

Case studies

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Acting without integrity

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Related guidance

This case study should be read in conjunction with the [guidance on Acting with integrity \[https://higher-rights.sra.org.uk/solicitors/guidance/acting-with-integrity/\]](#).

Accepting a loan from a client

Background

In an SDT case the solicitor was struck off the roll for:

- failing to advise his client to take independent advice where there had been a conflict or potential conflict between his own interests and those of his client; and
- failing to discharge a default judgment obtained in the High Court by the client with whom his interests conflicted.

The allegations for which the solicitor was struck off the roll involved a client making a £350,000 loan to the solicitor. The loan was supported by an agreement drafted by the solicitor and signed by his client in the presence of the client's friend. It was repayable at the end of an eight-month period, with interest referred to as being at a "preferential" rate of 2 per cent above the base rate. The agreement was later varied, again by an agreement drafted by the solicitor, to extend the repayment date. In neither case did the solicitor ensure that the client obtained independent advice.

The client subsequently obtained a default judgment against the solicitor. At the time of the SDT hearing, neither the principal sum nor any interest had been paid. The solicitor's evidence was that his client did not need the independent advice required by the rules because her friend who had witnessed the agreement was an "intelligent and financially knowledgeable employee of a banking institution". The solicitor inferred that the friend had given independent legal advice. The SDT accepted the client's evidence that her friend was neither legally qualified nor

gave legal advice about the loan. The SDT found the client to be a truthful witness.

Outcome

The solicitor was found to have failed to comply with the rules by accepting the loan and failing to ensure his client took independent advice. Even if the solicitor was able to demonstrate he held a well-respected practice with many loyal clients, supported by glowing references, and notwithstanding that he said he "felt bad" about his inability to repay the loan, the SDT found this would not be sufficient to justify his failure to observe the rules.

In this example therefore, the solicitor has:

- Failed to act with integrity (Principle 5)
- Failed to act in a way that upholds public trust and confidence in the solicitors' profession and in legal services provided by authorised persons (Principle 2)

Further help

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).