

SRA BOARD
18 October 2022

CLASSIFICATION – PUBLIC



Rule changes and associated guidance

Section 1 Rule changes on unfair treatment at work

Code of Conduct for Solicitors, RELs and RFLs

New standard in section 1 (maintaining trust and acting fairly):

“1.5 You treat colleagues fairly and with respect. You do not bully or harass them or discriminate unfairly against them. If you are a manager you challenge behaviour that does not meet this standard.”

Code of Conduct for Firms

New standard in section 1 (maintaining trust and acting fairly):

“1.6 You treat those who work for and with you fairly and with respect, and do not bully or harass them or discriminate unfairly against them. You require your employees to meet this standard.”

Section 2 Rule changes on solicitors' health and fitness to practise

Assessment of Character and Suitability Rules

New section in Rule 2 (assessment):

“2.6 Solicitors have a statutory duty to comply with our regulatory arrangements and such compliance is part of what it means to practise as a solicitor. Therefore in assessing your suitability the SRA will take into account anything, including your health, which indicates you are unfit to meet your regulatory obligations or to be subject to regulatory investigations or proceedings.”

Authorisation of Individuals Regulations

Changes (shown in bold) to Regulation 7.2 (determination of applications):

“7.2 The SRA may impose conditions under regulation 7.1(b) if it is satisfied **for any reason, including health issues, lack of competence or misconduct**, that you:

- (a) are unsuitable to undertake certain activities or engage in certain business or practising arrangements;
- (b) are putting, or are likely to put, at risk the interests of clients, third parties or the public;
- (c) will not comply, **or are unable to comply**, with the SRA's regulatory arrangements **(which includes your ability to engage with your**

SRA BOARD
18 October 2022

CLASSIFICATION – PUBLIC



regulator on any matter that may require investigation and take part in any regulatory or disciplinary process) or require monitoring of compliance with the SRA's regulatory arrangements; or

(d) should take specified steps conducive to the regulatory objectives.”

Section 3 Ancillary changes to the introductions to the Code of Practice for Solicitors, RELs and RFLs and the Code of Practice for Firms

New sentence to be added to the Introduction to the Code of Conduct for Solicitors (after the second paragraph) and the Introduction to the Code of Conduct for Firms (after the first paragraph). The Introductions to the Codes of Conduct do not themselves form part of the Codes, so these additions are not themselves rule changes but are ancillary.

“Conduct does not need to take place in a workplace in order to relate to your practice – these requirements capture conduct which touches realistically upon your practice of the profession, in a way that is demonstrably relevant.”

Section 4 Outline of other changes to guidance to support the rule changes

Wellbeing and unfair treatment at work

We plan to revise our regulatory [guidance on the workplace environment](#) to reflect the new rules. The changes to the guidance will:

- Set out the threshold for enforcement action in respect of the rules, and give examples of when we would and would not expect to take action in response to a concern about unfair treatment
- Explain that the rules apply to colleagues including those who do not have an employment relationship with the firm
- Set out our position on the scope of the rules, including that they can apply to conduct away from the workplace/delivery of legal services. We will refer to the *Beckwith* judgment and explain how far we think ‘relating to your practice’ extends
- Encourage individual solicitors who are not managers (and so are not covered by the requirement to challenge unfair behaviour) to challenge where they feel confident to do so.

Our guidance on the new rules will also be integrated in a planned wider review of our guidance on Principle 6 (you act in a way that encourages equality, diversity and inclusion) in due course.

Solicitors’ health and fitness to practise

SRA BOARD
18 October 2022

CLASSIFICATION – PUBLIC



We plan to revise our [guidance on character and suitability](#) and [guidance on applying for a practising certificate](#) to reflect the new rules and make it clear that we regard fitness to practise as covering the ability to meet regulatory obligations. This will include asking people whether there are any reasons why they would be unable to meet our regulatory standards when renewing a practising certificate, as well as on admission. We will also explain that the rules and our processes are intended to foster discussions between individuals, firms and (where relevant) the SRA about supportive measures and reasonable adjustments.

We also plan to expand our guidance and resources explaining how our regulatory and disciplinary processes deal with health concerns, and what support we provide to solicitors who we are investigating. This will build on our existing guidance for solicitors on this topic on our [‘your health, your career’ webpage](#).