Warning notice

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Strategic Lawsuits against Public Participation (SLAPPs)

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Status

This document is to help you understand your obligations and how to comply with them. We will have regard to it when exercising our regulatory functions.

Who is this warning notice relevant to?

This warning notice is relevant to all firms and individuals we regulate who conduct litigation and who give dispute resolution and pre-action advice.

Summary of key points

Strategic lawsuits against public participation (SLAPPs) are a misuse of the legal system, through bringing or threatening claims that are unmeritorious or characterised by abusive tactics, in order to stifle lawful scrutiny and publication, including on matters of corruption or wrongdoing.

Our key messages for solicitors and law firms are:

- you must not bring or threaten unmeritorious claims or engage in tactics that are intimidatory or otherwise oppressive
- your duty to act in your client's interest must be balanced with your wider professional obligations, including your duty to the courts and to uphold the rule of law, which take precedence should these come into conflict
- you should identify proposed causes of action or behaviours which comprise a SLAPP or abuse of the litigation process, and decline to act in this way

- particular care is required where a publication ventilates a matter that is likely to engage the public interest.

Our concerns

We continue to recognise public concern that solicitors and law firms are using the legal system improperly by pursuing SLAPPs.

We set out below a more detailed explanation of the term SLAPP. However, this is commonly used to describe a misuse of the legal system, by bringing or threatening proceedings, to intimidate or harass another to discourage or shut down lawful scrutiny of matters in the public interest or to distort the accurate public record. The key aim of a SLAPP is to prevent publication of information that relates to a matter of public interest, such as academic research, whistleblowing or campaigning or journalism, by preventing the publication of public interest information or by removing information from the public domain.

Claims of defamation, misuse of private information and data protection breaches are the causes of action most associated with SLAPPs, but other causes of action (such as breach of confidence) could also be used for this purpose.

We recognise the need for a free press in a free society. We also acknowledge the critical role that lawyers (both in private practice and in-house) play in protecting and defending the legal rights of their clients. This includes defending a client's right to privacy and protecting their reputation, including by way of litigation, where appropriate. It is not in the public interest for false or misleading information to be unlawfully published.

However, proceedings must be pursued properly, and that means making sure that representing your client's interests does not override your duties to the courts and wider regulatory obligations, which act to protect the public interest. All solicitors must act honestly, with integrity, in a way which upholds the constitutional principle of the rule of law and the proper administration of justice, and in a way that upholds public trust and confidence. These obligations take precedence where they conflict with your client's interests.

Legal representation must not become intimidatory through the use of heavy-handed tactics that are oppressive or abusive. Representing clients' interests in this way is likely to breach a solicitor's duties to act with integrity and uphold public trust and confidence and the rule of law. It is also incompatible with their position as an officer of the court.

We know that it can be difficult to balance competing rights and obligations in this area. We recognise there is a balance of rights to be struck and nothing in this warning notice is intended to suggest a hierarchy as between Article 10 of the European Convention on Human

Rights (the right to freedom of expression) and Article 6 (the right to a fair trial) or Article 8 (the right to respect for private and family life).

Further, the client's legitimate right to defend their privacy and reputation must be balanced against your duties as a solicitor. It is the solicitor's duty to act in their client's best interests whilst upholding the rule of law. This warning notice therefore intends to reflect that and guide solicitors by setting out some of the circumstances where we may take regulatory action as well as some examples of where there would be no need for us to become involved.

What is a SLAPP?

The Government has also voiced its concerns that SLAPP cases are an abuse of the legal system. The Economic Crime and Corporate Transparency Act 2023 (the Act) defines the characteristics of a SLAPP in law in the context of economic crime for the first time and further legislation is contemplated through a Private Members Bill.

The Act provides for rules to allow the courts to strike out claims where the court has determined that they are a SLAPP, and that the claimant has failed to show they are more likely than not to succeed at trial; and to make cost provisions to protect defendants in SLAPP cases.

Section 195 of the Act defines a claim as a SLAPP where:

a. the claimant's behaviour in relation to the matters complained of in the claim has, or is intended to have, the effect of restraining the defendant's exercise of the right to freedom of speech,
b. any of the information that is or would not be disclosed by the exercise of that right has to do with economic crime,
c. any part of that disclosure is or would be made for a purpose related to the public interest in combating economic crime, and
d. any of the behaviour of the claimant in relation to the matters complained of in the claim, beyond that ordinarily encountered in the course of properly conducted litigation, is intended to cause the defendant:
    i. harassment, alarm or distress,
    ii. expense, or
    iii. any other harm or inconvenience,

However, our regulatory role, and the question whether a solicitor or firm fails to meet their professional obligations, is distinct from the court's new powers and procedures. The court will have different considerations in mind in deciding how to dispose of a claim before it. Our regulatory powers and framework are not limited to economic crime or contingent on a claim being declared a SLAPP claim under the specific legal test set out in the Act.

This means that the seeking or granting of a declaration under the new provisions will not automatically result in us taking action against any regulated individuals or firms involved in the case; although the facts the courts have determined (for example surrounding the claimant's intentions under s.195(1)(d) of the Act, or the likelihood of success) may be highly relevant to any consideration of whether our standards have been breached. Also, a lawyer would not automatically be prohibited from representing their client in the ongoing proceedings where a case classified as a SLAPP continues through the court. We recognise the important right to representation in relation to applications under the Act and any subsequent proceedings.

However, the fact that the case is permitted to continue would not necessarily preclude a regulatory finding. Equally, we are not constrained from taking action where these provisions have not been invoked. As stated above, our role and powers are distinct from those of the court. Further, SLAPP threats, if they achieve their goals, often do not reach court. Again, this does not prevent us from investigating complaints.

As highlighted above, the term SLAPP is commonly used more widely to describe action taken on behalf of clients which operates to harass, intimidate and financially or psychologically exhaust another party with the aim of preventing lawful publication of matters relating to the public interest. We reflect this wider meaning when we use the term SLAPP.

We assess conduct against our regulatory framework and long-established standards and regulations in respect of third-party correspondence and the conduct of disputes and litigation. Examples of abusive conduct both before, in the lead up to and during litigation are given in our Guidance on Conduct in Disputes [https://guidance.sra.org.uk/solicitors/guidance/conduct-disputes/] . This involves the use or threat of litigation for reasons that are not connected to resolving genuine disputes or advancing legal rights. Purposes can include silencing lawful criticism or stalling another process. An aim may often be to use the threat of cost or delay to achieve these outcomes. Our guidance also highlights that it is improper to bring or threaten cases or allegations without merit, or to do so in an oppressive, threatening or abusive manner.

There are some specific features which are indicative of abusive litigation in a SLAPP context.

- The target is a proposed publication on a subject of public importance, such as academic research, whistle-blowing, campaigning or investigative journalism.
- The case is characterised by an imbalance of power, often financial, often involving a wealthy individual or corporate claimant able to fund litigation to evade lawful scrutiny in the public interest distort the accurate record in their favour and silence lawful criticism.

Our Standards and Regulations

You must comply with the Principles [https://guidance.sra.org.uk/solicitors/standards-regulations/principles/] and in particular:

- Principle 1 - act in a way that upholds the constitutional principle of the rule of law and the proper administration of justice
- Principle 2 – act in a way that upholds public trust and confidence in the solicitors' profession and in legal services provided by authorised persons
- Principle 3 – act with independence
- Principle 4 – act with honesty
- Principle 5 – act with integrity.

You must also comply with the relevant paragraphs in the Code of Conduct for Solicitors, RELs and RFLs [https://guidance.sra.org.uk/solicitors/standards-regulations/code-conduct-solicitors/] and the Code of Conduct for Firms [https://guidance.sra.org.uk/solicitors/standards-regulations/code-conduct-firms/] where applicable. For example:

- paragraph 1.2 of the Code of Conduct for Solicitors states that you must not 'abuse your position by taking unfair advantage of clients or others'.
- paragraph 1.4 of the Code of Conduct for Solicitors states that you must not 'mislead, or attempt to mislead your clients, the court or others, either by your own acts or omissions or by allowing or being complicit in the acts or omissions of others (including your client)'.
- paragraph 2 imposes obligations including:
  - not seeking to influence the substance of evidence (paragraph 2.2)
  - only making assertions or putting forward statements, representations or submissions to the court or others which are properly arguable (paragraph 2.4)
- paragraph 3 of the code requires you to maintain your competence to carry out your role, provide a competent service to clients and keep your professional knowledge and skills up to date.

You should have regard to our requirements under Code of Conduct for Solicitors, RELs and RFLs paragraphs 7.7, 7.8 and 7.9 regarding your obligations to make reports to us, and to not subject any person to detrimental treatment for making or proposing to make such a report under their obligation to us.

You might also wish to have regard to our warning notice on the use of non-disclosure agreements [https://guidance.sra.org.uk/solicitors/guidance/non-disclosure-agreements-ndas/].

Our expectations

Competency to act and obligation to identify SLAPPs

Solicitors instructed to undertake defamation or privacy work should recognise this is a complex area of law and satisfy themselves that they have the necessary competency to do so. It is important that solicitors undertaking such matters meet competency requirements and are familiar with the relevant causes of action, defences, pre-action protocols and other procedural rules, as well as our regulatory requirements.

We expect you to be able to identify proposed courses of action (including pre-action) that could be defined as SLAPPs, or are otherwise abusive, and decline to act in this way. We expect you to advise clients against pursuing a course which amounts to abusive conduct, taking into account the areas of concern set out in this warning notice. Litigation strategy is your responsibility and understanding the ethical boundaries of it cannot be abrogated to your client. In the context of a solicitor facilitating suspicious or bogus investment schemes and transactions, the case of Paul Francis Simms (Paragraph 56, Simms v Law Society [2005] EWHC408 (admin)) the Tribunal stated:

> 'In cases of professional misconduct, the behaviour of a solicitor is not only to be considered in the context of the legality or otherwise of the subject matter of the advice and assistant given. The profession has a reputation to defend and maintain...
>
> 'A solicitor is independent of his client and having regard to his wider responsibilities and the need to maintain the profession's reputation, he must and should on occasion be prepared to say to his client 'What you seek to do may be legal but I am not prepared to help you do it''.

Conduct of the case

There are a number of behaviours commonly associated with SLAPPs. These include the following, which we consider matters of concern and which individually or in combination are likely to result in regulatory action: making claims or assertions without merit; bringing cases in an oppressive manner; and pursuing cases for an improper purpose.

Further details of each type of behaviour are set out below.

Making claims or assertions without merit

This might include:

- Seeking to threaten or advance meritless claims on behalf of your client, including in pre-action correspondence or in response to requests for information, and including claims where it should be

clear that a defence to that type of claim will be successful based on what you know.
- Claiming consequences or remedies which are exaggerated, or which would not be available on the facts, such as fines or imprisonment upon a civil claim, or highly speculative or misleading claims for costs.

As stated above, an important consideration is whether the claim is meritless, or – in the light of your understanding at the time of the defences that are available to your opponent - is bound to fail.

We recognise that there is commonly room for reasonable argument on the law or the facts of a case, and weak arguments can be properly brought and tested before the courts. Also, that caselaw evolves and in order to enable it to do so lawyers must be free to try novel issues.

However, a case that is without merit is one which does not advance any arguable legal basis and/or any arguable factual basis. Advancing a case without merit also risks breaching your obligation not to mislead your client, the court or others. This can include misleading by your own acts or omissions or by allowing or being complicit in the acts or omissions of others including your client.

As highlighted in the recent case of Haddad v Rostamani & Ors [2024] EWHC 448 (Ch):

> 'Solicitors and barristers owe an overriding duty to the court not to mislead it by presenting a case or asserting facts that they know to be false or which are manifestly false, or to make serious allegations against another person which are unsupported by evidence or instructions from their client. A lawyer may not make an allegation of fraud or of comparably serious misconduct, such as conspiring to cause harm by acting unlawfully, unless they have distinct instructions from their client to make that allegation and there is evidence capable of supporting a finding of fraud or impropriety.'

This highlights the particular care required to make sure you have a proper basis for making an allegation of dishonesty or comparably serious impropriety. The judgment goes on to say that:

> 'Subject to the overriding duty to the court, the lawyer's duty is to present the facts as their client alleges them to be and advance arguments based on those facts. Importantly for present purposes, a lawyer does not owe the court or another party to the case any duty to investigate the facts, or to ascertain the truth, before advancing the factual case on behalf of their client. That is so even if they have doubts about the likelihood that what their client tells them is true. What the lawyer advises their client confidentially about the strength or

> weakness of the evidence is of course privileged, and not something into which the court or another party can inquire.'

This highlights the importance of obtaining proper instructions, and seeking to challenge and scrutinise what your client tells you. You will need to bear in mind and advise on the evidential burden that applies to your client's claim. If you have doubts about the veracity of your instructions, you may wish to consider protecting yourself by obtaining a statement of truth from your client before proceeding.

However, this statement by the court does make it clear that this duty to advance the client's case in accordance with their instructions applies only 'as long as there is a proper argument capable of being advanced'. Further, the overriding duty to the court includes a duty not to mislead the court whether knowingly or recklessly (Brett v the Solicitors Regulation Authority [2014] EWHC 2974 (Admin)).

In line with your overriding duty to the court, we expect you to take sufficient instructions from your client and reasonable steps to satisfy yourself that a claim is properly arguable before putting it forward, either in correspondence or via an issued claim. We expect you to have considered the prospects of a proposed course of action being unsuccessful or counter-productive, and to have advised your clients properly before starting. The risk of regulatory action in such cases is high if such matters operate to exclude public participation and scrutiny.

In a defamation context, relevant factors to take into account might include the following (although we recognise that it will be dependent on the facts of the specific case):

- the truth of the allegations, and whether it is clear that a defence under s.2 Defamation Act 2013 will succeed.
- if the publication consists only of an honest opinion, and so it is clear that a defence under s.3 Defamation Act 2013 will succeed.
- the subject matter of the intended publication and the availability of a public interest defence under s.4 Defamation Act 2013.
- insufficient connection to the jurisdiction (s.9 Defamation Act 2013).
- where the proposed claimant is a corporation, will the client be able to evidence a likelihood of serious financial loss (s.1 Defamation Act 2013).
- whether the proposed claimant is a governmental body (Derbyshire County Council v Times Newspapers [1993] AC 534).
- the limited circumstances in which it is possible to acquire a pre-publication injunction due to the rule in Bonnard v Perryman [1891] 2 Ch 269.
- the prospects of early strike out based on caselaw, or s.194 of the Act (For example the case of Jameel v Dow Jones & Co Inc [2005] EWCA Civ 75 which is currently under consideration in Mueen Uddin v Secretary of State for the Home Office UKSC 2022/0135).

In a privacy context, a claim will be unarguable where, for example there can be no reasonable expectation of privacy; or in a claim in confidentiality, the information does not have the necessary quality of confidence.

Bringing cases in an oppressive manner

Where a case does have arguable legal merit or factual support, regulatory action may still follow if an action is pursued in a manner which is oppressive.

This might include:

- Sending correspondence which is unduly aggressive or threatening in content or tone and/or is intended/likely to have the outcome of intimidating recipients into not asserting or defending their rights, or even seeking legal advice on the matter.
- Sending communications which are disproportionate in terms of length, number, volume of material, or repetitious content.
- Putting forward a case in terms that are vague and unsubstantiated, which risks taking advantage of the lack of legal knowledge of the recipient and/or does not allow them the proper opportunity to advance or defend their position.
- Seeking inappropriate or excessive disclosure, or pursuing unnecessary and onerous procedural applications, intended to waste time or increase costs.

We recognise that in the course of conduct leading up to and including litigation, lawyers will need to pursue their client's interests and correspondence will sometimes need to forcefully assert a client's position or views or be lengthy, formal or legalistic. However, under Rule 1.1 of the Civil Procedure Rules, to enable the court to deal with cases justly and at proportionate cost, you should act always in accordance with the principles underpinning the overriding objective. That means considering what is proportionate in terms of the issues in the case and their importance to your client, and being mindful of the costs and burdens and any other impacts on the other party. This includes the potential for your actions to undermine their ability to represent their position in the proceedings.

You should take particular care if your client gives instructions to act in a way that is potentially oppressive and advise them appropriately – and be prepared to say no. For example, if your client asks that their claim is brought under multiple causes of action or jurisdictions where there is no proper legal reason for doing so, or wishes to target an individual, where their employer or another organisation is the more appropriate defendant.

If your client has engaged in or threatens to engage in 'solicitor shopping' by appearing to move from one solicitor to another in succession, then you should be wary of the reasons for this - for example, whether the client has been unwilling to take advice or provide information to a former solicitor - and the chilling effect this may have on your ability to challenge instructions or conduct due diligence into your client and their motives in pursuing a claim.

We have seen examples of cases where:

- allegations of defamation were unparticularised and sent to an unrepresented person with no apparent legal knowledge.
- correspondence raised a number of overlapping causes of action and threatened wide-sweeping and speculative consequences including civil and/or criminal liability, fines, potential bankruptcy and/or imprisonment.

Improper purpose

Conduct of litigation may raise a regulatory concern where a case is pursued for an improper purpose. This involves the use or threat of litigation for reasons that are not connected to resolving genuine disputes or advancing legal rights. Purposes can include applying pressure to achieve an unconnected outcome or advantage, stalling another process, or attempting to close down a line of enquiry or stop disclosure of information where no grounds to prevent this were present.

We recognise that claimants may wish to reserve their right to take action but decide at any stage not to proceed. However, we have seen a number of complaints where it is clear that there was no intention of pursuing a claim, but legal consequences or litigation are threatened for other purposes than can be achieved via recourse through the courts, for example in order to deter others from raising similar concerns. We recognise that there are many legitimate reasons why litigation having been threatened may not ultimately be pursued. Our regulatory concern relates to litigation being used for a satellite and improper purpose.

As part of your checks, you should therefore explore your client's motives and intentions for pursuing a claim, and make sure that there is a proper basis for doing so. If the claim is being pursued by your client for an improper purpose, you should advise against using the legal process in this way.

Further examples of behaviours

There is some overlap between the above categories – for example, (whether before or during litigation) making an exaggerated claim for costs or consequences might be a threatening and oppressive tactic, and

bringing a claim without merit will often be associated with an improper purpose.

Set out below, are some specific scenarios relating to correspondence in relation to statements pre and post publication to exemplify how certain of the above behaviours might arise.

Pre-publication

The 'right to reply' process is a vital part of responsible journalism. It allows journalists or media organisations to seek to establish the truth of a matter or obtain comment prior to publication and is often important in proving the public interest nature of their reporting if they are planning to depend on a s.4 Defamation Act defence. It also provides those who are the subject of a publication an opportunity to respond and have a fair chance to defend themselves.

We recognise that there is often an urgency on both sides in 'right to reply' correspondence. We appreciate timescales may be short, but you must still adhere to your regulatory obligations.

Right to reply request letters will not necessarily involve lawyers. However, if you are acting on behalf of a journalist or media organisation, you should not needlessly put someone in the position where they do not have time to respond adequately or take legal advice, if more time could be allowed. You should make sure that the matters intended for publication are outlined clearly. Where this is not done, this impacts the potential claimant's ability to respond and they may need to assume that the widest and most serious allegations may be published in order to protect their position.

When responding to a right to reply request on behalf of a client, you should consider the nature of the request and ensure that correspondence is not inappropriately lengthy or legalistic, or used unnecessarily to delay or obfuscate matters. The 'right to reply' process should not be used to threaten or commence legal action without a proper legal basis for doing so.

You may need to take particular care because of the tight timescales. Where you need to make further checks in respect of your instructions and are unable to do so before writing, the content and tone of the letter should reflect this. By way of example, if denying the truth of a defamatory allegation you should make no positive assertions of deliberate falsity where there is an insufficient basis to do so. You may wish to consider the use of the term 'on instructions'.

Post-publication

There may be a need to act quickly to remove matters in the public domain to protect your client's reputation. Notwithstanding the urgency, we expect you to have considered the prospects of a proposed course of action being unsuccessful or counter-productive and to have advised your clients properly. You must still undertake sufficient due diligence to make sure that your position is properly arguable.

There are cases where the facts underpinning your instructions will need to be investigated for you to establish whether you can properly act. For example, there may be material issues which your client cannot or has not evidenced but which are core to the dispute and can be established through third party checks. As set out above, where you need to make further checks in respect of your instructions and are unable to do so before writing, the content and tone of the letter should reflect this.

As the matter continues, and in line with your overriding duty to the court, we expect you to take reasonable and proportionate steps to check the merits of the case including, where appropriate, checking your client's account with reference to credible sources of information. Where over time you fail to do so or are unable to satisfy yourself that there is a properly arguable evidential basis, this will militate against your continuing to act.

For example, we decided to take no further action in a case involving reporting of criminal proceedings. Appropriate checks were made with the police to establish the nature of the offence, and the correspondence was therefore able to accurately specify the matters to be corrected.

Labelling correspondence

We expect you to ensure that you do not mislead recipients of your correspondence.

One way this can happen in this context is by labelling or marking correspondence 'not for publication' 'strictly private and confidential' and/or 'without prejudice' when the conditions for using those terms are not fulfilled. Labels should not be used if they give the appearance of having court or legal authority where this is not warranted, for example by marking a letter as a 'Legal Notice' or similar.

We accept that there will be legitimate reasons for labelling correspondence and that this is a long-established practice in the legal profession. Such labels can be a useful indicator of the intention of the author of the letter and the purpose of correspondence. Further, we recognise the importance of enabling views, and often confidential information, to be exchanged on both sides, to ensure that reporting is appropriate, accurate and balanced. Further, the confidentiality of communications often encourages parties to share information and

resolve disputes on the understanding that the issues will not become public.

However, we expect solicitors to use labels in good faith and not to exaggerate or mis-state their effect.

There is a risk that labels can cause confusion and act to inhibit appropriate disclosure. This can be exacerbated when they are used in combination. You should carefully consider whether the circumstances require you to include an explanation of their purpose and effect and take particular care where the recipient may lack legal knowledge or access to legal advice.

You should not imply that the recipient cannot talk to a legal representative about the content of the letter. You should ensure that you are satisfied the recipient will know they are allowed to seek legal advice on your correspondence. Where a recipient indicates they wish to publish correspondence they have received, they must not be misled as to the consequences. Unless there is a specific legal reason which prevents this, recipients of legal letters should be able to generally disclose the fact that they have received them.

Not for Publication

'Not for Publication' is a descriptive label which can serve as a useful signal to the recipient of a letter that the author does not give permission for the content to be published. Although it cannot legally bind a journalist, it indicates that they cannot rely on the defence of consent if they publish, and could be used in evidence if there was a claim against them, for example in privacy/confidence, for misusing the contents.

Using the label to indicate the position on consent to publication, is therefore unlikely in itself to attract regulatory action although, as above, care should be taken in using this in combination with other labels and any assertions regarding the consequences of publishing should not be exaggerated or oppressive.

Without Prejudice

The label 'Without Prejudice' indicates that a letter is not admissible to the court. This serves to encourage negotiation and resolution of disputes without using up court time and resource, and parties incurring unnecessary costs. Therefore, this should only be used if the communication represents a genuine attempt to compromise an existing dispute (Galliford Try Construction Ltd v Mott MacDonald Ltd [2008] EWHC 603 (TCC) at [5]).

If you use this label then this should signal a genuine attempt to put forward an offer, narrow issues or settle a case. There should ordinarily

be no need to apply it to correspondence which does not offer any concessions, and only argues your case and/or seeks concessions from the other side.

Private and Confidential

Marking correspondence 'Private and Confidential' is a long-established and legitimate practice of the legal profession. It often serves a purpose in ensuring correspondence is not read by an unintended recipient. It also signals that the writer considers the correspondence to be confidential and does not consent to publication of the contents or the fact it has been received.

Marking a letter with such terms might be necessary if (for instance) an individual needs to disclose private and confidential information in order to disprove facts intended for publication. Moreover, labelling a letter 'confidential' might be a useful shortcut to signal the intention of the sender that the contents should be kept private and are not to be published.

The fact that that the recipient has not agreed to the contents remaining private does not mean that the label cannot be relied upon subsequently as relevant evidence that there was an obligation of confidentiality. The key questions will be a) does the information have the necessary quality of confidence and b) was the information imparted in circumstances importing an obligation of confidence (Coco v AN Clark (Engineers) Ltd 1969)?

However, you should be prepared to justify why a letter is confidential and consider whether it is necessary to explain this – for example including the words 'for the attention only of'.

Further, the use of a blanket label may not be appropriate. You should consider carefully whether all or only some parts of the communication attract confidence and consider identifying the parts to which confidence applies and explaining the basis for that clearly.

Recipients might also properly be warned as to the legal risks of publication of such correspondence (which may include aggravation of any damages payable).

Clients should be advised of these matters appropriately. They should be warned of the risks that a label may not be binding and a recipient might publish correspondence particularly if it is in the public interest to do so. This is unless that recipient knows or ought to know that it fairly and reasonably ought to be regarded as private and/or confidential or where this is not subject to a pre-existing duty of confidence or privacy.

Enforcement action

If an issue arises, failure to have proper regard to this warning notice is likely to lead to disciplinary action.

For further information on our approach to taking regulatory action, see our Enforcement Strategy [https://guidance.sra.org.uk/sra/corporate-strategy/sra-enforcement-strategy/?epiprojects=3] and in particular, our guidance on Conduct in Disputes [https://guidance.sra.org.uk/solicitors/guidance/conduct-disputes/] .

Further guidance

For guidance on any of the above conduct matters contact theProfessional Ethics helpline [https://guidance.sra.org.uk/contact-us/]