

### **How we deal with reports in the Conduct Investigation Unit (from people who are not the clients of the solicitors concerned, and from official, professional and public duty sources)**

#### **Who we are**

The Conduct Investigation Unit ("CIU") is part of the Regulation Response Directorate of the Solicitors Regulation Authority ("SRA"). The SRA is the independent organisation set up by the Law Society that regulates the profession in the public interest and is answerable to the SRA Board. Our aim is to regulate the solicitors' profession effectively. We are a regulator rather than a complaints handling organisation, and we deal with concerns about the professional conduct (behaviour) of solicitors where the person making the report is not a client of the solicitor concerned. We also deal with reports about the professional conduct of solicitors from organisations and individuals who are making those reports from a professional or public duty, as well as reports referred to us from the Legal Complaints Service ("LCS").

#### **Can we help you?**

If you would like us to communicate with you in different way (for example, letters in large print or in another language), please tell us and we will do all we can to help.

#### **What our role is**

We receive reports from a number of sources. These include:

- the courts
- public organisations
- other regulators
- solicitors
- members of the public
- government departments
- local authorities
- professional organisations
- members of other professions

We treat all reports of misconduct seriously and use the information provided to determine if the solicitor has broken the rules of professional conduct. These rules set the standard of behaviour of solicitors. We will require evidence of misconduct to support the report being made. Without evidence, it is unlikely that CIU will be able to take regulatory action. Each year many investigations are closed due to lack of evidence. If sufficient information is provided, we may ask the solicitor for an explanation.

Complaints by clients about solicitors who act for them are dealt with by the LCS. Neither we nor the LCS can take any action about complaints of poor service given by someone else's solicitor to the solicitor's own client.

We do not have the powers to award you any compensation, even if we find that the rules of professional conduct have been broken and we have taken regulatory action against the solicitor.

CIU is not permitted to give legal advice. Our caseworkers may suggest that you consider seeking independent legal advice.

## What action we can take

Our role is to regulate solicitors in the interests of the public and people who use legal services. This means that when we receive a report alleging that the rules of conduct have been broken, we must decide:

- whether we will take any action;
- what kind of action we will take; and
- when we will take action.

We will make these decisions on the basis of our assessment of the risk to the public which has been caused by the rules being broken in the particular circumstances. We will take into account the effect that breaking the rules has had, and whether it is likely that the behaviour will be repeated. We will also take into account the solicitor's regulatory and complaints record as well as other information we have that may be relevant.

We may decide:

- that no action is necessary. This can be for a number of reasons, for example
  - it is clear that no rule has been broken. This may be evident at the outset or become evident during the course of the investigation or at the end;
  - there is no clear evidence to support the allegations;
  - the matter is of a kind which the SRA has decided does not call for investigation. If your report falls into this category we will explain our reasons to you.
- that the rules have been broken and regulatory action is necessary. In these cases we have the powers to :-
  - give the solicitor formal written advice, or
  - give the solicitor a warning about their future conduct,or in more serious cases to
  - reprimand the solicitor; or
  - severely reprimand the solicitor,or in the most serious cases to
  - refer the solicitor's conduct to the Solicitors Disciplinary Tribunal.

CIU can also take steps to control how a solicitor practises, where it is necessary to do so in the public interest.

Most decisions are made by caseworkers. Decisions in CIU to reprimand, severely reprimand and refer to the Solicitors Disciplinary Tribunal (SDT) may only be made by authorised officers, adjudicators, and adjudication panels, who work independently of CIU.

The SDT is independent from the SRA. It holds public hearings and has the power to:-

- reprimand;
- fine;
- suspend from practice; or
- strike the solicitor off the roll (which means they cannot carry on practising as a solicitor).

The SRA now publishes certain regulatory decisions and agreements on its website and these may also be disclosed by any other modern form of communication. The SRA's policy statement is available on our website: [www.sra.org.uk](http://www.sra.org.uk)

## **What you can expect**

We will give your report an individual reference number and pass it to a caseworker. We may ask you to help us by giving us any evidence you have which may show whether the solicitor has broken the rules of conduct.

Our caseworkers may carry out the investigation or it may be passed to a caseworker at a law firm who will investigate on our behalf. The final decision will be made by the SRA.

## **How we will inform you when no investigation is required**

If the caseworker decides that no further regulatory action is necessary, which happens in the majority of cases, we will usually tell the solicitor that they have been reported to us, then close the file. We will inform you of the reason why we closed the file:

## **How we will keep you informed when an investigation is required**

If the caseworker decides that an investigation is required they will usually contact the solicitor asking for their explanation. This may involve showing the solicitor copies of correspondence that you have sent to SRA. What further steps need to be taken will depend on the individual case.

Our aim is to keep you informed about the main stages in our investigation. We will tell you:

- if we decide to take the matter up with the solicitor;
- if we decide that we have received enough information to refer the matter to an adjudicator or authorised officer to make a formal decision;
- the outcome of the case when a final decision has been made.

In some cases our investigation may not go through the adjudication stage, but you will always be notified of the final decision.

Our investigations may take place over the course of weeks or months. This is because:-

- the investigation is complicated;
- we are also dealing with other reports involving the same solicitor (which we cannot tell you about, because they are confidential); or
- we have decided that other matters we are dealing with involving other solicitors pose a greater risk, and must take priority.

We will not tell you about every step we take in an investigation, and we will not usually send you copies of correspondence or documents (unless we need your comments).

If for any reason you do not want to be kept informed of the investigation or the outcome, please let us know.

Whether or not you want to be kept informed, we may still have to contact you to check facts, to ask you for more information or (in some cases) to ask for a statement which we can use as evidence.

## **Common misconceptions about misconduct**

Allegations by persons who are not clients of solicitor concerned, particularly opponents in litigation, often arise from a misunderstanding of the solicitor's duty to act on the instructions of the client and in the best interests of their client.

For example there will usually have been no misconduct if the solicitor:-

- has simply been representing the best interests of their own client, even if you consider that this has been detrimental to you, for example, in divorce or litigation proceedings (unless the solicitor breaks other rules in doing so)
- has not responded to communications from you and you are not the solicitor's client
- has used robust but professional language in communications
- has made a minor administrative error that has not had serious consequences

Each year many investigations are closed with no action taken because the allegations made are not issues of professional misconduct.

**Note:**

As well as regulating solicitors, the SRA also regulates Registered Foreign Lawyers, Registered European Lawyers and recognised bodies (law firms authorised to practise as companies or limited liability partnerships).