

Application for the approval of amendments to the Solicitors Keeping of the Roll Regulations 2011 and SRA Suitability Test 2011

Proposed Alteration

- 1 We proposed that the Solicitors Keeping of the Roll Regulations 2011 and SRA Suitability Test 2011 are amended to enable the SRA to raise character and suitability issues on applications from former solicitors to have their names restored to the roll, and to apply the SRA Suitability Test when considering such applications.
- 2 The proposed amendments, set out at the **Annex**, were made by the SRA Board on 29 February 2012, subject to the approval of the Legal Services Board.

Nature and effect of the existing Solicitors Keeping of the Roll Regulations 2011 and SRA Suitability Test 2011 provisions in relation to restoration to the roll

- 3 The existing Regulations provide that the SRA:
 - may refuse to restore to the roll the name of a former solicitor against whom there is an outstanding complaints;
 - must refuse to restore to the roll the name of a former solicitor pending disciplinary proceedings.However, they do not contain provision requiring former solicitors to answer general character and suitability questions, for example as to criminal convictions. In line with this, the SRA Suitability Test is not expressed to apply to restoration to the roll.

Nature and effect of the amendments to the Solicitors Keeping of the Roll Regulations 2011 and SRA Suitability Test 2011 provisions in relation to restoration to the roll

- 4 The proposed amendments provide that the SRA will not restore a person's name to the roll unless it is satisfied as to that person's character and suitability to be a solicitor. This enables the SRA to ask general character and suitability questions about issues, including criminal convictions, in the intervening period since the solicitor was last on the roll. In addition, the amendments provide a link to the Suitability Test to ensure consistency.

Rationale for amending Solicitors Keeping of the Roll Regulations 2011 and SRA Suitability Test 2011 provisions in relation to restoration to the roll

- 5 The SRA wishes to amend these provisions in order to protect clients and the public interest by obtaining the fullest information possible before deciding whether to restore the name of a former solicitor to the roll. This is to accord broadly with the approach on initial admission to the roll when the SRA seeks a full declaration of character and suitability issues. Without this change, the SRA is limited in its role as a risk-based regulator from obtaining and taking into account details of issues that may have occurred in a period between a person's removal from and restoration to the roll.

Statement in respect of the Regulatory Objectives

Protecting and promoting the public interest

- 6 The public interest will be best served by the SRA being able to satisfy itself as to the suitability of those seeking restoration to the roll of solicitors. We therefore consider that these amendments will have a positive impact on this objective.

Supporting the constitutional principle of the rule of law

- 7 These amendments will enable the SRA to have the best information available to it in order to prevent restoration of individuals who may be inappropriate upholders of the rule of law. These amendments will support this regulatory objective.

Improving access to justice

- 8 We do not consider that this policy will have an adverse impact on access to justice. Although these amendments may have a limiting effect on the pool of providers of legal services, this is critical for public interest reasons.

Protecting and promoting the interests of consumers

- 9 Consumers need to know that any solicitor which they choose to instruct has met certain behavioural standards. We therefore consider that these amendments will protect and promote the interests of consumers.

Promoting competition in the provision of services

- 10 We do not consider that these amendments will impact on competition. We therefore consider that these amendments are neutral in relation to this objective.

Encouraging an independent, strong, diverse and effective legal profession

- 11 The amendments support this objective by permitting the SRA to set the re-entry standards required of solicitors to ensure a consistent and risk-based approach in taking forward an effective legal profession. Therefore, this policy change would have a positive impact in terms of this objective.

Increasing public understanding of the citizen's legal rights and duties

- 12 These amendments are neutral in relation to this objective.

Promoting and maintaining adherence to the professional principles

- 13 These amendments have particular relevance to professional principle (3)(a) namely:
“that authorised persons should act with independence and integrity”.
- 14 This change assists the SRA with checking issues relating to integrity and assessing suitability to practise on re-entry to the profession. Therefore, these amendments will have a positive impact on this objective.

Statement in respect of the Better Regulation Principles

Proportionality

- 15 We consider that this policy is proportionate as it applies only to those gaining re-entry to the roll of solicitors and simply puts similar requirements on those applying for restoration to the roll as on those applying for admission. Because of the importance to the consumer and to the public interest of ensuring the integrity of the profession, this is a proportionate measure.

Accountability

- 16 The SRA is accountable, as the gate-keeper of entry and re-entry to the profession, for the integrity of the profession. These amendments reflect similar provisions applying on admission to the roll, and therefore the assessment of the character and suitability of those seeking restoration to the roll satisfies the requirement to be accountable, not only to consumers and the profession but to stakeholders and the public.

Consistency

- 17 This change is motivated by the need to have consistency in our outcomes-focused and risk-based approach to assessment of character and suitability. Our policy throughout has been to ensure that all entrants to the roll meet the same outcomes through the SRA Suitability Test in order to ensure fairness and consistency.

Transparency

- 18 The amendments will result in a much more coherent and transparent approach to the assessment of character and suitability.

Targeted

- 19 These amendments are to close a particular loophole, and are therefore targeted.

Statement in relation to desired outcomes

- 20 The SRA seeks to ensure:
- A fair, transparent and consistent approach to the assessment of character and suitability on entry or re-entry to the roll;
 - Practising solicitors are of the right character and suitability.

- 21 These outcomes will be achieved once these amendments are implemented.

Statement in relation to impact on other Approved Regulators

- 22 Approved Regulators will potentially authorise bodies in which solicitors work. These amendments provide reassurance to them, as the authoriser of the body, that solicitors on the roll have been subject to proper character and suitability checks.

Implementation timetable

March 2012	Application for approval of amendments submitted to LSB
1 April 2012 or the date of approval by the Legal Services Board, whichever is the later.	Policy implemented in Edition 3 of the SRA Handbook

Stakeholder engagement

- 23 SRA policy has been to raise character and suitability issues in applications for restoration to the roll. During the course of last year, all forms were reviewed and it was noticed that this policy was not specifically referenced in the Solicitors Keeping of the Roll Regulations or the SRA Suitability Test, although it was referenced in the forms and the guidance available on the web. These amendments do not, therefore, represent a change in policy and on that basis we have not conducted a public consultation.