

**SRA Suitability Test 2011 forms part of Edition 2 of the Handbook, which was published and came into effect on 23 December 2011. SRA Suitability Test 2011 was previously published as part of Edition 1 of the Handbook, which came into effect on 6 October 2011, unless otherwise noted.**

---

## SRA Suitability Test 2011

### Introduction to the Suitability Test

---

#### Preamble

**Authority:** Made on 17 June 2011 by the Solicitors Regulation Authority Board under sections 28, 79 and 80 of the Solicitors Act 1974 with the approval of the Legal Services Board under paragraph 19 of Schedule 4 to the Legal Services Act 2007

**Date:** These regulations came into force on 6 October 2011

**Replacing:** The SRA guidelines on the assessment of character and suitability

**Applicability:** Students and trainee solicitors under the SRA Training Regulations;

Qualified lawyers under the QLTSR;

Those seeking admission as solicitors under the Admission Regulations, fulfilling the duties under section 3 of the Solicitors Act 1974;

Those seeking to become authorised role holders in accordance with rules 8.5 and 8.6 of the SRA Authorisation Rules.

#### Overview

Outcomes-focused regulation concentrates on providing positive outcomes which when achieved will benefit and protect *clients* and the public. *We* must ensure that any individual admitted as a *solicitor* has, and maintains, the level of honesty, integrity and the professionalism expected by the public and other stakeholders and professionals, and does not pose a risk to the public or the profession.

The Suitability Test will apply the same high standards to all those seeking admission as a *solicitor*, as well as legally qualified and non-legally qualified applicants for roles in authorised bodies as *authorised role holders*.

The test is the same for non-solicitors as they will be working within the profession and must meet the same high standards that the general public expect of *solicitors*. This document is intended to make it clear to *you* what this standard is in terms of *your* character, suitability, fitness and propriety.

No applicant has the automatic right of admission or authorisation and it will always be for *you* to discharge the burden of satisfying suitability under this test. Any application that requires *us* to be satisfied as to character, suitability, fitness and propriety will be determined by reference to this test.

## The Principles

The Suitability Test forms part of the Handbook, in which the 10 mandatory *Principles* are all-pervasive. They apply to all those *we* regulate and to all aspects of practice.

*You* must:

- 1 uphold the rule of law and the proper administration of justice;
- 2 act with integrity;
- 3 not allow *your* independence to be compromised;
- 4 act in the best interests of each *client*;
- 5 provide a proper standard of service to *your clients*;
- 6 behave in a way that maintains the trust the public places in *you* and in the provision of legal services;
- 7 comply with *your* legal and regulatory obligations and deal with *your* regulators and ombudsmen in an open, timely and co-operative manner;
- 8 run *your* business or carry out *your* role in the business effectively and in accordance with proper governance and sound financial and risk management principles;
- 9 run *your* business or carry out *your* role in the business in a way that encourages equality of opportunity and respect for diversity; and
- 10 protect *client money* and *assets*.

## Outcomes

The outcomes which apply to this test are as follows:

- O(SB1)** if *you* are a *solicitor*, *you* are of the required standard of *character and suitability*;
- O(SB2)** if *you* are an *authorised role holder*, *you* are *fit and proper*, and
- O(SB3)** *you* act so that *clients*, and the wider public, have confidence that O(SB1) has been demonstrated.

The outcomes, and the criteria that flow from them, apply to all those who are intending to become *solicitors* - i.e. *students*, *trainee solicitors*, and qualified lawyers from other jurisdictions seeking qualification via transfer - at the point of *student enrolment*, admission, and throughout the pre-qualification period. They also apply to *compliance officers*, *owners*, and/or *managers* at the point of and throughout their period of authorisation.

## Interpretation and definitions

- 1 Unless the context otherwise requires, the definitions and interpretation provisions as set out within the SRA Glossary shall apply to the SRA Suitability Test.
- 2 In this test:

**academic stage of training**

means that stage of the training of an entrant to the *solicitors'* profession which is completed by satisfying regulation 3 of the *SRA Training Regulations Part 1 - Qualification Regulations*, and "academic stage" should be construed accordingly;

**assets**

includes money, documents, wills, deeds, investments and other property;

**authorised role holder**

means *COLP, COFA, owner or manager* under rules 8.5 and 8.6 of the *SRA Authorisation Rules*, and "authorised role" should be construed accordingly;

**bodies corporate**

means a company, an LLP, or a partnership which is a legal person in its own right, and "bodies corporate" should be construed accordingly;

**character and suitability**

satisfies the requirement of section 3 of the *SA* in order that an individual shall be admitted as a *solicitor*;

**client**

means the person for whom *you* act and where the context permits, includes prospective and former clients;

**client money**

has the meaning given in Rule 12 of the *SRA Accounts Rules*, save that for the purposes of Part 7 (Overseas practice) of the *SRA Accounts Rules*, means money received or held for or on behalf of a *client* or trust (but excluding money which is held or received by a multi-disciplinary practice-a licensed body providing a range of different services-in relation to those activities for which it is not regulated by the *SRA*);

**COFA**

means *compliance officer* for finance and administration in accordance with rule 8.5 of the *SRA Authorisation Rules*, and in relation to a licensable body is a reference to its HOFA;

## **COLP**

means *compliance officer* for legal practice in accordance with rule 8.5 of the *SRA Authorisation Rules* and in relation to a licensable body is a reference to its *HOLP*;

## **compliance officer**

is a reference to a body's *COLP* or its *COFA*;

## **court**

means any court, tribunal or enquiry of England and Wales, or a British court martial, or any court of another jurisdiction;

## **discrimination**

has the meaning set out in the Equality Act 2010, being when person (A) discriminates against another (B) if, because of a protected characteristic, A treats B less favourably than A treats or would treat others;

## **fit and proper**

satisfies the requirement of Schedule 13 of the *LSA* in order that an individual may be an *authorised role holder*;

## **LSA**

means the Legal Services Act 2007;

## **manager**

means:

- (i) a member of an LLP;
- (ii) a director of a company;
- (iii) a partner in a partnership; or
- (iv) in relation to any other body, a member of its governing body;

save that for the purposes of:

- (v) Part 7 (Overseas practice) of the *SRA Accounts Rules* "a manager" includes the director of any company, and is not limited to the director of a company as defined herein; and
- (vi) the SRA Cost of Investigations Regulations and the SRA Disciplinary

Procedure Rules where in (iii) above terms partner and partnership are to be given their natural meaning;

**owner**

means, in relation to a body, a person with any ownership interest in the body, save that:

- (i) in the SRA Authorisation Rules owner means any person who holds a material interest in an authorised body, and in the case of a partnership, any partner regardless of whether they hold a material interest in the partnership; and
- (ii) for the purposes of Chapter 12 of the SRA Code of Conduct means a person having a substantial ownership interest in a separate business and "own" and "owned by" shall be construed accordingly; and
- (iii) for the purposes of the Suitability Test includes owners who have no active role in the running of the business as well as owners who do;

**Principles**

means the Principles in the SRA Handbook;

**QLTSR**

means the SRA Qualified Lawyers Transfer Scheme Regulations 2010 and 2011;

**SA**

means the Solicitors Act 1974;

**solicitor**

means a person who has been admitted as a solicitor of the Senior Courts of England and Wales and whose name is on the roll kept by the Society under section 6 of the SA, save that in the SRA Indemnity Insurance Rules includes a person who practises as a solicitor whether or not he or she has in force a practising certificate and also includes practice under home title of a former REL who has become a solicitor;

**SRA**

means the Solicitors Regulation Authority, and reference to the SRA as an approved regulator or licensing authority means the SRA carrying out regulatory functions assigned to the Society as an approved regulator or licensing authority;

***SRA Authorisation Rules***

means the SRA Authorisation Rules for Legal Services Bodies and Licensable Bodies 2011;

***SRA Training Regulations***

means the SRA Training Regulations 2011;

***student enrolment***

means the process where *we* satisfy ourselves that a student who intends to proceed to the vocational stage of training has satisfactorily completed the academic stage of training and is of the appropriate *character and suitability*;

"*enrolment*" should be construed accordingly, and "*certificate of enrolment*" should be construed as evidence *of student enrolment*;

***trainee solicitor***

means any person receiving workplace training with the express purpose of qualification as a *solicitor*, at an authorised training establishment, under a training contract; and "trainee" should be construed accordingly;

**UK**

means United Kingdom;

**us**

means the *SRA*, and "we", "our" and "ourselves" should be construed accordingly;

**you**

means any individual intending to be a *solicitor*, and any person seeking authorisation as an *authorised role holder* under the *Authorisation Rules*, and "your" and "yourself" should be construed accordingly.

**3** In this test, the reference in the preamble to those seeking to become authorised role holders in accordance with rules 8.5 and 8.6 of the *SRA Authorisation Rules*, fulfilling the duties under Sections 89, 90, 91 and 92 of the *LSA* shall have no effect until such time as the Society is designated as a licensing authority under Part 1 of Schedule 10 to the *LSA*.

**4** This test shall not apply to licensed bodies until such time as the Society is designated as a licensing authority under Part 1 of Schedule 10 to the *LSA* and all definitions shall be construed accordingly.

**5** Part 2 of this test shall have no effect until such time as the Society is designated as

a licensing authority under Part 1 of Schedule 10 to the *LSA*.

## Part 1: Basic requirements

---

If *you* are applying for *student enrolment* or admission, *you* must comply with Part 1. If *you* are applying for authorisation as an *authorised role holder* then *you* must comply with Part 1 and Part 2.

When considering any application under this test, *we* will take the following actions:

### 1: Criminal offences

- 1.1 Unless there are exceptional circumstances, *we* will refuse *your* application if *you* have been convicted by a *court* of a criminal offence:
- (a) for which *you* received a custodial or suspended sentence;
  - (b) involving dishonesty, fraud, perjury and/or bribery;
  - (c) specifically in relation to which *you* have been included on the Violent and Sex Offender Register;
  - (d) associated with obstructing the course of justice;
  - (e) which demonstrated behaviour showing signs of *discrimination* towards others;
  - (f) associated with terrorism;
  - (g) which was racially aggravated;
  - (h) which was motivated by any of the 'protected' characteristics defined within the Equality Act 2010;
  - (i) which in *our* judgement is so serious as to prevent *your student enrolment*, admission as a *solicitor*, or approval as an *authorised role holder*, and/or
  - (j) *you* have been convicted by a *court* of more than one criminal offence.

#### Guidance note

- (i) The provisions in 1.1(a) will not be relevant to entities because *bodies corporate*, and other unincorporated bodies and bodies of persons, cannot themselves receive custodial sentences.

- 1.2 *We* are more likely than not to refuse *your* application if *you* have:
- (a) been convicted by a *court* of a criminal offence not falling within 1.1 above but which has an impact on *your character and suitability*;
  - (b) been included on the Violent and Sex Offender Register but in relation to *your* inclusion on the Register, *you* have not been convicted by a *court* of a criminal offence; and/or

(c) accepted a caution for an offence involving dishonesty.

1.3 We may refuse *your* application if *you* have:

(a) received a local warning from the police;

(b) accepted a caution from the police for an offence not involving dishonesty;

(c) received a Penalty Notice for Disorder (PND) from the police;

(d) received a final warning or reprimand from the police (youths only); and/or

(e) received a referral order from the *courts* (youths only).

#### Guidance note

(i) Where a criminal conviction, warning, simple caution, PND and/or inclusion on the Violent and Sex Offender Register has been disclosed, *we* will not look behind the decision made by the police or the finding made by a *court*. However, *we* will take into account material such as sentencing remarks and any other independent information. See also Section 7 Evidence.

(ii) *You* should disclose details of any criminal charge(s) *you* may be facing. *We* will not determine *your* application until *you* can confirm that the charge(s) has/have either been dropped or the outcome of *your* case is known.

(iii) Cautions and local warnings issued by the police may be subsequently recorded on the Police National Computer (PNC) and these will be shown on a PNC printout, which *you* may be required to submit to *us*.

(iv) Police can only issue a caution if there is evidence that *you* are guilty of an offence and if *you* admit that *you* committed the offence. Therefore, by accepting a caution, please bear in mind that *you* are making an admission of guilt.

(v) On Penalty Notices for Disorder no admission of guilt is required, and by paying the penalty, a recipient discharges liability for conviction for the offence - however, *you* should still disclose such matters as *we* will need to consider them.

(vi) Serious motoring offences that result in a criminal conviction must be disclosed. Motoring offences that do not result in a criminal conviction do not need to be disclosed.

## 2: Disclosure

2.1 All material information relating to *your* application must be disclosed. Failure to disclose material information will be treated as prima facie evidence of dishonest

behaviour.

**2.2** You must disclose any matters that have occurred in the UK and/or overseas.

Guidance note

- (i) You should bear in mind that Regulation 35 of the *SRA Training Regulations* Part 1 - Qualification Regulations requires all those seeking admission as *solicitors* to apply for a standard disclosure from the Criminal Records Bureau (CRB). We will also perform a PNC check at the *student enrolment* stage and have reciprocal arrangements with other jurisdictions in order to gather similar information on lawyers from other countries.
- (ii) If you are seeking approval as an *authorised role holder*, you should bear in mind that Rule 14 of the *Authorisation Rules* allows us to seek other information relating to your application and this would normally include CRB disclosure.
- (iii) It is therefore highly likely that matters will come to light.

**3: Behaviour not compatible with that expected of a prospective solicitor or authorised role holder**

**3.1** Unless there are exceptional circumstances we will refuse your application if you have:

- (a) been responsible for behaviour:
  - (i) which is dishonest;
  - (ii) which is violent;
  - (iii) where there is evidence of *discrimination* towards others;
- (b) misused your position to obtain pecuniary advantage;
- (c) misused your position of trust in relation to vulnerable people; and/or
- (d) been responsible for other forms of behaviour which demonstrate that you cannot be relied upon to discharge your regulatory duties as a *solicitor or authorised role holder*.

**4: Assessment offences**

**4.1** Unless there are exceptional circumstances we will refuse your application if you have committed and/or have been adjudged by an education establishment to have committed a deliberate assessment offence which amounts to plagiarism or cheating to gain an advantage for yourself or others.

Guidance note

- (i) Exceptional circumstances may include where the finding does not

amount to cheating or dishonesty, e.g. incorrect referencing, or failure to attribute correctly, in an essay or paper.

## 5: Financial evidence

- 5.1** Unless there are exceptional circumstances we will refuse *your* application if:
- (a)** there is evidence that *you* cannot manage *your* finances properly and carefully;
  - (b)** there is evidence that *you* have deliberately sought to avoid responsibility for *your* debts; and/or
  - (c)** there is evidence of dishonesty in relation to the management of *your* finances.
- 5.2** If *you* have been declared bankrupt, entered into any individual voluntary arrangements (IVA) or have had a County Court Judgement issued against *you* it will raise a presumption that there has been evidence that *you* cannot manage *your* finances properly and carefully.

### Guidance note

- (i)** The following might help to establish confidence in *your* ability to run *your* business/carry out *your* role in the business effectively and in accordance with proper governance and sound financial and risk management principles:
  - (a)** the bankruptcy/IVA/County Court Judgement occurred many years ago and there is evidence of subsequent sound financial management and conduct to show that creditors have been repaid;
  - (b)** *you* were affected by exceptional circumstances beyond *your* control which *you* could not have reasonably foreseen.

## 6: Regulatory history

- 6.1** Unless there are exceptional circumstances we will refuse *your* application if *you*:
- (a)** have been made the subject of a serious disciplinary finding, sanction or action by a regulatory body and/or any *court* or other body hearing appeals in relation to disciplinary or regulatory findings;
  - (b)** have failed to disclose information to a regulatory body when required to do so, or have provided false or misleading information;
  - (c)** have significantly breached the requirements of a regulatory body;
  - (d)** have been refused registration by a regulatory body; and/or
  - (e)** have failed to comply with the reasonable requests of a regulatory body.

- 6.2** We may refuse *your* application if *you* have been rebuked, reprimanded or received a warning about *your* conduct by a regulatory body, unless there are exceptional circumstances.

Guidance note

- (i) "Regulatory body" includes *us* and the Solicitors Disciplinary Tribunal, approved regulators under the Legal Services Act 2007, as well as any other body responsible for regulation of a profession.
- (ii) *You* should disclose details of any disciplinary proceeding(s) or investigation(s) *you* may be facing. *We* will not determine *your* application until *you* can confirm that the matter(s) has/have either been dropped or the outcome of *your* case is known.

## 7: Evidence

- 7.1** To help *us* consider an application where a disclosure has been made, *you* should include the following evidence, where relevant:

- (a) at least one independent report relating to the event(s), such as sentencing remarks following a criminal conviction;
- (b) references from at least two independent professional people (of which one should preferably be from an employer or tutor) who know *you* well and are familiar with the matters being considered;
- (c) evidence of any rehabilitation (e.g. probation reports, references from employers and/or tutors);
- (d) documentary evidence in support of *your* case and where possible, an independent corroboration of *your* account of the event(s);
- (e) *your* attitude towards the event(s);
- (f) the extent to which *you* were aware of the rules and procedures governing the reference of material, or the use of group work or collaborative material;
- (g) the extent to which *you* could reasonably have been expected to realise that the offence did not constitute legitimate academic practice;
- (h) credit check information (in the relevant circumstances); and/or
- (i) actions *you* have taken to clear any debts, satisfy any judgements and manage *your* finances.

- 7.2** The onus is on *you* to provide any evidence *you* consider necessary and/or appropriate. However, should *we* consider that *you* have provided insufficient evidence, *we* reserve the right to carry out our own investigation and/or refuse the application if further evidence is not forthcoming.

## 8: Rehabilitation

- 8.1** It is for *you* to demonstrate that *you* have undergone successful rehabilitation, where relevant. The individual circumstances *you* put forward must be weighed against the public interest and the need to safeguard members of the public and maintain the reputation of the profession. However, *we* will consider each application on its own merits.
- 8.2** If the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended) is applicable to *your* occupation, profession or role, *you* must declare all convictions and cautions, even if they are deemed to be spent in accordance with the Act.
- 8.3** In accordance with paragraph 2 above (disclosure), if *you* fall within the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 and *you* fail to disclose information about convictions and/or cautions for criminal offences, whether they are spent or unspent, *we* will consider this as amounting to prima facie evidence of dishonest behaviour.

Guidance note

- (i)** The provisions of the Rehabilitation of Offenders Act 1974 (as amended) and the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended) will be taken into account by *us* in considering any application *you* make.
- (ii)** If *you* fall within the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended), the fact that the conviction is spent, and the time that has passed since the conviction was given, together with any other material circumstances will be taken into account by *us* when determining any application made by *you*.
- (iii)** A period of rehabilitation, particularly after *we* have decided to refuse *your* application, will not in itself result in automatic admission/authorisation. *We* need *you* to show, through a period of good behaviour, that *you* have taken steps to rehabilitate *yourself* by *your* own volition.

## **Part 2: Additional requirements to become authorised under the Authorisation Rules**

---

### **9: All applicants must comply with Part 1**

- 9.1** Under this test, when considering any application by an individual seeking to become an *authorised role holder*, all of the tests set out in Part 1 will apply in addition to this Part.

### **10: Additional requirements**

- 10.1** Unless there are exceptional circumstances *we* may refuse *your* application if:
- (a)** *you* have been removed from the office of trustee for a charity by an order imposed by the Charities Act 1993;
- (b)** *you* have been removed and/or disqualified as a company director;

- (c) any body corporate of which *you* are/were a *manager* or *owner* has been the subject of a winding up order, an administrative order or an administrative receivership, or has otherwise been wound up or put into administration in circumstances of insolvency;
- (d) *you* have a previous conviction which is now spent for a criminal offence relating to bankruptcy, IVAs or other circumstances of insolvency;
- (e) *you* are a corporate person/entity subject to a relevant insolvency event defined in rule 1.2 of the *Authorisation Rules*;
- (f) *you* are a corporate person/entity and other matters that call *your* fitness and propriety into question are disclosed or come to light;
- (g) *you* have committed an offence under the Companies Act 2006; and/or
- (h) *we* have evidence reflecting on the honesty and integrity of a person *you* are related to, affiliated with, or act together with where *we* have reason to believe that the person may have an influence over the way in which *you* will exercise *your authorised role*.

Guidance note

- (i) The provisions of the Rehabilitation of Offenders Act 1974 (as amended) and the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended) do not apply to corporate persons/entities. Therefore, corporate convictions cannot become spent, so if *you* are a corporate person/entity *you* must disclose any and all matters in *your* application.
- (ii) Other matters under 10.1(f) include but are not limited to debts, corporate criminal matters, Companies Act transgressions such as late submission of accounts, and taking steps without submitting proper documents to Companies House.

