

## Guidance

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### Reporting concerns about wrongdoing when working in-house

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### Related case studies

This guidance should be read in conjunction with the following case study: [Reporting concerns about wrongdoing when working in-house case studies](https://higher-rights.sra.org.uk/solicitors/guidance/reporting-concerns-in-house-case-study/) [<https://higher-rights.sra.org.uk/solicitors/guidance/reporting-concerns-in-house-case-study/>].

### 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.

[What has changed since the last version](#) [#changed].?

### Who is this guidance for?

This guidance is for in-house solicitors, Registered European Lawyers and Registered Foreign Lawyers regulated by the SRA. Where we use the term solicitors in this document this includes Registered European Lawyers and Registered Foreign Lawyers.

### Purpose of this guidance

This guidance is to assist in-house solicitors in understanding their responsibilities when faced with concerns about actions or decisions taken by their organisation. It aims to clarify our expectations surrounding escalating and reporting concerns internally, as well as when to consider making reports externally to a relevant authority.

Like all solicitors, those working in-house must take care to comply with their regulatory obligations in circumstances where their client has acted improperly. We recognise that this can be more complex for those working in-house, since their client is, in most cases, their employer organisation ([see our guidance on identifying your client](https://higher-rights.sra.org.uk/solicitors/guidance/identifying-client-working-in-house-guidance/) [<https://higher-rights.sra.org.uk/solicitors/guidance/identifying-client-working-in-house-guidance/>]).

This will require solicitors to balance their duties to their client with the wider public interest. We recognise that this is not always straightforward and can be difficult and challenging. However, in-house solicitors play a crucial role in ensuring that organisations have a clear understanding of legal and regulatory risks and receive objective and candid advice to enable them to act appropriately. For that reason, solicitors are required to report material concerns internally. And play a crucial role in supporting the rule of law, and ensuring appropriate transparency and accountability, by bringing appropriate matters to the attention of regulatory and prosecuting authorities.

This guidance is therefore to help you understand and navigate your competing duties and obligations. It does not introduce any new regulatory standards or requirements but rather explains how our existing Standards and Regulations apply in these situations, helping you meet your regulatory obligations.

### Your regulatory obligations

The following obligations are most likely to be engaged when you identify that your organisation, or individuals within or connected to it (throughout this guidance referred to as your 'organisation'), have acted improperly. However, this list is not exhaustive, and the specific obligations will depend on the circumstances.

### Duties to your organisation:

As an in-house solicitor you have specific duties to your organisation, which include:

- Principle 7: you act in the best interests of each client.



- Paragraph 6.3 of the [Code of Conduct for Solicitors, RELs and RFLs](https://higher-rights.sra.org.uk/solicitors/standards-regulations/code-conduct-solicitors/) [https://higher-rights.sra.org.uk/solicitors/standards-regulations/code-conduct-solicitors/]: You keep the affairs of current and former clients confidential unless disclosure is required or permitted by law or the client consents.

## Wider public interest duties

We expect you to act in accordance with our [Principles](https://higher-rights.sra.org.uk/solicitors/standards-regulations/principles/) [https://higher-rights.sra.org.uk/solicitors/standards-regulations/principles/], including acting:

- Principle 1: in a way that upholds the constitutional principle of the rule of law, and the proper administration of justice
- Principle 2: in a way that upholds public trust and confidence in the solicitors' profession
- Principle 3: with independence
- Principle 4: with honesty
- Principle 5: with integrity

Acting in a way that breaches these or other regulatory requirements may lead to disciplinary action.

If the Principles come into conflict, those which safeguard the wider public interest take precedence over an individual client's interests, for example, the interests of your organisation. This includes acting with integrity, independence and in a way which upholds public trust and confidence in the solicitors' profession.

You should, where relevant, inform your employer in advance of the circumstances in which your duty to the court and other professional obligations will outweigh your duty to them.

We will ask the most senior or lead solicitor to account to us, as the contact point for regulatory matters in respect of the lawyers and legal work within your organisation.

## Concerns that may need to be reported

As an in-house solicitor, you will see a wide range of conduct as an employee and/or a colleague that may cause you concern. Not all of this conduct will need to be reported internally or externally. For example, you do not need to make a report simply because your legal advice is not followed. It could be that the position is not certain and/or the organisation has taken an entirely proper decision to accept a degree of legal risk.

However, we would expect you to report internally concerns regarding:

- circumstances in which loopholes are exploited with a clear aim or outcome of defeating the intention of the legislation in question
- an actual or potential breach of regulatory requirements
- an actual or potential breach of the law
- a risk that requires the organisation to take action or report to an external body.

If you are a Monitoring Officer in a local authority, you will be under a statutory duty to formally report to the authority any actual, likely or prospective, breach of law or code of practice or on any maladministration.

We recognise that in some of these circumstances the breach or potential breach may have a variety of causes and may not have crystallised - for the purposes of this guidance, we refer to these reportable situations as wrongdoing.

## When you identify a concern that needs to be reported

Where you have identified that your organisation has acted, or is proposing to act, in any of the ways set out above, it is essential to raise your concerns. This includes outlining the possible implications for the organisation and appropriate actions they should take. You must advise your client accordingly, fulfilling your obligation to act in their best interests while also meeting your wider obligations.

For example, if you do not raise your concerns because a colleague or manager asked you not to report the matter or to downplay or disguise bad news - or because you are worried about your own role in the events or the impact raising the issue may have on your position - this may breach your duty to act with independence. If it became public knowledge that a solicitor was aware of wrongdoing but remained silent, this may damage public trust and confidence in the profession.

You must also consider whether you need to report to an external organisation, such as a regulator or a law enforcement agency. In some situations, you will be under a legal or regulatory obligation to do so. In others, you will need to carefully balance your obligations (for example, to uphold the rule of law and act with independence and integrity) against your duty to act in the best interests of your client organisation. For further information on how to take into account your duties of confidentiality and

questions of legal professional privilege in this balancing exercise, see our separate [guidance on legal professional privilege](https://higher-rights.sra.org.uk/solicitors/guidance/professional-privilege-in-house/) (<https://higher-rights.sra.org.uk/solicitors/guidance/professional-privilege-in-house/>).

## Reporting concerns to your organisation

The appropriate person, committee or board to raise your concerns with will depend on the individual circumstances and subject matter, including the chain of reporting within your organisation and your position in it. It will also depend on the response you receive when you raise your concerns and whether you consider it necessary to escalate further.

Your first step will often be to alert the person or team instructing you or the relevant manager. However, there will be occasions where you need to escalate your concerns, for example, where they have been ignored or the issue is particularly serious.

Depending on your role and the identity of your client ([see our guidance for inhouse lawyers on identifying your client](https://higher-rights.sra.org.uk/solicitors/guidance/identifying-client-working-in-house-guidance/) (<https://higher-rights.sra.org.uk/solicitors/guidance/identifying-client-working-in-house-guidance/>)), you may need to report directly to the governing board of your organisation. You would normally do this through the chain of legal management, with the most senior lawyer able to report to the board if necessary. If you are a member of the relevant board, you would need to raise your concerns to the rest of the board. In local authorities, reports of wrongdoing will also need to go to the Monitoring Officer, which again will usually be through the chain of legal management depending on the governance structure in place.

All in-house solicitors should make sure that they understand the reporting procedures within their organisation in advance of needing to do so. This will provide confidence that there are clear reporting lines and that there will be support if you need it.

Employers should have procedures in place that allow all employees and workers to raise a protected disclosure under the [Public Interest Disclosure Act 1998 \(PIDA\)](https://www.gov.uk/government/publications/whistleblowing-and-the-public-interest-disclosure-act-1998-c23/whistleblowing-and-the-public-interest-disclosure-act-1998-c23-accessible-version#:~:text=The%20law%20%E2%80%93%20what%20protections%20exist,making%20a%20public%20interest%20disclosure). <https://www.gov.uk/government/publications/whistleblowing-and-the-public-interest-disclosure-act-1998-c23/whistleblowing-and-the-public-interest-disclosure-act-1998-c23-accessible-version#:~:text=The%20law%20%E2%80%93%20what%20protections%20exist,making%20a%20public%20interest%20disclosure>. The policy will usually incorporate:

- Who is protected under PIDA; that to qualify for protection, the information that is disclosed must be a protected disclosure and the factors that are taken into account in deciding that; that there is a reasonable belief that it is in the public interest to make the disclosure and the types of wrongdoing identified in PIDA.
- The disclosure procedure: your employer may have prescribed procedures in place.

Solicitors should familiarise themselves with the processes in place at their employer for making protected disclosures and also raising concerns that may not fall within PIDA. And solicitors working within government departments and the Government Legal Department should familiarise themselves with and follow the policy in place for breaches of the [Civil Service Code](https://www.gov.uk/government/publications/civil-service-code/the-civil-service-code) (<https://www.gov.uk/government/publications/civil-service-code/the-civil-service-code>).

There may be times when it is not possible or appropriate to raise concerns through established reporting lines. For example, where the person you would usually report to is unavailable and the situation is time critical; or they are the person responsible for the wrongdoing. Your reporting procedures should address such scenarios; however you may need to find alternative channels or make a direct approach to the relevant person or board to advise.

Where you are in a position to do so, you should ensure that appropriate processes and procedures are in place which cover how to raise concerns both internally and externally. The importance of creating and supporting a speak up culture is highlighted in our guidance on the [workplace environment](https://higher-rights.sra.org.uk/solicitors/guidance/workplace-environment/) (<https://higher-rights.sra.org.uk/solicitors/guidance/workplace-environment/>).

If you are the sole solicitor in an organisation, discuss with your employer how you will report concerns, which may involve reporting directly to the governing body. Similarly, if your organisation has no established procedures for reporting concerns, raise this through the chain of legal management if there is one, or with your line manager if there is not. A lack of procedure does not negate the need to report concerns. When reporting to non-legally qualified persons, make sure they are aware of your [regulatory obligations](https://higher-rights.sra.org.uk/solicitors/standards-regulations/code-conduct-solicitors/) (<https://higher-rights.sra.org.uk/solicitors/standards-regulations/code-conduct-solicitors/>).

## When wrongdoing persists

Where you have reported your concerns internally, but no action is taken within a timely manner (proportionate to the issue), or any action has not stopped the wrongdoing, you need to consider your next steps. This may include internal escalation and where appropriate reporting externally.

For example, if the person you reported to did not take any further action, you should escalate your concerns – usually to the next person in the reporting chain.

The situation is more difficult if you report to the governing body but they decide that the wrongdoing should persist. You must not turn a blind eye to wrongdoing or be complicit in it. And depending on the circumstances this could potentially give rise to a finding of dishonesty (in breach of Principle 5) or perverting the course of justice (in breach of Principle 1).

This means that you must not:

- Do anything that helps to facilitate the wrongdoing. For example, you should not draft a contract or agreement which you know your employer will have to breach the law to fulfil. Or help your client to exploit loopholes in legislation which clearly defeat the intention of the legislation.
- Do anything which suppresses exposure of the wrongdoing. For example, you should not draft a non-disclosure agreement (NDA) that seeks to prevent someone from reporting an offence to a law enforcement agency. In the event of an investigation by a regulator or law enforcement agency, you must not agree to withhold disclosure of relevant documents if you are able to disclose them without breaching confidentiality or privilege (for more on which, see further below).
  - If you are asked by your employer to use NDAs to suppress the exposure of repeated wrongdoing, you must consider the impact your conduct will have on the public trust and confidence in the profession and the wider public interest. For more information refer to our guidance on [Use of non-disclosure agreements \(NDAs\)](https://higher-rights.sra.org.uk/solicitors/guidance/non-disclosure-agreements-ndas/) (<https://higher-rights.sra.org.uk/solicitors/guidance/non-disclosure-agreements-ndas/>)
- Where you are in a leadership or management capacity, allow action to be taken that facilitates or suppresses exposure of the wrongdoing. For example, you should not take part in a decision to do something you know or should know to be wrong. You cannot facilitate the wrongdoing through the actions of those you manage and lead (whether or not they are themselves lawyers). You have a responsibility to oversee their work effectively and satisfy yourself this is not the case and that any issues, if identified, are addressed.

You will not be complicit in the wrongdoing simply because you work in an organisation where it has taken place. Or by offering advice on how your employer might be able to reach the same objective in a way that avoids wrongdoing or brings any wrongdoing to an end.

Where wrongdoing persists despite you following all of the internal reporting procedures in your organisation, you should carefully consider whether you can meet your regulatory obligations and continue working for your organisation. We recognise the important role solicitors can play in putting matters right and in promoting ethical values and behaviours in client organisations. However, you will need to reflect on whether you can personally continue to act with independence, integrity and in a way that upholds the rule of law and the proper administration of justice, whilst working where the wrongdoing persists. Additionally, whether, if the matter and your role in it became public, trust and confidence in the solicitors' profession would be damaged.

The situation may therefore arise where you feel there is no other recourse but to resign. We recognise how personally and professionally challenging it can be to take such a significant step. You may wish to seek independent legal advice or other assistance. We set out below details of our Ethics Helpline and other organisations that may be able to provide advice and support.

## Where you are asked to assist with remediating wrongdoing

You may be asked to assist with remediating identified wrongdoing, and we view positively the role of solicitors in helping organisations to put things right. Should you perform this role, make sure that you act in a way which aligns with your regulatory obligations, including that you act with integrity and independence. You may need to consider whether external legal advice should be sought where there is a conflict of interest or a risk of a conflict arising.

If you are asked to lead an internal investigation, we have [further guidance that can help](https://higher-rights.sra.org.uk/solicitors/guidance/reporting-concerns-wrong-doing-working-in-house-guidance/#related) (<https://higher-rights.sra.org.uk/solicitors/guidance/reporting-concerns-wrong-doing-working-in-house-guidance/#related>).

## Keeping written records

Where you have identified potential wrongdoing by your organisation, or individuals within or connected to it, you should keep a written record of:

- the nature of your concerns
- what actions you took
- the outcome of those actions
- the reasons for any decisions you have made.

These records will serve as helpful evidence if any questions are raised about whether or not you met your regulatory obligations.

Where you are asked to assist with remediation of wrongdoing, keep written records about what you have been asked to do and any steps you have taken to safeguard your regulatory obligations. This could be, for example, seeking external advice.

## **Making reports externally**

Separately to reporting concerns about wrongdoing within your organisation, you should consider whether you need to make a report to an external authority. This will usually be in addition and subsequent to reporting your concerns internally; but not always. The law does not require you to raise concerns internally first, though it will usually be the most appropriate and effective route. There may be situations where you need to raise concerns externally without telling your employer or despite being told by your employer not to do so.

In some circumstances, you will be required by law to make a report, for example, a suspicious activity report to the [National Crime Agency](https://www.nationalcrimeagency.gov.uk/) [https://www.nationalcrimeagency.gov.uk/] under the proceeds of crime legislation. Or you may be under a regulatory obligation to report to us, or another regulator, for example the [Financial Conduct Authority](https://www.fca.org.uk/) [https://www.fca.org.uk/], if your employer is a financial services provider.

Whether or not such an obligation applies, you will need to consider whether a report should be made to an external body. This may include the police or appropriate prosecuting authority such as the Health and Safety Executive, or organisation such as the Information Commissioners Office, Competition and Markets Authority, or another regulator. The [Department for Business and Trade](https://www.gov.uk/government/organisations/department-for-business-and-trade) [https://www.gov.uk/government/organisations/department-for-business-and-trade] lists prescribed people and bodies to which incidents of wrongdoing by your employer can be reported, along with descriptions of the types of matters you can report.

When considering whether to report concerns externally, we would expect you to look at the situation impartially and make a careful balancing judgment.

In all cases, it will be harder to justify a decision not to make a report where the wrongdoing:

- Involves serious criminal offences or there is a risk of serious harm or loss. For example, a toy manufactured in breach of legislation poses a danger to children. Or an investment scheme devised to be tax efficient appears to carry a significant risk of HM Revenue and Customs pursuing customers for underpaid tax.
- Has a negative impact on the rule of law or the administration of justice, for example, you know that the wrongdoing is likely to result in a miscarriage of justice.
- A decision not to make a report will be justified where there are serious counterbalancing considerations. For example:
- You think there are risks to the personal safety of yourself or others if you make a report.
- You have a genuine belief that the issue has been or will be reported or addressed to the extent that no report is required.
- You believe your employer is likely to have a valid claim against you for breaching your duties of confidentiality or legal professional privilege (LPP), although see further information about this below.

Your obligation to consider whether you need to make a report to an external authority continues even if you decide that you are unable to continue to work for your employer. As a regulated solicitor you will still be under a duty to uphold the rule of law and act with integrity and in a way that upholds public confidence, as outlined above.

We recognise that in practice these judgments can be difficult. From a regulatory perspective, we will support solicitors that err on the side of caution and make a report.

Whether or not you decide to make a report to an external authority, you should record the action you have decided to take together with your reasons.

## **When you must make a report to us**

Your obligations to make a report to us are set out in our [reporting and notification guidance](https://higher-rights.sra.org.uk/solicitors/guidance/reporting-notification-obligations/) [https://higher-rights.sra.org.uk/solicitors/guidance/reporting-notification-obligations/]. You are required to report to us (or to another approved legal services regulator if appropriate) any facts or matters which you reasonably believe are capable of amounting to a serious breach of regulatory obligations. This includes where you think you, or another solicitor has seriously breached our requirements.

## **Confidentiality and legal professional privilege**

When considering disclosing information outside of your organisation, you need to carefully consider your duties of confidentiality and legal professional privilege.

We have published guidance on [confidentiality](https://higher-rights.sra.org.uk/solicitors/guidance/confidentiality-client-information/) and [privilege considerations](https://higher-rights.sra.org.uk/solicitors/guidance/professional-privilege-in-house/). This provides more information on the circumstances in which it may be possible to disclose information, and the steps you should take prior to any disclosure. We will support solicitors erring on the side of reporting when faced with genuine concerns about serious wrongdoing.

## What has changed since the last version?

The following summary outlines the key changes made since the draft guidance was published in March 2024. It reflects both the input from respondents and our commitment to delivering clear, practical guidance that supports in-house solicitors.

**You said:** Provide more instructions on identifying concerns that need reporting.

**We did:** We included more specific examples of conduct requiring internal or external reporting. By providing concrete examples, we aim to reduce ambiguity and support solicitors in making informed decisions.

**You said:** We need more information on procedures for managing persistent wrongdoing, including guidance on escalation.

**We did:** We expanded our guidance on appropriate reporting lines and whistleblowing procedures, and the challenges and considerations around potential resignation if regulatory obligations cannot be met. This provides clearer guidance on addressing unresolved issues and underscores the importance of maintaining integrity and independence in such situations.

**You said:** We need clarification on confidentiality and legal professional privilege.

**We did:** We created a new piece of guidance focused solely on legal professional privilege for the in-house solicitor, given the importance of the issues across all of the guidance areas.

**You said:** More information on available support services would be helpful.

**We did:** We expanded information on available support services to include LawCare and the Solicitors' Assistance Scheme.

## Further help

Where you are uncertain about whether you can make a report, you may want to seek legal advice.

[Protect](https://protect-advice.org.uk/), the UK's whistleblowing charity has detailed information on whistleblowing as a solicitor. They also run a free and confidential advice line.

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

[LawCare](http://www.lawcare.org.uk/) - LawCare provides free, confidential emotional support to anyone working in the law.

[Solicitors' Assistance Scheme](http://www.thesas.org.uk/) - The Solicitors' Assistance Scheme offers free confidential help, advice and guidance to solicitors with a professional or personal problem, from a fellow practitioner.

We have produced a suite of guidance to support in-house solicitors which you may find it useful to read, relating to:

## Related guidance

We have produced a suite of guidance to support in-house solicitors which you may find it useful to read, relating to:

- [Identifying your client when working in-house](https://higher-rights.sra.org.uk/solicitors/guidance/identifying-client-working-in-house-guidance/)
- [Internal investigations](https://higher-rights.sra.org.uk/solicitors/guidance/internal-investigations/)
- [Key points for governing boards, chief executives and senior officers in organisations employing in-house solicitors](https://higher-rights.sra.org.uk/solicitors/guidance/governing-boards-chief-executives-senior-officers/)
- [Reporting concerns about wrongdoing when working in-house](https://higher-rights.sra.org.uk/solicitors/guidance/reporting-concerns-wrong-doing-working-in-house-guidance/)
- [Legal professional privilege when working in-house](https://higher-rights.sra.org.uk/solicitors/guidance/professional-privilege-in-house/)
- [Understanding in-house solicitor's professional obligations as an employer](https://higher-rights.sra.org.uk/solicitors/guidance/understanding-in-house-solicitors-professional-obligations-employer/)