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**From:** [REDACTED]@sra.org.uk>  
**Sent:** 28 February 2024 12:06  
**To:** [REDACTED]  
**Subject:** SRA warning notice on bulk financial service claims  
**Attachments:** Warning notice bulk financial service claims ICO.docx

External: This email originated outside the ICO.

Sensitivity: General

Hi [REDACTED] and [REDACTED]

It was nice to catch up with you at last week's joint meeting with the FCA, and earlier today at the Lenders Forum.

At the FCA meeting you were kind enough to agree to take a look at a draft warning notice that the SRA is preparing for law firms – focused on the behaviours expected of them during high-volume financial service claims processes.

I've attached the draft, and one of the main areas it explores is expectations when law firms make bulk requests to defendants. We know there are particular risks here, including situations where law firms may make speculative information requests on behalf of prospective clients, or where they may request data about large numbers of clients and questions arise about their due diligence. It's been really helpful to hear about the thresholds for SARs and related good practice when they are made, and I wondered if you might have any suggestions for additional messaging or edits for the warning notice.

You'll see that we are also planning to include a resources section at the end of the note, and I wondered if there might be any ICO guidance or other information you think would be helpful to include there.

Any and all suggestions will be gratefully received!

Many thanks both  
[REDACTED]

[REDACTED] (he/him)

Policy Associate

Solicitors **Regulation** Authority / Awdurdod **Rheoleiddio** Cyfreithwyr  
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We are the regulator of solicitors and law firms in England and Wales. The Solicitors Regulation Authority Limited is a company limited by guarantee. Our registered offices are: The Cube, 199 Wharfside Street, Birmingham, B1 1RN. Our company registration number is: 12608059.

## Warning notice

### Financial service claims

#### Status

This document is to help you understand your obligations and how to comply with them. We will have regard to it when exercising our regulatory functions.

#### Who is this warning notice relevant to?

Law firms, solicitors and other staff undertaking claims management activity and where claims relate to financial services and products.

#### Our concerns

Solicitors must act with integrity, and uphold the high professional standards that we and the public expect. We have identified specific risks for consumers when they engage with solicitors and law firms about claims relating to financial services.

We are concerned about some operational approaches to financial services claims management activity, particularly relating to bulk-claims.

#### Standards and Regulations

You must comply with the [SRA Principles](#). For financial service claim representation this particularly includes:

- Principle 1 – act in a way that upholds the constitutional principle of the rule of law and the proper administration of justice.
- Principle 2 – act in a way that upholds public trust and confidence in the solicitors' profession and in legal services provided by authorised persons.
- Principle 5 – act with integrity.
- Principle 7 – act in the best interests of each client.

You must also comply with requirements in the [Code of Conduct for Solicitors, RELs and RFLs](#) and the [Code of Conduct for Firms](#). For financial service claim representation this particularly includes:

- paragraph 1.2 the Code of Conduct for Solicitors, RELs and RFLs, and paragraph 1.2 of the Code of Conduct for Firms, require that you do not abuse your position by taking unfair advantage of clients or others.
- paragraph 3.1 of the Code of Conduct for Solicitors, RELs and RFLs, and paragraph 4.1 of the Code of Conduct for Firms, require you only to act for clients on their instructions, or from someone properly authorised to provide those instructions on their behalf.

- paragraph 7.3 of the Code of Conduct for Solicitors, RELs and RFLs, and paragraph 3.2 of the Code of Conduct for Firms, require you to cooperate with bodies including other regulators and ombudsmen.
- paragraph 8.1 of the Code of Conduct for Solicitors, RELs and RFLs requires that you identify who you are acting for in relation to any matter.
- paragraph 8.6 of the Code of Conduct for Solicitors, RELs and RFLs requires that you give clients information in ways they can understand, and ensure they are in positions to make informed decisions about the services they need, how their matter will be handled and the options available to them.

Paragraphs 4.2 and 4.3 of the Code of Conduct for Firms also have particular importance for financial service claims. They require firms to make sure their managers and employees are competent and have the right knowledge and skills to carry out their role.

Both Codes of Conduct also set important requirements to ensure that any work carried out on behalf of clients by employees of the firm is supervised by a solicitor or other suitably authorised individual.

### **Obtaining each client's instruction**

You must always obtain clear instructions, and consent, from each client, to proceed with undertaking any financial services claim work on their behalf.

This is required for each individual client and each claim, including circumstances where:

- you may have previously represented the same client during another financial service claim
- a client's matter is intended to be progressed as part of group action, or alongside other clients during a bulk claim process.

Client onboarding processes and systems you may use should not undermine this, including where you receive client introductions from third parties. You will need to consider and take account of your client's attributes, needs and circumstances (see paragraph 3.4 of the Code of Conduct for solicitors, RELs and RFLs) during their claim. You may fail to meet your duties to your clients and within the SRA Principles and / or Codes of Conduct if you do not secure clear, relevant and well-informed instructions for each client for representing them during their claim.

Similarly, you must maintain good ongoing dialogue with clients about their claims, and act promptly if your client's instructions change. This includes where a client decides that they do not wish to continue further with their claim.

A subject access request (SAR) with the financial services provider may confirm that your client holds, or held, other financial products with the defendant, in addition to the financial service or product that you are advising the client about. You may only undertake claims management activity relating to those additional products where your client has firstly provided clear and informed instructions to you to do so.

It is also important to avoid making unreasonable demands of defendants during bulk claim processes, so that you meet your regulatory duty to not abuse your position by taking unfair advantage of others.

## Identifying your clients and issuing subject access requests

You may make SARs to potential or actual defendants as part of your client onboarding approach, requiring you firstly to secure certain information from clients.

Your regulatory duty, at paragraph 8.1 of the Code of Conduct for Solicitors, RELs and RFLs, is to identify who you are acting for in relation to any matter. The definition of client means that this includes any and all prospective clients.

This obligation must still be met during large-volume claim processes where you may be handling significant numbers of client details at once, and that may have been provided to you by clients remotely through digital channels.

If you are planning to make a SAR on behalf of clients, this may mean you need to carry out additional due-diligence or specific checks on information provided initially by those clients before requesting information from potential defendants.

It is not acceptable practice to issue SARs to potential defendants on behalf of clients, even as part of a bulk request, if you have not firstly taken necessary steps to identify each individual client.

## Advising clients about the merits of financial service claims

You must fully consider the merits of any claim when you advise a client about their matter, and options available to them – including any opportunities for the client to self-represent.

This should include taking reasonable steps to access and assess information about the possible merits of pursuing a claim, and about any relevant options that might then be available to the client. This is an important part of your initial advice to a client, and you need to be certain they have received and understood this information in order to provide you with their instructions. If you use standardised forms of authority you will need to ensure those forms are capable of being adapted or tailored to the client's circumstances as required, to make sure clients are properly informed about the merits of their claim and their rights to pursue their claim directly themselves.

In your case-by-case consideration of merits you should (on a continuing basis) take account of decisions, notices and outcomes that may be published by (where relevant) the Financial Ombudsman Service, the Financial Services Compensation Scheme, the Pensions Ombudsman, and the courts. Where a relevant previous claim was determined through any of these bodies as being without merit you must ensure your client understands this, and has a realistic understanding of their prospects of success with their claim. You must consider whether it is appropriate for you to act further on their matter.

Our [conduct in disputes guidance](#) discusses risks around making allegations without merit and misleading a court.

## Supervision

If your firm employs people to process large volumes of financial service claims you must make certain your supervision arrangements are sufficient. Individuals supervising others to

work on bulk claims, and the firm, are ultimately held responsible for the quality of that work. You should be able to justify your decisions and actions in order to demonstrate compliance with your obligations under our regulatory arrangements. review our [Effective supervision guidance](#) which has more information about your supervision duties, and includes a case study of a firm with supervision failures in its claims management activity. The case study confirms enforcement action we have taken, and corrective steps subsequently taken by the firm.

### **Enforcement action**

If you undertake financial service claims management activity and fail to have proper regard to this warning notice you are at risk of disciplinary action. We can and will act where we find evidence that solicitors, firms and / or their employees contravene our rules.

See our [Enforcement Strategy](#) for information about our approach to taking regulatory action.

### **Further information**

The statutory redress schemes for financial services provide information and set expectations for professional representatives. It is important that you take account of these in-line with your duty to co-operate with other bodies.

#### **Financial Ombudsman Service**

- [Business Support Hub](#)
- [Expectations of professional representatives](#)

#### **Financial Services Compensation Scheme**

- [Information for professional representatives](#)
- [Terms of engagement](#)

#### **The Pensions Ombudsman**

- [Investigation rights and responsibilities](#)



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**From:** [REDACTED]@sra.org.uk>  
**Sent:** 18 April 2024 09:47  
**To:** [REDACTED]  
**Subject:** RE: SRA warning notice on bulk financial service claims

External: This email originated outside the ICO.

Sensitivity: General

Hi [REDACTED]

Hope all's good with you – and firstly a big apology for taking so long to reply. I've been pulled on to a different project for a couple of weeks but have resurfaced on CMCs / law firm work now!

Thanks for checking in about the warning notice and publication date, it's actually still working its way through our governance at the moment which can be rather slow but I'm assured that it's still being lined up for publication shortly. I'll keep an eye on it and will give you a heads up as soon as I hear about the publication day!

Many thanks  
[REDACTED]

[REDACTED] (he/him)  
Policy Associate  
Solicitors **Regulation** Authority / Awdurdod **Rheoleiddio** Cyfreithwyr  
[sra.org.uk](http://sra.org.uk)

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**From:** [REDACTED]@ico.org.uk>  
**Sent:** Tuesday, April 2, 2024 9:36 AM  
**To:** [REDACTED]@sra.org.uk>  
**Subject:** RE: SRA warning notice on bulk financial service claims

Sensitivity: General

**\*\*This message originated from outside the SRA- Please treat attachments or links with caution\*\***

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Morning [REDACTED]

Hope you're well and had a good long weekend.

I'm just checking if you've any updates on publication dates? I know you said you'd be in touch but I have a meeting with the FCA tomorrow and on the back of the increased activity of SARs being generated in the motor finance industry they may ask for an update, if there's one to be had?

Many thanks,  
[REDACTED]

[REDACTED]  
Group Manager

Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF  
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**From:** [REDACTED]@sra.org.uk>  
**Sent:** Thursday, March 7, 2024 11:53 AM  
**To:** [REDACTED]@ico.org.uk>  
**Subject:** RE: SRA warning notice on bulk financial service claims

External: This email originated outside the ICO.

Sensitivity: General

Hi [REDACTED]

Good to catchup too, and thanks for suggesting this link. It does look spot-on I think and couldn't hurt to include in the signposting bit of the warning notice, I'll check with colleagues here and see what they think.

Thanks again for all your help on this one and I'll be back in touch when I get an indication of our publication window.

Many thanks  
[REDACTED]

[REDACTED] (he/him)  
Policy Associate  
Solicitors **Regulation** Authority / Awdurdod **Rheoleiddio** Cyfreithwyr  
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**From:** [REDACTED]@ico.org.uk>  
**Sent:** Wednesday, March 6, 2024 1:16 PM  
**To:** [REDACTED]@sra.org.uk>  
**Subject:** RE: SRA warning notice on bulk financial service claims

Sensitivity: General

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Hi [REDACTED]

Good to meet up earlier. I've had a look on our website and some of this content this appears to be closest to supporting some of what you're saying.

[How do we recognise a subject access request \(SAR\)? | ICO](#)

Let me know if you think that's useful to signpost to. But as mentioned before, I do think it covers all bases in its current format.

Speak soon,

██████████  
████████████████████  
Group Manager

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**From:** ██████████ [@sra.org.uk](mailto:██████████@sra.org.uk)>  
**Sent:** Tuesday, March 5, 2024 11:36 AM  
**To:** ██████████ [@ico.org.uk](mailto:██████████@ico.org.uk)>; ██████████ [@ico.org.uk](mailto:██████████@ico.org.uk)>  
**Subject:** RE: SRA warning notice on bulk financial service claims

External: This email originated outside the ICO.

Sensitivity: General

Hi ██████████

Thanks for taking a look at the warning notice for me, it's really appreciated! It sounds like a great idea to catch up and I could make a meeting tomorrow at 11am, if that works ok for you too. We use Teams too so that works well for me.

Many thanks  
██████████

██████████ (he/him)  
Policy Associate  
Solicitors **Regulation** Authority / Awdurdod **Rheoleiddio** Cyfreithwyr  
[sra.org.uk](http://sra.org.uk)

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**From:** ██████████ [@ico.org.uk](mailto:██████████@ico.org.uk)>  
**Sent:** Tuesday, March 5, 2024 9:43 AM  
**To:** ██████████ [@sra.org.uk](mailto:██████████@sra.org.uk)>; ██████████ [@ico.org.uk](mailto:██████████@ico.org.uk)>  
**Subject:** RE: SRA warning notice on bulk financial service claims

Sensitivity: General

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Hi ██████████

Thanks for sharing this – we think it's a really helpful document which covers all the bases we'd expect and identifies some of the poor practises we may see in these circumstances.



I've spoken with colleagues internally and it would be really helpful if you could put aside a little time for a quick chat, maybe 15 minutes to half an hour this week? We have 11 - 2 free tomorrow if any time in that period would work for you? We use Teams as our preferred platform but can use Zoom if needed.

Thanks

██████

████████████████

Group Manager

Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF

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