Overrepresentation of Black, Asian and minority ethnic solicitors in reports to the SRA: literature review

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For some time the SRA has seen an overrepresentation of solicitors from Black, Asian and minority ethnic backgrounds in our enforcement processes. These troubling patterns are widely seen across many regulators and sectors and have been apparent in the solicitor profession since before the SRA was established in 2007.

We commissioned several independent reviews to look at these important issues in the past, building on work that the Law Society undertook in 2006. None of the earlier reviews found any evidence of discrimination within our processes but each one provided recommendations for us and others, which have helped to shape our approach to enforcement.

When we resumed our diversity monitoring of the profile of people in our enforcement work in 2020, it was clear that this overrepresentation is particularly evident at the first stages of our process. Our monitoring data shows Black, Asian and minority ethnic solicitors are overrepresented among the complaints we receive about potential misconduct and among the cases we take forward for investigation following our initial assessment.

We decided to commission independent research into the societal and structural factors causing this, which is being conducted by a consortium involving the universities of York, Lancaster and Cardiff.

This literature review is a summary of the first phase of this important research which involved consideration by the universities of an extensive range of UK and international academic studies, and professional reports and articles. The literature review will inform the next phase of the research.

Key findings of the literature review

While there is evidence of similar patterns across legal and other regulators, the literature review found very little research covering the causes of overrepresentation of solicitors and other legal professionals from a Black, Asian and minority ethnic background in the likelihood of complaints being made about potential misconduct.

The review did cover, however, a large amount of literature relating to a range of other factors that increase the likelihood of complaints being made about potential misconduct or impact the risk of misconduct itself. From this, the researchers were able to highlight two potential explanations, which are likely to be interdependent and may have a reinforcing effect on each other.

1. Black, Asian and minority ethnic individuals may be more likely to be reported because of socio-cognitive biases in those making complaints about potential misconduct. Socio-cognitive biases relate to how a person's cultural or societal background may influence their conscious and unconscious perceptions or expectations of others.
2. Black, Asian and minority ethnic individuals may be more exposed to individual, organisational, and case-related factors that either increase the likelihood of complaints being made about potential misconduct, or impact the risk of misconduct itself.

Within these two, high level potential explanations it is possible to identify four key themes:

Socio-cognitive biases

There may be a greater likelihood that Black, Asian and minority ethnic solicitors have complaints about potential misconduct raised with us about them due to potential socio-cognitive biases that influence decision-making by the complainant.

This is based on social attribution theory and its focus on how individuals use information to arrive at causal explanations for events.

There are two elements to this theory, which can influence the extent to which an individual apportions blame, which in this context may influence whether or not they make a complaint about someone. These are known as dispositional attribution and situational attribution.

- **Dispositional attribution** considers the extent to which the perception of misconduct is assigned to an individual's internal characteristics, or a 'deliberate decision' taken by them. Published research suggests this is more likely when a service provider is from a minority ethnic group. Dispositional attribution has been shown in consumer research to increase the likelihood of complaints of being made. This may have the effect of amplifying the likelihood of complaints about potential misconduct made to the SRA about Black, Asian and minority ethnic solicitors.
- **Situational attribution** considers the extent to which the perception of misconduct is due to situations or events outside an individual's control, stressing the importance of external influences or situations

'happening to' the subject. Situational attribution has been shown to reduce the likelihood of complaints being made and has been shown to be less likely when a service provider is from a minority ethnic group. This may have the effect of reducing the likelihood of complaints about potential misconduct made to the SRA about White solicitors.

Individual level characteristics

The review shows that there are a range of individual-level characteristics which may be correlated to (rather than the cause of) complaints of potential misconduct, or impact the risk of misconduct itself, including some demographic, cognitive, and job-related characteristics. There is a paucity of research which analyses any potential relationship between these factors and ethnicity.

Organisational level characteristics

The review identified literature that may demonstrate a link between certain organisational characteristics and impact on the likelihood of complaints being made about potential misconduct, or the risk of misconduct itself. For example, organisational characteristics relating to size, complexity, status, and profitability – or its opposite, financial strain. These factors are likely to be outside of the control of the individual solicitor in question. There is a very limited body of research which analyses any potential relationship between some of these factors and ethnicity.

Case level characteristics

The review also showed the potential role of case-level factors in determining the impacting the likelihood of complaints being made about potential misconduct, or the risk of misconduct itself. Factors include 'moral intensity' (the extent to which the case involves ethical issues), 'client capture' (the power that a client may have over their representative), and the area of law involved. There is, however, a paucity of research which analyses any potential relationship between these factors and ethnicity.

Next steps for the research

The researchers will use in-depth analytical techniques on the data we hold, as well as interviews and surveys to test how the potential factors above explain the overrepresentation of Black, Asian and minority ethnic practitioners in complaints about misconduct.

The next phases of the research project will continue through 2023. We expect the data analysis and fieldwork to be complete by the end of 2023 and for the final report to be published in spring 2024.

The report by universities of York, Lancaster and Cardiff: Overrepresentation of Black, Asian and minority ethnic solicitors in reports to the SRA: a review of the relevant literature

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1. Executive summary

This literature review is the first stage of a research project commissioned by the Solicitors Regulation Authority (SRA) to understand the factors causing overrepresentation of Black, Asian and minority ethnic solicitors in the first stages of its enforcement processes.

The project will use multiple complementary research methods, including both quantitative and qualitative analyses, to shed further light on this subject.

1.1 Background

There is a longstanding and troubling pattern of overrepresentation of solicitors from a Black, Asian and minority ethnic background in the SRA's enforcement processes. A recent report published by the SRA shows that in 2020/21, Asian solicitors made up 12 per cent of the practising population but 18 per cent of those reported to the SRA and 25 per cent of those taken forward for investigation. There is a similar pattern for Black solicitors, who make up three per cent of the practising population, four per cent of those reported to the SRA and five per cent of those taken forward for investigation.

Over the past 15 years, the SRA has commissioned a series of independent reviews, all of which focused on internal processes and decision making within the SRA to better understand the outcomes for these groups. Although these reviews identified and highlighted the overrepresentation in complaints about potential misconduct received by the SRA, none of them focused on understanding why this might be the case. This research will look, for the first time, at the structural and other factors, present in the legal sector and wider society which might be causing this. As such, the guiding question for the research is as follows: what factors cause the overrepresentation of Black, Asian and minority ethnic solicitors in complaints about potential misconduct to the SRA?

These patterns of overrepresentation are not unique to the SRA. Many professional regulators, including the General Medical Council (GMC), National Police Chief's Council (NPCC), and Nursing and Midwifery Council (NMC), have identified similar patterns in concerns raised with them.

For example, Black, Asian and minority ethnic officers in the Metropolitan police are overrepresented in disciplinary proceedings, being twice as likely as White officers to be the subject of misconduct allegations. Similarly, Black, Asian and minority ethnic doctors working for the NHS are referred by employers in fitness to practise cases at over twice the rate of White doctors. Meanwhile, according to General Pharmaceutical Council (GPC) data, in 2020, 59 per cent of concerns reported about pharmacists involved Black, Asian and minority ethnic pharmacists, though the latter make up 48 per cent of this profession.

The literature review starts, therefore, from the position of there being recognised issues across multiple professions in terms of overrepresentation, and seeks to understand what may cause this, and specifically what might be relevant in relation to solicitors in England and Wales.

1.2 A note on categorisation and terminology within the review

In this review we generally use the term Black, Asian and minority ethnic. Referencing the standard classification used by the Office for National Statistics, which is followed by the SRA in its data collection for the profession, this includes the ethnic groups making up the Black, Asian, Mixed and Other categories and excludes the ethnic groups making up the White category. This is the term used by the SRA in its publications and communications.

There is little consistency in both the terminology used in the literature we reviewed and in the approach to how the groups selected for research are categorised. When describing the studies included in this review, we use the terminology adopted in the study cited. This includes the use of terms which are more commonly used in the countries where the research was carried out. We recognise that there are minority ethnic groups within the White category although we did not identify any studies that focused in particular on these groups. We follow this approach for all protected characteristics, such as, for example, gender.

We acknowledge that terminology can be problematic, and we will bear this in mind for the wider research project. We also understand how important it is to recognise that the experience of each ethnic group and of those within each group may be different. Where possible in the research, we will look individually at the experience of each group and take account of intersectionality between diversity characteristics.

1.3 Our approach to the review

The review looks at literature on complaints about potential misconduct in relation to a wide range of factors, from both articles in academic peer-reviewed journals and research reports conducted about other professions. It considers the literature from both the UK and overseas.

Complaints are an important way in which regulators are made aware of potential misconduct.

However, not all misconduct or poor practice results in complaints to the regulator, and not all complaints to the regulator necessarily reflect misconduct or poor practice. For this reason we have tended to use the terminology about factors which 'increase the likelihood of complaints being made about potential misconduct' and which may 'impact the risk of misconduct itself'.

An increased likelihood of complaints being made about particular groups can lead to overrepresentation throughout any regulators processes, as is widely seen.

Importantly, many of the factors that may increase the likelihood of complaints about misconduct could also derive from where and how individuals work, the types of work they undertake or other case-related circumstances that by their very nature generate more complaints.

As such this review focuses on (a) factors that may lead people to make misconduct complaints about Black, Asian and minority ethnic practitioners and (b) factors that may lead to Black, Asian and minority ethnic practitioners becoming more exposed to circumstances which either make complaints about potential misconduct more likely, or impact the risk of misconduct itself.

We began by focusing on literature relating to misconduct for solicitors and the legal profession more broadly, but it quickly became apparent that there is very little published research on ethnicity, beyond that commissioned by the SRA. As this area was understudied, the review was widened to include other professions, such as accountants, doctors, nurses and the police.

The review did reveal, however, a large amount of literature relating to a range of other factors that increase the likelihood of complaints being made about potential misconduct, or impact the risk of misconduct itself. These factors could potentially interact with ethnicity and be important in explaining overrepresentation, although in the research they are often considered separately. Questions of intersectionality between ethnicity and other individual and group characteristics thus became an important focus for the project, especially as it may be possible in later phases to analyse these intersectionality points using the SRA's own data.

Our main focus was research on factors which may increase the likelihood of complaints being made about potential misconduct, or impact the risk of misconduct itself. We also found relevant literature relating to the overrepresentation of Black, Asian and minority ethnic individuals in consumer complaints. Whilst this

literature did not cover professions or solicitors specifically, it provides some useful insights into what might be important in causing the overrepresentation of Black, Asian or minority ethnic solicitors in complaints about potential misconduct raised with the SRA.

The review develops a series of propositions relating to the factors which are identified in existing literature as affecting the likelihood of complaints being made about potential misconduct, or impact the risk of misconduct itself. Within each, in our next steps, we are keen to understand what these propositions mean for our research question.

1.4 Findings from the review

The review highlighted two potential explanations for overrepresentation of Black, Asian, and minority ethnic solicitors in complaints about potential misconduct raised with the SRA.

The first explanation is that Black, Asian and minority ethnic individuals are more likely to be reported because of socio-cognitive biases in those making the complaints about potential misconduct. Socio-cognitive biases relate to how a person's cultural or societal background may influence their conscious and unconscious perceptions or expectations of others. This in turn may make some groups more likely to complain about certain other groups.

The second explanation is that Black, Asian and minority ethnic individuals may be more exposed to individual, organisational, and case-related factors that either increase the likelihood of complaints being made about potential misconduct, or impact the risk of misconduct itself. For example, Black, Asian and minority ethnic solicitors may be overrepresented in work areas or firm environments and circumstances that by their very nature are more likely to generate complaints about potential misconduct. These could be related to a wide range of factors which could be outside of the control of the individual solicitor in question, for example firm size, area of law or consumer demographics.

These two potential explanations are likely to be interdependent and to combine and/or reinforce each other.

Based on these broad explanations, we identified four key themes arising from the review which help to explain the overrepresentation of Black, Asian and minority ethnic solicitors in complaints about potential misconduct raised with the SRA.

1.5 Potential socio-cognitive biases

There may be a greater likelihood that Black, Asian and minority ethnic solicitors have complaints about potential misconduct raised about them with the SRA due to potential socio-cognitive biases that influence decision-making by a potential complainant.

The effect of biases and pre-existing beliefs is important because it means that when forming views about why events happened, individuals can often get it wrong. People develop flawed causal accounts for why a particular event occurred or to explain why they had a particular experience. The research suggests that this may influence their response and whether it is more or less likely they will make a complaint.

In particular, there is a body of consumer research which suggests that complainants' socio-cognitive biases could individually or jointly influence the likelihood that certain individuals and/or groups are accused of misconduct (eg, Field et al, 2008; Jones et al, 2014).

This suggests that Black, Asian and minority ethnic solicitors might be more affected by socio-cognitive biases than other solicitors that increase the likelihood of complains about potential misconduct, although the existing literature does not consider this point specifically in relation to reports of potential misconduct about solicitors.

Reasons for suggesting a possible role for socio-cognitive biases are based on social attribution theory and its focus on how individuals use information to arrive at causal explanations for events, which may include apportioning blame or responsibility.

There are two elements to social attribution theory - the extent to which a situation is a result of an individual's own actions, characteristics, or decisions, versus the extent to which a situation is a result of external factors or pressures beyond that person's control. These are known as dispositional attribution and situational attribution respectively.

- **Dispositional attribution** considers the extent to which the perception of misconduct is assigned to an individual's internal characteristics, or a 'deliberate decision' taken by them. Published research suggests this is more likely when a service provider is from a minority ethnic group. Dispositional attribution has been shown in consumer research to increase the likelihood of complaints being made. This may have the effect of amplifying the likelihood of complaints about potential misconduct made to the SRA about Black, Asian and minority ethnic solicitors.
- **Situational attribution** considers the extent to which the perception of misconduct is due to situations or events outside an individual's control, stressing the importance of external influences or situations 'happening to' the subject. Situational Attribution has been shown to reduce the likelihood of complaints being made and has been shown to be less likely when a service provider is from a minority ethnic group. This may have the effect of reducing the likelihood of complaints about potential misconduct made to the SRA about White solicitors.

The combination of these factors highlights the potential role of socio-cognitive biases in increasing the likelihood of complaints about potential misconduct. We suggest developing subsequent aspects of this research project to explore this.

1.6 Individual level characteristics

The review shows that there are a range of individual-level characteristics which may increase the likelihood of complaints being made about potential misconduct, or impact the risk of misconduct itself. These include demographic, cognitive, and job-related characteristics. It's important to note that correlation does not equate to causation. Whilst we are looking in this section at the relationships between individual characteristics and complaints about misconduct, only a few of the studies examine whether individual characteristics cause complaints about potential misconduct. The majority look at how individual characteristics may correlate to complaints about potential misconduct.

Firstly, in terms of demographic characteristics, existing research suggests that ethnicity, gender, age and experience, country of qualification, social class, status, and health and wellbeing could impact the likelihood of complaints being made about potential misconduct, or impact the risk of misconduct itself.

Secondly, with reference to cognitive (or personality) characteristics, existing research points at a number of characteristics which could influence the likelihood of complaints being made about potential misconduct, or impact the risk of misconduct itself. Some of these studies have looked at how professionals view ethics, for example whether they believe in universal moral standards regardless of the context or, consider ethics to be situational and context specific.

Thirdly, in relation to job-related characteristics, the literature considers workplace identification, occupational identification, and job satisfaction all of which could impact the likelihood of complaints being made about potential misconduct, or impact the risk of misconduct itself. Studies looking at workplace identification suggest that strongly identifying with your employer, may make it more likely for employees to disregard ethical standards in favour of behaviours that support the organisation. In contrast, studies looking at occupational identification, highlight the potential for less unethical behaviour among those who strongly identify with their chosen occupation or profession.

The existing literature explains how each of these individual level characteristics could influence the likelihood of complaints about misconduct, but importantly does not explain whether, or to what extent, these factors intersect with ethnicity.

1.7 Organisational level characteristics

The review identified literature that demonstrates a link between certain organisational characteristics that increase the likelihood of complaints being made about potential misconduct, or impact the risk of misconduct itself. It only found a small amount of literature that considered intersections with ethnicity. The characteristics identified in the literature include organisational size, complexity, status, and profitability - or its opposite, financial strain - all of which may impact the likelihood of complaints being made about potential misconduct, or impact the risk of misconduct itself.

It may be possible to empirically test some of these characteristics identified in the literature review by using data on complaints about potential misconduct from the SRA. The next phases of research will look for intersectionality in these areas.

1.8 Case level characteristics

The review revealed the potential role of case level factors in determining the likelihood of complaints being made about potential misconduct, or impacting the risk of misconduct itself. These include the characteristics of cases in terms of their 'moral intensity', potential for client capture and the area of law.

Moral intensity is the extent to which the 'issues' involved in a matter, can influence the behaviour of the professional involved. Research suggests that there is less likelihood of unethical behaviour if the matter itself raises ethnical issues.

Client capture is where professionals may be influenced by the power of their clients, for example acting exclusively in the interest of their clients at the expense of their broader obligations.

The area of law has been shown to be relevant in some studies, which suggest that areas like criminal defence, domestic issues and personal injury, could increase the likelihood of complaints being made about potential misconduct, or impact the risk of misconduct itself.

Empirically testing some of these aspects of the literature may be possible in the next phases of the research, using data on complaints about potential misconduct from the SRA.

1.9 Conclusion

This review pulls together findings from literature on a number of factors which may explain the overrepresentation of certain groups in complaints about potential misconduct made to the SRA. The vast majority of the literature is, however, not focused on solicitors and does not specifically look at relationships with ethnicity. It nonetheless provides a potential overarching framework for the next phases of the research.

The main finding of the literature review is that to understand why Black, Asian and minority ethnic solicitors are overrepresented in complaints about potential misconduct raised with the SRA, it is necessary to examine a range of factors that individually and together can increase the likelihood of complaints about potential misconduct being raised.

Existing literature does not provide a definitive evidence base to explain which of the propositions developed here are more or less important. Therefore, new analysis is needed to test the influence of as many as possible of the different factors here identified.

This project will explore a number of these factors when data allows for sufficiently robust analysis. This requires both quantitative and qualitative methods, using both existing datasets and original (primary) data collected as part of the project.

2. Introduction

The SRA commissioned the universities of Cardiff, Lancaster and York to conduct research to understand the factors causing the overrepresentation of Black, Asian and minority ethnic solicitors in the first stages of its enforcement processes.

This literature review is the first step in this research project and looks at literature on complaints about potential misconduct in relation to a wide range of factors, from both articles in academic peer-reviewed journals and research reports conducted about other professions. It considers the literature from both the UK and overseas.

Our review of existing research revealed the relative paucity of studies that directly examine if and how ethnicity affects the overrepresentation of Black, Asian, and ethnic minority professionals in complaints about potential misconduct made about solicitors. We found virtually no academic studies relating specifically to solicitors, with the SRA's previously commissioned work being the most sizeable evidence base. When widening the lens to other professions, such as accountants, doctors, nurses and the police, an equally small number of studies explicitly considering ethnicity were identified.

We were, however, able to locate a significant number of studies, focused on law and other professions such as accounting and medicine, relating to a range of other factors that increase the likelihood of complaints about potential misconduct being made, or the risk of misconduct itself. These studies tend *not* to focus on ethnicity, and instead consider other factors such as gender, age, type of work etc. However, these factors could potentially interact with ethnicity and could be important in explaining overrepresentation.

Questions of intersectionality between ethnicity and other individual and group characteristics are thus identified by the review as an important focus for the project, especially as it may be possible to analyse these intersectionality points using the SRA's own data.

We suggest through this review that existing studies provide two potential explanations for overrepresentation of Black, Asian, and ethnic minority solicitors in complaints about potential misconduct raised with the SRA.

The first explanation is that Black, Asian and minority ethnic individuals are more likely to be reported because of socio-cognitive biases in those making complaints. Socio-cognitive biases relate to how a person's cultural or societal background may influence their conscious and unconscious perceptions or expectations of others. This in turn may make some groups more likely to complain about certain other groups.

The second explanation is that Black, Asian and minority ethnic individuals may be more exposed to individual, organisational, and case-related factors that either increase the likelihood of complaints being made about potential misconduct, or impact the risk of misconduct itself. For example, Black, Asian and minority ethnic solicitors may be overrepresented in work areas or firm environments and circumstances that by their very nature are more likely to generate more complaints about potential misconduct. These could be related to a wide range of factors, for example firm size, area of law or consumer demographics.

The diagram below provides an overview of these potential explanations, which are likely to be interdependent and likely to combine and/or reinforce each other within and across levels of analysis.

3. Why some individuals may be more likely to be reported about potential misconduct

A first possible explanation for the overrepresentation of Black, Asian and minority ethnic solicitors in complaints about potential misconduct raised with the SRA is that these individuals are more likely to be reported about potential misconduct than others due to different types of socio-cognitive biases.

In the following sections we review and discuss these biases, highlighting what the literature says about how they can make some groups more vulnerable to complaints being made.

3.1 Social attribution theory

The best known and possibly most studied socio-cognitive bias is social attribution. Social attribution explains how individuals use information to arrive at causal explanations for events. It builds on the work of Fritz Heider (1958) who described people as 'naïve psychologists', driven by the desire to understand why a particular event or outcome had taken place. People are constantly theorising about the behaviours and reactions of

others, particularly when individuals experience or witness a situation that leads to a negative outcome (Weiner, 2018).

For Heider, when people make attributions (or causal explanations) it is a way of creating appraisals of the traits of others, traits which they try to fit with their *existing* perceptions of those others. The implication is that when conflict arises, individuals try to maintain 'previously formed impressions and evaluations of people' and will adjust attributions, or causal explanations, to pre-existing perceptions (Crandall et al, 2007: 15).

Researchers working with attribution theory point to three key dimensions of a causal explanation or attribution. The first is known as the locus of causality, referring to the source of the event and whether its cause was *dispositional* or *situational*. Dispositional attribution assigns the cause of an event to an individual's personal characteristics. Situational attribution assigns this to factors outside of an individual's control. The second attributional dimension is stability, whether the outcome is based on a *long-* or *short-term* condition.

For example, the failure to study for an exam is a short-term condition, whilst perceptions of an individual having poor academic ability is a long-term condition. This matters because of the perceived remedy - a student can change their study habits more easily than their ability.

The third attributional dimension is *intentionality* or *controllability*, which refers to the extent to which the person in question is perceived to have been in control of events that led to the negative outcome. The more the person is believed to have been in control of events, the more responsibility they are deemed to bear for the undesired outcome.

The three dimensions combined, shape the emotional response to any particular situation. Graham highlights that 'attribution theorists hypothesize a particular thinking-feeling-action motivational sequence in which attributions shape emotions and emotions then guide behavior. Our causal thoughts tell us how to feel and our feelings, in turn, tell us what to do' (Graham, 2020: 6). In this way, certain attributions can be predicted to lead to certain behaviours.

For example, blaming a person's behaviour on their individual characteristics is more likely to prompt a negative response, leading to a complaint. Focusing on the circumstances surrounding the behaviour (factors outside the control of the person) is more likely to prompt understanding and problem solving.

Attribution theory has been applied to a wide range of situations from educational attainment to judicial decision making, from clinical psychology to consumer behaviour, including complaint making outside of a professional context. The latter is the most relevant area of application to this project and was proposed by Weiner (2000) when he characterised consumer complaints as an attribution process. In his words, 'attributions arise when one evaluates the extent to which the initial product [or in our case service] performance corresponds to one's levels of aspiration vis a vis that product [or service] and one then questions the causes of that outcome' (Weiner, 2000: 383). This attribution process governs the likelihood of consumer satisfaction and in turn, guides successive consumer behaviours including complaint making.

Importantly, the link between attribution (placing blame) and action (making a complaint) is mediated by emotions. To give an example, if a consumer believes that the provider was negligent (ie, could/should have provided a better service) this is much more likely to lead to feelings of anger rather than simply disappointment/frustration, which in turn is more likely to result in a complaint.

The diagram below shows how the same type of behaviour (ie, the same type of service failure) can lead to different outcomes (ie, a complaint being made or a complaint not being made) depending on social attribution.

Social attribution theory and other socio-cognitive biases

Research has shown how prior belief or stereotypes may outweigh other forms of information in attribution processes (Sparkman & Locander, 1980; Yalch & Yoshida, 1983). More fundamentally, people, as 'naïve psychologists', routinely commit systematic mistakes when making attributions because of beliefs or stereotypes and their influence on a person's emotions (Heider, 1958; Kelley, 1967). These are generally regarded as forms of socio-cognitive biases and include:

- Fundamental Attribution Error (Ross, 1977) – this involves over-emphasising dispositional factors and minimising situational factors when explaining someone else's behaviour.
- Self-serving bias (Malle, 2006) - this involves making sense of situations in ways that cast positive light on oneself. This means that in positive situations (eg, doing well in an exam or winning a court case) the individual will emphasise dispositional factors such as his or her own intelligence, hard work or integrity. In negative situations, the individual will emphasise situational explanations (eg, difficulty of the exam, incompetence of their solicitor, etc.).
- Ultimate Attribution error (Pettigrew, 1979; Hewstone, 1990) – this operates at the group level insofar as it tends to perceive behaviours by out-groups (others) more negatively than behaviours by in-groups (those like me). Often this involves, in the case of negative events or behaviours, over-emphasising dispositional factors for the out-groups and situational factors for the in-groups, whilst doing the opposite in relation to positive situations. This connects to broader in-group/out-group dynamics such as in-group favouritism and negative stereotyping and discrimination.
- Hostile Attribution Bias (Nasby et al, 1980) - this creates a tendency to ascribe a negative meaning to others' ambiguous behaviours.

- Culture Bias - this involves making attributions based on the beliefs and assumptions of one's own culture. In particular, those from individualist cultures tend to make attributions on the basis of dispositional explanations whilst people from more collectivist cultures tend to emphasise situational explanations.

Social attribution and racial discrimination

The effect of biases and pre-existing beliefs is important because it means that individuals making attributions often get it wrong. They develop flawed causal accounts for why a particular event occurred, or to explain why they had a particular experience. More perniciously, this could explain how discrimination is reproduced in sense-making and decision-making processes. As a result of flawed or biased attributions, certain racial minority groups may be faced with significant disadvantages (Quillan, 2006), including a higher likelihood of being blamed, complained about, investigated, and punished more severely.

One mechanism through which attribution may lead to racial discrimination is via the role of pre-existing beliefs or stereotypes. Indeed, existing research shows that stereotypes create 'attributional signatures... [that] convey information about responsibility for a stigmatizing condition and therefore impact the way stigmatized individuals and their groups are treated by others' (Graham, 2020: 6).

A stereotype can heighten the chance of dispositional attribution and thus the likelihood of blame. For example, research within attribution theory on racial stereotypes in the US found that the study's participants perceived a link between being Black and being aggressive and dangerous (Jones et al., 2014). Such stereotypes can lead to dispositional attribution when a propensity for violence becomes associated with being Black.

In a similar vein, Field et al (2008) studied whether being identified as indigenous or as White Australian, was linked with how responsible an offender was perceived to be and whether the punishment received was perceived as too harsh. They found that indigenous offenders were perceived to be more personally responsible, because they were seen to be in control of their actions. Responsibility for an offence was therefore connected to ethnic background. They also found that sentencing for indigenous offenders was more likely to be seen as overly lenient, because they were seen as engaged in long-term offending rather than a one-off act.

In the context of decision making within the juvenile justice system, Lowery and Burrow (2019) note that stereotypes of racial minority groups likely play a role in negative attributions about the level of responsibility young people should bear regarding offences. In their research, the decision to put young offenders in secure confinement, a more severe punishment, was more likely to be handed to racial minorities. Importantly, Graham and Lowery's (2004) study of the role of stereotypes in police officers' perceptions of adolescent offenders found that stereotypes can be 'activated' without the perceiver having to explicitly support or condone the stereotype, which can influence perceptions in unconscious ways. Specifically, in this study '[o]fficers in whom racial stereotypes were unconsciously primed judged a hypothetical adolescent offender as more responsible for the alleged offence, adult-like, violent, and deserving of harsh punishment than participants in an unprimed control condition' (Graham, 2020: 6).

The management and marketing literature also reveal similar findings regarding the role of racial stereotypes in attribution processes. Work by Rosette and colleagues (Rosette et al, 2008; Rosette & Livingston, 2012) in the US shows how audiences consider non-Caucasian leaders as less effective than Caucasian ones, whilst in instances of failure, African American females are evaluated more harshly than other groups (Brescoll et al, 2010; Rosette & Livingston, 2012). Crucially, these attitudes also apply to consumers and consumer complaints (Chung-Herrera et al, 2010; Wu et al., 2015). Chung-Herrera et al (2010), in an example of ultimate attribution bias, show how demographic congruity (ie gender, ethnicity, age) between the service provider and the consumer, influences evaluations of a service failure. And Wu et al (2015) show how the ethnicity and gender of a service provider influences a consumer's experience of and reaction to a service failure. Specifically, 'for identical service failures, US consumers had significantly higher levels of negative affect and negative behavioral intentions when the failure was caused by a Hispanic female manager (vs a Caucasian female manager)' (Wu et al, 2015: 335).

3.2 Conclusions: Why some individuals may be more likely to be reported about misconduct

Existing research has not studied how social attribution and biases affect solicitors, and Black, Asian and minority ethnic solicitors specifically, in terms of whether complaints about potential misconduct are raised with regulators.

However, research does identify the influence of socio-cognitive biases as a reason for some minority ethnic groups experiencing more negative attributions and emotional responses in a range of situations. And in the context of the studies covered by this literature review, this has led to more consumer complaints and more extreme interpretations of criminal culpability for some ethnic groups.

The literature supports further investigation into whether Black, Asian and minority ethnic solicitors are overrepresented in complaints about potential misconduct raised with the SRA, because of interactions between social attribution, socio-cognitive biases and the likelihood of a complaint being raised. Hence, we advance the following proposition for testing:

4. Why some individuals may be more exposed to factors that make complaints about potential misconduct more likely

The other possible explanation is that Black, Asian and minority ethnic individuals may be more exposed to individual, organisational, and case-related factors that either increase the likelihood of complaints being made about potential misconduct, or impact the risk of misconduct itself.

For example, Black, Asian and minority ethnic solicitors may be overrepresented in work areas or firm environments and circumstances that by their very nature are more likely to generate complaints about potential misconduct. These could be related to a wide range of factors which could be outside of the control of the individual solicitor in question, for example firm size, area of law or consumer demographics.

The existing research reviewed, however, does not consider how these factors interact with ethnicity. We, therefore, review what the existing research says about the role of various other factors in increasing the likelihood of complaints being made about potential misconduct, or impacting the risk of misconduct itself. We then consider how these factors could interact with ethnicity.

4.1 Individual factors

A dominant theoretical framework for explaining misconduct focuses on individual factors that impact the risk of misconduct, which in theory should make complaints more likely. This is often known as the 'bad apple' hypothesis, as it tries to circumscribe responsibility for misconduct to a 'few unsavoury individuals' (Treviño & Youngblood, 1990: 378). This approach considers two forms of misconduct.

Firstly, 'unethical intention' ,'defined as the expression of one's willingness or commitment to engage in an unethical behaviour' (Kish-Gephart et al., 2010: 2). Here the focus is on explanations for what leads to some individuals developing such intentions.

Secondly, the approach also considers 'unethical behaviour','defined as any organisational member action that violates widely accepted (societal) moral norms' (Kish-Gephart et al, 2010: 2). Here the focus is on how a particular set of circumstances make an individual more likely, even if unintentionally, to be involved in forms of misconduct.

The first and second approaches highlight different degrees of intentionality and suggest that some circumstances produce intentional bad apples, whilst others produce unintending bad apples.

Several scholars have attributed unethical intentions and/or unethical behaviour to a series of individual level factors. We review these in the sections below, which we have structured around demographic, cognitive, and job-related factors.

Demographic factors

Demographic factors considered in the literature, include ethnicity, gender, age and experience, country of qualification, social class and status, and health and wellbeing.

Ethnicity

Ethnicity has received little attention in the academic literature on misconduct in the professions. There is, however, a body of work focused on how ethnicity correlates with complaints about potential misconduct emerging from professional regulators.

In relation to solicitors, the SRA's previous studies provide the most extensive engagement with issues of overrepresentation (also see Webley, 2013). A recent report published by the SRA shows that in 2020/21, Asian solicitors made up 12 per cent of the practising population but 18 per cent of those reported to the SRA and 25 per cent of those taken forward for investigation (SRA, 2022).

There is a similar pattern for Black solicitors, who make up three per cent of the practising population, four per cent of those reported to the SRA and five per cent of those taken forward for investigation. However, research by the SRA has, to date, only focused on reporting trends (eg, SRA 2022) or on the role in addressing overrepresentation of policies and procedures for dealing with concerns raised (Ouseley, 2008; Pearn Kandola, 2010; Gus John, 2014). The research does not however explain why there is overrepresentation of Black, Asian and minority ethnic individuals in complaints about potential misconduct.

In other professions research has also uncovered patterns of ethnicity related to overrepresentation. Black, Asian and minority ethnic police officers are overrepresented in misconduct procedures in police forces. A report by the NPCC found disparity in the number of internal conduct allegations, rather than public complaints, against Black, Asian and minority ethnic officers (NPCC, 2019). In the initial stage of assessment, Black, Asian and minority ethnic officers' cases were more likely to be deemed misconduct or gross misconduct compared to White counterparts. According to Black, Asian and minority ethnic police officers and their supervisors, this disparity can be explained through the following factors:

- Black, Asian and minority ethnic officers felt they faced 'unfounded and unfair' investigations based on poor evidence with clear comparators of White colleagues being treated more favorably (NPCC, 2019: 62).

- Participants noted poor supervision as a reason that misconduct and performance problems were not addressed early enough.
- Black, Asian and minority ethnic officers pointed to inadequate cultural competence in investigators which failed to acknowledge the cultural dimensions of misconduct cases and investigations.
- Supervisors described an unwillingness to confront Black, Asian and minority ethnic colleagues due to a 'fear of being labelled racist and being subjected to misconduct investigations and employment tribunals themselves' (NPCC, 2019: 62); they articulated a need for training in cultural awareness to support leaders in managing people.

Black, Asian and minority ethnic healthcare professionals are also disproportionately referred to their regulators, including in pharmacy and nursing. According to GPC data (GPC, 2021), in 2020, 59 per cent of concerns reported about pharmacists involved Black, Asian and minority ethnic pharmacists, though the latter make up 48 per cent of this profession. According to the Royal College of Midwives (RCM), in 2012, 60 per cent of midwives referred for disciplinary proceedings in London were categorised as 'Black/Black British' though this group makes up only 32 per cent of the practising population (RCM, 2013).

This group tended to face more serious outcomes to disciplinary investigation, such as dismissal and suspension, and were less likely to receive a decision where no further action was taken.

In terms of causes of overrepresentation, research on workplace experiences of Black, Asian and minority ethnic nurses indicates that they 'face a number of stressors and pressures within the NHS' although there is insufficient evidence that 'directly link[s] these challenges to overrepresentation of BME nurses and midwives in FtP [Fitness to Practise] enquiries' (NMC, 2017, 10).

A report (Fair to Refer) commissioned by the GMC investigated causes and ways to redress disproportionality in fitness to practise concerns that are brought to the GMC and reached similar conclusions (Atewologun et al, 2019). Black, Asian and minority ethnic doctors are referred to the GMC by an employer at over twice the rate as White doctors. The report argues there are certain risk factors' for some doctors, while others are supported by 'protective factors', which coalesce to produce positive working conditions for the latter and have a negative impact on the former (Atewologun et al, 2019: 6).

One explanation offered relates to the exclusion of Black, Asian and minority ethnic doctors from 'ongoing socialisation support', which involves training in the implicit rules or taken for granted assumptions embedded in the day to day functioning of the NHS (Atewologun et al, 2019: 42). Participants in this research also mentioned 'avoiding difficult conversations about best practice and a doctor's conduct' as the main cause of overrepresentation in these complaints (Atewologun et al., 2019: 37). They also expressed a desire for more training on approaching direct conversations, without which they expected a 'build-up of incidents of unfamiliar and/or incorrect practices' and mistakes being repeated (Atewologun et al, 2019: 38). In addition, they observed the lack of feedback on issues related to 'national or cultural factors' (Atewologun et al., 2019: 36). As part of this socialisation support, the report argues that NHS bodies employing foreign doctors need to provide them with more help in making the transition. Overseas doctors also need more induction into the cultural dimensions of medical practice in Britain.

In addition, working patterns in medicine were a factor in that Black, Asian and minority ethnic doctors often face isolated or segregated working in particular roles and locations: overall,'isolation makes some doctors vulnerable and unsupported' (Atewologun et al., 2019: 48).

For those in primary care, this was often relevant to Black, Asian and minority ethnic GPs, many of whom 'experience isolated working in challenging areas'. Black, Asian and minority ethnic doctors are more likely to work in smaller practices in deprived areas that tend to suffer from heavy workloads, 'a substantial proportion of those doctors are also overseas doctors by Primary Medical Qualification (Atewologun et al., 2019: 51).

Research from professional regulators reveals, then, a range of factors that make Black, Asian and minority ethnic professionals more vulnerable to complaints about potential misconduct being raised with regulators. In particular, the research highlights intersections between ethnicity and other factors including gender, experience, country of qualification, status and a range of job and organisation related factors. The research does not, however, fully reveal how such intersections generate overrepresentation.

Gender

Gender has received a lot of attention in research on unethical intentions and/or unethical behaviour. The key assumption of this research is that women generally make decisions and behave differently from men, specifically they are more likely to take into consideration, the impact of their actions on others and to act in a more socially responsible manner (eg, Kidwell, Stevens, & Bethke, 1987; Akaah, 1989; Sr & Costa, 1994; Kujala & Pietiläinen, 2004). This kind of reasoning is still prevalent and has led to arguments that female leaders have outperformed their male counterparts in dealing with the pandemic (Chamorro & Wittenberg, 2020) and that female leaders would have avoided the 2008 financial crisis (the Lehman Sisters hypothesis, eg, Van Staveren, 2014).

Consistent with this view, some studies have found that female professionals are less likely to be subject to complaints about potential misconduct than their male colleagues (Unwin, Woolf, Wadlow, & Dacre, 2014; Tibble, Broughton, Studdert, Spittal, Hill, Morris, & Bismark, 2018). In addition, 'Fair to Refer' commissioned by the GMC shows that male doctors are more likely than female doctors to be the subject of complaints (Atewologun et al, 2019).

However, claims that females are more ethical than their male colleagues have received at best mixed support (Tenbrunsel & Smith-Crowe, 2008) with some studies confirming this hypothesis (Latham & Perlow, 1996; Borkowski & Ugras, 1998) but others finding negative or trivial results (Hegarty & Sims, 1978, 1979; Thoma & Rest, 1986).

In the context of the legal profession, existing research (Hatamyar & Simmons 2004 [https://onlinelibrary.wiley.com/doi/full/10.1111/jels.12216?casa_token=k5FzLkfai2YAAAAA%3AQcsHWtch49g0dDi07DkPZ3onv6Z7sD68unxZUVol9tcBLGj3ENZUcwof_XflHMoJevp5C8SGUDLt#jels12216-bib-0033] ; Curtis & Kaufman 2004 [https://onlinelibrary.wiley.com/doi/full/10.1111/jels.12216?casa_token=k5FzLkfai2YAAAAA%3AQcsHWtch49g0dDi07DkPZ3onv6Z7sD68unxZUVol9tcBLGj3ENZUcwof_XflHMoJevp5C8SGUDLt#jels12216-bib-0026] ; Sklar et al, 2019) shows that gender is a relevant factor in relation to complaints, with male solicitors more likely to be subject to complaints about potential misconduct than their female colleagues. The correlation with gender is also identified in the Upholding Professional Standards Monitoring Report for 2020/21 (SRA, 2022), with 62 per cent of complaints received in 2020/21 relating to men, despite these representing 48 per cent of the practising population.

In some studies, the overrepresentation of male solicitors has been explained in relation to the fact that women may be more communicative and collaborative in their work practices and that, in turn, this more engaged approach to client management may help to minimise complaints (Hatamyar & Simmons 2004 [https://onlinelibrary.wiley.com/doi/full/10.1111/jels.12216?casa_token=k5FzLkfai2YAAAAA%3AQcsHWtch49g0dDi07DkPZ3onv6Z7sD68unxZUVol9tcBLGj3ENZUcwof_XflHMoJevp5C8SGUDLt#jels12216-bib-0033] ; Curtis & Kaufman 2004; [https://onlinelibrary.wiley.com/doi/full/10.1111/jels.12216?casa_token=k5FzLkfai2YAAAAA%3AQcsHWtch49g0dDi07DkPZ3onv6Z7sD68unxZUVol9tcBLGj3ENZUcwof_XflHMoJevp5C8SGUDLt#jels12216-bib-0026] Sklar et al, 2019).

Conversely, according to one study 'traditional masculine norms such as stoicism, self-reliance, and restrictive emotionality mean that men are generally less likely to confide in others and seek help' (Sklar et al., 2020: 281). A study by Wallace et al. (2017), however, shows that complaints against female solicitors are rising, with the authors indicating the possibility that this is a result of the growing number of female solicitors. Data from the SRA confirms this trend, with the percentage of concerns raised that relate to female solicitors rising from 33 per cent in 2018/19 to 38 per cent in 2020/21 (SRA 2022).

Building on research within and outside the legal profession which has shown that gender may affect the likelihood of complaints being made about potential misconduct, or impact the risk of misconduct itself, we advance the following proposition:

Proposition 2: Gender is likely to be a factor in complaints about potential misconduct made to regulators.

Age and experience

The same inconsistencies outlined in relation to gender, apply to research on age and experience (Tenbrunsel & Smith-Crowe, 2008). Whereas a number of studies suggest that older, more experienced individuals may be subject to fewer complaints about potential misconduct, some studies have highlighted how older and/or more experienced individuals may become more disengaged and less idealistic (Marques & Azevedo-Pereira, 2009; Sundgren & Svanström, 2014), and thus may have an increased likelihood of complaints being made about potential misconduct (Studdert, Bismark, Mello, Singh, & Spittal, 2016).

Yet, whilst we have mixed empirical results from these studies, prior research has generally provided support (Trevino, 1992a) for the idea that age and experience are linked to higher levels of cognitive moral development (the ability of making complex ethical decisions - see more below). This link is through more experience and training and in turn may lead to a reduced likelihood of complaints being made about potential misconduct, or impact the risk of misconduct itself.

Existing research within the legal profession shows that the likelihood of receiving a complaint rises with age (Davies, 1999; Hatamyar & Simmons, 2004 [https://onlinelibrary.wiley.com/doi/full/10.1111/jels.12216?casa_token=k5FzLkfai2YAAAAA%3AQcsHWtch49g0dDi07DkPZ3onv6Z7sD68unxZUVol9tcBLGj3ENZUcwof_XflHMoJevp5C8SGUDLt#jels12216-bib-0033] ; Sklar, Taouk, Studdert, Spittal, Paterson, & Bismark, 2019). One study (Hatamyar & Simmons, 2004 [https://onlinelibrary.wiley.com/doi/full/10.1111/jels.12216?casa_token=k5FzLkfai2YAAAAA%3AQcsHWtch49g0dDi07DkPZ3onv6Z7sD68unxZUVol9tcBLGj3ENZUcwof_XflHMoJevp5C8SGUDLt#jels12216-bib-0033]) puts the average age of disciplined solicitors in the USA at 50 for males and 46 for females. UK studies (Davies, 1999; Boon & Whyte, 2021) and Australian studies (Sklar, Taouk, Studdert, Spittal, Paterson, & Bismark, 2019) also confirm the overrepresentation of older solicitors (ie middle age) in complaints. Sklar et al (2020) suggest an age of 65 for their 'identikit' of problem solicitors.

These findings are somewhat counter-intuitive but might be explained by the progression of roles and responsibilities with careers, whereby younger solicitors are more likely to be supervised and are, therefore, less likely to receive complaints about potential misconduct, or less at risk of misconduct itself. Whilst older solicitors, due to their managerial roles, are more likely to be held accountable for the conduct of others in their team and organisation. Other explanations (Davies, 1999; Hatamyar & Simmons, 2004 [https://onlinelibrary.wiley.com/doi/full/10.1111/jels.12216?casa_token=k5FzLkfai2YAAAAA%3AQcsHWtch49g0dDi07DkPZ3onv6Z7sD68unxZUVol9tcBLGj3ENZUcwof_XflHMoJevp5C8SGUDLt#jels12216-bib-0033]) may include skills atrophy, age related impairments, over-confidence in one's experience and lack of attention to recent developments in office management and professional standards.

Conversely, some research has shown that younger solicitors at the beginning of their careers may have an increased likelihood of complaints being made about potential misconduct, or have an increased risk of misconduct itself (Piquero et al, 2016). This finding could be explained as a function of a relative lack of

experience. Overall research in this area suggests, therefore, that there might be a 'U shaped' relationship (Pearn Kandola, 2010) between age and complaints, with complaints most likely to occur at the top and at the bottom of the range. Whatever the explanation, it seems that in the legal profession, as well as in other professions, age is a factor which affects the likelihood of receiving complaints. This is why we propose the following proposition:

Proposition 3: Age and experience are likely to be a factor in complaints about potential misconduct made to regulators.

Country of qualification

Prima facie it should not be relevant whether a solicitor trained and first qualified in England and Wales or whether they were trained and first qualified overseas. All solicitors who are authorised to practise in England and Wales will have demonstrated to the SRA's satisfaction that they have met the requirements.

However, a previous SRA commissioned report (Pearn Kandola, 2010) found that qualification in some overseas jurisdictions, such as the Global South, results in a higher likelihood of complaints about potential misconduct. Although this study was carried out some time ago when the SRA's admissions requirements were different, it may be something that could merit further investigation in the light of findings from research conducted in other professional contexts.

A report commissioned by the GMC found doctors trained outside Britain to be 2.5 times more likely to be referred by their employer to the GMC than doctors who trained in Britain (Atewologun et al., 2019). The report suggests that one of the reasons behind this disproportionality is the exclusion from 'ongoing socialisation support', which involves the implicit rules or taken for granted assumptions embedded in the day-to-day functioning of the NHS.

As part of socialisation support, the report argues that NHS bodies employing doctors trained outside Britain need to provide them with more help in making the transition. The report also argues that these doctors also need more induction into the cultural dimensions of medical practice in Britain. We thus advance the following proposition:

Proposition 4: Country of qualification is likely to be a factor in complaints about potential misconduct made to regulators.

Social class and status

Social class – either as an adult (eg, Braithwaite, 1985; Coleman, 1987; Weisburd et al, 1991) or during childhood (Roman, Naumovska, & Haleblian, in press) - has also been shown to impact the likelihood of complaints being made about potential misconduct, or impact the risk of misconduct itself. Status is defined as the rank of a social actor in a given hierarchy (Podolny 1993) and captures 'a pecking order – in which an individual's location within that hierarchy shapes others' expectations and actions toward the individual' (Podolny 2010: 11). Status combines an individual socio-economic background (ie, their social class) to their social connections and/or professional achievements and thus generally correlates to social class.

Research proposes that middle class individuals have an increased likelihood of complaints being made about potential misconduct, or are at increased risk of being involved in misconduct itself, than individuals from other socio-economic backgrounds. They suffer more from what is generally referred to as 'status-anxiety', ie the fear of losing their status. This fear can heighten the risk of being involved in misconduct as individuals strive to succeed 'at all costs' to protect their status.

As far as childhood social class is concerned, existing research indicates that individuals raised in middle class families are a social group characterised as living under 'status panic' (Mills, 1951) and a constant fear of 'failing' (Coleman, 1987) and 'falling' (Newman, 1988; Ehrenreich, 1989). Accordingly, they are status conscious and aware of the fragility of their social standing in which they perceive their status as based on professional performance. Similar mechanisms apply to adulthood social class. Interestingly, research on the relationship between social class and misconduct has also shown that 'anxiety-relieving factors', such as elite education and membership of prestigious clubs (Roman, Naumovska, & Haleblian, in press), reduces the risk of misconduct itself, pointing at the need to study the impact of these factors in combination.

The impact of social class and status on the likelihood of complaints being made about potential misconduct, or the risk of misconduct itself has not received substantial consideration in academic research on the legal profession. We only found one relevant study (Asting & Gottschalk, 2022: 6), that suggests that one of the explanations for why a Norwegian solicitor became involved in misconduct is that 'he had a very high status in the local community'. However, as the impact of social class and status on the likelihood of complaints being made about potential misconduct, or risk of misconduct itself has been documented in other professional contexts, we propose the following two propositions:

Proposition 5: Social class is likely to be a factor in complaints about potential misconduct made to regulators.

Proposition 6: Status is likely to be a factor in complaints about potential misconduct made to regulators.

Health and wellbeing

Several studies have provided evidence of an association between health and wellbeing concerns and the likelihood of complaints being made about potential misconduct, or risk of misconduct itself. Factors such as psychological stress at work and in personal lives, mental health issues, and use of alcohol and drugs have been shown to be particularly relevant (Goldman & Lewis, 2008; Pritam & Hale, 2010; Cubitt & Judges, 2018; Rychert & Diesfeld, 2019; Stogner, Miller, & McLean, 2020; Parlangeli, Palmitesta, Bracci, Marchigiani, Di Pomponio, & Guidi, 2022).

For example, research on workplace experiences of ethnic minority and overseas nurses suggests that the fact that they 'face a number of stressors and pressures within the NHS' may explain why they are disproportionately referred in 'fitness to practise cases', although this research also concludes that there is insufficient evidence that 'directly link[s] these challenges to overrepresentation of BAME nurses and midwives in FtP enquiries' (NMC, 2017: 10).

With reference to the legal profession, a study of Australian solicitors found that when solicitors are in poor health or under 'pressures from relationship breakdowns, death or illness in the family, or financial difficulties' there is an increased risk of misconduct (Sklar et al., 2020: 269). In a similar study conducted in the UK, Davies (1999: 161) found that 'overwork, health, addiction and family problems were common amongst defaulting solicitors'. Similarly, Foley, Holmes, Tang and Rowe (2015) documented the importance of wellbeing for ethical development of newly admitted solicitors.

Consistent with these findings, Baron and Corbin (2019) reported how the Legal Services Commission Queensland remarked that psychological distress is 'the elephant in the room in a large proportion of the matters' they have to deal with. Since health and wellbeing seem to be important factors affecting the likelihood of complaints being made about potential misconduct, or increasing the risk of misconduct itself, both in the legal and in other professions, we propose the following proposition:

Proposition 7: Health and wellbeing are likely to be a factor in complaints about potential misconduct made to regulators.

Cognitive factors

Cognitive factors centre around the concept of cognitive moral development (Kohlberg, 1969) which refers to an individual's ability to process ethical dilemmas. It is a hierarchical concept with the highest level referring to situations where individuals can use sophisticated forms of reasoning to make decisions that support societal good, whilst lower levels are characterised by unthinking forms of obedience or self-interested forms of reasoning. Many empirical studies (Treviño, 1992a, Treviño et al, 2006) show that there is a negative association between higher levels of cognitive moral development and the likelihood of misconduct, suggesting that this is an important factor to consider.

Whilst cognitive moral development is something which develops over time and can be supported by targeted training and the exposure to particular situations, ethical decision making is also affected by preferences and beliefs that may be more static as components of one's personality. A key factor might be whether individuals are morally idealists – they believe in universal moral standards regardless of the context – or relativists – they consider ethics to be situational and context specific (Forsyth, 1992).

Another relevant personality trait is Machiavellianism (Nelson & Gilbertson, 1991) which refers to one's readiness to manipulate social relationships for personal advantage. Research has suggested that both ethical relativism (Barnett, Bass, & Brown, 1994) and Machiavellianism (Hegarty & Sims, 1978; Shafer & Wang, 2011; Murphy, 2012) tend to be associated with the risk of misconduct.

A final personality characteristic is the locus of control (Rotter, 1966) or one's tendency to explain events internally, ie, as the result of one's actions or, externally, as the result of events outside of one's control. The latter, given one's readiness to absolve themselves from the consequences of their actions, has been theoretically associated with misconduct (Treviño, 1986) and received some degree of empirical support (Treviño & Youngblood, 1990; Jones, 1991).

Within the legal profession, a number of studies have examined the psychological characteristics and moral values of solicitors, including negative ones such as over-ambition, narcissism, and aggression (Daicoff, 1997). However, few studies have tied these characteristics and values to the risk of misconduct. One exception is Sklar et al.'s (2020) profile study of 67 solicitors who had received multiple complaints. Some of the characteristics they identify are demographic (gender and age) or organisational (size, type, and location of firm) and as such they are covered elsewhere in this review. Others, however, refer to personality and behavioural types. The study finds 'low conscientiousness' leading to poor case file management and unresponsiveness, 'low agreeableness' leading to conflict with clients and others, and 'high emotionality' leading to over-involvement with clients and their cases, something which we will also return to in the section on client capture.

Another exception is Levin (2012) who uses Machiavellianism to explain why the solicitors examined in her study engaged in misconduct. The author argues that much of the misconduct she observed 'was seemingly motivated by money' and that the 'love of money' shown by the solicitors in her study was associated with Machiavellianism, ie to a manipulative behavioural disposition.

As some research within the legal profession and in other research contexts has documented the relevance of cognitive factors in determining the likelihood of complaints being made about potential misconduct, or the risk of misconduct itself, we propose the following four propositions:

Proposition 8: Cognitive moral development is likely to be a factor in complaints about potential misconduct made to regulators.

Proposition 9: Ethical relativism is likely to be a factor in complaints about potential misconduct made to regulators.

Proposition 10: Machiavellianism is likely to be a factor in complaints about potential misconduct made to regulators.

Proposition 11: Locus of control is likely to be a factor in complaints about potential misconduct made to regulators.

Job related factors

Job-related factors include workplace identification, occupational identification, and job satisfaction.

Workplace and occupational (or professional) identification

Workplace identification (Ashforth & Mael, 1989) may be associated with the likelihood of complaints being made about potential misconduct, or impact the risk of misconduct itself. Existing research draws from social identity theory (Tajfel & Turner, 1979) to theorise that the degree to which individuals base their identity on the organisations they work for, may predict beneficial acts towards the organisation, even when these are unethical (Umphress, Bingham, & Mitchell 2010; Vadera & Pratt 2013; Ploeger & Bisel, 2013; May, Chang, & Shao 2015; Vadera & Pratt, 2016; Conroy, Henle, Shore, & Stelman, 2017; Coppins & Weststar, in press). Individuals who strongly identify with their organisation may choose to disregard personal moral standards and engage in acts that favour the organisation, possibly even at the expense of those outside it (Ashforth & Anand, 2003). Strong workplace identification, in other words, may compel employees to disregard ethical standards (eg, personal values, norms, and cognitive processes) in favour of behaviours that ostensibly aid the organisation.

Occupational or professional identification is defined as the conscious awareness of oneself as a member of a chosen occupation or profession where this membership becomes self-defining (Skorikov & Vondracek, 2011). This has been shown to be associated with moral decision-making, leading to a reduction in unethical behaviour (Leavitt et al, 2012) or a greater tendency to challenge unethical practices (Gunz & Gunz, 2007). Individuals who are socialised within an occupation or a profession are believed to be at a lower risk of misconduct than 'more peripheral', less socialised individuals (Parker, 1994; Anderson-Gough, Grey, & Robson, 2000). This is because socialisation - ie the set of formal and informal processes which enable individuals to become functioning members of a group - helps junior members of the occupation or the profession to develop notions of professionalism that include the display of appropriate behaviours in addition to technical competence.

Although there is plenty of research on the job-related characteristics described above in the legal profession, very few studies examine the link between these characteristics and the likelihood of complaints being made about potential misconduct, or the risk of misconduct itself. A notable exception is the study conducted by Kuhn (2009) in a mid-sized Canadian law firm, which reveals four sources of identification that affect solicitors in ways relevant to misconduct:

- identification with the profession
- identification with the organisation (ie, workplace identification)
- identification with certain cases, and
- identification with higher goals (eg, the pursuit of justice).

According to the author, solicitors who identify with the organisation they work in are at higher risk of becoming a 'corporate lackey', ie, servile attendants or followers of the organisation, and of trading-off their professional norms and values for the benefit of this organisation.

Another exception is the study of in-house solicitors, in which Gunz and Gunz (2002) identify three different groups of professionals in terms of how they balance their organisational and professional identities. The first group perceives a lack of conflict between their professional ethical obligations and those arising from their employment. Individuals in this group are thought to adopt a 'lawyer' role. The second and third group perceive a conflict but solve this in different ways: group two by adopting a 'technician' role and group three by adopting an 'organisation person' role. Both roles raise different challenges which may lead to misconduct. Technicians may focus too narrowly on means, at the expense of broader substantive goals, whilst organisational people, might prioritise corporate over professional objectives (more on this point below in the section on organisational culture).

A later paper by the same authors (Gunz & Gunz, 2007) shows how, over time, employed solicitors tended to move towards a more organisational identity, especially if they spent more time on managerial and strategic tasks and less on professional ones. Yet, individuals who were more isolated within the organisations and who believed that career opportunities were predominantly located in their department rather than the organisation as a whole, displayed more of a professional identity.

We, therefore, propose the following propositions:

Proposition 12: Workplace identification is likely to be a factor in complaints about potential misconduct made to regulators.

Proposition 13: Occupational or professional identification is likely to be a factor in complaints about misconduct made to regulators.

Job satisfaction

The other job-related factor identified in the literature is job satisfaction. Several studies have examined how different levels of job satisfaction affects the risk of unethical behaviour (Fu, 2014; Othman, Omar, Azam, Ibrahim, Farouq, Rustam, & Aris, 2014). Other studies have analysed how different levels of job satisfaction moderate the relationship between a series of other factors and unethical behaviours (Liu, Lin, & Wei, 2013; Zhang, 2020; Wu, Ming, & Huang, 2019). In all cases, the argument is that individuals with low levels of job satisfaction, perhaps because of workloads, financial insecurity, or lack of progression opportunities, may resort to unethical forms of behaviours to 'even the score' or 'get their own back' (Judge, Scott, & Illies, 2006).

Although to the best of our knowledge, no study on the legal profession empirically examines the association between job satisfaction and the likelihood of complaints being made about potential misconduct, or the risk of misconduct itself, we build on studies conducted in other research contexts to propose the following proposition:

Proposition 14: Job-satisfaction is likely to be a factor in complaints about potential misconduct made to regulators.

4.2 Organisational factors

A vast body of literature associates organisational-level factors and the likelihood of complaints being made about potential misconduct, or the risk of misconduct itself (Treviño & Youngblood, 1990; Kish-Gephart, Harrison, & Treviño, 2010). This is often referred to as the 'bad barrel' hypothesis and emphasises the role of organisational factors in increasing the potential risks of misconduct. These organisational factors can refer either to the culture of an organisation or to more structural considerations such as size, complexity, structural assurance and status, and profitability – or its opposite, financial strain. We review these factors below.

Cultural factors

The most direct link between organisational culture and the likelihood of complaints being made about potential misconduct, or the risk of misconduct itself is highlighted by research that focuses on cultural characteristics that define the ethical climate and culture of an organisation. Organisations which present an 'egotistical climate' (Victor & Cullen, 1988) which emphasises personal interest, may increase the likelihood of misconduct. Conversely, organisations whose culture emphasise the wellbeing of a wide group of stakeholders ('benevolent climate'), reduce that risk.

Additionally, the role of senior leaders in promoting and reinforcing ethical behaviours also matters. Organisations that have clear ethical leadership, backed up by appropriate formal systems (reward and disciplinary systems, ethical codes) and informal norms, reduce the likelihood of complaints being made about potential misconduct, or reduce the risk of misconduct itself. Indeed, scholars who have looked critically at the finance or accounting sector have connected cases of misconduct such as Enron and WorldCom to a shift from custodial to more commercial cultures within professional services firms and the subsequent weakening of ethical norms and systems (Grey, 2003; Muzio et al, 2016).

Across a range of types of organisations, organisational culture has also been shown to increase the likelihood of complaints being made about potential misconduct, or increase the risk of misconduct itself because of its 'normalizing' of questionable acts (Ashforth & Anand, 2003). Gioia (1992), for example, shows how some organisational norms can dull 'moral awareness' and promote unethical behaviour. Similarly, organisational cultures that emphasise particular ends, regardless of the means used to achieve these ends, can sometimes unwittingly encourage moral shortcuts (Ashkanasy, Windsor, & Trevino, 2006). Palmer (2008) shows how the behaviours of individuals are shaped by social influence processes – such as norms of reciprocity, social comparison, and dissonance reduction – meaning that individuals might be drawn into and then become caught within a flow of misconduct if those around them role-model such behaviour.

In some instances, as in the Enron affair, extraordinary performance and the linking of material and symbolic rewards to attainment of that performance, become associated with norms that rationalise improper means (Sims & Brinkmann, 2003; Kulik, 2005). Lewis (1990), for example, describes how the culture at Salomon Brothers endorsed the portrayal of customers as deserving of exploitation because of their ignorance. Similarly, Ho (2009) strikingly shows how hubris in Wall Street investment banks rationalised questionable professional actions.

With specific reference to solicitors, there is a growing body of research that suggests that the cultural environment in which solicitors practise is key to understanding the risk of misconduct (Levin, 2004; Mathers, 2011; Tang et al, 2020a). One study found that solicitors can develop norms that lead to rule breaking by observing other solicitors (eg, Abel, 2008). Other studies found that perceptions of the ethical climate within a law firm are important for understanding the extent to which an individual solicitor is able to act ethically at work, to feel satisfaction from their work, and maintain psychological wellbeing (Tang et al, 2020a, 2020b). Moorhead, Godinho, Vaughan, Gilbert and Mayson (2016) refer to such influences from the cultural environment as factors affecting the 'moral compass' of solicitors.

In a rare study which explicitly applies the concept of ethical climate to the problem of professional misconduct in the legal profession, Tang et al. (2020; see also Barron & Corbin, 2016) use survey data to identify three

types of ethical climates in Australian law firms. Two of these, termed 'ethical apathy' and 'getting ahead', were ethically challenging albeit for different reasons. The first displayed a lack of ethical awareness and motivation, whilst the second displayed a 'strong emphasis on personal and instrumental goals, even at the expense of relationships and ethical norms' (Tang et al 2020). The final climate, which just over half of respondents reported in their law firm, was more positive and displayed a (slightly) above average emphasis on ethical care and was accordingly, labelled as 'positively balanced'. Respondents operating in this latter type of climate displayed higher levels of job satisfaction and wellbeing together with lower levels of stress vis-à-vis their peers operating in the more negative climates.

Whilst Tang et al (2020) do not explicitly tie ethical climates to the likelihood of complaints, their study suggests that more positive climates should lead to fewer ethical breaches and, therefore, presumably fewer complaints. Indeed a growing literature has focused on the key characteristics of positive workplaces in the legal profession and how these may be engineered (Marsick & Watkins, 2003 [https://www.tandfonline.com/doi/full/10.1080/09695958.2020.1765782]; Parker & Aitken, 2011; Tang & Foley, 2014 [https://www.tandfonline.com/doi/full/10.1080/09695958.2020.1765782]; Tang et al., 2020). For instance, Baron and Corbin (2017) suggest, with reference to the case of Australian law firms, there is a higher risk of misconduct in cultures that show:

- a lack of or 'intolerance' towards diversity and to 'different ideas, thinking and approaches'
- 'a strong focus on profits over people and a related abuse of power and position' and
- 'a lack of inclusivity, support or encouragement'.

Similarly, in England and Wales, Omari and Paull (2013) warn that a competitive environment, 'coupled with established hierarchical structures, significant power imbalances and pressure to measure work input rather than output (billable hours), can create "toxic" settings'. These settings, in turn, increase the risk of misconduct, because solicitors either strive at all costs to maximise profits as a sign of success, or experience strain or become disenfranchised, as a result of a sense of not fitting-in with their firm's culture and expectations.

Conversely, dialogue, inclusivity, reflexivity, and a nurturing environment (Foley et al, 2015; Baron & Corbin, 2016; Tang et al, 2020) are seen as important markers of a positive climate and as leading to fewer complaints against solicitors. Such findings align with insights from the SRA thematic review on in-house solicitors (SRA, 2023). This found that balancing the client's interests and the interests of the public can be challenging when there are 'political and economic pressures, increasing workloads' that make managing 'conflicting duties and ethical and regulatory risks' more difficult.

Importantly, whilst each organisation ultimately retains control of its own culture, an organisation's culture may be affected by broader trends which are transforming the legal profession and the larger firms in particular. Specifically, there is strong body of literature which suggests that the commercialisation, financialisation and bureaucratisation of the legal profession (Abel, 1988; Hanlon, 1999; Muzio & Ackroyd, 2005; Faulconbridge & Muzio, 2009) is affecting the culture and ethical climate of law firms in ways which may increase the likelihood of complaints being made about potential misconduct, or increase the risk of misconduct itself.

This is because sections of the profession had been adopting new logics which prioritised commercial success, profitability and cost effectiveness over public interest values (Thornton et al, 2005; Faulconbridge and Muzio, 2021), having potential implications for the moral compass of solicitors. For instance, research by Chow and Calvard (2020: 213) shows how, in these increasingly commercialised contexts, solicitors practise in situations of constrained morality which are 'limited to instrumental, utilitarian and commercial ends, and subordinated to lucrative client and firm interests'. Another study showed how this could include subordinating their broader fiduciary obligations as officers of the court to the commercial interests of their client or of their employers (Muzio et al, 2016). However there is other evidence of younger solicitors being motivated by factors such as work-life balance or environmental, social and governance (ESG) concerns (Malhotra et al 2021).

An extensive body of work shows how large professional services firms, including law firms, (Covaleski et al, 1998; Grey, 1998; Anderson-Gough et al, 2000; Cooper & Robson, 2006) 'use a bundle of increasingly sophisticated HR practices such as selective recruitment, in-house training, performance appraisal and mentoring' to socialise their professionals into organisation specific systems, practices, and values (Flood, 2011: 510).

A number of studies point to the danger that this corporate socialisation effort may push professionals towards a predominantly organisational identity and towards the consequent prioritisation of their employer's financial and market-led objectives over broader professional and deontological considerations (see Omari & Paull, 2013; Chan, Leung, Yuan, 2014; Middleton, 2014).

Research on links between organisational culture and the risk of misconduct highlights, then, that the culture of the organisation that professionals practise in has a significant influence on the likelihood of complaints being made about potential misconduct, or the risk of misconduct itself. Therefore, we propose the following proposition:

Proposition 15: Organisational culture is likely to be a factor in complaints about potential misconduct made to regulators.

Structural factors

Existing research has also emphasised the way organisational structures may be relevant to questions about misconduct. The most studied structural factors are organisational size, complexity, structural assurance and status, and profitability – or its opposite, financial strain. We review these factors below.

Organisational size

An organisation's size has been shown to be an important factor in the likelihood of complaints being made about potential misconduct, or the risk of misconduct itself. Some scholars have argued that larger organisations reduce these risks, as their size is associated with greater social and media visibility (Chen, Cumming, Hou, & Lee, 2016; Xiong, Chapple, & Yin, 2018; Hagendorff, Le, & Nguyen, 2022). Other scholars, however, have argued the contrary as large firms provide more opportunities for their employees to conceal their actions (Dalton & Kesner, 1988; Baucus & Near, 1991; McKendall & Wagner, 1997; Prechel & Morris, 2010). In either case, an organisation's size seems to be a relevant factor in the literature.

The impact of organisational size on the likelihood of complaints being made about potential misconduct, or the risk of misconduct itself is particularly evident for sole/isolated practitioners. A report commissioned by the GMC indicated that ethnic minority doctors mentioned being isolated or segregated in particular roles and locations, as one of the possible causes of disproportionality in the complaints raised with the Council (Atewologun et al, 2019: 48). The report concluded that, overall, 'isolation makes some doctors vulnerable and unsupported'. This aspect was believed to be particularly relevant to ethnic minority GPs, many of whom 'experience isolated working in challenging areas' (Atewologun et al., 2019: 51).

Sole practitioners and solicitors working in small firms are reported in some literature to be consistently overrepresented in disciplinary cases (Levin, 2004; Boon & Whyte, 2021; Piquero et al, 2016). This has been linked to a number of contextual factors, including less administrative support in the form of secretaries and assistants (Piquero et al, 2016). Others have emphasised 'the absence of peer and hierarchical controls, business and personal financial pressures and the presence of greater opportunity for undiscovered transgression' (Boon & Whyte, 2021: 149).

In research on disciplinary processes within the Florida Bar, while several factors were related to the decision to progress a case to the grievance committee, only the status of being a sole practitioner shaped the outcome of whether or not the solicitor in question was issued with a sanction (Piquero et al, 2016). One study highlighted that the explanation may be that sole practitioners have fewer resources than big firms with which to respond to and defend against complaints and misconduct accusations when they are initially made by a client (Mather, 2011).

In the US context, Levin (2004, 311) points to biases against sole practitioners within the legal system, for instance in the form of a stereotype that they are likely to be less ethical. Richard Abel's (2008) in-depth study of solicitors disciplined at the New York bar focused exclusively on sole practitioners and small firms, noting that the bar was more likely to investigate these types of organisations. The study suggests this pattern may reproduce the sense that these organisations are more at risk of being sites for misconduct.

Given the recognised importance of size as a factor affecting the likelihood of complaints being made about potential misconduct, or the risk of misconduct itself within and outside the legal profession, we propose the following proposition:

Proposition 16: Organisational size is likely to be a factor in complaints about potential misconduct made to regulators.

Organisational complexity

Complexity is another characteristic that has been studied in relation to the likelihood of complaints being made about potential misconduct, or the risk of misconduct itself (Baucus & Near, 1991; McKendall & Wagner, 1997; Prechel & Morris, 2010). Normally, complexity is positively correlated to size, but there may be instances in which even relatively small organisations are rather complex. Organisations that are complex – in terms of numbers of subunits, levels of management, and geographical distribution – may provide opportunities for managers and employees to engage in unseen unethical activities.

Moreover, organisational structures 'fragment information' and 'diffuse responsibility, such that participants in one part of an organisation sometimes do not feel obligated to (in fact, might even be forbidden from) point(ing) out the wrongful character of the behaviour of employees in another part of the organisation' (Palmer, 2008: 115). Complexity, in other words, compartmentalises and obscures improper behaviour and reduces the efficacy of managerial controls (Beenen & Pinto, 2009).

A number of studies have examined the association between the increasing level of structural and operational complexity in law firms and the risk of misconduct. Chambliss (2005) noted how the increase in the number of solicitors, national and international offices, and mergers had made it impossible for partners of a law firm to 'rely on social ties and informal, face-to-face interaction for making decisions, conveying firm policy, or monitoring the quality of lawyers' work', including their respect of ethical norms and expectations.

A different perspective is offered by Schneyer (1991), who attributed the infrequency of disciplinary proceedings against large-firm solicitors to the fact that 'even when a firm has clearly committed wrongdoing; courts may have difficulty, as an evidentiary matter, in assigning blame to particular solicitors, each of whom has an incentive to shift responsibility for an ethical breach onto others in the firm'. Working in teams,

according to the author, is largely responsible for the paucity of disciplinary proceedings against solicitors working in large law firms, as it 'not only encourages lawyers to take ethical risks they would not take individually, but also obscures responsibility. This makes it difficult for both complainants and disciplinary authorities to determine which lawyers committed a wrongful act' (on this point, see also Hazard & Schneyer, 2002).

O'Sullivan (2002) formulated a similar argument, arguing that 'the failure to hold anyone accountable for clear ethical transgressions, because no one person can be reliably identified… may create incentives for individual lawyers working on teams to skate too close to the ethical line, confident that the chain of accountability is sufficiently diffuse that they will be safe from disciplinary scrutiny'.

Given that prior research has shown that organisational complexity may impact the likelihood of complaints being made about potential misconduct, or the risk of misconduct itself, both within and outside the legal profession, we propose the following proposition:

Proposition 17: Organisational complexity is likely to be a factor in complaints about potential misconduct made to regulators.

Organisational status

Some scholars (Sharkey, 2014) have also pointed out how, as for individuals, the status an organisation is a relevant concern. The literature suggests that employees of middle-status organisations are generally believed to be at lower risk of misconduct, a hypothesis normally referred to as 'mid-status' conformity to social expectations and norms of proper behaviour. The opposite may be true of employees of high-status organisations, as they may feel that the status of the organisations they work in allows them to deviate from normative expectations and beliefs, or leads them to suspend their critical judgement. And employees of low-status organisations may have a higher risk of misconduct as a result of misguided efforts to improve their, or their organisation's status.

Other scholars (Smets, Morris, & Greenwood, 2012; Gabbioneta, Greenwood, Mazzola, & Minoja, 2013) have more directly associated the concept of status with structural assurance. According to these scholars, structural assurance explains how the status of an organisation may seduce individuals, leading them to suspend their critical judgment and to consider their employers demands as fair and proper (Wilson et al, 2008: 989) 'even though they may run counter to institutionalized norms of conduct' (Smets, Morris, & Greenwood, 2012: 897). Indeed, this is one of the mechanisms identified as being behind cases such as Enron or Parmalat (Gabbioneta, Greenwood, Mazzola, & Minoja, 2013).

Research on the legal profession seems to have paid relatively little attention to the potential impact of status and structural assurance on the likelihood of complaints being made about potential misconduct, or the risk of misconduct itself. However, considering the results of the studies conducted in other professional contexts, we propose the following proposition:

Proposition 18: Organisational status – and the extent to which it provides a form of structural assurance to employees – is likely to be a factor in complaints about potential misconduct made to regulators.

Organisational profitability (or strain)

Scholars like Palmer (2013) transfer strain theory (Merton, 1938) from the individual to the organisational level. This theory is usually used to explain vulnerability to crime amongst those who do not have other means to satisfy their needs. It has, however, been extended to explain how misconduct can arise when organisations are under strain because they are struggling financially (Simpson, 1987), or when individuals in an organisation are faced with unrealistic performance expectations from internal or external stakeholders (Mclean & Elkind, 2004).

In strain situations, organisational members, just like members of disadvantaged social groups, may feel that they are blocked in their aspirations/objectives and resort to unethical and even illegal means. Consistent with this view, a number of studies (Staw & Szwajkowski, 1975; Baucus & Near, 1991; Baucus, 1994; McKendall & Wagner, 1997; Harris & Bromiley, 2007) suggest that employees of organisations that are under strain because of low financial and/or market performance, are at a higher risk of misconduct than employees of financially healthy organisations. However, as already noted, even organisations that achieved good financial and/or market performance may increase the potential risks, as a result of efforts to meet the ever increasing or unrealistic expectations of internal or external stakeholders (Mishina, Dykes, Block, & Pollock, 2010).

With reference to the legal profession, a considerable number of studies have examined the association between a law firm's performance and the risk of misconduct. We could not find any study that examines whether solicitors working in firms under financial strain are at increased likelihood of complaints being made about potential misconduct, or increased risk of misconduct itself to retain clients or improve profitability. We located, however, a lot of studies that argue that profitability can be an important driver for the risk of misconduct, as solicitors may become involved in misconduct to improve their firms' external signals of success, such as profit-per-equity-partner, or to increase their short-term performance (Fortney, 2000; Regan, 2002, 2005; Richmond, 2009; Molot, 2014).

For example, Molot (2014) observes how today 'law firms place too much emphasis on current revenue generation - the annual 'profits-per-partner' numbers - and not enough emphasis on building long-term value'. The result is what he calls 'short-termism', a tendency to maximise short-term profit generation at the expense

of longer-term results. The author also argues that 'although law firms vary in how they divide current profits - with a few still clinging to lock-step compensation and more trending toward an 'eat-what-you-kill' approach - they almost all share a focus on maximizing those current profits' (on the 'eat-what-you-kill' approach, see also Regan, 2005).

Richmond (2009) points out that, although 'good law firms value all their partners', 'because clients are the lifeblood of all law firms, they tend to especially value rainmakers'. This can create potential problems for other solicitors. In a similar vein, Fortney (2000) suggests that law firms have 'lost their soul' and highlight the 'the dark side of hourly billing practices'.

Since organisational profitability appears to be an important factor in determining the likelihood of complaints being made about potential misconduct, or the risk of misconduct itself in the legal as well as in other professional contexts, we propose the following proposition:

Proposition 19: Organisational profitability is likely to be a factor in complaints about potential misconduct made to regulators.

4.3 Case-related factors

The literature suggests that certain types of cases or clients may be more likely to increase the risk of unethical decisions and behaviours than others (Jones, 1991). This has been referred to as the 'bad cases' hypothesis (Kish-Gephart, Harrison, & Treviño, 2010), with a number of factors producing 'bad cases' that increase likelihood of complaints being made about potential misconduct, or increase the risk of misconduct itself.

Moral intensity

Moral intensity 'captures the extent of issue related moral imperative in a situation' (Jones, 1991, p 372), that is to say, the extent to which a situation is associated with ethical concerns. Moral intensity matters, as a number of studies show that as moral intensity increases in a case, unethical intentions and behaviours decrease (May & Pauli, 2002; Paolillo & Vitell, 2002; Nill & Schibrowsky, 2005). This is most likely because cases with higher moral intensity are 'more likely to catch the attention of the moral decision maker and be recognized as having consequences for others' (Jones, 1991, p 381; on this point, see also Kish-Gephart, Harrison, & Treviño, 2010).

Moral intensity can increase as a result of a range of different factors, including:

- the magnitude of the consequences - as the degree of potential harm caused by the unethical action increases,
- social consensus - as the degree of consensus about the unethical nature of the action increases,
- the probability of effect - when there is greater likelihood that harm will be caused by the action,
- temporal immediacy - when time lag between the action and the harm caused is reduced,
- proximity - the greater closeness of the relationship between the person and the potential victim,
- concentration of effect - when the potential number of people affected is higher.

In summary, moral intensity implies that those involved in cases with factors that lead to recognisable ethical dilemmas decrease the likelihood of complaints being made about potential misconduct, or the risk of misconduct itself, than those involved in cases that raise less apparent ethical questions.

Whilst there is no research which has looked at moral intensity in relation to complaints in the legal profession, we have a body of knowledge that does this in the context of accountancy and other financial professions. Shafer, Morris and Ketchand (2001) show that the magnitude of consequences, and probability of effect, affected auditors' support for aggressive financial reporting practices. Indeed, there have also been calls to consider moral intensity formally as part of regulatory requirements (Jones, 1991; Cohen & Martinov-Bennie, 2006). Alleyne, Hudaib and Pike (2013) postulate that moral intensity moderates whistleblowing intentions by auditors.

Conversely, a small-scale qualitative study of anti-money laundering compliance officers (Coombs-Goodfellow & Lokanan, 2017: 530) reveals that 'the main consideration of the officers when deciding whether to take action is their legal obligations within the remit of law enforcement'. In other words, these compliance professionals were guided predominately by legal rather than moral considerations. The study also showed that when probed about the role of moral considerations in their decision-making, temporal immediacy followed by concentration of effect and probability of effect, were the most relevant dimensions.

Overall, research in related areas seems to suggest the relevance of moral intensity in relation to the likelihood of complaints being made about potential misconduct, or the risk of misconduct itself. We propose the following proposition:

Proposition 20: The moral intensity of a case is likely to be a factor in complaints about potential misconduct made to regulators.

Client capture

Another issue refers to client relationships, and to whether working with particular types of clients increases the likelihood of complaints being made about potential misconduct, or increases the risk of misconduct itself. A key idea here is the notion of client capture (Leicht & Fennel 2001; Gunz & Gunz 2008; Dinovitzer, Gunz, & Gunz 2014; Gabbioneta et al, 2014; Muzio et al, 2016) whereby professionals act exclusively in the interest of their clients at the expense of their broader fiduciary obligations towards other stakeholders.

Capture has been studied in accounting, primarily in the context of powerful clients who use the threat to take their business elsewhere to pressurise their professional advisors to act in particular ways (Dinovitzer, Gunz & Gunz 2014; Gabbioneta et al., 2014; Gustafsson et al, 2018). The research confirms this dynamic was certainly present in large scale scandals such as Enron where '[Arthur] Andersen team members routinely succumbed to demands for certification from Enron management' even when these ran against their professional judgment (Macey & Sale, 2003: 1179).

Research suggests the risk of capture is most likely to occur when a professional firm is over-reliant on one powerful client and in a context where client relationships are increasingly short term and transactional (Sharma, 1997; Macey & Sale, 2003; Muzio, Gabbioneta, Faulconbridge and Greenwood, 2016). As such, it has generally been studied in the corporate end of the professional services firms. Yet, these dynamics could apply to any size of firm which is fearful to lose an important account (Gabbioneta et al, 2013).

According to some studies, a particular strand of this argument applies when professionals are 'captured' by criminal clients via bribes or threats (Di Nicola & Zoffi, 2004; Middleton & Levi, 2005; Radaelli et al, 2019) and become an enabler or accomplice of their client (Kelly, 2002; see also Richmond, 2008). Whilst the above scenario is referred to as 'operational solidarity' and involves aiding and abetting a client's misconduct (Richmond, 2008), another possibility for capture is associated with situations of 'positional solidarity' (Margulies, 2003; 2005). The research indicates this is where a professional closely supports the client's political, social, and economic aims and identifies so closely with the client's case, that it might impact on their professional judgment and broader deontological responsibilities.

Whilst this 'over-identification' (see also Noonan, 2000; Spaulding, 2003) may occur in any context, one study (Levinson, 1993) suggests that this might be particularly relevant for those solicitors who are more likely to work with members of their own community.

Building on the studies outlined above which suggest that client capture may increase the likelihood of complaints being made about potential misconduct, or increase the risk of misconduct itself, we propose the following proposition:

Proposition 21: Client capture is likely to be a factor in complaints about potential misconduct made to regulators.

Areas of law

Studies suggest that some areas of law increase the likelihood of complaints being made about potential misconduct, or increase the risk of misconduct itself. Research suggests areas like 'criminal defence, domestic issues, and personal injury', which tend to be populated with clients with fewer financial resources, could create greater risk of complaints (Piquero et al, 2016: 575; Cowgill, 2008). Conversely this research also suggests that corporate clients are more likely to use alternative channels, such as raising concerns informally with a firm or leveraging the possibility of reputational damage in the broader community (Piquero et al, 2016: 575). In addition, clients in the areas of law that small firms are more likely to operate within (family law, personal injury, and criminal law) are usually more emotionally involved in their cases which may in turn increase the likelihood of complaints being made (Piquero et al, 2016: 575).

Drawing upon this initial evidence, we propose the following proposition:

Proposition 22: The area of law is likely to be a factor in complaints about potential misconduct made to regulators.

4.4 Conclusions: individual, organisational, and case-related factors

In sections 4.1- 4.3 above we have outlined a range of factors that may explain why Black, Asian and minority ethnic solicitors are overrepresented in complaints about potential misconduct raised with the SRA.

We have differentiated between three sets of factors: individual, organisational, and case-related factors. A combination of all three of these factors could be responsible for the increased likelihood of complaints being made about potential misconduct, or the increased risk of misconduct itself by certain groups.

As already noted in section 3.2 we believe that these factors should be understood as potentially co-existing with the socio-cognitive biases which are outlined in section 1.5.

5. Conclusions

This review is based on an extensive search of peer-reviewed academic literature, complemented by a series of reports from regulators of, amongst others, doctors, nurses, and solicitors.

It reveals how there is a limited evidence base relating to the causes of overrepresentation of minority ethnic groups in complaints about misconduct made to regulators, despite there being widespread recognition of patterns of overrepresentation across multiple professions.

Specifically, there are some reports from regulators in other professions, such as the medical and the policing professions, that, like the previous reports commissioned by the SRA, identify an increased likelihood of being reported about potential misconduct for certain minority ethnic groups. However, we found very little academic literature that specifically focuses on ethnicity as a factor in misconduct reporting and which explains the causes of overrepresentation.

The review highlighted two potential explanations for overrepresentation of Black, Asian, and minority ethnic solicitors in concerns raised with the SRA.

The first explanation is that Black, Asian and minority ethnic individuals may be more likely to be reported because of socio-cognitive biases in those making the complaints. Socio-cognitive biases relate to how a person's cultural or societal background may influence their conscious and unconscious perceptions or expectations of others. This in turn may make some groups more likely to complain about certain other groups.

The second explanation is that Black, Asian and minority ethnic individuals may be more exposed to individual, organisational, and case-related factors that either increase the likelihood of complaints being made about potential misconduct, or impact the risk of misconduct itself.

For example, Black, Asian and minority ethnic solicitors may be overrepresented in work areas or firm environments and circumstances that by their very nature are more likely to generate complaints about potential misconduct. These could be related to a wide range of factors which could be outside of the control of the individual solicitor in question, for example firm size, area of law or consumer demographics.

It is also important within the literature to distinguish between correlation and causality.

These two broad explanations identified in the literature review are not mutually exclusive and may co-exist.

6. Reference list

Abel, R (1988) *The Legal Profession in England and Wales*. Oxford: Basil Blackwell.

Abel, R (2008) *Lawyers in the Dock: Learning from Attorney Disciplinary Proceedings*. New York: Oxford University Press.

Akaah, IP (1989) Differences in research ethics judgments between male and female marketing professionals. *Journal of Business Ethics* 8, 375–381.

Alleyne, P, Hudaib, M, & Pike, R (2013) Towards a conceptual model of whistle-blowing intentions among external auditors. *The British Accounting Review* 45(1),10–23.

Anderson-Gough, F, Grey, C, & Robson, C (2000) In the name of the client: the service ethic in two professional services firms. *Human Relations* 53(9), 1151–1174.

Ashforth, BE, & Anand, V (2003) The normalization of corruption in organisations. In RM Kramer & BM Staw (Eds.), *Research in Organisational Behavior: an Annual Series of Analytical Essays and Critical Reviews*, vol. 25, pp. 1–52. Oxford: Elsevier.

Ashforth, BE, & Mael, F (1989) Social identity theory and the organisation. *The Academy of Management Review* 14(1), 20–39.

Ashkanasy, NM, Windsor, CA, & Treviño, LK (2006) Bad apples in bad barrels revisited: Cognitive moral development, just world beliefs, rewards, and ethical decision-making. *Business Ethics Quarterly* 16(4), 449-473.

Asting, C, & Gottschalk, P (2022) Attorney fraud in the law firm: a case study of crime convenience theory and crime signal detection theory. *Deviant Behavior*.

Atewologun, D, Kline, R, & Ochieng, M (2019) Fair to refer? Reducing disproportionality in fitness to practise concerns reported to the GMC. Available as a PDF [https://www.gmc-uk.org/-/media/documents/fair-to-refer-report_pdf-79011677.pdf] .

Barnett, T, Bass, K, & Brown, G (1994) Ethical ideology and ethical judgment regarding ethical issues in business. *Journal of Business Ethics* 13, 469–480.

Baron, P, & Corbin, L (2016) Ethics begin at home. *Legal Ethics* 19(2), 281-293.

Baron, P, & Corbin, L (2017) The unprofessional professional: do lawyers need rules? *Legal Ethics* 20(2), 155-173.

Baron P, & Corbin, L (2019) Lawyers, mental illness, admission and misconduct. *Legal Ethics*, 2291-2, 28-48.

Baucus, MS (1994) Pressure, opportunity and predisposition: A multivariate model of corporate illegality. *Journal of Management* 20(4), 699–721.

Baucus, MS, & Near, JP (1991) Can illegal corporate behavior be predicted? An event history analysis. *Academy of Management Journal* 34(1), 9-36.

Beenen, G, & Pinto, J (2009) Resisting organisational-level corruption: an interview with Sherron Watkins. *Academy of Management Learning & Education* 8(2), 275–289.

Boon, A, & Whyte, A (2019) Lawyer disciplinary processes: an empirical study of solicitors' misconduct cases in England and Wales in 2015. *Legal Studies* 39, 455–478.

Boon, A, & Whyte, A (2021) "Trusted to the ends of the earth?" An analysis of solicitors' disciplinary processes in England and Wales from 1994 to 2015. *International Journal of the Legal Profession* 28(2), 129-157.

Borkowski, SC, & Ugras, YJ (1998) Business students and ethics: a meta-analysis. *Journal of Business Ethics* 17, 1117–1127.

Braithwaite, J (1985) White collar crime. *Annual Review of Sociology* 11, 1-25.

Brescoll, VL, Dawson, E, & Uhlmann, EL (2010) Hard won and easily lost: the fragile status of leaders in gender-stereotype-incongruent occupations. *Psychological Science*, 21(11), 1640–1642.

Chambliss, E (2005) The scope of in-firm privilege. *Notre Dame Law Review* 80, 1721-1768.

Chamorro, T, & Wittenberg, A (2020) Will the pandemic reshape notions of female leadership. *Harvard Business Review*.

Chan, IYS, Leung, M, & Yuan, T (2014) Structural relationships between cultural values and coping behaviors of professionals in the stressful construction industry. *Engineering, Construction and Architectural Management* 21(2), 133-151.

Chen, J, Cumming, D, Hou, W, & Lee, E (2016) Does the external monitoring effect of financial analysts deter corporate fraud in China? *Journal of Business Ethics* 134, 727–742.

Chow, DYL, & Calvard, T (2020) Constrained morality in the professional work of corporate lawyers. *Journal of Business Ethics* 170, 213–228.

Chung-Herrera, BG, Gonzalez, GR, & Hoffman, KD (2010) When demographic differences exist: an analysis of service failure and recovery among diverse participants. *Journal of Services Marketing* [24(2](https://www.emerald.com/insight/publication/issn/0887-6045/vol/24/iss/2)), 128-141.

Cohen, J, & Martinov-Bennie, N (2006) The applicability of a contingent factors model to accounting ethics research. *Journal of Business Ethics* 68, 1–18.

Coleman, JW (1987) Toward an integrated theory of white-collar crime. *American Journal of Sociology* 93(2), 406-439.

Conroy, S, Henle, CA, Shore, L, & Stelman, S (2017) Where there is light, there is dark: A review of the detrimental outcomes of high organisational identification. *Journal of Organisational Behaviour* 38(2), 184-203.

Coombs-Goodfellow, B, & Lokanan, ME (2018) Anti-money laundering and moral intensity in suspicious activity reporting: an application of Jones' issue contingent model. *Journal of Money Laundering Control* 21(4), 520-533.

Cooper, DJ, & Robson, K (2006) Accounting, professions and regulation: Locating the sites of professionalization. *Accounting, Organisations and Society* 31(4–5), 415-444.

Coppins, T, & Weststar, J (in press) What about my occupation? A multidimensional view of workplace identification and unethical pro-organisational behaviour. *Research in the Sociology of Organisations*.

Cowgill, B (2008). Ethical Hazards of Solo and Small Firm Practice. *GPSolo*, 25.

Covaleski, MA, Dirsmith, MW, Heian, JB, & Samuel, S (1998) The calculated and the avowed: Techniques of discipline and struggles over identity in Big Six public accounting firms. *Administrative Science Quarterly* 43(2), 293–327.

Crandall, CS, Silvia, PJ, N'Gbala, AN, Tsang, J-A, & Dawson, K (2007) Balance theory, unit relations, and attribution: the underlying integrity of Heiderian theory. *Review of General Psychology*, 11, 12–30.

Cubitt, TI, & Judges, SJ (2018). Show cause analysis: A qualitative assessment of the factors influencing police misconduct from the perspective of the officers who commit it. *Policing: An International Journal* 41(6), 782-797.

Curtis, DM, & Kaufman, BJ (2004) A public view of attorney discipline in Florida: statistics, commentary, and analysis of disciplinary actions against licensed attorneys in the state of Florida from 1988–2002. *Nova Law Review* 28, 669–719.

Daicoff, S (1997) Lawyer, know thyself: a review of empirical research on attorney attributes bearing on professionalism. *American University Law Review* 46(5), 1337-1427.

Dalton, DR, & Kesner, IF (1988) On the dynamics of corporate size and illegal activity: An empirical assessment. *Journal of Business Ethics* 7, 861–870.

Davies, MR (1999) Solicitors, dishonesty and the Solicitors disciplinary tribunal. *International Journal of the Legal Profession*, 6(2), 141-174.

Di Nicola, A, & Zoffi, P (2005) Italian lawyers and criminal clients. Risks and countermeasures. *Crime Law and Social* Change 42(2), 201-225.

Dinovitzer, R, Gunz, H, & Gunz, S (2014) Unpacking client capture: evidence from corporate law firms. *Journal of Professions and Organisation* 1(2), 99–117.

Ehrenreich, B (1989) *Fear of Falling: The Inner Life of the Middle Class*. Pantheon Books.

Elm, DR, & Nichols, ML (1993) An investigation of the moral reasoning of managers. *Journal of Business Ethics* 12, 817–833.

Faulconbridge, J, & Muzio, D (2009) The financialization of large law firms: situated discourses and practices of reorganisation. *Journal of Economic Geography* 9(5), 641-661.

Faulconbridge, J and Muzio, D. (2021) 'Valuation devices and the dynamic legitimacy-performativity nexus: the case of PEP in the English legal profession'. Accounting, Organization and Society – 91(c) https://doi.org/10.1016/j.aos.2020.101224.

Field, C, Beven, J, & Pedersen, A (2008) Ethnicity, attributions for offending behaviour, and judgements of responsibility and severity of sentence. *Psychiatry, Psychology and Law* 15(1), 119-130.

Flood, J (2011) The re-landscaping of the legal profession: large law firms and professional re-regulation. *Current Sociology* 59(4), 507-529.

Foley, T, Holmes, V, Tang, S, & Rowe, M (2015) Helping junior lawyers thrive. *Law Institute Journal*, 44-47, ANU College of Law Research Paper No. 15-22.

Folkes, VS (1984) Consumer reactions to product failure: An attributional approach. *Journal of Consumer Research* 10(4), 398-409

Folkes, VS, Koletsky, S, & Graham, JL (1987) A field study of causal inferences and consumer reaction: the view from the airport. *Journal of Consumer Research* 13(4), 534-539.

Forsyth, DR (1992) Judging the morality of business practices: the influence of personal moral philosophies. *Journal of Business Ethics* 11, 461-470.

Fortney, S (2000) Soul for sale: An empirical study of associate satisfaction, law firm culture, and the effects of billable hour requirements. *UMKC Law Review* 69, 239-310.

Fu, W (2014) The impact of emotional intelligence, organisational commitment, and job satisfaction on ethical behavior of Chinese employees. *Journal of business ethics* 122(1), 137-144.

Gabbioneta, C, Greenwood, R, Mazzola, P, & Minoja, M (2013) The influence of the institutional context on corporate illegality. *Accounting, Organisations and Society* 38(6–7), 484-504.

Gabbioneta, C, Prakash, R, & Greenwood, R (2014) Sustained corporate corruption and processes of institutional ascription within professional networks. *Journal of Professions and Organisation* 1(1), 16–32.

General Pharmaceutical Council (2021) *Delivering equality, improving diversity and fostering inclusion Our strategy for change 2021–26*. Available at https://www.pharmacyregulation.org/sites/default/files/document/draft-equality-diversity-inclusion-strategy-consultation-april-2021.pdf [last accessed 20/04/2023]

Gioia, DA. (1992) Pinto fires and personal ethics: a script analysis of missed opportunities. *Journal of Business Ethics* 11(5-6), 379-389.

Goldman, L, & Lewis, J (2008) The invisible illness, *Occupational Health* 60(6), 20-21.

Graham, S (2020) An attributional theory of motivation. *Contemporary Educational Psychology* 61.

Graham, S, & Lowery, BS (2004). Priming unconscious racial stereotypes about adolescent offenders. *Law and Human Behavior* 28(5), 483–504.

Grey, C (1998) On being a professional in a "Big Six" firm. *Accounting, Organisations and Society* 23(5–6), 569-587.

Grey, C (2003) The real world of Enron's auditors. *Organisation* 10(3), 572-576.

Gus John (2014) *Independent comparative case review the Solicitors Regulation Authority*. Gus John Consultancy Limited.

Gunz, HP, Gunz, SP, & McCutcheon, JC (2002) Organizational influences on approaches to ethical decisions by professionals: The case of public accountants. *Canadian Journal of Administrative Sciences/Revue Canadienne des Sciences de l'Administration* 19(1), 76-91.

Gunz, H, & Gunz, S (2007) Hired professional to hired gun: An identity theory approach to understanding the ethical behaviour of professionals in non-professional organizations. *Human relations* 60(6), 851-887.

Gunz, HP, & Gunz, SP (2008) Client capture and the professional service firm. *American Business Law Journal* 45,685-721.

Gustafsson, S, Swart, J, & Kinnie, N (2018) "They are your testimony": Professionals, clients and the creation of client capture during professional career progression. *Organisation Studies* 39(1), 73–92.

Hagendorff, J, Le, N, & Nguyen, DD (2022) The walls have ears: local information environments and corporate fraud. *Journal of Money, Credit and Banking* 54, 2377-2410.

Hanlon, G (1999) The changing nature of professionalism and the fracturing of the service class. *International Review of Sociology* 9(1), 87-99.

Harris, J, & Bromiley, P (2007) Incentives to cheat: The influence of executive compensation and firm performance on financial misrepresentation. *Organisation Science* 18(3), 350–367.

Hatamyar, PW, & Simmons, KM (2004) Are women more ethical lawyers? An empirical study. *Florida State University Law Rev*iew 31, 785-858.

Hazard, GC., & Schneyer, T (2002) Regulatory controls on large law firms: a comparative perspective. *Arizona Law Review* 44, 593-608.

Hegarty, WH, & Sims, HP (1978) Some determinants of unethical decision behavior: An experiment. *Journal of Applied Psychology* 63(4), 451–457.

Hegarty, WH, & Sims, HP (1979) Organisational philosophy, policies, and objectives related to unethical decision behavior: A laboratory experiment. *Journal of Applied Psychology* 64(3), 331–338.

Heider, F. (1958) *The Psychology of Interpersonal Relations*. Hillsdale, New Jersey: Laurence Erlbaum Associates.

Hewstone, M (1990), The 'ultimate attribution error'? A review of the literature on intergroup causal attribution. *European Journal of Social Psychology* 20, 311-335.

Ho, K (2009) Disciplining investment bankers, disciplining the economy: Wall Street's institutional culture of crisis and the downsizing of "corporate America". *American Anthropologist* 111(2), 177-189.

Jones, J, Dovidio, J, & Vietze, D (2014) *The Psychology of Diversity*. West Sussex, UK: John Wily & Sons.

Jones, TM (1991) Ethical decision making by individuals in organisations: An issue-contingent model. *Academy of Management Review* 16(2), 366-395.

Judge, TA, Scott, BA, & Ilies, R (2006). Hostility, job attitudes, and workplace deviance: Test of a multilevel model. *Journal of Applied Psychology* 91(1), 126–138.

Kelley, HH (1967) Attribution theory in social psychology. *Nebraska Symposium on Motivation* 15, 192–238.

Kelly, MJ (2002) Can sovereigns be brought to justice - the crime of genocide's evolution and the meaning of the Milsoevic trial. *St. John's Law Review* 76, 257-378.

Kidwell, JM, Stevens, RE, & Bethke A.L. (1987) Differences in ethical perceptions between male and female managers: Myth or reality? *Journal of Business Ethics* 6, 489–493.

Kish-Gephart, JJ, Harrison, DA, & Treviño, LK (2010) Bad apples, bad cases, and bad barrels: Meta-analytic evidence about sources of unethical decisions at work. *Journal of Applied Psychology* 95(1), 1-31.

Kohlberg, L (1969) Stage and sequence: The cognitive-development approach to socialization. In D. A. Goslin (Ed.), *Handbook of Socialization Theory and Research* (pp. 347-480). Chicago: Rand McNally.

Kuhn, T (2009) Positioning lawyers: Discursive resources, professional ethics and identification. *Organisation* 16(5), 681-704.

Kujala, J, & Pietiläinen, T (2004) Female managers' ethical decision-making: a multidimensional approach. *Journal of Business Ethics* 53, 153–163.

Kulik, BW (2005) Agency theory, reasoning and culture at Enron: In search of a solution. *Journal of Business Ethics* 59(4), 347–360.

Latham, LL, & Perlow, R (1996) The relationship of client-directed aggressive and nonclient-directed aggressive work behavior with self-control. *Journal of Applied Social Psychology* 26(12), 1027–1041.

Leavitt, K, Reynolds, SJ, Barnes, CM, Schilpzand, P, & Hannah, ST (2012) Different hats, different obligations: Plural occupational identities and situated moral judgments. *Academy of Management Journal* 55(6), 1316-1333.

Leicht, K, & Fennell, ML (2001) *Professional Work: A Sociological Approach*. Blackwell Publishers.

Levin, LC (2004) The ethical world of solo and small law firm practitioners. *Houston Law Review* 41(2), 309-392.

Levin, LC (2012) Misbehaving lawyers: cross-country comparisons. *Legal Ethics* 15(2), 357-377.

Levinson, S. (1993). Identifying the Jewish lawyer: reflections on the construction of professional identity, *Cardozo Law Review* 14, 1579-833.

Lewis, M (1990) *Liar's Poker: Rising through the wreckage on Wall Street*. New York: Penguin Books.

Liu, S, Lin, X, & Hu, W (2013) How followers' unethical behavior is triggered by leader-member exchange: The mediating effect of job satisfaction. *Social Behavior and Personality: an International Journal* 41(3), 357-366.

Lowery, PG, & Burrow, JD (2019) Concentrated disadvantage, racial disparities, and juvenile institutionalization within the context of attribution theory. *Criminal Justice Studies* 32(4), 330-355.

Macey, J & Sale, HA (2003) Observations on the role of commodification, independence, and governance in the accounting industry, *Villanova Law Review* 48, 1167-1188.

Malle BF (2006) The actor-observer asymmetry in attribution: A (surprising) meta-analysis. *Psychological Bulletin* 132(6), 895–919.

Malhotra, N., Zietsma, C., Morris, T. & Smets, M. (2021). Making the logics case to handle resistance to change: Leveraging individual level plurality to update logic settlements. *Administrative Science Quarterly*, 66(2): 475-520.

Margulies, P (2003) The virtues and vices of solidarity: regulating the roles of lawyers for clients accused of terrorist activity. *Maryland Law Review* 62, 173-217.

Margulies, P (2005) Above contempt? Regulating government overreaching in terrorism cases. *Southern University Law Review* 34, 449-510.

Marques, P., & Azevedo-Pereira, J (2009) Ethical ideology and ethical judgments in the Portuguese accounting profession. *Journal of Business Ethics* 86(2), 227-242.

Marsick, VJ, & Watkins, KE (2003) Demonstrating the value of an organisation's learning culture: the dimensions of the learning organisation questionnaire. *Advances in Developing Human Resources* 5, 132–151.

Mather, L (2011) How and why do lawyers misbehave? Lawyers, discipline, and collegial control. In: Scott L. Cummings (ed.) *The Paradox of Professionalism: Lawyers and the Possibility of Justice*. Cambridge: Cambridge University Press.

May, DR, & Pauli, KP (2002) The role of moral intensity in ethical decision making. *Business & Society* 41(1), 84–117.

May, DR, Chang, YK, & Shao, R (2015) Does ethical membership matter? Moral identification and its organisational implications. *Journal of Applied Psychology* 100(3), 681–694.

McKendall, MA, & Wagner, JA (1997) Motive, Opportunity, Choice, and Corporate Illegality. *Organisation Science*, 8(6), 624-647.

Mclean, B, & Elkind, P (2004) *The Smartest Guys in the Room: The Amazing Rise and Scandalous Fall of Enron*. New York: Penguin.

Merton, RK (1938) Social Structure and Anomie. *American Sociological Review* 3(5), 672-682.

Middleton, D (2014) First do no harm, or eat what you kill? Why dishonesty matters most for lawyers. *Legal Ethics*, 17(3), 382-400.

Middleton, DJ, & Levi, M (2005) The role of solicitors in facilitating 'Organized Crime': Situational crime opportunities and their regulation. *Crime, Law and Social Change* 42, 123–161.

Mills, CW (1951) *White Collar: The American Middle Classes*. Oxford: Oxford University Press.

Mishina, Y, Dykes, BJ, Block, ES, & Pollock, TG (2010) Why "good" firms do bad things: The effects of high aspirations, high expectations, and prominence on the incidence of corporate illegality. *Academy of Management Journal* 53(4), 701–722.

Molot, JT (2014) The feasibility of litigation markets. *Indiana Law Journal* 89, 171-194.

Moorhead, RL, Godinho, C, Vaughan, S, Gilbert, P, & Mayson, S (2016) *Mapping the Moral Compass: The Relationships between In-House Lawyers' Role, Professional Orientations, Team Cultures, Organisational Pressures, Ethical Infrastructure and Ethical Inclination. (Ethical Leadership for In-house Lawyers Initiative Part 1)*. UCL Centre for Ethics and Law: London.

Murphy, P (2012) Attitude, Machiavellianism and the rationalization of misreporting. *Accounting, Organisations and Society* 37(4), 242-259.

Muzio, D, & Ackroyd, S (2005) On the consequences of defensive professionalism: recent changes in the legal labour process. *Journal of Law and Society* 32(4), 615-642.

Muzio, D, Faulconbridge, J, Gabbioneta, C, & Greenwood, R (2016) Bad apples, bad barrels and bad cellars: a 'boundaries' perspective on professional misconduct. In: Palmer, D, Smith-Crowe, K, Greenwood, R (eds.) *Organisational Wrongdoing: Key Perspectives and New Directions*. Cambridge: Cambridge University Press.

Nasby W, Hayden B, & DePaulo BM (1980) Attributional bias among aggressive boys to interpret unambiguous social stimuli as displays of hostility. *Journal of Abnormal Psychology* 89, 459–468.

Nelson, G, & Gilbertson, D (1991) Machiavellianism revisited. *Journal of Business Ethics* 10 (8), 633-639.

Newman, KS (1988) *Falling from grace: The experience of downward mobility in the American middle class*. Free Press.

Nill, A, & Schibrowsky, JA (2005) The impact of corporate culture, the reward system, and perceived moral intensity on marketing students' ethical decision making. *Journal of Marketing Education* 27(1), 68–80.

Noonan, JT (2000) The lawyer who overidentifies with his client. Notre Dame Law Review 76, 827-842.

NPCC (2019) Understanding Disproportionality in Police Complaint & Misconduct Cases for BAME Police Officers & Staff. Available at https://www.npcc.police.uk/SysSiteAssets/media/downloads/publications/publications-log/2020/npcc-understanding-disproportionality-in-police-complaint-misconduct-cases-for-bame-police-officers-and-staff-2019.pdf [https://www.npcc.police.uk/SysSiteAssets/media/downloads/publications/publications-log/2020/npcc-understanding-disproportionality-in-police-complaint-misconduct-cases-for-bame-police-officers-and-staff-2019.pdf] [last accessed 20/04/2023]

Nursing and Midwifery Council (2017) The Progress and Outcomes of Black and Minority Ethnic (BME) Nurses and Midwives through the Nursing and Midwifery Council's Fitness to Practise Process. Available at: https://www.nmc.org.uk/globalassets/sitedocuments/other-publications/bme-nurses--midwives-ftp-research-report.pdf [https://www.nmc.org.uk/globalassets/sitedocuments/other-publications/bme-nurses--midwives-ftp-research-report.pdf]

O'Sullivan, JR (2002) Professional discipline for law firms? A response to Professor Schneyer's proposal. *Georgetown Journal of Legal Ethics* 16, 1-90.

Omari, M, & Paull, M (2013) "Shut up and bill": workplace bullying challenges for the legal profession. *International Journal of the Legal Profession* 20(2), 141-160.

Othman, R, Omar, N, Azam, A, Ibrahim, S, Farouq, WA, Rustam, N, & Aris NA (2014) Influence of job satisfaction and codes of ethics on integrity among police officers, *Procedia – Social and Behavioral Sciences* 145, 266-276.

Ouseley, H (2008) "Independent Review into Disproportionate Regulatory Outcomes for Black and Minority Ethnic Solicitors." Solicitors Regulation Authority. Available at: https://www.sra.org.uk/globalassets/documents/sra/equality-diversity/ouseley-report.pdf?version=4a1ac9.

Palmer, D (2008) Extending the process model of collective corruption. *Research in Organisational Behavior* 28, 107-135.

Palmer, D (2013) The new perspective on organisational wrongdoing. *California Management Review* 56(1), 5–23.

Paolillo, JGP, & Vitell, SJ (2002) An empirical investigation of the influence of selected personal, organisational and moral intensity factors on ethical decision making. *Journal of Business Ethics* 35, 65–74.

Parker, C, & Aitken, L (2011) The Queensland "workplace culture check": learning from reflection on ethics inside law firms. *Georgetown Journal of Legal Ethics* 24, 399–441.

Parker, LD (1994) Professional accounting body ethics: In search of the private interest. *Accounting, Organisations and Society* 19(6), 507-525.

Parlangeli, O, Palmitesta, P, Bracci, M, Marchigiani, E, Di Pomponio, I, & Guidi, S (2022) University teachers during the first lockdown due to sars-cov-2 in Italy: stress, issues and perceptions of misconduct. *Science and Engineering Ethics* 28(9).

Pearn Kandola (2010) "Solicitors Regulation Authority: Commissioned research into issue of disproportionality." London: Pearn Kandola.

Pettigrew, TF (1979) The ultimate attribution error: Extending Allport's cognitive analysis of prejudice. *Personality and Social Psychology Bulletin* 5(4), 461–476.

Piquero, NL, Bisaccia Meitl, M, Brank, EV, Woolard, JL, Lanza-Kaduce, L, & Piquero, AL (2016) Exploring lawyer misconduct: an examination of the self-regulation process. *Deviant Behavior* 37(5), 573-584.

Ploeger, NA, & Bisel, RS (2013) The role of identification in giving sense to unethical organisational behavior: defending the organisation. *Management Communication Quarterly* 27(2), 155–183.

Podolny, JM (1993) A status-based model of market competition. *American Journal of Sociology* 98(4), 829–872.

Podolny, JM (2010) Status signals. In *Status Signals*. Princeton University Press.

Prechel, H, & Morris, T (2010) The effects of organisational and political embeddedness on financial malfeasance in the largest U.S. corporations. *American Sociological Review* 75(3), 331–354.

Pritam, A, & Hale, B (2010). Policy of control. *Occupational Health & Wellbeing* 62(9), 18-19.

Quillan L (2006) New approaches to understanding racial prejudice and discrimination. *Annual Review of Sociology* 32, 299–328.

Radaelli, G, Guerci, M, Cabras, F, & Dalla Chiesa, N (2019) How are professionals recruited by external agents in misconduct projects? The infiltration of organized crime in a university. *Human Relations* 72(9), 1407–1435.

Regan, MC (2002) Ethics, law firms, and legal education. *Maine Law Review* 55, 363-372.

Regan, MC (2005) Eat What You Kill: The Fall of a Wall Street Lawyer. University of Michigan Press.

Richmond, DR (2008). Lawyer liability for aiding and abetting clients' misconduct under state law. *Defense Counsel Journal* 75, 130-141.

Richmond, DR (2009) Professional responsibilities of co-counsel: joint ventures or scorpians in a bottle. *Kentucky Law Journal* 98, 461-516.

Roman, A, Naumovska, I, & Haleblian, J (in press) Conditioned by upbringing: executives' childhood social class and corporate crime. *Research in the Sociology of Organisations*.

Rosette, AS, Leonardelli, GJ, & Phillips, KW (2008) The White standard: Racial bias in leader categorization. *Journal of Applied Psychology* 93(4), 758–777.

Rosette, AS, & Livingston, RW (2012) Failure is not an option for Black women: Effects of organizational performance on leaders with single versus dual-subordinate identities. *Journal of Experimental Social Psychology* 48(5), 1162–1167.

Ross, LD (1977). The intuitive psychologist and his shortcomings: Distortions in the attribution process. In L. Berkowitz (Ed.) *Advances in experimental social psychology*. New York: Academic Press, pp. 174-221.

Rotter, JB (1966) Generalized expectancies for internal versus external control of reinforcement. *Psychological Monographs: General and Applied* 80(1), 1–28.

Ryan, W (1971). *Blaming the victim*. New York: Pantheon.

Rychert M, & Diesfeld K (2019) Teachers' health, wellbeing and professional misconduct. An exploratory analysis of cases from new Zealand's teachers disciplinary tribunal 2017-2018. *Journal of Law and Medicine* 26(4), 922-942.

Schneyer, T (1991) Professional discipline for law firms. *Cornell Law Review* 77(1), 1-46.

Shafer, W, Morris, R, & Ketchand, A (2001) Effects of personal values on auditors'ethical decisions. *Accounting, Auditing & Accountability Journal* 14(3), 254-277.

Shafer, WE. & Wang, Z (2011) Effects of ethical context and Machiavellianism on attitudes toward earnings management in China. *Managerial Auditing Journal* 26(5), 372-392.

Sharkey, AJ (2014) Categories and organisational status: The role of industry status in the response to organisational deviance. *American Journal of Sociology* 119(5), 1380-1433.

Sharma, A (1997) Professional as agent: Knowledge asymmetry in agency exchange. *Academy of Management Review* 22(3), 758-798.

Simpson, SS (1987) Cycles of illegality: antitrust violations in corporate America. *Social Forces* 65(4), 943–963.

Sims, RR, & Brinkmann, J (2003) Enron ethics (or: culture matters more than codes). *Journal of Business Ethics* 45, 243–256.

Sklar, T, Schulz Moore, J, Bismark, M. & Taouk, Y (2020) Vulnerability to legal misconduct: a profile of problem lawyers in Victoria, Australia. *International Journal of the Legal Profession* 27(3), 269-289.

Sklar, T, Taouk, Y, Studdert, D, Spittal, M, Paterson, R, & Bismark, M (2019) Characteristics of lawyers who are subject to complaints and misconduct findings. *Journal of Empirical Legal Studies* 16(2), 318-342.

Skorikov, VB, & Vondracek, FW (2011) Occupational identity. In S. J. Schwartz, K. Luyckx, & V. L. Vignoles (Eds.) *Handbook of Identity Theory and Research*. Springer Science + Business Media, 693–714.

Smets, M, Morris, T, & Greenwood, R (2012) From practice to field: A multilevel model of practice-driven institutional change. *Academy of Management Journal* 55(4), 877–904.

Solicitors Regulation Authority (2022) In-house solicitors thematic review. Available at https://www.sra.org.uk/sra/research-publications/in-house-solicitors-thematic-review/

[https://guidance.sra.org.uk/sra/research-publications/in-house-solicitors-thematic-review/] [last accessed 20/04/2023]

Solicitors Regulation Authority (2022) *Upholding Professional Standards 2020/21 – Diversity Monitoring, Supporting Report*. Available at https://www.sra.org.uk/sra/research-publications/upholding-professional-standards-2020-21--diversity-monitoring-supporting-report/ [https://guidance.sra.org.uk/sra/research-publications/upholding-professional-standards-2020-21--diversity-monitoring-supporting-report/] [last accessed 20/04/2023]

Sparkman, Jr., RM, Locander, WB (1980) Attribution theory and advertising effectiveness. *Journal of Consumer Research* 7(3), 219–224.

Spaulding, NW (2003) Reinterpreting professional identity. *University of Colorado Law Review* 74(1), 1-104.

Sr, AS, & Costa, AD (1994) Are women more ethical than men? *Journal of Business Ethics* 13(11), 859-871.

Staw, B, & Szwajkowski, E (1975) The scarcity-munificence component of organisational environments and the commission of illegal acts. *Administrative Science Quarterly* 20(3), 345-354.

Stogner, J, Miller, BL, & McLean, K (2020) Police stress, mental health, and resiliency during the COVID-19 pandemic. *American Journal of Criminal Justice* 45(4), 718–730.

Studdert DM, Bismark MM, Mello MM, Singh H, & Spittal MJ (2016) Prevalence and characteristics of physicians prone to malpractice claims. *New England Journal of Medicine* 374(4), 354-62.

Sundgren, S, & Svanström, T (2014) Auditor-in-charge characteristics and going-concern reporting. *Contemporary Accounting Research* 31, 531-550.

Tajfel, H, & Turner, J (1979) An integrative theory of intergroup conflict. In: Hatch, MJ & Schultz, M (eds.) *Organisational Identity: A Reader*.

Tang, S, & Foley, T (2014) The practice of law and the intolerance of certainty, *University of New South Wales Law Journal* 37(3), 1198–1225.

Tang, S, Foley, T, & Holmes V (2020a) Ethical misconduct by new Australian lawyers: prevalence and prevention. *International Journal of the Legal Profession* 27(3), 245-267.

Tang, S, Holmes, V, & Foley, T (2020b) Ethical climate, job satisfaction and wellbeing: observations from an empirical study of new Australian lawyers, *The Georgetown Journal of Legal Ethics* 33, 1035-1068.

Tenbrunsel, A, & Smith-Crowe, K (2008) Ethical decision making: Where we've been and where we're going. *Academy of Management Annals* 2(1), 545–607.

Thoma, SJ, & Rest, JR (1986) Moral judgment, behavior, decision making, and attitudes. In: J. R. Rest (Ed.), *Moral development: Advances in research and theory*. New York: Praeger, 133-175.

Thornton, PH, Jones, C, & Kury, K (2005) Institutional logics and institutional change in organisations: Transformation in accounting, architecture, and publishing. In Jones, C. and Thornton, P.H. (Ed.) *Transformation in Cultural Industries* (Research in the Sociology of Organisations, Vol. 23), Emerald Group Publishing Limited, Bingley, pp. 125-170.

Tibble, HM, Broughton, NS, Studdert, DM, Spittal, MJ, Hill, N, Morris, JM, & Bismark MM. (2018) Why do surgeons receive more complaints than their physician peers? *ANZ Journal of Surgery* 88(4), 269-273.

Treviño, LK (1986) Ethical decision making in organisations: A person-situation interactionist model. *Academy of Management Review* 11, 601-617.

Treviño, LK (1992) The social effects of punishment in organisations: A justice perspective. *Academy of Management Review* 17(4), 647–676.

Treviño, LK, Youngblood, SA (1990). Bad apples in bad barrels: A causal analysis of ethical decision-making behavior. *Journal of Applied Psychology* 75(4), 378–385.

Treviño, LK, Weaver, GR, & Reynodls, SJ (2006) Behavioral ethics in organisations: a review. *Journal of Management* 32(6), 951–990.

Umphress, EE, Bingham, JB, & Mitchell, MS (2010) Unethical behavior in the name of the company: The moderating effect of organisational identification and positive reciprocity beliefs on unethical pro-organisational behavior. *Journal of Applied Psychology* 95(4), 769–780.

Unwin, E, Woolf, K, Wadlow, C, & Dacre, J. (2014) Disciplined doctors: does the sex of a doctor matter? A cross-sectional study examining the association between a doctor's sex and receiving sanctions against their medical registration. *BJM Open*.

Vadera, AK, & Pratt, MG (2013) Love, hate, ambivalence, or indifference? A conceptual examination of workplace crimes and organisational identification. *Organisation Science* 24(1), 172-188.

Vadera, AK, & Pratt, MG (2016) "Is it me? Or is it me?" The role of coactivated multiple identities and identifications in promoting or discouraging workplace crimes. In: Palmer, D, Greenwood, R & K Smith-Crowe

(eds.) *Organisational Wrongdoing: Key Perspectives and New Directions*. Cambridge: Cambridge University Press, 337-369.

Van Staveren, I (2014) The Lehman Sisters hypothesis. *Cambridge Journal of Economics*, 38(5), 995-1014.

Victor, B, & Cullen, JB (1988) The organisational bases of ethical work climates. *Administrative Science Quarterly* 33(10), 1- 125.

Webley, L (2013) United Kingdom: What *Robinson v Solicitors Regulation Authority* Tells Us about the Contested Terrain of Race and Disciplinary Processes, *Legal Ethics*, 16:1.

Weiner, B (1985) An attributional theory of achievement motivation and emotion. *Psychological Review* 92(4), 548-573.

Weiner, B (2000) Attributional thoughts about consumer behavior. *Journal of Consumer Research* 27(3), 382-387.

Weiner, B (2018) The legacy of an attribution approach to motivation and emotion: a no-crisis zone. *Motivation Science* 4(1), 4-14.

Weisburd, D., Wheeler, S, Waring, E, & Bode, N (1991) *Crimes of the Middle Classes: White-Collar Offenders in the Federal Courts*. New Haven, CT: Yale University Press.

Wimalasiri, JS Pavri, F, & Jalil, A (1996) An empirical study of moral reasoning among managers in Singapore. *Journal of Business Ethics* 15(12) 1331-1341.

Wu, L, Han, R, & Mattila, AS (2016) A double whammy effect of ethnicity and gender on consumer responses to management level service failures. *Journal of Service Management.*

Wu, R, Ming, S, & Huang, F (2019) Guanxi and unethical behavior in the Chinese workplace: job satisfaction as a mediator. *Social Behavior and Personality: An International Journal* 47(3), 1-14.

Wunsch, D, Hughes, C, Hobson, Z & Yesberg J (2016) Disproportionality in Misconduct Cases in the Metropolitan Police Service. MOPAC Evidence and Insight. Available at: https://www.london.gov.uk/sites/default/files/misconduct_research.pdf.

Xiong, F, Chapple, L, & Yin, H (2018) The use of social media to detect corporate fraud: A case study approach. *Business Horizons* 61(4), 623-633.

Yalch, RF, Yoshida, S (1983) "Consumer Use of Information and Confidence in Making Judgements About a New Food Store: an Attribution Theory Analysis". In: eds. Bagozzi, RP and Tybout, AM (eds.) *NA - Advances in Consumer Research*. Ann Abor, MI: Association for Consumer Research, pp 40-44.

Zhang, S (2020) Workplace spirituality and unethical pro-organisational behavior: The mediating effect of job satisfaction. *Journal of Business Ethics* 161(3), 687-705.