



**Solicitors
Regulation
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By email only to: [REDACTED]

18 December 2020

Dear [REDACTED] and [REDACTED]

Re: Our meeting on 18 November 2020

Thank you for meeting with us last month.

The discussion provided us with some valuable insight into the concerns that solicitors have about our potential regulatory interest in their involvement with Extinction Rebellion.

We recognise that solicitors involved with your organisation are engaged in principled action to address a climate and eco-emergency.

I know you appreciate that each case turns on its facts and we always have to consider what action is appropriate to maintain the standards we set, protect the public and the rule of law and administration of justice, and ensure confidence in the profession.

However, from the outset, I can confirm that we consider it unlikely that regulatory action would arise solely from a solicitor advising or representing, Extinction Rebellion. Or, in light of our discussion regarding its aims and the way it operates, simply from membership or affiliation with Lawyers for XR.

Our published guidance

We discussed, in particular, the position regarding solicitor members who receive criminal convictions for participating in organised non-violent civil disobedience.

There is a duty to report criminal convictions to us when they arise; however, as mentioned in my previous letter, we have a broad discretion to consider the context. This will not necessarily result in disciplinary action for a solicitor, or automatic refusal of admission to the roll.

There are of course a broad range of factors that affect how seriously we will view a matter. These include the individual's motivation, as well as the risk the conduct presents to the public/public interest: As discussed, we would consider as serious, offences that, for example, cause or risk damage to property, or loss or harm to others; as well as action that impedes the proper administration of justice.

However, we recognise that our current published guidance does not provide examples of how we make decisions in the context of principled action. You will appreciate that the purpose of our guidance is not to be prescriptive and obviously needs to cover a range of scenarios. But we are committed to making sure that it is clear how our approach applies in particular circumstances that are topical or have been raised with us by the profession.

As discussed, we will therefore review our guidance with a view to providing relevant examples and to make sure our approach is clear.

I would welcome the opportunity to discuss this further and share our material with you, in due course.

Ethical code

Finally, I was interested to hear your suggestions of areas for further guidance to raise awareness in the profession and support members in dealing with environmental issues in the course of their work.

I know that the Law Society is looking at this, and we are, as discussed, very happy to work with them on these important issues. We will be taking forward discussions in the new year to explore how best we can get involved.

Yours

A solid black rectangular box used to redact the signature of the General Counsel.

General Counsel

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24 September 2020

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Dear Lawyers for Extinction Rebellion,

Thank you for your letter of 2 September 2020 to Anna Bradley, as Chair of the SRA Board. I am writing a response on her behalf as General Counsel of the SRA.

First, I would like to confirm that I support your organisation's aims - of seeking to avert catastrophic climate change in response to the Environment and Climate Emergency – and the right of lawyers to engage in peaceful protests in support of the cause.

We do take a regulatory interest in all criminal conduct by solicitors, given their role as officers of the court and the need to uphold public confidence in those integral to the administration of our criminal justice system. However, we have broad discretion to consider the context and motivation for the solicitor's actions, both in terms of whether it is appropriate to take disciplinary action, and when assessing the character and suitability of applicants for admission to the roll.

Our Enforcement Strategy¹ highlights that we consider some convictions to be more serious than others: These will range from, on the one hand, minor public disorder or motoring offences, to, at the other end of the scale, fraud, dishonesty or offences against the person. And Rule 2 of the SRA Assessment of Character and Suitability Rules makes it clear that we will take into account an individual's circumstances on a case by case basis. Therefore, it is not the case that more than one conviction necessarily results in disqualification as a solicitor: our overriding consideration is the protection of the public and the public interest.

I am sure you will appreciate therefore that whilst we are sympathetic to your cause we are unable to give a blanket immunity to climate activist lawyers. These judgments turn on the balancing of very individual and fact-specific issues and reflect - as well as the countervailing public interest where matters of conscience are raised - the nature of the offending behaviour and whether this for example risked any harm or loss to others.

I hope this helps to explain our approach and would be happy to discuss these issues further.

Yours

[REDACTED]

Juliet Oliver
General Counsel

¹ <https://www.sra.org.uk/sra/corporate-strategy/sub-strategies/sra-enforcement-strategy>