

News from the Board

Reflections on our March Board - Anna Bradley

28 March 2022

This month's blog focuses on the invasion of Ukraine. The Board has been kept up-to-date with the action the SRA has been taking over the last month, but this was the first chance we have had to discuss the issues together. We started by affirming our commitment to do all we possibly can to support the Ukrainian people within the legal framework within which we work.

[Read our Hot topic - Impacts of Russia sanctions](https://indemnity.sra.org.uk/home/hot-topics/financial-sanctions-international-issues/)

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Discussions in Parliament and the press have raised concerns about the behaviour of some law firms: are they making sure they aren't acting for those who are subject to sanctions? Should lawyers represent oligarchs? Are lawyers abusing the court processes by trying to silence valid criticism about their clients?

Our starting point must always be that it is the Government that makes the law, which lawyers must interpret and apply. The SRA's role is to make sure that they do so, and do so ethically. A key principle of the UK approach is the 'Rule of Law'. This requires that everyone must have an effective way of defending themselves and a means of bringing genuine legal claims. But the 'Rule of Law' also requires every individual to obey and submit to the law. As officers of the court, solicitors have even greater responsibilities in this respect than the rest of us.

This is why we have been clear with solicitors that their duty to a client should never override their duties to the court or their public interest obligations. It is crucial to maintaining trust in the profession. So, for instance, that means they shouldn't be using the courts to bring claims that don't have merit in order to stifle valid public debate. Such an approach, whether on behalf of oligarchs or any other client, is simply unacceptable.

Decisions in these areas are not clear cut and require that solicitors use their judgement. For instance, whether they should continue to represent certain people who aren't sanctioned? Or whether using the courts to enforce the rights of a particular client oversteps the mark? Because of these complexities, we have published a [range of resources](https://indemnity.sra.org.uk/home/hot-topics/financial-sanctions-international-issues/) [\[https://indemnity.sra.org.uk/home/hot-topics/financial-sanctions-international-issues/\]](https://indemnity.sra.org.uk/home/hot-topics/financial-sanctions-international-issues/) to support solicitors and their firms in understanding their obligations and making appropriate judgements.



The sanctions regime is much more black and white. Law firms cannot carry out financial transactions for those individuals and organisations who have been sanctioned – whether they are based here or abroad. In most cases, sanctioned parties can access legal advice but only from solicitors or firms that have obtained a licence to do so from the Office of Financial Sanctions Implementation (OFSI), or who agree to act without receiving a fee.

We have reminded firms that they need to be checking the sanction list regularly for the names of clients or potential clients and we are carrying out spot checks on firms to make sure they are complying. Those who aren't should expect serious questions from OFSI, which can impose severe penalties. We will also take action where there is evidence of a breach by a firm of their legal obligations in this area.

We know that the vast majority of solicitors want to do the right thing and we have been pleased to hear about the extent and nature of work being done to support those in Ukraine. Many lawyers and firms have stepped up and [offered their legal expertise pro-bono](https://www.lawsociety.org.uk/campaigns/international-rule-of-law/news/how-lawyers-can-show-support-for-people-in-ukraine) [https://www.lawsociety.org.uk/campaigns/international-rule-of-law/news/how-lawyers-can-show-support-for-people-in-ukraine] to the Ukrainian people, for example.

This is a fast-moving situation and so I am sure this will not be the last time the Board will discuss the issues. But it is a good reminder of the vital role lawyers play in supporting vulnerable people and ensuring the effective functioning of society through upholding the Rule of Law. In our role as regulator, we will do everything we can to ensure that solicitors continue to do both in the context of the war in Ukraine.