

Professional Support Protocol

The Society provides professional support and advice for members in particular from the Professional Support team. In order to deliver the highest level of support to members there is a requirement that confidentiality is preserved so that, with two exceptions, members can obtain advice without fear of disciplinary consequences. The exceptions are where the solicitor making the inquiry states that he/she has or may have dealt dishonestly with client's money or where there is either knowledge or suspicion that a solicitor (rather than their client) is engaged in money laundering.

The Society also has responsibility for regulation of its members. This requires it to carry out investigations which may lead to disciplinary sanctions on a member for the protection of both the Society's Guarantee Fund and the public.

The protocol

The information provided by an inquirer seeking advice will be kept confidential unless it involves dishonest handling of client's money or money laundering by a solicitor. For the limited purpose of responding to the inquiry it may be necessary to obtain some identifying information such as the inquirer's name, business name, business address and/or telephone number. Staff handling and responding to a request for assistance are required to maintain the confidentiality of the caller's identifying information within the Professional Support team apart from a situation where a solicitor has dealt dishonestly with client's money or there is suspicion that a solicitor is engaged in money laundering. Inquiries shall not trigger an inspection, audit, investigation etc of the inquirer's firm. However, such inquiries will not protect a party from an inspection, audit, investigation etc that is the result of other information coming to the attention of the Society's regulatory arm.

What is the purpose of the protocol?

The Society's protocol provides a uniform policy to alleviate concerns that solicitors or their employees may have about possibly becoming the target of enforcement action by the Society as a consequence of information provided in a request for assistance. The Protocol describes how such information will be handled by the Society.

The Service

The Society has two main functions

- Regulation and Standards (including Registration and Membership) and
- Representation and Support

Professional advice and guidance is within Representation and Support and all services in this area are provided to help and assist members. To do this effectively various protections are in place to ensure separation from the Society's regulatory functions.

The solicitors in the Professional Support team -

- Provide expert, definitive and confidential advice on applying Rules and Guidelines to specific circumstances and on Professional Ethics in general
- Inform key decisions
- Give solicitors expert input to assist them to advise clients or colleagues on professional issues

Can the solicitor rely on the advice given by phone? One important point to remember when seeking guidance by phone is to keep a proper note on the file so that it can be referred to at a later date if the matter becomes the subject of a complaint or a claim. If you are seeking advice from the department please give the whole story as the staff can only advise on the information given to them. It is not uncommon to give advice to one solicitor on a matter and then receive a call from the solicitor on the other side with some different relevant information. If the inquirer wishes a Law Society response on the file confirming the advice he or she should write or email following up the telephone enquiry and a confirmatory email will be sent.

The team is also happy to deal with calls from solicitors or their staff who wish to remain anonymous although obviously the department will be unable to give written confirmation of the advice which is given.

While the Professional Support team is happy to answer questions from both solicitors and members of their staff they will not, for obvious reasons, deal with questions which come directly from the solicitor's client.

In some circumstances an adviser may recommend to the caller that they contact one of the regulatory teams in the Society. However any information given to Professional Support during an inquiry will **not** be regarded as deemed knowledge of the situation by the Society's regulatory team. This means that that on occasion callers may be asked to provide information twice, to different parts of the Society, but this is an important part of ensuring that there is proper separation between regulation and support.

As previously stated if an advisor identifies that a solicitor has dealt dishonestly with client's money or there is knowledge or suspicion that a solicitor is engaged in money laundering the adviser may be obliged to pass information to one of the regulatory teams of the Society. In these circumstances the inquirer will not be told by the adviser that the information will be passed to one of the Regulatory teams.

Record-keeping in the Professional Support team

The Society is introducing a new data base system one function of which will allow the tracking of questions and inquiries made to the Society.

Once the new data base is fully operational members of the Professional Support team may record information from inquirers on the basis that the details (including the identity of the inquirer) will only be available to members of that team. The system will ensure that this information cannot be obtained by members of staff who carry out the Society's regulatory function. Recording information in this way will enable "hot topics" to be identified very early so that immediate action can be taken to address these, for example by issuing guidance on the Society's website. The database will also be used to provide general statistical information to be included in the Society's Annual Report.

The Society has a [general data protection statement](#) which can be accessed on the Society's website.

Providing internal advice to the Society's regulatory teams

On occasions the Society's regulatory teams seek advice from Professional Support. It is in the best interests of members that those with the most experience of the challenges facing the profession and the issues that can arise have input into the regulation process.