

# Waivers

25 November 2019

## Introduction

Our Standards and Regulations set out the standards we expect of solicitors and firms and the rules we expect them to follow.

We may grant a waiver when an individual or firm regulated by us, or affected by one of our Standards and Regulations, asks us to decide that they do not have to comply with that particular rule.

We cannot waive any of our Standards and Regulations that impose obligations required by statute or other legislation.

We can waive any of our Standards and Regulations if the application meets the [criteria set out in our guidance](https://higher-rights.sra.org.uk/sra/decision-making/guidance/granting-waiver/) on granting waivers. This guidance also sets out our approach to publication of our waiver decisions on our website.

## Our approach to waivers under our Standards and Regulations

We expect to receive fewer applications for waivers under our Standards and Regulations than under our previous Handbook. This is because our Standards and Regulations are less prescriptive and restrictive. They also allow firms and individuals greater flexibility in the way in which they provide and manage legal services.

We previously used SRA Innovate and waivers to allow new business models to operate and to enable some solicitors working in-house to extend their services beyond our previous requirements. Evidence gathered through the waiver process has informed the changes we have made to our regulatory arrangements and now brought into force through our Standards and Regulations. Our new practising flexibility makes many of the waivers we have previously granted redundant.

We set out below a summary of some of our historically most granted waivers. If in any doubt about your position, please speak to our [Professional Ethics helpline](https://higher-rights.sra.org.uk/contactus/):

<b>Common types of waiver under the previous Handbook</b>	<b>Effect of Standards and Regulation</b>	<b>Do I need to do anything?</b>
One off waivers, for example:	As a one off waiver these will have lapsed	No



- Rule 32A.1 of the Accounts rules - from the requirement to obtain an annual accountant's report
- Rule 2.3 of the SRA Compensation Fund Rules 2011 - to make an annual contribution to the Compensation Fund

Current waivers from requirements in the Handbook that now have been removed in the Standards and Regulations and will no longer be needed for example:

- Rule 1.1(e) and 4.1(a) of the SRA Practice Framework Rules 2011. These waivers allow in house solicitors to give services to a section of the public. The restriction has now been removed

These rules have been removed in accordance with our decision to allow solicitors, RELs and RFLs to provide some non-reserved legal services as freelancers or in businesses that are not authorised by us or regulated by any other legal services regulator

In most cases waivers will no longer be necessary - but you may need to check any restrictions that apply in relation to how solicitors can practise under the Standards and Regulations including Regulation 9 of the SRA Authorisation of Individual Regulations

Check your waiver and speak to our Ethics helpline if you unsure of your position

Current waivers from requirements in the Handbook that have equivalent provisions in the Standards and Regulations, for example

- Rule 12.2(b) of the SRA Practice Framework Rules 2011 - waiver to reduce the time period in the

Waiver still in force if time period set out in waiver decision (if any) has not yet expired

- Rule 12.2(b) has been removed but an authorised body must have at least one manager or employee, or must procure the services of an individual, who is a

No - we will automatically regard the waiver decision as including the correct reference to the relevant rule in the Standards and Regulations



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| <p>"qualified to supervise" rule</p> <ul style="list-style-type: none"><li>• Rule 8.5(g)(ii)(B) SRA Authorisation Rules 2011.- waiver to allow a non-lawyer to be a firm's COLP</li><li>• Rule 1.3 and 4.1 of the SRA Indemnity Insurance Rules 2013 (SIIR) - waiver from the obligation to have run off cover or qualifying insurance as applicant holds equivalent cover</li></ul> | <p>lawyer and has practised as such for a minimum of three years (rule 9.4 of the SRA Authorisation of Firms Rules).</p> <ul style="list-style-type: none"><li>• Rule 8.5(g)(ii)(B) has been replaced by rule 8.2(d) of the SRA Authorisation of Firms Rules</li><li>• Rule 2.1 of the SRA Indemnity Insurance Rules requires a firm authorised by us to have qualifying insurance with a participating insurer</li></ul> |
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## Innovate waivers

Notwithstanding the introduction of our Standards and Regulations we continue to welcome new and innovative ways of working that help meet the Regulatory Objectives.

Read further information on [SRA Innovate and applying to our Innovation Space](https://higher-rights.sra.org.uk/solicitors/innovate/sra-innovate) [<https://higher-rights.sra.org.uk/solicitors/innovate/sra-innovate>]

## Our process

If you are considering asking us for waiver, please first read our [guidance on granting waiver](https://higher-rights.sra.org.uk/sra/decision-making/guidance/granting-waiver/) [<https://higher-rights.sra.org.uk/sra/decision-making/guidance/granting-waiver/>].

You can check with us in advance whether we think it likely that your application for a waiver may be refused. This may be because you are asking us to waive a statutory requirement or because there is another way for you to achieve your objective and which is reasonable for you to pursue. You may speak to our Professional Ethics helpline in advance to discuss your application, You may also like to look at our published decisions on waiver applications to help inform you of our approach.

If you decide you do want to apply for a waiver, please use our [application form](https://higher-rights.sra.org.uk/solicitors/resources/all-other-topics/apply-waiver/) [<https://higher-rights.sra.org.uk/solicitors/resources/all-other-topics/apply-waiver/>]. You will need to provide supporting information and evidence.

Once we have assessed your application, we may decide that we need additional information or evidence from you. If so, we will tell you.

Our decision makers will review your application and make a decision on your application, applying the criteria in our guidance. Details of who can make these decisions are in our [Who can make decisions at the SRA.](https://higher-rights.sra.org.uk/sra/decision-making/schedule-delegation/)  
[<https://higher-rights.sra.org.uk/sra/decision-making/schedule-delegation/>]

You do not have the right to ask us to review our decision to refuse your application for a waiver, any conditions we may impose or our decision to publish.

## **Report on our historic waiver decision**

We have always allowed some of our rules in our previous Handbook to be waived in certain circumstances.

Our report 'Encouraging Innovation: transparency about our waiver decisions' provides a summary of the types of waivers we have granted and refused over the past three years, including the number granted and refused, the relevant rules which applied and further details on the piloting of our Innovation Space initiative.

[\*\*Encouraging innovation: transparency about our waiver decisions \(PDF 14 pages, 259KB\)\*\*](https://higher-rights.sra.org.uk/globalassets/documents/sra/research/waivers-innovation.pdf)  
[<https://higher-rights.sra.org.uk/globalassets/documents/sra/research/waivers-innovation.pdf>]