

## **STATEMENT OF PRACTICE**

### **Investigation of solicitors' practices pursuant to the provisions of the Solicitors Accounts Regulations and Anti-Money Laundering Obligations**

#### **Society's Objectives**

The Society's objective is to protect clients' monies in the interest of the public generally and to protect the profession, who must make up deficits through the Society's Compensation Fund.

In order to achieve this every solicitors' practice which handles clients' funds must file an accountant's report with the Society within six months after the accounting date. In addition the Society conducts investigations of each solicitors' practice.

Following the passing of the Criminal Justice (Money Laundering & Terrorist Financing) Act 2010, the Society is required to investigate whether there has been due compliance with anti-money laundering obligations.

#### **Frequency of Investigations**

It is the Society's policy to investigate a solicitors' practice within three years after setting up and thereafter at least once every five years. However the Society can and does carry out investigations on a more frequent basis. Complaints of a financial nature or a serious qualification endorsed to the annual accountant's report may render it necessary to conduct a more immediate investigation. Where a firm has in the past been subject to an investigation which has disclosed breaches of the Solicitors Accounts Regulations or other misconduct disclosed by the accounting records, that firm may be subject to an early re-investigation. Similarly an increase in the frequency of complaints about a practice can also lead to more frequent inspections. The Society reserves the right to carry out investigations at any time.

#### **Notification**

The Society's initial letter with regard to the appointment of an authorised person will advise the solicitor on the purpose of the examination. Normally two to three weeks notice is given to the principal or managing partner of a practice and if a date selected is not suitable every effort will be made to arrange a mutually convenient date. However if serious financial complaints are received the normal notification period may have to be minimised. The Society reserves the right to carry out investigations without notification.

#### **Duration**

In the normal course of events if the accounting records are found to be properly maintained the investigation will be conducted within a matter of days.

#### **Courtesy and Consideration**

The authorised person appointed by the Society will at all times be courteous and considerate in all his/her dealings with the solicitor and his/her support staff. Conversely the authorised person is entitled to expect that the solicitor will be courteous, considerate and co-operative during the course of the investigation.

## **Presumption of Honesty and Compliance**

It will be presumed that the solicitor's honesty and integrity is beyond reproach and that he/she has complied with the Solicitors Accounts Regulations unless there is reason to believe to the contrary.

## **Disclosure**

The solicitor will be furnished with a copy of the investigation report. In the first instance the report will be reviewed by the Regulation Department of the Society. The Society may require the solicitor to respond to the investigation report. Such responses should deal with every point raised in the investigation report. That response will be considered by the Regulation of Practice Committee with the investigation report.

The investigation report is prepared for the purposes allowed by the Solicitors Acts and Regulations made thereunder and is only for the use and consideration by the Society. The Law Society will not furnish the report to any third parties, e.g. professional indemnity insurers. Where a solicitor furnishes a copy of the report to a third party, no responsibility is accepted by the Society in respect of any third parties furnished with a copy of the report by the solicitor.

## **GDPR, Privacy and Confidentiality**

The authorised person and other representatives of the Society will observe the utmost confidentiality with regard to personal and business information provided by the solicitor and any such information/documentation will be used only for the purposes allowed by the Solicitors Acts and regulations made thereunder and in accordance with the General Data Protection Regulation. Solicitors are directed to the [Inspections Privacy Statement](#) on the Financial Regulation area of the Law Society website.

## **Communicating directly with clients**

In circumstances where the Society forms an opinion that a solicitor has failed to produce such relevant supporting documentation as will enable the entries in the books of account to be appropriately vouched, the Society may conduct such further investigation or make such further enquiries as the Society deems necessary.

Such further enquiries may include an instruction in writing to the authorised person to make direct contact with the relevant client(s) concerned in order to investigate that there has been due compliance with the Solicitors Accounts Regulations. However before making contact with clients the Society will afford a solicitor an opportunity to produce such relevant supporting documentation as will enable the relevant entries in the books of account to be appropriately vouched.

## **Compliance Costs**

The authorised person will recognise the need to keep to the minimum necessary the cost the solicitor incurs in complying with the requirements set out in the letter of appointment detailing the scope of the examination.

Where it is considered by the Society that there has been a material breach of the Solicitors Accounts Regulations by the solicitor(s) concerned or such other misconduct by the solicitor as disclosed by his or her accounting records (or both), the Society may require the solicitor(s) to pay to the Society an amount which in the opinion of the Society represents the

cost thereby incurred by the Society, taking into account the nature and extent of the investigation, the preparation of a report or reports thereon, the further enquiries arising therefrom and any interviews or interview conducted by the Society consequential thereon.

Failure to respond to the Society on time results in additional cost being incurred by the Society. Where the Society has required a written response or further documentation to be filed by a solicitor in advance of his/her attendance before a meeting of the Regulation of Practice Committee and where that documentation is subsequently not filed within the time limit required by the Society, the Society may require the solicitor(s) to pay to the Society an amount of €300 as a contribution towards the cost incurred by the Society as a result of the failure to file on time.

### **Consistent Administration**

The Society will follow the highest standards of administration in its dealings with the solicitor and with a view to achieving this aim, it will ensure that the solicitor is dealt with properly, fairly and impartially. The Society will administer the requirements of the Solicitors Acts and regulations made thereunder consistently.

### **Regulatory Committees**

A solicitor is entitled to be represented if he/she is required to attend the Regulation of Practice Committee or Complaints and Clients Relations Committee of the Society. Details of the panel to assist solicitors in difficulty with the Law Society will be sent by the Society with the letter requesting the solicitor to attend the meeting of the Society. A copy of the minute taken at any meeting at which the solicitor attends will be furnished to the solicitor or his legal representative on request.

### **Review Procedure**

Any party who is dissatisfied with any aspect of an investigation may ask for the matter to be examined in the first instance by the Registrar of Solicitors with a right of further review, to be requested within 21 days of the notification of the Registrar's decision, to the Regulation of Practice Committee.