

Annex 3.1

SRA Regulatory and Disciplinary Procedure Rules

Introduction

These rules set out how we investigate and take disciplinary and regulatory action, for breaches of our rules and regulatory requirements. They apply to solicitors, authorised CILEX lawyers, RELs, and RFLs as well as the firms we authorise and those who work for them.

The sanctions and controls we can impose as a result of our investigation will depend on the scope of our statutory powers and will be determined in accordance with our [Enforcement Strategy](#).

This introduction does not form part of the SRA Regulatory and Disciplinary Procedure Rules.

Rule 1: Assessing reports

- 1.1 The **SRA** shall assess any allegation which comes to, or is brought to, its attention in respect of a relevant **person** to decide if it should be considered under rule 3.
- 1.2 A matter is an allegation in respect of a **person** for the purpose of these rules if it raises a question that the **person**:
 - (a) Is a **solicitor**, an **authorised CILEX lawyer**, **REL** or **RFL** and has committed professional misconduct;
 - (b) has committed or is responsible for a serious breach of any regulatory obligation placed on them by the **SRA's regulatory arrangements**, section 56 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, section 58 of the Criminal Justice and Courts Act 2015, section 6 of the Civil Liability Act 2018, the Money Laundering, Terrorist Financing and Transfer of Funds Regulations 2017, the Financial Guidance and Claims Act 2018 or any equivalent legislative requirements that may succeed the same;
 - (c) is a **manager** or employee of an **authorised body** and is responsible for a serious breach by the body of any regulatory obligation placed on it by the **SRA's regulatory arrangements**;
 - (d) is not a **solicitor** and has been convicted of a criminal offence, or been involved in conduct related to the provision of legal services, of a nature that indicates it would be undesirable for them to be involved in legal practice;

- (e) in relation to a **licensed body**, has committed or substantially contributed to a serious breach of any regulatory obligation of a nature that indicates it is undesirable for them to carry out activities as a **HOLP**, **HOFA**, **manager** or employee of an **authorised body**;
- (f) has otherwise engaged in conduct that indicates they should be made subject to a decision under rule 3.1.

Rule 2: The investigation process

- 2.1 The **SRA** may carry out such investigations, and in doing so may exercise any of its investigative powers, as it considers appropriate:
- (a) to identify whether a matter comprises an allegation under rule 1.2, or
 - (b) to the consideration of an allegation under rule 3.
- 2.2 As soon as reasonably practicable after commencing an investigation under rule 2.1(b), the **SRA** will inform the relevant **person** accordingly and their employer, unless and to the extent that it considers that it would not be in the public interest to do so.
- 2.3 Before making a decision under rule 3, the **SRA** shall give notice to the relevant **person**:
- (a) setting out the allegation and the facts in support;
 - (b) summarising any regulatory or other history relating to the relevant **person**, or any associated **person**, which is relevant to the allegation, including to the question of propensity;
 - (c) where appropriate, making a recommendation as to the decision to be made under rule 3, regarding publication under rule 9, and costs under rule 10; and
 - (d) accompanied by any evidence or documentation that the **SRA** considers to be relevant to the allegation, and
- inviting the **person** to respond with written representations within such period as the **SRA** may specify (which must be no less than 14 days from the date of the notice).
- 2.4 At any stage, an **authorised decision maker** may decide to take no further action in respect of an allegation and to close the matter. If so, the **authorised decision maker** may decide to issue advice to the relevant **person**, or a warning regarding their future conduct or behaviour, but it must give notice under rule 2.3 before doing so.
- 2.5 The **SRA** may dispense with the giving of notice under rule 2.3 or 2.4 where:
- (a) it intends to include a further allegation in a matter already subject to an application or ongoing proceedings before the **Tribunal**;
 - (b) it intends to make an application to the **Tribunal** in a case in which it is exercising its powers of **intervention** as a matter of urgency; or

- (c) it is otherwise in the public interest to do so.
- 2.6 The **SRA** must inform the relevant **person**, their employer (where they were informed of the investigation under rule 2.2) and, where practicable, any **person** who reported the allegation to the **SRA**, of any decision to close a matter under rule 2.4, together with reasons.
- 2.7 At any stage the **SRA** may decide to exercise its powers of **intervention** or to take action in relation to the approval of a **person** or the holding of an interest in accordance with rule 13.8 or 13.9 of the SRA Authorisation of Firms Rules or Schedule 13 to the **LSA**.

Rule 3: Consideration by authorised decision makers

- 3.1 On finding that an allegation is proved (save for sub-paragraph (g)), an **authorised decision maker** may decide as appropriate in respect of a relevant **person** to:
 - (a) give a written rebuke, in accordance with section 44D(2)(a) of the **SA** or paragraph 14B(2)(a), Schedule 2 to the **AJA**;
 - (b) subject to rule 3.6, direct the payment of a financial penalty in accordance with section 44D(2)(b) of the **SA**, paragraph 14B(2)(b) of Schedule 2 to the **AJA** or section 95 of the **LSA**, together with the amount of any penalty;
 - (c) disqualify a **person** from acting as a **HOLP** or **HOFA**, **manager** or employee of a body licensed under the **LSA** in accordance with section 99 of the **LSA**;
 - (d) make an order to control the **person's** activities in connection with legal practice, in accordance with section 43(2) of the **SA**;
 - (e) impose a condition on the practising certificate of a **solicitor**, the registration of an **REL** or **RFL** or the authorisation of a body for such period as may be specified, in accordance with section 13A(1) of the **SA**, paragraph 2A(1) of Schedule 14 to the Courts and Legal Services Act 1990, section 9(2G) of the **AJA** or section 85 of the **LSA**, regulation 19 of The European Communities (Lawyer's Practice) Regulations 2000 and paragraph 19(4B) of the Bye Laws of the Chartered Institute of Legal Executives;
 - (f) revoke or suspend authorisation to practise under the SRA Authorisation of Firms Rules;
 - (g) make an application to the **Tribunal** under section 47 of the **SA** for the allegation to be considered.
 - (h) where the **SRA** does not hold sufficient evidence that requirements made under rule 11.1 (b) were complied with, direct the payment of a fixed financial penalty in the prescribed sum in accordance with section 44D(2)(b) of the **SA**, paragraph 14B(2)(b) of Schedule 2 to the **AJA** or section 95 of the **LSA**;

- (i) additionally, in respect of an *authorised CILEX lawyer*, make one of the following orders:
 - i. give a written rebuke;
 - ii. direct the payment of a financial penalty, together with the amount of any penalty;
 - iii. impose conditions on a *practising rights certificate*;
 - iv. suspend or revoke a *practising rights certificate*;
 - v. suspend or terminate *membership*.

2.8 At any stage, an *authorised decision maker* may:

- (a) pending a final decision under rule 3.1 or by the *Tribunal*, impose interim conditions on the practising certificate of a *solicitor*, the registration of an *REL* or *RFL* or the authorisation of a body, where satisfied it is necessary for the protection of the public or in the public interest to do so; or
- (b) following an application to the *Tribunal* under section 47 of the *SA* in circumstances in which the *solicitor*, *REL* or *RFL* has been convicted of an indictable offence or an offence involving dishonesty or deception, suspend or continue a suspension of their practising certificate or registration in accordance with section 13B of the *SA* or
- (c) pending a final decision under rule 3.1, suspend or impose conditions on the *practising rights certificate* of an *authorised CILEX lawyer*.

2.9 As soon as reasonably practicable, the *SRA* shall give notice to the relevant *person* of any decision made under this rule, together with reasons, and will inform the *person* of any right they may have to apply for a review or appeal of the decision.

2.10 A decision is made on the date notice of it is given under rule 3.3.

2.11 Conditions imposed under rule 3.2(a) and conditions and suspensions imposed under rule 3.2(c) shall take effect immediately or on such other date as may be specified by the *authorised decision maker*.

2.12 A decision under Rule 3.1(b) or 3.1(i)(ii) to direct the payment of a financial penalty (other than by agreement with the relevant *person*) must be made by an *adjudicator*, or where the amount of the penalty is within Band D of the *SRA*'s guidance on its approach to financial penalties, by an *adjudication panel*.

Rule 4: Decisions to impose a financial penalty

4.1 An *authorised decision maker* may decide to direct the payment of a financial penalty under rule 3.1(b) or 3.1(i)(ii), where this is appropriate to:

- (a) remove any financial or other benefit arising from the conduct;
- (b) maintain professional standards; or

- (c) uphold public confidence in the *solicitors'* profession or the CILEX profession as appropriate and in legal services provided by *authorised persons*.

4.2 Where the *SRA* recommends the imposition of a financial penalty on a relevant *person*, it may, by notice, require the *person* to provide a statement as to their financial means which includes a statement of truth, within such period as the *SRA* may specify (which must be no less than 14 days from the date of the notice).

4.3 Where an *authorised decision maker* has directed a *person* to pay a financial penalty:

- (a) such penalty shall be paid within a time and in the manner *prescribed*;
- (b) the *SRA* may direct that the payment of all or part of the penalty be suspended on such terms as *prescribed*.

Rule 5: Decisions to disqualify a person

5.1 An *authorised decision maker* may decide to disqualify a *person* under rule 3.1(c) only where they are satisfied that it is undesirable for the *person* to engage in the relevant activity or activities.

Rule 6: Applications to the tribunal

6.1 An *authorised decision maker* may decide to make an application to the *Tribunal* in respect of a firm or an individual under rule 3.1(g) only where they are satisfied that:

- a. there is a realistic prospect of the *Tribunal* making an order in respect of the allegation; and
- b. it is in the public interest to make the application.

6.2 Where an *authorised decision maker* has made an application to the *Tribunal*, the *SRA* may carry out such further investigations, and in doing so may exercise any of its investigative powers, as it considers appropriate.

Rule 7: Applications for termination of certain orders

7.1 Where a *person* has been:

- (a) disqualified from acting as a *HOLP* or *HOFA*, or a *manager* or employee of a body licensed under the *LSA*;
- (b) made subject by the *SRA* to an order under section 43(2) of the *SA*; or
- (c) made subject by the *SRA* to an order suspending their practising certificate or registration in the *register of European lawyers* or the *register of foreign lawyers*,

where there has been a material change in circumstances, the relevant **person** may apply to the **SRA** seeking a decision that the disqualification or order should cease to be in force.

7.2 An **authorised decision maker** may decide that a disqualification should cease to be in force if they are satisfied that it is no longer undesirable for the disqualified **person** to engage in the relevant activity or activities.

Rule 8: Evidential and procedural matters

8.1 The **SRA** may vary the procedure set out in these rules where it considers that it is in the interests of justice, or in the overriding public interest, to do so.

8.2 A decision under rule 3 may be made by agreement between the relevant **person** and the **SRA**.

8.3 Before reaching a decision under rule 3, an **authorised decision maker** or adjudication panel may give directions for the fair and effective disposal of the matter.

8.4 Decisions of an adjudication panel are made by simple majority. Where the adjudication panel has two members the appointed Chair has the casting vote.

8.5 Where an allegation is being considered by an adjudication panel, the proceedings will generally be conducted in private by way of a meeting of the adjudication panel.

8.6 An adjudicator may at their sole discretion decide to:

(a) invite the relevant **person** to be interviewed by an **authorised decision maker** accompanied by their representative (if any)

(b) direct a hearing before an adjudication panel either in private or public in accordance with Rule 8.6, if the matter cannot be considered by the **Tribunal** and

i. there is a material dispute of fact which cannot be determined without a hearing in which the parties are cross examined; or

ii. if there is an overriding public interest in the matters being heard in public.

8.6A Where an adjudicator has decided an allegation should be considered at a hearing:

(a) the **SRA** shall send a notice informing the relevant **person** of the date, time and venue of the hearing, no less than 28 days before the date fixed for the hearing;

(b) the relevant **person** and the **SRA** shall have the right to attend and be represented; and

(c) the panel may, at any time, whether of its own initiative or on the application of a party, adjourn the hearing until such time and date as it thinks fit.

8.7 The civil standard of proof applies to all decisions made under these rules.

8.8 An **authorised decision maker** may admit any evidence they consider fair and relevant to the case before them, whether or not such evidence would be admissible in a **court**. This may include regulatory or other history relating to the relevant **person**, or any associated **person**, which is relevant to the allegation, including to the question of propensity.

8.9 A certificate of conviction, or a finding by a **court** or disciplinary or regulatory body, certified by a competent officer of the **court**, or relevant body in the **UK** or **overseas**, shall be conclusive evidence of the offence committed or finding reached, and the facts relied upon.

Rule 9: Disclosure and publication

9.1 The **SRA** may disclose or publish any information arising from or relating to an investigation, either in an individual case or a class of case, where it considers it to be in the public interest to do so.

9.2 The **SRA** shall publish any decision under rule 3.1 or 3.2, when the decision takes effect or at such later date as it may consider appropriate, unless it considers the particular circumstances outweigh the public interest in publication.

9.3 The **SRA** shall notify the Legal Services Board as soon as reasonably practicable:

- a. of any decision to disqualify a **person** under rule 3.1(c)
- b. of the results of any review of any decision to disqualify a **person** under rule 7; and
- c. of any decision that a **person's** disqualification should cease to be in force.

Rule 10: Costs

10.1 An **authorised decision maker** may require a **person** who is the subject of a decision under rule 3.1(a) to (f) or (i) to pay a charge in accordance with Schedule 1 to these rules.

10.2 The **authorised decision maker** may decide to charge less than the amount that would be payable in accordance with Schedule 1 if they consider that it would be just in all the circumstances to do so.

10.3 Any charge must be paid by the **person** in such time and manner as may be specified by the **authorised decision maker**.

Rule 11: Fixed financial penalties

- 11.1 Where the **SRA** has evidence that a relevant **person** has committed one or more of the breaches listed in rule 11.2, it may notify them and will:
- (a) set out the allegation and the facts in support, accompanied by any evidence or documentation that the **SRA** considers to be relevant to the allegation;
 - (b) require the relevant **person** to remedy any specified breaches and provide evidence of the action taken to the **SRA** within a specified period (which must be no less than seven days from the date of the notification); and
 - (c) make a recommendation as to the decision to be made under rule 3.1(h) (taking into account any previous penalties issued), regarding publication under rule 9, and costs under rule 11.4, in the event that the requirements made under rule 11.1(b) are not complied with.
- 11.2 The prescribed breaches are:
- (a) SRA Transparency Rule 1.5
 - (b) SRA Transparency Rule 2.1
 - (c) SRA Transparency Rule 4.1
 - (d) SRA Authorisation of Firms Rule 13.4
 - (e) SRA Authorisation of Firms Rule 13.6
 - (f) SRA Financial Services (Scope) Rule 5.3
 - (g) SRA Financial Services (Scope) Rule 5.4
 - (h) SRA Code of Conduct for Firms Rule 3.3(a); or
 - (i) SRA Code of Conduct for Firms Rule 2.1 and/or 3.8(a) in respect of material changes or inaccurate or incomplete information provided about:
 - i. COLPs and/or COFAs (with reference to Rule 8.1 SRA Authorisation of Firm Rules)
 - ii. Managers and owners (with reference to Rule 9.1 SRA Authorisation of Firm Rules)
 - iii. Non-authorized material interest holders in licensed bodies (with reference to paragraphs 21 to 24 of Schedule 13 to the Legal Services Act 2007)
 - iv. Beneficial owners, officers and/or managers of firms which are independent legal professionals (ILPs) and/or tax advisers (with reference to Regulation 26 of The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 as may be amended from time to time) (the MLRs)
 - v. Beneficial owners, officers and/or managers of firms which are trust or company service providers (TCSPs) (with reference to Regulations 56 and 57 of the MLRs)

- vi. Money laundering reporting officer and/or money laundering compliance officer of an ILP, TCSP and/or tax adviser (with reference to Regulation 21 of the MLRs)

- 11.3 The prescribed sums for the purposes of rule 3.1(h) are:
- (a) £750 for a first breach
 - (b) £1,500 for a subsequent breach of the same category within 3 years of the date of the first penalty, or a continuation of the first breach after the **SRA** has directed payment of a penalty for that breach.
- 11.4 An authorised decision maker may require a **person** who is the subject of a decision under rule 3.1(h) to pay a charge of £150 in respect of the **SRA**'s investigation costs.
- 11.5 Rules 2.3, 2.4, 2.5, 2.6, 8.6 and 10 do not apply to the imposition of penalties under rule 3.1(h).

Rule 12: Restoration of Authorisation CILEX Lawyers

[To include provision for restoration of authorised CILEX lawyers to replicate statutory provisions for solicitors].

Schedule 1

1. This schedule sets out the basis for calculating the charges payable under rule 10.
2. The **SRA** will record the amount of time spent by the **SRA** or its agents in investigating the matter, including time spent on correspondence, evidence gathering and analysis, and report writing.
3. The standard charges are as follows:

Number of hours spent investigating matter	Standard Charge
Under 2 hours	£300
2 hours or more but under 8 hours	£600
8 to 16 hours	£1,350

4. In addition to the fixed charge of £1,350, where the time recorded under paragraph 2 above amounts to more than 16 hours, an extra charge of £75 for every additional hour spent will be applied (rounded up or down to the nearest half hour).