

News release

Review shows law firms need to do more on SLAPPs

14 February 2023

A review by the SRA shows that some law firms need to do more to guard against the risk of strategic lawsuits against public participation (SLAPPs) and other types of abusive litigation.

Since the invasion of Ukraine, there has been significant public concern about SLAPPs, with complaints that wealthy individuals are using solicitors to silence legitimate criticism. For instance, by threatening journalists with defamation proceedings even if the claim has no merit.

We visited 25 law firms, including those who work on the claimant and defendant side. Through interviews and file reviews, we assessed how well firms understand and manage the risks around abusive litigation.

Our conduct in disputes thematic review [<https://www.sra.org.uk/sra/research-publications/conduct-disputes/>] found good practice. Many solicitors demonstrated they had a good understanding of the risks in this area and we found no evidence of the firms we reviewed abusing the litigation process.

There were, however, areas where firms needed to do better. Areas of concern included some solicitors not being aware of our latest guidance on conduct in disputes, [<https://www.sra.org.uk/solicitors/guidance/conduct-disputes/>] lack of policies and procedures for this work or specific training for fee earners on how to conduct fair and appropriate litigation. These all increase the risk of firms falling short of expected standards.

We also found too many solicitors had a poor understanding of their professional obligations to report potential misconduct [<https://www.sra.org.uk/solicitors/guidance/reporting-notification-obligations/>] by others. We unearthed three cases where a firm had identified potential abusive litigation by another firm but had not reported it to us. We are looking at these cases and will open a full investigation if there is evidence of potential misconduct. It is important solicitors make us aware of concerns so that we can act to protect clients.

Paul Philip, SRA Chief Executive, said: 'SLAPPs are a threat to free speech and the rule of the law. Solicitors should act fearlessly in their client's interest when bringing legitimate claims. They are, however, officers of the court. They must act with integrity and should never abuse the litigation process. This damages our society and public trust in the profession.'

'Most solicitors take their duties seriously. Yet this review shows that some firms need to do more. Firms need to be sharply focused on meeting the high standards we all expect. We will be carrying out a further review of firms in this area, while redoubling our efforts to make sure our message is getting through.'

We already have around 40 live investigations linked to SLAPPs. Commenting on the cases, Philip said: 'Where we find evidence of misconduct, we will take strong action.'

Since we first published guidance in this area in 2015, we have made it clear that abuse of the litigation process is unacceptable, most recently in our November warning to the profession about SLAPPs

[<https://www.sra.org.uk/sra/news/press/2022-press-releases/solicitors-warned-slapps/>] .

Unacceptable behaviours include firms bringing cases that aren't properly arguable, driving up costs or creating delays through unmeritorious applications or claiming exaggerated remedies or costs consequences which a client would not be entitled to on the facts.

Our thematic review highlights examples of good practice, as well as areas for improvement. It also provides checklists for firms to make sure they are carrying out litigation properly and guarding against the risks of abusive litigation.

Issues we plan to look at as part of our follow up review of firms include issues arising from our open investigations, steps firms are taking to prevent the possible illegitimate funding of SLAPPs cases, and relationships with PR companies and private investigators.