



## Case studies about reporting a solicitor

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English [Cymraeg](https://indemnity.sra.org.uk/consumers/problems/report-solicitor/cymraeg/astudiaethau-achos-ynghylch-adrodd-gyfreithiwr/) [<https://indemnity.sra.org.uk/consumers/problems/report-solicitor/cymraeg/astudiaethau-achos-ynghylch-adrodd-gyfreithiwr/>]

If you're thinking about reporting a solicitor or firm to us, there are some things you need to know. Before reporting your concerns, please read the examples below and check our [guidance on reporting a solicitor](https://indemnity.sra.org.uk/consumers/problems/report-solicitor/) [<https://indemnity.sra.org.uk/consumers/problems/report-solicitor/>].

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### **Example 1: A mistake a solicitor has made**

**Your solicitor makes a mistake and does not lodge your claim against your neighbour with the court in the strict time limit allowed. This means you cannot bring your claim against your neighbour.**

This is very distressing and is not the service you had the right to expect from your solicitor. However, the solicitor has professional insurance in place, which we require, so clients are financially protected if mistakes happen.

Whether we investigate will depend on a number of different things. Some facts will make us more likely to investigate. Others will make us less likely to investigate. We will weigh up all facts for and against investigating and make a decision.

### **Facts that make us more likely to investigate**

- The solicitor has covered up the mistake and not been honest about it.
- The solicitor shows no insight about how the mistake happened and does not deal appropriately with any complaint or claim, with us or with another regulator.
- We have received another report, or the Legal Ombudsman has told us about reports it has received, which suggest a pattern of similar concerns being raised by others.
- The solicitor has been warned or given advice about a similar matter before and has not taken any steps to improve.

### **Facts that make us less likely to investigate**

- The solicitor has been open and honest about what has happened and has advised you to take legal advice.



- The solicitor has paid any redress the Legal Ombudsman says it needs to and/or it (or its insurers) are dealing with any claim appropriately.
- The solicitor has put in place new processes to try and avoid a similar issue happening in the future.
- There is no pattern of similar complaints about the firm.
- It was a genuine mistake.

### **Example 2: Acting for two parties - conflicts of interest**

**Your partner and you have been married for 15 years. Seven years ago you used a local solicitor's firm to buy a house together. Your marriage has broken down, and you have now received a letter from the same solicitor, confirming they are acting for your wife only and she is seeking a divorce. You believe the solicitor is acting in conflict, as they previously acted for both of you.**

We would not investigate this matter. We recognise divorce is upsetting and stressful, but there is no breach of our rules in this case. To be acting in conflict the solicitor must be acting for two parties and unable to act in the best interests of both at the same time. Although your interests and your wife's now conflict, the solicitor is only acting for one party now so cannot be acting in conflict.

The other issue we would consider here is whether the solicitor had been provided with any confidential information by you in the earlier transaction that was not known to your wife and which is relevant to the new instruction. If so, they would be under a duty to disclose this to your wife at the same time as owing you a duty to keep this confidential. However, this is very unlikely to be the case here, as you bought the house together, so we would not investigate.

### **Example 3: Concerns about the signing of a will**

**Your elderly relative has sadly died. You believed that your relative was going to leave everything to you in her will. You have found out that shortly before her death she made a new will which left some money to you but included a large legacy to charity. You believe she did not have capacity to make the will and think the solicitor acting for her must be incompetent.**

Our focus here will be to consider whether the solicitor has acted appropriately in coming to their professional judgment as to the capacity of their client. In considering whether we should investigate this, we will ask the solicitor to provide us with information as to how they reached the decision on capacity. If a solicitor shows that they thought about the issue, made any appropriate enquiries and reached a rational decision, we are unlikely to investigate.



If there were obvious indicators of incapacity, which were not considered, then we are likely to investigate. In deciding what action to take, we will take into account the seriousness of the individual case including the vulnerability of the client, whether other complaints have been made and whether there is a pattern of these issues at the firm.

We have no remit to make a finding about your relative's capacity to make the decision. We cannot make any decision about whether the will is valid or not. This is a legal issue. If you wish to challenge the validity of the will, you will need to seek legal advice and consider whether you wish to make a legal challenge to the will. This is not something we can help you do.

### **Example 4: Email hacking/Cybercrime**

**You were using a solicitor's firm to buy a house. During the transaction, a fraudster hacked into the firm's email account, and the firm wrongly sent your house purchase money (£300,000) to a fraudster's account overseas.**

The firm and you have both been victims of a scam. There was no intent by the firm for you to lose your money. We will make enquiries of the firm to decide whether we should investigate or not.

Whether we investigate will depend on a number of different things. Some facts will make us more likely to investigate. Others will make us less likely to investigate. We will weigh up all facts for and against investigating and make a decision.

### **Facts that make us more likely to investigate**

- The money has been paid out of client account by the firm and has not been replaced, leaving a shortfall on the client account.
- The solicitor shows no insight about how the issue happened and has not reported the matter to us and Action Fraud.
- The solicitor did not have reasonable security protections in place and/or is not taking appropriate steps to improve the firm's security.

### **Facts that make us less likely to investigate**

- The money has been replaced swiftly by the firm or its insurers.
- The solicitor has made appropriate reports to us and Action Fraud.

### **Example 5: Concerns about your solicitor's bill**

**A solicitor has acted for you in relation to an employment dispute. You lost the case, and you are unhappy about the costs you have incurred. The solicitor did not always respond to your calls and has charged you about 20% more than you expected.**



**You have complained to the firm, and they have offered you a £300 discount on your bill, but you remain unhappy.**

We will not investigate this matter. You are unhappy with the service you received from the firm. You can contact the Legal Ombudsman to see whether it will consider the matter further and help you resolve your concerns. The Legal Ombudsman may ask the firm to reduce its bill further if it identifies the firm's service was poor or it did not keep you informed as to its costs. If the Legal Ombudsman identifies any breaches of our rules while considering the matter, we have an agreement with it that it will refer the conduct concerns to us.

### **Example 6: Concerns about a solicitor's bill**

**Your elderly uncle has mobility issues and has recently had to move into a care home. You are his only relative. His solicitor has a Lasting Power of Attorney (LPA) regarding his financial affairs. You have been travelling abroad and therefore until recently you have not visited your uncle much. However, during your recent visits to your uncle, he has become quite distressed about his financial situation. He has explained to you that he is very concerned about the legal fees he is incurring. He is worried about running out of money. He has told you he complained to his solicitor that their fees were too expensive, but the solicitor told him there was a lot of work that needed doing and if he does not pay his bills then your uncle may lose his house. Your uncle shows you the invoices he has received from the solicitor, and you are shocked to see that the firm has been invoicing your uncle £10,000 a month for managing his LPA and looking after his house.**

We would ask you for a copy of the invoices your uncle has relating to the work done. We are likely to investigate this matter. Your uncle is a vulnerable client, and on the face of it these bills sound disproportionate. We would be concerned the solicitor may be being dishonest and taking advantage of your uncle's vulnerability by charging inflated fees.

### **Example 7: Concerns about your ex-partner's solicitor in a divorce**

**You and your husband are getting divorced. Your husband and you disagree about when the marriage broke down. You think your husband's solicitor is being really aggressive and repeating his lies. He is seeking to keep the house which is really unfair as you have spent lots of your money doing it up. She is denying that is true - which is a lie.**

We may ask you to supply a copy of any letter you found aggressive to check that the language and tone is not overly threatening or improper.



However, in most cases, a robustly worded letter setting out a client's case will not amount to misconduct. Divorce is very stressful, and often there are different accounts from both parties as to what happened and who is entitled to what. A solicitor's role is to set out their client's case, and your husband will have told the solicitor his version of events. It is up to the court to make findings if the parties cannot reach agreement themselves.

### **Example 8: Concerns your solicitor is misleading you about the progress of your claim**

**You own a small business. Your business instructed a solicitor to bring proceedings against an IT company. The solicitor issued a claim, and he has been updating you monthly and providing you with copies of orders from the court. You understood the claim was progressing and a final hearing would be happening in about six months' time.**

**However, last week bailiffs came to your business address and explained your business owed over £6,000 to the IT company. The bailiffs gave you a copy of an order from the court dated six months ago. It showed your claim had failed and your business owed about £6,000 costs. You rang the court, and it confirmed your case was thrown out six months ago. The court sent you a copy of its order, which is the same as that provided by the bailiffs.**

We would ask you to provide us with copies of the correspondence you have mentioned from the bailiffs, your solicitor and the court. We are likely to investigate this matter. On the face of the information you have given us, we would be concerned the solicitor has been dishonest about what had happened in your case and has misled you.

It is important to understand that while we can consider the solicitor's misconduct, we cannot help you stop the IT company recovering its debt or help you challenge the costs owed. You may wish to obtain legal advice to understand what your options are in relation to the debt.

### **Example 9: Concerns about a letter from a solicitor seeking payment of a debt**

**You have had building work done on your house. You are unhappy with the finish, so you have not paid the builder. You have received a letter from a firm acting for the builder, seeking payment for the work. The letter says that, if the money is not received within 21 days, its client will take legal action to recover the outstanding invoice. You think this is totally unnecessary and threatening. The letter is making you very anxious.**

We may ask you to provide a copy of any letter you found aggressive to check that the language and tone is not overly threatening or improper. However, in most cases, a robustly worded letter setting out a client's case will not amount to misconduct. We appreciate receiving such a letter may be upsetting, particularly as you are unhappy with the builder's work. However, this is a legal dispute between you and the builder about the quality of the work and payment of his invoice. You may wish to seek legal advice.