

Warning notice

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Immigration work

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Status

This document is to help you understand your obligations and how to comply with them. We will have regard to it when exercising our regulatory functions.

Who is this warning notice relevant to?

Law firms, solicitors and other staff providing immigration services to clients.

Our concerns

Based on examples that we have seen, and that have been reported in the press, we are concerned about solicitors potentially advising clients or prospective clients to falsify or fabricate information to support Home Office applications for asylum or leave to remain.

Over a period of time we have also identified risks around solicitors producing poorly drafted applications, or advising their clients to pursue totally without merit appeals of Home Office decisions through the courts.

Applying to appeal decisions where the case is without merit and bound to fail abuses the courts system, and does not uphold the rule of law. This has detrimental impacts for the effective administration of justice, and solicitors have been prosecuted at the Solicitors Disciplinary Tribunal on these matters.

More recently, in July 2023 we intervened into three specific firms and made an order restricting the practice of a non-authorised person working at another.

All solicitors should act with honesty and integrity, upholding the high professional standards that we and the public expect of them. This is especially important in areas such as immigration and asylum where those involved may be among the most vulnerable in society. Consequences for this group can be particularly severe, long-lasting, and difficult to rectify. A client found to have submitted false or misleading information to the Home

Office or relating to an appeal could face significant financial and personal consequences, including being made to leave the country.

Solicitors play an important role in the functioning of the system through their involvement in giving immigration advice and assisting with applications and appeals on their client's behalf. A solicitor who is involved in the falsification or fabrication of information relating to an application or an appeal undermines public trust in both the legal profession and the effective administration of immigration and asylum law.

Standards and Regulations

You must comply with the Principles [<https://www.sra.org.uk/solicitors/standards-regulations/principles/>] and in particular in relation to immigration work::

- Principle 1 – act in a way that upholds the constitutional principle of the rule of law and the proper administration of justice
- Principle 2 – act in a way that upholds public trust and confidence in the *solicitors'* profession and in legal services provided by authorised persons
- Principle 4 – act with honesty
- Principle 5 – act with integrity

You must also comply with the relevant paragraphs in the Code of Conduct for Solicitors, RELs and RFLs [<https://www.sra.org.uk/solicitors/standards-regulations/code-conduct-solicitors/>] and the Code of Conduct for Firms [<https://www.sra.org.uk/solicitors/standards-regulations/code-conduct-firms/>] where applicable. For example:

- paragraph 1.4 of the Code of Conduct for Solicitors, RELs and RFLs states that you must not 'mislead, or attempt to mislead your clients, the court or others, either by your own acts or omissions or by allowing or being complicit in the acts or omissions of others (including your client)'.
- paragraph 2 of the Code of Conduct for Solicitors, RELs and RFLs imposes obligations including:
 - not misusing or tampering with evidence or attempting to do so (paragraph 2.1)
 - not seeking to influence the substance of evidence (paragraph 2.2)
 - only making assertions or putting forward statements, representations or submissions to the court or others which are properly arguable (paragraph 2.4)
 - not wasting the court's time (paragraph 2.6)



- paragraph 3 of the Code of Conduct for Solicitors, RELs and RFLs requires that:
 - you ensure that the service you provide to clients [<https://www.sra.org.uk/solicitors/standards-regulations/glossary/#client>] is competent and delivered in a timely manner (paragraph 3.2)
 - you maintain your competence to carry out your role and keep your professional knowledge and skills up to date (paragraph 3.3)
 - you remain accountable for the work carried out through those that you supervise and manage and effectively supervise work being done for clients (paragraph 3.5)
 - 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 (paragraph 3.6)

Our expectations

Solicitors are required to act with honesty and integrity which includes a duty not to make false representations on behalf of a client (Wingate and Anr v The Solicitors Regulation Authority [2018] EWCA Civ 366).

You should advise your client to make an honest account of and provide accurate information about their circumstances in any application submitted to the Home Office, Tribunal or Court.

You must not be complicit in providing a false or fabricated account or generating “evidence” to support a false or fabricated account. We expect you to challenge your client should they suggest falsifying or fabricating their account or information to support their application. Where you have reason to doubt it, you should take steps to assure yourself about the authenticity of your client’s account and evidence they provide in support.

Our conduct in disputes guidance [<https://www.sra.org.uk/solicitors/guidance/conduct-disputes/>] has further information on the risks around making allegations without merit and misleading the court.

You should provide your client with a realistic assessment of the prospect of success of their case based on their circumstances, and make sure that your client fully understands the strengths and merits of their case. You can do this by:

- discussing verbally with them
- providing them with a written record
- keeping a copy of that written record on file.

You should not charge fees to make applications that have no realistic prospect of success.

Immigration and asylum law can be a complex, fast-paced and politically sensitive area of law. Solicitors must be able to demonstrate steps they take to maintain their own competence [<https://www.sra.org.uk/solicitors/standards-regulations/code-conduct-solicitors/#rule-3>] , and solicitors managing individuals in the provision of immigration work must also make sure those people are competent to carry out their role, and keep their professional knowledge and skills up to date [<https://www.sra.org.uk/solicitors/standards-regulations/code-conduct-solicitors/#rule-3>] .

Similarly, firms are also required to make sure that their managers and employees are competent and have the right knowledge and skills to carry out their role [<https://www.sra.org.uk/solicitors/standards-regulations/code-conduct-firms/#rule-4>] .

If you become aware of an issue with an immigration client's previous legal adviser you should consider your obligations under paragraph 7.7 of the Code of Conduct for Solicitors, RELs and RFLs

[<https://www.sra.org.uk/solicitors/standards-regulations/code-conduct-solicitors/#rule-7>] , and your firm's obligations under paragraph 3.9 of the Code of Conduct for Firms [<https://www.sra.org.uk/solicitors/standards-regulations/code-conduct-firms/#rule-3>] , to report promptly to us (or other regulators, as appropriate) any facts or matters that could amount to a serious breach of regulatory arrangements.

Enforcement action

If an issue arises, failure to have proper regard to this warning notice is likely to lead to disciplinary action. For further information on our approach to taking regulatory action, see our Enforcement Strategy

[<https://www.sra.org.uk/sra/corporate-strategy/sra-enforcement-strategy/?epiprojects=3>] .

If we find evidence that solicitors or firms we regulate have acted in ways that contravene our rules we can and will take action.

As well as considering enforcement action, we will swiftly take preventative action where we consider that a solicitor or law firm presents an imminent risk to clients, future clients, the public or the public interest. Commonly, this will be where there is a need to protect the public, for example from dishonest solicitors. The need for urgent protection may be amplified in areas such as immigration and asylum due to the vulnerability of clients and the high impact of a poor outcome, which may lead to the loss of personal liberty, or deportation.

Further guidance

Our information hub [<https://www.sra.org.uk/solicitors/resources/immigration-services/>] provides guidance and checklists for solicitors, law firms and their employees that provide immigration services.

Published in November 2022, our immigration work guidance [<https://www.sra.org.uk/solicitors/guidance/immigration-work-guidance/>] provides law firms and solicitors with guidance on:

- where solicitors can work if they wish to undertake immigration work
- how our supervision rules and their obligation to provide a proper standard of service apply in the delivery of immigration work
- obligations to uphold the rule of law and support the administration of proper legal processes when undertaking or supervising immigration work.