Solicitors Regulation Authority

Guidance

Granting waivers

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Status

This guidance sets out our approach to granting waivers from our Standards and Regulations.

Who is this guidance for?

All SRA regulated firms, their managers, role holders and employees.

All solicitors, registered European lawyers or registered foreign lawyers.

An individual or organisation affected by our regulations.

Purpose of this guidance

This document sets out the approach we will take when deciding to grant a waiver of our regulatory arrangements – that is, our Standards and Regulations. While we are under no obligation to grant a waiver, this guidance sets out the circumstances in which we may consider doing so.

[Read case studies that help explain our approach [https://indemnity.sra.org.uk/solicitors/guidance/waivers/]](https://indemnity.sra.org.uk/solicitors/guidance/waivers/) .

This document should be read in the context of our [decision-making at the SRA [https://indemnity.sra.org.uk/sra/decision-making/decision-making-sra/]](https://indemnity.sra.org.uk/sra/decision-making/decision-making-sra/) framework. It is a living document and we will update it from time to time.

What is a waiver?

When an individual or firm regulated by us or affected by one of our requirements, ask us to agree that they do not have to comply with it.

We can waive any of our requirements if they meet the criteria in this guidance. However, we cannot waive any of our requirements that

impose obligations required by statute, or other legislation.

Criteria for granting a waiver

Before granting an application for a waiver, we will need to be satisfied that, in the applicant's specific circumstances, a waiver is compatible with the regulatory objectives in section 1 of the Legal Services Act 2007, These are:

- protecting and promoting the public interest;
- supporting the constitutional principle of the rule of law
- improving access to justice
- protecting and promoting the interests of consumers
- promoting competition in the provision of legal services
- encouraging an independent, strong, diverse and effective legal profession
- increasing public understanding of the citizen's legal rights and duties
- promoting and maintaining adherence to the professional principles.

The waiver sought may, in the particular circumstances, advance some of the regulatory objectives but have an adverse impact on others. We expect applicants, as far as they are able to do so, to identify the impact of the waiver, with reference to the regulatory objectives. These details are requested in our [waiver application form](https://indemnity.sra.org.uk/solicitors/resources-archived/waivers/apply-waiver/) .

We will then consider any competing objectives and reach a decision that best serves our public interest purpose: namely, providing consumers with appropriate protection and supporting the rule of law and administration of justice.

We may grant a waiver to resolve a regulatory conflict between our Standards and Regulations and those of another body that regulates the applicant, or to avoid unnecessary duplication of regulatory requirements.

We will specify in our waiver decisions how long the waiver is granted for. Some may be one off, for example, a waiver of a requirement to obtain an annual accountants' report. Some may be for a fixed time period of say, two to three years because of the circumstances of the waiver requested. Some waivers may not have a time limit although we would usually impose a condition in those circumstance that the firm tells us of any relevant changes to its circumstances.

When will a waiver not be granted?

A waiver will not be granted if:

- the requirement is one imposed by statute

- it would undermine our public interest purpose (as set out above)
- there is another way for the applicant to achieve their objective and which is reasonable to pursue.

Publication of waivers

We will generally publish on our website a summary of all waiver decisions we make. This will include details of the waiver granted or refused, the reasons for granting or refusing it and any conditions. We will not publish the detail of supporting information provided in any waiver application.

In deciding whether to publish the decision, we will consider all of the circumstances including:

- whether the waiver decision impacts on the rights of consumers or third parties and if so, the extent of this
- the extent that the waiver decision may be of interest or relevance to other firms
- whether publication would adversely affect the commercial interests of the firm concerned, for example, the release of proprietary information that might benefit the applicant's rivals, for example, relating to product innovation
- whether publication would breach any confidentiality obligations

These factors are not exhaustive, and we will take into account all other factors that we consider to be relevant.

If a firm considers that there are good grounds for us either to withhold publication or to publish the waiver without disclosing the identity of the firm or certain key details, it should make this clear in its application. If we then still propose to publish a waiver, we will give the firm appropriate notice of our intention to publish.

We may decide that any prejudice to a firm's commercial interests could be mitigated by limited publication of the waiver decision, for example, without disclosing the identity of the firm. Alternatively, we may decide to withhold publication of a waiver or certain details of it for a limited period, for example, to protect commercially sensitive information. If we propose to publish information about a waiver that had previously been withheld, we will first give the firm an opportunity to comment on what is published and when.

We will decide the length of a publication on a case-by-case basis but we will generally publish the waiver for as long as it is current.

Further help

If you require further assistance, please contact the Professional Ethics helpline [https://indemnity.sra.org.uk/contactus] .