

Duties owed to the court

To begin the Solicitors Regulation Authority or SRA is a regulatory body that sets and describes the professionalism and standards that solicitors are expected to provide to the public through legal practice SRA (2019). This concept of professionalism is also linked towards the courts as well. So, when dealing with the courts what is expected of you is provided within the SRA (2019) Section 2.1 of the SRA code states that 'You do not misuse or tamper with evidence or attempt to do so'. As can be seen this is referencing information manipulation which is not taken lightly. A legal news article from 2018 (King 2018) about two trainee solicitors shows how one of them who was in training is no longer allowed to work in legal practice without prior permission. Following on Section 2.2 of the SRA states 'You do not seek to influence the substance of evidence, including generating false evidence or persuading witnesses to change their evidence'. This is another point about evidence handling and dissuading dishonest representations. Moving forward Section 2.4 of the SRA states 'you only make assertions or put forward statements, representations or admissions to the court or others which are properly arguable. Where a client has admitted their guilt in a criminal offence you must not argue their innocence in court', this is a very important regulation as it puts in place the concept of balancing one's duties between their client and the court. A very important segment from this point is 'Where a client has admitted their guilt in a criminal offence you must not argue their innocence in court', this means that if a client is to admit guilt in confidence with their solicitor the only recourse is for said solicitor to walk away. As if you are to continue defending innocence said solicitor maybe be found guilty of wasting courts time, and perjury (Solicitors Act 1974). On the other hand, if the solicitor tells others about what the client said that would be a breach of trust and could also lead to having license removed. Finally, section 2.5, 2.6 and 2.7 revolve around not being in contempt of court, do not waste time and use relevant cases. When dealing with the duties between the courts and the client, the best advice that can be given is to stay objective and ensure concise logic and objectivity. Many of the SRA regulations are in place to prevent dishonest representations and to ensure a fair proceeding for trials. To conclude the SRA has a very good quote from their article about balancing duties within litigation, 'The notes to the principles explain that it is the public interest - especially the public interest in the proper administration of justice - that should prevail where these duties conflict. However, it is not always straightforward to navigate this. Solicitors must use their professional judgment and experience to recognize any conflict and find the correct course of action for the specific situation.' (SRA 2018) That quote hits home how every situation will be unique, and that Solicitors need to be dynamic and understand what is professionally required from them.

Letter of advice

Dear Mr. Sunderland,

I understand it you are concerned that you may be charged with professional misconduct. To begin Professional misconduct can be surmised as dishonesty and will require the intervention of a regulatory body. This body will analyze what has happened and will then tailor the punishment according to the severity of the infraction. In specific regard to solicitors the SRA is a regulatory body that created and upholds the principles that solicitors abide by within their professional career. Regarding the SRA there are a few principles that we as solicitors must uphold in terms of how we act professionally, and these are as follows:(SRA 2019)

- In a way that upholds the rule of law and the proper administration of justice
- In a way that upholds public trust and confidence in the solicitors' profession and in legal services provided by authorized persons
- With independence
- With integrity
- With honesty
- In a way that encourages equality, diversity and inclusion
- In the best interests of each client

Now from what info I have you do not seem to know specifically what you have done that has caused this potential charge of professional misconduct. Therefore, I will go point by point through the (SRA 2019). Section 1. maintaining trust and acting fairly

- You do not unfairly discriminate by allowing your personal views to affect your professional relationships and the way in which you provide your services.
- You do not abuse your position by taking unfair advantage of clients or others.
- You perform all undertakings given by you and do so within an agreed timescale or if no timescale has been agreed then within a reasonable amount of time.
- You do not mislead or attempt to mislead your clients, the court or others, either by your own acts or omissions or allowing or being complicit in the acts or omissions of others (including your client).

Moving forward, the (Solicitors Act 1974) section 44B there is legislation in place referencing the provision of documents and notes by solicitors. Under section 44B 3 there are multiple provisions informing solicitors on how a notice of professional conduct may be filed. Finally, I would like to provide an example of two accounts of professional misconduct, and how they were dealt with. The first is sourced from a legal magazine (The Telegraph 2018) and concerns a solicitor being struck off for head butting a rival. Within the case the defendant claimed that the victim makes antisemitic remarks which caused a loss of control. The defendant was struck off from being a solicitor and was handed a fine of over four thousand pounds. A quote from the hearing shows that despite being intentionally set off integrity as a solicitor should be first and foremost "We have considered carefully what the behaviour of Mr Saunders demonstrates, on that unhappy day, and we accept the submissions of both persons that a single act may constitute a lack of integrity". The second case I would like to bring to your attention is one of cases from this legal news publication (King 2018) In which it discusses two trainee lawyers that

had their careers ruined early. The second lawyer in the article was struck off because while working they were storing private work documents onto their own personal drives. This resulted in the lawyer being removed and now being unable to practice law.

Finally, to reiterate Professional misconduct is nothing more conducting oneself in a way that will require intervention by a regulatory body. As a solicitor integrity must be key.

Kind regards

Memo on communication

This memo will focus upon the risks and benefits of two specific types of communication regarding clients. To begin with the focus will be on the telephone then it will switch to email. The first benefit of using the telephone as a means of communication is the fact that it can be convenient for the client. To expand upon that if what is being communicated is complex or difficult to understand, when conversing over the phone it can give opportunity for solicitor to answer questions immediately. Following on another benefit is the ability to easily gauge and set the tone for the conversation. When communicating with a client the tone is a lot easier to set through speech rather than plain text. Following on from that another benefit is that it allows the ability to provide simple information in a concise digestible format, with instant replies from both parties. The final benefit is the fact that while discussing over the telephone the utilization of speech skills allows a solicitor to gauge the understanding of the client and can help adjust how the information is provided, to mitigate any lack of understanding. On the other hand, the risk of using the telephone is as follows, time zones. If a client is overseas for whatever reason time zones can become an issue, as planning when each party is available can be rather awkward, this also branches into another issue which is the timing of calls. Nobody is always free, for a call to be utilized both parties must be present at the same time. Moving on to another risk pertains to the type of information that is being imparted. Longer more complex pieces of information are not advisable as it would be hard to keep track off. The final risk pertains too if the client was unable to pick up the call, the solicitor must not leave anything that could breach the privacy of the client if somebody else hears the message.

On the other hand, regarding Email as a means of communication the benefits are that firstly it allows the solicitor to title the email which immediately gives context on what the information will be about. Also, there is a flexibility with which information may be displayed. There is also the benefit of being able to CC in extra people, if necessary, which allows the ability to contact and inform multiple other people at the same time. The final benefit is the ability to have another legal peer look over what has been written to ensure that it is appropriate. Following on from that the risks of using email are that firstly it is difficult to manage tone in pure writing, secondly when using email, it is easy to write in a more casual way, which must not occur. Finally, emails carry the risk of being intercepted by or delivered to the wrong recipient which must not occur. This issue of intercepted emails has been a consistent issue regarding solicitors as seen in these two articles (the Law society Gazette 2000) and (Lawyers Defense Group 2017).

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