

News

Financial penalties, update on progress

06 July 2022

The Ministry of Justice (MoJ) announced at the end of June [<https://www.gov.uk/government/news/extra-powers-for-regulators-to-clamp-down-on-rule-breaking-solicitors>] that it will increase our fining powers for individuals and firms with 'traditional' management structures who fall short of the expected professional standards. Raising our fining threshold to £25,000 will mean more disciplinary matters can be dealt with by us directly without referral to the Solicitors Disciplinary Tribunal (SDT). This will not only enable cases to be resolved more quickly, saving all concerned time, stress and costs, and enabling us to focus more on the most complex and serious cases.

Any fines levied by us or the SDT go to HM Treasury. Solicitors and firms would retain the right to appeal to the SDT any outcome or penalty we imposed.

In contrast to firms, we can directly fine ABSs and the individuals working in them up to £250m and £50m respectively.

Reviewing our approach to financial penalties

The increase is just one strand of our proposals to update our fining regime to make sure we had a robust approach in place which protected the public, provided a more appropriate deterrent and ensured cases can be resolved much more quickly.

Our current regime was introduced more than ten years ago and there have been significant changes since, including the 2019 introduction of our new Enforcement Strategy [<https://www.sra.org.uk/sra/corporate-strategy/sra-enforcement-strategy/enforcement-practice/social-media-offensive-communications/>] and the SDT adopting the civil standard of proof in line with that which we use.

We announced in May how we intend to move forward with our plans which were updated following a public consultation last year. Based on the feedback received [<https://www.sra.org.uk/sra/consultations/consultation-listing/financial-penalties-2021/>], we have outlined how we will now move ahead with plans to:

- take into account, in all cases, the turnover of firms and financial means of individuals when setting fines



- amend guidance to highlight that for cases involving sexual misconduct, discrimination or any form of harassment, financial penalties will only be considered in exceptional circumstances, with restrictions on practice, suspension or strike off the more appropriate sanction
- introduce a schedule of 'fixed penalties' for lower-level breaches – enabling cases to be dealt with more quickly for all concerned.

How feedback helped shape our proposals

More than 7,500 people engaged with our consultation through one channel or another. Most respondents were broadly in favour of the principles outlined, including the public, profession and their representative groups, although some did provide differing views on the detail of how specific proposals could be implemented.

One key area of concern was around a lack of alignment in approach between us and SDT.

We agree that better alignment with the SDT should be aimed for and have committed to working with the tribunal to develop updated guidance on financial penalties, and the new rules that support the introduction of a fixed penalties scheme.

We will also do further work to explain the checks and balances in place in our processes, and communicate the safeguards in place, including use of separate adjudicators in decision making, and the options to appeal decisions, including appealing fines, to the SDT.

The ability to take account of turnover or individual income in setting fines would allow different levels of fine to be issued to a low-earning junior solicitor compared to a senior equity partner for similar offences.

A further consultation will be held later this year on the detail of how a new fixed-penalty regime would work. Such penalties would mostly deal with lesser or administrative breaches – such as failures to comply with requests for information or requirements under the SRA Transparency Rules.

[<https://www.sra.org.uk/solicitors/standards-regulations/transparency-rules/>]