

8 February 2016

Mr Richard Silver
Policy officer
A Question of Trust
Solicitor's Regulation Authority
24 Martin Lane
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BY EMAIL: Richard.silver@sra.org.uk

Dear Richard

A QUESTION OF TRUST

1. The Fraud Advisory Panel (the 'Panel') welcomes the opportunity to comment on the Solicitors Regulation Authority ('SRA') consultation on 'A Question of Trust' in respect of the professional standards and values of the legal services sector and what should happen when things go wrong, published in September 2015, a copy of which is available from this [link](#). Thank you for providing us with a short extension to the response deadline.
2. We limit our response to drawing attention to two issues that we believe can seriously undermine public confidence in the profession and cause significant harm to those who directly access legal services and to wider society more generally:
 - professionals who are involved in bribery, corruption and money laundering offences; and
 - professionals who fail to act in the best interests of clients and take on fraud cases for which they do not have the necessary expertise.
3. Firstly, the Panel believes that the SRA should place greater weight on sanctions for professionals who fall short of standards in cases involving bribery and corruption offences and high-end money laundering.
4. The National Crime Agency has assessed that 'hundreds of billions of US dollars of criminal money almost certainly continue to be laundered through UK banks, including their subsidiaries, each year' some of it using the property market and corrupt professionals, including solicitors¹.
5. The role of corrupt professionals who facilitate these crimes is also highlighted in the 2015 UK national risk assessment of money laundering and terrorist financing². The absence of prosecutions for cases of high-end money laundering in light of such information is a matter of concern.

¹ National Crime Agency (23 June 2015). *National Strategic Assessment of Serious and Organised Crime 2015*, <http://www.nationalcrimeagency.gov.uk/publications/560-national-strategic-assessment-of-serious-and-organised-crime-2015/file>.

² HM Treasury and Home Office (October 2015). *UK national risk assessment of money laundering and terrorist financing*, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/468210/UK_NRA_October_2015_final_web.pdf.

6. The SRA initiative announced on 8 September 2014 to ensure that 'high risk' firms are not engaging in money laundering offered an assurance that action was being taken.³ The Panel would be interested in the outcome of this initiative and what lessons can be applied to the current consultation.
7. We believe that increasing the penalty imposed on professionals who knowingly or unwittingly facilitate such crimes is necessary to deter those who believe they are beyond reach and to demonstrate to the public that high-end crime is taken very seriously. The added weighting is proportionate to the serious level of harm caused to the UK and other countries (especially developing countries) by corruption and money laundering.
8. Secondly, the Panel believes that the SRA should address the issue of solicitors who purport to have relevant knowledge and experience in fraud when they do not. This is unhelpful in the fight against fraud and is misleading and harmful to victims (and can potentially cut off other avenues for redress), especially those who are vulnerable.
9. Research conducted by the Panel in mid-2012 on behalf of the Government revealed concerns that some fraud victims suffered additional loss as a result of such practices and recommended that an accreditation scheme for individual fraud specialists should be considered⁴. Existing online databases for solicitors are predominantly self-selecting.
10. As part of the research, fourteen interviews were conducted with a range of professionals from the public and private sectors who offered advice, assistance and support to fraud victims including police, solicitors, accountants and consumer advice agencies.⁵ This revealed a lack of experience and self-confidence among many private professionals, including those who marketed themselves as fraud experts. Many such 'experts' refused to be interviewed, claiming that their experience was 'minimal'. This can make it difficult for victims to identify true fraud experts or even to find the information they need to make a confident start in searching for one.
11. Both public and private professionals thought that some solicitors did not necessarily have the experience or specialist knowledge needed to deal with fraud cases adequately and that there was some evidence of victims changing solicitors because they suspected incompetence or felt they were being exploited. One private professional suggested that *'many sole practitioners get out of their depth too quickly, especially as many solicitors don't have much work at the moment [so take on cases which they are not experienced enough to handle].'*
12. Such findings are a concern and we believe that the situation is unlikely to have changed significantly since the research was conducted. With fraud on the rise, and police resources stretched, victims are increasingly turning to other legal remedies to recover their losses. We

³ Solicitors Regulation Authority (2014). *SRA steps up anti-money laundering work* (press release, 8 September), <https://www.sra.org.uk/sra/news/press/aml-campaign-launch-2014.page>.

⁴ Fraud Advisory Panel (2013). *Main themes are recommendations*, <https://www.fraudadvisorypanel.org/wp-content/uploads/2015/04/7435-WEB-FAP-Main-Themes-and-Recommendations-May13.pdf>.

⁵ Fraud Advisory Panel (2012). *Research into the professional advice given to victims of fraud trying to recover their money*, <https://www.fraudadvisorypanel.org/wp-content/uploads/2015/04/6040-3B-WEB-FAP-Helping-Fraud-Victims-Recover-Their-Money.pdf>.

Also see Fraud Advisory Panel (2012). *Research into the experiences of smaller business fraud victims in recovering their money (case studies)*, <https://www.fraudadvisorypanel.org/wp-content/uploads/2015/04/6040-WEB-FAP-Exploratory-Research-Case-Study-FINAL.pdf>.

believe that the SRA have a duty to ensure that these victims are adequately protected from bad advice based on lack of knowledge.

13. The Fraud Advisory Panel is an independent voice of the anti-fraud community. Established in 1998 we lead the drive to improve fraud awareness, understanding and resilience. Our members are drawn from all sectors – public, private and voluntary – and many different professions who are united by a common concern about fraud and a shared determination to do something about it.

Yours sincerely

A handwritten signature in black ink, appearing to read 'David Kirk', with a long horizontal flourish extending to the right.

David Kirk
Chairman

cc: Olivia Marley (Olivia.marley@sra.org.uk)