

# **Supporting in-house solicitors: How our Standards and Regulations apply to you**

# Agenda

<b>8.00</b>	Registration
<b>8.30</b>	Welcome Carol Westrop, Head of Legal Policy and Advice
<b>8.40</b>	Our enforcement strategy and approach to reporting Carol Westrop, Head of Legal Policy and Advice
<b>9.10</b>	Case study: Non-disclosure agreements Ben Davis, Team Leader, Investigation and Supervision
<b>9:25</b>	Our new Standards and Regulations Robert Loughlin, Executive Director, Operations and Performance
<b>9:45</b>	Questions
<b>10:00</b>	Close

# **Our enforcement strategy and approach to reporting**

Carol Westrop, Head of Legal Policy and Advice

# The Principles and Codes



**Principles:**  
apply to all  
solicitors, whoever  
they are and  
wherever they  
work



**Code for  
individuals:**  
applies to all  
solicitors, whoever  
they are and  
wherever they  
work

# Code for individuals

- Relevance to in-house
- Structure and key issues covered

- Regulation
- Ethics, independence and conflicts
- Continuing competence
- Useful Reading: “In-House Lawyers' Ethics - Institutional Logics, Legal Risk and the Tournament of Influence” - Richard Moorhead, Steven Vaughan, Cristina Godinho

- Specific Risks
  - Acts or omissions by your organisation giving rise to concerns, both legal and ethical
  - NDAs

# Reporting matters of concern



Improved clarity for the profession and public



When concerns should be reported



Protection for those who wish to report



Our expectations



Issues raised and our approach

# Reporting concerns

- Report to us (or another approved regulator):
  - ✓ Any facts or matters that you reasonably believe are capable of amounting to a serious breach
  - ✓ Promptly
- Do not stop anyone else who wants to make a report to us

# Reporting concerns

- Important for us to receive information at an early stage, especially where this may result in us taking regulatory action
- Early engagement helps make sure that we can look out for any patterns or trends using information we already hold
- Guidance and case studies

# Role of enforcement



Protecting clients and the public



Sanction not a primary purpose



Deterrence and wider messaging



Maintaining and upholding standards



Upholding public confidence in provision of legal services

# Enforcement Strategy



Clarity for the public and the profession



Clearly serious conduct



Mitigating and aggravating factors

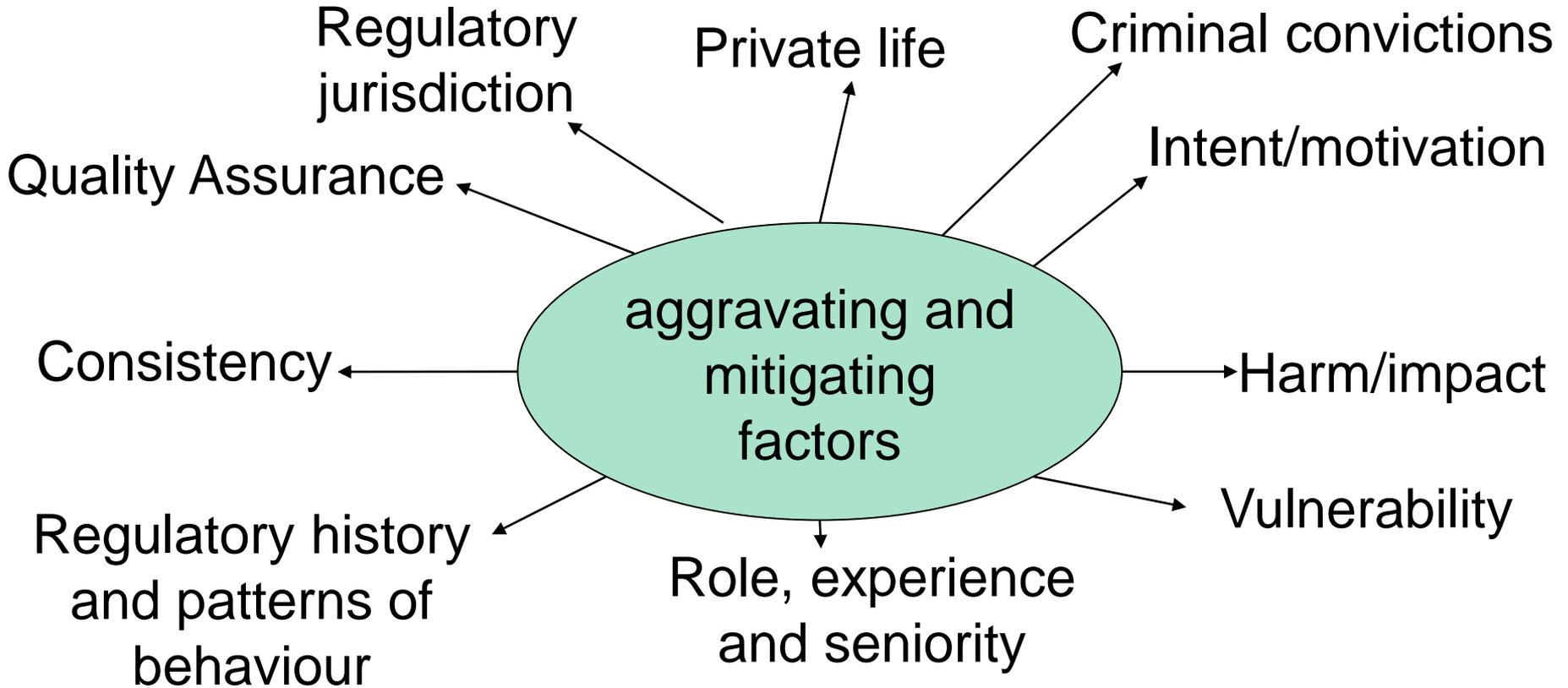


Contextual mitigation



Making your decision

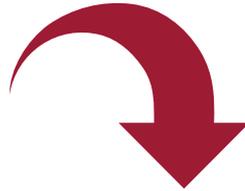
# What is serious?



# Serious allegations include



Abuse of  
trust



Taking unfair  
advantage



Sexual or violent  
misconduct

**Questions?**

# **Case study: non-disclosure agreement**

Ben Davis

Team Leader, Investigation and Supervision

# Case study 1

- Ms S is a senior in-house solicitor at ABC Pharmacies Limited (ABC). ABC operate 150 pharmacies throughout England. The company is regulated by the General Pharmaceutical Council.
- ABC has received several complaints that patients were provided with incorrect medication by their Oxford pharmacy. The problem arose because some medications had been mis-labelled. This affected about 15 patients. The incorrect medication caused no harm and was replaced once the issue came to light after a couple of weeks.

# Case study 1

- ABC had a similar situation 18 months ago, when 40 people received incorrect medication from its Stoke pharmacy due to a labelling problem. That matter was reported to the General Pharmaceutical Council who carried out an investigation and issued ABC with a warning.
- ABC is intending to compensate the 15 patients from the Oxford pharmacy. Ms S is asked to draft agreements to formalise these payments. The template agreement she is working from includes the following clauses:

# Case study 1

- *“The Claimant agrees not to make any complaint or report to any regulator in respect of the Claim.”*
- *“The Claimant agrees that [he/she] shall not provide any assistance to, or aid the progression of, any claim, complaint, report, investigation, prosecution or other proceedings which arise from or relate to the facts of the Claim, save in so far as [he/she] may be required by law.*
- **Discussion: what conduct/ethical issues come to mind and what could Ms S do in this situation?**

# **SRA Standards and Regulations**

Robert Loughlin, Executive Director  
Operations and Performance

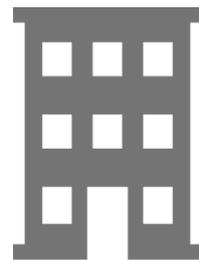
# Across England and Wales we regulate



**192,000**  
solicitors



**31,000**  
solicitors work  
in-house



**10,400**  
law firms

**ABS**

**700**  
alternative  
business  
structures

# Our key priorities



High  
standards



Reducing  
bureaucracy



Better public  
information



Consistent  
qualification  
standards

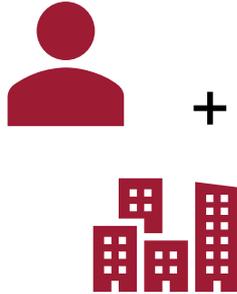


Appropriate  
public  
protection

# SRA Standards and Regulations



Revised  
principles



New codes  
of conduct-  
individuals  
and firms



Authorisation  
rules and  
others



Simplified  
accounts  
rules



New  
practising  
flexibility

# SRA Standards and Regulations



Focus on standards, but without prescription



Getting rid of unnecessary bureaucracy



Short, user-friendly

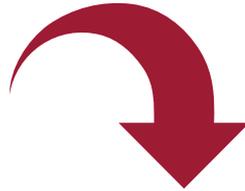


Greater freedom about where and how solicitors can practise

# Principles



Apply to all  
solicitors

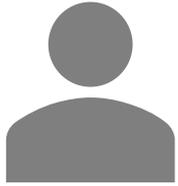


Ten principles  
down to seven



Honesty and  
integrity separate

# Codes of Conduct



## **Code for individuals:**

Applies to all solicitors, whoever they are and wherever they work



## **Code for firms:**

Sets out standards and business controls expected of firms

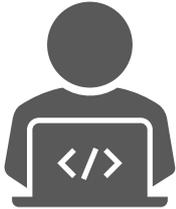


No indicative  
behaviours

# Practising flexibility

- SRA-regulated freelance solicitor - reserved
- SRA-regulated freelance solicitor - unreserved
- Solicitors able to offer unreserved legal services to the public from an unregulated business

# SRA-regulated freelancers



Work on  
your own



Do not  
employ staff



Deal directly  
with clients

# Working outside a law firm



Principles and Codes apply



Unreserved legal services only



Business doesn't have to be SRA-regulated

# Working in the not for profit sector

- Removal of restrictions on how and where solicitors can practise
- If client money is held in the solicitor's name, some of our Accounts Rules will apply
- There are no special rules that apply to pro bono work

# Working in the not for profit sector

- Professional indemnity insurance is required for carrying on reserved legal activities
- 3 years practice requirement does not apply to those working in not for profit bodies

# In-house solicitors – what you need to do

- Read the new Code of Conduct for Solicitors and our Principles - they apply to all solicitors, wherever they work
- Understand our enforcement strategy which underpins our rules
- Know your duty to report serious concerns promptly

# Guidance and support



Guidance  
and  
resources



Enforcement  
in practice



Professional  
ethics helpline  
and webchat



Research  
and reports

# Resources for you

[beta.sra.org.uk](https://beta.sra.org.uk) – see the new rules on our development website

[sra.org.uk/newregs](https://sra.org.uk/newregs) – guidance and resources to help you

Professional Ethics: 0370 606 2577

Follow us on Twitter: @sra\_solicitors