

Guidance

Guidance

Convictions arising from matters of principle or social conscience

Convictions arising from matters of principle or social conscience

Published: 1 September 2022

[Print this page \[#\] Save as PDF \[https://higher-rights.sra.org.uk/pdfcentre/?type=ld&data=1069851129\]](https://higher-rights.sra.org.uk/pdfcentre/?type=ld&data=1069851129)

Status

This guidance is to help you understand your obligations and how to comply with them. We will have regard to it when exercising our regulatory functions.

Who is this guidance for?

All SRA regulated solicitors and SRA regulated firms, their managers, owners, and employees.

Purpose of this guidance

To explain your obligations when you as a legal practitioner are convicted in relation to matters of principle or social conscience.

Our approach

We aim to promote a culture where ethical values and behaviours are embedded throughout the legal profession.

Regulated individuals are expected to behave with integrity and in a way which promotes public trust in the profession. Ordinarily we would expect a member of the legal profession or anyone aspiring to join it to not engage in any unlawful activity.

However, we appreciate that some people legitimately have strong opinions on moral and ethical issues such as environmental or racial issues. We respect individual views, freedom of speech and the right to protest.

We encourage strong and open debate in a democratic society and recognise that from time-to-time solicitors and other regulated

individuals or those interested in joining the solicitors' profession will exercise those rights.

We will not seek to interfere with an individual's right to peaceful protest. However, sometimes peaceful protest might escalate and give rise to criminal sanctions. This can result in reports being made to us, for example, by members of the public who are concerned that the actions of those we regulate might have breached our Principles, including by harming public confidence in the profession.

Further, there is a duty to self-report criminal convictions or cautions to us both when applying for admission to the roll or registration, or when they arise during practice - see our guidance on [reporting and notification obligations](https://higher-rights.sra.org.uk/solicitors/guidance/reporting-notification-obligations/) [<https://higher-rights.sra.org.uk/solicitors/guidance/reporting-notification-obligations/>].

However, when such matters are brought to our attention we have broad discretion to consider the context in which any criminal convictions arise. This will not automatically result in disciplinary action for a solicitor or automatic refusal of admission to the roll of solicitors. We will consider each case on its own facts. There are a broad range of factors that affect how seriously we will view a matter.

Although we do not express an opinion on political matters, the individual's right to protest and involve themselves in organised non-violent civil disobedience will be considered.

Where a conviction arises as a result of someone taking what they consider to be principled action or participating in a peaceful protest and that conviction does not involve a significant risk of harm to the public and/or material risk to property, it is unlikely to result in us taking any regulatory action. It is also unlikely that such conviction would result in a refusal for admission, or a practising certificate being granted as long as it is disclosed to us.

However, trust and public confidence in the profession is paramount. Even if the criminality is outside of practice and committed due to what the individual considers to be principled action, the individual must consider how their conduct, in that particular case, might be perceived by members of the public and how this might impact confidence in the profession.

Factors include whether the offence caused or risked harm to others or damage to property, whether the type of offence involved undermining the rule of law or administration of justice, and whether there was a genuine desire to further a wider public, social, or environmental interest.

Abusive conduct (for example, hate speech), is something we always take seriously because of the potential to impact on trust and public



confidence in the profession.

We also take seriously any failure to co-operate with the legal process (such as resisting arrest or breaching a court order), or to comply with any duty to report. These underpin the rule of law and administration of justice as they are essential to the effective operation of the criminal justice and/or regulatory systems.

When we look into the matter we will require as a minimum a certificate of conviction, together with a record of the summary circumstances of the offence and, where available, the court's sentencing remarks.

When considering the appropriate outcome we will review any sentence handed down by the courts as this indicates the seriousness of the case, and the aggravating or mitigating features.

To decide what action we need to take, if any, we will consider any mitigating and aggravating factors, including:

Mitigating features

Prompt reporting of conviction to us, and any employer or other body to whom the individual has an obligation to report the conviction.

No likelihood of harm being caused to persons or property as a result of the offence.

Co-operation and openness with relevant authorities.

No or low sentence.

Aggravating features

A failure to report, or delay in reporting, the conviction to us, and any employer or other body to whom the individual has an obligation to report the conviction.

Serious harm (other than limited economic harm caused only as a necessary corollary to peaceful protest) was caused or likely to be caused to other persons or property as a result of the offence.

Offence committed where there is a strong connection with the person's professional practice.

Attempts to mislead police, courts, employer, or us in relation to event; resisted arrest, assaulted a police officer or fled the scene; breaches of relevant court orders.

High sentence or a custodial sentence.

Examples

These are fictional examples that help further illustrate our approach to convictions arising from matters of principle or social conscience.

Example 1 - Trainee solicitor takes part in a climate change protest



A trainee solicitor attended a protest organised by a charity raising awareness about climate change.

During the course of the protest several hundred individuals lay down in the middle of a major road through the centre of Birmingham. It was more than three hours before the police were able to peacefully remove them. No damage was caused to property and no-one was injured. However, significant disruption was caused - in particular to commuter traffic trying to access the city in peak hours.

The trainee solicitor was arrested and subsequently convicted on their own admission at the Birmingham Magistrates Court for the public order offence of obstructing a public highway. They were conditionally discharged and ordered to pay costs of £150.

They reported their conviction to us the day after they were convicted having already advised us of their arrest and charge. They also explained that they had attended the protest to raise awareness of the disruptive impact of the changing climate on our environment. They had no other convictions.

After considering the circumstances of the conviction a decision was made to take no disciplinary action against the trainee solicitor.

Example 2 - Solicitor at the same protest arrested for verbal abuse

A solicitor at the same protest resisted arrest and was verbally abusive to the arresting police officer. They were ultimately convicted of public order offences for obstructing a public highway and resisting arrest and ordered to pay a fine of £750.

The solicitor did not report the conviction to us. We were instead notified by the police and a member of the public who had seen a press report. The police also advised that this was their third conviction for similar offences with a further matter under investigation - none of which had been reported to us by the solicitor.

When we investigated they showed no insight or acknowledgement as to the impact of such behaviour on public confidence or their regulatory obligations. Because of the failures to report and their approach to the police a decision was made to fine them £2,000.

Further guidance and help

[SRA reporting and notification obligations](https://higher-rights.sra.org.uk/solicitors/guidance/reporting-notification-obligations/) [<https://higher-rights.sra.org.uk/solicitors/guidance/reporting-notification-obligations/>]

If you require further assistance, please contact the [Professional Ethics helpline](https://higher-rights.sra.org.uk/contactus/) [<https://higher-rights.sra.org.uk/contactus/>].