

## Case studies

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#### **Workplace environment: risks of failing to protect and support colleagues**

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### **Related guidance**

This case study should be read in conjunction with the [guidance: Workplace environment: risks of failing to protect and support colleagues \[https://higher-rights.sra.org.uk/solicitors/guidance/workplace-environment/\]](#).

Note - these case studies are illustrative of some of the components in the cases that we see, provided to explain our decision making and potential outcomes. The studies are not formal records of actual cases.

#### **Case study 1 - complaint of bullying - closed at assessment stage**

We received a report from a paralegal employed at a law firm who said they felt bullied and undermined by the partner who supervised their work. Their complaints included concerns about feedback on their performance which they considered to be overly critical. They were questioned about the accuracy of their time recording in front of other team members. And refused study leave to attend a course while colleagues had been allowed to do this on other occasions.

The complainant said that these incidents had taken place over several years and they had kept a detailed log of the incidents. Although they also confirmed that they had not raised the issues with the partner or HR and that the firm had an anti-bullying policy in place. At the time the complaint was made to us they had left the firm and started a claim in the employment tribunal for constructive dismissal, which was ongoing.

#### **Our approach**

We considered the evidence provided to us by the complainant to ascertain if the incidents amounted to a breach of our requirements. We noted that the incidents primarily related to disputes over whether

performance management had been done in a fair way. This was a matter for the tribunal to determine, rather than for us as the regulator. There was no evidence to suggest the complainant had been inappropriately targeted, harassed or discriminated against.

We reviewed our records to see if there had been any other similar concerns expressed by the firm's staff and there were none that had been reported to us. There was no evidence that the events complained of had created an environment in which individuals were unsafe and legal services could not be provided safely.

On this basis we determined the issues complained of would not be serious enough to constitute a breach by the firm or the supervisor of our regulatory requirements. We closed the case at the initial assessment stage.

When explaining the reasons for our closure to the complainant, we explained that the fact of ongoing proceedings. Or even a successful employment tribunal claim would not itself be sufficient reason to trigger a regulatory investigation.

However, we did ask the complainant to let us know if the tribunal made any adverse findings about the partner's actions, or the firm's culture or procedures. This is so we could consider any new information arising from the proceedings.

### **Case study 2 - complaint of bullying leading to investigation of firm - no further action required**

A senior solicitor reported to us that they had been the subject of bullying by a number of partners at a firm. Examples given in support of their complaint were:

- Partner A: was described by them as a 'stropky, bullying primary school teacher' and often 'uncommercial' in their dealings with client matters. Examples given in support of the complaint included:
  - asking the complainant to explain the time they incurred on a client matter in a way that made them feel 'told off'.
  - 'slamming' a pad down on their desk and asking them to draw a simple diagram of a property transaction in front of colleagues which they felt belittled them.
  - favouring other colleagues' preferences for days to be spent in the office as part of the firm's Covid contingency plans.
- Partner B: had acted unreasonably when refusing them permission to invite a client to a social event hosted by the firm. And had challenged them for minor infractions of the firm's car parking policy when other staff were not challenged for similar infractions.
- Partner C: told them that they had not approved of an article the complainant had written for publication on the firm's website about



a client's approach to climate change issues.

The complainant was also unhappy at being passed over for a promotion and said that the firm had not helped them to progress. The solicitor said they had raised a grievance with the firm but did not feel it had been properly dealt with.

### **Our approach**

We noted that some of the incidents complained of related to challenges of the complainant's performance or adherence to firm policy. And the remainder would not by themselves be serious enough to pursue against the individuals concerned, applying our Enforcement Strategy.

However, we noted that multiple partners were said to have been involved, and the complainant said they had been deliberately targeted. The complainant also told us that their issues had been raised with the firm but they were not satisfied that they had been taken seriously. If the firm had failed to prevent either sustained bullying or a culture of bullying by its managers, this could result in regulatory action, so we decided to investigate.

We wrote to the firm who confirmed that the matter had been raised with them by the complainant and investigated thoroughly in accordance with its anti-bullying policy.

The firm were able to provide us with documented evidence of the investigation and the grievance procedure which was followed. There was an explanation for each action taken by the partners.

We did not find evidence of a bullying campaign or a culture of bullying at the firm. And we were satisfied that the matter had been dealt with reasonably and concluded that the firm had not breached our requirements.

We also reviewed our records to see if there had been any other similar concerns expressed by the firm's staff and there were none. We then closed our file after explaining our position to the complainant.

### **Case study 3 - complaints against a firm - investigation and action taken**

We received a number of complaints from the clients of a licensed body. They were about a newly qualified litigation solicitor and their conduct of various personal injury claims. These complaints included that they:

- Did not send client care letters or advise clients about the costs of their matters.
- Failed to issue claims within the correct limitation period.
- Failed to attend court to represent clients as arranged.



Our onsite investigation found evidence in support of these concerns and that six clients had suffered serious detriment.

### **Our approach**

During our investigation we became concerned about the firm's lack of supervision arrangements and support of its junior solicitors. And how it had consequently failed to protect clients' interests. This suggested that the firm's systems did not provide for adequate supervision of the workloads or competence of newly qualified solicitors.

We found that this newly qualified solicitor had been given an overwhelming number of cases to deal with and matters for which they did not have adequate experience. They consequently found that they were out of their depth and despite asking for help, were not given any support from the firm's two managers. This contributed to the failings on the client matters identified.

There was evidence on client files that other staff were routinely given work which they were not competent to deal with. We also found that various staff had been ridiculed and ostracised when they had previously raised concerns and asked the firm's managers for support.

We spoke to other staff and looked at the firm's systems and processes. We found that the firm - in breach of Paragraph 4 of our [Code of Conduct for firms](https://higher-rights.sra.org.uk/solicitors/standards-regulations/code-conduct-firms/1) [https://higher-rights.sra.org.uk/solicitors/standards-regulations/code-conduct-firms/1] - did not have adequate supervision arrangements in place for newly qualified staff. And had failed to make sure that staff were competent to carry out the roles they were given.

Also the way in which the firm had treated staff who had raised concerns about supervision arrangements breached Paragraph 1.6 of the Code of Conduct for Firms. This requires the firm to treat staff fairly and with respect.

As the firm was a licensed body, we were able to enter into a settlement agreement with the firm which involved payment by them of a significant financial penalty. And the imposition of conditions on the firm's licence. The conditions involved actions to address the serious systems failures that we had identified.

### **Case study 4 - complaint of unfair treatment in a non-work setting - no further action required**

A junior solicitor reported to us that they believed they had experienced unfair treatment from two colleagues at a social event. They said this had consisted of jokes and comments about their interests outside of work, including a sports team they followed. They had asked a manager of the firm who was at the event to intervene.

## Our approach

We assessed whether the information reported to us indicated a breach of our requirements, considering whether this:

- Comprised unfair treatment under paragraph 1.5 of the Code of Conduct for Solicitors, RELs and RFLs and/or
- Was a breach of Principles 2 or 4 (upholding public confidence and acting with integrity).

We noted that:

- The incident occurred at a social event organised by another junior solicitor to celebrate a birthday, rather than by the firm at which the attendees worked. Therefore those present were there in a personal rather than work-related capacity.
- The comments complained of did not relate to the work of those involved, and nor was there otherwise a connection to their work.
- While the comments had upset the junior solicitor, they occurred on a single occasion, did not form part of a campaign against the individual, and were not discriminatory, aggressive or threatening.

We determined that the incident did not breach our principles, or paragraph 1.5 of the Code of Conduct for Solicitors, RELs and RFLs.

We noted that while those involved were colleagues, the behaviour in question was in circumstances in which they were relating to each other in a personal capacity.

We recognised that the junior solicitor felt offended by the comments. However we considered they were not sufficiently serious, in any event, to comprise misconduct or engage our principles. (This is notwithstanding that these are capable of applying outside of practice).

We therefore closed our file after explaining our position to the complainant.

## **Case study 5 - complaint of unfair treatment against a firm and a solicitor - investigation and action taken**

A and B were trainees at a law firm. They told us they had been treated disrespectfully at a social event arranged by the firm that took place at a hotel outside business hours. A and B had been asked to greet clients and liaise with hotel staff to make sure the event ran smoothly.

The hotel was short-staffed on the evening of the event, there were long delays in food being served, and some planned entertainment was not provided. A and B told us they had been openly criticised for this by C, a partner at the firm. This was even though C should have been aware it was the venue's fault. They said that:



- C had repeatedly suggested in front of clients that A and B were at fault and had been responsible for the arrangements with the hotel, when they had not.
- At one point C had told B in an angry tone to 'get in the kitchen and sort something out'.
- C had then said to a client who was present: 'This lack of initiative is so typical of our trainees these days. It's really disappointing. I don't know why we keep some of them in their jobs.'

A and B told us that the following day they had both complained to their supervisors about the behaviour of C but had heard nothing further. They then came to us.

### **Our approach**

We asked C and the supervisors of A and B about their views of what had happened. C told us they had been frustrated at A and B's lack of initiative in dealing with the problems that occurred. And had tried to give them direction to resolve things. They accepted their behaviour had been abrupt, but felt that in the circumstances it was reasonable.

The supervisors of A and B told us they had told the firm's managing partner D about A and B's concerns, but had heard nothing further. We then spoke to D, who told us they had spoken to C about the incident and decided no further action was needed.

We determined that both C and the firm had failed to meet the requirements in the Codes for Solicitors and Firms to treat colleagues fairly and with respect. Although the incident had not involved the delivery of legal services, it was closely related to the work of the firm and of A and B. It was a client event, which A and B had been asked to attend solely because they worked for the firm. And they had asked A and B to carry out some duties (although not legal duties) at the event.

We noted that C's comments to A and B had included criticism of their competence. This could have been understood by those present (including clients of the firm) to include their competence in their usual work at the firm. And we were concerned that after A and B raised concerns about their treatment, neither C nor D had responded to these or did anything to address them.

We concluded that both C and the firm (including D as the managing partner) had treated A and B in a way that lacked respect and could affect clients' perceptions of their work. Also that the firm's lack of action after it was made aware of the incident indicated tolerance of unfair treatment of colleagues. And that if this was not addressed, A and B - and potentially other colleagues - wouldn't feel confident in speaking up about other, potentially more serious concerns in future.

We decided to issue a letter of warning to C and the firm. The letter to the firm included specific advice about the future use of trainees at firm events and the handling of concerns raised by junior staff.