

## **Guidance**

## **Guidance**

### **Unregulated organisations giving information to clients**

## **Unregulated organisations giving information to clients**

Updated 25 November 2019 (Date first published: 23 July 2019)

[Print this page](#) [#1 [Save as PDF](#) [<https://higher-rights.sra.org.uk/pdfcentre/?type=ld&data=1699696037>]

## **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?**

Solicitors, registered European lawyers (REs) and registered foreign lawyers (RFLs) providing services to the public on behalf of an organisation that is not authorised by an approved regulator under the [Legal Services Act 2007](https://www.legislation.gov.uk/ukpga/2007/29/contents) [<https://www.legislation.gov.uk/ukpga/2007/29/contents>].

## **Purpose of this guidance**

To help you understand your obligations to give information to external clients when your employer is not authorised by us or any other approved regulator under the Legal Services Act 2007.

## **General**

As your employer is a unregulated organisation, you will want to refer them to this and other related guidance and discuss with them any arrangements, policies or procedures necessary to support you to meet your ethical and regulatory obligations. Since you will need to give clients certain information about insurance (see below), as part of this discussion you will want to ask your employer for details of the professional indemnity insurance cover for your work.

This guidance is particularly aimed at the situation where you are providing services to external clients. However, the way in which these obligations will apply to you will depend on the context. This includes the



extent of your involvement with the matter and of your contact with the client. This is discussed further below.

When giving information to clients, you should do so in a way that they understand. You must make sure they are:

- in a position to make informed decisions about the services they need
- understand how their matter will be handled
- the options available to them. (See [paragraph 8.6 of the SRA Code of Conduct for Solicitors, RELs and RFLs](https://higher-rights.sra.org.uk/solicitors/standards-regulations/code-conduct-solicitors/#rule-8-6) [<https://higher-rights.sra.org.uk/solicitors/standards-regulations/code-conduct-solicitors/#rule-8-6>]).

### **Obligations that apply to you regarding regulatory information for clients**

[Paragraph 8.10 in the SRA Code of Conduct for Solicitors, RELs and RFLs](https://higher-rights.sra.org.uk/solicitors/standards-regulations/code-conduct-solicitors/#rule-8-6) [<https://higher-rights.sra.org.uk/solicitors/standards-regulations/code-conduct-solicitors/#rule-8-6>] sets out your obligations to make sure that clients understand whether and how the services you provide are regulated.

[Paragraph 8.11](https://higher-rights.sra.org.uk/solicitors/standards-regulations/code-conduct-solicitors/#rule-8-6) [<https://higher-rights.sra.org.uk/solicitors/standards-regulations/code-conduct-solicitors/#rule-8-6>] requires you to make sure that clients understand the regulatory protections available to them.

You will be providing the service on behalf of an employer that is not authorised and regulated to provide legal services, and it will be important for clients to understand this. You must not represent your employer as authorised by us.

Complying with paragraphs 8.10 and 8.11 will include explaining to the client:

- which services are provided by you as an authorised person (ie as a solicitor, RFL or REL).
- which services are provided by others, and whether those persons are authorised or not.
- the consequences of this in terms of the different protections available if the activities are subject to our jurisdiction and that of the [Legal Ombudsman](https://www.legalombudsman.org.uk/) [<https://www.legalombudsman.org.uk/>].

The client has a clear interest in understanding, and making informed choices, about who will be carrying out the work on their behalf. It might be the case for example that they chose to instruct the firm because they particularly wanted to use your services as a solicitor.

Explaining the position to clients will be more straightforward if you are handling or supervising either a discrete or particular aspect of the work, or indeed are handling or supervising the whole matter. You will remain responsible for the work of those you supervise under our standards (see paragraph 3.5 of the Code for Solicitors, RELs and RFLs). The Legal



Ombudsman may also accept a complaint where the matter has been supervised by a solicitor. The Legal Ombudsman will take into account your responsibility for the work of those you supervise.

Where you are working as part of a joint team and it is not possible to draw a clear boundary around the services provided by you or other authorised lawyers, then the client should be informed that you will be carrying on this work jointly with others and you will be accountable to us for the work as a whole. In practice, when investigating any concerns, we will consider your personal conduct and behaviour, and degree of responsibility for any problems that may arise. Our approach is set out in more detail in our [Enforcement Strategy](https://higher-rights.sra.org.uk/sra/strategy/sub-strategies/sra-enforcement-strategy/) [<https://higher-rights.sra.org.uk/sra/strategy/sub-strategies/sra-enforcement-strategy/>].

## **Professional indemnity insurance and the SRA Compensation Fund**

[Rule 4.3 of the SRA Transparency Rules](https://higher-rights.sra.org.uk/solicitors/standards-regulations/transparency-rules/#rule-4) [<https://higher-rights.sra.org.uk/solicitors/standards-regulations/transparency-rules/#rule-4>] requires you to give certain information to clients before they formally instruct you. The following information must be given to clients in a way that they understand:

- That you are not required to have professional indemnity insurance that meets our minimum terms and conditions. In essence, this will involve explaining that we require the firms that we regulate to have compulsory minimum levels of insurance to protect clients in case something goes wrong and what these are. But that these arrangements do not apply to the firm you are in because we do not regulate it. Some clients may require more explanation in order to understand the position.
- Whether or not your work is covered by professional indemnity insurance (often this will have been arranged by your employer), and if the client asks for further information, relevant details as to the amount and scope of cover.
- That they will not be able to make a claim on the [SRA Compensation Fund](https://higher-rights.sra.org.uk/consumers/compensation-fund/) [<https://higher-rights.sra.org.uk/consumers/compensation-fund/>]. Again, making this information clear to clients will usually require a brief explanation of what the fund is and stating that this will not be available to the client as the firm is not regulated by the SRA. Providing this information will not be necessary if the client is not eligible to seek a grant in the first place (for example, is a business with a turnover of £2m or more per year).

## **Complaints procedure**

Under [paragraph 8.2 of the SRA Code of Conduct for Solicitors, RELs and RFLs](https://higher-rights.sra.org.uk/solicitors/standards-regulations/code-conduct-solicitors/#rule-8-2) [<https://higher-rights.sra.org.uk/solicitors/standards-regulations/code-conduct-solicitors/#rule-8-2>], you must set up or participate in a complaints



procedure and give clients information about how to complain under that procedure.

If your employer does not have a complaints procedure (whether handled internally or outsourced), you will need to ensure that one is set up, at least in relation to your work and work done by others under your supervision. You will then need to ensure that at the point of engagement, clients are told who to complain to about any problems with your services and about how to complain.

The Legal Ombudsman will also hold you responsible for any complaints procedure that you set up or participate in. Poor complaints handling is a service issue that the Legal Ombudsman can uphold, and the way that you have handled the complaint will also have an impact on whether a case fee will be waived under its rules.

### **Informing clients of their rights**

[Paragraphs 8.3 and 8.4 \[https://higher-rights.sra.org.uk/solicitors/standards-regulations/code-conduct-solicitors/#rule-8-2\]](https://higher-rights.sra.org.uk/solicitors/standards-regulations/code-conduct-solicitors/#rule-8-2) set out your obligations to inform clients of their right to complain to the Legal Ombudsman if it is unhappy about the services you have provided. To be effective this will include explaining which activities or services it has jurisdiction over (as discussed above), providing the contact details for the Legal Ombudsman and explaining the timescales for making a complaint. (This will be after the client has first used your internal complaints procedure and in any event within 8 weeks of making a complaint to you or your business if it has not been resolved to their satisfaction.) This information should be given at the time of engagement, when any complaint is made and at the end of the complaints process.

You should make sure that clients understand that while they will have this further right to complain to the Legal Ombudsman about the service you are providing, and a right to complain about your professional conduct to us, they will have no such rights in relation to your employer or any part of the service provided by non-authorised persons (except where those persons were acting under your supervision).

Meeting these obligations will require you to be aware of the client care information that your employer sends out about your services and discussing and agreeing amendments with your employer where necessary.

### **Other duties to provide information**

You should be aware of all of the obligations that apply to you under the Code and Principles. Some of your other key obligations to supply information to clients in the Code for Solicitors, RELs and RFLs are:



- Telling clients about any referral fees that you or the firm have paid for the case, or about any financial interest any introducer has in referring the matter to you (paragraph 5.1)
- Making clients aware of all information material to their matter of which you have knowledge, subject to some limited exceptions ([paragraph 6.4](https://higher-rights.sra.org.uk/solicitors/standards-regulations/code-conduct-solicitors/#rule-6-3) [<https://higher-rights.sra.org.uk/solicitors/standards-regulations/code-conduct-solicitors/#rule-6-3>]).
- Making sure that clients receive the best possible information about how their matter will be priced and, both at the time of engagement and when appropriate as their matter progresses, about the likely overall cost of the matter and any costs incurred ([paragraph 8.7](https://higher-rights.sra.org.uk/solicitors/standards-regulations/code-conduct-solicitors/#rule-8-6) [<https://higher-rights.sra.org.uk/solicitors/standards-regulations/code-conduct-solicitors/#rule-8-6>]).
- If you or your employer is connected to a firm we regulate (for example, one firm owns the other) such that your employer is a separate business, then [paragraph 5.3](https://higher-rights.sra.org.uk/solicitors/standards-regulations/code-conduct-solicitors/#rule-8-6) [<https://higher-rights.sra.org.uk/solicitors/standards-regulations/code-conduct-solicitors/#rule-8-6>] states that the client must give informed consent for any matter to be divided between the regulated firm and the separate business.

## Further guidance

[Unregulated organisations - Conflict and confidentiality](https://higher-rights.sra.org.uk/solicitors/guidance/unregulated-organisations-conflict-confidentiality/) [<https://higher-rights.sra.org.uk/solicitors/guidance/unregulated-organisations-conflict-confidentiality/>]

[Unregulated organisations - Employing SRA-regulated lawyers](https://higher-rights.sra.org.uk/solicitors/guidance/unregulated-organisations-employers-sra-regulated-lawyers/) [<https://higher-rights.sra.org.uk/solicitors/guidance/unregulated-organisations-employers-sra-regulated-lawyers/>]

[Case studies on complaints about solicitors working outside SRA-regulated firms](https://higher-rights.sra.org.uk/solicitors/guidance/complaints-solicitors-working-outside-sra-regulated-firms/) [<https://higher-rights.sra.org.uk/solicitors/guidance/complaints-solicitors-working-outside-sra-regulated-firms/>]

## 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/>].