

SRA's £13,800 drink-drive fine against solicitor is an unfair second punishment

The Solicitors Regulation Authority's decision to fine a solicitor £13,836 (plus costs of £1,350) for driving with excess alcohol is, to say the least, excessive. It amounts to 31 times the financial penalty already imposed by the criminal court.

We might question what purpose the SRA's action against this solicitor really serves. All of the relevant factors will already have been taken into account by the criminal court in determining the appropriate fine, including his means and, if relevant, the fact that he is a solicitor. Why was it necessary for the SRA to fine him again, and much more severely, for exactly the same conduct?

There was no obvious need for the SRA to act to protect the public: a fine does not achieve this purpose, and no other action has been taken in respect of his practising certificate. Nor is the action against him likely to act as any significant deterrent to future offenders, compared with the fact of the criminal conviction itself. Indeed, the high fine imposed by the SRA may even deter offenders from reporting their convictions to the SRA.

It is notable that the SRA's topic guide on driving with excess alcohol convictions states: '[The SRA's] role in dealing with reports of such convictions is not to duplicate the criminal process or punish a person twice for the same offence. However, regulated individuals are expected to behave with integrity and in a way which promotes public trust in the profession. They are also expected to uphold the constitutional principle of the rule of law and the proper administration of justice.'

This was reportedly an isolated incident, out of character, which caused no harm to persons or property, and for which the solicitor had shown insight and remorse. There is no reported connection between the offence and his practice as a solicitor.

He promptly notified his employer and the SRA of his arrest and conviction. There is no suggestion that he had attempted to abuse his position as a solicitor, resist arrest, or mislead the justice system in connection with the offence, to which he pleaded guilty. He co-operated fully with the SRA's investigation.

Indeed, aside from committing the actual offence (for which he had already been punished by the criminal courts) he appears to have behaved exactly as any member of the public could reasonably have expected a solicitor in his circumstances to have behaved. It is difficult to see how his actions have damaged the rule of law or the proper administration of justice, or why a rebuke or warning would not have been a sufficient sanction by the SRA.

The SRA says its role is not to punish a person twice for the same offence; apparently it thinks that punishing them 31 times is more appropriate.

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