

Case studies

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Unfair discrimination

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Related guidance

This case study should be read in conjunction with the guidance on the SRA's approach to equality, diversity and inclusion

[<https://www.sra.org.uk/solicitors/guidance/sra-approach-equality-diversity-inclusion/>] .

Background

A is a newly-qualified solicitor in a small firm of solicitors. The firm has been instructed to apply for a premises licence for a restaurant owned by a local family. B has day-to-day conduct of the file and is supervised and managed by C, who is one of the firm's two partners. When B goes on holiday, D, the firm's senior partner and Compliance Officer for Legal Practice (COLP), asks A to have conduct of the file.

A reads the file. The file contains emails between B and C which make abusive and offensive comments about the racial origin of the firm's clients. In one email to C, B says she thinks the restaurant will be staffed entirely by illegal immigrants and that the hygiene levels will be "third world". C replies and suggests that they never go there for lunch. B tells C in another email that she has other clients and matters which she will give priority to instead. C's reply simply says "noted".

A tells D about the emails. D makes a report to us. A chose to report the matter to D as he is the COLP and also the partner responsible for equality, diversity and inclusion at the firm.

B's position

Paragraph 1.1 of the SRA Code of Conduct for Solicitors, RELs and RFLs

[<https://www.sra.org.uk/solicitors/standards-regulations/code-conduct-solicitors/>]

(Individuals' Code), sets out that an individual we authorise must not unfairly discriminate by allowing their personal views to affect their professional relationships and the way in which they provide their services.

By prioritising the work of other clients on the grounds of racial origin, B has unfairly discriminated against this client in breach of Paragraph 1.1. By doing this and by making offensive comments in emails to C, B has also

breached Principle 2 (to act in a way that upholds public trust and confidence in the solicitors' profession and in legal services provided by authorised persons) and Principle 6 (to act in a way that encourages equality, diversity and inclusion).

C's position

The comments made by C in the email exchange with B, suggest that C has also breached Principles 2 and 6, as well as Paragraph 1.1 of the Individuals' Code.

As B's supervisor and manager, C has additional obligations. C must effectively supervise the work done by B (Paragraph 3.5 (b) of the Individuals' Code) and make sure that B's understanding of his legal, ethical and regulatory obligations is up to date (Paragraph 3.6 of the Individuals' Code). On receipt of the first email from B containing offensive comments, C should have taken appropriate steps to stop the behaviour and deal with B (for example by arranging training or in accordance with the firm's disciplinary policy). By instead entering into the email exchange with B, C has failed to meet the standards set out above.

C has also failed to make a prompt report to us about a serious breach of the regulatory arrangements in breach of Paragraph 7.7 of the Individuals' Code.

Our view

We take a serious view of behaviour by a solicitor which breaches a person's right not to be discriminated against. We see this behaviour as undermining public trust and confidence in the solicitors' profession. We view the behaviour by B and C to be at the higher end of seriousness, irrespective of any financial or other harm. We need to act robustly to protect clients and to maintain standards and uphold public confidence.

A's position

A has an obligation under Paragraph 7.7 of the Individuals' Code to report serious regulatory breaches to us. A has met this obligation by reporting the correspondence to D as the firm's COLP, on the understanding that D will notify us (Paragraph 7.10 of the Individuals' Code).

D's position

By making a prompt report to us, D has complied with her obligation under Paragraph 7.7 of the Individuals' Code.

The firm's position

In this instance, it appears that B and C have acted individually and there is no evidence of a firm-wide issue. However, we may decide to look at the firm's systems and controls in relation to equality, diversity and inclusion and consider whether these were effective to make sure the firm complied with the SRA Code of Conduct for Firms [<https://www.sra.org.uk/solicitors/standards-regulations/code-conduct-solicitors/>] .

Going forward, bearing in mind the requirements under Standard 2.5 of the SRA Code of Conduct for Firms to monitor and manage all material risks to its business, the firm may want to consider further Equality, Diversity and Inclusion training for everyone in the firm.

Further help

If you require further assistance, please contact the Professional Ethics helpline [<https://www.sra.org.uk/contactus>] .