



Publication of Regulatory Decisions

Consultation responses

February 2023

Consultation responses

These respondents, listed in the order in which they responded to the consultation, asked us to name them and publish their responses. The text of their responses follows the list of names.

Liverpool Law Society

Christopher Robinson

John Hyde

The Law Society

Legal Services Consumer Panel

Publication of Regulatory Decisions: Consultation

Response ID:78 Data

2. About you

1.
First name(s)

Mickaela

2.
Last name

Fox

1.
Please enter your SRA ID (if applicable)

4.
I am responding..

on behalf of an organisation

5.
On behalf of what type of organisation?

Law society

6.
Please enter the name of the society

Liverpool Law Society

7.
How should we publish your response?

Please select an option below.

Publish the response with my/our name

3. Consultation questions

1) Do you agree that publication of regulatory decisions helps to raise awareness in the profession of appropriate conduct and the consequences for failure to comply?

Agree

2) Do you agree that the publication of regulatory decisions is important to help raise awareness among consumers of what they should be entitled to expect?

Agree

3) Do you think that principles outlined provide a good framework for our approach to publication of regulatory decisions?

Yes

8. Please explain your answer

We agree that publishing information about regulatory decisions aids understanding and promotes better practise. We also understand that the publication of regulatory decisions is fairly common place across regulators for similar justification.

4. Consultation questions

4) Are there any other principles and considerations on publication of our regulatory decisions that we should consider?

No

5) What types of regulatory information do you currently access and for what purpose?

Our members access the SRA website to ascertain the disciplinary history of professionals for a number of reasons including:

- (i) for recruitment purposes. One of our members explained that it was standard procedure in his firm to investigate an individual's disciplinary history as part of the firm's due diligence;
- (ii) in the context of a joint venture or when considering an arrangement with another law firm; and
- (iii) in the delivery of services to clients.

6) Do you think we should publish more or less detail on the regulatory decisions we make?

More information

9. Please explain your answer including whether you have different views in relation to different types of decision?

Whilst it is accepted that a balance needs to be struck, we are concerned that the publication of a short statement of the decision with brief factual details- as in the case of an SRA sanction such as a fine or rebuke - could create a misleading picture. We favour the approach taken to publication of SDT judgments as the reader has the option of ascertaining the full details of the case advanced by each party and how the SDT reached its decision.

5. Consultation questions

7) How else could we better improve the regulatory information we publish to support the profession?

We consider that access to a comprehensive document that sets out the case for the regulator, the case for the professional or firm and the reason for an SRA internal sanction being imposed should be provided as a link to the published decision. This would give the reader the option of accessing the full facts if they desired further detail.

8) How else could we better improve the regulatory information we publish to support the public?

9) Is our current approach to balancing the public interest and principles of open justice with protecting the respondent's well-being, fair and proportionate?

Agree

10) Are there any circumstances where you think the principles of open justice outweigh the rights of the respondent

No

6. Consultation questions

10. 11) Are there any circumstances where you think the right of the respondent outweighs the principles of open justice?

No

11. 12) Do you have any other views on this topic that you would like to share

12. 13) Do you think that our current approach to timing of publication of our decisions requires change?

Yes

13. Please explain

We are opposed to the publication of SDT referrals at the point the SDT determines that there is a case to answer. We do not consider that publication at this point and until there has been a determination to sanction by the SDT is fair or that it strikes the correct balance between the interests of the public and that of the individual professional or firm.

7. Consultation questions

14. 14) In what circumstances do you think details of regulatory action and/or decisions should be published earlier?

We do not think details of regulatory action and/or decisions should be published earlier.

15. 15) What are you view about at what point we should publish referrals to the SDT?

See above.

16. 16) Do you have any further views on the timing of publication of our regulatory decisions?

8. Consultation questions

17. 17) Do you think there are benefits to extending or shortening the length of publication of regulatory decisions?

Yes

18. Please explain your answer and provide details

We agree with the argument for lengthening the time the official record remains available for the more serious regulatory outcomes, provided the published material represents a balanced view. It is important that the public and the profession have access to official information whilst partial accounts from third-party sources are in the public domain.

19. 18) Do you think it might be beneficial to link the length of publication to the level of severity of the regulatory decision?

Yes

20. Please explain your answer

Please see our comments above. We also consider that there is justification for information about the regulatory action and decision being accessible to the public and to members of the profession for lengthier periods in the case of more serious regulatory breaches.

21. 19) Do you have any further views which we should take into account in relation to the length of publication for our decisions?

Our support for increasing the length of publication in respect of certain regulatory decisions is subject to the following caveat. There needs to be an adequate mechanism for reviewing the period of time a matter will be published in the event of exceptional circumstances. We know that exceptional circumstances are taken into account when then the decision is made whether to publish or not but are unaware if there currently exists a process for challenging the continued publication in the event of exceptional circumstances arising post publication.

PUBLICATION OF REGULATORY DECISIONS: CONSULTATION

Response ID:93 Data

2. About you

1.
First name(s)

Christopher

2.
Last name

Robinson

1.
Please enter your SRA ID (if applicable)

126999

4.
I am responding..

in a personal capacity

5.
In what personal capacity?

Solicitor

6.
Please enter the name of your firm/employer

Excello Law

7.
Please specify if you are

8.
How should we publish your response?

Please select an option below.

Publish the response with my/our name

3. Consultation questions

1) Do you agree that publication of regulatory decisions helps to raise awareness in the profession of appropriate conduct and the consequences for failure to comply?

Strongly agree

2) Do you agree that the publication of regulatory decisions is important to help raise awareness among consumers of what they should be entitled to expect?

Don't know

3) Do you think that principles outlined provide a good framework for our approach to publication of regulatory decisions?

Yes

9. Please explain your answer

4. Consultation questions

4) Are there any other principles and considerations on publication of our regulatory decisions that we should consider?

Yes

10. Please explain

Making information accessible and relevant is important, requiring proper indexing and summaries to ensure that accurate assessments can be made without either having to make assumptions or having to read large volumes of material.

5) What types of regulatory information do you currently access and for what purpose?

My own, for occasional checking. Other solicitors occasionally as due diligence when dealing with them on behalf of clients. Summaries published in the Gazette including facts of SDT judgments.

6) Do you think we should publish more or less detail on the regulatory decisions we make?

More information

11. Please explain your answer including whether you have different views in relation to different types of decision?

Disciplinary decisions should be published with full factual details.

5. Consultation questions

7) How else could we better improve the regulatory information we publish to support the profession?

8) How else could we better improve the regulatory information we publish to support the public?

Statistical information and trends. Information on the SRA's own performance such as time taken to reach decisions and appeals/reviews.

9) Is our current approach to balancing the public interest and principles of open justice with protecting the respondent's well-being, fair and proportionate?

Agree

10) Are there any circumstances where you think the principles of open justice outweigh the rights of the respondent?

Yes

12. Please explain

The recent judgment of Kerr J emphasises open justice in relation to the SDT and the same principles apply to disciplinary decisions by the SRA.

6. Consultation questions

13. 11) Are there any circumstances where you think the right of the respondent outweighs the principles of open justice?

Yes

14. Please explain

Where complaints are malicious or manifestly unfounded.

15. 12) Do you have any other views on this topic that you would like to share

16. 13) Do you think that our current approach to timing of publication of our decisions requires change?

No

7. Consultation questions

17. 14) In what circumstances do you think details of regulatory action and/or decisions should be published earlier?

18. 15) What are your views about at what point we should publish referrals to the SDT?

19. 16) Do you have any further views on the timing of publication of our regulatory decisions?

8. Consultation questions

20. 17) Do you think there are benefits to extending or shortening the length of publication of regulatory decisions?

Yes

21. Please explain your answer and provide details

Serious disciplinary decisions should be available for a long period.

22. 18) Do you think it might be beneficial to link the length of publication to the level of severity of the regulatory decision?

Yes

23. Please explain your answer

Minor infractions can be assumed forgiven or irrelevant, but serious misconduct should be on a solicitor's record for a long time.

24. 19) Do you have any further views which we should take into account in relation to the length of publication for our decisions?

Publication of Regulatory Decisions: Consultation

Response ID:99 Data

2. About you

1.
First name(s)

John

2.
Last name

Hyde

1.
Please enter your SRA ID (if applicable)

4.
I am responding..

in a personal capacity

5.
In what personal capacity?

Other

6.
Please specify

Legal journalist

7.
How should we publish your response?

Please select an option below.

Publish the response with my/our name

3. Consultation questions

1) Do you agree that publication of regulatory decisions helps to raise awareness in the profession of appropriate conduct and the consequences for failure to comply?

Strongly agree

2) Do you agree that the publication of regulatory decisions is important to help raise awareness among consumers of what they should be entitled to expect?

Strongly agree

3) Do you think that principles outlined provide a good framework for our approach to publication of regulatory decisions?

Yes

8. Please explain your answer

4. Consultation questions

4) Are there any other principles and considerations on publication of our regulatory decisions that we should consider?

No

5) What types of regulatory information do you currently access and for what purpose?

I and my colleagues access all regulatory decisions for the purpose of reporting on them for the Law Society Gazette. We also regularly access the solicitor check pages and regulated populations.

6) Do you think we should publish more or less detail on the regulatory decisions we make?

More information

9. Please explain your answer including whether you have different views in relation to different types of decision?

There is a fundamental absence of information of the kind that is required to give a full account of a decision, which undermines the decision-making process itself. There is a lack of transparency about who has taken the decision, why a decision has been reached and why the sanction is deemed appropriate (particularly in comparison to other decisions for similar breaches of conduct rules). That can often lead to misunderstandings or incorrect assumptions about key bits of information.

Let me give a couple of examples:

<https://www.sra.org.uk/consumers/solicitor-check/647028/>

This was a decision notice which resulted in a £6,000 for failing to keep documents confidential. The flaws in this publication include:

- * No information on the solicitor (year admitted, age, where they are from) of the kind that would be available in, say, a police press release.
- * There is no information on how the documents were not kept confidential. Were they lost? Stolen? Published? Were the clients informed? What, if anything, happened to their information?
- * When did this happen? Who reported the matter? How long has the investigation taken?
- * Who has carried out the investigation and decided the sanction? Why was the £6,000 deemed appropriate?

To be clear, these are all pieces of information that I would expect to be included in an SDT ruling. As it is, the information provided here is negligible, even when the sanction (as it was then) would in other circumstances be a matter for the SDT.

Another example is this notice: <https://www.sra.org.uk/consumers/solicitor-check/275295/>

This is a notice which is badly written and poorly edited. It is difficult to make sense of and has clearly not been proof-read. Again, there are key bits of information missing (not least whether Mr Hersi offered any explanation or mitigation) and it is hard to understand why the sanction has been imposed.

To be clear, this is not a journalist asking for salacious or confidential details about individuals. We are simply asking for information about how and why a decision was taken, what the context of the misconduct was and what - if anything - the solicitor did or said in their defence/mitigation.

5. Consultation questions

7) How else could we better improve the regulatory information we publish to support the profession?

- * Information to clearly identify the solicitor being sanctioned.
- * Information about who has made a complaint.
- * Information about who has investigated the case and taken the decision.
- * Information about the context of misconduct and relevance to the wider profession (as an example, if a solicitor is fined for using discriminatory language, it is in the profession's interest to know what that language was so solicitors know the parameters and how the SRA regards what was said. It might also help the solicitor sanctioned, given that they might have said something milder than would be assumed by broad terms such as 'offensive or discriminatory').

This is crucial now given that the SRA will pick up the cases where fines are up to £25,000, previously handled by the SDT. I would expect at the very least for the SRA to publish the same detail and context as currently provided in SDT rulings).

8) How else could we better improve the regulatory information we publish to support the public?

There also needs to be greater transparency about the PII market. There used to be more information about the insurance firms in the market and what percentage of the market they accounted for. That information should be published again.

9) Is our current approach to balancing the public interest and principles of open justice with protecting the respondent's well-being, fair and proportionate?

Disagree

10) Are there any circumstances where you think the principles of open justice outweigh the rights of the respondent

Yes

10. Please explain

Where an issue is of wider importance to the profession. Also where a complaint has been found to be vexatious, that should be published too.

6. Consultation questions

11. 11) Are there any circumstances where you think the right of the respondent outweighs the principles of open justice?

Yes

12. Please explain

13. 12) Do you have any other views on this topic that you would like to share

14. 13) Do you think that our current approach to timing of publication of our decisions requires change?

No

7. Consultation questions

15. 14) In what circumstances do you think details of regulatory action and/or decisions should be published earlier?

There appears to be a lag between decision notices to prosecute (published by the SRA) and the hearing notices published by the SDT. Often, a case is listed as coming up in the next week or two but there is no information from the SRA about what the solicitor is charged with. Once their name is in the public domain (ie the SDT listings notices) then details about the prosecution should also be out.

16. 15) What are your views about at what point we should publish referrals to the SDT?

These should be published at the point at which the SDT accepts there is a case to answer.

17. 16) Do you have any further views on the timing of publication of our regulatory decisions?

8. Consultation questions

18. 17) Do you think there are benefits to extending or shortening the length of publication of regulatory decisions?

No

19. Please explain your answer and provide details

Regulatory decisions should be published indefinitely. If a solicitor wants them removed they should have to apply for that and show they no longer pose a risk of repetition. Removing decisions does not protect the public.

20. 18) Do you think it might be beneficial to link the length of publication to the level of severity of the regulatory decision?

Yes

21. Please explain your answer

22. 19) Do you have any further views which we should take into account in relation to the length of publication for our decisions?

Law Society response:

**SRA Publication of Regulatory Decisions
Consultation**

2022



Introduction

1. The Law Society is responding to the consultation in its representative capacity as the independent professional body for solicitors in England and Wales. Our role is to be the voice of solicitors, to drive excellence in the profession and to safeguard the rule of law.
2. The Law Society welcomes the opportunity to respond to the Solicitors Regulation Authority's (SRA) Publication of Regulatory Decisions consultation¹ as the SRA's current publication policy for regulatory decisions² was implemented in 2007 and many developments have since taken place, particularly in the information technology area. We are living in an increasingly digital-focused world, and it is an appropriate time to review the current policy.
3. The SRA is not making any firm proposals in the consultation but is seeking to understand how people use published information on its regulatory decisions, and obtain general views on the principles surrounding publication of its regulatory decisions and the preferred approach on some issues including the following: -
 - the timing of publication,
 - the level of detail it publishes,
 - how long decisions should be published for, and
 - the types of exceptional circumstances when it will not publish information about decisions that it would normally publish.
4. We believe the protection of consumers is vital to the proper administration of justice. For this reason, where the SRA acts against a regulated individual or authorised body, we consider that it is in the public interest for regulatory decisions to be published, save for in exceptional circumstances. Publication provides greater transparency and increased availability of information, both of which are important safeguards for consumers.
5. The paper poses several questions, and we provide our views below.

Q1. Do you agree that publication of regulatory decisions helps to raise awareness in the profession of appropriate conduct and the consequences for failure to comply?

6. Yes, we are supportive of the publication of final regulatory decisions by the SRA, subject to certain exceptions. We agree that the decisions published would help to raise awareness of the appropriate conduct expected by the regulator from members of the profession, demonstrate the consequences of not complying and may serve to act as a deterrent. Publication of decisions also helps to show which behaviours would be of concern and need to be reported. Publication also helps to maintain public confidence in the profession in that appropriate action is taken when regulatory rules are breached.

Q2. Do you agree that the publication of regulatory decisions is important to help raise awareness among consumers of what they should be entitled to expect?

¹ [SRA Publication of Regulatory Decisions Consultation](#)

² [SRA Publishing regulatory and disciplinary guidance](#)

7. We generally consider that it is in the public interest for consumers to have appropriate information about final regulatory decisions, which are easily accessible, understandable and located in one place. We provide more detail below.

Q3. Do you think that principles outlined provide a good framework for our approach to publication of regulatory decisions? (YES/NO)

8. Yes, the principles outlined concerning the SRA's approach are broadly supported.

Q4. Are there any other principles and considerations on publication of our regulatory decisions that we should consider?

9. In addition to the principles outlined in the consultation paper, the principles of proportionality, fairness, consistency, and accuracy are also important and applicable and should be considered when deciding any amendments to the current policy concerning the publication of regulatory decisions.

Q5. What types of regulatory information do you currently access and for what purpose? (FREE TEXT)

10. Regarding individuals, the following information is likely to be useful to an employer or an organisation, for example when considering someone for an employment position or a voluntary role such as membership of a committee: -

- Full name of solicitor
- Date of admission
- SRA number
- Information about whether they have a current practising certificate
- Individual's regulatory record
- Where the person works.

Regarding authorised bodies the following is likely to be useful before choosing to instruct an SRA authorised body to obtain legal advice: -

- Full name of firm
- SRA number
- Partners /members of the firm
- Date established
- Date closed (if applicable)
- Firm's regulatory record.

Q6. Do you think we should publish more or less detail on the regulatory decisions we make? (Multiple Choice – More Information, The Same, Less Information)

11. This depends on the audience accessing the information.
12. More detailed information would be helpful to the individual solicitor, who is subject to the decision, as well as for legal professionals and personnel working in law firms.

13. However less detailed information would be more helpful to an average consumer who simply wants to know if a particular law firm or individual has been subject to disciplinary action. Clear and concise information about a firm or individual and a glossary of terms in relation to disciplinary decisions would be beneficial. More detail is provided at paragraphs 16 and 25 below.

• **Please explain your answer including whether you have different views in relation to different types of decision? (Free Text)**

14. Some more information would be helpful to the individual solicitor who is subject to the decision and be useful for law firms and legal personnel (both qualified and non-qualified) working in law firms to understand the rationale of a particular decision.

15. In the interests of transparency and fairness, the facts and the reasons for any final decision and the imposition of any sanction should be briefly outlined. It would also be helpful for the SRA to include any mitigating or aggravating issues considered in reaching the decision, to provide relevant context and explanation of the outcome reached. The information published should be consistent in terms of the details provided. For example, some Regulatory Settlement Agreements (RSA) currently have many paragraphs providing a framework to the agreement reached; conversely, a large fine imposed upon an Alternative Business Structure (ABS) by the SRA may be confined to a single paragraph which provides no context at all.

16. As mentioned above, less information is likely to be required by the average consumer who may not understand the subtleties of the decision and is only interested in the fact that a particular law firm or individual has been subject to disciplinary action. This could be addressed by, for example, more detailed decision information being published on the SRA's website under 'For Law Professionals' tab and a less detailed version, written in plain English, being published under 'For the public' tab. This would improve the accessibility and usability of information published for the different audiences.

17. It is also important that there is a route to this information by those who cannot access this information digitally or are vulnerable (such as those with a disability), such as obtaining the information by request via a telephone helpline.

Q7. How else could we better improve the regulatory information we publish to support the profession? (Free text)

18. In addition to the information outlined in paragraph 10 above, the regulatory record should provide dates/details of the conduct and when the charges of misconduct were proved, and the sanctions imposed. This should be reported on the SRA's website within seven days of the expiration of the time for appealing or reviewing of the decision. The historical date and severity of any misconduct could be used to determine the length of time an outcome may be published for. Please see paragraph 50 below.

19. Where an RSA is reached between the SRA and a respondent, it would be helpful to clearly indicate the outcome: e.g. a rebuke or fine, at the top before providing details of the agreement. For example, the following entry is currently published on the SRA website: -



Agreement

Date: 25 April 2022

Decision - Agreement

Outcome: Regulatory settlement agreement

Outcome details

This outcome was reached by agreement.

Reasons/basis

1. Agreed outcome

1.1 XY, a solicitor, agrees to the following outcome to the investigation of his conduct by the Solicitors Regulation Authority (SRA):

- a. he is rebuked
- b. to the publication of this agreement
- c. he will pay the costs of the investigation of £300.

20. It would be clearer if the outcome were shown as a rebuke, rather than an agreement, followed by details of the agreement. Improvements to the search facility outlined in our response to question eight below applies equally to searches that the profession may undertake.
21. Where a charge or charges of misconduct have not been proved, those charges and outcomes should not be placed in the public domain.
22. Details of all levels of staff authorised to make decisions about publication need to be clearly defined and readily available on the SRA website.

Q8. How else could we better improve the regulatory information we publish to support the public? (Free text)

23. As the paper identifies, we live in an increasingly digital-focused and data-driven world, and, as such, more members of the public will undertake digital searches for information before choosing a solicitor. A recent report by the Legal Services Consumer Panel indicates that 47% of people surveyed had used the legal regulator's website/phoneline³. Accordingly, the search facilities on the SRA's current website needs to be improved. For example, it would be preferable if a search for the name 'Katherine Smith' also yielded results for 'Katheryn Smith', 'Catherine Smith', 'Catherin Smith' or 'Catrin Smith' to avoid multiple searches from having to be undertaken, as is the case now.

³ [Legal Services Consumer Panel](#)

24. The current information on the SRA website is slightly confusing. Members of the public can search the Solicitors Register⁴ by searching the name of a person or a firm and after clicking through eventually find information about their regulatory record. Alternatively, they could search Check a solicitor's record⁵ on the SRA website and find the same type of information but through a different route, and less easily. This page has some links to other information about regulatory actions.
25. The SRA should also consider providing clearer supplementary information for members of the public on how to undertake searches based on the information they have, such as name or SRA number, as well as explaining what types of regulatory decisions can be made by the SRA and those that can only be made by the SDT. A glossary of terms, in plain English, would also assist members of the public to understand what terms such as a rebuke, suspension or strike off and other terms used in regulatory decisions mean and what is an RSA. A good example of how this can be set out can be seen on the Nursing & Midwifery Council website⁶. There should be one location centre for this information, not multiple. Also, if a specific SRA number is searched for and the individual does not have a regulatory record, this information is not currently confirmed, and the functionality of this aspect needs improvement.

Q9. Is our current approach to balancing the public interest and principles of open justice with protecting the respondent's well-being, fair and proportionate? (Strongly agree, agree, unsure, disagree, strongly disagree)

26. Agree. The SRA could make improvements by having a clearer policy outlining the criteria for when and how it will publish final regulatory decisions and a clear boundary for the decisions it will publish and those it will not or only publish in a redacted form. The regulator should ensure that there is fair, accurate and contemporaneous reporting of final decisions that are reported in whatever form of media such as press, online or other forms of media. The individual or firm concerned should be informed in advance of publication and any representations made taken into account before a decision to publish is taken. Additionally, there should be a mechanism to review the decision to publish.

Q10. Are there any circumstances where you think the principles of open justice outweigh the rights of the respondent (YES/NO)

27. Yes. generally the principles of open justice in relation to a decision to publish would outweigh the rights of a respondent, however there may be exceptions to this and we provide more detail below.

Q11. Are there any circumstances where you think the right of the respondent outweighs the principles of open justice? (YES/NO)

28. Yes. There may be some circumstances where the rights of the respondent outweigh the principles of open justice. For instance, there may be circumstances when the decision to publish has a much greater impact on a respondent for a range of reasons such as impact on health, risk to life or safety, which are identified in the consultation paper. For example, a respondent may have serious health issues or may have suffered a recent bereavement with the result that a decision to publish may have a disproportionate impact on their wellbeing. Another example when publication may not be appropriate

⁴ [SRA Solicitors Register](#)

⁵ [SRA Check a solicitor's record](#)

⁶ [Nursing & Midwifery Council website](#)

might be regarding less serious matters (these will need to be defined by the SRA) which may have no educational benefit to the profession, or have little or no deterrent value, or may be of little assistance to members for the public.

29. There may be occasions where statute, rules of practice or common law and European Convention on Human Rights (ECHR) considerations mean that anonymity should be preserved, and decisions not published at all or only in redacted form. Each case should be considered on its own merits.
30. There may be situations where publishing a decision could have the effect of disclosing sensitive, confidential, or legally privileged information. The publication of information about a medical condition, for example, may have a disproportionate impact on the respondent and which could impact on their livelihood. Before publishing a decision, consideration should be given to Article 8 of the ECHR. There should be a balance between the right to a private life and the legitimate aim of publication, as well as any relevant data protection provisions.

Q12. Do you have any other views on this topic that you would like to share?

31. It is important to give the regulated person or firm the opportunity to comment in advance on whether the decision should be published and for these views to be taken into account before any decision to publish is made. As mentioned above, there should also be a mechanism to review the decision to publish.

Q13. Do you think that our current approach to timing of publication of our decisions requires change? (YES/NO)

32. No, the current overall approach is appropriate.

Q14. In what circumstances do you think details of regulatory action and/or decisions should be published earlier? (Free Text)

33. The SRA should not routinely publish that a firm or individual is under investigation until the investigation is concluded and a final decision made, and sanctions imposed.
34. The SRA states on its website that '*We close the vast majority of our investigations without taking any formal regulatory action.*⁷ We would therefore argue that publishing that a firm or individual is under investigation would be unfair, as it is likely to needlessly damage the reputation of that firm or individual. It is also strongly arguable that such a policy of publishing ongoing investigations would diminish trust and confidence in the solicitors' profession itself.
35. Moreover, investigations can take several months or sometimes even years to conclude. Accordingly, publication of pending investigations (especially where no action is taken) is likely to damage the reputation of firms and individuals and have serious implications not only for the owners of the business but also for their staff as well as their clients.
36. Furthermore, any lack of detail in such a report could feed speculation and could potentially lead to pre-judgement of an outcome by the public. The investigation may result in no action or a minor sanction but, in the meantime, publication is likely to result

⁷ [SRA Guidance – If we are investigating you.](#)

in serious reputational damage and/or financial loss resulting in serious detriment to peoples' livelihoods. This is particularly egregious where there is no case to answer.

37. It would be both against the interests of justice as well as prejudicial to the regulated person or firm to publish that they were under investigation unless there are exceptional circumstances in the public interest. This could be, for example, where there is an admission of sexual misconduct or serious fraud, which needs to be brought to public attention. It would be helpful if the SRA, following analysis of responses to this consultation and its own data, could look to provide draft criteria as to what might amount to exceptional circumstances. The Society would be happy to review any proposed criteria.
38. Malicious reports could also be given credence which would have a highly detrimental impact on the livelihood of an individual. The better approach is to await the establishment of the truth following due process.
39. There are reports from practitioners of a small number of complaints to the SRA, which are being made by lay opponents or aggressive litigators. These complaints have no merit but are nevertheless being made with the intention of damaging an individual solicitor's or a firm's reputation. Regulatory experts advising on such matters report that these cases are ultimately closed with no action by the SRA and/or LeO. However, the risk here is that if the SRA publishes details of alleged misconduct before investigations have been concluded, this will incentivise those maliciously seeking to create reputational damage. Such misuse of the system may then escalate, with the small numbers we see at present potentially increasing to a disruptive level for the SRA, and also practitioners facing these complaints. In turn, consumers who are making genuine complaints may face further delays in their matter being resolved.
40. Publication before a final decision is made takes no account of mitigation or an explanation about the circumstances and is contrary to the rules of natural justice.

Q15. What are your views about at what point we should publish referrals to the SDT?

41. Whilst it is noted that the majority of cases referred by the SRA to the SDT are certified, decisions to refer to the Tribunal are made by in-house SRA staff before seeking independent advice from the SRA's external legal advisers who, in our members' experience, often take a different view, with a reduction in the number of allegations or even the referral being rescinded completely. The case at the date of the referral decision can look very different to the case that is certified by the Tribunal. Allegations such as dishonesty and even whole cases can be abandoned in that interim period. There are also concerns about delays by the SRA between the date of the decision to refer and the actual issue of proceedings at the Tribunal. In either case it would be unfair to publish referrals on the SRA website before certification.
42. In addition to the points above, it would be against the principles of justice and fairness to publish referrals to the SDT before certification by the Tribunal. It can be prejudicial to publish that a person is under investigation or has been referred to the Tribunal, prior to certification. This is likely to have a significant career limiting impact and would be unjust.
43. Whilst it could be argued that there could be greater transparency in doing so, this is outweighed by the fact that it would be unfair and would have a disproportionate impact

on potential respondents and their firms, especially where an investigation does not then progress.

44. In almost all cases, the SDT certify cases within five working days of referral by the SRA and so it is difficult to understand the rationale of any proposal to publish before certification by the Tribunal in most cases. The fairest way is to publish after certification by the Tribunal.

Q16. Do you have any further views on the timing of publication of our regulatory decisions?

45. The current SRA policy regarding timing of publication is satisfactory in that it will not publish such decisions during any period of review/appeal and until any review has been determined or withdrawn.
46. We agree that it is in the public interest to inform clients as soon as possible where the SRA has intervened in a firm and to publish information about the decision immediately following the intervention, as the clients of the intervened firm need information about the identity of the intervention agent and the action to take in such circumstances.

Q17. Do you think there are benefits to extending or shortening the length of publication of regulatory decisions? (YES/NO)

47. Currently the SRA automatically removes most decisions from its website three years after the date of publication - unless it considers exceptionally that it is not in the public interest for it to do so. However, section 43 orders or decisions by the SDT to strike off or suspend a solicitor for more than three years, remain on the SRA website until the suspension has ended, or a successful application is made for the section 43 order, suspension or strike off to be lifted.
48. Whilst the length of publication outlined in the existing policy on the whole appears to strike the right balance, we do see some benefits to amending the policy and these are outlined below.

Q18. Do you think it might be beneficial to link the length of publication to the level of severity of the regulatory decision? (YES/NO)

49. There are some benefits to linking the length of publication to the level of severity of the regulatory decision, and we provide suggestions below.
50. We are also concerned that many investigations are not concluded until a significant time after the commission of the misconduct concerned. Accordingly, the length of time that has elapsed since the dates of breach should be taken into account when deciding the period for which the outcome should be published, particularly those breaches attracting sanctions at the lower end of the scale may merit a shorter period of publication to avoid a disproportionate effect. By way of example, publication of a breach committed by a junior solicitor which is reported four years after commission does not assist a member of the public to assess the merits of instructing that solicitor years later. Consideration should therefore be given on a case-by-case basis as to whether publication is appropriate when a significant period has elapsed between the date of the misconduct and the imposition of a sanction.
51. We would suggest that perhaps the length of publication of a rebuke could be a shorter length of time say, between 12-18 months, depending on the circumstances.

52. For striking off and suspensions, instead of being indefinite (subject to a successful application for removal/redaction of the judgment), the SRA should consider adopting a similar timeframe to that of the SDT where such judgments remain on its website for a period of 60 years⁸. We believe that these timeframes would not only be consistent with the SDT policy but also more aligned with current data protection law.
53. Any length longer than the timeframes indicated above would, in our view, be disproportionate to any public benefit. Furthermore, people are still able to request information about a regulated person or entity if it is no longer available online by contacting the SRA directly.

Q19. Do you have any further views which we should take into account in relation to the length of publication for our decisions? (Free text)

54. The length of any publication should not act as a second penalty against the respondent.
55. In the event that a request is received from the estate of a solicitor, seeking a removal of an SRA regulatory decision from its website on the basis that the respondent is deceased, the SRA should grant the request on production of relevant supporting documentation, unless it considers there to be continuing public interest in the information remaining on the website.

Conclusion and Recommendations

56. We are supportive of the publication of final regulatory decisions by the SRA, subject to certain exceptions.
57. The level of detail published about regulatory decisions should be dependent on the audience accessing the information. It would be helpful for consumers of legal services, for example, to have less detailed information about regulatory decisions, but more easily accessible, understandable, and located in one place. On the other hand, more detailed information about regulatory decisions might be more useful for members of the profession. The SRA also needs to develop the functionality of its online tools to improve the searchability of information which would save time and improve the customer experience.
58. The SRA should not routinely publish that a person or firm is under investigation until the investigation is concluded and a final decision made, and sanctions imposed, unless there are exceptional circumstances. It would be helpful if the SRA could look to provide draft criteria, following analysis of the responses to this consultation and its own data, as to what might amount to exceptional circumstances for stakeholders to comment upon.
59. The principles of open justice in relation to a decision to publish would largely outweigh the rights of the respondent, but there may be circumstances when the decision to publish has a greater impact on a respondent for a range of reasons such as impact on health, risk to life or safety and so should be decided on a case-by-case basis. The SRA needs a clearer policy outlining the criteria for when and how it will publish final

⁸ [SDT Judgment Publication Policy May 2020](#)

regulatory decisions and a clear boundary for the decisions it will publish and those it will not or only publish in a redacted form.

60. Details of cases should not usually be published prior to certification by the SDT, which are normally certified within five working days of a referral by the SRA.
61. We see some benefit to link the length of publication to the level of severity of the regulatory decision although the existing policy, overall, appears to strike the right balance.
62. Many investigations are often not concluded until a significant time after the commission of the misconduct concerned. Consideration should therefore be given to the length of time that has elapsed since the dates of breach when deciding the period for which the outcome should be published, particularly those breaches attracting sanctions at the lower end of the scale. The length of publication of a rebuke could, for example, be a shorter length of time say, between 12-18 months, depending on the circumstances and for striking off and suspensions the SRA should consider decisions remaining on its website for a period of 60 years.



Matthew Byng
Policy Team
Solicitors Regulation Authority
125 Old Broad Street
London EC2N 1AR

Sent by email only to PublicationPolicy@sra.org.uk

10 August 2022

Dear Mr Byng,

Consultation: Publication of Regulatory Decisions

The Legal Services Consumer Panel (Panel) welcomes the opportunity to comment on the SRA's review of its policy on the publication of regulatory decisions.

Reflection on Consultation Questions

1 Do you agree that publication of regulatory decisions helps to raise awareness in the profession of appropriate conduct and the consequences for failure to comply? (Strongly Agree, Agree, Don't Know, Disagree, Strongly Disagree)

2 Do you agree that the publication of regulatory decisions is important to help raise awareness among consumers of what they should be entitled to expect? (Strongly Agree, Agree, Don't Know, Disagree, Strongly Disagree)

3 Do you think that principles outlined provide a good framework for our approach to publication of regulatory decisions? (YES/NO) Please explain your answer (Free text)

4 Are there any other principles and considerations on publication of our regulatory decisions that we should consider? (YES/NO) If YES, please explain (Free text)

The Panel agrees that publishing regulatory decisions is one way to raise awareness in the profession about appropriate conduct and the consequences of failing to live up to the required professional standards.

Evidence from other sectors suggest that consumers do not routinely seek or use this information. This is understandable as consumers' awareness of the role of regulators, and what they do, tend to be low. That said, regulators could do more to ensure that enforcement

decisions are visible to consumers; by amalgamating enforcement information with basic data. If individual consumers do not use this information, it will still be of immense value to consumer groups, representatives or intermediaries who may use data to profile or bolster what they know around risk for example.

Consumers have the right to know about the shortcomings of the firms with whom they deal with, so they can protect themselves and be vigilant against unfair behaviour. Making information public could also encourage firms to work with regulators to achieve speedy resolution and in turn minimize reputational risk. Full disclosures of regulatory decisions is firmly within the regulators objective of consumer protection and giving consumers the information they need to help themselves. There should be a presumption to publish enforcement data by all Approved Regulators at the end of an investigation that leads to a sanction.

The Panel generally agrees with the SRA's approach to the publication of regulatory decisions. However, we feel that an additional principle regarding the SRA's obligations to provide useful information to consumers of legal services is needed. For example, providing information concerning any regulatory action taken ensures consumers are aware of important factors that may affect who they choose to provide their legal services, how they deal with legal professionals and what they do to prevent inappropriate behaviour. Being more specific with this obligation to prospective consumers and why the information is needed, rather than simply referring to a duty to be transparent with the public, will help inform how this information is communicated. We note that these considerations are more in line with the objectives outlined in the current policy on the publication of regulatory decisions as well as the statutory objectives of legal services regulation¹.

5 What types of regulatory information do you currently access and for what purpose? (FREE TEXT)

6 Do you think we should publish more or less detail on the regulatory decisions we make? (Multiple Choice – More Information, The Same, Less Information) Please explain your answer including whether you have different views in relation to different types of decision? (Free Text)

7 How else could we better improve the regulatory information we publish to support the profession? (Free text)

8 How else could we better improve the regulatory information we publish to support the public? (Free text)

Members of the Panel are involved in the LSB's Market Transparency and Coordination Oversight Group's sub-committee that is working on how to develop a Regulatory Information Service where regulators can make regulatory information accessible to consumers as well as digital comparison tools. This Task and Finish Group aims to improve information available to consumers on the quality of legal services in the marketplace. The type of information needed for this service would be very brief so that it could be included and convey necessary information in very quick search results. However, it would be useful for consumers to have a way to access additional detail if needed. If they are concerned that a solicitor they would like to engage or interact with has a regulatory citation, they may want to satisfy themselves that it is minor or not related to what they are asking them to do prior to going ahead with that engagement which would mean that additional detail was needed. Some consumers may even like access to the full decision where it is available.

¹ See section 1 of the *Legal Services Act 2007*, c.29.

Accordingly, the Panel believes that full text decisions would be useful to inform some legal services consumers, even though this information may be less accessible or meaningful for other consumers. It is also very important to ensure that this information is conveyed in plain language without reference to legal or regulation jargon. In order to provide accessible and full information to the range of consumers that use legal services as required, the Panel would like to see full text decisions available along with shorter summaries of the pertinent facts. Just as legal cases are often summarised to assist legal professionals and lay people alike in selecting relevant cases, a short summary of each decision would serve the purposes of open justice as well as the needs of consumers and solicitors.

The Panel has reviewed Annex 1 that contains the current provisions for publishing regulatory decisions. It is not clear when all the various actions are taken and how they differ from one another. For example, how does authorisation revocation (published for 3 years from decisions date) differ from revocation of authorised firm (where nothing is published)? Nevertheless, the Panel reiterates that where a decision has been made, the full decision should be made available to the public even after a penalty has ended if it is information that most prospective consumers may find useful. While it is appropriate to provide a brief overview detailing the facts, prospective consumers must be able to also access the full decision should they want to. Such an option could be provided via a link to click through to the full text of the decision from the brief overview. Thought should also be given to how this information will be made available via digital comparison tools and other similar mechanisms which will widen access to this information without requiring consumers to visit the SRA website.

The real concern that the Panel has with the publication timelines as set out in Annex 1 is that with suspensions, SDT restriction orders or suspensions on authorisation to practise (non-SDT), the publication period is the same as the life of the suspension (or restriction) or 3 years, whichever is longer. This means that a solicitor could be suspended, restricted or otherwise unable to fully practice for a period of longer than 3 years and immediately upon full reinstatement, there would be no publicly available record of what had occurred. Any of these actions being taken against a solicitor appear serious enough to ensure that prospective consumers and all members of the public are aware of them. It therefore seems to us that there should be a 3 year period of publication after the suspension or restriction has concluded, as in other cases. It is not only a relevant consideration most consumers would want to know about during the period of suspension or restriction, but also for some time afterwards.

The Panel is also concerned that where a practising certificate has been refused, or approval of a non-lawyer manager is withdrawn and these decisions are published for only 3 years, it may not be clear to consumers or the general public that these events have occurred after 3 years have passed. This issue may be especially relevant where no new practising certificate or approval is sought. Likewise, these concerns may also apply to decisions regarding permission to employ a struck-off solicitor. The worry here is that a professional may be offering legal services without authorisation or in the unregulated market and there may be no 'red flags' on record for what has occurred in the past.

For SDT referrals, it appears from the discussion further on in the consultation paper that a referral decision is published prior to the release of the final decision of the Tribunal. Care will have to be taken to explain the differences between this type of decision and a final decision of the Solicitors Disciplinary Tribunal.

9 Is our current approach to balancing the public interest and principles of open justice with protecting the respondent's well-being, fair and proportionate? (Strongly agree, agree, unsure, disagree, strongly disagree)

10 Are there any circumstances where you think the principles of open justice outweigh the rights of the respondent (YES/NO) If YES, please explain: (Free Text)

11 Are there any circumstances where you think the right of the respondent outweighs the principles of open justice? (YES/NO) If, YES, please explain: (Free text)

12 Do you have any other views on this topic that you would like to share (Free Text)

The Panel understands that balancing the various interests in these cases is tricky, and very important. It may be useful to define “well-being” in a way that indicates that the main purpose is to deter any risk to health, life or safety. This would help solidify the general approach the SRA appears to be taking in that loss of income, custom or incurring staff layoffs are generally not considered good reasons to refrain from publishing regulatory decisions.

Regarding the specific case examples outlined in the consultation paper, the Panel would like to note that where a solicitor faced a long history of harassment preceding an inappropriate social media comment, efforts to ensure the full context is communicated may still enable publishing. This example highlights another reason to publish the full decision where all relevant facts are set out. In addition, mitigation factors may also need to be reflected in the summary or shortened version of any publication to ensure that all those accessing this information are made fully aware of the circumstances of the case in a useful way.

We understand that each case must be judged on its own facts as to whether publication is appropriate, but we would like to affirm that open justice and transparency of regulatory information should be the default and that extraordinary circumstances should be demonstrated to deviate from it. It is the Panel’s view that where there is a serious health or safety risk to someone, this should be considered and balanced against the presumption of publishing.

13 Do you think that our current approach to timing of publication of our decisions requires change? (YES/NO) If YES, please explain why?

14 In what circumstances do you think details of regulatory action and/or decisions should be published earlier? (Free Text)

15 What are you view about at what point we should publish referrals to the SDT? (Free Text)

16 Do you have any further views on the timing of publication of our regulatory decisions? (Free Text)

The issue that the Panel would like to raise with respect to the timing of the publication of regulatory decisions is that publishing only at the very end of a process can introduce significant delays to when this information is publicly available. Beyond the issue of whether there is an imminent risk to the public, regulators must also do their best to provide relevant and timely information to consumers to help them make the best choice of legal professional in the market. Arguably, this threshold is much lower than imminent risk of harm to the public and we would prefer decisions to be reported as soon as information that would be valuable to prospective consumers is confirmed. The duty to provide prospective consumers with important information should also be factored into formulating a strategy on the timing of the publication of regulatory decisions. This approach would lead to regulatory decisions being published as soon as possible, ie as soon as it is confirmed that complaints or

allegations are not baseless, frivolous or misleading. Administrative steps should not delay bringing relevant information to consumers.

It is hard for the Panel to stipulate further as to when regulatory decisions should be published, as we do not have information on the average timeline for processing a complaint or other action that instigates an investigation or administrative process. We are aware that there are significant delays in processing many cases at the Solicitors Disciplinary Tribunal and that more serious cases would be referred there. Given the extraordinarily low rate of cases that have not been certified by the Tribunal after referral from the SRA (less than 4 in the last 3 years), it does appear proportionate to publish this information at the time of referral as opposed to certification by the Tribunal, especially when considering that this information would be of interest to most prospective consumers.

The Panel is pleased that the SRA is considering its approach to the publication of regulatory decisions in light of the greater scope it now has to impose fines on solicitors. Having these cases decided at the SRA level will automatically help alleviate some of the backlog of cases awaiting adjudication at the Solicitors Disciplinary Tribunal and will hopefully help make most regulatory actions and publication of these decisions more timely overall. Faster timelines are beneficial for service providers and consumers alike.

17 Do you think there are benefits to extending or shortening the length of publication of regulatory decisions? (YES/NO) Please explain your answer and provide details (Free text)

18 Do you think it might be beneficial to link the length of publication to the level of severity of the regulatory decision? (YES/NO) Please explain your answer (Free text)

19 Do you have any further views which we should take into account in relation to the length of publication for our decisions? (Free text)

In the Panel's view, there are some regulatory decisions that should be publicly available for longer than the standard 3 years to allow prospective consumers to make informed decisions. As stated in the consultation, consumers are now more likely than ever to shop around prior to choosing a legal professional,² and the SRA's approach to publishing regulatory decisions should take this desire into account. In addition, it is important to emphasise how difficult it is for consumers to judge the quality of legal services and how the duty to act in the consumer interest places an obligation on regulators to provide any information on quality they have in an accessible manner. It seems likely that consumers would want to know about more serious breaches of compliant behaviour for longer periods of time. This would suggest it makes sense to link the severity of the regulatory decision with the length of publication.

The Panel does feel that a tiered approach should be considered where this type of information is published for as long as it would appear useful to consumers. While there may be detrimental effects on solicitors who have been subject to regulatory decisions, it should also be recognised that the negative effects associated with public regulatory censure will further encourage compliance and ethical behaviour in the profession as a whole. This reasoning also holds true for extending the availability of published regulatory decisions.

As always, we are happy to discuss our position on this consultation further and to provide comments on specific proposals. Please contact Heidi Evelyn, Consumer Panel Associate, with any enquiries.

² See LSCP, 2022 Tracker Survey: How Consumers are Choosing Legal Services found at <<https://www.legalservicesconsumerpanel.org.uk/what-we-do/research-and-reports>>.

Yours sincerely,

A handwritten signature in black ink that reads "S Chambers". The signature is written in a cursive, flowing style.

Sarah Chambers
Chair
Legal Services Consumer Panel

The following responses were submitted by respondents who asked us to publish their responses but not their names.

Publication of Regulatory Decisions: Consultation

Response ID:20 Data

3. Consultation questions

1) Do you agree that publication of regulatory decisions helps to raise awareness in the profession of appropriate conduct and the consequences for failure to comply?

Strongly agree

2) Do you agree that the publication of regulatory decisions is important to help raise awareness among consumers of what they should be entitled to expect?

Strongly disagree

3) Do you think that principles outlined provide a good framework for our approach to publication of regulatory decisions?

Yes

9. Please explain your answer

Broadly, this is information people would expect to know for as long as it might sensibly be relevant. That said, there is an argument for an additional principle of minimising the harm caused to the subject of the decision to the extent compatible with the SRA's obligation to inform and protect others. This would have minimal weight where any misconduct was otherwise a matter of public record, or where the subject of the decision might remain in practise (except where acquitted by the SDT), but is directed more to the times where individuals are clearly never going to practise again or where the reporting would cause a false conclusion in the minds of a proportion of those reading it.

4. Consultation questions

4) Are there any other principles and considerations on publication of our regulatory decisions that we should consider?

Yes

10. Please explain

There is an argument for an additional principle of minimising the harm caused to the subject of the decision to the extent compatible with the SRA's obligation to inform and protect others. This would have minimal weight where any misconduct was otherwise a matter of public record, or where the subject of the decision might remain in practise (except where acquitted by the SDT), but is directed more to the times where individuals are clearly never going to practise again or where the reporting would cause a false conclusion in the minds of a proportion of those reading it.

5) What types of regulatory information do you currently access and for what purpose?

Published decisions in the Law Society Gazette for the purpose of informing myself as to aspects of my regulatory obligations I may not have been aware of.

6) Do you think we should publish more or less detail on the regulatory decisions we make?

The same

11. Please explain your answer including whether you have different views in relation to different types of decision?

There is an argument for more sophisticated, principles-based approach here, allowing more or less disclosure where this would better achieve the objectives behind publication. In particular, referrals to the SDT which result in judgements in favour of the subject should be subject to a level of publication chosen by the subject (who, after all, will have been found not to have

done what the SRA asserted on the balance of probabilities). Some subjects will wish for the whole episode to disappear as quickly as possible, and some will wish their vindication to be made as clear as possible (and both should have that right).

5. Consultation questions

7) How else could we better improve the regulatory information we publish to support the profession?

Remind people what the relevant SRA principle at issue is (at least in outline).

8) How else could we better improve the regulatory information we publish to support the public?

The public lack the wish to access this information, or the knowledge to understand much of it. They just need to be comforted that solicitors who do serious wrong by their clients are largely struck-off (which I understand is the case) and that this is done publicly.

9) Is our current approach to balancing the public interest and principles of open justice with protecting the respondent's well-being, fair and proportionate?

Disagree

10) Are there any circumstances where you think the principles of open justice outweigh the rights of the respondent

Yes

12. Please explain

Most circumstances where publication currently occurs - see earlier comments.

6. Consultation questions

13. 11) Are there any circumstances where you think the right of the respondent outweighs the principles of open justice?

Yes

14. Please explain

See earlier responses. The obvious example is innocent respondents, but there is a case for allowing some mildly guilty ones to retire with dignity under a less expansive publication scheme than at present.

15. 12) Do you have any other views on this topic that you would like to share

N/A

16. 13) Do you think that our current approach to timing of publication of our decisions requires change?

No

Please explain

7. Consultation questions

17. 14) In what circumstances do you think details of regulatory action and/or decisions should be published earlier?

N/A

18. 15) What are your views about at what point we should publish referrals to the SDT?

I'm not sure they should be published as a matter of routine. The SDT will eventually rule on the allegations, and the prejudicial effect is potentially significant. The SRA should conduct further research on the prejudice suffered.

19. 16) Do you have any further views on the timing of publication of our regulatory decisions?

N/A

8. Consultation questions

20. 17) Do you think there are benefits to extending or shortening the length of publication of regulatory decisions?

No

21. Please explain your answer and provide details

It's fine as is (although see earlier comment on a principles based approach).

22. 18) Do you think it might be beneficial to link the length of publication to the level of severity of the regulatory decision?

No

23. Please explain your answer

See earlier comment on a principles based approach (where the severity would certainly be a relevant matter).

24. 19) Do you have any further views which we should take into account in relation to the length of publication for our decisions?

N/A

PUBLICATION OF REGULATORY DECISIONS: CONSULTATION

Response ID:21 Data

3. Consultation questions

1) Do you agree that publication of regulatory decisions helps to raise awareness in the profession of appropriate conduct and the consequences for failure to comply?

Strongly disagree

2) Do you agree that the publication of regulatory decisions is important to help raise awareness among consumers of what they should be entitled to expect?

Disagree

3) Do you think that principles outlined provide a good framework for our approach to publication of regulatory decisions?

No

8. Please explain your answer

It is mostly unfair and prejudicial to publish when the subject or the accused has not been found guilty, irrespective of the severity and or perceived seriousness of the offence....Imagine the damage already done to the hard earned labour, reputation, qualifications, family name, sometime with dependants to support the mere publication with few or even nobody bothering to go back to check for any outcome leaves an irreversible and or indelible mark or damage in the life of the accused individual and or his/her family members. The public knowing this, sometimes uses this as a blackmailing tool on any misunderstanding issues arising between them and a Solicitor even on matters that has nothing to do with professional dealings....

In my opinion, the rate at which issues of publication and disciplinary issues and or regulatory, striking off is going and with so much enthusiasm on the part of the SRA about it, it is doubtful any human being with blood running through his veins would soon be fit to function in the profession....all 'll soon be struck off and or sanctioned or rebuked.... more like driving offences....is becoming....

Not in anyway condoning unprofessional attitude but dehumanising human beings, especially people from the minority group in the name of protecting and or upholding the trust of the public in a profession seems now to be going too far....there needs to be a robust discussions on the way forward....mediation, regular training, CPD, informal engagement and many more better options of treating people like professionals and adults....

The current system is just not working...prejudicial, unfair, intimidating, discouraging and not fit for purpose....

4. Consultation questions

4) Are there any other principles and considerations on publication of our regulatory decisions that we should consider?

Yes

9. Please explain

See previous statements....people are becoming suicidal with the current system

5) What types of regulatory information do you currently access and for what purpose?

Subjective

6) Do you think we should publish more or less detail on the regulatory decisions we make?

Less information

10. Please explain your answer including whether you have different views in relation to different types of decision?

Could be damaging and prejudicial in certain circumstances

5. Consultation questions

7) How else could we better improve the regulatory information we publish to support the profession?

See previous comments

8) How else could we better improve the regulatory information we publish to support the public?

The professionals need more of your support than invariably you're supporting the public

9) Is our current approach to balancing the public interest and principles of open justice with protecting the respondent's well-being, fair and proportionate?

Strongly disagree

10) Are there any circumstances where you think the principles of open justice outweigh the rights of the respondent

No

Please explain

6. Consultation questions

11. 11) Are there any circumstances where you think the right of the respondent outweighs the principles of open justice?

Yes

12. Please explain

Jumping to conclusions by publication sometimes is an assumption of guilt by the SRA which is usually prejudicial to the individual and permanently damaging in most circumstances

13. 12) Do you have any other views on this topic that you would like to share

See previous comments

14. 13) Do you think that our current approach to timing of publication of our decisions requires change?

Yes

15. Please explain

See previous comments

7. Consultation questions

16. 14) In what circumstances do you think details of regulatory action and/or decisions should be published earlier?

See previous comments, not really necessary

17. 15) What are your views about at what point we should publish referrals to the SDT?

After final conclusion of the matter and guilty verdict and or conclusion if any appeal

18. 16) Do you have any further views on the timing of publication of our regulatory decisions?

See previous comments

8. Consultation questions

19. 17) Do you think there are benefits to extending or shortening the length of publication of regulatory decisions?

Yes

20. Please explain your answer and provide details

Very subjective

21. 18) Do you think it might be beneficial to link the length of publication to the level of severity of the regulatory decision?

Yes

22. Please explain your answer

See previous comments

23. 19) Do you have any further views which we should take into account in relation to the length of publication for our decisions?

See previous comments

PUBLICATION OF REGULATORY DECISIONS: CONSULTATION

Response ID:23 Data

3. Consultation questions

1) Do you agree that publication of regulatory decisions helps to raise awareness in the profession of appropriate conduct and the consequences for failure to comply?

Strongly disagree

2) Do you agree that the publication of regulatory decisions is important to help raise awareness among consumers of what they should be entitled to expect?

Strongly disagree

3) Do you think that principles outlined provide a good framework for our approach to publication of regulatory decisions?

No

9. Please explain your answer

The principles outlined are disproportionate to the approach the SRA takes in publishing regulatory decisions as the principles are outdated, the "name and shame" approach is demeaning, can tarnish and remain with individuals for the rest of their lives and can significantly cause them to lose their character integrity even if the legal profession is something they are forced to discontinue due to the decision taken by the SRA

4. Consultation questions

4) Are there any other principles and considerations on publication of our regulatory decisions that we should consider?

No

Please explain

5) What types of regulatory information do you currently access and for what purpose?

If an individual has conditions on their practising certificate

6) Do you think we should publish more or less detail on the regulatory decisions we make?

Less information

10. Please explain your answer including whether you have different views in relation to different types of decision?

The fact that a decision has been imposed is sufficient and an individual's error however grave it may have been should not be published in a "name and ashame" approach. It should be clear there has been a decision made and the line should be drawn there due to the fact that solicitors regardless of disciplinary action taken against them have a right to a private and family life in accordance with Article 8 of the HRA.

5. Consultation questions

7) How else could we better improve the regulatory information we publish to support the profession?

Publish less

8) How else could we better improve the regulatory information we publish to support the public?

The public do not spend hours browsing the SRA website or law society website to see if a solicitor or law firm has regulatory action taken against them. Therefore, this approach is counter-intuitive.

General advice to all clients in the form of a client care letter paragraph warning clients to check their solicitors record could be one approach of mandatory safeguards for law firms/solicitors - to protect their clients.

9) Is our current approach to balancing the public interest and principles of open justice with protecting the respondent's well-being, fair and proportionate?

Strongly disagree

10) Are there any circumstances where you think the principles of open justice outweigh the rights of the respondent

No

Please explain

6. Consultation questions

11. 11) Are there any circumstances where you think the right of the respondent outweighs the principles of open justice?

No

Please explain

12. 12) Do you have any other views on this topic that you would like to share

13. 13) Do you think that our current approach to timing of publication of our decisions requires change?

Yes

14. Please explain

Outdated

7. Consultation questions

15. 14) In what circumstances do you think details of regulatory action and/or decisions should be published earlier?

If a law firm is subject to closure

16. 15) What are you view about at what point we should publish referrals to the SDT?

They should not be published as referrals are still unproven until a decision is made by the SDT

17. 16) Do you have any further views on the timing of publication of our regulatory decisions?

No

8. Consultation questions

18. 17) Do you think there are benefits to extending or shortening the length of publication of regulatory decisions?

Yes

19. Please explain your answer and provide details

They should be shortened due to the individual being able to then move forward with their life

20. 18) Do you think it might be beneficial to link the length of publication to the level of severity of the regulatory decision?

No

21. Please explain your answer

22. 19) Do you have any further views which we should take into account in relation to the length of publication for our decisions?

Publication of Regulatory Decisions: Consultation

Response ID:25 Data

3. Consultation questions

1) Do you agree that publication of regulatory decisions helps to raise awareness in the profession of appropriate conduct and the consequences for failure to comply?

Agree

2) Do you agree that the publication of regulatory decisions is important to help raise awareness among consumers of what they should be entitled to expect?

Agree

3) Do you think that principles outlined provide a good framework for our approach to publication of regulatory decisions?

Yes

9. Please explain your answer

I believe that these principles help to achieve the aim of ensuring public confidence in the profession.

4. Consultation questions

4) Are there any other principles and considerations on publication of our regulatory decisions that we should consider?

No

Please explain

5) What types of regulatory information do you currently access and for what purpose?

I very rarely access this information myself (although I do often read the reports of decisions/interventions published in the Law Society's Gazette) but it is important that professionals and the public have an opportunity to view it.

6) Do you think we should publish more or less detail on the regulatory decisions we make?

The same

10. Please explain your answer including whether you have different views in relation to different types of decision?

I think the current balance is about right.

5. Consultation questions

7) How else could we better improve the regulatory information we publish to support the profession?

8) How else could we better improve the regulatory information we publish to support the public?

9) Is our current approach to balancing the public interest and principles of open justice with protecting the respondent's well-being, fair and proportionate?

Agree

10) Are there any circumstances where you think the principles of open justice outweigh the rights of the respondent

Yes

11. Please explain

Whilst privacy is a relevant consideration, the public needs to have confidence in the integrity of individual solicitors, and of the profession as a whole.

6. Consultation questions

12. 11) Are there any circumstances where you think the right of the respondent outweighs the principles of open justice?

Yes

13. Please explain

I do not think that details of relatively minor sanctions need to be available indefinitely, but this already appears to be accounted for in the SRA's current approach.

14. 12) Do you have any other views on this topic that you would like to share

15. 13) Do you think that our current approach to timing of publication of our decisions requires change?

No

Please explain

7. Consultation questions

16. 14) In what circumstances do you think details of regulatory action and/or decisions should be published earlier?

I think that information about decisions of the SDT should generally be published as soon as is reasonably practicable, whilst making it clear that such decisions may be subject to appeal.

17. 15) What are your views about at what point we should publish referrals to the SDT?

18. 16) Do you have any further views on the timing of publication of our regulatory decisions?

8. Consultation questions

19. 17) Do you think there are benefits to extending or shortening the length of publication of regulatory decisions?

No

20. Please explain your answer and provide details

The current approach seems to me to be about right.

21. 18) Do you think it might be beneficial to link the length of publication to the level of severity of the regulatory decision?

Yes

22. Please explain your answer

23. 19) Do you have any further views which we should take into account in relation to the length of publication for our

decisions?

Publication of Regulatory Decisions: Consultation

Response ID:30 Data

3. Consultation questions

1) Do you agree that publication of regulatory decisions helps to raise awareness in the profession of appropriate conduct and the consequences for failure to comply?

Strongly agree

2) Do you agree that the publication of regulatory decisions is important to help raise awareness among consumers of what they should be entitled to expect?

Strongly agree

3) Do you think that principles outlined provide a good framework for our approach to publication of regulatory decisions?

Yes

9. Please explain your answer

4. Consultation questions

4) Are there any other principles and considerations on publication of our regulatory decisions that we should consider?

No

Please explain

5) What types of regulatory information do you currently access and for what purpose?

6) Do you think we should publish more or less detail on the regulatory decisions we make?

More information

10. Please explain your answer including whether you have different views in relation to different types of decision?

I think you should always mention the town or city where the person was working. This ensures that solicitors with the same name who are unconnected with the proceedings are not wrongly thought to be at fault.

5. Consultation questions

7) How else could we better improve the regulatory information we publish to support the profession?

8) How else could we better improve the regulatory information we publish to support the public?

9) Is our current approach to balancing the public interest and principles of open justice with protecting the respondent's well-being, fair and proportionate?

Don't know

10) Are there any circumstances where you think the principles of open justice outweigh the rights of the respondent

Yes

11. Please explain

I think that the principles of open justice always outweigh the rights of the respondent. Other members of the profession are entitled to know the sort of people they are dealing with.

6. Consultation questions

12. 11) Are there any circumstances where you think the right of the respondent outweighs the principles of open justice?

No

Please explain

13. 12) Do you have any other views on this topic that you would like to share

14. 13) Do you think that our current approach to timing of publication of our decisions requires change?

No

Please explain

7. Consultation questions

15. 14) In what circumstances do you think details of regulatory action and/or decisions should be published earlier?

16. 15) What are your views about at what point we should publish referrals to the SDT?

When a finding has been made.

17. 16) Do you have any further views on the timing of publication of our regulatory decisions?

8. Consultation questions

18. 17) Do you think there are benefits to extending or shortening the length of publication of regulatory decisions?

No

19. Please explain your answer and provide details

20. 18) Do you think it might be beneficial to link the length of publication to the level of severity of the regulatory decision?

No

21. Please explain your answer

22. 19) Do you have any further views which we should take into account in relation to the length of publication for our decisions?

Publication of Regulatory Decisions: Consultation

Response ID:33 Data

3. Consultation questions

1) Do you agree that publication of regulatory decisions helps to raise awareness in the profession of appropriate conduct and the consequences for failure to comply?

Agree

2) Do you agree that the publication of regulatory decisions is important to help raise awareness among consumers of what they should be entitled to expect?

Agree

3) Do you think that principles outlined provide a good framework for our approach to publication of regulatory decisions?

Yes

9. Please explain your answer

I think it is appropriate to have a degree of transparency but that this must be balanced with the need to treat those accused of misconduct fairly and not subjecting anyone to trial by publicity

4. Consultation questions

4) Are there any other principles and considerations on publication of our regulatory decisions that we should consider?

No

Please explain

5) What types of regulatory information do you currently access and for what purpose?

checks on potential employees to ensure that we are aware of any relevant disciplinary history or restrictions .

6) Do you think we should publish more or less detail on the regulatory decisions we make?

The same

10. Please explain your answer including whether you have different views in relation to different types of decision?

I think typically the information suffices . There are occasions where more information might be relevant, for example where the outcome is, on the face of it, disproportionate (in wither direction) to the misconduct or behaviour

5. Consultation questions

7) How else could we better improve the regulatory information we publish to support the profession?

Consider a sliding scale with more serious matters remaining published for longer periods and minor ones for shorter periods.

Provide more detailed / older information to professionals (e.g. firms seeking to employ a new staff member) than to the general public

8) How else could we better improve the regulatory information we publish to support the public?

n/a

9) Is our current approach to balancing the public interest and principles of open justice with protecting the respondent's well-being, fair and proportionate?

Agree

10) Are there any circumstances where you think the principles of open justice outweigh the rights of the respondent

Yes

11. Please explain

In very serious cases or whether there is a continuing risk to the public, however, this would only apply with regard to how long information was available / published AFTER findings have been made. I do not believe that even the principle of open justice justifies publishing unproved allegations or allegations where no decision as to whether there is even a case to answer, as even an baseless and unproven allegation could have devastating impact on an individual or organisation (particularly where the organisation is small.

6. Consultation questions

12. 11) Are there any circumstances where you think the right of the respondent outweighs the principles of open justice?

Yes

13. Please explain

I think that the more serious the allegation, the greater care must be taken to ensure that the respondent is not publicly identified too early. I also think that there are cases where an individual's personal situation (e.g. their health (including mental health) would be severely or disproportionately affected or where they had limited culpability even where a finding has been made (e.g. a junior lawyer who acted on direct instructions from someone senior) Even where the published decision includes details of mitigating factors these can in themselves add further stigma or engage a respondent's right to privacy - this may be particularly true where mental health, which continues to carry a significant stigma, is a factor

14. 12) Do you have any other views on this topic that you would like to share

I believe that there may be an argument for more detailed information or information to be made available for a longer period after the findings, to members of the profession where there is a valid reason for their inquiry, than to the general public, in order to balance the need to protect the respondent's rights while also ensuring public protection (for instance, by enabling future employers to take appropriate steps regarding supervision etc)

15. 13) Do you think that our current approach to timing of publication of our decisions requires change?

Yes

16. Please explain

I think that it would be appropriate to have a more nuanced approach to how long decisions remain available - with decisions where there has been a finding of more serious misconduct remaining available for longer than those for minor or less serious misconduct, or misconduct where there were significant mitigating circumstances .
I also consider that the balance of transparency and the 'right to be forgotten' could be met by having different provisions in relation to the information available to the public as a whole and that available to (for example) firms making enquiries as part of due diligence prior to making job offers

7. Consultation questions

17. 14) In what circumstances do you think details of regulatory action and/or decisions should be published earlier?

The only situation where I could see this being appropriate would be where findings have already been made (e.g. where regulatory involvement follows a criminal prosecution,)

18. 15) What are your views about at what point we should publish referrals to the SDT?

19. 16) Do you have any further views on the timing of publication of our regulatory decisions?

I think it is appropriate to allow time for any response from the respondent to proposed publication and for them to obtain advice. In most cases, 28 days seems reasonable but it would be appropriate to extend this where a respondent is known to be vulnerable or where there are circumstances which mean that you are aware that they are unlikely to be able to respond within that timescale

8. Consultation questions

20. 17) Do you think there are benefits to extending or shortening the length of publication of regulatory decisions?

Yes

21. Please explain your answer and provide details

I think there are benefits to extending for the more serious findings and shortening for the least serious

22. 18) Do you think it might be beneficial to link the length of publication to the level of severity of the regulatory decision?

Yes

23. Please explain your answer

I think this would be both fair, and reassuring to the public and other members of the profession -

24. 19) Do you have any further views which we should take into account in relation to the length of publication for our decisions?

As above - I think that it would be appropriate to consider the vulnerability of respondents and to consider the significant damage that can be done to a person's reputation and personal life if unproven allegations or claims are publicised too early

PUBLICATION OF REGULATORY DECISIONS: CONSULTATION

Response ID:40 Data

3. Consultation questions

1) Do you agree that publication of regulatory decisions helps to raise awareness in the profession of appropriate conduct and the consequences for failure to comply?

Strongly disagree

2) Do you agree that the publication of regulatory decisions is important to help raise awareness among consumers of what they should be entitled to expect?

Strongly disagree

3) Do you think that principles outlined provide a good framework for our approach to publication of regulatory decisions?

No

9. Please explain your answer

The continued publication of the SRA's decision to prosecute after the prosecution has been dismissed - as in my case - is highly oppressive

4. Consultation questions

4) Are there any other principles and considerations on publication of our regulatory decisions that we should consider?

Yes

10. Please explain

The SRA should remove the publication of its decisions to prosecute actions that are dismissed

5) What types of regulatory information do you currently access and for what purpose?

None

6) Do you think we should publish more or less detail on the regulatory decisions we make?

Less information

11. Please explain your answer including whether you have different views in relation to different types of decision?

The publication of information is in effect a separate punishment to the decision itself - what should be published, and for how long, ought to be part of any decision, and there should be no publication until there has been such a decision.

5. Consultation questions

7) How else could we better improve the regulatory information we publish to support the profession?

By not publishing information about decisions the SRA got wrong, as in my case.

8) How else could we better improve the regulatory information we publish to support the public?

By not publishing information about decisions the SRA got wrong, as in my case.

9) Is our current approach to balancing the public interest and principles of open justice with protecting the respondent's well-being, fair and proportionate?

Strongly disagree

10) Are there any circumstances where you think the principles of open justice outweigh the rights of the respondent

No

Please explain

6. Consultation questions

12. 11) Are there any circumstances where you think the right of the respondent outweighs the principles of open justice?

Yes

13. Please explain

The respondent is innocent until a final outcome is reached, and there should be no publication ahead of such an outcome

14. 12) Do you have any other views on this topic that you would like to share

15. 13) Do you think that our current approach to timing of publication of our decisions requires change?

Yes

16. Please explain

As outlined, nothing should be published until there is an actual outcome, and part of every outcome ought to be a decision on what is published about that outcome, including for how long.

7. Consultation questions

17. 14) In what circumstances do you think details of regulatory action and/or decisions should be published earlier?

No publication before outcome - entirely prejudicial

18. 15) What are your views about at what point we should publish referrals to the SDT?

Only after they are upheld by the SDT

19. 16) Do you have any further views on the timing of publication of our regulatory decisions?

8. Consultation questions

20. 17) Do you think there are benefits to extending or shortening the length of publication of regulatory decisions?

Yes

21. Please explain your answer and provide details

The length of publication ought to be considered as part of the outcome

22. 18) Do you think it might be beneficial to link the length of publication to the level of severity of the regulatory decision?

Yes

23. Please explain your answer

The length of publication ought to be considered as part of the outcome

24. 19) Do you have any further views which we should take into account in relation to the length of publication for our decisions?

Publication of Regulatory Decisions: Consultation

Response ID:46 Data

3. Consultation questions

1) Do you agree that publication of regulatory decisions helps to raise awareness in the profession of appropriate conduct and the consequences for failure to comply?

Strongly agree

2) Do you agree that the publication of regulatory decisions is important to help raise awareness among consumers of what they should be entitled to expect?

Strongly agree

3) Do you think that principles outlined provide a good framework for our approach to publication of regulatory decisions?

Yes

9. Please explain your answer

So long as sufficient information is published that an ordinary person could make a judgement this it is acceptable to redact some

4. Consultation questions

4) Are there any other principles and considerations on publication of our regulatory decisions that we should consider?

Yes

10. Please explain

There are some people who get into the profession from whom the public need protection and who have demonstrated they should never again be in a position of trust. It is important that these people are identified, as giving them anonymity enables them to return. As a professional indemnity underwriter I am aware of a number of people who applied to set up firms whose regulatory history made them unsuitable to run a firm or even be a Solicitor.

5) What types of regulatory information do you currently access and for what purpose?

disciplinary - understand professional indemnity insurance impact

6) Do you think we should publish more or less detail on the regulatory decisions we make?

The same

11. Please explain your answer including whether you have different views in relation to different types of decision?

none

5. Consultation questions

7) How else could we better improve the regulatory information we publish to support the profession?

There should be no right to be forgotten for a position of trust

8) How else could we better improve the regulatory information we publish to support the public?

9) Is our current approach to balancing the public interest and principles of open justice with protecting the respondent's well-being, fair and proportionate?

Disagree

10) Are there any circumstances where you think the principles of open justice outweigh the rights of the respondent

Yes

12. Please explain

any risk to the public from protecting the respondent

6. Consultation questions

13. 11) Are there any circumstances where you think the right of the respondent outweighs the principles of open justice?

No

Please explain

14. 12) Do you have any other views on this topic that you would like to share

15. 13) Do you think that our current approach to timing of publication of our decisions requires change?

Yes

16. Please explain

SDT publication needs improvement - it is difficult to use

7. Consultation questions

17. 14) In what circumstances do you think details of regulatory action and/or decisions should be published earlier?

none

18. 15) What are your views about at what point we should publish referrals to the SDT?

once the matter is heard

19. 16) Do you have any further views on the timing of publication of our regulatory decisions?

no

8. Consultation questions

20. 17) Do you think there are benefits to extending or shortening the length of publication of regulatory decisions?

No

21. Please explain your answer and provide details

just once the evidence has been heard

22. 18) Do you think it might be beneficial to link the length of publication to the level of severity of the regulatory decision?

No

23. Please explain your answer

Some minor matters actually involve people who have committed more serious breaches but there is a lack of evidence

24. 19) Do you have any further views which we should take into account in relation to the length of publication for our decisions?

Insurers need the data to be clear and available so they can decide fairly if to offer the very wide indemnity insurance

Publication of Regulatory Decisions: Consultation

Response ID:50 Data

3. Consultation questions

1) Do you agree that publication of regulatory decisions helps to raise awareness in the profession of appropriate conduct and the consequences for failure to comply?

Don't know

2) Do you agree that the publication of regulatory decisions is important to help raise awareness among consumers of what they should be entitled to expect?

Don't know

3) Do you think that principles outlined provide a good framework for our approach to publication of regulatory decisions?

Yes

6. Please explain your answer

It's on the right lines.

4. Consultation questions

4) Are there any other principles and considerations on publication of our regulatory decisions that we should consider?

No

Please explain

5) What types of regulatory information do you currently access and for what purpose?

What is in the LSG and as a matter of interest as I am retired.

6) Do you think we should publish more or less detail on the regulatory decisions we make?

The same

7. Please explain your answer including whether you have different views in relation to different types of decision?

5. Consultation questions

7) How else could we better improve the regulatory information we publish to support the profession?

8) How else could we better improve the regulatory information we publish to support the public?

9) Is our current approach to balancing the public interest and principles of open justice with protecting the respondent's well-being, fair and proportionate?

Don't know

10) Are there any circumstances where you think the principles of open justice outweigh the rights of the respondent

Yes

8. Please explain

In matters affecting the honesty and integrity of a solicitor

6. Consultation questions

9. 11) Are there any circumstances where you think the right of the respondent outweighs the principles of open justice?

Yes

10. Please explain

In matters affecting only the personal and sexual life of a solicitor

11. 12) Do you have any other views on this topic that you would like to share

12. 13) Do you think that our current approach to timing of publication of our decisions requires change?

No

Please explain

7. Consultation questions

13. 14) In what circumstances do you think details of regulatory action and/or decisions should be published earlier?

14. 15) What are you view about at what point we should publish referrals to the SDT?

After the hearing and decision.

15. 16) Do you have any further views on the timing of publication of our regulatory decisions?

8. Consultation questions

16. 17) Do you think there are benefits to extending or shortening the length of publication of regulatory decisions?

No

17. Please explain your answer and provide details

It depends entirely on the complexity of the case

18. 18) Do you think it might be beneficial to link the length of publication to the level of severity of the regulatory decision?

Yes

19. Please explain your answer

Where there has been a criminal conviction these facts are all that needs to be published: date, sentence, offence and court.

20. 19) Do you have any further views which we should take into account in relation to the length of publication for our decisions?

Publication of Regulatory Decisions: Consultation

Response ID:51 Data

3. Consultation questions

1) Do you agree that publication of regulatory decisions helps to raise awareness in the profession of appropriate conduct and the consequences for failure to comply?

Agree

2) Do you agree that the publication of regulatory decisions is important to help raise awareness among consumers of what they should be entitled to expect?

Disagree

3) Do you think that principles outlined provide a good framework for our approach to publication of regulatory decisions?

No

8. Please explain your answer

The SRA are not being transparent by only publishing the outcome and not the decision making process for each decision notice which is fundamentally flawed on many occasions - Clare Matthews being one such example.

4. Consultation questions

4) Are there any other principles and considerations on publication of our regulatory decisions that we should consider?

Yes

9. Please explain

There should be a consideration of the impact of the decision making on the person subject to investigation. The knowledge that this is in the public domain in the age of Google is crippling. Only criminal acts should be published (theft. fraud etc).

5) What types of regulatory information do you currently access and for what purpose?

I don't and most members of the public wouldn't know to look up a solicitor on the roll or SRA website. However googling a name will bring up a result and this is detrimental to a person in the personal as well as their professional life.

6) Do you think we should publish more or less detail on the regulatory decisions we make?

Less information

10. Please explain your answer including whether you have different views in relation to different types of decision?

This is hard. I think decisions shouldn't be public but only available to legal firms needing to check a solicitor as part of their recruitment checks but if you are going to publish then more information should be provided to meet the aim of 'transparency' and to show the full facts. All decisions should be published in consultation with the person subject to the decision.

5. Consultation questions

7) How else could we better improve the regulatory information we publish to support the profession?

Provide more information in each case about the decision making process and information about the mitigating circumstances

8) How else could we better improve the regulatory information we publish to support the public?

As above

9) Is our current approach to balancing the public interest and principles of open justice with protecting the respondent's well-being, fair and proportionate?

Strongly disagree

10) Are there any circumstances where you think the principles of open justice outweigh the rights of the respondent

No

Please explain

6. Consultation questions

11. 11) Are there any circumstances where you think the right of the respondent outweighs the principles of open justice?

Yes

12. Please explain

Personal experience of medical ill health and a diagnosis of an eating disorder having a direct impact on my conduct was not considered by the SRA and I think there will always be mitigating circumstances that should be made available to the public.

13. 12) Do you have any other views on this topic that you would like to share

The SRA has made consistently incorrect decisions at a huge cost to the profession. It undermines the SRA's credibility and the publication of the decisions is not in the interests of any stakeholder (the public, the SRA and the legal professional).

14. 13) Do you think that our current approach to timing of publication of our decisions requires change?

Yes

15. Please explain

It should be publication in exceptional circumstances only

7. Consultation questions

16. 14) In what circumstances do you think details of regulatory action and/or decisions should be published earlier?

Never

17. 15) What are you view about at what point we should publish referrals to the SDT?

After a decision by the SDT has been made

18. 16) Do you have any further views on the timing of publication of our regulatory decisions?

Just stop publishing them unless it is a heinous crime

8. Consultation questions

19. 17) Do you think there are benefits to extending or shortening the length of publication of regulatory decisions?

Yes

20. Please explain your answer and provide details

21. 18) Do you think it might be beneficial to link the length of publication to the level of severity of the regulatory decision?

Yes

22. Please explain your answer

23. 19) Do you have any further views which we should take into account in relation to the length of publication for our decisions?

Each decision should have a separate publication length depending on the severity

Publication of Regulatory Decisions: Consultation

Response ID:56 Data

3. Consultation questions

1) Do you agree that publication of regulatory decisions helps to raise awareness in the profession of appropriate conduct and the consequences for failure to comply?

Strongly agree

2) Do you agree that the publication of regulatory decisions is important to help raise awareness among consumers of what they should be entitled to expect?

Agree

3) Do you think that principles outlined provide a good framework for our approach to publication of regulatory decisions?

Yes

9. Please explain your answer

4. Consultation questions

4) Are there any other principles and considerations on publication of our regulatory decisions that we should consider?

No

Please explain

5) What types of regulatory information do you currently access and for what purpose?

6) Do you think we should publish more or less detail on the regulatory decisions we make?

The same

10. Please explain your answer including whether you have different views in relation to different types of decision?

5. Consultation questions

7) How else could we better improve the regulatory information we publish to support the profession?

8) How else could we better improve the regulatory information we publish to support the public?

9) Is our current approach to balancing the public interest and principles of open justice with protecting the respondent's well-being, fair and proportionate?

Strongly agree

10) Are there any circumstances where you think the principles of open justice outweigh the rights of the respondent

No

Please explain

6. Consultation questions

11. 11) Are there any circumstances where you think the right of the respondent outweighs the principles of open justice?

No

Please explain

12. 12) Do you have any other views on this topic that you would like to share

13. 13) Do you think that our current approach to timing of publication of our decisions requires change?

No

Please explain

7. Consultation questions

14. 14) In what circumstances do you think details of regulatory action and/or decisions should be published earlier?

15. 15) What are your views about at what point we should publish referrals to the SDT?

16. 16) Do you have any further views on the timing of publication of our regulatory decisions?

People need to be able to get on with their lives and move forward. An increase to the timing of the publication of regulatory decisions prolongs the mental and emotional distress that the person is going through and does not enable them to move forward with their lives. As much as the public interest needs to be served we have to be mindful of the mental health implications this can have to the individual. We are only human after all.

8. Consultation questions

17. 17) Do you think there are benefits to extending or shortening the length of publication of regulatory decisions?

Yes

18. Please explain your answer and provide details

Shortening the length of the publication can benefit mental health and enable the person to move on with their life.

19. 18) Do you think it might be beneficial to link the length of publication to the level of severity of the regulatory decision?

No

20. Please explain your answer

The person will have been sanctioned by the SRA and this should not effect the length of time that this is published for.

21. 19) Do you have any further views which we should take into account in relation to the length of publication for our decisions?

Mental health is a huge talking point in so many professions as to helping and protecting the individual. However it does not seem to be taken into account with a solicitor or someone working in the legal profession. I strongly believe that the length of publication can have a massive impact on a persons mental health and this must be considered when publishing anything. People must be allowed to move on with their lives.

Publication of Regulatory Decisions: Consultation

Response ID:58 Data

3. Consultation questions

1) Do you agree that publication of regulatory decisions helps to raise awareness in the profession of appropriate conduct and the consequences for failure to comply?

Strongly agree

2) Do you agree that the publication of regulatory decisions is important to help raise awareness among consumers of what they should be entitled to expect?

Agree

3) Do you think that principles outlined provide a good framework for our approach to publication of regulatory decisions?

Yes

9. Please explain your answer

4. Consultation questions

4) Are there any other principles and considerations on publication of our regulatory decisions that we should consider?

No

Please explain

5) What types of regulatory information do you currently access and for what purpose?

Checking a solicitors record.

Reviewing previous decisions to help to understand how the SRA Standards are applied and what conduct draws what sanction.

6) Do you think we should publish more or less detail on the regulatory decisions we make?

The same

10. Please explain your answer including whether you have different views in relation to different types of decision?

The detail published is about right.

I do not believe investigations should be published where they do not lead to disciplinary action / sanctions.

5. Consultation questions

7) How else could we better improve the regulatory information we publish to support the profession?

8) How else could we better improve the regulatory information we publish to support the public?

9) Is our current approach to balancing the public interest and principles of open justice with protecting the respondent's well-being, fair and proportionate?

Strongly agree

10) Are there any circumstances where you think the principles of open justice outweigh the rights of the respondent

No

Please explain

6. Consultation questions

11. 11) Are there any circumstances where you think the right of the respondent outweighs the principles of open justice?

No

Please explain

12. 12) Do you have any other views on this topic that you would like to share

13. 13) Do you think that our current approach to timing of publication of our decisions requires change?

No

Please explain

7. Consultation questions

14. 14) In what circumstances do you think details of regulatory action and/or decisions should be published earlier?

I do not think they should be published earlier.

15. 15) What are your views about at what point we should publish referrals to the SDT?

16. 16) Do you have any further views on the timing of publication of our regulatory decisions?

8. Consultation questions

17. 17) Do you think there are benefits to extending or shortening the length of publication of regulatory decisions?

Yes

18. Please explain your answer and provide details

There could perhaps be a review date to decide whether the offending action has been addressed satisfactorily.

19. 18) Do you think it might be beneficial to link the length of publication to the level of severity of the regulatory decision?

Yes

20. Please explain your answer

Less severe issues could have a shorter period of publication. Publication can have a significant impact on the wellbeing and careers of the individuals concerned.

21. 19) Do you have any further views which we should take into account in relation to the length of publication for our decisions?

Publication of Regulatory Decisions: Consultation

Response ID:69 Data

3. Consultation questions

1) Do you agree that publication of regulatory decisions helps to raise awareness in the profession of appropriate conduct and the consequences for failure to comply?

Disagree

2) Do you agree that the publication of regulatory decisions is important to help raise awareness among consumers of what they should be entitled to expect?

Strongly disagree

3) Do you think that principles outlined provide a good framework for our approach to publication of regulatory decisions?

No

9. Please explain your answer

The disciplinary outcome itself acts as a deterrent and I strongly believe that publication results only in public humiliation to Solicitors who are subject to investigation. More needs to be done to protect the mental health of Solicitors. If an individual is deemed to be a risk or has brought the profession into disrepute then the sanction should be sufficient to deal with this. Legal news outlets such as Legal Cheek and the Law Gazette frequently post about disciplinary outcomes on social media causing further humiliation to the individual concerned. The punishment should stop at the sanction and I feel that the naming and shaming should not continue as I am deeply concerned about the mental health of many junior solicitors, who I know are terrified of making mistakes. I fully support the profession being held accountable and sanctioned where appropriate but I believe that publishing these decisions can be very damaging to individuals.

4. Consultation questions

4) Are there any other principles and considerations on publication of our regulatory decisions that we should consider?

Yes

10. Please explain

Consideration should be given to the working environment of the individual concerned. Law firms with toxic working environments cause legal professionals to be too scared to report their mistakes immediately which leads to sanctions for dishonesty/deception. These firms need to be held accountable. Many Solicitors are making mistakes due to unmanageable caseloads and feel that they cannot speak to their supervisors about their mistakes due to toxic cultures. Bad decisions can be made when individuals are in a state of panic and more needs to be done to ensure that firms are offering supportive environments where junior solicitors are not terrified of reporting that they have made a mistake.

5) What types of regulatory information do you currently access and for what purpose?

N/A

6) Do you think we should publish more or less detail on the regulatory decisions we make?

Less information

11. Please explain your answer including whether you have different views in relation to different types of decision?

If publication is necessary then I feel it should be limited to the name of the Solicitor and the sanction given. This may at least

deter the reporting of regulatory decisions by popular news outlets on social media.

5. Consultation questions

7) How else could we better improve the regulatory information we publish to support the profession?

8) How else could we better improve the regulatory information we publish to support the public?

9) Is our current approach to balancing the public interest and principles of open justice with protecting the respondent's well-being, fair and proportionate?

Disagree

10) Are there any circumstances where you think the principles of open justice outweigh the rights of the respondent

Yes

12. Please explain

Where a criminal offence has been committed or an abuse of power.

6. Consultation questions

13. 11) Are there any circumstances where you think the right of the respondent outweighs the principles of open justice?

Yes

14. Please explain

Many Solicitors suffer from burn out or mental health conditions like anxiety or depression. The publication of the full details of a regulatory investigation against them is potentially very detrimental to their mental health. Even where there is no evidence of previous mental health conditions, the publication of the outcome could certainly be the cause of mental health issues. When outcomes are posted about by Legal Cheek or the Law Gazette, comments can be left anonymously which risks people writing malicious things about the individual. I certainly feel that my mental health would significantly decline in these circumstances.

15. 12) Do you have any other views on this topic that you would like to share

16. 13) Do you think that our current approach to timing of publication of our decisions requires change?

Yes

17. Please explain

7. Consultation questions

18. 14) In what circumstances do you think details of regulatory action and/or decisions should be published earlier?

19. 15) What are your views about at what point we should publish referrals to the SDT?

20. 16) Do you have any further views on the timing of publication of our regulatory decisions?

8. Consultation questions

21. 17) Do you think there are benefits to extending or shortening the length of publication of regulatory decisions?

Yes

22. Please explain your answer and provide details

If decisions have to be published I believe they should only be available for a shorter length of time to allow people to move on with their lives.

23. 18) Do you think it might be beneficial to link the length of publication to the level of severity of the regulatory decision?

Yes

24. Please explain your answer

25. 19) Do you have any further views which we should take into account in relation to the length of publication for our decisions?

Publication of Regulatory Decisions: Consultation

Response ID:73 Data

3. Consultation questions

1) Do you agree that publication of regulatory decisions helps to raise awareness in the profession of appropriate conduct and the consequences for failure to comply?

Strongly agree

2) Do you agree that the publication of regulatory decisions is important to help raise awareness among consumers of what they should be entitled to expect?

Strongly agree

3) Do you think that principles outlined provide a good framework for our approach to publication of regulatory decisions?

Yes

9. Please explain your answer

Publishing regulatory decisions informs members of the public when a solicitor or regulated professional acts in a way that falls short of expected standards. These decisions also inform and remind regulated professionals of the expected standards. However all regulators need to act in a proportionate way and consider the facts of an individual's case prior to making a decision. Publication is not always justifiable as outlined in the examples given - it is important that decisions not to publish are well founded and do not lead to a public perception of "cover up".

4. Consultation questions

4) Are there any other principles and considerations on publication of our regulatory decisions that we should consider?

Yes

10. Please explain

Please consider whether you should share regulatory decisions with other peer regulators e.g. the Law Society of Ireland - you may do so already.

5) What types of regulatory information do you currently access and for what purpose?

Information from regulatory bodies operating in common law countries on practice and procedure and policies.

6) Do you think we should publish more or less detail on the regulatory decisions we make?

More information

11. Please explain your answer including whether you have different views in relation to different types of decision?

Think the decisions listed on page 22 should be published as this information is important in terms of knowing what bodies/individuals are authorised and those that are not.

Also if publishing decisions is designed to inform the public and professionals what is the rationale for short statements for some decisions and longer for others - it may be that some decisions are procedural but even so there is merit in providing detail on those.

5. Consultation questions

7) How else could we better improve the regulatory information we publish to support the profession?

The information given in relation to conditions following control of practice issues is sparse and it occurs that information on why conditions were imposed would aid the profession.

8) How else could we better improve the regulatory information we publish to support the public?

See above.

Avoid legal jargon in the decision notices when possible.

9) Is our current approach to balancing the public interest and principles of open justice with protecting the respondent's well-being, fair and proportionate?

Agree

10) Are there any circumstances where you think the principles of open justice outweigh the rights of the respondent

Yes

12. Please explain

The seriousness of the detriment caused to clients/members of the public might justify publication of some information even where the respondent may face difficult consequences following publication.

6. Consultation questions

13. 11) Are there any circumstances where you think the right of the respondent outweighs the principles of open justice?

Yes

14. Please explain

It is important to fully consider the respondents circumstances and the gravity of the issues/detriment caused by the respondents conduct together with the potential consequences for the respondent if the decision is published. It is hard to be definitive on the kinds of circumstances but the examples given are useful. A credible threat to the life of a respondent or their family should justify a decision not to publish in most circumstances.

15. 12) Do you have any other views on this topic that you would like to share

It is important that positive decisions following disciplinary action get the same profile as negative ones so that members of the public understand that a respondent has addressed the issues and can continue to practice (if that is the case).

16. 13) Do you think that our current approach to timing of publication of our decisions requires change?

No

Please explain

7. Consultation questions

17. 14) In what circumstances do you think details of regulatory action and/or decisions should be published earlier?

If there is an immediate risk to the public/clients of a respondent.

18. 15) What are your views about at what point we should publish referrals to the SDT?

Once the SDT accepts the referral.

19. 16) Do you have any further views on the timing of publication of our regulatory decisions?

No

8. Consultation questions

20. 17) Do you think there are benefits to extending or shortening the length of publication of regulatory decisions?

Yes

21. Please explain your answer and provide details

Depends on the circumstances of the case but if a respondent is uncooperative in terms of abiding by conditions then an extension of the publication period might be justified.

22. 18) Do you think it might be beneficial to link the length of publication to the level of severity of the regulatory decision?

No

23. Please explain your answer

Publication decisions need to be proportionate and in the public interest.

24. 19) Do you have any further views which we should take into account in relation to the length of publication for our decisions?

There is a need to balance privacy rights, data protection rights, and the length of time that a regulatory decision is published for.

Publication of Regulatory Decisions: Consultation

Response ID:76 Data

3. Consultation questions

1) Do you agree that publication of regulatory decisions helps to raise awareness in the profession of appropriate conduct and the consequences for failure to comply?

Strongly agree

2) Do you agree that the publication of regulatory decisions is important to help raise awareness among consumers of what they should be entitled to expect?

Strongly agree

3) Do you think that principles outlined provide a good framework for our approach to publication of regulatory decisions?

Yes

9. Please explain your answer

4. Consultation questions

4) Are there any other principles and considerations on publication of our regulatory decisions that we should consider?

No

Please explain

5) What types of regulatory information do you currently access and for what purpose?

To ascertain the honesty and integrity of the professionals I encounter.

6) Do you think we should publish more or less detail on the regulatory decisions we make?

More information

10. Please explain your answer including whether you have different views in relation to different types of decision?

There should be transparency

5. Consultation questions

7) How else could we better improve the regulatory information we publish to support the profession?

Makes access easier

8) How else could we better improve the regulatory information we publish to support the public?

Single click access

9) Is our current approach to balancing the public interest and principles of open justice with protecting the respondent's well-being, fair and proportionate?

Strongly disagree

10) Are there any circumstances where you think the principles of open justice outweigh the rights of the respondent

Yes

11. Please explain

The public and the profession have the right to know the history of a solicitor

6. Consultation questions

12. 11) Are there any circumstances where you think the right of the respondent outweighs the principles of open justice?

No

Please explain

13. 12) Do you have any other views on this topic that you would like to share

14. 13) Do you think that our current approach to timing of publication of our decisions requires change?

Yes

15. Please explain

Information should be available for a significant longer period.

7. Consultation questions

16. 14) In what circumstances do you think details of regulatory action and/or decisions should be published earlier?

All

17. 15) What are your views about at what point we should publish referrals to the SDT?

ASAP

18. 16) Do you have any further views on the timing of publication of our regulatory decisions?

8. Consultation questions

19. 17) Do you think there are benefits to extending or shortening the length of publication of regulatory decisions?

Yes

20. Please explain your answer and provide details

More information is good. It provides the complete picture.

21. 18) Do you think it might be beneficial to link the length of publication to the level of severity of the regulatory decision?

No

22. Please explain your answer

Treat all the same

23. 19) Do you have any further views which we should take into account in relation to the length of publication for our

decisions?

Publication of Regulatory Decisions: Consultation

Response ID:80 Data

3. Consultation questions

1) Do you agree that publication of regulatory decisions helps to raise awareness in the profession of appropriate conduct and the consequences for failure to comply?

Agree

2) Do you agree that the publication of regulatory decisions is important to help raise awareness among consumers of what they should be entitled to expect?

Agree

3) Do you think that principles outlined provide a good framework for our approach to publication of regulatory decisions?

Yes

9. Please explain your answer

4. Consultation questions

4) Are there any other principles and considerations on publication of our regulatory decisions that we should consider?

No

Please explain

5) What types of regulatory information do you currently access and for what purpose?

6) Do you think we should publish more or less detail on the regulatory decisions we make?

Less information

10. Please explain your answer including whether you have different views in relation to different types of decision?

5. Consultation questions

7) How else could we better improve the regulatory information we publish to support the profession?

I am not sure you do "support" the profession, certainly not across the board. You do, however, seem to take a disproportionate interest in the regulation of individuals (particularly the newly qualified) rather than large firms and those that work for them.

8) How else could we better improve the regulatory information we publish to support the public?

9) Is our current approach to balancing the public interest and principles of open justice with protecting the respondent's well-being, fair and proportionate?

Disagree

10) Are there any circumstances where you think the principles of open justice outweigh the rights of the respondent

Yes

11. Please explain

6. Consultation questions

12. 11) Are there any circumstances where you think the right of the respondent outweighs the principles of open justice?

Yes

13. Please explain

14. 12) Do you have any other views on this topic that you would like to share

15. 13) Do you think that our current approach to timing of publication of our decisions requires change?

Yes

16. Please explain

You currently apply a blanket period of publication regardless of the seriousness of the "offence". One size should not necessarily fit all.

7. Consultation questions

17. 14) In what circumstances do you think details of regulatory action and/or decisions should be published earlier?

18. 15) What are your views about at what point we should publish referrals to the SDT?

19. 16) Do you have any further views on the timing of publication of our regulatory decisions?

8. Consultation questions

20. 17) Do you think there are benefits to extending or shortening the length of publication of regulatory decisions?

Yes

21. Please explain your answer and provide details

See above. Lower level infractions should be published for a shorter period.

22. 18) Do you think it might be beneficial to link the length of publication to the level of severity of the regulatory decision?

Yes

23. Please explain your answer

24. 19) Do you have any further views which we should take into account in relation to the length of publication for our decisions?

Publication of Regulatory Decisions: Consultation

Response ID:90 Data

3. Consultation questions

1) Do you agree that publication of regulatory decisions helps to raise awareness in the profession of appropriate conduct and the consequences for failure to comply?

Strongly agree

2) Do you agree that the publication of regulatory decisions is important to help raise awareness among consumers of what they should be entitled to expect?

Strongly agree

3) Do you think that principles outlined provide a good framework for our approach to publication of regulatory decisions?

No

9. Please explain your answer

All decisions should remain publicly available on accessible online at all times. There should be no ability for a solicitor who has faced sanction to evade or escape past behaviour, when we are a profession whose existence is based on the trust the public place in us. The public should be free to choose their representation with full and absolute knowledge of a solicitor's record with the SRA. If a solicitor faced sanction 10 years ago that may well be an important factor in the public instructing them or not. It is not for the SRA to hide that information after a number of years based on their view as to whether that offence was deemed (at that point in time) to be serious or not.

It would greatly improve public trust and also to assist with rooting out bad apples in the profession if this information remained and always was publicly available (like the record of public judgments). It is something which should be freely accessible and it is not correct that transgressions are able to be swept under the carpet after a number of years have passed.

4. Consultation questions

4) Are there any other principles and considerations on publication of our regulatory decisions that we should consider?

Yes

10. Please explain

The public has an absolute right to know and should be afforded the ability to look up the record of their prospective or actual solicitor. It may mean that some solicitors do not get work or instructions as a result of their background and sanctions but that is the choice they made. The public's right to freely understand and be able to look that up and research matters is of paramount importance.

5) What types of regulatory information do you currently access and for what purpose?

I check the background for all solicitors I instruct in my professional life and absolutely check for all my personal legal matters as well. It is important to be able to know the character and integrity of the professional you are placing your trust in and more than often affording them access to large sums of your money.

6) Do you think we should publish more or less detail on the regulatory decisions we make?

More information

11. Please explain your answer including whether you have different views in relation to different types of decision?

All information and details should be made publicly available for transparency purposes, to show the public the profession does not have anything to hide and so that the public are able to have full faith and trust in their legal professionals. If items are removed after a period of time, it may afford those individuals or firms the ability to try to escape or avoid their past. That is not correct or transparent. The profession should be above reproach and the full and total publication of decisions, sanctions and investigations is an important aspect of this. The public places their trust in solicitors at some of the most difficult and important junctions of their lives, the public should be free to understand all about the regulatory decisions made and who those decisions have been made in respect of at all times.

This information should be always freely available via the SRA's website.

5. Consultation questions

7) How else could we better improve the regulatory information we publish to support the profession?

Not removing it after a passage of time as it affords certain persons the ability to try and escape their record and past. It is also not correct that this information is not disclosed to the public as it is an important factor in who they pick and choose to represent them. It is highly disingenuous of the SRA to not afford the public the right and knowledge of past regulatory decisions as this is meaning that the public are not being given a fully informed choice. The ability to search for someone's name and see their sanctions or regulatory record is key. It should be easy and not something whereby after time has past you need to send an email enquiry and wait for a response.

In this modern age of technology and information being freely available online and open access to all, the approach being take appears to be, with respect, backward and gives an appearance of trying to brush things under the carpet.

8) How else could we better improve the regulatory information we publish to support the public?

Publish everything and ensure that it remains available for all time.

9) Is our current approach to balancing the public interest and principles of open justice with protecting the respondent's well-being, fair and proportionate?

Strongly disagree

10) Are there any circumstances where you think the principles of open justice outweigh the rights of the respondent

Yes

12. Please explain

Open justice outweighs the rights of the respondent because this is not a normal profession. We have to be trusted advisers and the trust in us is absolute. Those who violate that trust should have that noted and it should remain on their record for all time. The reason being that the public has a right to know. That right to know is because if you are trusting someone with administering a will and having access to client funds you would want to know if they used some of those funds to pay off a mortgage or have a holiday or buy a boat 10 or 20 years ago. I certainly would want to know and be able to obtain that information. It would make be choose someone else to represent my interests. This is the free choice which is presently being denied to the public.

Solicitors have to be trusted and remain above reproach this is why the principles of open justice outweigh the rights of the respondent in all circumstances.

6. Consultation questions

13. 11) Are there any circumstances where you think the right of the respondent outweighs the principles of open justice?

No

Please explain

14. 12) Do you have any other views on this topic that you would like to share

Trust and integrity are key. The public should be able to freely decide and know about any solicitor. This would enable them to make fully informed decisions about who represents them or not. The fact that certain information is removed after a period of years as not relevant or pertinent is not a transparent strategy. The public has the right to know and the right to see what sanctions have been levied against those in a position of trust and power. To not take this approach undermines those in the profession who have not faced any sanctions and have clean and clear records.

Additionally, I have personally experienced persons who have been banned from practicing appearing in law firms and dealing with client monies. This only occurred because it was not easy to check and verify those individuals. The process of having to email in and await a response for those records not publicly available is one which causes delay, does not promote transparent dealings and is not one which the lay person knows about or can easily conduct themselves. If items are freely available and accessible online (in full) this promotes transparency, accountability and ensures that solicitors cannot try to avoid their past or record. It enables all employers, firms and most importantly the public to properly choose their representation with full and accurate knowledge of whether they are the type of person they want to represent them or not. To do otherwise is a disservice to the public and undermines the trust placed in the profession as a whole.

15. 13) Do you think that our current approach to timing of publication of our decisions requires change?

Yes

16. Please explain

All decisions should be published in full and without an expiration date. A solicitor's record is a solicitor's record for all time and not just the period which the SRA deems it should be made available to the public. In removing items after a certain time this means that those persons can avoid public scrutiny and those dealing with them or instructing them may never know or be able to find out their past. This is not an acceptable position for a profession which exists on trust to continue to advance.

7. Consultation questions

17. 14) In what circumstances do you think details of regulatory action and/or decisions should be published earlier?

If there are instances whereby the potential action or harm caused is great enough then the SRA should be able to publish them earlier. Additionally, it might well encourage others who have suffered similar behaviours to come forward which may assist in any actions or cases being brought against a solicitor or firm.

18. 15) What are you view about at what point we should publish referrals to the SDT?

These should be published at the point in time when they are made.

19. 16) Do you have any further views on the timing of publication of our regulatory decisions?

Open justice and the principles of transparency should prevail and items should be available in real time.

8. Consultation questions

20. 17) Do you think there are benefits to extending or shortening the length of publication of regulatory decisions?

Yes

21. Please explain your answer and provide details

The length of publication should be extended for time immemorial. This means that items do not get, as the public might

perceive them, as swept under the carpet. It also ensures the the public has ready and full access to all items in order for them to make an enforced decision about their counsel and representation.

22. 18) Do you think it might be beneficial to link the length of publication to the level of severity of the regulatory decision?

No

23. Please explain your answer

All decisions should remain public and should not be tempered by a length of time in which they remain public. All decisions should be and ought to remain public.

24. 19) Do you have any further views which we should take into account in relation to the length of publication for our decisions?

Publication of Regulatory Decisions: Consultation

Response ID:101 Data

3. Consultation questions

1) Do you agree that publication of regulatory decisions helps to raise awareness in the profession of appropriate conduct and the consequences for failure to comply?

Strongly agree

2) Do you agree that the publication of regulatory decisions is important to help raise awareness among consumers of what they should be entitled to expect?

Strongly agree

3) Do you think that principles outlined provide a good framework for our approach to publication of regulatory decisions?

No

8. Please explain your answer

All sanctions rebukes and fines, irrespective of length of restrictions, should be permanently published. The public should be able to trust Solicitors to the "ends of the earth," often pay them huge sums and need to be able to judge a solicitor's conduct fully before instructing them.

4. Consultation questions

4) Are there any other principles and considerations on publication of our regulatory decisions that we should consider?

Yes

9. Please explain

A new sanction, rebuke report should always cross reference previous discipline, across the lifetime of time on the roll, in its publication. Previous misconduct should have cumulative value. Repeat misconduct should increase penalty of latest misconduct & even a series of relatively minor rebukes, fines, etc, say 3, should lower the threshold for strike off. Practising without indemnity insurance should result in strike off, given the obvious disregard for the danger and losses to the public/clients. Failure to run AML & Conflict checks prior to instruction should have very heavy penalties for same reason.

5) What types of regulatory information do you currently access and for what purpose?

I am an expert in ethics and access SRA code, legislation & caselaw very regularly.

6) Do you think we should publish more or less detail on the regulatory decisions we make?

More information

10. Please explain your answer including whether you have different views in relation to different types of decision?

Include impact on others, anonymously at firm.

5. Consultation questions

7) How else could we better improve the regulatory information we publish to support the profession?

Publish statistical info as to types of breach quarterly. Make failure to self report more onerous.

8) How else could we better improve the regulatory information we publish to support the public?

As detailed in previous answers, not least without any deletion of discipline records.

9) Is our current approach to balancing the public interest and principles of open justice with protecting the respondent's well-being, fair and proportionate?

Disagree

10) Are there any circumstances where you think the principles of open justice outweigh the rights of the respondent

Yes

11. Please explain

Open justice principles must ALWAYS prevail

6. Consultation questions

12. 11) Are there any circumstances where you think the right of the respondent outweighs the principles of open justice?

No

Please explain

13. 12) Do you have any other views on this topic that you would like to share

Solicitors enjoy a very high standard or automatic respect from the public. That must be earned and maintained not an automatic right for those who err sufficiently for censure but can rely on publication removal after 3 years of, in some cases, repeat offences. The public protection must prevail.

14. 13) Do you think that our current approach to timing of publication of our decisions requires change?

Yes

15. Please explain

Publish immediately.

7. Consultation questions

16. 14) In what circumstances do you think details of regulatory action and/or decisions should be published earlier?

All

17. 15) What are you view about at what point we should publish referrals to the SDT?

Immediate report

18. 16) Do you have any further views on the timing of publication of our regulatory decisions?

Misdirection of a court in written evidence, especially with Statements of Truth attached, or spoken in court, failure to correct errors in pleadings, hiding evidence, etc., to promote their client's case/disadvantage opponent inequitably, or 'save face' from declaration of errors should lead to automatic investigation to establish if it reaches contempt thresholds, irrespective of other censure. If this occurs when the opponent is unrepresented the level of censure should be increased and this specific aspect should be published

8. Consultation questions

19. 17) Do you think there are benefits to extending or shortening the length of publication of regulatory decisions?

Yes

20. Please explain your answer and provide details

Extending, not shortening, to keep decisions in mind of solicitors as red-hand deterrent and protect public/potential clients and opponents and their reps.

21. 18) Do you think it might be beneficial to link the length of publication to the level of severity of the regulatory decision?

No

22. Please explain your answer

Any and ALL misconduct that leads to censure must remain published to protect public, clients and opponents, for reasons detailed in previous answers.

23. 19) Do you have any further views which we should take into account in relation to the length of publication for our decisions?

See previous answers

The following respondent asked us to name them, but not to publish their response.

Jennifer Woodyard

We also received a number of responses from respondents who asked that we do not name them and do not publish their responses.