

# Upholding Professional Standards 2020/21

July 2022

Read in Welsh [<https://higher-rights.sra.org.uk/sra/research-publications/cynnal-safonau-proffesiynol-2020-21/>]

## Foreword

Welcome to the third annual Upholding Professional Standards report which covers 2020/21. The overwhelming majority of solicitors and firms we regulate meet the high standards we set and provide high-quality legal services to the public. This report looks at what happens when our standards are not met and we step in to take action and make sure that service users are protected and confidence in the profession is well placed.

Themes we continue to see strongly represented in our enforcement work are: sexual harassment, dubious investment schemes, and workplace bullying and harassment. These are complex, high-profile areas of our work, and we have specialist teams in place to investigate concerns that are raised with us. In 2022, we issued several warning notices related to sanctions on Russia – we anticipate this being a theme in next year’s report.

A particular focus for the Board is reducing the time it takes to conclude cases, especially cases that have been open for a long time. Of course, some cases are complex and require significant resource to investigate, but we owe to it to the public and profession to make sure we are dealing with cases as efficiently and effectively as possible. We have work in hand to address this through our continuous improvement programme and will be closely monitoring progress through the Board's public quarterly performance reporting.

The report gives details of the diversity characteristics of the people involved in our enforcement processes – the third year of such reporting. This is because, we continue to see the longstanding overrepresentation of men and people from an ethnic minority background in concerns raised with us and those we investigate. We previously agreed to commission research looking into the societal and structural factors underpinning the picture and to work with external stakeholders on the issues. It is fair to say that Covid has slowed down this project, with the result that we have only recently appointed a consortium of universities – York, Lancaster and Cardiff – to research overrepresentation in our enforcement processes. We are looking forward to the insight this new research will offer. And the opportunity to work, with others, to change the pattern and to make the difference we all want to see.

In the meantime, we must continue to keep our own systems and processes under review to make sure they are free from bias and non-discriminatory. As part of that work, we have established an in-house, arms-length quality assurance team, who are adding value to our existing quality assurance arrangements.

I hope, as ever, that this report helps readers to understand an important and often challenging area of our work.

**Anna Bradley**

**Chair of the SRA Board**

[Open all \[#\]](#)

## **About us**

The Solicitors Regulation Authority (SRA) is the regulator of solicitors and law firms in England and Wales.

We work to protect members of the public and support the rule of law and the administration of justice. We do this by overseeing all education and training requirements necessary to practise as a solicitor, licensing individuals and firms to practise, setting the standards of the profession and regulating and enforcing compliance against these standards.

We are the largest regulator of legal services in England and Wales, covering around 90% of the regulated market. We oversee more than 210,000 solicitors and around 10,000 law firms.

## **Our approach to enforcement**

### **Our enforcement work**

#### **Our role**

The role of our enforcement work is to:

- Maintain and uphold standards of competence and ethical behaviour.
- Protect clients and the public – we control or limit the risk of harm by making sure individuals and firms are not able to offend again or are deterred from doing so in the future.
- Send a signal to the people we regulate more widely with the aim of preventing similar behaviour by others.
- Uphold public confidence in the provision of legal services.

### **Our Enforcement Strategy**

[Our Enforcement Strategy \[https://higher-rights.sra.org.uk/sra/corporate-strategy/sra-enforcement-strategy/\]](https://higher-rights.sra.org.uk/sra/corporate-strategy/sra-enforcement-strategy/), as revised in February 2019 and updated in January

2022, sets out how we will use our enforcement powers when a business or person we regulate has not met the standards we expect. It provides clarity on how we decide whether we should act in given circumstances, and what we take into account when assessing the seriousness of misconduct and the action to take.

## **Our powers**

Our own powers to impose sanctions are limited. For example, our fining powers for individual solicitors are limited to £2,000, and we are not able to strike off a solicitor. If we think this sort of action is necessary, we must take the case to the Solicitors Disciplinary Tribunal (SDT). We can, in some circumstances, place restrictions on a solicitor's practice or on the people who work in law firms but not solicitors.

In 2022 we went out to consultation on updating our fining powers, as part of our work to resolve cases more quickly, improve public protection and save time and money for everyone. The proposals are based on evidence from our experience of enforcement over the last ten years. The consultation seeks views on initial proposals to: increase the maximum fine we can issue to £25,000; take into account the turnover or income of firms and individuals when setting fines; and introduce a schedule of 'fixed penalties' of up to £1,500 to enable lesser issues to be dealt with more easily for all concerned. Introducing 'fixed penalties' for certain lower-level misconduct would not only allow more straight forward issues to be dealt with more easily for all concerned, but it would also provide greater transparency and consistency in how penalties were applied. The consultation also looks at a more robust approach to penalising serious misconduct that ensures sanctions are consistent and act as an effective deterrent across the whole of the legal profession. We have committed to working with other regulators to achieve the right balance for our approach to enforcement.

We have more robust powers in relation to an alternative business structure (ABS), also known as a licensed body, which will have non-lawyer ownership or control of the business. We can impose a fine of up to £250m on the firm and up to £50m on its managers and employees. This is in contrast to more traditional types of firms, such as limited liability partnerships or partnerships, where only the SDT can issue an unlimited fine.

A table of sanctions we and the SDT impose [can be found at annex 1.](#)  
[\[#\\_Annex\\_1:\\_Action\]](#)

In 2022, we are also consulting on our approach to the publication of regulatory decisions. We're engaging with a wide range of stakeholders, including different types of users of legal services and the legal profession and are looking for views on the timing of publication; the level of detail we publish; how long we publish decisions for; and the types of exceptional circumstances that might lead to us to decide that we will not

publish information about decisions that we would normally publish. We will publish a summary of the responses and other stakeholder engagement activities and then decide whether any changes to our current approach are required.

## **Helping firms and solicitors get it right**

To help firms and solicitors know when they could be most at risk of falling short of the standards we expect, or not complying with our rules, we provide a range of services and publications, such as:

- our Professional Ethics helpline and webchat service, on hand to answer questions about our rules and regulations
- guidance to help firms understand how our rules and regulations work
- our annual Risk Outlook publication, which highlights the biggest risks in the sector and how firms and solicitors can tackle them
- thematic reviews of key areas within the legal sector, highlighting risks and raising awareness about what good and bad practice looks like.

## **Key themes**

We regulate approximately 157,000 practising solicitors and around 10,000 law firms. We received around 10,400 reports of concerns in 2020/21.

The number of reports that result in some form of sanction is small, reflecting that the overwhelming majority of solicitors and law firms do a good job and earn the trust we all place in them.

Some of the matters reported to us relate to concerns that are raised regularly, for example, issues of confidentiality, misleading the court, or taking advantage of a third party. We also receive concerns about areas of the law commonly used, such as conveyancing and probate.

Each case is different, however, and many are complex, with a mixture of potential breaches of our regulations. And, although there is variation, we monitor reports to identify any particular issues that emerge year on year.

The work of solicitors and law firms often becomes involved in areas of wider public interest. For example, in recent years, cases concerning sexual harassment in the workplace, the use of certain clauses in non-disclosure agreements (NDAs), money laundering, and leasehold issues have all been topical. This can lead to a rise in the numbers of related reports to us. If appropriate, we take steps to remind the profession of its responsibilities through, for example, warning notices. In 2022, we issued a series of notices about sanctions related to the Russia Ukraine war, and expect to see more activity related to this in next year's report.

Such topical issues are often high profile and attract public – and therefore press and parliamentary – interest. Our work to maintain professional standards can play an important part in addressing these concerns, alongside other activity, perhaps by law enforcement agencies or through legislative reform.

## **Sexual misconduct**

During 2020/21, we continued to investigate allegations of sexual misconduct. We received 34 new reports concerning harassment and inappropriate sexual behaviour in work-related environments. Allegations of sexual misconduct can include sending inappropriate messages, making inappropriate comments, non-consensual physical contact and sexual assault. Such allegations can arise in the working environment, at work-related social events or in the solicitor’s private life. In all cases we carefully consider the link between the alleged misconduct and professional practice/public trust and confidence in the profession.

The number of reports on this topic spiked in the wake of the #MeToo movement, when we issued warning notices relevant to inappropriate behaviour and NDAs. Numbers have since stabilised. This could be due to an increase in home-working and the fact that a number of historical cases were reported in the wake of #MeToo.

This is the fourth year where sexual harassment has been a key theme in our enforcement work, following the rise of the #MeToo movement. We have previously published and updated [warning notices](https://higher-rights.sra.org.uk/solicitors/guidance/non-disclosure-agreements-ndas/) and [provided guidance on reporting obligations](https://higher-rights.sra.org.uk/solicitors/guidance/reporting-notification-obligations/) to guide firms on how to improve workplace cultures and practices. Over the last year we have engaged widely to develop guidance on sexual misconduct, with a view to publishing this later in the summer, providing clarity for those we regulate as to what we expect of them, assist those who have to make decisions about reporting conduct to us and support complainants who are thinking of reporting allegations to us

We recognise that these are difficult and sensitive matters, and as previously reported have established a specialist team to investigate the concerns raised. We are mindful that these types of proceedings are particularly challenging for all involved and we do everything we can to provide a safe and supportive environment for those involved, including engaging with specialist support organisations where appropriate.

We resolved 67 cases during the year. We have also referred an increased amount of sexual misconduct cases to the Tribunal, and anticipate that this will continue next year.

## **Non-disclosure agreements**



Using NDAs to suppress disclosure of wrongdoing is, itself, a high-profile issue, given its relation to issues such as #MeToo. Other cases have the potential to be high profile because of the subject matter of the dispute or the parties involved, both of which can be concealed through using an NDA.

In November 2020, we updated [our warning notice \[https://higher-rights.sra.org.uk/solicitors/guidance/non-disclosure-agreements-ndas/\]](https://higher-rights.sra.org.uk/solicitors/guidance/non-disclosure-agreements-ndas/) on NDAs, reminding the profession of its obligations when drafting them. In 2020/21, we received eight new reports relating to NDAs, and closed 10 cases. The majority of these were closed with no further action, but one was referred to the SDT and one was closed with a rebuke.

There are legitimate uses for NDAs and such agreements are not illegal or unethical in themselves. What we are concerned with is those NDAs that seek to restrict disclosure of misconduct to a regulator, or reporting a criminal offence to the police, even though they are unenforceable. We want to make sure that those we regulate do not take unfair advantage of their opposing party when drawing up an NDA. Solicitors who draw up such agreements may well be failing to act with integrity and uphold the rule of law. They could be found to have failed to uphold public trust and confidence in the legal profession.

## Money laundering

The legal sector is attractive to criminals because it can give the appearance of legitimacy to the holding or transfer of money gained from criminal activity. Law firms and solicitors often hold large sums of money in their client accounts and can transfer money through property or other transactions.

As part of our role in the Legal Sector Affinity Group, made up of organisations supervising anti-money laundering efforts and representative bodies in the legal services sector, [we have published guidance \[https://higher-rights.sra.org.uk/globalassets/documents/solicitors/firm-based-authorisation/lsag-aml-guidance.pdf?version=4903b4\]](https://higher-rights.sra.org.uk/globalassets/documents/solicitors/firm-based-authorisation/lsag-aml-guidance.pdf?version=4903b4) on what firms can do to help combat money laundering. This will help firms comply with the latest money laundering regulations, and address increased and emerging risks in the sector.

As part of this work, our money-laundering work is reported to a different financial year, so please note the following statistics relate to 5 April 2020 to 4 April 2021. A total of 85 firm visits took place, with another 168 desk-based reviews. There were 273 reports of potential anti-money laundering breaches made to us, which was significantly up from 196 the year before. This shows the impact of our proactive work, which included 63 reports due to non-cooperation with our firm wide risk assessment declaration exercise. Twenty-nine enforcement actions resulted in total fines of £160,000 being issued. We also made 39 suspicious activity reports (SARs) to the National Crime Agency. You can read more about this work in

[Our anti-money laundering report \[https://higher-rights.sra.org.uk/sra/research-publications/antimoney-laundering/\]](https://higher-rights.sra.org.uk/sra/research-publications/antimoney-laundering/).

## **Dubious investment schemes**

In 2020/21, we investigated 25 new matters concerning solicitor involvement in dubious or risky investment schemes. We have warned for several years about the risks posed by dubious investment schemes. These schemes are potentially fraudulent, dubious or so high risk that they are unfair to buyers or investors. At a time of continued low interest rates, and, in the light of the Covid-19 pandemic and its effect on the economy, many people may find investment schemes offering high returns attractive. The involvement of solicitors may help to legitimise dubious schemes and in many instances, the involvement of a law firm in an investment scheme does not form part of the usual business of a firm or solicitor. This can be a key reason why our compensation fund (and often the firm's insurance) cannot help with restoring the money people have lost.

We continue to take action against solicitors who involve themselves in schemes that turn out to be dubious. Such action can include intervention and referral to the SDT.

## **Health of respondents and solicitor wellbeing**

We know that people in our sector can become unwell as they do in any sector, and that working in law can be challenging and stressful. When this stress has a negative impact on the work of a solicitor or a firm, it can affect competence and lead to mistakes and, potentially, serious breaches of our standards, such as dishonesty. This can result in regulatory engagement and action, which may be avoided if solicitors recognise the warning signs early on and seek the correct support and help. To support solicitors who are unwell, we have published [a range of resources \[https://higher-rights.sra.org.uk/solicitors/resources-archived/your-health-your-career/\]](https://higher-rights.sra.org.uk/solicitors/resources-archived/your-health-your-career/) and work with organisations, such as LawCare, which can assist those in need of support.

We have seen an increase in cases where respondents have said the issues that have brought them into our processes were related to pressure of work, in addition to the harassment and bullying issues covered below. We have also seen a rise in medical evidence in proceedings before the SDT relating to solicitors' fitness to participate in our proceedings. It is unclear whether this is due to an increase in the number of cases, the effects of Covid-19, or people being more aware that it is something they can report. We will continue to monitor this, and in 2022 we opened a consultation on new rules on health and wellbeing.

We are also mindful that the investigations process can be stressful and can exacerbate or trigger health issues. If we see this is the case, and depending on the health issue and evidence available, we will carefully

consider any reasonable adjustments or case management directions that may assist. We can look at whether it might be more appropriate to resolve matters through practising conditions, or an agreed outcome, rather than a hearing at the SDT.

Our guidance can help people to understand the approach we take to health issues that are raised by those we are investigating and what we look for when it comes to medical evidence.

## **Workplace bullying and harassment**

In recent years, we have received a growing number of concerns where individuals report workplace bullying, discrimination, or harassment to us. In 2020/21, we opened 19 cases related to bullying and harassment, a big drop from last year's 83 investigations. The reasons for the apparent fall in case numbers are unclear but may relate, at least in part, to the different working environment during the Covid-19 pandemic.

A bullying or toxic workplace culture can impact significantly on the wellbeing and mental health of a firm's staff. It can also lead to mistakes being made and poor outcomes for clients - or serious ethical concerns, for example when staff feel under pressure to cover up problems.

In 2022 we published guidance<sup>1</sup> on workplace culture and a healthy working environment for firms. It focuses on the need to have in place appropriate policies, systems and controls to minimise the risk of this type of situation arising. We have also published a thematic review to better understand the issues and highlight good practice taking place in firms<sup>2</sup>, and are consulting on new rules on health and wellbeing, proposing explicit obligations for both firms and individuals to treat colleagues fairly and with respect, and not to engage in bullying, harassment and unfair discrimination

## **Publishing key consumer information on law firm websites**

Introduced in December 2018, [our transparency rules](https://higher-rights.sra.org.uk/solicitors/standards-regulations/transparency-rules/) mean that firms with a website should publish basic, indicative information about the price of certain services, details about who might carry out the work, and avenues for complaint. They should also display our [clickable logo](https://higher-rights.sra.org.uk/solicitors/resources-archived/transparency/clickable-logo/), which was made mandatory in December 2019, to help explain the protections the public gets from using a regulated law firm.

[Our research shows](https://higher-rights.sra.org.uk/sra/news/press/2020-press-release-archive/transparency-research-2020/) that, since the rules were introduced, more potential clients believe solicitors are affordable, and firms would recommend the business benefits that greater transparency about prices bring. However, there are a small number of firms falling short of the



information we expect them to publish. We are carrying out regular reviews of law firms' websites to check compliance. Some firms are only partially complying, while others are not complying at all.

[We have provided support for firms \[https://higher-rights.sra.org.uk/solicitors/resources-archived/transparency/clickable-logo/\]](https://higher-rights.sra.org.uk/solicitors/resources-archived/transparency/clickable-logo/) to get this right and will continue to do so, but, where firms are not providing the type of information that the public expects and our rules set out, we are taking enforcement action.

We sanctioned nine firms for breaches of the rules after investigations in 2019/20, and action has included rebuking or fining firms.

We have sanctioned a further six firms for breaches of the rules after investigations in 2020/21, one rebuke and five financial penalties.

We will continue to check that firms are complying with the rules and take enforcement action where necessary.

### **Acting in compensation claims**

In 2020/21, we opened 33 investigations into compensation claims cases. Claims against payday loan companies and others are now being brought as some loans sold over the past 10 years were either irresponsibly sold or mis-sold to people who could not afford to pay them back. The rise in reports relating to faulty cavity wall insulation (CWI) follows a government initiative in the early 2010s to help make homes become more energy efficient. Some homeowners are now finding that the CWI installation has resulted in damp or mould in the property. And some consumers have found that they were mis-sold a mortgage product they could not afford or had paid excessive fees to brokers.

These 33 investigations all involve evidence that the standards we expect from solicitors are not being met. In some cases, solicitors are not investigating whether the claim is properly valid prior to making it, or failing to advise clients about their options and what will be expected of them when making a claim. We have also found that some firms have been acquiring clients by giving them incomplete or misleading information, and that the work of some firms is not adequately supervised.

Claims being improperly brought in areas relating to consumer rights are not new. We have, in the past, seen similar issues concerning holiday sickness and payment protection insurance claims. We will continue to monitor the reports made to us concerning these trends, investigate matters and take enforcement action where necessary.

### **Risk alert**

We scan the legal environment to identify potential risks. We produce a range of material to raise awareness and assist the profession to manage

problems, helping to protect the users of legal services.

Our [2021 Risk Outlook](https://higher-rights.sra.org.uk/sra/research-publications/risk-outlook-2020-21/) [https://higher-rights.sra.org.uk/sra/research-publications/risk-outlook-2020-21/] publication again highlighted the themes and risks mentioned above, such as money laundering and solicitor involvement in dubious and risky investment schemes, particularly against the backdrop of the Covid-19 pandemic. The Risk Outlook covered cybersecurity and shared information on Brexit and its implications. It reiterates that making sure high standards are met is key and the benefits of the diversity dividend - how having a workforce that reflects the communities you serve - is good for clients and good for you.

Our website scam alerts continue to be well used. These are designed to alert firms and members of the public about businesses that are misusing law firm details and fake law firms that are attempting to defraud people.

#### **2017/18 2018/19 2019/20 2020/21**

**Website scam alerts views** 153,000 153,000 169,000 160,000

## **Reporting concerns**

### **Who reports concerns to us?**

Some concerns come to us direct from the profession, such as from solicitors or the compliance officers who work in law firms.

Others come from members of the public, the police and the courts. We also work closely with the Legal Ombudsman (LeO), the organisation that handles complaints about the standards of service people receive from their legal service provider. LeO will contact us if, during one of its investigations, it has concerns that a solicitor may have breached our rules. Like all regulators, we also monitor media and other reports.

We also identify concerns as we undertake other aspects of our work. For example, we carry out thematic reviews of particular types of legal work or requirements, such as anti-money laundering procedures.

Due to IT changes in 2020/21, we cannot report the specific data on where reports came from as we have in previous years. We will return to fuller reporting on this in the future. This year, 27% of reports came from the profession, while 70% came from outside the profession. Under the current system, the remaining 3% are unknown.

### **Reporting concerns to the SRA**

Over the past four years, we have received, on average, 10,500 reports every year raising concerns about the solicitors and legal businesses we regulate, although we have seen numbers fluctuate over the years.

When we receive a concern, we carefully consider the information sent to us and decide if we need to investigate. We may ask relevant parties questions to better understand the issues.

In some cases, we can resolve the concerns through prompt engagement with the firm, making sure they correct any shortcomings. Where necessary, we will take witness statements, visit firms in person and analyse evidence, for example, bank accounts, financial statements and other documents.

After carefully considering the issue and speaking to all parties concerned, we will make a decision on next steps in line with our Enforcement Strategy.

In very serious cases, we refer the firm or solicitor to the SDT. The SDT is independent of us and has powers we do not. For example, it can suspend a solicitor, issue an unlimited fine or stop them from practising.

## Number of concerns

After seeing two years of decreasing reports, in 2020/21 there was an increase again. Reports dropped significantly in 2019/20, which was likely due to effects of the Covid-19 pandemic. In 2020/21 they have returned to similar levels to 2018/19. One reason for the fall in numbers since 2017/18 may be improved communications. In particular, we have improved the public-facing information on our website and, in 2018, we also introduced a joint leaflet with LeO. It has information as to which organisation a complaint should be raised with, where a person has encountered an issue or problem with a legal professional or firm.

	<b>2017/18</b>	<b>2018/19</b>	<b>2019/20</b>	<b>2020/21</b>
<b>Total reports received</b>	11,452	10,576	9,642	10,358
<b>Total dealt with</b>	11,508	9,649	9,375	9,329

The number of reports dealt with this year is consistent with last year. Please note, there is not always a linear relationship between the number of reports we receive and the number dealt with in the same 12-month period. This is because not all cases will be resolved within that timeframe. This is why we dealt with a slightly higher number of concerns in 2017/18 compared with the number we received.

In 2018/19 we introduced a new process around how we consider concerns when we receive them. You can read more about this in our [Upholding Professional Standards 2018/19 report](https://higher-rights.sra.org.uk/sra/research-publications/2018-19-review/upholding-professional-standards/) [https://higher-rights.sra.org.uk/sra/research-publications/2018-19-review/upholding-professional-standards/].

## Key stages when considering a concern

### 1. Initial look at concerns by our Assessment and Early Resolution Team



### **We do not investigate**

In many cases, there will be no need for us to investigate. We will always explain why this is the case. Midway through 2018/19, we brought in a new process to manage this work and which now includes a greater degree of engagement with the parties involved.

### **We redirect the matter to LeO**

LeO deals with complaints about a law firm's or solicitor's standard of service. We work closely with LeO. We send relevant matters to it and vice versa.

### **We redirect matters to other authorities**

In some cases, we are unable to investigate as it is not in our jurisdiction or is about firms or people we do not regulate.

### **We redirect the matter internally**

We do this if, for example, it is in fact a claim on our compensation fund or an authorisation query.

## **2. We investigate**

### **Talking to all concerned parties**

We normally need to ask for more information. We may talk to the person who raised the concern with us and the firm or the solicitor involved and/or contact a third party. Where necessary, we will gather documents and evidence.

We will write or speak to the firm or solicitor, formally setting out our concerns. They have the opportunity to respond.

### **Keeping people up to date**

We keep parties up to date throughout the investigation. Most of our investigations are resolved within a year.

## **3. Bringing an investigation to a close**

### **We do not find the firm or solicitor has breached our standards or regulations**

In cases where we find that the firm or solicitor has not fallen short of the standards we expect, we will always explain our findings and why we are not taking action to the people who initially reported the matter to us.

### **Resolving through engagement with the firm**

This happens when the breach of our standards or regulations is minor, there is no ongoing or future risk to the public, the firm or solicitor took swift steps to remedy the issue and had a cooperative and constructive approach to resolving the matter.

### **We impose a sanction**

In some cases, we will take enforcement action and impose a sanction or agree an outcome.

This can include fining a firm or solicitor or imposing restrictions on their practising certificate.

## **4. SDT referral**

### **Case is referred to the SDT and it makes a decision**

The most serious cases are referred to the SDT. It considers the matter and decides whether there should be a hearing. If there is a hearing, the SDT will decide if issuing a sanction is appropriate.

We and the firms and solicitors involved can apply to appeal SDT decisions.

### **Report outcomes 2020/21**

The 'Concerns reported to us 2020/21' diagram gives an overview of the number of reports we received about firms' and solicitors' behaviour in 2020/21 and the outcomes recorded in the same period. There is no linear relationship between the number of reports we receive and the number of outcomes in a 12-month period. This is because not all cases will be resolved within that timeframe.

Most of our investigations are resolved within a year of receipt. If, however, a matter is referred to the SDT, or there is other activity, such as a police investigation or we receive further related reports, cases may take much longer.

We piloted and introduced our new assessment and early resolution process part way through 2018/19. This involves us talking further, as necessary, with the person who raised the concern with us, the firm or the solicitor involved and/or contacting a third party. This allows us to obtain, gather and verify information, which often provides the opportunity to resolve the matter at an early stage without the need for further investigation. Since introducing this new approach, we have seen a steady decrease in the number of concerns we refer for investigation.

	<b>2017/18</b>	<b>2018/19</b>	<b>2019/20</b>	<b>2020/21</b>
<b>Concerns referred for</b>	6,027	3,602	2,279	1,816

## investigation

The majority of concerns do not result in us taking enforcement action or referring a case to the SDT. This is because, in many cases, we can resolve matters through engagement and without the need for enforcement action. In many others, we find that the solicitor or firm has not breached our rules. We keep all information sent to us and, if appropriate, can refer to it if concerns are raised in the future.

### Concerns reported to us 2020/21

156,928 practising solicitors                      10,358 concerns reported to us and  
9,329 dealt with in 2020/21

Redirected internally or sent to LeO: 554

Investigation into matter remains ongoing (12-month rolling average):  
1,897

Investigation carried out: 1816

Cases heard at the SDT: 101	Fine: 36	Suspension: 12	Strike offs: 52	Other decisions: 5	No orders: 6
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Cases with SRA sanctions: 268	Letters of advice: 45	Rebuke or reprimand: 38	Fine: 69	Section order: 62	Conditions imposed on practising certificate: 7	Finding/ finding and warning: 17	Section 47 (2) (g): 0
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We did not find that the firm or solicitor breached, or seriously breached, our rules. We engage with some firms to put things right and to make sure they are compliant: 1,763

Investigation not necessary: 6,959

### Concerns reported to us 2020/21

- One case can result in multiple outcomes. As previously mentioned, there is no linear relationship between the number of reports we receive and the number of outcomes in a 12-month period.
- If a report is redirected internally, it is generally because it is a matter for our Authorisation or Compensation Fund teams, for example.
- We redirect matters to LeO if we think it is a service level-related complaint.
- The meaning of the different types of outcomes and the action we and the SDT take can be found in the glossary and at annex 1.

### Our assessment and early resolution process

Our assessment and early resolution process thoroughly considers cases through the lens of our new Enforcement Strategy and takes a much more

customer-focused approach when engaging with the people who have made reports to us.

We use a three-stage assessment threshold test directly linked to the new Enforcement Strategy to help us decide if an investigation should take place. We consider:

- Has there been a potential breach of our Standards and Regulations based on the allegations made?
- Is the potential breach sufficiently serious that, if proved, is capable of resulting in regulatory action?
- Is that breach capable of proof?

A concern will only pass this test where the answer to all three questions is 'yes'. If we need more information, we will ask for that information to help us decide. We are guided by the Enforcement Strategy when we consider each stage of the test. We will tell the person who reported the concern to us if and when we decide to move into a full investigation into the matter. We will also provide and explain our reasons if we decide not to investigate.

The reasons we close matters at this stage can be because there has not been an apparent breach of our rules. We can also resolve the matter through engagement (for example, on less serious concerns we talk to the firm and engage with them on what they need to do to comply with our rules,). We may also close matters because the concern presented does not present a significant enough regulatory risk. Although these matters do not progress into an investigation, we look into them carefully, engage with firms where necessary and keep matters on file in case we need to refer to them in the future.

## **Constructive engagement**

In some cases, once we have opened an investigation, engaging with a firm or solicitor to resolve a matter and help with compliance will be an appropriate course of action.

For example, we might offer guidance to the firm or solicitor and supervise and monitor them as they take steps to remedy the issue. We will, generally, resolve matters in this way where the conduct lends itself to a remedial plan and the evidence suggests it is unlikely to be repeated, and where there is no ongoing risk. It will also be where the firm or solicitor involved has an open, cooperative and constructive approach towards resolving the issues.

We only ever take the steps that are needed to protect and promote the public interest, and we consider everything on a case-by-case basis. Our focus is on the most serious of issues, such as where a firm or solicitor has fallen well below the standards we expect in an isolated instance, or where they have persistently fallen well below these standards. In these cases, it is likely we will take enforcement action.

We will always explain how we have come to our decision to those involved.

## **Taking urgent action**

When we become aware of an issue of a more serious nature and there is an immediate risk to the public, there are steps we can take to limit the risk. These are:

- Intervening into a law firm: we can take possession of all money and files that the firm or solicitor holds, effectively closing down the firm or an individual solicitor's practice. We do this in cases where we know that people are at risk of receiving legal services from a dishonest solicitor, or it is otherwise necessary to protect the interests of the clients.
- Placing conditions on practising certificates: to stop an individual solicitor or a firm from, for example, handling client money or acting as a manager of a firm.
- Imposing a 'section 43 order': this stops people who are not solicitors but work in law firms from working in any firm we regulate without our permission.

## **Case study**

### **Investors and clients failed**

In 2021, a solicitor whose practice we had intervened into was struck off by the SDT. We intervened into and shut down the firm in 2019 because it was failing to comply with our principles and accounts rules, and recovered all client files for safekeeping.

The solicitor convinced people to invest in their firm, which was falsely promising to manage mis-sold mortgage claims. The firm said it would take legal action against mortgage lenders for overcharging borrowers, but it never advanced the claims it received. It took on almost 8,000 such cases. It lost both the investors' money and the clients who thought they had a claim for a mis-sold mortgage.

The SDT found that the solicitor had shared misleading marketing material, misused client money, inadequately managed claims, sent inappropriate emails and breached our Accounts Rules. The solicitor appealed the finding, but it was dismissed in its entirety. The SDT awarded us our full costs of more than £100,000 in bringing the case.

## **Issuing sanctions and regulatory settlement agreements**

If there has been a serious breach of our rules by a firm or solicitor, we can issue an in-house sanction.



The range of sanctions we can impose is limited. For example, our fining powers for individual solicitors are limited to £2,000, and we are not able to strike off a solicitor. However, we can impose a fine of up to £250m on an ABS, also known as a licensed body, and up to £50m on managers and employees of an ABS.

Where appropriate, we can also resolve a matter through a regulatory settlement agreement (RSA). Under an RSA, the facts and outcome are agreed by both parties. RSAs allow us to protect both consumers and the public interest by reaching appropriate outcomes swiftly, efficiently and at a proportionate cost.

We publish the details of our findings and sanctions, including RSAs, on our website. We are able to withhold any confidential matters from publication, where this outweighs the public interest in publication (for example, details of an individual's health condition).

## **Case study**

### **Offensive social media messages**

We issued a sanction after a solicitor shared offensive messages on a publicly available social media account, resolving the case through an RSA. The solicitor targeted MPs with offensive, derogatory and inappropriate tweets. We found that the solicitor's conduct failed to uphold public trust and confidence in the profession and the solicitor did not act with integrity. This is because the tweets had the potential to cause significant harm (one tweet did cause distress to a MP). In mitigation, the solicitor closed the account and offered an apology to three MPs. The solicitor also had no history of failing to comply with regulatory obligations.

The RSA included a fine of £2,000, the publication of the agreement, and a payment of £600 for costs. Bearing the mitigating factors in mind, we considered a fine appropriate to maintain professional standards and uphold public confidence in the solicitors' profession.

### **[Bringing cases to the Solicitors Disciplinary Tribunal](#)**

We prosecute the most serious cases at the SDT. It is independent of us and can impose a wider range of sanctions than we can.

For example, it can impose unlimited fines, or suspend or strike a solicitor off the roll of solicitors, meaning they can no longer work as a solicitor. A full breakdown of the sanctions we impose and the sanctions the SDT imposes can be found at annex 1.

When deciding whether to bring a case to the SDT, we consider whether:



- we have evidence that would support a realistic prospect of the SDT making a finding of misconduct
- the SDT is likely to impose a sanction that we cannot
- it is in the public interest to make the application.

The number of cases referred to the SDT in 2020/21 shows a small decrease compared to 2019/20, against the backdrop of a trend of decreased referrals over the last four years. One of the factors in this may be the increase in complex and therefore lengthy cases that we have been dealing with. We have also seen Covid-19 pandemic related delays (for example, giving people more time to access documents) which may have also affected the numbers over last two years.

	<b>2016/17</b>	<b>2017/18</b>	<b>2018/19</b>	<b>2019/20</b>	<b>2020/21</b>
<b>Cases heard at the SDT</b>	117	134	125	112	101

## Case study

### Dubious investment schemes

The SDT struck off two solicitors who allowed more than £100m to pass through their firm on dubious property deals. The pair acted for almost 7,000 clients buying parking and storage spaces in schemes that 'guaranteed' high returns. These transactions resulted in the two solicitors receiving fees of almost £2.9m for services related to the bogus investment scheme.

The SDT said that their failings had caused significant financial harm to several clients who lost substantial amounts of money.

The SDT found 'that ordinary and decent people would find it dishonest for solicitors to deliberately provide limited advice so as to ensure that the transactions upon which they were instructed would proceed. Further, it would be considered dishonest for solicitors to prefer their own interests over the interests of their clients.' As well as striking them off, the SDT ordered them to pay costs of £98,000.

### Agreed outcomes

If we refer a matter to the SDT and it says there is a case to answer, and the firm or individual admits to allegations, it may be appropriate to conclude the matter by an agreed outcome, rather than through a full hearing. In these circumstances, we agree an outcome and costs based on an agreed set of facts.

The SDT then considers the outcome and will decide whether to accept it, whether any changes should be made to it, or to order a full hearing for the case. Agreed outcomes are different to RSAs, which are agreements we come to with solicitors and firms in-house without the need to involve the SDT and when the matter is of a less serious nature. This is reflected



in the sanction – for example, a fine for an RSA will typically be no more than £2,000, whereas a fine subject to the SDT’s review can be unlimited.

Agreed outcomes allow us to protect both consumers and the public interest swiftly, efficiently and at a proportionate cost.

We have seen a higher proportion of cases resolved by way of agreed outcome. One of the main drivers of this is changes to the SDT’s rules in 2019 included a new rule that expressly allows either us or the respondent to propose that a case should be resolved by way of an agreed outcome. This is encouraging more cases to be resolved by way of an agreed outcome and is likely why we have seen an overall increase in cases resolved this way.

	<b>2016/17</b>	<b>2017/18</b>	<b>2018/19</b>	<b>2019/20</b>	<b>2020/21</b>
<b>Cases resolved by SDT agreed outcome</b>	27	37	33	42	40
<b>Cases resolved by SDT hearing</b>	90	97	92	72	61

In some years, there is a difference between the total number of cases concluded at the SDT when the total number of cases concluded by a hearing and those concluded by way of an agreed outcome are added together. This can happen when a case concerns more than one individual. For example, we may be able to reach an agreed outcome with one of the individuals in the case, but we are unable to reach one with another and a full hearing is required to resolve the matter.

The above agreed outcome cases resulted in the sanctions in the table shown. Please note, one case can result in more than one sanction.

The glossary and annex 1 have more information on what sanctions mean and the action the SDT takes.

	<b>2016/17</b>	<b>2017/18</b>	<b>2018/19</b>	<b>2019/20</b>	<b>2020/21</b>
<b>Cases with agreed outcomes</b>	27	37	33	42	40
<b>Strike off</b>	8	15	19	19	17
<b>Suspend</b>	3	6	4	10	5
<b>Fine</b>	24	43	12	21	21
<b>Reprimand</b>	3	0	0	0	0
<b>Section 43 order</b>	2	1	0	1	2
<b>Other decision</b>	3	0	0	0	0

## Case study

### Recognising money laundering

In 2021, we reached an agreed outcome in which a firm was fined £10,000 for failing to have systems in place to recognise and deal with possible money laundering. The firm had also failed to make sure its employees were adequately trained to recognise possible money laundering.

The Tribunal took into account the seriousness of the misconduct, the limited financial gain made by the firm, the size of the firm and that there was no reported loss to clients. The Tribunal determined that a fine in the sum of £10,000 was appropriate and proportionate in all the circumstances, and matter was settled with an agreed outcome. As well as the fine, the firm was ordered to pay £10,350 in costs.

## **The appeals process**

Firms and individuals have the right to appeal against decisions we make in-house and decisions the SDT makes. The right to appeal is fundamental to natural justice and a fair legal process.

### **Appealing our decisions**

Firms and individuals subject to our conditions or sanctions have the right to appeal. Appeals against our decisions are considered in-house by our Adjudication team. If an adjudicator dealt with the initial decision, however, then the appeal is heard by a panel drawn from a pool of arms-length adjudicators. Parties have further rights of appeal to either the SDT (in the case of a fine, rebuke or section 43 order) or to the High Court.

### **Appealing SDT decisions**

A firm, solicitor or other person who has been the subject of an SDT decision may appeal if they believe the decision is wrong. We can also appeal SDT decisions in the courts.

To appeal an SDT decision, we or the respondent must apply to the High Court.

Appeals allow courts to correct any errors that may have been made and to clarify the interpretation of law.

In addition to the legal grounds, we will take into account a range of factors as to whether we appeal a decision the SDT makes. For example:

- Clarification on the law: we recognise that the SDT has a wide margin of discretion when considering the outcomes of the cases it hears. If, however, it makes a decision that appears to contradict or misinterpret a point of law, we will consider whether we should appeal. We think it is important that there is clarity and consistency in the way that the law applies to our role as a regulator and to the rights and obligations of the people we regulate.



- Acting in the public interest: we bring cases to the SDT to ensure public trust and confidence and to maintain standards in the profession. If there are grounds to suggest this has not been achieved, we will consider whether it is appropriate to appeal.
- Public protection: if we think the sanction the SDT imposed is too lenient and there are grounds to suggest that the public may, as a result, be at risk, we will consider whether an appeal is appropriate. For example, we may appeal a decision where we consider that a solicitor should have been struck off the roll, rather than suspended for a short period.

## Appeals against internal decisions

	<b>2017/18</b>	<b>2018/19</b>	<b>2019/20</b>	<b>2020/21</b>
<b>Successful appeals</b>	1	0	0	7
<b>Successful in part</b>	3	0	2	3
<b>Unsuccessful appeals</b>	11	11	7	14
<b>Total appeals against our decisions</b>	15	11	9	24

There were 268 investigations in 2020/21 which resulted in us taking internal enforcement action and issuing a sanction such as letters of advice, rebukes, fines, section 43 orders, section 99 orders, findings and warnings and conditions placed on practising certificates. Of these, 218 cases concerned one or more individuals, and 258 individuals were named on these cases.

These appeals cover the number of requests to review an outcome from respondents who go through our internal sanctions process. We have seen a rise in the number of appeals against our internal decisions due to changes in our Standards and Regulations, which we introduced in 2019. This includes the removal of a £250 charge for an appeal. The nature of cases that we have taken through internal sanctions, such as some AML cases and Transparency cases, has also had an impact, particularly where appellants provide new information at the appeal stage.

## Appeals against SDT decisions

The decisions in the chart below relate to appeals against decisions the SDT made. We and respondents brought fewer appeals in 2019/20 and 2020/21. An increasing number of cases resolved by way of an agreed outcome in recent years is likely to have an impact on the number of appeals heard, as parties are less likely to bring an appeal. We will continue to monitor both the number of appeals we bring and those brought by respondents.

	<b>2017/18</b>	<b>2018/19</b>	<b>2019/20</b>	<b>2020/21</b>
<b>Judgment reserved in</b>			2	1



<b>respondents' appeals</b>				
<b>Respondents' successful appeals</b>	2	1	1	0
<b>Respondents' unsuccessful appeals</b>	10	13	2	6
<b>SRA's unsuccessful appeals</b>	2	0	0	0
<b>SRA's successful appeals</b>	7	6	1	0
<b>Total external appeal decisions</b>	21	20	6	8*

\*Please note that one further appeal was heard during 2020/21 but the judgment is currently embargoed.

## [Our costs](#)

Every year, we collect practising fees from solicitors and law firms in England and Wales, and from solicitors and law firms practising English and Welsh law overseas.

The practising fees we collect fully, or partly, fund six organisations, including us. In 2020/21 we collected £105m, of which £57.3m goes towards the overall expenditure of the SRA, which was £66m in total.

In 2020/21, we spent £14.2m on our disciplinary processes, which are a fundamental part of our work to make sure high professional standards are maintained. We have steadily reduced the costs of our disciplinary processes from £16.7m in 2015/16. It is important to note that fines whether issued by the Tribunal or through our internal processes are paid to the Treasury.

We keep how we work under review and, to keep costs under control in any case, we work to key principles. These are to act quickly, fairly and proportionately.

## **High-value cases**

Our enforcement work can be high profile and often relates to topical issues of wider public interest. This means there can be interest in how much it costs us to bring cases to the SDT and to make an appeal. There are a number of factors that affect this. These include the complexity and lifespan of a case, the number of parties and cooperation of those involved.

## **Cases costing more than £100,000 in 2020/21**

Of the 101 cases we brought to the SDT in 2020/21 and the eight appeals heard, there were four where our costs exceeded (approximately) £100,000. There were a further 16 where our costs exceeded (approximately) £50,000. The costs in these cases will generally have accrued over a number of years.

The figures include the costs claimed (or agreed) for:

- bringing the case to the SDT
- bringing an appeal, if there was one
- costs awarded to the opposing party.

The costs of bringing a case generally cover:

- our work in investigating a case
- preparing for hearings before the SDT and the High Court, whether in-house or by instructing a panel firm
- advice from or instructing counsel when our internal legal team is handling a case.

In some of these cases, we were awarded some or all of our costs by the SDT. The SDT has wide discretion as to what costs to award, considering each case on its own facts.

### **Cases costing more than £100,000 in 2020/21**

<b>Parties involved</b>	<b>Costs of the case</b>	<b>Nature of the case and the final outcome</b>
Solicitor Z, a former partner at a law firm.	£198,000 There was no order for costs.	The case concerned the solicitor's role in drafting a non-disclosure agreement relating to a serious allegation of sexual assault.  The SDT halted proceedings on the basis that the continuation, and, in particular a hearing, represented a significant risk to the solicitor's life. The SDT concluded that in the circumstances a fair trial was not possible.
Roger Brian Allanson, solicitor and owner of Allansons. We intervened into the firm in 2019.	£103,867 We were awarded our costs in full.	Allegations relate to a dubious investment scheme. The SDT struck off the solicitor.
Solicitors and directors Richard Mallett and Sharon Mallett of Mallett Solicitors, which closed in 2016.	£151,009 We were awarded costs of £140,000.	Allegations relating to the solicitors using client money to pay their business expenses. The SDT struck off the solicitors.
Solicitors and partners Margaret and Patrick Hetherington. We intervened into the firm in 2018.	£113,797 We were awarded costs of £98,000.	Allegations relating to the solicitors and their part in a dubious investment scheme. The SDT struck off the solicitors.

## **Wellbeing in the legal profession**

We know that working in law can be challenging and stressful.

When this stress has a negative impact on the work of a solicitor or a firm, it can affect competence and lead to mistakes and, potentially, serious breaches of our standards, such as dishonesty. This can result in us taking action, which may be avoided if solicitors recognise the warning signs early on and seek the correct support and help.

### **Seeking support**

We understand that being part of an investigation can be a stressful and daunting time, particularly for people with health problems, or who are in a vulnerable situation. If this is the case, we encourage people to tell us, as there are actions we can take to make the process easier. Some examples of how we can offer support are:

- providing one point of contact
- allowing extra time to respond to us (where we are able to)
- putting an investigation on short-term hold.

This is not an exhaustive list and we approach each matter based on its circumstances. Members of the public and solicitors who raise concerns with us may also need support, particularly when they are in a vulnerable situation. We signpost people to a range of resources and organisations that can help, and all our staff have training on making reasonable adjustments.

To help solicitors and firms understand how we approach health issues and the medical evidence we might ask for during an investigation, we published our [health issues and medical evidence guidance](https://higher-rights.sra.org.uk/solicitors/guidance/sra-investigations-health-issues-and-medical-evidence/) in August 2020. It has information on raising a health issue with us, medical reports, and health and ability to practise, among other related topics.

### **Our wider commitment to wellbeing in the profession**

We launched our [Your Health, Your Career campaign](https://higher-rights.sra.org.uk/solicitors/resources-archived/your-health-your-career/) in 2016 to encourage solicitors to talk to us if they are having difficulties with their health or wellbeing that may be affecting their work. Solicitors can talk to us about this and ask any questions they may have about our regulations and the problems they are facing. In 2022 we opened a consultation on new rules on health and wellbeing, after publishing a thematic review of workplace culture.

## **Whistleblowing to the SRA**



If information is provided to us on a confidential basis, we will take appropriate steps to protect the reporter's identity and deal with the matter sensitively.

Individuals and firms who we regulate must report matters to us. However, for someone who is regulated by us and is concerned about whether they may be investigated for their own part in any wrongdoing, reporting the issues and cooperating with us could constitute mitigation. This is particularly so where issues are reported to us at an early stage. However, we would rather solicitors and others working in the legal sector provided information late than not at all. Although we cannot guarantee that we will not take any action against the reporter, bringing the information to us is likely to help their position, and we will take context into account, including, for example, fear of retribution.

## **Supporting witnesses**

When we are investigating a solicitor or firm, it may be necessary to take a statement or interview witnesses. This will help us in our investigation and, possibly, to decide whether we need to refer the matter to the SDT.

We understand this can be stressful, so we do everything we can to support witnesses. For example, if English is not the witness's first language, we might be able to offer a translator or interpreter. If the witness is also the person who reported the concern to us, we will keep them up to date with how we are progressing with the matter. We also train our staff in how to support vulnerable and distressed individuals, for example, in cases concerning sexual harassment.

## **Diversity monitoring**

We published findings on the diversity characteristics of people in our enforcement processes in our Upholding Professional Standards [2018/19](https://higher-rights.sra.org.uk/sra/how-we-work/archive/reports/2018-19-review/upholding-professional-standards/) [https://higher-rights.sra.org.uk/sra/how-we-work/archive/reports/2018-19-review/upholding-professional-standards/] and [2019/20](https://higher-rights.sra.org.uk/sra/research-report/upholding-professional-standards-2019-20/) [https://higher-rights.sra.org.uk/sra/research-report/upholding-professional-standards-2019-20/]. We also published detailed supporting reports for [2018/19](https://higher-rights.sra.org.uk/sra/research-report/upholding-professional-standards-2019-20/) [https://higher-rights.sra.org.uk/sra/research-report/upholding-professional-standards-2019-20/] and [2019/20](https://higher-rights.sra.org.uk/sra/research-report/upholding-professional-standards-supporting-report-2019-20/) [https://higher-rights.sra.org.uk/sra/research-report/upholding-professional-standards-supporting-report-2019-20/].

Reviewing our systems and processes to make sure they are free from bias and non-discriminatory is a vital part of embedding equality, diversity and inclusion (EDI) in the work we do. We not only do this because we have a public duty to do so, as set out under the Equality Act and Legal Services Act, but because it is the right thing to do. This work will also help us to evaluate the impact of our new Enforcement Strategy and Standards and Regulations, brought in in 2019. This is the third year we have published this information, and we will continue to annually report on these findings.

We have taken the same approach as previously, the detail of which can be found in the next section, the scope of our analysis. This has allowed us to make comparisons and start to look at trends over the past three years, as set out in the key findings section. We have also noted the limitations in the data we hold or can publish, and the difficulties with drawing meaningful conclusions from the very small numbers in the later stages of the enforcement process.

We continue to see an overrepresentation of men and solicitors from Black, Asian and minority ethnic backgrounds in concerns raised with us and those we investigate. This has been present for some time and reflects the pattern across many professions and regulators. We commissioned several external reviews to look at these issues in the past, building on work that the Law Society undertook in 2006 before we were established. None of the earlier reviews found any evidence of discrimination, but each one provided recommendations for us and others, which have helped to shape our approach to enforcement. We published an [overview of our work \[https://higher-rights.sra.org.uk/sra/how-we-work/archive/reports/iccr-response/\]](https://higher-rights.sra.org.uk/sra/how-we-work/archive/reports/iccr-response/) following the most recent external review by Professor Gus John, the Independent Comparative Case Review in 2014.

Whilst we have been able to make improvements in our approach to enforcement, the patterns have persisted and we still do not fully understand the societal and sociological factors driving the overrepresentation of Black, Asian and minority ethnic solicitors in the concerns raised with us. To help us, and others, address these issues, we have commissioned new independent research from York, Lancaster and Cardiff universities, which will provide insight into these issues. We have also asked the researchers to carry out a focused review of the decisions we make at the assessment stage, to understand why there is further overrepresentation in the cases taken forward for investigation. We cover this and the other actions we are taking to make sure our decisions are fair and free from bias in the further work and research section of this report.

## Scope of our analysis

We looked at the representation of gender, ethnicity, age and, in some areas where numbers were sufficient, the disability of individuals at the following stages of our enforcement process from 1 November 2020 to 31 October 2021:

- stage 1: individuals named on concerns reported to us
- stage 2: individuals named on concerns which we took forward for an investigation
- stage 3: individuals named on cases with an internal sanction and the types of sanctions we imposed (path A)
- stage 4: the cases which were concluded at the SDT by way of a hearing or an agreed outcome, and the types of sanctions the SDT imposed (path B).



The individuals named on concerns taken forward for an investigation (stage 2) are a subset of the individuals named on the concerns reported to us (stage 1).

At stages 3 and 4 (paths A and B respectively), we look at the individuals named on cases concluded in 2020/21, those who received an internal sanction and those who were named on cases concluded at the SDT. Although there may be some overlap between the individuals involved in stages 1 and 2 and those involved in stage 3, it is unlikely to be significant. This is because cases are not always received and concluded in the same year. It is very unlikely there will be any overlap between the individuals involved in stages 1 and 2 and those involved in stage 4. This is because it usually takes longer than a year to investigate, refer, and conclude a matter at the SDT.

Starting with a breakdown of the practising population, we have compared the proportions of each diversity group at the different stages of our enforcement process. For example, men make up:

- 48% of the practising population
- 62% of individuals named on concerns reported to us (stage 1)
- 68% of the individuals taken forward for investigation (stage 2)
- 66% of the individuals named on cases with an internal sanction (stage 3, path A)
- 73% of individuals named on cases concluded at the SDT (stage 4, path B).

The number of individuals gets smaller at each stage of the process, making it difficult to draw firm conclusions at stages 3 and 4. Overall, in 2020/21, there were:

- 6,803 individuals named on concerns reported to us (stage 1)
- 1,357 individuals taken forward for investigation (stage 2)
- 258 individuals named on cases with an internal sanction (stage 3)
- 110 individuals named on cases concluded at the SDT (stage 4).

We break ethnicity down into five main groups: White, Black, Asian, Mixed and Other ethnic group. Where the numbers in each group are large enough to report without the risk of identifying individuals, we will report data about each group separately. Where the numbers get too small (at stages 3 and 4), we will compare the White group (which includes minority White groups) to the other four groups, which we refer to as the Black, Asian and minority ethnic group<sup>3</sup> [n3].

Our analysis looks at the known population among those groups – that is, the people for whom we hold diversity information. This varies at each stage of the process, but overall for the practising population, for sex and age, we have information for 91% and 100%<sup>4</sup> [n4] of the practising population, respectively, and 74% for ethnicity. Because of the way we have collected disability data in the past<sup>5</sup> [n5], we can only identify the

proportion of people who have declared a disability, which is 1% of the practising population. We suspect there is significant underreporting of disability data within this data set and we are taking steps to improve declarations for this and other diversity characteristics.

A full set of the charts showing the data at each of the stages is in the [supporting report of our findings](https://higher-rights.sra.org.uk/sra/how-we-work/archive/reports/upholding-professional-standards-supporting-report-2019-20/) [https://higher-rights.sra.org.uk/sra/how-we-work/archive/reports/upholding-professional-standards-supporting-report-2019-20/]. We have also looked at how the cases at the SDT have been concluded, in particular, whether there is a difference by diversity characteristic in the use of agreed outcomes. We have provided the diversity declaration rates at each stage.

## **Key findings 2020/21**

In this section, we have set out an overview of the key findings for each diversity characteristic at all four stages of the enforcement process for 2020/21 (where there was sufficient data to allow us to do this). We have included the data for 2018/19 and 2019/20 so we can highlight any emerging trends over the three years.

Detailed findings in relation to stages 1 to 4, as described above, are set out in the supporting report of our findings, along with a breakdown of the practising population.

We are using the data about the practising population that we hold in our mySRA systems as the starting point for the analysis of how the profile of people changes through our enforcement processes. More information about the breakdown of the practising population and the source of this data can be found in the annex in the supporting report.

## **Low numbers at stages 3 and 4**

Due to the low numbers involved in stages 3 and 4, we cannot confirm with confidence if the changes seen are statistically significant, or whether they are a result of chance. This is because the numbers are too small for statistical tests to reliably establish differences between groups. Any differences between groups should, therefore, be treated with caution.

Although the numbers at stages 3 and 4 are likely to remain relatively small, we are taking action to increase disclosure rates and we will continue to monitor this area.

## **Sex**

### **Breakdown by sex of practising population and at stages 1-4 of our enforcement process**

**2018/19 2019/20 2020/21**



<b>Practising population</b>	Male	49%	48%	48%
	Female	51%	52%	52%
<b>Stage 1: Concerns reported to us</b>	Male	67%	65%	62%
	Female	33%	35%	38%
<b>Stage 2: Investigation</b>	Male	73%	75%	68%
	Female	27%	25%	32%
<b>Stage 3 (path A): Cases with an internal sanction</b>	Male	70%	73%	66%
	Female	30%	27%	34%
<b>Stage 4 (path B): Cases concluded at the SDT</b>	Male	85%	80%	73%
	Female	15%	20%	27%

For all three years, men are overrepresented in the concerns we receive (stage 1) compared to their representation in the practising population. The overrepresentation increases at stage 2, when we decide which cases to take forward for investigation, and increases again at stage 4, referrals to Tribunal. We have however seen the overrepresentation of men at each stage reduce over the last three years.

Looking at the proportion of men in cases that were upheld, compared to the proportion whose cases were investigated – for all three years the proportion is lower for cases concluded internally and higher for cases upheld at the SDT. For example, in 2020/21, 68% of those investigated were men, and 66% named on cases concluded internally and 73% of those upheld at the SDT were men.

For internal outcomes, there has been a reduction in the extent of overrepresentation for men, from around 72% men in the previous two years, to 66% in 2020/21. Similarly for outcomes at the SDT, the proportion of men has been lower each year, from 85% in 2018/19 to 80% in 2019/20 to 73% in 2020/21.

## Ethnicity

We break ethnicity down into five main groups: White, Black, Asian, Mixed or Other ethnic group. Where the numbers in each group are large enough to report without the risk of identifying individuals, we will report data about each group separately. If the numbers are too small, while the experience of people making up the Black, Asian, Mixed or Other ethnic group will not be the same, we will report these groups together, alongside the White group. We refer to this group as the Black, Asian and minority ethnic group, and in line with current practice, we will not be using the acronym 'BAME'. This is why, in the overview chart below, only the Black, Asian and minority ethnic group and the White group are shown. A more detailed breakdown can be found [in the supporting report \[https://higher-rights.sra.org.uk/sra/how-we-work/archive/reports/upholding-professional-standards-supporting-report-2019-20/1\]](https://higher-rights.sra.org.uk/sra/how-we-work/archive/reports/upholding-professional-standards-supporting-report-2019-20/1).

**Ethnicity breakdown of practising population and at stages 1-4 of our enforcement process**

	Ethnicity	2018/19	2019/20	2020/21
<b>Practising population</b>	White	82%	82%	82%
	Black, Asian and minority ethnic	18%	18%	18%
<b>Stage 1: Concerns reported to us</b>	White	74%	74%	75%
	Black, Asian and minority ethnic	26%	26%	25%
<b>Stage 2: Investigation</b>	White	68%	65%	67%
	Black, Asian and minority ethnic	32%	35%	33%
<b>Stage 3 (path A): Cases with an internal sanction</b>	White	65%	71%	64%
	Black, Asian and minority ethnic	35%	29%	36%
<b>Stage 4 (path B): Cases concluded at the SDT</b>	White	65%	72%	66%
	Black, Asian and minority ethnic	35%	28%	34%

For all three years, people from a Black, Asian and minority ethnic origin are overrepresented in the concerns we receive (stage 1) compared to their representation in the practising population. The extent of this overrepresentation has fallen slightly in 2020/21. Black, Asian and minority ethnic people make up 18% of the practising population (for all three years) and 25% of reports received in 2020/21 (down from 26% in 2018/19 and 2019/20).

This overrepresentation increases at stage 2, when we decide which cases to take forward for investigation. This is the pattern seen for all three years, although the extent of the overrepresentation fell slightly in 2020/21, with this group making up 25% of those reported to us and 33% of those taken forward for investigation in 2020/21.

Looking at what happens to reports received about Black, Asian and minority people, 26% of reports were taken forward for investigation compared to 17% of White people. Both Asian and Black groups are overrepresented in reports received, and the rate at which they are taken forward for investigation is similar (27% for the Asian group and 26% for the Black group). Please note that these figures are not in the table above, but are instead calculated as a percentage of the total investigated from the total reported.

Looking at the proportion of Black, Asian and minority ethnic people in cases which were upheld, compared to the proportion whose cases were investigated, the proportion is higher in 2018/19 and 2020/21 for both cases concluded internally and for cases concluded at the SDT. This group makes up 33% of those investigated in 2020/21, 36% of internal cases

concluded and 34% of cases concluded at the SDT. The position in 2019/20 was different, where the proportion of Black, Asian and minority ethnic people in both internal and SDT outcomes was lower than at the investigation stage. [\[#\\_ftnref1\]](#)

#### Notes

1. [SRA | Guidance | Solicitors Regulation Authority](https://higher-rights.sra.org.uk/solicitors/guidance/workplace-environment/) [https://higher-rights.sra.org.uk/solicitors/guidance/workplace-environment/]
2. [SRA | Workplace Culture Thematic Review | Solicitors Regulation Authority](https://higher-rights.sra.org.uk/sra/research-publications/workplace-culture-thematic-review/) [https://higher-rights.sra.org.uk/sra/research-publications/workplace-culture-thematic-review/]
3. We are no longer using the acronym 'BAME' to refer to this group.
4. Please note that we have age data for 99.95% of the practising population but this is shown as 100% due to rounding.
5. We have not always collected disability data in the way we do now, and this means that we are not able to differentiate, with certainty, between people who have actively declared they do not have a disability and those who have simply not answered the question.