

These rules remain in draft and are yet to be made by the SRA Board. They may be subject to minor amendment after consultation on Phase 2 of Looking to the Future.

SRA Code of Conduct for Solicitors, RELs and RFLs

Introduction

The Code of Conduct describes the standards of professionalism that we, the SRA, and the public expect of individuals (solicitors, registered European lawyers and registered foreign lawyers) authorised by us to provide legal services.

They apply to conduct and behaviour relating to your practice, and comprise a framework for ethical and competent practice which applies irrespective of your role or the environment or organisation in which you work (subject to the Overseas Rules which apply to your practice overseas); although section 8 applies only when you are providing legal services to the public or a section of the public.

You must exercise your judgement in applying these standards to the situations you are in and deciding on a course of action, bearing in mind your role and responsibilities, areas of practice, and the nature of your clients (which in an in house context will generally include your employer and may include other persons or groups within or outside of your employer organisation).

You are personally accountable for compliance with the Code - and our other regulatory requirements that apply to you - and must always be prepared to justify your decisions and actions. A serious failure to meet our standards or a serious breach of our regulatory requirements may result in our taking regulatory action against you. A failure or breach may be serious either in isolation or because it comprises a persistent or concerning pattern of behaviour. In addition to the regulatory requirements set by us in the Code, Principles and our rules and regulations, we directly monitor and enforce the requirements relating to referral fees set out in section 56 Legal Aid, Sentencing and Punishment of Offenders Act 2012, and provisions relating to anti money laundering and counter terrorist financing, as set out in regulations made by the Treasury as in force from time to time [Link].

These requirements are underpinned by our Enforcement Strategy. That strategy explains in more detail our views about the issues we consider to be serious, and our approach to taking regulatory action in the public interest.

Maintaining trust and acting fairly

- 1.1 You do not unfairly discriminate by allowing your personal views to affect your professional relationships and the way in which you provide your services.
- 1.2 You do not abuse your position by taking unfair advantage of *clients* or others.

- 1.3 You perform all *undertakings* given by you, and do so within an agreed timescale or if no timescale has been agreed then within a reasonable amount of time.
- 1.4 You do not mislead or attempt to mislead your *clients*, the *court* or others, either by your own acts or omissions or allowing or being complicit in the acts or omissions of others (including your *client*).

Dispute resolution and proceedings before courts, tribunals and inquiries

- 2.1 You do not misuse or tamper with evidence, or attempt to do so.
- 2.2 You do not seek to influence the substance of evidence, including generating false evidence or persuading witnesses to change their evidence.
- 2.3 You do not provide or offer to provide any benefit to witnesses dependent upon the nature of their evidence or the outcome of the case.
- 2.4 You only make assertions or put forward statements, representations or submissions to the *court* or others which are properly arguable.
- 2.5 You do not place yourself in contempt of *court*, and you comply with *court* orders which place obligations on you.
- 2.6 You do not waste the *court's* time.
- 2.7 You draw the *court's* attention to relevant cases and statutory provisions, or procedural irregularities of which you are aware and which are likely to have a material effect on the outcome of the proceedings.

Service and competence

- 3.1 You only act for *clients* on instructions from the *client*, or from someone properly authorised to provide instructions on their behalf. If you have reason to suspect that the instructions do not represent your *client's* wishes, you do not act unless you have satisfied yourself that they do. However, in circumstances where you have legal authority to act notwithstanding that it is not possible to obtain or ascertain the instructions of your *client*, then you are subject to the overriding obligation to protect your *client's* best interests.
- 3.2 You ensure that the service you provide to *clients* is competent and delivered in a timely manner.
- 3.3 You maintain your competence to carry out your role and keep your professional knowledge and skills up to date.
- 3.4 You consider and take account of your *client's* attributes, needs and circumstances.
- 3.5 Where you supervise or manage others providing legal services:

- (a) you remain accountable for the work carried out through them; and
- (b) you effectively supervise work being done for *clients*.

3.6 You ensure that the individuals you manage are competent to carry out their role, and keep their professional knowledge and skills, as well as understanding of their legal, ethical and regulatory obligations, up to date.

Client money and assets

- 4.1** You properly account to *clients* for any *financial benefit* you receive as a result of their instructions, except where they have agreed otherwise.
- 4.2** You safeguard money and *assets* entrusted to you by *clients* and others.
- 4.3** You do not personally hold *client money* unless you work in an *authorised body*, or an organisation of a kind *prescribed* under this rule on any terms that may be *prescribed* accordingly.

Referrals, introductions and separate businesses

Referrals and introductions

- 5.1** In respect of any referral of a *client* by you to another *person*, or of any third party who introduces business to you or with whom you share your fees, you ensure that:
 - (a) *clients* are informed of any financial or other interest which you or your business or employer has in referring the *client* to another *person* or which an *introducer* has in referring the *client* to you;
 - (b) *clients* are informed of any fee sharing *arrangement* that is relevant to their matter;
 - (c) the agreement is in writing;
 - (d) you do not receive payments relating to a referral or make payments to an *introducer* in respect of *clients* who are the subject of criminal proceedings; and
 - (e) any *client* referred by an *introducer* has not been acquired in a way which would breach the *SRA's regulatory arrangements* if the *person* acquiring the *client* were regulated by the *SRA*.
- 5.2** Where it appears to the *SRA* that you have made or received a *referral fee*, the payment will be treated as a *referral fee* unless you show that the payment was not made as such.
- 5.3** You only:

- (a) refer, recommend or introduce a *client* to a *separate business*; or
- (b) divide, or allow to be divided, a *client's* matter between you and a *separate business*;

where the *client* has given informed consent to your doing so.

Conflict, confidentiality and disclosure

Conflict of interests

- 6.1** You do not act if there is an *own interest conflict* or a significant risk of such a conflict.
- 6.2** You do not act in relation to a matter or particular aspect of it if you have a *conflict of interest* or a significant risk of such a conflict in relation to that matter or aspect of it, unless:
- (a) the *clients* have a *substantially common interest* in relation to the matter or the aspect of it, as appropriate; or
 - (b) the *clients* are *competing for the same objective*,
and the conditions below are met, namely that:
 - (i) all the *clients* have given informed consent, given or evidenced in writing, to you acting;
 - (ii) where appropriate, you put in place effective safeguards to protect your *clients'* confidential information; and
 - (iii) you are satisfied it is reasonable for you to act for all the *clients*.

Confidentiality and disclosure

- 6.3** You keep the affairs of current and former *clients* confidential unless disclosure is required or permitted by law or the *client* consents.
- 6.4** Where you are acting for a *client* on a matter, you make the *client* aware of all information material to the matter of which you have knowledge, except when:
- (a) the disclosure of the information is prohibited by legal restrictions imposed in the interests of national security or the prevention of crime;
 - (b) your *client* gives informed consent, given or evidenced in writing, to the information not being disclosed to them;
 - (c) you have reason to believe that serious physical or mental injury will be caused to your *client* or another if the information is disclosed; or
 - (d) the information is contained in a privileged document that you have knowledge of only because it has been mistakenly disclosed.

- 6.5** You do not act for a *client* in a matter where that *client* has an interest adverse to the interest of another current or former *client* of you or your business or employer, for whom you or your business or employer holds confidential information which is material to that matter, unless:
- (a) effective measures have been taken which result in there being no real risk of disclosure of the confidential information; or
 - (b) the current or former *client* whose information your business or employer holds has given informed consent, given or evidenced in writing, to you acting, including to any measures taken to protect their information.

Cooperation and accountability

- 7.1** You keep up to date with and follow the law and regulation governing the way you work.
- 7.2** You are able to justify your decisions and actions in order to demonstrate compliance with your obligations under the *SRA regulatory arrangements*.
- 7.3** You cooperate with the *SRA*, other regulators, ombudsmen and those bodies with a role overseeing and supervising the delivery of, or investigating concerns in relation to, legal services.
- 7.4** You respond promptly to the *SRA* and:
- (a) provide full and accurate explanations, information and documents in response to any request or requirement;
 - (b) ensure that relevant information which is held by you, or by third parties carrying out functions on your behalf which are critical to the delivery of your legal services, is available for inspection by the *SRA*.
- 7.5** You do not attempt to prevent anyone from providing information to the *SRA*.
- 7.6** You notify the *SRA* promptly if you become aware:
- (a) of any material changes to information previously provided to the *SRA*, by you or on your behalf, about you or your practice; and
 - (b) that information provided to the *SRA*, by you or on your behalf, about you or your practice is or may be false, misleading, incomplete or inaccurate.
- 7.7** You ensure that a prompt report is made to the *SRA* or another *approved regulator*, as appropriate, of any serious breach of their *regulatory arrangements* by any *person* regulated by them (including you) of which you are aware. If requested to do so by the *SRA* you investigate whether there have been any serious breaches that should be reported to the *SRA*.
- 7.8** You act promptly to take any remedial action requested by the *SRA*.

- 7.9** You are honest and open with *clients* if things go wrong, and if a *client* suffers loss or harm as a result you put matters right (if possible) and explain fully and promptly what has happened and the likely impact. If requested to do so by the *SRA* you investigate whether anyone may have a claim against you, provide the *SRA* with a report on the outcome of your investigation, and notify relevant persons that they may have such a claim, accordingly.
- 7.10** Any obligation under this section or otherwise to notify, or provide information to, the *SRA* will be satisfied if you provide information to your firm's *COLP* or *COFA*, as and where appropriate, on the understanding that they will do so.

When you are providing services to the public or a section of the public:

Client identification

- 8.1** You identify who you are acting for in relation to any matter.

Complaints handling

- 8.2** You ensure that, as appropriate in the circumstances, you either establish and maintain, or participate in, a procedure for handling *complaints* in relation to the legal services you provide.
- 8.3** You ensure that *clients* are informed in writing at the time of engagement about their right to complain about your services and your charges, and how *complaints* can be made.
- 8.4** You ensure that *clients* are informed, in writing:
- (a) both at the time of engagement and, if a *complaint* has been brought at the conclusion of your *complaints* procedure, of any right they have to complain to the *Legal Ombudsman*, the time frame for doing so and full details of how to contact the *Legal Ombudsman*; and
 - (b) if a *complaint* has been brought and your *complaints* procedure has been exhausted:
 - (i) that you cannot settle the *complaint*;
 - (ii) of the name and website address of an alternative dispute resolution (ADR) approved body which would be competent to deal with the *complaint*; and
 - (iii) whether you agree to use the scheme operated by that body.
- 8.5** You ensure that *clients' complaints* are dealt with promptly, fairly and free of charge.

Client information and publicity

- 8.6** You give *clients* information in a way they can understand. You ensure they are in a position to make informed decisions about the services they need, how their matter will be handled and the options available to them.
- 8.7** You ensure that *clients* receive the best possible information about how their matter will be priced and, both at the time of engagement and when appropriate as their matter progresses, about the likely overall cost of the matter and any *costs* incurred.
- 8.8** You ensure that any *publicity* in relation to your practice is accurate and not misleading, including that relating to your charges and the circumstances in which *interest* is payable by or to *clients*.
- 8.9** You do not make unsolicited approaches to members of the public, with the exception of current or former clients, in order to advertise legal services provided by you, or your business or employer.
- 8.10** You ensure that *clients* understand whether and how the services you provide are regulated. This includes:
- (a) explaining which activities will be carried out by you, as an *authorised person*;
 - (b) explaining which services provided by you, your business or employer, and any *separate business* are regulated by an *approved regulator*, and
 - (c) ensuring that you do not represent any business or employer which is not authorised by the *SRA*, including any *separate business*, as being regulated by the *SRA*.
- 8.11** You ensure that *clients* understand the regulatory protections available to them.

Supplemental notes

Made by the SRA Board on [date].

Made under sections 31 and 32 of the Solicitors Act 1974, and section 57(2) and (8) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

Approved by the Legal Services Board under paragraph 19 of Schedule 4 to the Legal Services Act 2007, on [date].

Commencing on [date].