sold mortgage products, mortgage providers and brokers.

Claims against payday loan companies are now being brought as some loans sold over the past 10 years were either irresponsibly sold or mis-sold to people who could not afford to pay them back. The rise in reports relating to faulty CWI follows a government initiative in the early 2010s to help make homes become more energy efficient. Some homeowners are now finding that the CWI installation has resulted in damp or mould in the property. And, some consumers have found that they were mis-sold a mortgage product they could not afford or had paid excessive fees to brokers.

Although the vast majority of claims are valid and properly brought, in the matters we are investigating, we are seeing evidence that the standards we expect from solicitors are not being met. In some cases, solicitors are not investigating whether the claim is properly valid and failing to advise clients about what will be expected of them when making a claim. In addition, we have also seen false claims submitted in the hope of a settlement, false claims submitted without having instructions from the client and charging unreasonable costs for a limited amount of work.

Claims being improperly brought in areas heavily linked to consumer activity are not new. We have, in the past, seen similar issues concerning holiday sickness and payment protection insurance claims. We will continue to monitor the reports made to us concerning these new trends, investigate matters and take enforcement action where necessary.

## Risk alert

We scan the legal environment to identify potential risks. We produce a range of material to raise awareness and assist the profession to manage problems, helping to protect the users of legal services.

Our 2020 Risk Outlook publication [https://rules.sra.org.uk/archive/risk/outlook/risk-outlook-2020-21/] again highlighted the themes and risks mentioned above, such as money laundering and solicitor involvement in dubious and risky investment schemes, particularly against the backcloth of the Covid-19 pandemic. The Risk Outlook also discussed keeping client money safe and poor standards of service – an ongoing risk – as many people do not know what to expect from their solicitor and what to do if something goes wrong.

Cybercrime continues to be a risk in the legal sector, as it is in other industries, and our latest Risk Outlook found that there was a 300% increase in phishing scams seen during the first two months of the first lockdown in 2020. Law firms are a particular target as they hold critically sensitive information and large sums of money for people and businesses. A 2020 thematic review [https://rules.sra.org.uk/sra/how-we-work/archive/reports/cyber-security/] into 40 cyberattacks on law firms found that £4m of people's money had, as a result, been lost. We continue to encourage law firms to report cyberattacks and near misses to us, so that we can warn the wider profession about criminals' latest tactics through our alerts and ebulletins.

We have also issued additional resources for law firms on cybersecurity [https://rules.sra.org.uk/news/news/cyber-security-qa/] in light of the changed ways of working brought about by the Covid-19 pandemic. And, our latest Risk Outlook [https://rules.sra.org.uk/archive/risk/outlook/risk-outlook-2020-21/] has the latest information on cybercrime and other risks in the legal sector.

Our website scam alerts continue to be well used, with more than 169,000 views in 2019/20. They are designed to alert firms and members of the public about businesses that are misusing law firm details and fake law firms that are attempting to defraud people.

## Reporting concerns

## Reporting concerns

### Who reports concerns to us?

Some concerns come to us direct from the profession, such as from solicitors or the compliance officers who work in law firms.

Others come from members of the public, the police and the courts. We also work closely with the Legal Ombudsman (LeO), the organisation that handles complaints about the standards of service people receive from their lawyer. LeO will contact us if, during one of its investigations, it has concerns that a solicitor may have breached our rules. Like all regulators, we also monitor media and other reports.

We also identify concerns as we undertake other aspects of our work. For example, we carry out thematic reviews of particular types of legal work or requirements, such as anti-money laundering procedures.

#### Who made reports to us in 2019/20?

| Public | Profession | SRA internal referral | Anonymous | LeO | Other authority | Other | Unknown |
|---|---|---|---|---|---|---|---|
| 61% | 26% | 4% | 1% | 2% | 2% | 3% (can include, for example, the police, a | 1% |

bank, press or media article, trainees or students)

Total reports dealt with in the 2019/20 years: 9,375

### Reporting concerns to the SRA

Over the past four years, we have received, on average, 11,000 reports every year raising concerns about the solicitors and legal businesses we regulate, although we are starting to see this number decrease (see more under 'number of concerns').

When we receive a concern, we carefully consider the information sent to us and decide if we need to investigate. We may ask relevant parties questions to better understand the issues.

In some cases, we can resolve the concerns through prompt engagement with the firm, making sure they correct any shortcomings. Where necessary, we will take witness statements, visit firms in person and analyse evidence, for example, bank accounts, financial statements and other documents.

After carefully considering the issue and speaking to all parties concerned, we will make a decision on next steps in line with our Enforcement Strategy.

In very serious cases, we refer the firm or solicitor to the SDT. The SDT is independent of us and has powers we do not. For example, it can suspend a solicitor, issue an unlimited fine or stop them from practising.

## Number of concerns

The total number of reports we received in 2019/20 was 9,642, compared with 10,576 in 2018/19. This is around a 9% decrease, and a 16% decrease from 2017/18 where we received 11,452 concerns. One reason for this may be improved communications. In particular, we have improved the public-facing information on our website and, in 2018, we also introduced a joint leaflet with LeO [https://rules.sra.org.uk/globalassets/documents/consumers/who-can-help.pdf?version=496527] . It has information as to which organisation a complaint should be raised with, where a person has encountered an issue or problem with a legal professional or firm. This is the second year we have seen a decrease in the number of concerns reported to us (see more in the table below) and we will continue to monitor this statistic to see if it is part of any ongoing trend.

**Number of concerns 2016-2020**

| | 2016/17 | 2017/18 | 2018/19 | 2019/20 |
|---|---|---|---|---|
| **Number of concerns we received** | 11,967 | 11,452 | 10,576 | 9,642 |

| | | | | |
|---|---|---|---|---|
| **Number of concerns dealt with in the same period** | 11,879 | 11,508 | 9,649 | 9,375 |

The total number of reports the team responded to and dealt with in 2019/20 was approximately 9,400. Please note, there is not always a linear relationship between the number of reports we receive and the number dealt with in the same 12-month period. This is because not all cases will be resolved within that timeframe. This is why we dealt with a slightly higher number of concerns in 2017/18 compared with the number we received.

The wider difference between the number of concerns received and those dealt with in 2018/19 was because of the introduction of a new process around how we considered concerns when we received them. You can read more about this in our Upholding Professional Standards 2018/19 report [https://rules.sra.org.uk/globalassets/documents/sra/research/upholding-professional-standards-2018-19.pdf?version=4af086] .

## Key stages when considering a concern

### 1. Initial look at concerns by our Assessment and Early Resolution Team

#### We do not investigate

In many cases, there will be no need for us to investigate. We will always explain why this is the case. Midway through 2018/19, we brought in a new process to manage this work and which now includes a greater degree of engagement with the parties involved.

#### We redirect the matter to LeO

LeO deals with complaints about a law firm’s or solicitor’s standard of service. We work closely with LeO. We send relevant matters to it and vice versa.

#### We redirect matters to other authorities

In some cases, we are unable to investigate as it is not in our jurisdiction or is about firms or people we do not regulate.

#### We redirect the matter internally

We do this if, for example, it is in fact a claim on our compensation fund or an authorisation query.

### 2. We investigate

#### Talking to all concerned parties

We normally need to ask for more information. We may talk to the person who raised the concern with us and the fi rm or the solicitor involved and/or contact a third party. Where necessary, we will gather documents and evidence.

We will write or speak to the firm or solicitor, formally setting out our concerns. They have the opportunity to respond.

#### Keeping people up to date

We keep parties up to date throughout the investigation. Most of our investigations are resolved within a year.

### 3. Bringing an investigation to a close

#### We do not find the firm or solicitor has breached our standards or regulations

In cases where we find that the fi rm or solicitor has not fallen short of the standards we expect, we will always explain our findings and why we are not taking action to the people who initially reported the matter to us.

#### Resolving through engagement with the firm

This happens when the breach of our standards or regulations is minor, there is no ongoing or future risk to the public, the firm or solicitor took swift steps to remedy the issue and had a cooperative and constructive approach to resolving the matter.

#### We impose a sanction

In some cases, we will take enforcement action and impose a sanction or agree an outcome.

This can include fining a fi rm or solicitor or imposing restrictions on their practising certificate.

### 4. SDT referral

#### Case is referred to the SDT and it makes a decision

The most serious cases are referred to the SDT. It considers the matter and decides whether there should be a hearing. If there is a hearing, the SDT will decide if issuing a sanction is appropriate.

We and the firms and solicitors involved can apply to appeal SDT decisions.

## Report outcomes 2019/20

The Concerns reported to us 2019/20 diagram gives an overview of the number of reports we received about firms' and solicitors' behaviour in 2019/20 and the outcomes recorded in the same period. There is no linear relationship between the number of reports we receive and the number of outcomes in a 12-month period. This is because not all cases will be resolved within that timeframe.

Most of our investigations are resolved within a year of receipt. In 2019/20, the median time taken to complete an initial assessment of a concern raised with us was 18 working days,[1 [#n1]] compared with four working days in 2018/19.

This was due to a change in the way in which we consider concerns reported to us.

We piloted and introduced our new assessment and early resolution process part way through 2018/19. This involves us talking further, as necessary, with the person who raised the concern with us, the firm or the solicitor involved and/or contacting a third party. This allows us to obtain, gather and verify information, which often provides the opportunity to resolve the matter at an early stage without the need for further investigation. Since introducing this new approach, we have seen almost a 37% decrease in the number of concerns we refer for investigation (dropping from 3,602 in 2018/19 to 2,279 in 2019/20).

If, however, a matter is referred to the SDT, or there is other activity, such as a police investigation or we receive further related reports, cases may take much longer.

The majority of concerns do not result in us taking enforcement action or referring a case to the SDT. This is because, in many cases, we can resolve matters through engagement and without the need for enforcement action. In many others, we find that the solicitor or firm has not breached our rules. We keep all information sent to us and, if appropriate, can refer to it if concerns are raised in the future.

## Concerns reported to us 2019/20

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| 153,000 practising solicitors | | | 9,642 concerns reported to us and 9,375 dealt with in 2019/20 | | | | |
| Not in our jurisdiction: 196 | | | | | | | |
| Redirected internally or sent to LeO: 879 | | | | | | | |
| Investigation into matter remains ongoing (12-month rolling average): 1,983 | | | | | | | |
| Investigation carried out: 2,279 | | | | | | | |
| Cases heard at the SDT: 112 | Fine: 83 | Suspension: 18 | Strike offs: 57 | Other decisions: 5 | No orders: 10 | | |
| Cases with SRA sanctions: 274 | Letters of advice: 73 | Rebuke or reprimand: 51 | Fine: 49 | Section 43 order: 67 | Conditions imposed on practising certificate: 16 | Finding/ finding and warning: 19 | Section 47 (2) (g): 3 |
| We did not find that the firm or solicitor breached, or seriously breached, our rules. | | | | | | | |
| We engage with some firms to put things right and to make sure they are compliant: 1,720 | | | | | | | |
| Investigation not necessary: 6,021 | | | | | | | |

## Concerns reported to us 2019/20

- One case can result in multiple outcomes. As previously mentioned, there is no linear relationship between the number of reports we receive and the

number of outcomes in a 12-month period.
- If a report is redirected internally, it is generally because it is a matter for our Authorisation or Compensation Fund teams, for example.
- We redirect matters to LeO if we think it is a service level-related complaint.
- The meaning of the different types of outcomes and the action we and the SDT take can be found in the glossary and at annex 1.

## Our assessment and early resolution process

Our assessment and early resolution process thoroughly considers cases through the lens of our new Enforcement Strategy and takes a much more customer-focused approach when engaging with the people who have made reports to us.

We use a three-stage assessment threshold test directly linked to the new Enforcement Strategy to help us decide if an investigation should take place. We consider:

- Has there been a potential breach of our Standards and Regulations based on the allegations made?
- Is the potential breach sufficiently serious that, if proved, is capable of resulting in regulatory action?
- Is that breach capable of proof?

A concern will only pass this test where the answer to all three questions is 'yes'. If we need more information, we will ask for that information to help us decide. We are guided by the Enforcement Strategy when we consider each stage of the test. We will tell the person who reported the concern to us if and when we decide to move into a full investigation into the matter. We will also advise and explain our reasons if we decide not to investigate.

The reasons we close matters at this stage can be because there has not been a breach of our rules. We can also resolve the matter through engagement (for example, we talk to the firm and walk them through what they need to do to comply with our rules, where the matter does not merit enforcement action). We may also close matters because the concern presented does not present a significant enough regulatory risk. Although these matters do not progress into an investigation, we look into them carefully, engage with firms where necessary and keep matters on file in case we need to refer to them in the future.

## Constructive engagement – supporting compliance

In some cases, once we have opened an investigation, engaging with a firm or solicitor to resolve a matter and help with compliance will be an appropriate course of action.

For example, we might offer guidance to the firm or solicitor and supervise and monitor them as they take steps to remedy the issue. We will, generally, resolve matters in this way where the conduct lends itself to a remedial plan and the evidence suggests it is unlikely to be repeated, and where there is no ongoing risk. It will also be where the firm or solicitor involved has an open, cooperative and constructive approach towards resolving the issues.

We only ever take the steps that are needed to protect and promote the public interest, and we consider everything on a case-by-case basis. Our focus is on the most serious of issues, such as where a firm or solicitor has fallen well below the standards we expect in an isolated instance, or where they have persistently fallen well below these standards. In these cases, it is likely we will take enforcement action.

We will always explain how we have come to our decision to those involved.

## Taking urgent action

When we become aware of an issue of a more serious nature and there is an immediate risk to the public, there are steps we can take to limit the risk. These are:

- Intervening into a law firm: we can take possession of all money and files that the firm or solicitor holds, effectively closing down the firm or an individual solicitor's practice. We do this in cases where we know that people are at risk of receiving legal services from a dishonest solicitor, or it is otherwise necessary to protect the interests of the clients.
- Placing conditions on practising certificates: to stop an individual solicitor or a firm from, for example, handling client money or acting as a manager of a firm.
- Imposing a 'section 43 order': this stops people who are not solicitors but work in law firms from working in any firm we regulate without our permission.

**Case study**

We imposed a section 43 order on a non-solicitor working in a law firm after finding they had misled clients.

The individual concerned carried out debt recovery work. On six matters, they told the respective clients that they had issued proceedings when they had not. On three of the matters, they told clients that they had sent letters to the defendants when they had not. On one occasion, the individual said they had applied for a default judgment[2 [#n2]] when they had not. The non-solicitor also misled his supervisor on how one matter had been resolved. We became aware of the issue after the firm reported the individual's conduct to us.

The individual admitted that their conduct was dishonest, and we considered a section 43 outcome to be appropriate, given that they had misled clients, in order to prevent them from working in a law firm without getting our permission first. They had to pay our investigation costs of £300.

## Issuing sanctions and regulatory settlement agreements

If there has been a serious breach of our rules by a firm or solicitor, we can issue an in-house sanction.

The range of sanctions we can impose is limited. For example, our fining powers for individual solicitors are limited to £2,000, and we are not able to strike off a solicitor. However, we can impose a fine of up to £250m on an ABS, also known as a licensed body, and up to £50m on managers and employees of an ABS.

Where appropriate, we can also resolve a matter through a regulatory settlement agreement (RSA). Under an RSA, the facts and outcome are agreed by both parties. RSAs allow us to protect both consumers and the public interest by reaching appropriate outcomes swiftly, efficiently and at a proportionate cost.

We publish the details of our findings and sanctions, including RSAs, on our website. We are able to withhold any confidential matters from publication, where this outweighs the public interest in publication (for example, details of an individual's health condition).

**Case study**

As part of our role as an anti-money laundering supervisor in the legal sector, we make sure that the law firms and individuals we regulate have effective policies, controls and procedures in place to tackle money laundering.

Part of this work includes reviewing and sampling firms' files, their procedures and their systems to make sure they are playing their part and following money laundering regulations. This is to prevent and detect money laundering and terrorist financing.

In 2020, we rebuked a firm after finding it had not sufficiently trained relevant staff on money laundering regulations, which was a breach of those regulations and our rules. Training staff on how to recognise and deal with transactions, activities or other instances that might be related to money laundering is an essential step in combatting it.

We considered that the firm had made early admissions, but it had failed to swiftly remedy the non-compliance by training its staff and making them aware of the regulations. There was no evidence of harm to the public, no evidence to suggest that the lack of training resulted in money laundering, and there was a low risk of the firm repeating the offence.

We considered a rebuke an appropriate outcome and resolved the matter through an RSA.

The decision was published on our website and the firm had to pay our investigation costs of £1,350.

## Bringing cases to the Solicitors Disciplinary Tribunal

We prosecute the most serious cases at the SDT. It is independent of us and can impose a wider range of sanctions than we can.

For example, it can impose unlimited fines, or suspend or strike a solicitor off the roll of solicitors, meaning they can no longer work as a solicitor. A full breakdown of the sanctions we impose and the sanctions the SDT imposes can

be found at annex 1 [#collapse_8a2a] . In 2019/20, we referred 112 cases to the SDT, compared with 125 in 2018/19. It is too early to say whether this decrease is indicative of a trend and we will continue to monitor the number of cases we prosecute at the SDT.

When deciding whether to bring a case to the SDT, we consider whether:

- we have evidence that would support a realistic prospect of the SDT making a finding of misconduct
- the SDT is likely to impose a sanction that we cannot
- it is in the public interest to make the application.

**Case study**

The SDT fined a solicitor £55,000 after hearing that they had tried to kiss a much more junior member of staff in a hotel room after a work-related event. The tribunal found that the solicitor had committed serious professional misconduct and breached two of our principles. These principles were: behaving with integrity and behaving in a way that maintains the trust the public places in the profession and legal services.

In its judgment, the tribunal commented that the solicitor: 'had accepted that [their] conduct amounted to sexual harassment and unprofessional conduct' and that their conduct at the time of the event: 'represented an extraordinary abuse of position'. It also noted that, as a direct result of the incident, the junior member of staff's career: 'took an entirely different path' and that: 'the emotional impact on [the junior solicitor] had been very clear… during the course of their evidence.'

As well as fining the solicitor, the SDT ordered them to pay costs of £48,000.

**Cases heard at the SDT**

2017/18: 134 cases

2018/19: 125 cases

2019/20: 112 cases

## Agreed outcomes

If we refer a matter to the SDT and it says there is a case to answer, and the firm or individual admits to allegations, it may be appropriate to conclude the matter by an agreed outcome, rather than through a full hearing. In these circumstances, we agree an outcome and costs based on an agreed set of facts.

The SDT then considers the outcome and will decide whether to accept it, whether any changes should be made to it, or to order a full hearing for the case. Agreed outcomes are different to RSAs, which are agreements we come

to with solicitors and firms in-house without the need to involve the SDT and when the matter is of a less serious nature. This is reflected in the sanction – for example, a fine for an RSA will typically be no more than £2,000, whereas a fine subject to the SDT's review can be unlimited.

Agreed outcomes allow us to protect both consumers and the public interest swiftly, efficiently and at a proportionate cost.

In addition, changes to the SDT's rules in 2019 include a new rule that expressly allows either us or the respondent to propose that a case should be resolved by way of an agreed outcome. This is encouraging more cases to be resolved by way of an agreed outcome and is likely why we have seen an increase in cases resolved this way in 2019/20.

**How cases were resolved at the SDT 2015-2020**

| Year | Cases resolved by SDT agreed outcomes | Cases resolved by SDT hearing |
|---|---|---|
| 2019/20 | 42 | 72 |
| 2018/19 | 33 | 92 |
| 2017/18 | 37 | 97 |
| 2016/17 | 27 | 90 |
| 2015/16 | 2 | 127 |

There is a difference between the total number of cases concluded at the SDT (112) when the total number of cases concluded by a hearing (72) and those concluded by way of an agreed outcome (42) are added together (114). This can happen when a case concerns more than one individual. For example, we may be able to reach an agreed outcome with one of the individuals in the case, but we are unable to reach one with another and a full hearing is required to resolve the matter. In 2019/20, there were two cases which were concluded this way.

## Agreed outcomes 2019/20

There were 42 cases resolved by agreed outcome in 2019/20. The agreed outcomes shown are a subset of the overall number of cases we referred to the SDT during 2019/20 (112). These cases resulted in the sanctions in the table shown. Please note, one case can result in more than one sanction.

The glossary and annex 1 have more information on what sanctions mean and the action the SDT takes.

| Strike off | Suspended | Fine | Section 43 order | Reprimand | Other decision |
|---|---|---|---|---|---|
| 19 | 10 | 21 | 1 | 0 | 0 |

**Case study**

In 2020, we reached an agreed outcome in which a solicitor was struck off after they were found guilty of three money laundering

offences. The solicitor had been sentenced to seven years' imprisonment.

The solicitor was convicted of offences that included helping criminals to launder their money through property transactions over at least five years. The judge sentencing the solicitor said that: 'by reason of the number, the frequencies of the transactions, the unexplained cash deposits and the continuing and repeated alert signs that were demonstrated in the transactions.... That [the solicitor] must have been aware that by continuing to act... [they were] thereby assisting... in the acquisition of criminal property.'

An agreed outcome was appropriate in this case because the solicitor admitted to the allegations put to them and the facts of the case were clear following the conviction, meaning a hearing would not be necessary.

As well as the strike off, the solicitor had to pay £1,450 in costs. In its judgment, the SDT said: 'significant wider harm to the reputation of the profession arose from [the solicitor's] conviction for serious offences related to money laundering.'

## The appeals process

Firms and individuals have the right to appeal against decisions we make in-house and decisions the SDT makes. The right to appeal is fundamental to natural justice and a fair legal process.

### Appealing our decisions

Firms and individuals subject to our conditions or sanctions have the right to appeal. Appeals against our decisions are considered in-house by our Adjudication team. If an adjudicator dealt with the initial decision, however, then the appeal is heard by a panel drawn from a pool of arms-length adjudicators. Parties have further rights of appeal to either the SDT (in the case of a fine, rebuke or section 43 order) or to the High Court.

### Appealing SDT decisions

A firm, solicitor or other person who has been the subject of an SDT decision may appeal if they believe the decision is wrong. We can also appeal SDT decisions in the courts.

To appeal an SDT decision, we or the respondent must apply to the High Court.

Appeals allow courts to correct any errors that may have been made and to clarify the interpretation of law.

In addition to the legal grounds, we will take into account a range of factors as to whether we appeal a decision the SDT makes. For example:

- Clarification on the law: we recognise that the SDT has a wide margin of discretion when considering the outcomes of the cases it hears. If, however, it makes a decision that appears to contradict or misinterpret a

point of law, we will consider whether we should appeal. We think it is important that there is clarity and consistency in the way that the law applies to our role as a regulator and to the rights and obligations of the people we regulate.
- Acting in the public interest: we bring cases to the SDT to ensure public trust and confidence and to maintain standards in the profession. If there are grounds to suggest this has not been achieved, we will consider whether it is appropriate to appeal.
- Public protection: if we think the sanction the SDT imposed is too lenient and there are grounds to suggest that the public may, as a result, be at risk, we will consider whether an appeal is appropriate. For example, we may appeal a decision where we consider that a solicitor should have been struck off the roll, rather than suspended for a short period.

## Appeals against internal decisions

### Appeals against internal decisions 2017-2020

**Total appeals against our decisions 2017/18**

15

| Unsuccessful appeals | Successful in part | Successful appeals |
|---|---|---|
| 11 | 3 | 1 |

**Total appeals against our decisions 2018/19**

11

| Unsuccessful appeals | Successful in part | Successful appeals |
|---|---|---|
| 11 | 0 | 0 |

**Total appeals against our decisions 2019/20**

9

| Unsuccessful appeals | Successful in part | Successful appeals |
|---|---|---|
| 7 | 2 | 0 |

### Appeals against SDT decisions

The decisions in the table below relate to appeals against decisions the SDT made in 2019/20. We and respondents brought fewer appeals in 2019/20. An increasing number of cases resolved by way of an agreed outcome in recent years is likely to have an impact on the number of appeals heard, as parties are less likely to bring an appeal. We will continue to monitor both the number of appeals we bring and those brought by respondents.

### Appeals against SDT decisions 2017-2020

**Total external appeals decisions 2017/18**

21

| SRA's successful appeals | SRA's unsuccessful appeals | Respondents' unsuccessful appeals | Respondents' successful appeals |
|---|---|---|---|
| 7 | 2 | 10 | 2 |

**Total external appeals decisions 2018/19**

20

| SRA's successful appeals | SRA's unsuccessful appeals | Respondents' unsuccessful appeals | Respondents' successful appeals |
|---|---|---|---|
| 6 | 0 | 13 | 1 |

**Total external appeals decisions 2019/20**

6

| SRA's successful appeals | SRA's unsuccessful appeals | Respondents' unsuccessful appeals | Respondents' successful appeals | Judgment reserved in respondents' appeals |
|---|---|---|---|---|
| 1 | 0 | 2 | 1 | 2 |

### Case study

When we prosecute a case at the SDT, we must show it that we have evidence to support our allegations made against a firm or solicitor. The SDT will then decide whether there is a case to answer and whether a hearing can go ahead.

In 2020, we appealed a matter to the High Court after the SDT said there was no case to answer based on the evidence we presented to it. The allegations we made concerned a solicitor who, after working on a criminal case, had made a costs claim on government funds for the work they carried out. This costs claim was granted and then revoked by the court on the grounds of suspected fraud.

The evidence we had in support of our allegations included a report from a court official who found there was evidence of fraud in the costs claim, the Court of Appeal's judgment in revoking the costs order, and a report we had prepared relating to the case.

We brought an appeal in this case to seek clarification of the law and on what the threshold for evidence was when bringing a case to the SDT.

The High Court overturned the SDT's decision and ordered that a hearing should take place. It also overturned a £63,000 costs order the SDT made against us when it decided the hearing should not take place.

## Our costs

Every year, we collect practising fees from solicitors and law firms in England and Wales, and from solicitors and law firms practising English and Welsh law overseas.

The practising fees we collect fully, or partly, fund six organisations, including us. In 2019/20, we collected £103.2m in total, with £54.4m going towards our overall expenditure.

In 2019/20, we spent £15.1m on our disciplinary processes, which are a fundamental part of our work to ensure high professional standards. Although this is a slight increase compared with 2018/19, where we spent £15m, we have steadily reduced the costs of our disciplinary processes from £16.7m in 2015/16.

## Spending on disciplinary processes 2015-2020

| 2015/16 | 2016/17 | 2017/18 | 2018/19 | 2019/20 |
|---|---|---|---|---|
| 16.7m | 16m | 14.6m | 15m | 15.1m |

We keep how we work under review and, to keep costs under control in any case, we work to key principles. These are to act quickly, fairly and proportionately.

## High-value cases

Our enforcement work can be high profile and often relates to topical issues of wider public interest. This means there can be interest in how much it costs us to bring cases to the SDT and to make an appeal. There are a number of factors that affect this. These include the complexity and lifespan of a case, the number of parties and cooperation of those involved.

## Cases costing more than £100,000 in 2019/20

Of the 112 cases we brought to the SDT in 2019/20 and the six appeals heard, there were five where our costs exceeded (approximately) £100,000. The costs in these cases will generally have accrued over a number of years.

The figures include the costs claimed (or agreed) for:

- bringing the case to the SDT
- bringing an appeal, if there was one
- costs awarded to the opposing party.

The costs of bringing a case generally cover:

- our work in investigating a case
- preparing for hearings before the SDT and the High Court, whether in-house or by instructing a panel firm
- advice from or instructing counsel when our internal legal team is handling a case.

In some of these cases, we were awarded some or all of our costs by the SDT. The SDT has wide discretion as to what costs to award, considering each case on its own facts.

## Cases costing more than £100,000 in 2019/20

| Parties involved | Costs of the case | Nature of the case and the final outcome |
|---|---|---|
| A solicitor and former partner of law firm | £343,957 | Allegations included inappropriate behaviour and abuse of position of |

| | | |
|---|---|---|
| Freshfields, Ryan Beckwith. We did not bring action against the firm.<br><br>There was an appeal heard at the High Court in this case. | The SDT awarded us costs of £200,000, which were then overturned when the appeal was heard in the High Court. | seniority.<br><br>The High Court did not uphold the SDT's findings in this case. It also overturned the SDT's costs order (£200,000) and the fine it issued on Beckwith (£35,000). |
| Law firm Baker & McKenzie, its former managing partner Gary Senior, former partner Thomas Cassels, and former human resources director Martin Blackburn. | £212,000<br><br>In bringing the case against Senior, the SDT awarded us costs of £48,000. | Allegations of behaving inappropriately while in a position of authority and responsibility brought against Senior. Allegations of improperly handling an internal investigation into the alleged inappropriate behaviour brought against the firm, Cassels and Blackburn.<br><br>The SDT fined Senior £55,000. The SDT did not uphold the allegations concerning Baker & McKenzie, Cassels or Blackburn. |
| Two solicitors and directors at the firm JWK Solicitors, Peter Jan Bujakowski and Craig Hollingdrake, and a non-solicitor, Elaine Saunders. We did not bring action against the firm. | £106,000<br><br>The case was resolved by way of an agreed outcome and in which costs of £27,279 were agreed. | All allegations relate to the respondents' involvement in storage pod and airport car park schemes, in which they acted for an investment company promising returns and guarantees that it could not provide.<br><br>The SDT fined Bujakowski £20,000, fined Hollingdrake £7,500, and made a section 43 order against Saunders. |
| Solicitor Vidal Eulalie Martin, who, at the time of the allegations, worked at the law firm Bright and Sons. We did not bring action against the firm. | £105,000<br><br>The SDT awarded us costs of £48,000. | Allegations include, among others, misappropriation of client money and giving us misleading information.<br><br>The SDT struck off the solicitor. |
| Solicitor Farooq Rafiq, whose practice, Broadway Legal Limited, we intervened into in 2018. | £99,000<br><br>The case was resolved by way of an agreed outcome and in which costs of £55,000 were agreed. | Allegations relate to failing to act in the interests of clients and a conflict of interest while carrying out personal injury claims work.<br><br>The SDT struck off the solicitor. |

Please note, we have not included cases subject to an ongoing appeal.

# Wellbeing in the legal profession

We know that working in law can be challenging and stressful.

When this stress has a negative impact on the work of a solicitor or a firm, it can affect competence and lead to mistakes and, potentially, serious breaches of our standards, such as dishonesty. This can result in us taking action, which may be avoided if solicitors recognise the warning signs early on and seek the correct support and help.

## Seeking support

We understand that being part of an investigation can be a stressful and daunting time, particularly for people with health problems, or who are in a vulnerable situation. If this is the case, we encourage people to tell us, as there are actions we can take to make the process easier. Some examples of how we can offer support are:

- providing one point of contact
- allowing extra time to respond to us (where we are able to)
- putting an investigation on short-term hold.

This is not an exhaustive list and we approach each matter based on its circumstances. Members of the public and solicitors who raise concerns with us may also need support, particularly when they are in a vulnerable situation. We signpost people to a range of resources and organisations that can help, and all our staff have training on making reasonable adjustments.

To help solicitors and firms understand how we approach health issues and the medical evidence we might ask for during an investigation, we published our health issues and medical evidence guidance [https://rules.sra.org.uk/solicitors/guidance/sra-investigations-health-issues-and-medical-evidence/] in August 2020. It has information on raising a health issue with us, medical reports, and health and ability to practise, among other related topics.

## Our wider commitment to wellbeing in the profession

We launched our Your Health, Your Career campaign [https://rules.sra.org.uk/solicitors/resources-archived/your-health-your-career/] in 2016 to encourage solicitors to talk to us if they are having difficulties with their health or wellbeing that may be affecting their work. Solicitors can talk to us about this and ask any questions they may have about our regulations and the problems they are facing.

## Whistleblowing to the SRA

If information is provided to us on a confidential basis, we will take appropriate steps to protect the reporter’s identity and deal with the matter sensitively.

Individuals and firms who we regulate must report matters to us. However, for someone who is regulated by us and is concerned about whether they may be investigated for their own part in any wrongdoing, reporting the issues and cooperating with us could constitute mitigation. This is particularly so where issues are reported to us at an early stage. However, we would rather solicitors

and others working in the legal sector provided information late than not at all. Although we cannot guarantee that we will not take any action against the reporter, bringing the information to us is likely to help their position, and we will take context into account, including, for example, fear of recrimination.

## Supporting witnesses

When we are investigating a solicitor or firm, it may be necessary to take a statement or interview witnesses. This will help us in our investigation and, possibly, to decide whether we need to refer the matter to the SDT.

We understand this can be stressful, so we do everything we can to support witnesses. For example, if English is not the witness's first language, we might be able to offer a translator or interpreter. If the witness is also the person who reported the concern to us, we will keep them up to date with how we are progressing with the matter. We also train our staff in how to support vulnerable and distressed individuals, for example, in cases concerning sexual harassment.

## Diversity monitoring

We published findings on the diversity characteristics of people in our enforcement processes in our Upholding Professional Standards 2018/19 report [https://rules.sra.org.uk/sra/how-we-work/archive/reports/2018-19-review/upholding-professional-standards/] , along with a detailed supporting report [https://rules.sra.org.uk/sra/how-we-work/archive/reports/2018-19-review/upholding-professional-standardssupporting-report/] , and provided an update on our work since the 2014 Independent Comparative Case Review [https://rules.sra.org.uk/sra/how-we-work/archive/reports/iccr-response/] on the profile of solicitors in our enforcement work, undertaken by Professor Gus John. Reviewing our systems and processes to make sure they are free from bias and non-discriminatory is a vital part of embedding equality, diversity and inclusion (EDI) in the work we do. We not only do this because we have a public duty to do so, as set out under the Equality Act and Legal Services Act, but because it is the right thing to do.

This is the second year we have published this information, and we will continue to annually report on these findings. This work will also help us to evaluate the impact of our new Enforcement Strategy and Standards and Regulations, brought in in 2019.

We have taken the same approach as in 2018/19 (the detail of which can be found under the scope of our analysis). This allows us to start to draw comparisons and identify trends year on year. Under key findings, we have highlighted where there are differences between the data in 2018/19 and 2019/20. This is, however, subject to the limitations in the data we hold and the difficulties with drawing any meaningful analysis from the very small numbers in the later stages of the enforcement process.

In the further work and research section, we set out what action we are taking to better understand why some groups are overrepresented in our enforcement processes. We also provide an update on the work we are carrying out to assure that our processes are free from bias, as noted in the 2018/19 report.

The overrepresentation of men and solicitors from Black, Asian and minority ethnic backgrounds in concerns raised with us and those we investigate is one we have seen for some time and reflects the pattern seen across many professions and regulators.

We have commissioned several external reviews to look at these issues, building on work that the Law Society undertook in 2006 before we were established. None of the reviews found any evidence of discrimination, but each review highlighted overrepresentation of certain groups and provided recommendations for us and others, which have helped to shape our approach to enforcement. You can find more information on the diversity section of our website [https://rules.sra.org.uk/sra/equality-diversity/diversity-work/] .

## Scope of our analysis

We looked at the representation of gender, ethnicity, age and, in some areas where numbers were sufficient, the disability of individuals at the following stages of our enforcement process for the 2019/20 year:

- stage 1: individuals named on concerns reported to us
- stage 2: individuals named on concerns which we took forward for an investigation
- stage 3: individuals named on cases with an internal sanction and the types of sanctions we imposed (path A)
- stage 4: the cases which were concluded at the SDT by way of a hearing or an agreed outcome, and the types of sanctions the SDT imposed (path B).

The individuals counted at stage 2 (individuals named on concerns taken forward for an investigation in 2019/20) are a subset of stage 1 (the individuals named on the concerns reported to us in 2019/20).

At stages 3 and 4, we count the individuals named on cases who received an internal sanction or who were named on cases concluded at the SDT in 2019/20. Although there may be some overlap between the individuals involved in stages 1 and 2 and those involved in stage 3 in this report for 2019/20, it is unlikely to be significant. This is because cases are not always received and concluded in the same year. Similarly, there is very unlikely to be any overlap between the individuals involved in stages 1 and 2 and those involved in stage 4. This is because it takes longer than a year to investigate, refer, and conclude a matter at the SDT.

Starting with a breakdown of the practising population, we have compared the proportions of each diversity group at the different stages of our enforcement process. For example, men make up:

- 48% of the practising population
- 65% of individuals named on concerns reported to us (stage 1)
- 75% of the individuals taken forward for investigation (stage 2)
- 73% of the individuals named on cases with an internal sanction (stage 3, path A)
- 80% of individuals named on cases concluded at the SDT (stage 4, path B).

The number of individuals gets smaller at each stage of the process, making it difficult to draw firm conclusions at stages 3 and 4. Overall, in 2019/20, there were:

- 6,293 individuals named on concerns reported to us (stage 1)
- 1,647 individuals taken forward for investigation (stage 2)
- 275 individuals named on cases with an internal sanction (stage 3)
- 129 individuals named on cases concluded at the SDT (stage 4).

Our analysis looks at the known population among those groups – that is, the people for whom we hold diversity information. For gender and age, we have information for 93% and 99.9% of the practising population, respectively, and 73% for ethnicity. Because of the way we have collected disability data in the past[3 [#n3]], we can only identify the proportion of people who have declared a disability, which is 1% of the practising population.

A full set of the tables showing the data at each of the stages is in the supporting report of our findings [https://rules.sra.org.uk/sra/how-we-work/archive/reports/upholding-professional-standards-supporting-report-2019-20/] . We have also looked at how the cases at the SDT have been concluded, in particular, whether there is a difference by diversity characteristic in the use of agreed outcomes. We have provided the diversity declaration rates at each stage.

## Key findings 2019/20

In this section, we have set out an overview of the key findings for each diversity characteristic at all four stages of the enforcement process for 2019/20 (where there was sufficient data to allow us to do this). To allow for comparison, we have included the tables for 2018/19 and have highlighted where the findings differ.

Detailed findings in relation to stages 1 to 4, as described above, are set out in the supporting report of our findings [https://rules.sra.org.uk/sra/how-we-work/archive/reports/upholding-professional-standards-supporting-report-2019-20/] , along with a breakdown of the practising population.

We are using the data about the practising population that we hold in our systems as the starting point for the analysis of how the profile of people changes through our enforcement processes. More information about the breakdown of the practising population and the source of this data can be found in the annex in the supporting report [https://rules.sra.org.uk/sra/how-we-work/archive/reports/upholding-professional-standards-supporting-report-2019-20/] .

## Low numbers at stages 3 and 4

Due to the low numbers involved in stages 3 and 4, we cannot confirm with confidence if the changes seen are statistically significant, or whether they are a result of chance. This is because the numbers are too small for statistical tests to reliably establish differences between groups. Any differences between groups should, therefore, be treated with caution.

Although the numbers at stages 3 and 4 are likely to remain relatively small, we are taking action to increase disclosure rates and we will continue to monitor this area.

**Gender breakdown of practising population and at stages 1-4 of our enforcement process**

| | Gender | Practising population | Stage 1: Concerns reported to us | Stage 2: Investigation | Stage 3 (path A): Cases with an internal sanction | Stage 4 (path B): Cases concluded at the SDT |
|---|---|---|---|---|---|---|
| **2018/19** | Male | 49% | 67% | 73% | 70% | 85% |
| | Female | 51% | 33% | 27% | 30% | 15% |
| **2019/20** | Male | 48% | 65% | 75% | 73% | 80% |
| | Female | 52% | 35% | 25% | 27% | 20% |

There is an overrepresentation of men throughout our enforcement process, and the overall breakdown at each stage is largely comparable with the 2018/19 data. Men are overrepresented in concerns reported to us, and this overrepresentation increases at each stage of our enforcement process.

Compared with a practising population of 48:52, men to women, the proportion of men at stages 1–3 ranges from 65% to 75%, with a corresponding decrease for women.

However, the proportion of men increases to 80% when looking at stage 4, cases concluded at the SDT, with a corresponding decrease for women.

**Ethnicity**

We break ethnicity down into five main groups: White, Black, Asian, Mixed or Other ethnic group. Where the numbers in each group are large enough to report without the risk of identifying individuals, we will report data about each group separately. If the numbers are too small, while the experience of people making up the Black, Asian, Mixed or Other ethnic group will not be the same, we will report these groups together, alongside the White group. We refer to this group as the Black, Asian and minority ethnic group, and, unlike the report for 2018/19, and in line with current practice, we will not be using the acronym 'BAME'. This is why, in the overview table below, only the Black, Asian and minority ethnic group and the White group are shown. A more detailed breakdown can be found in the supporting report [https://rules.sra.org.uk/sra/how-we-work/archive/reports/upholding-professional-standards-supporting-report-2019-20/] .

**Ethnicity breakdown of practising population and at stages 1-4 of our enforcement process**

| Ethnicity | Practising population | Stage 1: Concerns reported to us | Stage 2: Investigation | Stage 3 (path A): Cases with an | Stage 4 (path B): Cases concluded at the SDT |
|---|---|---|---|---|---|

| | | | | | internal sanction | |
|---|---|---|---|---|---|---|
| | White | 82% | 74% | 68% | 65% | 65% |
| **2018/19** | Black, Asian and minority ethnic | 18% | 26% | 32% | 35% | 35% |
| | White | 82% | 74% | 65% | 71% | 72% |
| **2019/20** | Black, Asian and minority ethnic | 18% | 26% | 35% | 29% | 28% |

The Black, Asian and minority ethnic group, as a whole, makes up 18% of the practising population and 26% of individuals reported to us. Asian and Black individuals make up 12% and 3% of the practising population, respectively, yet are overrepresented when looking at the number of reports made to us (stage 1), at 18% and 4%. This has not changed when compared with stages 1 and 2 in the 2018/19 findings.

The proportion of Black, Asian and minority ethnic individuals increases from 26% to 35% of those whose cases were taken forward for investigation at stage 2, a slightly greater increase to that seen in 2018/19.

The small numbers beyond stage 2 mean that we do not know if any changes – between stages or over time – are meaningful. The proportion of Black, Asian and minority ethnic individuals represented at stages 3 and 4 (29% and 28%, respectively) are lower when compared to the investigation stage (35%). This is different to the 2018/19 findings, where there was, subject again to the difficulty with small numbers, an apparent increase in the proportion of Black, Asian and minority ethnic individuals in the outcomes seen at stages 3 and 4 (35% for both), compared to the investigation stage (32%).

We do not know if this is a real change or due to variations within a small group. We will look at our decision making (whether to refer a matter for investigation) that takes place at stage 2 of our process as part of the independent research that we are, at the time of writing, commissioning. There is more information on this in the further work and research section.

**Age**

In this table, we have grouped together the 16–24-year-old and 25–34-year-old categories. This is because the numbers of 16–24-year-olds named at stages 1–3 were nominal, and there were no 16–24-year-olds named on cases concluded at the SDT.

**Age breakdown of practising population and at stages 1–4 of our enforcement process**

**2018/19**

| | 16-34 | 35-44 | 45-54 | 55-64 | 65+ |
|---|---|---|---|---|---|
| **Practising population** | 25% | 32% | 24% | 14% | 5% |
| **Stage 1: Concerns reported to us** | 12% | 26% | 30% | 22% | 10% |
| **Stage 2: Investigation** | 11% | 26 | 30% | 23% | 10% |
| **Stage 3 (path A): Cases with an internal sanction** | 13% | 25 | 27% | 22% | 13% |
| **Stage 4 (path B): Concluded at the SDT** | 9% | 27 | 31% | 20% | 13% |

**2019/20**

| | 16-34 | 35-44 | 45-54 | 55-64 | 65+ |
|---|---|---|---|---|---|
| **Practising population** | 24% | 33% | 24% | 14% | 5% |
| **Stage 1: Concerns reported to us** | 13% | 27% | 28% | 22% | 10% |
| **Stage 2: Investigation** | 12% | 29% | 28% | 22% | 9% |
| **Stage 3 (path A): Cases with an internal sanction** | 14% | 28% | 24% | 20% | 14% |
| **Stage 4 (path B): Cases concluded at the SDT** | 5% | 25% | 30% | 25% | 16% |

Please note, the stage 4 data for 2019/20 adds up to 101%. This is due to rounding.

The representation of all age groups throughout our enforcement process is largely the same as it was in 2018/19. There is an underrepresentation of people in the younger age categories (44 and under) named on concerns reported to us compared with their proportion of the practising population. The opposite is true for those in the older age categories (55 and over) who are overrepresented when compared with the practising population. The 45–54 age group represented at stage 1 is largely proportionate with the practising population.

When looking at cases involving individuals taken forward for investigation, there is little difference for any of the age groups. For all age groups, the percentage of individuals named on cases concluded internally at stage 3 is largely proportionate to those whose cases were taken forward for investigation (stage 2), apart from the 65+ age group, where representation is slightly higher.

For all age groups, the percentage of those whose cases were concluded at the SDT (stage 4) is largely proportionate to those whose cases were taken forward for investigation (stage 2), with some differences for the youngest and oldest groups. Those under 34 made up 12% of cases investigated and 5% of those concluded at the SDT. Those aged 65 and over made up 9% of concerns taken forward for an investigation and 16% of cases concluded at the SDT.

## Disability

Because of the very small numbers involved, we are only able to report the numbers of disabled people involved in our enforcement processes at stages 1,

2 and 4. For the same reason, we were only able to report the numbers of disabled people involved in our enforcement processes at stages 1 and 2 in 2018/19.

**Disability recorded among practising population and in our enforcement process**

**2018/2019**

| | Practising population | Stage 1: Concerns reported to us | Stage 2: Investigation |
|---|---|---|---|
| **No disability recorded** | 99% | 98% | 98% |
| **Disability recorded** | 1% | 2% | 2% |

**2019/2020**

| | Practising population | Stage 1: Concerns reported to us | Stage 2: Investigation | Stage 4 (path B): Cases concluded at SDT |
|---|---|---|---|---|
| **No disability recorded** | 99% | 98% | 98% | 95% |
| **Disability recorded** | 1% | 2% | 2% | 5% |

As with last year, we see overrepresentation of disabled individuals in concerns reported to us compared with the practising population. There were 106 disabled individuals named on the concerns we received (2% of the total) compared with 1% in the practising population.

Of those named on the concerns reported to us, 38 disabled people had their cases taken forward for investigation (2% of the total number of cases investigated).

At stage 4, six individuals were named on cases concluded at the SDT (5%).

Declaration rates for disability need to improve before we can draw any meaningful conclusions from the data.

**Further work and research**

Since the publication of our 2018/19 report in December 2020, we have made progress in our work to better understand why we see overrepresentation of some groups in our enforcement processes. The findings of our 2019/20 report are broadly similar to last year's, and so the work we committed to in last year's report is still relevant now and will take into account findings from both years.

The table below sets out the work we committed to and the action we have since taken.

| Work we have committed to | Action we have taken |
|---|---|
| We will commission independent research into the factors that drive the reporting of concerns about Black, Asian and minority ethnic solicitors to us, to identify what we can do about this and where we can work with others to make a difference. | Procurement started in March with an open invitation to external organisations to express an interest in carrying out this work. We are carrying out a formal tender in the summer, with a view to starting the research in autumn 2021.<br>We are establishing a group of external stakeholders to support this work. Its role will be to help to shape the research and provide expertise and insight to support the researchers through the life of the project. |
| Alongside our ongoing work to establish an in-house, arms-length quality assurance team, we will undertake a forward review of decision making in our assessment and early resolution process, where the decision to refer a matter for investigation is made. | The review of decision making in our assessment and early resolution process will be undertaken by an external agency as part of the independent research outlined above.<br>Our in-house, arms-length quality assurance team has now been established, and it will start to develop and pilot its approach to quality assurance in the coming months, adding value to our existing quality assurance arrangements. |
| We will work to increase the number of individuals who disclose information concerning their diversity characteristics to us. | We updated the diversity questions we have on our systems for solicitors and, in May 2021, launched a campaign to encourage individuals to review and update their diversity data.<br>This involved social media and direct communications to all 10,100 law firms and groups where we know the declaration rates are low. We have seen a good initial response rate at the conclusion of phase one of this campaign and will continue to engage with the profession to encourage individuals to provide their diversity data.<br><br>Supporting us with this campaign is the Law Society and the diversity groups we work with in the profession.<br>We are also looking at ways to encourage people to provide their diversity information when they first enter the profession. As we noted in the 2018/19 report, we have seen a falling number of newly enrolled solicitors |

| | |
|---|---|
| | provide their diversity data to us, following our move to an online admissions process. This has fallen year on year and explains the drop in declaration rates seen in the annex in the supporting report [https://rules.sra.org.uk/sra/how-we-work/archive/reports/upholding-professional-standards-supporting-report-2019-20/] . |
| We will report annually on the profile of people in our enforcement processes and include intersectional analysis where we can. | This is the second year we have reported on this information. In the coming year, we will begin to analyse the data and explore intersectionality where possible, based on the information available. |
| We will evaluate the changes we have made through our regulatory reform programme, with understanding the impacts on EDI forming a key part of the work. | We are evaluating the impact of our new Enforcement Strategy and new Standards and Regulations introduced in November 2019. The findings from 2018/19 gave us a baseline for future monitoring and, with the latest data, will feed into this evaluation work. |
| We will continue to build on our wider work to promote and support diversity in the profession and our ongoing work to support small firm compliance. | In a review of our EDI initiatives in 2019/20 [https://rules.sra.org.uk/sra/equality-diversity/archive/edi-work/] , we set out a range of work that we are taking forward in 2020/21, including:<br>• To support small firm compliance, our programme of workshops targeted at smaller firms remains ongoing. For example, we carried out a workshop on anti-money laundering with the Society of British Bangladeshi Solicitors in February, with more to come for other diversity networks and groups.<br>• In a further example, we delivered a webinar [https://events.sra.org.uk/sra/frontend/reg/thome.csp?pageID=123451&eventID=523&traceRedir=2] for small firms on how to meet our Transparency Rules requirements, which we have shared through the Sole Practitioners Group and other diversity groups we know have a high membership of solicitors in small firms and other networks.<br>• We rolled out refreshed unconscious bias training for all staff in March and are following up this work with bespoke workshops.<br>• As part of our wider work to promote EDI in the profession, we are developing new resources for firms in key areas, including social mobility, creating healthy workplaces and pregnancy and maternity. And, we will add to our existing resources [https://rules.sra.org.uk/solicitors/resources-archived/diversity- |

toolkit/] to promote race equality, disability inclusion, wellbeing and LGBTQ+ inclusion.

## Annex 1: Action we take and action the SDT takes

| Action taken and in what circumstances | Level of misconduct | Our sanction | SDT sanction |
|---|---|---|---|
| **Letter of advice:** we remind the individual or firm in writing of their regulatory responsibilities. | Minor or where there has been appropriate firm management of an issue | Yes | No |
| **Issue a warning:** to warn a person or firm that, should the conduct or behaviour be repeated, or the situation continue, we will likely take more serious action. The warning may be taken into account in any future proceedings. | | Yes | No |
| **Rebuke:** we rebuke an individual or a firm where there has been a moderately serious breach of our requirements or standards. | Moderate | Yes | No |
| **Fine:** where there has been a serious breach of our requirements or standards and where, for example, the regulated person or firm could have financially benefited from the misconduct, and it is appropriate to remove or reduce their financial gain. | Serious or a series of incidents which together are serious | Yes<br>Up to £2,000* | Yes<br>Unlimited |
| **Practising conditions placed on a solicitor or other person we regulate:** we restrict or prevent the involvement of a solicitor or individual in certain activities or engaging in certain business agreements/associations or practising arrangements. | Serious or a series of incidents which together are serious, and when it is necessary to deal with the risk posed | Yes | Yes<br>Referred to as a ‘restriction order’ |
| **Practising conditions placed on a firm:** we restrict or prevent a firm, or one of its managers, employees, or interest holders, from undertaking certain activities. This can also help us to effectively monitor the firm or individual through regular reporting. | Serious or a series of incidents which together are serious, and when it is in the public interest to do so | Yes | Yes<br>Referred to as a ‘restriction order’ |
| **Reprimand:** the SDT sanctions the regulated person for a breach of our requirements and/or standards. It is the SDT’s equivalent of our rebuke. | | No | Yes |
| **Section 43 order (for non-lawyers working in the** | Moderate seriousness, or a | Yes | Yes |

| | | | |
|---|---|---|---|
| **profession, eg non-lawyer managers and employees such as legal secretaries):** we restrict individuals from working in a law firm without our permission. | series of incidents which together are moderately serious | | |
| **Suspension or revocation of a firm's authorisation/ recognition:** we remove a firm's authorisation either permanently or temporarily. | | Yes | Yes |
| **Suspension:** the SDT suspends a solicitor from practising either for a fixed term or for an indefinite period. The SDT can also suspend a period of suspension, so long as a restriction order remains in place. | Serious or a series of incidents which together are serious | No | Yes |
| **Strike off:** the SDT stops a solicitor from practising entirely. The solicitor's name is removed from the roll. | | No | Yes |

## Glossary of terms

Agreed outcome
: An alternative to having a case heard at the SDT. Where appropriate, it is a cost-effective, swift and proportionate way of resolving a matter. Agreed outcomes have to be approved by the SDT.

Alternative business structure (ABS)
: Also known as a licensed body, ABSs allow non-lawyers to own or invest in law firms, opening up what was previously a closed market.

Finding/finding and warning
: An outcome for more significant but one-off misconduct. The finding/finding and warning can be taken into account in the outcome of any future investigation.

Fine
: A monetary sanction. We are able to issue a fine up to the value of £2,000 for firms, solicitors and other individuals we regulate. We can fine an ABS up to £250m and up to £50m for manager and employees of an ABS we regulate. The SDT can impose unlimited fines on individuals and firms.

Intervene
: An action we take if we consider that people are at risk of receiving legal services from a dishonest solicitor, or it is otherwise necessary to protect the interests of clients. Generally, this will involve closing down the firm and taking away client money and files to keep safe.

Legal Ombudsman (LeO)
: An organisation which handles complaints about the standards of service people receive from their lawyer.

Letter of advice
: A letter we send to remind an individual or firm in writing of their regulatory responsibilities.

No order

In the context of an outcome at the SDT, no order can mean that the SDT finds in our favour but decides that it is not necessary or appropriate to impose a sanction or control. It can also mean that it does not find in our favour.

Other decision
: In the context of an outcome at the SDT, other can mean, for example, a reprimand or section 43 order.

Rebuke
: We rebuke an individual or a firm to show disapproval where there has been a moderately serious breach of our requirements or standards.

Practising condition
: A sanction both we and the SDT are able to impose on solicitors, firms and other people we regulate. It restricts or prevents them from certain activity, and can help us to effectively monitor the firm or individual through regular reporting.

Regulatory settlement agreement (RSA)
: Similar to agreed outcomes, RSAs allow us to agree appropriate outcomes with individuals and firms swiftly, efficiently and at a proportionate cost. Unlike agreed outcomes, they are handled in-house and generally take place before any decision has been made to refer the matter to the SDT.

Reprimand
: The SDT reprimands an individual where they have breached our regulations. It is the SDT’s equivalent of our rebuke.

Respondent
: The respondent is the firm, solicitor or other person against which or whom we take enforcement action.

Roll of solicitors
: This is a record of solicitors that we have authorised to practise English and Welsh law. Not all solicitors on the roll will actively be practising as a solicitor.

Sanctions
: Actions taken to discipline firms, solicitors or other people we regulate to prevent similar behaviour by them or others in the future, and to maintain standards and uphold public confidence in the profession.

Section 43 order
: A sanction we issue to non-lawyers working in the profession, eg non-lawyer managers and employees such as legal secretaries. We restrict them from working in a law firm without our permission.

Section 47 (2) (g)
: An order the SDT imposes preventing a former solicitor who has been removed from the roll from being restored without its permission.

Solicitors Disciplinary Tribunal (SDT)
: An independent tribunal where we bring prosecutions against firms, solicitors and other people we regulate. It has powers which we do not, eg imposing unlimited fines or striking solicitors off the roll.

Strike off
: Sanction where the SDT stops a solicitor from practising and their name is removed from the roll.

Suspension
: A sanction we can impose to suspend a firm's authorisation either permanently or temporarily. The SDT is able to suspend a solicitor from practising either for a fixed term or for an indefinite period. The SDT can

also suspend a period of suspension, so long as a restriction order remains in place.

Notes

1. The median figure is determined by listing the number of days it took to complete each initial assessment or each investigation in 2017/18 and extracting the number that sat in the middle of that list.
2. Default judgment means judgment without a trial, usually when the opposing party has failed to take some kind of action.
3. We have not always collected disability data in the way we do now, and this means that we are not able to differentiate, with certainty, between people who have actively declared they do not have a disability and those who have simply not answered the question.