

News release

Profession reminded of duties during criminal bar action

18 July 2022

We have reminded the profession of its duties in light of increasing action by the Criminal Bar Association (CBA).

Since April, hundreds of CBA members have adopted 'no returns' as part of industrial action aimed at making the government uplift rates by 25 per cent. Since then, CBA members have voted in support of escalating the action. This could include:

- court walk outs
- refusing to accept new instructions
- no returns

There is a risk that some solicitor firm clients might end up unrepresented. We reminded the profession in the April issue of SRA Update [<https://www.sra.org.uk/sra/news/sra-update-102-bar-strike/>] of its duties in relation to such cases.

Because of this escalation, we have reiterated the professional obligations as more and more firms and clients might be affected by this action, or if solicitors consider withdrawing services or taking some form of action in support of barristers.

Solicitors have a duty to act in their client's best interests (Principle 7 [<https://www.sra.org.uk/solicitors/standards-regulations/principles/>]). They also have a duty to uphold the constitutional principle of the rule of law and the proper administration of justice (Principle 1 [<https://www.sra.org.uk/solicitors/standards-regulations/principles/>]), as well as a duty under the SRA Codes of Conduct [<https://www.sra.org.uk/solicitors/standards-regulations/code-conduct-solicitors/#rule-2>] not to waste court time.

This includes making every effort to ensure court hearings take place when tabled unless adjourned with the agreement of the court. We suggest that it would be helpful to explain this to clients.

In relation to barristers taking action, if the advocate instructed to appear at a hearing is taking part in strike action, solicitors are advised to make the following efforts (which they should document) to find a replacement advocate whether it be a barrister or a solicitor advocate:

- Contact as many chambers or firms as practicable to find another barrister or solicitor advocate
- Explain difficulties to the court and the prosecution at the earliest opportunity to assist with proactive case management
- Use their firm's solicitor advocates if they have, and where they have the skills and resources to take the work on (see paragraphs 4.2 and 4.3 [<https://www.sra.org.uk/solicitors/standards-regulations/code-conduct-firms/#rule-4>] of the Code of Conduct for Firms and paragraph 3.2 [<https://www.sra.org.uk/solicitors/standards-regulations/code-conduct-solicitors/#rule-3>] of the SRA Code of Conduct for individuals)
- Assisting the client to represent themselves as best they can if they are unable to locate an advocate and the court is unwilling to adjourn. As they are on the record, they should attend court with their client, explain the situation to the court and offer any support they can to the client during the hearing

Solicitors who are still unsure can contact our Ethics Guidance helpline [<https://www.sra.org.uk/home/contact-us/>] . The Law Society has also published guidance [<https://www.lawsociety.org.uk/contact-or-visit-us/press-office/press-releases/advice-for-solicitors-as-barrister-action-set-to-begin>] on this matter which might prove useful.