



# SOLICITORS' PROFESSIONAL STANDARDS:

## Results from the Professional Standards Survey

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## Table of Contents

### Contents

<b>Executive Summary</b> .....	4
<b>Introduction</b> .....	6
<b>Section 1: Respondents’ profile</b> .....	7
Number of respondents.....	7
Age .....	7
Gender .....	8
Ethnicity .....	9
Employment.....	10
Sample composition in comparison to the population .....	12
Profiles of respondents.....	13
<b>Section 2: Evaluations of the Scenarios</b> .....	14
Perceived seriousness for the different scenarios.....	14
Scenarios evaluated as being ‘the most serious matters’ .....	18
Scenarios evaluated as being ‘a very serious matter’ .....	18
Scenarios evaluated as being ‘a serious matter’.....	20
Scenarios evaluated as being ‘a matter of concern’ .....	22
Scenarios evaluated as being ‘a matter of some concern’ .....	23
Grouping questions together by type of misconduct .....	24
Self-dealing.....	25
Anti-money laundering .....	25
Bribery.....	26
False CV .....	26
Misleading or False Evidence .....	26
Client Money.....	27
Conflict of Interests.....	27
Overcharging/fees problems .....	28
Misleading clients to get business .....	28
Advice that may assist with potential illegality by the client.....	29
Inappropriate relationships with clients.....	29
Staff discrimination .....	29
Taking advantage of a client .....	29
Complaint handling.....	30

Confidentiality.....	30
Rudeness to Client .....	30
Competence problems.....	31
Practising Certificate Problems.....	31
Unbefitting conduct.....	32
Backdating.....	32
Mismanagement Problems.....	33
Bringing weak cases.....	33
<b>Section 3: Perceived seriousness by scenario type.....</b>	<b>34</b>
Intent.....	34
Harm .....	36
Vulnerability.....	37
Junior.....	38
Pressure .....	39
Senior .....	39
Summary .....	40
<b>Section 4: Differences in the Evaluation of the Scenario.....</b>	<b>41</b>
Differences in the perceived seriousness of scenarios by gender.....	41
Differences in the perceived seriousness of scenarios by age group.....	44
Differences in the perceived seriousness of scenarios by ethnicity.....	44
Differences in the perceived seriousness of scenarios by working (or not) as a solicitor.....	47
Differences in the perceived seriousness of scenarios by organisation being (or not) regulated by SRA.....	47
Differences in the perceived seriousness of scenarios by sector.....	49
Differences in the perceived seriousness of scenarios by number of people in the organisation...	50
Differences in the perceived seriousness of scenarios by question set.....	50
Summary.....	51
<b>Summary and conclusions .....</b>	<b>52</b>
<b>Appendices .....</b>	<b>54</b>
Appendix 1: Final survey.....	54
Appendix 2: Descriptive statistics and frequencies for each scenario.....	54
Appendix 3: Questions and topics under each evaluation category.....	54
Appendix 4: Coding chart of the different scenarios.....	54

## Executive Summary

The present report considers the results of a survey designed to provide data on how the profession views the relative seriousness of different types of behaviour and the factors that might affect these views. The survey has been designed by the SRA and their consultant, Jane O'Brien. This report analyses and describes the results of the survey. 611 solicitors completed the survey out of 10,000 people that were invited to participate. The survey sought respondent views on the seriousness of 60 hypothetical ethical breaches. Participants answered one of twelve blocks of those questions consisting of fifteen questions each. Participants further replied to several demographic questions and questions regarding the type of work and organisation they currently work for.

The main findings were:

- The scenarios assessed a range of perceived seriousness.
- Some scenarios were consistently assessed in similar ways by respondents, others provoked a greater diversity of view, and a handful of questions prompted greater splits in opinion.
- In broad terms the way the scenarios were assessed can be summarised in the following table.

Self-dealing	Most-very serious
Anti-money laundering breaches	Very serious
Bribery	Very serious
False CV	Very serious
Misleading or False Evidence	Most serious – serious
Client Money	Very serious-serious
Conflict of Interests	Very serious-serious
Overcharging/fees problems	Very serious-serious
Misleading clients to get business	Very serious-serious
Advice that may assist with potential illegality by the client	Serious
Inappropriate relationships with clients	Serious
Staff discrimination	Serious- a concern
Taking advantage of a client	Serious- a concern
Complaint handling	Serious- a concern
Confidentiality	Serious- a concern
Rudeness to Client	Serious – a concern
Competence problems	Serious – a concern
Practising Certificate Problems	A concern – serious
Unbefitting conduct	Serious – a mere concern
Backdating	A concern
Mismanagement Problems	Serious concern – mere concern
Bringing weak cases	A concern – mere concern

- A variety of case characteristics were identified as of interest to the SRA and their impact on perceived seriousness was assessed. The intentionality of misconduct, levels of harm caused, and the experience of the lawyer generally had the predicted impact on perceived seriousness, although there were some problems where this did not appear to be the case. Vulnerability of the client and the impact of peer pressure on the solicitors guilty of misconduct did not appear to have a consistent effect on the scenarios perceived seriousness.

- Demographic and background characteristics sometimes had an association with how problems were perceived although, with one or two exceptions, these associations were generally modest.

## Introduction

The SRA have indicated the background to this study as follows:

*Professional standards lie at the heart of Solicitors Regulation Authority (SRA) work as a regulator. There is a need to make sure that the standards that are set are relevant for the public and the profession, as both the legal market and the profession itself changes and develops. SRA must also ensure that decision-makers apply their standards proportionately and in a consistent, fair and transparent way.*

*As a first step of a project focusing on ensuring fair and consistent decision-making, a survey has been designed to find out how the profession views the relative seriousness of different types of behaviour and the factors that might affect these views. The results of this survey will provide the foundation for the development of a framework that will map the levels of seriousness of common breaches of the handbook against the professional principles defined in the Legal Services Act 2007. The framework will be used as a guide for the staff, providing a consistent starting point for decision-making. It will not be used to determine the outcome of any individual cases, as the particular circumstances of each case will have to be considered and taken into account.*

The results of this survey are designed to provide data on how the profession views the relative seriousness of different types of behaviour and the factors that might affect these views. The survey has been designed by the SRA and their consultant, Jane O'Brien (see Appendix 1). This report analyses and describes the results of the survey.

744 surveys were begun out of 10,000 people that were invited to participate (9,999 by direct email and 1 by paper mail, as a reasonable adjustment for a solicitor with a visual impairment). The survey consisted of 60 questions outlining hypothetical ethical breaches. To make the survey an acceptable length for respondents, participants were not asked to rate all 60 scenarios. Instead they were allocated at random to answer to one of twelve blocks of those questions consisting of fifteen questions each. They were asked to rate each of those fifteen scenarios in terms of seriousness, on the following scale: 1 ('A matter of no concern'), 2 ('A matter of some concern'), 3 ('A matter of concern'), 4 ('A serious matter'), 5 ('A very serious matter'), 6 ('The most serious matters'). Participants further replied to several demographic questions and questions regarding the type of work and organisation they currently work for.

The report is organised under four main sections: (1) respondents' profile, (2) evaluations of the different scenarios among the whole sample, (3) differences in the evaluation of the different scenarios in relation to level of intent and harm, and/or that describe situations related to vulnerable clients, solicitors' inexperience, peer pressure and seniority /trust, and (4) differences in the evaluation of the different scenarios according to the demographic characteristics of participants and work situation.

This report presents the findings from the survey, which has been launched on the 20<sup>th</sup> July 2015. The data used in the analysis is based on 744 responses, provided until 17<sup>th</sup> August 2015.

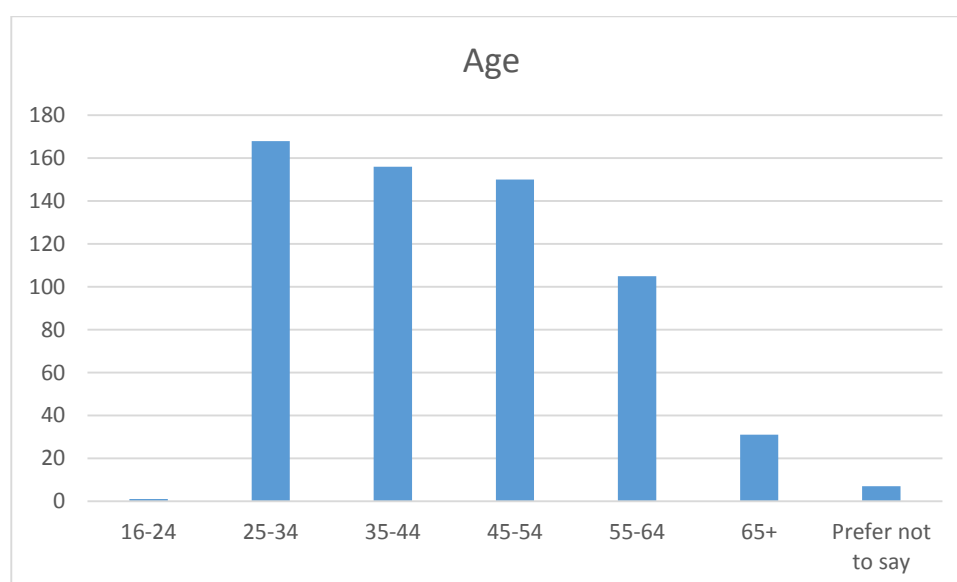
## Section 1: Respondents' profile

### Number of respondents

A total of 744 respondents initiated the survey, but only 611 completed the whole survey. There were no statistically significant differences ( $p < .05$ ) between those who completed the survey and those who dropped out in relation to age, gender, ethnicity, working (or not) as a solicitor, working (or not) for an organisation regulated by the Solicitors Regulatory Authority, sector, and number of people working in the organisation.

### Age

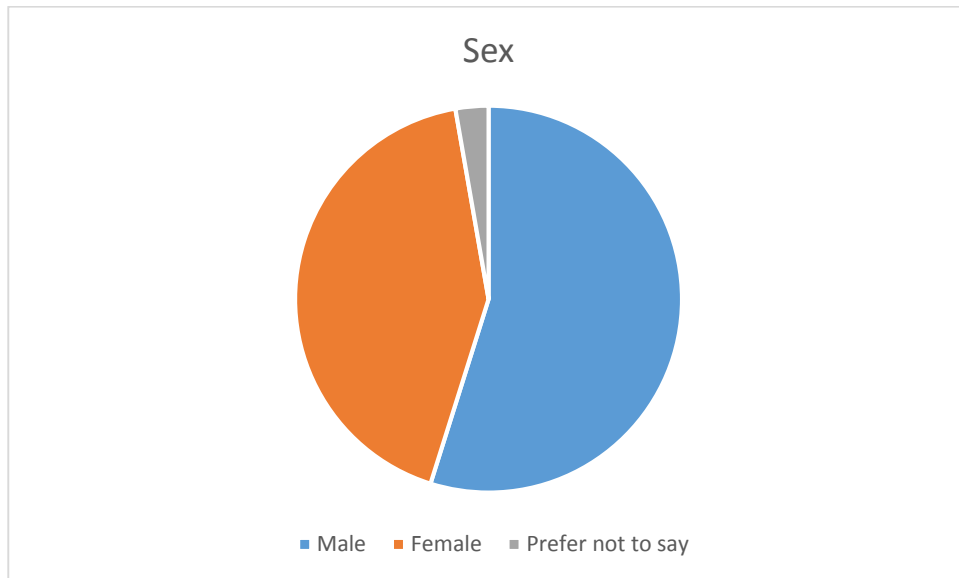
The majority of respondents were between 25 and 54 years old.



		Frequency	Percent	Valid Percent
Valid	16-24	1	.1	.2
	25-34	168	22.6	27.2
	35-44	156	21.0	25.2
	45-54	150	20.2	24.3
	55-64	105	14.1	17.0
	65+	31	4.2	5.0
	Prefer not to say	7	.9	1.1
	Total	618	83.1	100.0
Missing	System	126	16.9	
Total		744	100.0	

## Gender

Slightly more men (54.9%) responded to the survey than women (42.4%).

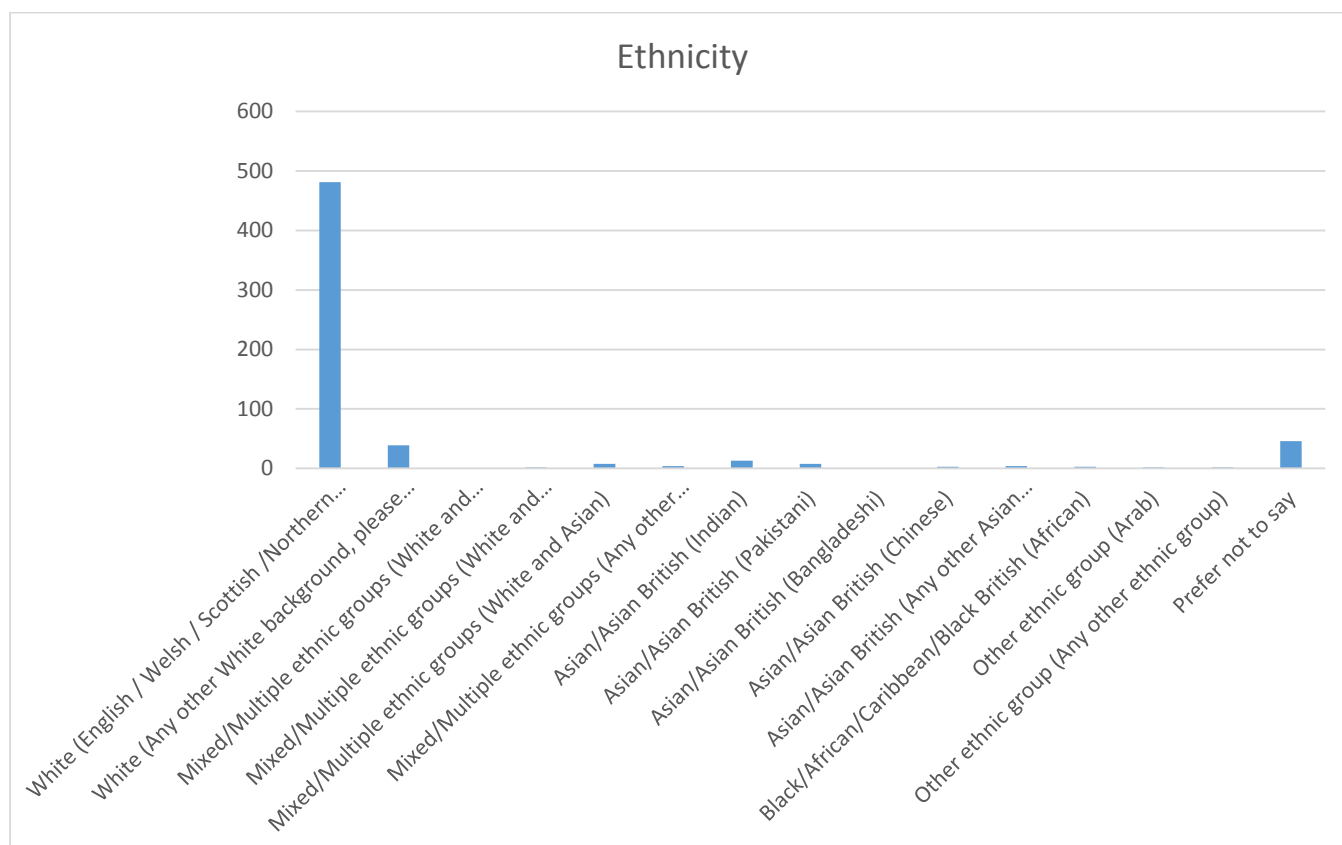


		Frequency	Percent	Valid Percent
Valid	Male	339	45.6	54.9
	Female	262	35.2	42.4
	Prefer not to say	17	2.3	2.8
	Total	618	83.1	100.0
Missing	System	126	16.9	
Total		744	100.0	



## Ethnicity

The majority of respondents were white, from the UK or Northern Ireland (78.0%) or from any other white background (6.3%).



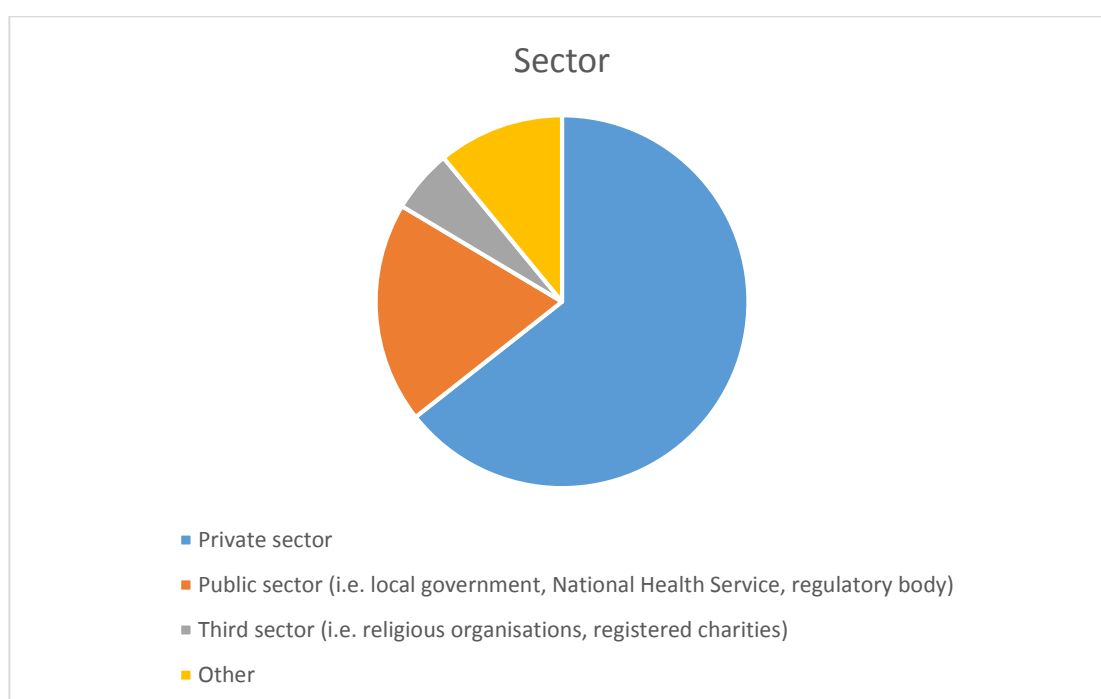
	Frequency	Percent	Valid Percent
White (English / Welsh / Scottish /Northern Irish / British / Irish)	481	64.7	78.0
White (Any other White background)	39	5.2	6.3
Mixed/Multiple ethnic groups (White and Black Caribbean)	1	.1	.2
Mixed/Multiple ethnic groups (White and Black African)	2	.3	.3
Mixed/Multiple ethnic groups (White and Asian)	8	1.1	1.3
Mixed/Multiple ethnic groups (Any other Mixed/Multiple ethnic background)	4	.5	.6
Asian/Asian British (Indian)	13	1.7	2.1
Asian/Asian British (Pakistani)	8	1.1	1.3
Asian/Asian British (Bangladeshi)	1	.1	.2
Asian/Asian British (Chinese)	3	.4	.5
Asian/Asian British (Any other Asian background)	4	.5	.6
Black /African/Caribbean/Black British (African)	3	.4	.5
Other ethnic group (Arab)	2	.3	.3
Other ethnic group (Any other ethnic group)	2	.3	.3
Prefer not to say	46	6.2	7.5
<b>Total</b>	<b>617</b>	<b>82.9</b>	<b>100.0</b>

## Employment

The majority of respondents (95.3%) said they were currently working as a solicitor. We have assumed, given the provenance of the survey respondents (emails were sent direct to respondents by the SRA), that those not currently working as a solicitor are, or have recently been, solicitors, and so have not excluded their results from the analysis.

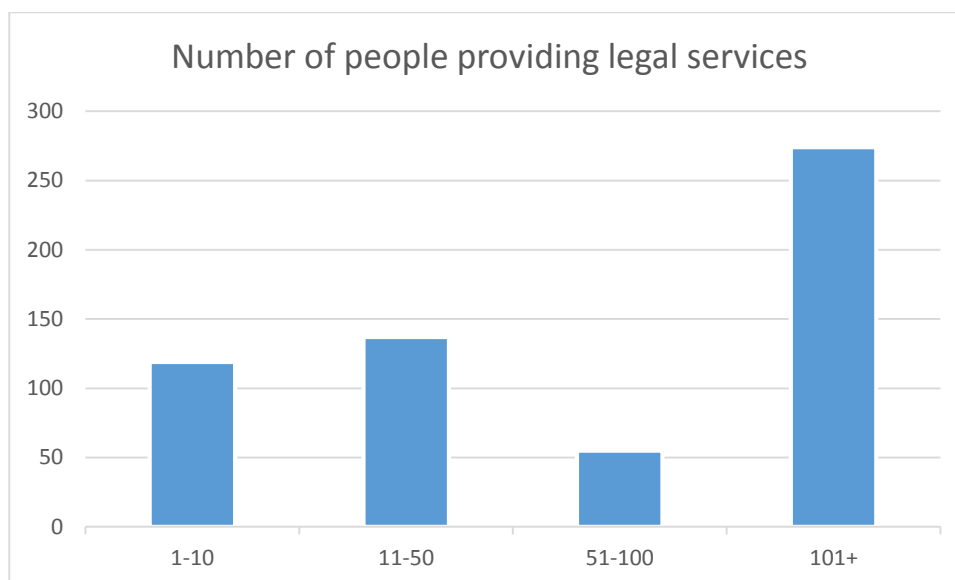
Among those who said they were working as solicitors, the majority (69%) reported working for an organisation regulated by the SRA. 10% reported that they did not work for an SRA regulated organisation. This data was missing for 21% of respondents.

Among those working in an organisation that is not regulated by SRA, which would include in-house lawyers working in government and in commerce, the majority were working in the private sector (64%), followed by the public sector (19%).



		Frequency	Percent	Valid Percent
Valid	Private sector	47	6.3	64.4
	Public sector (i.e. local government, National Health Service, regulatory body)	14	1.9	19.2
	Third sector (i.e. religious organisations, registered charities)	4	.5	5.5
	Other	8	1.1	11.0
	Total	73	9.8	100.0
Missing	System	671	90.2	
Total		744	100.0	

In response to how many people are employed in their organisation, the most part (47%) reported working in organisations with more than 101 people providing legal services.<sup>1</sup> A considerable portion worked in medium (23.4%) or small-sized (20.3%) organisations.



		Frequency	Percent	Valid Percent
Valid	1-10	119	16.0	20.3
	11-50	137	18.4	23.4
	51-100	55	7.4	9.4
	101+	274	36.8	46.8
	Total	585	78.6	100.0
Missing	System	159	21.4	
Total		744	100.0	

<sup>1</sup> Those who worked in organisations whose primary business was not the provision of legal services were instructed to focus only on those who provide or support the provision of legal services.

## Sample composition in comparison to the population

In general, the assessed demographic variables of those responding to the survey were roughly similar to the solicitors' overall population. Although the proportion of respondents was equivalent to the population for the 25-34 age group, there were slightly fewer respondents in the age group of 35-44 and slightly more respondents in the older age groups (45-54, 55-64 and 65+).

Although a slight gender disproportion is present at the population level, i.e., more men than women working as solicitors, this disproportion was slightly inflated in our sample, with the proportion of men replying being somewhat higher. Regarding ethnicity, when compared to the population, minorities were less represented in the survey sample. On the other hand, fewer respondents in the survey preferred not to answer to this question. Proportionally more of the survey respondents reported working in an SRA regulated firm and more survey respondents worked in big organisations with more than 101 people providing legal services, and slightly less worked in small firms, with less than 10 people.

	Sample (n =744)	Population (N = )
<b>Age</b>		
25-34	27.5%	27.8%
35-44	25.6%	32.5%
45-54	24.6%	22.9%
55-64	17.2%	12.8%
65+	5.1%	3.9%
<b>Sex</b>		
Female	42.4%	47.79%
Male	54.9%	50.19%
Unknown	2.8%	2.02%
<b>Ethnicity</b>		
White	84.3%	76.1%
Mixed/Multiple ethnic groups	2.4%	1.3%
Asian/Asian British	4.7%	9.4%
Black/ African/Caribbean/Black British	0.5%	2.1%
Other ethnic group	0.6%	1.1%
Prefer not to say / Unknown	7.5%	10.0%
<b>Employment</b>		
SRA regulated firm	87.5%	68.3%
Private	8.05%	16.7%
Public sector	2.4%	6.0%
Third Sector	0.7%	0.4%
Not known	1.4%	8.5% <sup>2</sup>
<b>Number of people in organization</b>		
1-10	20.3	29.0%
11-50	23.4	25.3%
51-100	9.4	8.3%
101 +	46.8	28.6%
Unknown	NA <sup>3</sup>	8.8%

<sup>2</sup> If solicitors do work for a firm that is not regulated by the SRA they do not have to disclose this information. Therefore, 'not known' category may reflect solicitors working either in the private, public or third sector.

<sup>3</sup> This option was not available in the survey.

## Profiles of respondents

We have considered whether there were typical clusters of respondent profiles that were defined by background variables collected through the survey (i.e., demographic and related to the organisation where respondents work). For this, we conducted multiple correspondence analysis, which is a multivariate analysis suited for dealing with categorical (nominal or ordinal) variables.

The results of this analysis showed that a specific pattern of grouping in the background variables could not be derived. . Therefore, it was not possible to derive any particular 'profiles' of respondents. This means that there was not any systematic association between the different background variables that could be identified.

## Section 2: Evaluations of the Scenarios

### Perceived seriousness for the different scenarios

Inspecting the cohort of questions as a whole, it is possible to conclude that most scenarios were viewed as at least serious, and over a third as very serious. The following table summarises and simplifies the assessments (rounding the mean seriousness score for each question and allocating it to the appropriate category 1-6 as a result).

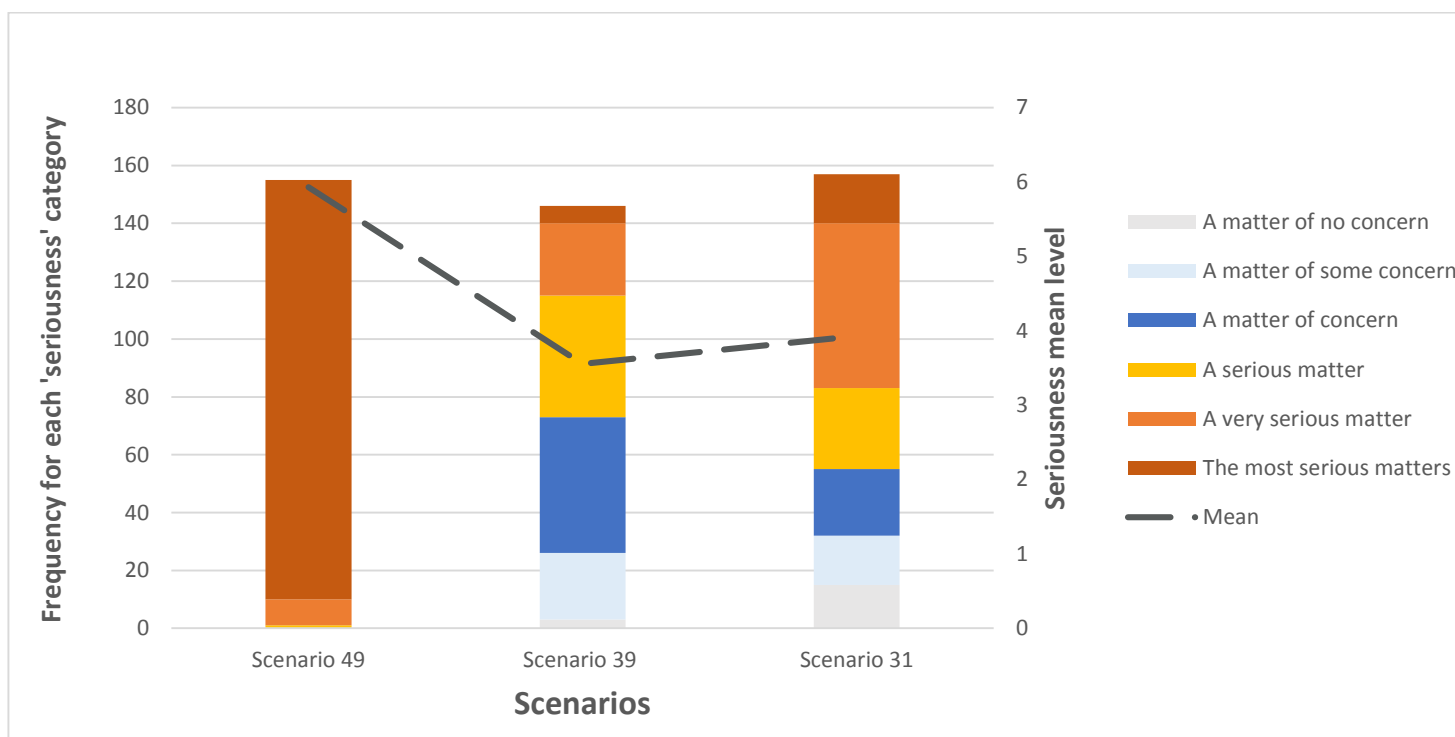
Number of scenarios evaluated (on average) as being...	Frequency	Valid Percent
(1) A matter of no concern	0	0.0
(2) A matter of some concern	3	5.0
(3) A matter of concern	12	20.0
(4) A serious matter	24	40.0
(5) A very serious matter	16	26.7
(6) The most serious matters	5	8.3

The following two tables provide more detail, showing the mean level of seriousness that was attributed to each of the scenarios (ranging from the highest to the lowest level of seriousness) and some data on the distribution of scores attributed by survey respondents (the range and the standard deviation). A '6' indicates the respondents described the hypothetical as 'the most serious matters', and a '1' indicates the matter was scored at the lowest level ('a matter of some concern'). A wide range of seriousness was attributed to the questions. The Standard Deviation's for questions also vary considerably. Smaller standard deviations suggest stronger agreement over the seriousness of the question than larger ones:

	N	Minimum	Maximum	Mean	Std. Deviation
Question 49	155	4.00	6.00	5.9290	.28169
Question 8	155	3.00	6.00	5.8903	.38760
Question 22	165	2.00	6.00	5.7939	.59977
Question 47	165	3.00	6.00	5.5455	.74453
Question 38	154	2.00	6.00	5.5000	.80237
Question 61	157	1.00	6.00	5.4395	.84987
Question 30	146	3.00	6.00	5.4384	.78760
Question 35	146	2.00	6.00	5.3493	.76647
Question 62	165	1.00	6.00	5.1091	1.05933
Question 4	165	1.00	6.00	5.0727	1.12382
Question 59	155	1.00	6.00	5.0710	.98765
Question 60	155	2.00	6.00	5.0516	.88121
Question 34	157	2.00	6.00	4.8726	1.07850
Question 57	150	2.00	6.00	4.8533	1.06429
Question 28	146	1.00	6.00	4.7877	1.77029
Question 42	155	2.00	6.00	4.7226	.87190

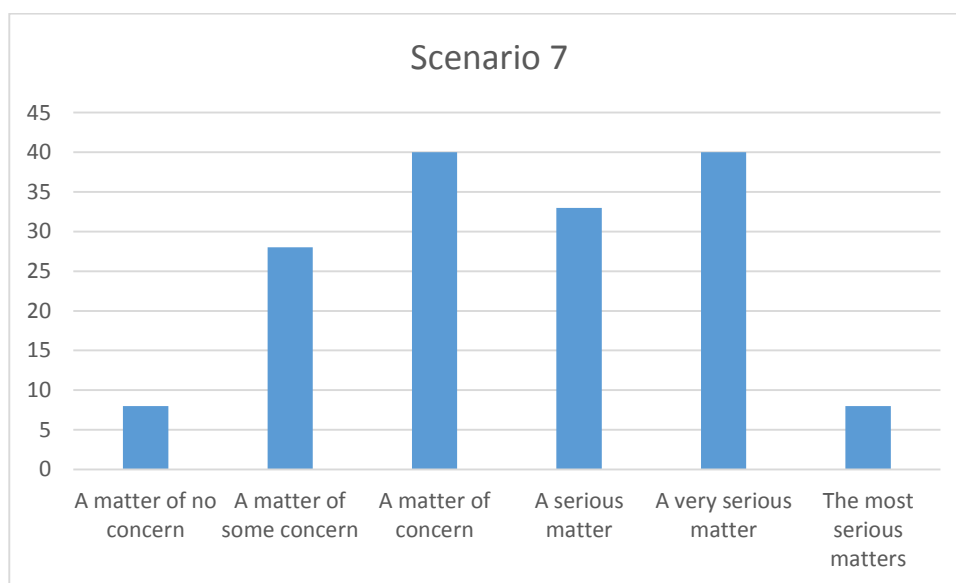
	N	Minimum	Maximum	Mean	Std. Deviation
Question 18	165	1.00	6.00	4.6667	1.15997
Question 27	155	2.00	6.00	4.6323	.93294
Question 1	165	1.00	6.00	4.6000	.98649
Question 21	165	1.00	6.00	4.5636	1.03176
Question 16	157	1.00	6.00	4.5350	1.12392
Question 37	146	1.00	6.00	4.4178	1.32226
Question 56	157	1.00	6.00	4.4013	1.16498
Question 15	157	1.00	6.00	4.3312	1.15130
Question 2	146	1.00	6.00	4.2945	1.25488
Question 50	165	1.00	6.00	4.2909	1.55005
Question 51	146	1.00	6.00	4.2671	1.12826
Question 6	147	1.00	6.00	4.1565	1.14498
Question 20	157	2.00	6.00	4.1146	1.10922
Question 31	157	1.00	6.00	3.9299	1.49835
Question 53	157	1.00	6.00	3.8662	1.16628
Question 5	157	1.00	6.00	3.8599	1.02193
Question 10	146	1.00	6.00	3.8493	1.35617
Question 14	145	1.00	6.00	3.8138	1.11172
Question 41	159	1.00	6.00	3.7925	1.19638
Question 48	146	1.00	6.00	3.7671	1.15693
Question 25	157	1.00	6.00	3.7580	1.13455
Question 9	163	1.00	6.00	3.7485	1.32098
Question 12	163	1.00	6.00	3.7117	1.26063
Question 19	146	2.00	6.00	3.6164	1.09078
Question 7	157	1.00	6.00	3.5924	1.31537
Question 13	155	1.00	6.00	3.5871	1.18862
Question 43	157	1.00	6.00	3.5796	1.24101
Question 39	146	1.00	6.00	3.5548	1.13278
Question 33	165	1.00	6.00	3.5455	1.22203
Question 58	155	1.00	6.00	3.2129	1.27405
Question 46	146	1.00	5.00	3.1849	1.01032
Question 3	155	1.00	6.00	3.1742	1.17412
Question 40	160	1.00	6.00	3.0750	1.06133
Question 24	146	1.00	6.00	2.8767	1.44743
Question 54	156	1.00	6.00	2.7564	1.10349
Question 52	146	1.00	6.00	2.7329	1.22779
Question 45	165	1.00	6.00	2.7030	1.17507
Question 26	165	1.00	5.00	2.6848	1.12513
Question 36	165	1.00	6.00	2.6727	1.31670
Question 17	162	1.00	6.00	2.5926	1.23387
Question 11	155	1.00	5.00	2.5032	1.08337
Question 55	160	1.00	6.00	2.4563	.98317
Question 23	157	1.00	6.00	2.2357	1.26156
Question 29	157	1.00	6.00	2.1274	1.16974
Valid N (listwise)	0				

In interpreting the seriousness levels attributed to each of the scenarios, it is important to attend to the mean level of seriousness, but also to the corresponding standard deviation. For example (see figure below), scenario 49 was not only evaluated as being the most serious of all scenarios (mean = 5.93), but had also the lowest standard deviation (0.28), meaning that there was a high convergence in the way different people rated this scenario. We can see from the bar chart that nearly all the respondents rated this scenario as in the most serious category. In contrast, for scenario 39, which had a mean of 3.55 and standard deviation of 1.13, we can see that there is a greater spread of responses across the different categories. This suggests quite a lot of disagreement in the way respondents rated this scenario to be more or less serious. For scenario 31, which had a relatively similar mean level of seriousness than scenario 39 (3.93), but a greater standard deviation (1.50), the diversity of answers is even greater.





Some scenarios also appeared to be bi-modal in nature, effectively indicating a split opinion amongst respondents. So, for example, Question 7 (“A firm fails to make reasonable adjustments for an employee with increasing visual problems, which forces her to resign from her post”) has the following distribution:



We draw attention also to question 23, 24, 28 and 50 (See Appendix 2 for the distributions) as also looking somewhat bi-modal in nature and so splitting opinion:

*23. A solicitor is caught fare dodging on the tube after drinking too much on a night out with friends. She says she didn't intend to avoid the fare but that she forgot to tap in with her Oyster card. She accepts a penalty notice and pays £60 fine.*

*24. An administrative error by a city firm leads to a solicitor practising for three months without a current practising certificate. When the solicitor discovers the mistake she immediately takes steps to put the matter right.*

*28. A partner takes money from the client account to pay his gambling debts. He says he always intended to pay the money back when his luck changed.*

*50. A solicitor is acting for an emotionally volatile client in relation to a clinical negligence claim about a brain injury she sustained during medical treatment. The solicitor starts a sexual relationship with the client and continues to act as her solicitor.*

The detailed distributions for each question can be examined in Appendix 2, and the topics of the scenarios rated under each ‘seriousness’ category can be found in Appendix 3.

### Scenarios evaluated as being 'the most serious matters'

In this section we set out the questions in order of perceived seriousness. The matters rated most seriously were:

- 8. *A solicitor is convicted of providing falsified documents to assist unlawful immigration (mean 5.89, SD 0.39).*
- 49. *A solicitor encourages a frail, elderly client to alter his will in her favour (mean 5.93, SD 0.28).*
- 22. *A solicitor holding client money until probate is granted uses the money to solve cash-flow problems in his firm (mean 5.79, SD 0.60).*
- 47. *A solicitor acting for an elderly widow includes in his bill costs which he has not incurred. He is sure her lack of knowledge of legal processes will mean she will pay without question (mean 5.55, SD 0.74).*
- 38. *A firm has a temporary cash flow problem and a partner takes money out of the client account to pay staff wages. She returns the money to the account when she receives payment for work completed (mean 5.50, SD 0.80).*

All of these questions had very high seriousness scores (averaging 5.5 or higher) and relatively low standard deviations (the lowest quartile of standard deviations), suggesting relatively high agreement amongst respondents that these were the most serious problems in the survey. These matters all involve dishonesty, if one accepts the misappropriation of client account money is dishonest, and usually involve financial misconduct. The one exception to financial misconduct is the falsification of documents in the immigration case.

### Scenarios evaluated as being 'a very serious matter'

The next three most seriously regarded hypotheticals were:

- 61. *An experienced solicitor acts as a trustee for a charity in his own time. He regularly charges the charity for expenses he has not incurred, saying that he has lost the receipt or that he forgot to ask for a receipt (mean 5.44, SD 0.85)*
- 30. *A client, who brings a lot of business to a city firm, includes misleading information in a witness statement. The partner handling the case deliberately ignores this, although she knows the information is relevant to the case, and submits the statement to the court (mean 5.44, SD 0.79)*
- 35. *A client asks for advice from his solicitor about suing a company. The solicitor has a financial interest in the company but he does not inform the client about his interest. Instead, he persuades his client that his case has no merit, although there are good grounds for proceeding (mean 5.35, SD 0.77)*

Each of these three also had, compared to the other scenarios, relatively small standard deviations (they were in the lowest quartile of standard deviations). Here we see a mixture of dishonesty (where an individual client is not a victim but a charity who is not a client); being complicit in the potential misleading of the court; and a failure to disclose a significant conflict of interest which impacts on a client.

The next most seriously regarded questions were also regarded as very serious on average, although a significant proportion of respondents would have classified these as being serious rather than very serious (and some may have classified the problems as merely matters of concern or lower). Indeed, we now start to see somewhat higher variation as indicated by the standard deviations on these questions. One question had relatively high standard deviation (being in the highest quartile of standard deviations). It is marked in **bold**.

62. *A senior partner routinely overcharges clients and encourages his colleagues to do so too (mean 5.11, SD 1.06)*

4. *A solicitor is recruited by large law firm. In his CV he says he has a first class degree and three years' work experience in the USA. When the solicitor's work proves to be poor, the firm investigates and discovers that neither statement is true (mean 5.07, SD 1.12)*

59. *An in-house general counsel discovers that some colleagues have been engaged in illegal activity involving bribery of government officials. She has worked with them for some time and hopes to protect them from the consequences of their actions by not telling the Board or her CEO, but simply telling them to stop (mean 5.07, SD 0.99)*

60. *A senior partner in a large city firm is responsible for the training and supervision of all trainee and newly qualified solicitors in the firm. He puts pressure on a newly qualified solicitor to omit relevant information from a review of the firm's AML processes he is conducting, and tells him he won't get far in the firm if he doesn't comply (mean 5.05, SD 0.88)*

34. *A partner in a city firm takes a commercial loan from an ex (criminal case) client. As the partner does not institute proper money laundering checks, there is a risk that the money received results from criminal activity (mean 4.87, SD 1.08)*

57. *An in-house solicitor discovers that some colleagues have been engaged in illegal activity involving bribery of government officials. He raises this with the in-house general counsel who says he will take action. After a few weeks the solicitor realises that no action has been taken but he decides not to raise the matter again as the firm discourages staff from 'rocking the boat' (mean 4.85, SD 1.06)*

**28. *A partner takes money from the client account to pay his gambling debts. He says he always intended to pay the money back when his luck changed (mean 4.79, SD 1.77)***

42. *A solicitor misleads a prospective client about the costs of services by withholding information about significant referral fees to be paid in a property development deal (mean 4.72, SD 0.87)*

18. *A solicitor acts for a client in a personal injury case advancing a significant claim for damages although she knows her client is lying about the extent of his injuries (mean 4.67, SD 1.16)*

27. *A solicitor in a city firm tries to retain business by misleading clients about the likely outcome of intellectual property disputes he is instructed on (mean 4.63, SD 0.93)*

1. *A solicitor specialising in criminal law agrees to act for five clients, all co-defendants to a murder charge. He quickly realises that there is a conflict of interest between the clients. Nonetheless, he keeps acting for all five until the day before the plea and case management hearing (mean 4.60, SD 0.99)*

21. *A litigation solicitor in a large firm is acting for a very valuable client but realises that she is conflicted because her friend is involved on the other side and they have discussed the case. The solicitor does not tell her client and decides to keep acting because the case is likely to help her to get partnership (mean 4.56, SD 1.03)*

16. *A firm of solicitors is financially unstable and has failed to meet several scheduled payments to HMRC (mean 4.54, SD 1.12)*

Q28 is particularly interesting as it is very similar to Q38. The apparent differences in the question are the gender of the solicitor and the context of the misuse of client account (one is financial pressure and the other personal problems on the part of the solicitor). Interestingly, the solicitor with the gambling problem is regarded as a less serious problem, perhaps indicating some sympathy for the personal nature of his problem. Another difference, which one would have imagined should make the problem more serious is that the gambler only indicated an intention to return the money whereas the solicitor facing financial pressure in the business did return the money and yet her conduct is regarded as more serious by the survey respondents.

### Scenarios evaluated as being 'a serious matter'

The following scenarios were regarded as serious. This group tended to average above 4 and so were at the upper end of seriousness within this category. These questions tended to have wider variation, suggesting respondents were rating seriousness in quite varied ways. Again, those questions showing higher variation are bolded.

- 37. A solicitor writes a blog from which it is clear that he is a practising solicitor. After a night out at the pub he writes a post in which he rants about a barman who had refused to serve him, describing him in racially derogatory terms (mean 4.42, SD 1.32).**
- 56. A solicitor in a large city firm notices that the bills sent to a big corporate client include fees for hours she has not worked. After raising this with her manager, who tells her not to make a fuss, she lets the matter drop (mean 4.40, SD 1.16).
- 15. A solicitor agrees a completion date for the purchase of a house without informing or getting agreement from the client and commits his client to this date (mean 4.33, SD 1.15).
- 2. A solicitor is taking statements for Employment Tribunal proceedings from staff of the defendant employer. Witness A says he saw witness B entering the HR department the morning personnel records crucial for the claimant disappeared. The solicitor suggests to witness B that she finds an innocent explanation for her visit to HR to put into her statement (mean 4.29, SD 1.25).**
- 50. A solicitor is acting for an emotionally volatile client in relation to a clinical negligence claim about a brain injury she sustained during medical treatment. The solicitor starts a sexual relationship with the client and continues to act as her solicitor (mean 4.29, SD 1.55).**
- 51. A solicitor acting for a young woman in relation to the death of her young child repeatedly texts and emails her, making personal comments about her appearance and pressing her to go out on a date (mean 4.27, SD 1.13).
- 6. Five Muslim members of staff at a large city law firm complain that a partner discriminates against them in the operation of the internal promotions policy. An Employment Tribunal has found in their favour (mean 4.16, SD 1.1).
- 20. A firm's computer system is hacked giving the hackers access to a series of files about commercially sensitive transactions. The investigation reveals system security was weak (mean 4.11, SD 1.11)).

Two of the questions showing more variance involve elements of the solicitor's personal and professional lives. Q2 is intriguing: here the solicitor might be regarded as actively encouraging the witness to concoct evidence, in more seriously regarded scenarios the solicitor has more passively allowed the client to put misleading evidence forward in their case.

These next scenarios were also rated as being serious but their average scores were below 4, indicating that they were regarded towards the lower end of this spectrum with higher proportions rating the hypotheticals as merely matters of concern. Again, the bolded questions are the ones where variance is highest.

- 31. A city law firm is encouraged by a high value client to give advice that accords with their preferred course of action. The firm does so, although they realise that the advice will then be used to justify action which is on the border of legality and does not accord with the intention of the relevant legislation (mean 3.93, SD 1.50)**
- 53. A newly qualified solicitor misleads clients about the likely outcome of cases in order to keep the clients and impress his manager (mean 3.87, SD 1.17)
- 5. A firm includes inaccurate information about their success rate in personal injury cases in advertising materials they promote to the public (mean 3.86, SD 1.02)
- 10. A practising solicitor, who is also a prospective Parliamentary candidate, is forced to stand down as a candidate when a local paper reports that he has sent, unsolicited, explicit photos of himself to a number of party workers (mean 3.85, SD 1.36)**
- 14. A solicitor ignores complaints from clients about delays and standards of work (mean 3.81, SD 1.11)
- 41. A solicitor provides advice on an issue without fully understanding the relevant law. The client follows the advice, which results in considerable additional costs to the client (mean 3.79, SD 1.20)
- 48. A solicitor starts a number of cases for a man with serious mental health problems who believes he is being persecuted by his neighbours, the police and his doctors. The solicitor realises that the cases have no foundation, but continues to accept new instructions until the man's family complains (mean 3.77, SD 1.16)
- 25. A solicitor takes on lucrative work although she knows that she does not have the knowledge or experience to do it competently (mean 3.76, SD 1.13)
- 9. A solicitor accepts a caution for possession of cocaine (mean 3.75, SD 1.32)**
- 12 A solicitor is found to have practised without a current practising certificate (mean 3.71, SD 1.26)**
- 19. A client complains that each time he sees his solicitor there are other clients' files open on the desk in the waiting area (mean 3.62, SD 1.09)
- 7. A firm fails to make reasonable adjustments for an employee with increasing visual problems, which forces her to resign from her post (mean 3.59, SD 1.32)**
- 13. A solicitor in a small firm undertakes to transfer client funds to another solicitor, but fails to do so until the other solicitor makes a formal complaint on behalf of his client three weeks later (mean 3.59, SD 1.19)

**43. A solicitor fails to meet reasonable deadlines for disclosure of information to a third party, and as a result the client loses a valuable contract (mean 3.58, SD 1.24).**

39. A client complains that his solicitor has sworn at him and is often rude (mean 3.55, SD 1.13).

33. A solicitor works on his laptop while on a long train journey. The passenger sitting next to him is able to read all the information on his screen, including the name of the solicitor and sensitive information about his clients (mean 3.55, SD 1.22).

Interestingly, several of these hypotheticals contained examples of negligence or acting beyond one's competence where the client suffers serious financial harm and these are rated similarly to failure to deal with client complaints (for example). Also, marketing cases either generally on individuals (by advising outcomes will be better than they are likely to be) in ways that are misleading or taking advantage of vulnerable clients are within this category, suggesting significant proportions of the profession (as surveyed) see these matters only as matters of concern, rather than matters of some seriousness.

#### Scenarios evaluated as being 'a matter of concern'

The following matters averaged over three and so were at the more serious end of this category. The bolded question indicates higher variance.

**58. A solicitor realises that no note was taken of some key decision at a meeting with an important client. A number of staff from the firm were present, but each thought another was taking the note. Six months later, she raises this with the partner who attended the meeting who tells her to write up the note and backdate it, which she does (mean 3.21, SD 1.27).**

46. An elderly lady who is a witness in family proceedings complains about a solicitor who took her statement. She says that the statement, which included personal details about her drug addiction and criminal convictions, was sent by ordinary post to the wrong address. It was delivered to and opened by her neighbour, causing her considerable embarrassment (mean 3.18, SD 1.01).

3. A solicitor realises that no note was taken of some key decisions taken at a meeting with an important client. Six months later, she writes up the note and backdates it so that it appears to be contemporaneous (mean 3.17, SD 1.17).

40. A firm fails to provide the SRA with required information, including appointment of a new COLP (mean 3.08, SD 1.06).

The next batch of questions were rated as being a concern but less seriously on average, with bolded questions showing the most variance:

- 24. An administrative error by a city firm leads to a solicitor practising for three months without a current practising certificate. When the solicitor discovers the mistake she immediately takes steps to put the matter right (mean 2.88, SD 1.45).**
54. A newly qualified solicitor fails to comply with disclosure rules leading to the case being adjourned and additional costs incurred by all parties and the court (mean 2.76, SD 1.10).
52. A newly qualified solicitor accepts a caution after being involved in a drunken fight on his stag night (mean 2.73, SD 1.23).
45. A solicitor leaves a file of papers locked in the boot of his car. The file includes confidential information on a share placing for a client. During the night the car is stolen and abandoned in a side street. When the car is found, the papers are still in the boot of the car (mean 2.70, SD 1.18).
26. A partner takes on a number of new clients without considering the impact on his colleagues, as the firm does not have the resources to manage the increased workload (mean 2.68, SD 1.13).
- 36. A criminal advocate in a small law firm is found guilty of dangerous driving after damaging several other vehicles when speeding. He pleads guilty, is banned for a year and fined £1000 (mean 2.67, SD 1.32).**
17. A High Court judge reports a solicitor to the SRA saying that the solicitor consistently takes very weak cases on asylum and deportation. Investigation shows the solicitor's success rate is one in ten (mean 2.59, SD 1.23).
11. A solicitor provides advice without understanding the relevant area of law. This has been identified through the firm's supervision structures and put right (mean 2.50, SD 1.08).

### Scenarios evaluated as being 'a matter of some concern'

The following were of the least concern to survey respondents:

55. A newly qualified solicitor in a large city firm fails to inform clients of the progress of cases and causes delays as a result of the unrealistic number of cases allocated to her by senior staff in the firm (mean 2.46, SD 0.98).
- 23. A solicitor is caught fare dodging on the tube after drinking too much on a night out with friends. She says she didn't intend to avoid the fare but that she forgot to tap in with her Oyster card. She accepts a penalty notice and pays £60 fine (mean 2.24, SD 1.26).**
29. A High Court judge reports a solicitor to the SRA saying that the solicitor consistently take very weak cases on asylum and deportation. Investigation shows the solicitor's success rate is one in ten. The solicitor admits the cases are often weak but that he believes that the asylum seekers he represents should be given every chance to make their case and will be at risk if they are deported (mean 2.13, SD 1.17).

## Grouping questions together by type of misconduct

This section of the report allows the reader to consider the way questions dealing with similar issues (confidentiality, client money, personal misconduct, etc.) are dealt with, to enable some consideration of similarities and differences in the way these questions are treated by the respondents. We have organised the questions by problem type, loosely defined by a central characteristic of the hypothetical breaches. We then go through these in approximate order of perceived seriousness of that type of misconduct. So, for example, we begin with what we have called self-dealing as these hypotheticals generally perceived as the most serious or very serious categories of seriousness. We end with hypotheticals dealing with the bringing of weak cases, as these were generally regarded as amongst the least serious of the hypotheticals. Some groups of hypotheticals had quite varied levels of seriousness depending on the nature of the problems as presented in the hypotheticals (unbefitting conduct is one example of such a category).

The list of categories is as follows (in approximate order of seriousness):

<b>Problem Types</b>	<b>Broad characterisation</b>
Self-dealing	Most-very serious
Anti-money laundering	Very serious
Bribery	Very serious
False CV	Very serious
Misleading or False Evidence	Most serious - serious
Client Money	Very serious-serious
Conflict of Interests	Very serious-serious
Overcharging/fees problems	Very serious-serious
Misleading clients to get business	Very serious-serious
Advice that may assist with potential illegality by the client	Serious
Inappropriate relationships with clients	Serious
Staff discrimination	Serious- a concern
Taking advantage of a client	Serious- a concern
Complaint handling	Serious- a concern
Confidentiality	Serious- a concern
Rudeness to Client	Serious – a concern
Competence problems	Serious – a concern
Practising Certificate Problems	A concern – serious
Unbefitting conduct	Serious – a mere concern
Backdating	A concern
Mismanagement Problems	Serious concern – mere concern
Bringing weak cases	A concern – mere concern



## Self-dealing

Three questions dealt with situations where a solicitor exploited opportunities for their own benefit or to protect their own financial position, two against clients and one as a trustee of a charity. These were all regarded as the most or very serious types of misconduct, and generally levels of variation were not high. All involve either dishonesty or a breach of fiduciary obligations.

49. *A solicitor encourages a frail, elderly client to alter his will in her favour (mean 5.93, SD 0.28).*
61. *An experienced solicitor acts as a trustee for a charity in his own time. He regularly charges the charity for expenses he has not incurred, saying that he has lost the receipt or that he forgot to ask for a receipt (mean 5.44, SD 0.85).*
35. *A client asks for advice from his solicitor about suing a company. The solicitor has a financial interest in the company but he does not inform the client about his interest. Instead, he persuades his client that his case has no merit, although there are good grounds for proceeding (mean 5.35, SD 0.77).*

## Anti-money laundering

Two questions dealt with anti-money laundering hypotheticals, both were regarded (on average) as very serious):

60. *A senior partner in a large city firm is responsible for the training and supervision of all trainee and newly qualified solicitors in the firm. He puts pressure on a newly qualified solicitor to omit relevant information from a review of the firm's AML processes he is conducting, and tells him he won't get far in the firm if he doesn't comply (mean 5.05, SD 0.88).*
34. *A partner in a city firm takes a commercial loan from an ex (criminal case) client. As the partner does not institute proper money laundering checks, there is a risk that the money received results from criminal activity (mean 4.87, SD 1.08).*

We can see that these problems were dealt with similarly, with the deliberate conduct of the senior partner, and their behaviour towards the newly qualified solicitor not greatly increasing the seriousness with which this was regarded.

## Bribery

Bribery might be thought of as analogous to the AML problems, although in this case the actual wrongdoing is discovered, whereas in the AML scenarios the potential for money laundering is not checked but actual money laundering has not necessarily occurred. Interestingly, a failure to report the illegal activity is looked on with similar seriousness to AML breaches, i.e. all these are regarded as very serious on average.

59. *An in-house general counsel discovers that some colleagues have been engaged in illegal activity involving bribery of government officials. She has worked with them for some time and hopes to protect them from the consequences of their actions by not telling the Board or her CEO, but simply telling them to stop (mean 5.07, SD 0.99).*
57. *An in-house solicitor discovers that some colleagues have been engaged in illegal activity involving bribery of government officials. He raises this with the in-house general counsel who says he will take action. After a few weeks the solicitor realises that no action has been taken but he decides not to raise the matter again as the firm discourages staff from 'rocking the boat' (mean 4.85, SD 1.06).*

## False CV

A solicitor who got their job with the assistance of false CV details was regarded as very serious, although with quite a bit of variation across the sample of respondents:

4. *A solicitor is recruited by large law firm. In his CV he says he has a first class degree and three years' work experience in the USA. When the solicitor's work proves to be poor, the firm investigates and discovers that neither statement is true (mean 5.07, SD 1.12).*

## Misleading or False Evidence

Four problems deal with solicitors leading or being complicit in the provision of false evidence, e.g. to the court and/or opponents. There was quite a range of seriousness between these four hypotheticals, between being 'the most serious' kind of breach to being seen, on average, as 'serious'. Providing falsified documents was rated more seriously than being deliberately complicit in providing misleading witness statement, which in turn was more seriously regarded than making a claim known to be based on lies (which was nevertheless still generally regarded as serious or very serious). The solicitor who appears to suggest the client manufacture a helpful explanation is the least seriously regarded. In this scenario the solicitor is perhaps most clearly encouraging dishonesty: although it may be possible – at a stretch - to interpret the solicitors' behaviour as more benign: asking the client to consider whether there is a potential explanation for the HR visit.

8. *A solicitor is convicted of providing falsified documents to assist unlawful immigration (mean 5.89, SD 0.39).*
30. *A client, who brings a lot of business to a city firm, includes misleading information in a witness statement. The partner handling the case deliberately ignores this, although she knows the information is relevant to the case, and submits the statement to the court (mean 5.44, SD 0.79).*
18. *A solicitor acts for a client in a personal injury case advancing a significant claim for damages although she knows her client is lying about the extent of his injuries (mean 4.67, SD 1.16).*
2. *A solicitor is taking statements for Employment Tribunal proceedings from staff of the defendant employer. Witness A says he saw witness B entering the HR department the morning personnel records crucial for the claimant disappeared. The solicitor suggests to witness B that she finds an innocent explanation for her visit to HR to put into her statement (mean 4.29, SD 1.25).*

### Client Money

Problems dealing with client money were generally regarded as very serious, although there is some interesting variation here. Q28 is discussed above. Q13 is perhaps regarded as less serious because the delay may be less deliberate and there has been no taking of client money.

22. *A solicitor holding client money until probate is granted uses the money to solve cash-flow problems in his firm (mean 5.39, SD 0.60).*
38. *A firm has a temporary cash flow problem and a partner takes money out of the client account to pay staff wages. She returns the money to the account when she receives payment for work completed (mean 5.50, SD 0.80).*
28. *A partner takes money from the client account to pay his gambling debts. He says he always intended to pay the money back when his luck changed (mean 4.79, SD 1.77).*
13. *A solicitor in a small firm undertakes to transfer client funds to another solicitor, but fails to do so until the other solicitor makes a formal complaint on behalf of his client three weeks later (mean 3.59, SD 1.19).*

### Conflict of Interests

The two 'client and client' conflict of interest problems were generally regarded as either serious or very serious, even though it is not clear that substantial prejudice to the client materialised.

1. *A solicitor specialising in criminal law agrees to act for five clients, all co-defendants to a murder charge. He quickly realises that there is a conflict of interest between the clients. Nonetheless, he keeps acting for all five until the day before the plea and case management hearing (mean 4.6, SD 0.99).*
21. *A litigation solicitor in a large firm is acting for a very valuable client but realises that she is conflicted because her friend is involved on the other side and they have discussed the case. The solicitor does not tell her client and decides to keep acting because the case is likely to help her to get partnership (mean 4.56, SD 1.03).*

## Overcharging/fees problems

Overcharging also demonstrated a range of responses across the problems. Including costs that have not been incurred against an elderly widow was seen as very or most serious, whereas the more abstract 'routine overcharging' of the senior partner tended to be seen as very (not most) serious, even though s/he was encouraging the practice more widely in the firm. Interestingly, overcharging a corporate client for work not done garnered less of an indication of seriousness, perhaps reflecting the fact that the solicitor had tried to raise the problem internally and been rebuffed. The failure to disclose referral fees is, interestingly, regarded as somewhere between serious and very serious on average.

- 47. *A solicitor acting for an elderly widow includes in his bill costs which he has not incurred. He is sure her lack of knowledge of legal processes will mean she will pay without question (mean 5.55, SD 0.74).*
- 62. *A senior partner routinely overcharges clients and encourages his colleagues to do so too (mean 5.11, SD 1.06).*
- 56. *A solicitor in a large city firm notices that the bills sent to a big corporate client include fees for hours she has not worked. After raising this with her manager, who tells her not to make a fuss, she lets the matter drop (mean 4.40, SD 1.16).*
- 42 *A solicitor misleads a prospective client about the costs of services by withholding information about significant referral fees to be paid in a property development deal (mean 4.72, SD 0.87).*

## Misleading clients to get business

Three scenarios involved solicitors deliberately misleading clients in the context of getting their instructions or advertising. The judgments range, in particular, between being seen as on average very serious towards being seen as serious (with quite a few respondents seeing them as merely matters of concern).

The difference between Q27 and Q53 in perceived seriousness is intriguing: is the newly qualified solicitor being judged more leniently because of her/his inexperience, or because of the excuse given – that their managers need impressing? The advertising example is interesting because it may impact on more clients, but is perhaps discounted on the assumption that advertising is open to some gaming on the part of advertisers and (again an assumption) that clients may discount for that.

- 27. *A solicitor in a city firm tries to retain business by misleading clients about the likely outcome of intellectual property disputes he is instructed on (mean 4.63, SD 0.93).*
- 53. *A newly qualified solicitor misleads clients about the likely outcome of cases in order to keep the clients and impress his manager (mean 3.87, SD 1.17).*
- 5. *A firm includes inaccurate information about their success rate in personal injury cases in advertising materials they promote to the public (mean 3.86, SD 1.02).*

### Advice that may assist with potential illegality by the client

On average this was regarded a serious matter, although it is notable that there was wide variance, perhaps reflective of the fact that the advice was not being used to justify action which was, or was necessarily likely to be, illegal (it being phrased as being, “on the border of legality”):

*31. A city law firm is encouraged by a high value client to give advice that accords with their preferred course of action. The firm does so, although they realise that the advice will then be used to justify action which is on the border of legality and does not accord with the intention of the relevant legislation (mean 3.93, SD 1.50).*

### Inappropriate relationships with clients

Two scenarios looked at having or seeking a relationship with a client. Although one was significantly ‘stronger’ in the sense that there was a sexual relationship and the client’s vulnerability was perhaps clearer, both were rated similarly: tending to be rated as serious. There is a wide degree of variation on Q50 suggesting a lack of consensus with the profession on the level of seriousness seen here.

*50. A solicitor is acting for an emotionally volatile client in relation to a clinical negligence claim about a brain injury she sustained during medical treatment. The solicitor starts a sexual relationship with the client and continues to act as her solicitor (mean 4.29, SD 1.55).*

*51. A solicitor acting for a young woman in relation to the death of her young child repeatedly texts and emails her, making personal comments about her appearance and pressing her to go out on a date (mean 4.27, SD 1.13).*

### Staff discrimination

Two problems dealt with staff discrimination: one was perceived as serious on average whereas the other was more between being seen as serious and a matter of concern.

*6. Five Muslim members of staff at a large city law firm complain that a partner discriminates against them in the operation of the internal promotions policy. An Employment Tribunal has found in their favour (mean 4.16, SD 1.14).*

*7. A firm fails to make reasonable adjustments for an employee with increasing visual problems, which forces her to resign from her post (mean 3.59, SD 1.32).*

### Taking advantage of a client

Another problem dealt with taking advantage of a vulnerable client:

*48. A solicitor starts a number of cases for a man with serious mental health problems who believes he is being persecuted by his neighbours, the police and his doctors. The solicitor realises that the cases have no foundation, but continues to accept new instructions until the man's family complains (mean 3.77, SD 1.16).*

This matter was rated as serious on average but there was a body of opinion which rated it as a matter of concern or less. This is interesting given the potential for harm to the third parties the cases are being brought against and the potential for financial loss to the client (if they are paying) or the legal aid fund (if they are paying). The client may also suffer other distress or problems as a result.

## Complaint handling

One scenario deal with complaint handling. Although there was a quite a bit of variation this was generally regarded as a serious matter.

14. *A solicitor ignores complaints from clients about delays and standards of work (mean 3.81, SD 1.11)*

## Confidentiality

Confidentiality hypotheticals were generally rated as matters of concern, rather than being seen as serious: interestingly so, given the emphasis on the importance of confidentiality in professional discourse. Interestingly a weak security system, which is hacked, is seen as more serious than perhaps easier to tackle carelessness, or what might be seen as poor luck on the part of the solicitor (a stolen car) which does not lead to apparent harm.

20. *A firm's computer system is hacked giving the hackers access to a series of files about commercially sensitive transactions. The investigation reveals system security was weak (mean 4.11, SD 1.11).*
19. *A client complains that each time he sees his solicitor there are other clients' files open on the desk in the waiting area (mean 3.62, SD 1.09).*
33. *A solicitor works on his laptop while on a long train journey. The passenger sitting next to him is able to read all the information on his screen, including the name of the solicitor and sensitive information about his clients (mean 3.55, SD 1.22).*
46. *An elderly lady who is a witness in family proceedings complains about a solicitor who took her statement. She says that the statement, which included personal details about her drug addiction and criminal convictions, was sent by ordinary post to the wrong address. It was delivered to and opened by her neighbour, causing her considerable embarrassment (mean 3.18, SD 1.01).*
45. *A solicitor leaves a file of papers locked in the boot of his car. The file includes confidential information on a share placing for a client. During the night the car is stolen and abandoned in a side street. When the car is found, the papers are still in the boot of the car (mean 2.70, SD 1.18).*

## Rudeness to Client

This problem was seen as being somewhere between a matter of concern and a serious matter:

- 39 *A client complains that his solicitor has sworn at him and is often rude (mean 3.55, SD 1.13).*

## Competence problems

A number of problems dealt with competence issues. Q41 and Q25 deal with taking on work beyond one's competence. Although it is only clear that the solicitor in Q25 understands that a matter is beyond her competence, the solicitor in Q45's advice leads to harm to the client and both these problems are related similarly, tending towards being seen as a serious matter (although with some seeing it as only a concern). In Q43 and Q54 the competence problem is a more specific error, leading to harm, and we can see the newly qualified's error is treated more leniently. Q11 is similar in some ways to Q41 and Q25 and yet is treated the most leniently, perhaps because the matter has been identified and dealt with by the firm

- 41 *A solicitor provides advice on an issue without fully understanding the relevant law. The client follows the advice, which results in considerable additional costs to the client (mean 3.79 , SD 1.20).*
- 25 *A solicitor takes on lucrative work although she knows that she does not have the knowledge or experience to do it competently (mean 3.76 , SD 1.13).*
- 43 *A solicitor fails to meet reasonable deadlines for disclosure of information to a third party, and as a result the client loses a valuable contract (mean 3.58, SD 1.24).*
- 54 *A newly qualified solicitor fails to comply with disclosure rules leading to the case being adjourned and additional costs incurred by all parties and the court (mean 2.76 , SD 1.10).*
- 11 *A solicitor provides advice without understanding the relevant area of law. This has been identified through the firm's supervision structures and put right (mean 2.50, SD 1.08).*

## Practising Certificate Problems

The two problems prompted quite significant variation here. The ability to blame the firm, rather than the individual, and/or the putting the problem right appeared to reduce the perceived seriousness significantly.

- 12. *A solicitor is found to have practised without a current practising certificate (mean 3.71, SD 1.26).*
- 24. *An administrative error by a city firm leads to a solicitor practising for three months without a current practising certificate. When the solicitor discovers the mistake she immediately takes steps to put the matter right (mean 2.88, SD 1.45).*

## Unbefitting conduct

A number of questions dealt with unbefitting conduct hypotheticals. These prompted a lot of variation between questions with some problems rated as serious or very serious and some rated down towards being simply matters of concern. Also within questions there was quite a lot of variation, respondents varying widely in their judgments on seriousness.

37. *A solicitor writes a blog from which it is clear that he is a practising solicitor. After a night out at the pub he writes a post in which he rants about a barman who had refused to serve him, describing him in racially derogatory terms (mean 4.42, SD 1.32).*
10. *A practising solicitor, who is also a prospective Parliamentary candidate, is forced to stand down as a candidate when a local paper reports that he has sent, unsolicited, explicit photos of himself to a number of party workers (mean 3.85, SD 1.36).*
- 9 *A solicitor accepts a caution for possession of cocaine (mean 3.75, SD 1.32).*
- 52 *A newly qualified solicitor accepts a caution after being involved in a drunken fight on his stag night (mean 2.73, SD 1.23).*
- 36 *A criminal advocate in a small law firm is found guilty of dangerous driving after damaging several other vehicles when speeding. He pleads guilty, is banned for a year and fined £1000 (mean 2.67, SD 1.31).*
- 23 *A solicitor is caught fare dodging on the tube after drinking too much on a night out with friends. She says she didn't intend to avoid the fare but that she forgot to tap in with her Oyster card. She accepts a penalty notice and pays £60 fine (mean 2.24, SD 1.26).*

## Backdating

Two scenarios raised the problem of backdating, these were both classified similarly as matters of concern (although with fairly large variation). The partner instructing the assistant to backdate the note does not appear to increase the rating of seriousness notably, although the illusion of contemporaneity is spelt out more in Q3 (which might have elevated the seriousness of Q3 in the eyes of respondents).

58. *A solicitor realises that no note was taken of some key decision at a meeting with an important client. A number of staff from the firm were present, but each thought another was taking the note. Six months later, she raises this with the partner who attended the meeting who tells her to write up the note and backdate it, which she does (mean 3.21, SD 1.27).*
3. *A solicitor realises that no note was taken of some key decisions taken at a meeting with an important client. Six months later, she writes up the note and backdates it so that it appears to be contemporaneous (mean 3.17, SD 1.17).*



## Mismanagement Problems

A number of problems we have grouped together as mismanagement problems, either at the firm level or at the individual lawyer's level. Here we see quite a range of attributed seriousness.

- 16. *A firm of solicitors is financially unstable and has failed to meet several scheduled payments to HMRC (mean 4.54, SD 1.12).*
- 15. *A solicitor agrees a completion date for the purchase of a house without informing or getting agreement from the client and commits his client to this date (mean 4.33, SD 1.15).*
- 40. *A firm fails to provide the SRA with required information, including appointment of a new COLP (mean 3.08, SD 1.06).*
- 26. *A partner takes on a number of new clients without considering the impact on his colleagues, as the firm does not have the resources to manage the increased workload (mean 2.68, SD 1.13).*
- 55. *A newly qualified solicitor in a large city firm fails to inform clients of the progress of cases and causes delays as a result of the unrealistic number of cases allocated to her by senior staff in the firm (mean 2.46, SD 0.98).*

## Bringing weak cases

Two problems dealt with concerns about the bringing of weak cases. These generally prompted lower ratings of seriousness but with quite a lot of variation.

- 17. *A High Court judge reports a solicitor to the SRA saying that the solicitor consistently takes very weak cases on asylum and deportation. Investigation shows the solicitor's success rate is one in ten (mean 2.59, SD 1.23).*
- 29. *A High Court judge reports a solicitor to the SRA saying that the solicitor consistently take very weak cases on asylum and deportation. Investigation shows the solicitor's success rate is one in ten. The solicitor admits the cases are often weak but that he believes that the asylum seekers he represents should be given every chance to make their case and will be at risk if they are deported (mean 2.13, SD 1.17).*

## Section 3: Perceived seriousness by scenario type

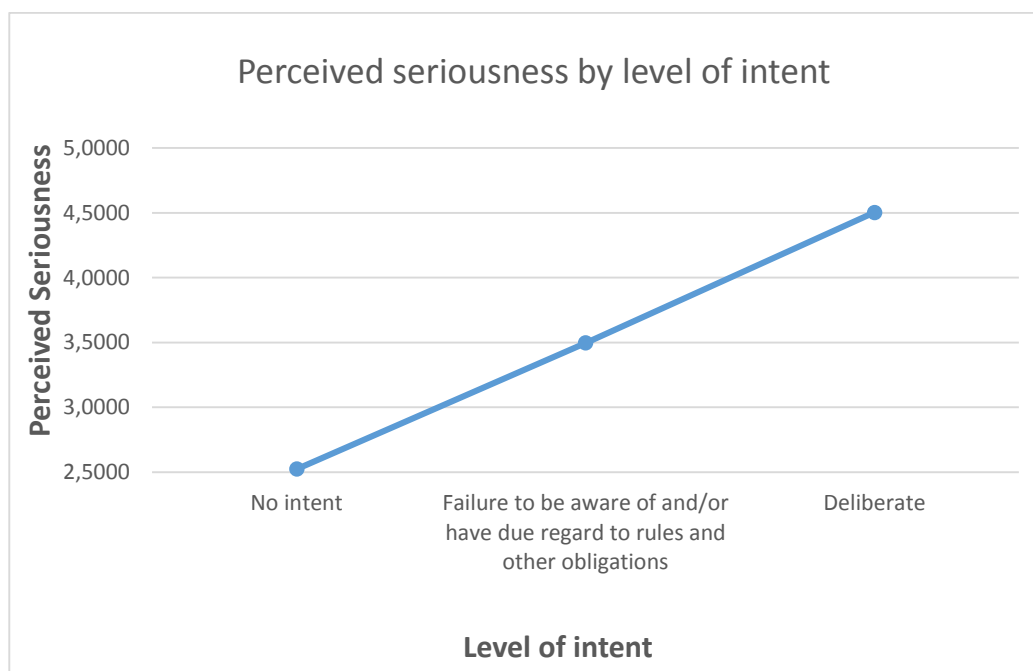
To enable some examination of the factors that might be underlying the analysis of seriousness, the SRA team coded the problems indicating levels of intent, harm, vulnerability of clients, problems involving junior lawyers, pressure on lawyers from others and breaches of conduct involving senior lawyers to examine whether these characteristics of problems had a discernible impact on the ways in which respondents graded the seriousness of problems.

In order to compare whether different levels of these factors (i.e., intent, harm, vulnerability, young/inexperienced solicitors, social pressure, senior solicitors) would have an impact on how respondents rated the scenarios level of seriousness, we have first calculated the correlation/association index between the two variables. Whenever a significant association was found, an analysis of variance (ANOVA) was then performed, followed by a post-hoc multiple comparison test (Tukey).

### Intent

Forty-two out of the 60 scenarios were rated by experts regarding the level of intent of the described actions. 29 were regarded as 'deliberate' actions, 10 were described as 'failure to be aware of and/or have due regard to rules and other obligations', and 3 were considered to denote 'no intent' (see Appendix 4).

A positive and significant association was found ( $r = .60, p < .001$ ) between the level of intent present in the scenario and its' perceived seriousness, with scenarios describing higher levels of intent being generally regarded as more serious ethical breaches. The level of intent enabled the explanation of 35.8% of the variance on perceived seriousness. The following figure and table present the mean level of seriousness rated by survey respondents at different levels of intent, as rated by experts. It should be remembered, however, that there is significant variation around each mean (especially for 'deliberate' scenarios): so the graph simplifies the situation considerably.



	N	Mean	Std. Deviation	95% Confidence Interval for Mean	
				Lower Bound	Upper Bound
No intent	3	2.5229	.32565	1.7139	3.3319
Failure to be aware of and/or have due regard to rules and other obligations	10	3.4958	.66614	3.0192	3.9723
Deliberate	29	4.5027	.92750	4.1499	4.8555
Total	42	4.1215	1.03698	3.7984	4.4447

In order to determine which levels of intent were rated as being significantly different in seriousness, multiple comparisons were performed.<sup>4</sup> This analysis showed that scenarios describing deliberate actions were perceived as being significantly more serious than those describing no intent or failure to be aware of and/or have due regard to rules and other obligations. However, these two later levels of intent were not perceived to be different in seriousness at a 95% confidence level.

The majority of scenarios reflecting ‘deliberate’ actions have been rated by survey participants as being, at least, ‘a serious matter’. Scenarios describing ‘failure to be aware of and/or have due regard to rules and other obligations’ have been rated as either ‘a serious matter’ or ‘a matter of concern’, whereas two of the three scenarios describing ‘no intent’ were rated as only a ‘a matter of some concern’.

There were some exceptions, however, to the observed tendency of scenarios reflecting higher intent being rated as more serious and vice-versa. Three scenarios that have been rated by experts as reflecting ‘deliberate’ actions were rated only as a ‘matter of concern’ or ‘a matter of some concern’. These were:

3. *A solicitor realises that no note was taken of some key decisions taken at a meeting with an important client. Six months later, she writes up the note and backdates it so that it appears to be contemporaneous.*
17. *A High Court judge reports a solicitor to the SRA saying that the solicitor consistently takes very weak cases on asylum and deportation. Investigation shows the solicitor's success rate is one in ten.*
29. *A High Court judge reports a solicitor to the SRA saying that the solicitor consistently take very weak cases on asylum and deportation. Investigation shows the solicitor's success rate is one in ten. The solicitor admits the cases are often weak but that he believes that the asylum seekers he represents should be given every chance to make their case and will be at risk if they are deported.*

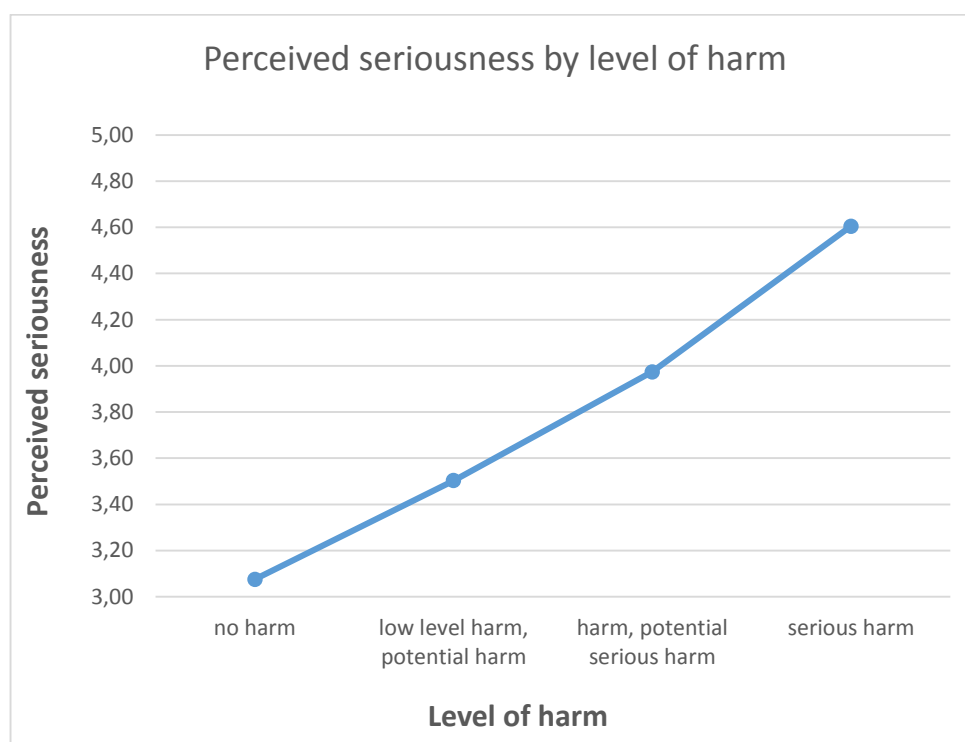
The three deliberate actions regarded with relative sanguinity were pertinent to the mandatory professional obligation, “to uphold the rule of law and the proper administration of justice” and yet were regarded less seriously. We suspect this is either because the nature of the obligation is not clear or fully accepted by the group (they did not think the solicitor had necessarily done something clearly wrong in this scenario), or – perhaps - that the conduct was difficult to prove.

<sup>4</sup> Multiple comparisons were made by post-hoc Tukey test.

## Harm

Forty-two out of the 60 scenarios were rated by experts regarding the level of harm of the described actions. Fifteen were regarded as describing 'serious harm', 20 as describing 'harm, potential serious harm', 6 as 'low level harm, potential harm' and one as 'no harm'(see Appendix 4).

A positive and significant association was found ( $r = .44$ ,  $p = .004$ ) between the level of harm present in the scenario and its perceived seriousness, with scenarios describing higher levels of harm being perceived as being more serious ethical breaches. The level of harm enabled the explanation of 19.3% of the variance on perceived seriousness. The following figure and table present the mean level of seriousness as rated by survey respondents at different levels of harm, as coded by the SRA.



	N	Mean	Std. Deviation	95% Confidence Interval for Mean	
				Lower Bound	Upper Bound
No harm	1	3.0750			
Low level harm, potential harm	6	3.5030	1.22157	2.2211	4.7850
Harm, potential serious harm	20	3.9740	.80129	3.5990	4.3491
Serious harm	15	4.6050	.88843	4.1130	5.0970
Total	42	4.1107	.96319	3.8105	4.4108

In order to determine which levels of harm were rated as being significantly different in seriousness, multiple comparisons were performed.<sup>5</sup> This analysis showed that scenarios describing low levels of harm / potential harm were significantly perceived as being less serious than those describing serious harm. However, scenarios describing the intermediate level of harm – ‘harm, potential serious harm’ – were not rated significantly differently than the other two at a 95% confidence level.

Of the 15 scenarios considered to describe serious harm, 14 were classified between 4 ‘a serious matter’ and 6 ‘the most serious matters’. The only exception was scenario 54 that was rated, on average, as being only ‘a matter of concern’. In this scenario, “A newly qualified solicitor fails to comply with disclosure rules leading to the case being adjourned and additional costs incurred by all parties and the court.”

The 20 scenarios that were rated as describing ‘harm, potential serious harm’, were generally rated somewhere between 3 ‘a matter of concern’ and 5 ‘a very serious matter’. The only exception was scenario 47 that was perceived, on average, to reflect 6 ‘the most serious matters’. In this scenario, “A solicitor acting for an elderly widow includes in his bill costs which he has not incurred. He is sure her lack of knowledge of legal processes will mean she will pay without question.”

The scenarios that were coded as reflecting ‘low level harm, potential harm’ tended to be perceived either as ‘a matter of concern’ or ‘a serious matter’. Two exceptions were scenarios 38 (“A firm has a temporary cash flow problem and a partner takes money out of the client account to pay staff wages. She returns the money to the account when she receives payment for work completed.”) , that was rated as being more serious (i.e., ‘the most serious matters’) and scenario 55 (“A newly qualified solicitor in a large city firm fails to inform clients of the progress of cases and causes delays as a result of the unrealistic number of cases allocated to her by senior staff in the firm”) that was rated as being relatively less serious (i.e., ‘a matter of some concern’). The only scenario that was considered to reflect no harm was perceived by respondents as being ‘a matter of concern’.

## Vulnerability

Out of the 60 scenarios, 7 were coded as describing situations involving vulnerable clients (see Appendix 4). However, no relationship was found between scenarios describing (or not) a situation involving vulnerable clients and their seriousness, as rated by respondents ( $p > .10$ ).

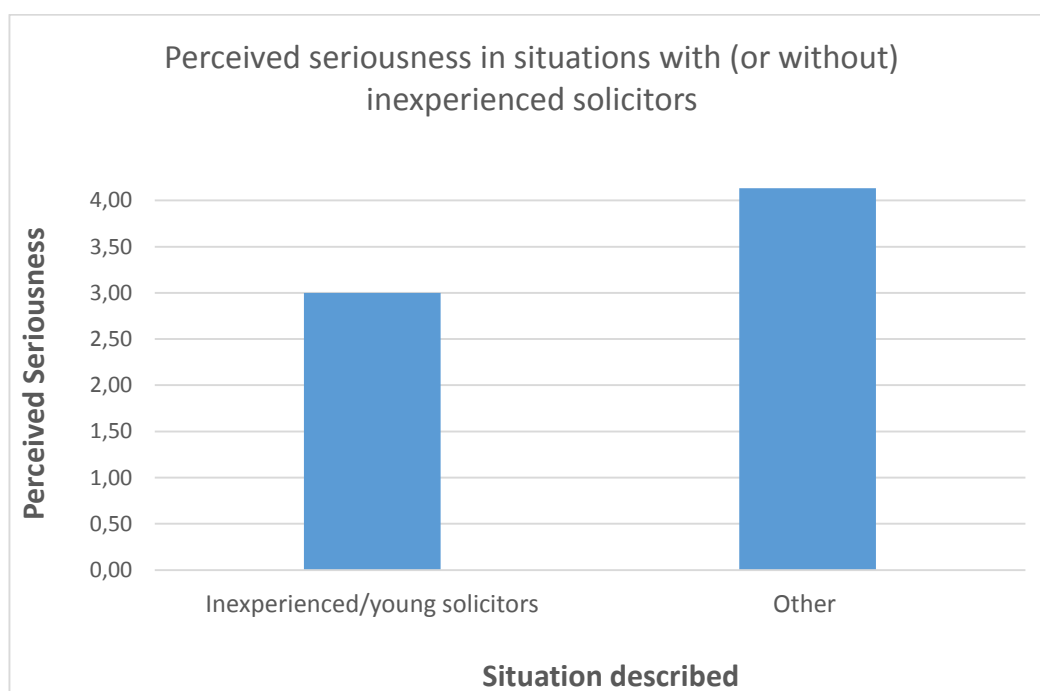
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<sup>5</sup> Multiple comparisons were made by post-hoc Tukey test. Value ‘1’ was excluded from this analysis, as fewer than two cases were rated as having that level of harm.

## Junior

Five of the 60 scenarios described situations involving inexperienced solicitors (see Appendix 4).

A negative and significant association was found ( $r = -.32, p = .013$ ) between scenarios describing situations involving inexperienced solicitors and its perceived seriousness, with situations with young/junior solicitors being perceived, on average, as less serious than the situations described in other scenarios. This variable 'junior/inexperienced solicitors' enabled the explanation of 10.2% of the variance on perceived seriousness of scenarios. The following figure and table present the mean level of seriousness as rated by survey respondents for scenarios describing (or not) situations with inexperienced solicitors.



	N	Mean	Std. Deviation	95% Confidence Interval for Mean	
				Lower Bound	Upper Bound
Inexperienced/young	5	2.9993	.55018	2.3162	3.6825
Other	55	4.1320	.97026	3.8698	4.3943
Total	60	4.0377	.99087	3.7817	4.2936

The scenarios describing situations involving junior/ inexperienced solicitors were generally rated as being either 'a matter of some concern' or 'a matter of concern'. Only one of those scenarios (no. 53) was rated, on average, as being 'a serious matter'. This scenario was, "A newly qualified solicitor misleads clients about the likely outcome of cases in order to keep the clients and impress his manager."

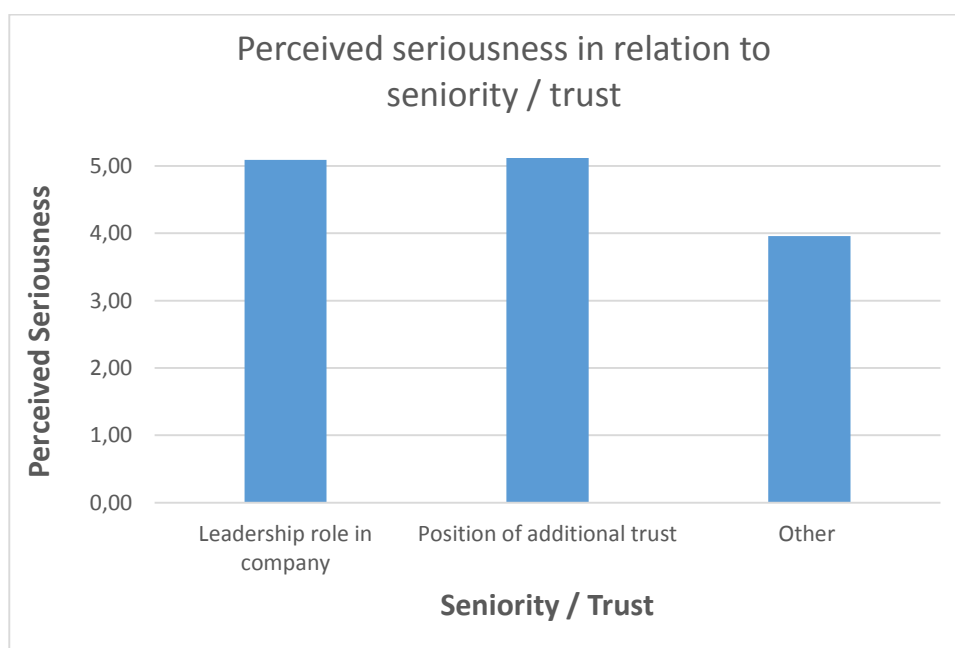
## Pressure

Three of the 60 scenarios were coded by experts as describing peer pressure situations, two of which stemming from the manager / senior staff, and another from the context/ culture of workplace (see Appendix 4). However, no relationship was found between scenarios describing peer pressure situations and the corresponding perceived seriousness level ( $p > .10$ ).

## Senior

Four scenarios described situations involving senior staff/ people with a position of additional trust in the company (see Appendix 4).

A positive and marginally significant association was found ( $\eta = .31, p = .058$ ) between 'seniority/trust' scenarios and perceived seriousness, revealing a marginal tendency for situations involving senior staff/ people in a position of additional trust to be generally perceived as more serious ethical breaches. This variable accounted for 9.5% of the variance on perceived seriousness. These results should, however, be interpreted with particular care, as they fall below the 95% confidence level.



	N	Mean	Std. Deviation	95% Confidence Interval for Mean	
				Lower Bound	Upper Bound
Leadership role in company	2	5.0901	.02694	4.8480	5.3321
Position of additional trust	2	5.2456	.27429	2.7812	7.7099
Other	56	3.9569	.97564	3.6957	4.2182
Total	60	4.0377	.99087	3.7817	4.2936

The performed multiple comparisons failed to detect any significant differences between 'leadership role in company', 'position of additional trust' and 'other'. The four scenarios coded under 'senior' were all perceived, on average, as being 'a very serious matter'.

## Summary

The factors coded by the SRA team generally had the predicted impact on problems but not always consistently so.

The level of intent present in the scenarios generally had the expected effect on how seriously ethical breaches were regarded by respondents. There were some exceptions, where deliberate breaches of the mandatory professional obligation, "to uphold the rule of law and the proper administration of justice" were regarded less seriously. We suspect this is either because the nature of the obligation is not clear or fully accepted by the group (they did not think the solicitor had necessarily done something clearly wrong in the relevant scenario), or – perhaps - that they formed a view that the conduct was difficult to prove and so were more wary in asserting seriousness.

Levels of harm had a predictable impact on levels of perceived seriousness, although other factors sometimes appeared to weaken this effect (where intent might be less deliberate) or strengthen it where there was deliberate dishonesty. Some breaches seemed to be treated more independently of harm: e.g., a client account breach with no actual impact on the client was still treated very seriously.

Vulnerability of the client had no discernible impact on the rating of seriousness. Whereas those problems which involved more junior lawyers were generally treated more leniently, with a marginally significant finding that older lawyers' breaches were treated more seriously. Interestingly, peer pressure did not have a discernible impact on how situations were rated, neither excusing nor aggravating ratings of seriousness.



## Section 4: Differences in the Evaluation of the Scenario

We have examined, through analysis of variance (ANOVA)<sup>6</sup>, significant differences in the mean scores for each question by the background respondents' characteristics we have from the survey. We record statistically significant differences here ( $p < .05$ ). Statistically significant differences are not necessarily analytically significant (for instance two groups might view a problem as somewhere between serious or very serious and yet still be significantly different), but the analysis gives us some idea of how opinions may differ in different demographics groups.

### Differences in the perceived seriousness of scenarios by gender

There were statistically significant differences in how men and women rated 16 of the 60 scenarios (26.7%). For the most part of scenarios where a significant gender difference was found in the ratings of seriousness, gender could only explain a relatively small proportion of the variance. Two exceptions were ratings of scenarios 7 and 35, which are highlighted in bold.

The following scenarios were rated **by women as being more serious**, in comparison to men:

1. *A solicitor specialising in criminal law agrees to act for five clients, all co-defendants to a murder charge. He quickly realises that there is a conflict of interest between the clients. Nonetheless, he keeps acting for all five until the day before the plea and case management hearing.*  
(3.2% variance of this question was explained by gender)
  
7. ***A firm fails to make reasonable adjustments for an employee with increasing visual problems, which forces her to resign from her post.***  
**(9.2% variance of this question was explained by gender)**
  
11. *A solicitor provides advice without understanding the relevant area of law. This has been identified through the firm's supervision structures and put right.*  
(3.0% variance of this question was explained by gender)
  
20. *A firm's computer system is hacked giving the hackers access to a series of files about commercially sensitive transactions. The investigation reveals system security was weak.*  
(3.0% variance of this question was explained by gender)

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<sup>6</sup> Although multivariate analyses would have been preferred in order to avoid Type 1 error (i.e., to avoid increasing the odds of finding statistically significant results by running multiple tests with the same dataset), this was not possible due to missing data.

21. *A litigation solicitor in a large firm is acting for a very valuable client but realises that she is conflicted because her friend is involved on the other side and they have discussed the case. The solicitor does not tell her client and decides to keep acting because the case is likely to help her to get partnership.*

**(3.0% variance of this question was explained by gender)**

25. *A solicitor takes on lucrative work although she knows that she does not have the knowledge or experience to do it competently.*

**(2.8% variance of this question was explained by gender)**

31. *A city law firm is encouraged by a high value client to give advice that accords with their preferred course of action. The firm does so, although they realise that the advice will then be used to justify action which is on the border of legality and does not accord with the intention of the relevant legislation.*

**(3.4% variance of this question was explained by gender)**

33. *A solicitor works on his laptop while on a long train journey. The passenger sitting next to him is able to read all the information on his screen, including the name of the solicitor and sensitive information about his clients.*

**(3.4 % variance of this question was explained by gender)**

36. *A criminal advocate in a small law firm is found guilty of dangerous driving after damaging several other vehicles when speeding. He pleads guilty, is banned for a year and fined £1000.*

**(4.9% variance of this question was explained by gender)**

45. *A solicitor leaves a file of papers locked in the boot of his car. The file includes confidential information on a share placing for a client. During the night the car is stolen and abandoned in a side street. When the car is found, the papers are still in the boot of the car.*

**(2.5% variance of this question was explained by gender)**

49. *A solicitor encourages a frail, elderly client to alter his will in her favour.*

**(2.7% variance of this question was explained by gender)**

59. *An in-house general counsel discovers that some colleagues have been engaged in illegal activity involving bribery of government officials. She has worked with them for some time and hopes to protect them from the consequences of their actions by not telling the Board or her CEO, but simply telling them to stop.*

**(3.1% variance of this question was explained by gender)**

These other scenarios were rated **by men as being more serious**, in comparison to women:

2. *A solicitor is taking statements for Employment Tribunal proceedings from staff of the defendant employer. Witness A says he saw witness B entering the HR department the morning personnel records crucial for the claimant disappeared. The solicitor suggests to witness B that she finds an innocent explanation for her visit to HR to put into her statement.*  
**(4.5% variance of this question was explained by gender)**
  
12. *A solicitor is found to have practised without a current practising certificate.*  
**(3.6% variance of this question was explained by gender)**
  
35. *A client asks for advice from his solicitor about suing a company. The solicitor has a financial interest in the company but he does not inform the client about his interest. Instead, he persuades his client that his case has no merit, although there are good grounds for proceeding.*  
**(19.1% variance of this question was explained by gender)**
  
52. *A newly qualified solicitor accepts a caution after being involved in a drunken fight on his stag night.*  
**(4.1% variance of this question was explained by gender)**

## Differences in the perceived seriousness of scenarios by age group

Age contributed to differences in the ratings of seriousness for only two of the 60 scenarios (3.3%). For these scenarios, age enabled explanation of a modest amount of the variance (13.2% and 8.1%, respectively).

There was a general tendency for the following scenario to be **increasingly rated as being more serious by older participants**, with differences being statistically significant ( $p < .05$ ) between people with 65+ and those either 25-34 or 35-44, and between those with 55-64 and 15-54:

*23. A solicitor is caught fare dodging on the tube after drinking too much on a night out with friends. She says she didn't intend to avoid the fare but that she forgot to tap in with her Oyster card. She accepts a penalty notice and pays £60 fine.*  
(13.2% variance of this question was explained by age)

People **aged 45-54** rated the following scenario **as being more serious**, in comparison to people aged 55-64:

*58. A solicitor realises that no note was taken of some key decision at a meeting with an important client. A number of staff from the firm were present, but each thought another was taking the note. Six months later, she raises this with the partner who attended the meeting who tells her to write up the note and backdate it, which she does.*  
(8.1% variance of this question was explained by age)

## Differences in the perceived seriousness of scenarios by ethnicity

As there were few respondents in each category of the ethnicity variable, some categories were collapsed in order to create two distinct groups: 'white' and 'other ethnic groups'. Even so, the following results should be interpreted with care.<sup>7</sup> Fourteen out of the 60 scenarios (23.3%) were rated differently in relation to the ethnic background of respondents. For the three scenarios that have been rated by respondents with a white ethnic background as being more serious, 'ethnicity' accounted for a fair amount of the variance (14.0% to 26.2%).

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<sup>7</sup> Given that each respondent only answered to a subset of 15 questions out of the 60 possible, the two groups show a big imbalance between the total number of respondents ('white' had, on average, 130 respondents whereas 'other ethnic background' had only 13).

The following scenarios were rated **by respondents from 'white ethnic background'** as being more **serious**, in comparison to people from 'other ethnic background':

1. *A solicitor specialising in criminal law agrees to act for five clients, all co-defendants to a murder charge. He quickly realises that there is a conflict of interest between the clients. Nonetheless, he keeps acting for all five until the day before the plea and case management hearing.*  
(14.0% variance of this question was explained by ethnicity)
  
8. *A solicitor is convicted of providing falsified documents to assist unlawful immigration.*  
(20.8% variance of this question was explained by ethnicity)
  
22. *A solicitor holding client money until probate is granted uses the money to solve cash-flow problems in his firm.*  
(26.2% variance of this question was explained by ethnicity)

The following scenarios were rated **by respondents from 'other ethnic background'** as being more **serious**, in comparison to people from 'white ethnic background':

2. *A solicitor is taking statements for Employment Tribunal proceedings from staff of the defendant employer. Witness A says he saw witness B entering the HR department the morning personnel records crucial for the claimant disappeared. The solicitor suggests to witness B that she finds an innocent explanation for her visit to HR to put into her statement.*  
(4.3% variance of this question was explained by ethnicity)
  
5. *A firm includes inaccurate information about their success rate in personal injury cases in advertising materials they promote to the public.*  
(4.4% variance of this question was explained by ethnicity)
  
6. *Five Muslim members of staff at a large city law firm complain that a partner discriminates against them in the operation of the internal promotions policy. An Employment Tribunal has found in their favour.*  
(3.6% variance of this question was explained by ethnicity)
  
11. *A solicitor provides advice without understanding the relevant area of law. This has been identified through the firm's supervision structures and put right.*  
(5.5% variance of this question was explained by ethnicity)

13. *A solicitor in a small firm undertakes to transfer client funds to another solicitor, but fails to do so until the other solicitor makes a formal complaint on behalf of his client three weeks later.*  
(6.3% variance of this question was explained by ethnicity)
16. *A firm of solicitors is financially unstable and has failed to meet several scheduled payments to HMRC.*  
(3.8% variance of this question was explained by ethnicity)
20. *A firm's computer system is hacked giving the hackers access to a series of files about commercially sensitive transactions. The investigation reveals system security was weak.*  
(5.6% variance of this question was explained by ethnicity)
25. *A solicitor takes on lucrative work although she knows that she does not have the knowledge or experience to do it competently.*  
(7.9% variance of this question was explained by ethnicity)
34. *A partner in a city firm takes a commercial loan from an ex (criminal case) client. As the partner does not institute proper money laundering checks, there is a risk that the money received results from criminal activity.*  
(3.3% variance of this question was explained by ethnicity)
53. *A newly qualified solicitor misleads clients about the likely outcome of cases in order to keep the clients and impress his manager.*  
(7.6% variance of this question was explained by ethnicity)
54. *A newly qualified solicitor fails to comply with disclosure rules leading to the case being adjourned and additional costs incurred by all parties and the court.*  
(5.7% variance of this question was explained by ethnicity)

## Differences in the perceived seriousness of scenarios by working (or not) as a solicitor

Three out of the 60 scenarios (5%) were rated differently by those working (or not) as a solicitor. However, this variable did not account for a great proportion of the variance of the ratings of seriousness of those scenarios.

Those who reported to be currently **working as solicitors** rated three of the 60 scenarios **as being more serious** than those who are not currently working as solicitors:

5. *A firm includes inaccurate information about their success rate in personal injury cases in advertising materials they promote to the public.*

(4.1% variance of this question was explained by working (or not) as a solicitor)

10. *A practising solicitor, who is also a prospective Parliamentary candidate, is forced to stand down as a candidate when a local paper reports that he has sent, unsolicited, explicit photos of himself to a number of party workers.*

(5.6% variance of this question was explained by working (or not) as a solicitor)

31. *A city law firm is encouraged by a high value client to give advice that accords with their preferred course of action. The firm does so, although they realise that the advice will then be used to justify action which is on the border of legality and does not accord with the intention of the relevant legislation.*

(2.9% variance of this question was explained by working (or not) as a solicitor)

## Differences in the perceived seriousness of scenarios by organisation being (or not) regulated by SRA

A total of nine scenarios (15%) were differently rated in terms of their seriousness by people who are (or not) working in organisations regulated by the SRA. However, working (or not) in an organisation regulated by the SRA did not explain much variance in any of those scenarios.

Those who **work in organisations regulated by the SRA** rated seven scenarios **as being more serious** than those who work in organisations not regulated by the SRA:

24. *An administrative error by a city firm leads to a solicitor practising for three months without a current practising certificate. When the solicitor discovers the mistake she immediately takes steps to put the matter right.*

(2.9% variance of this question was explained by working (or not) as a solicitor)

35. A client asks for advice from his solicitor about suing a company. The solicitor has a financial interest in the company but he does not inform the client about his interest. Instead, he persuades his client that his case has no merit, although there are good grounds for proceeding.

(5.3% variance of this question was explained by working (or not) as a solicitor)

37. A solicitor writes a blog from which it is clear that he is a practising solicitor. After a night out at the pub he writes a post in which he rants about a barman who had refused to serve him, describing him in racially derogatory terms.

(5.8% variance of this question was explained by working (or not) as a solicitor)

39. A client complains that his solicitor has sworn at him and is often rude.

(3.0% variance of this question was explained by working (or not) as a solicitor)

40. A firm fails to provide the SRA with required information, including appointment of a new COLP.

(3.6% variance of this question was explained by working (or not) as a solicitor)

46. An elderly lady who is a witness in family proceedings complains about a solicitor who took her statement. She says that the statement, which included personal details about her drug addiction and criminal convictions, was sent by ordinary post to the wrong address. It was delivered to and opened by her neighbour, causing her considerable embarrassment.

(3.2% variance of this question was explained by working (or not) as a solicitor)

48. A solicitor starts a number of cases for a man with serious mental health problems who believes he is being persecuted by his neighbours, the police and his doctors. The solicitor realises that the cases have no foundation, but continues to accept new instructions until the man's family complains.

(3.3% variance of this question was explained by working (or not) as a solicitor)

Those who **do not work in organisations regulated by the SRA** rated two scenarios as being more serious than those who work in organisations regulated by the SRA:

54. A newly qualified solicitor fails to comply with disclosure rules leading to the case being adjourned and additional costs incurred by all parties and the court.

(3.1% variance of this question was explained by working (or not) as a solicitor)

55. A newly qualified solicitor in a large city firm fails to inform clients of the progress of cases and causes delays as a result of the unrealistic number of cases allocated to her by senior staff in the firm.

(3.9% variance of this question was explained by working (or not) as a solicitor)



## Differences in the perceived seriousness of scenarios by sector

As fewer cases fell into 'third sector' and 'other' categories, these two have been collapsed into only one category. Thus, the used 'sector' variable contrasted those working in 'private', 'public' and 'other' sectors. Two questions out of 60 (3.3%) showed statistically differences ( $p < .05$ ) according to the sector, with 'sector' explaining a great amount of the variance (38.3% and 42.3%) on perceptions of seriousness on these two scenarios.

Those who work in either the **private or public sectors** rated the following scenario **as being more serious** than those working in the third/ other sector:

*47. A solicitor acting for an elderly widow includes in his bill costs which he has not incurred. He is sure her lack of knowledge of legal processes will mean she will pay without question.*  
(38.3% variance of this question was explained by sector)

Those who work in the **third/other sectors** rated the following scenario **as being more serious** than those working in the public / private sectors:

*57. An in-house solicitor discovers that some colleagues have been engaged in illegal activity involving bribery of government officials. He raises this with the in-house general counsel who says he will take action. After a few weeks the solicitor realises that no action has been taken but he decides not to raise the matter again as the firm discourages staff from 'rocking the boat'.*  
(42.3% variance of this question was explained by sector)

## Differences in the perceived seriousness of scenarios by number of people in the organisation

Two questions out of 60 (3.3%) showed statistically differences ( $p < .05$ ) according to the number of people working in the organisation. However, the 'number of people working in the organisation' did not account for a great deal of variance in either of these scenarios.

Those who work in small organisations (1-11 people) rated the following two scenarios **as being more serious**, in comparison to those working in organisations with 11-50 people or 101+ people, respectively:

*25. A solicitor takes on lucrative work although she knows that she does not have the knowledge or experience to do it competently.*

(6.7% variance of this question was explained by number of people on the organisation)

*55. A newly qualified solicitor in a large city firm fails to inform clients of the progress of cases and causes delays as a result of the unrealistic number of cases allocated to her by senior staff in the firm.*

(8.5% variance of this question was explained by number of people on the organisation)

## Differences in the perceived seriousness of scenarios by question set

In addition to the background characteristics, we have also inspected whether the ratings of the different scenarios varied as a function of the set of questions they were allocated in.

We found the ratings for 19 scenarios potentially varying when presented in different sets (no. 10, 24, 26, 28, 30, 33, 35, 37, 39, 42, 43, 45, 48, 53, 54, 57, 58, 61, 62), although we were not able to run multiple comparisons to confirm for which sets the ratings of these scenarios were significantly different due to missing data. This suggests a source of variance is the way in which the different questions are ordered and/or grouped. Therefore, such limitation should be acknowledged when interpreting the results of the present report.

## Summary

Age, whether the respondent was still a solicitor or not, the sector the solicitor worked in, and the size of their organisation did not generally have much of an effect across the scenarios although even so some questions prompted solicitors with different backgrounds to give quite different responses. Indeed, the two largest differences in response to scenarios were seen when comparing solicitors working in the public, private and third/other sectors.

There was somewhat difference when looking at gender and ethnicity, although even with these factors, differences between different genders or between white and other ethnicities was only seen in a minority of questions and with quite modest effects.

It should be noted also that some variation in the results is attributable to the way the questions were grouped together.

## Summary and conclusions

The report analyses the results of a survey designed to provide data on how the profession views the relative seriousness of different types of behaviour and the factors that might affect these views. The survey has been designed by the SRA and their consultant, Jane O'Brien. This report analyses and report the results of the survey.

611 solicitors completed the survey out of 10,000 people that were invited to participate. The response rate is low and there are some likely response biases with certain groups being less well represented in the sample.

The scenarios assessed a range of perceived seriousness: not all problems were treated the same. Some scenarios were consistently assessed in similar ways by respondents, others provoked a greater diversity of view, and a handful of questions prompted greater splits in opinion

We have characterised the problems by reference to misconduct type to allow a broad overview of how such problems were perceived by the respondents. In broad terms the way the scenarios were assessed can be summarised in the following table.

Self-dealing	Most-very serious
Anti-money laundering	Very serious
Bribery	Very serious
False CV	Very serious
Misleading or False Evidence	Most serious – serious
Client Money	Very serious-serious
Conflict of Interests	Very serious-serious
Overcharging/fees problems	Very serious-serious
Misleading clients to get business	Very serious-serious
Advice that may assist with potential illegality by the client	Serious
Inappropriate relationships with clients	Serious
Staff discrimination	Serious- a concern
Taking advantage of a client	Serious- a concern
Complaint handling	Serious- a concern
Confidentiality	Serious- a concern
Rudeness to Client	Serious – a concern
Competence problems	Serious – a concern
Practising Certificate Problems	A concern – serious
Unbefitting conduct	Serious – a mere concern
Backdating	A concern
Mismanagement Problems	Serious concern – mere concern
Bringing weak cases	A concern – mere concern

A variety of case characteristics were identified as of interest to the SRA and their impact on perceived seriousness was assessed. The intentionality of misconduct, levels of harm caused, and the experience of the lawyer generally had the predicted impact on perceived seriousness, although there were some problems where this did not appear to be the case. Vulnerability of the client and the impact of peer pressure on the solicitors guilty of misconduct did not appear to have an effect.

Demographic and background characteristics sometimes had an association with how problems were perceived although, with one or two exceptions, these were generally modest. If one ignores the exceptions, the perceived seriousness of cases is largely associated with the characteristics of the misconduct, rather than the identity of those evaluating the misconduct.

The report contains a more detailed analysis of the way in which seriousness is analysed: considering problems from a range of perspectives (seriousness, type of misconduct, intent, impact and seniority as well as the background factors discussed above).

Perhaps inevitably, that report throws up comparisons between smaller groups of individual questions which are curious. The ways in which evidence likely to mislead the court is assessed for instance may turn on the way the scenarios are framed (where someone is 'lying' or 'fabricating' rather than acquiescing or encouraging something which is 'merely' misleading). In interpreting these results, it is important consider carefully how far similar facts can be framed in different ways by the language that is used.

There are also interesting questions of public policy. The SRA have already indicated that they do not see this survey as determining their response to the seriousness of problems; but that it is aimed to help stimulate a debate. The results are likely to stimulate many questions. Is it right, for instance, that misleading a client in a way that does or is likely to lead to financial loss is seen as more serious than temporarily misappropriating client funds? An interesting question also for the profession and its regulators is whether there needs to be an attempt to test more deeply and challenge the diversity of views on some areas? For example, there is an interesting question, concerning diversity of views on the scenario, where the solicitor has a sexual relationship with a vulnerable client. The judiciary, for example may (or may not) take a rather different view on the apparently lower seriousness afforded to the profession's obligations to protect the rule of law and the administration of justice, to give one last example.

## Appendices

Appendix 1: Final survey

Appendix 2: Descriptive statistics and frequencies for each scenario

Appendix 3: Questions and topics under each evaluation category

Appendix 4: Coding chart of the different scenarios