

# Annex 2: Police Station Representatives Accreditation Scheme assessment guidelines

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## Purpose of these guidelines

- 1.1. These guidelines ('the Assessment Guidelines') are issued by the Solicitors Regulation Authority (the SRA) to Assessment Organisations (AOs). They regulate the assessments that lead to qualification under the Police Station Representatives Accreditation Scheme ('PSRAS' or 'the Scheme') and contain a description of the Accreditation Assessments.
- 1.2. The Scheme is designed to ensure that representatives giving advice to clients in the police station are competent to undertake the work. The Scheme is also designed to ensure that solicitors who employ representatives to advise clients at the police station consider their representatives' training and development needs, and exercise adequate supervision over them.
- 1.3. The Scheme applies to all persons who give legal advice to clients who are held in police custody or to clients in analogous circumstances for which payment will be claimed from the Legal Aid Agency. The Accreditation Assessments conducted for the purpose of the Scheme are the 'relevant tests' for the purpose of the Arrangements.
- 1.4. The SRA may amend the Assessment Guidelines from time to time and will consult with the AOs before any amendments are made. AOs must amend their assessment regulations to comply with any revisions so made within the period agreed between the SRA and the AOs.
- 1.5 AOs must set and mark the Accreditation Assessments in accordance with the Assessment Guidelines and the Standards of Competence.

## 2. Definition of terms

- 2.1 'Accreditation Assessments' are the assessments conducted by the Assessment Organisations and which lead to the accreditation of an individual under the Police Station Representatives Accreditation Scheme.
- 2.2 'Accredited representative' refers to a person who has successfully completed the Police Station Representatives Accreditation Scheme and who is registered with the Legal Aid Agency (the LAA) as having successfully completed the Scheme.
- 2.3 'The Arrangements' refers to The Police Stations Register Arrangements 2001 as amended 20 February 2020.
- 2.4 'Assessment Organisation' and 'AO' refers to the organisations that have been authorised by the SRA to conduct assessments under the Police Station Representatives Accreditation Scheme.
- 2.5 'LAA' means the Legal Aid Agency.
- 2.6 The 'Criminal Defence Service' and 'CDS' refers to the department within the LAA responsible for maintaining the Police Station Representatives Register.

- 2.7 'Probationary representative' refers to a person who has completed the initial registration process with an Assessment Organisation but who has not successfully completed the Accreditation Assessments and who has registered with the LAA as a probationary representative.
- 2.8 Malpractice or unethical behaviour could lead to a solicitor being struck off or suspended from the roll or an order under Section 43 of the Solicitor's Act 1974 being made by the Solicitors' Disciplinary Tribunal.
- 2.9 'The Scheme' refers to the Police Station Representatives Accreditation Scheme.
- 2.10 'Standards of Competence' refers to the standards of competence issued by the SRA in respect of police station work, and which may be revised from time to time.
- 2.11 A 'supervising solicitor' is a solicitor who satisfies the requirements set out in paragraph 1 of the Arrangements 2001.

### **3. Description and requirements of the assessments**

- 3.1 The Accreditation Assessments must comprise of a:
- written examination
  - portfolio assessment
  - critical incidents test
- 3.2 The Accreditation Assessments must be a valid, fair and reliable assessment of the competences set out in the [Statement of Competences](#)
- 3.3 The accreditation process is commenced by the candidate applying to one of the AOs to take the written test (unless exempt) and to submit Part A of the portfolio to the AO. When the written test has been passed and if Part A of the portfolio is approved by the AO, the candidate may apply to register as a probationary representative with the LAA. Registration must be carried out within three months of the date of certification by the AO.
- 3.4 Following registration with the LAA, the candidate may complete the remaining two Accreditation Assessments in any order. Paragraph 4.1 of the Arrangements provides that a candidate will be suspended from the police station register if they do not pass one of the remaining Accreditation Assessments within six months. And all of the relevant assessments within one year from the date of registration with the LAA. This means, amongst other things, that the LAA will not pay for police station advice and assistance provided by the candidate.
- 3.5 Subject to the time limit for successfully completing the Accreditation Assessments, there is no limit on the number of times a candidate may attempt the respective assessments.
- 3.6 Solicitors and barristers are exempt from the written examination, as are those who have completed the Legal Practice Course or the Bar Vocational Course/Bar Professional Training Course. Fellows and Members of the Chartered Institute of Legal Executives who have passed the Institute's level 6 professional Higher Diploma in Law (previously the Part 2 examinations) which includes the criminal law and litigation papers are as well. There are no exemptions from the portfolio assessment or the critical incidents test. There is no exemption for individuals who have passed the Solicitors Qualifying Examination.

3.7 AOs must have in place a policy and procedures for ensuring that it meets its obligations under the Equality 2010 to make provision for reasonable adjustments for candidates with a disability or disabilities.

#### 4. The written examination

4.1 The outcome of the written examination is to assess the candidate's knowledge and understanding of basic criminal law, evidence, and procedure by reference to the Standards of Competence. Its purpose is also to assess the candidate's understanding of both the adviser's role in the police station and of the skills that are needed to perform that role effectively. Note the provision for exemptions from the written examination explained in section 3.6. Candidates who are not exempt from the written examination must pass it before they apply to the LAA for registration as a probationary representative.

4.2 Assessment regulations must provide that the candidate must pass the written examination before they register with the LAA as a probationary representative.

4.3 The candidate is given two hours to complete the examination. Assessment regulations must describe the general format of the written examination and must prescribe the length of the examination.

4.4 Assessment regulations must prescribe the pass mark as being 50 per cent of the total available marks. The examination may include multiple choice questions, but these cannot account for more than 20 per cent of the available marks.

#### 5 The portfolio assessment

5.1 The outcome of the portfolio assessment is to:

- encourage representatives to consider and reflect upon their performance in the police station
- encourage the supervising solicitor to review the representative's competence and to take steps to address any deficiencies
- enable AOs to assess a representative's competence to give advice in police stations.

5.2 The portfolio consists of two parts, to be completed in three stages in the following chronological order:

- **Part A, Stage 1** – two cases in which the representative observes a solicitor advising a client in a police station. Indictable-only and/or duty solicitor cases may be included in this stage.
- **Part A, Stage 2** – two cases in which the representative gives advice to a client in a police station whilst being observed by the supervising solicitor. Indictable-only and/or duty solicitor cases **must not** be included in this stage. The portfolio must contain written feedback from the supervising solicitor in respect of these two cases. If the supervising solicitor has to interject during the course of a case, it will not be acceptable.

- **Part B, Stage 3** – five cases in which the probationary representative gives advice to a client in a police station without the supervising solicitor present. Indictable-only and/or duty solicitor cases **must not** be included in Part B of the portfolio.
- 5.3 The AO to which Part A is submitted must certify that sufficient details of the Stage 1 and Stage 2 cases have been provided before the candidate can register themselves with the LAA as a probationary representative. The certification of Part A concerns the technical content only and does not infer that the Part A cases have been assessed as satisfactory.
  - 5.4 Part A cases must not be older than three months at the time of submission for technical compliance checking. Part B cases must not be older than 12 months at the time of submission for assessment, subject to the provisions on resubmission in section 10.
  - 5.5 Part A cases are to be submitted to an AO together with the Part B cases within 12 months of the date of registration by the LAA as a probationary representative.
  - 5.6 Part B must be completed after certification of Part A by the AO and subsequent confirmation of inclusion on the register by the LAA.
  - 5.7 Each case used in the portfolio must involve a different client. Co-defendants must not be included as separate clients. The same client may appear more than once in portfolios, but not more than twice, as long as different issues are dealt with. Each case must involve a formal interview of the suspect by the police at a police station. A case may include a video identification procedure but must not be limited to the identification procedure.

Where appropriate advice from remote attendance can be submitted.

- 5.8 Cases used in Part B must not pre-date the date of registration with the LAA. Indictable-only cases can be included in Stage 1. Stages 2 and 3, however, must not contain cases involving indictable-only offences and/or duty solicitor cases. Names of clients must not be included in the case reports.
- 5.9 Other than in the case of a re-submitted portfolio, the cases must be in chronological order. All parts of the portfolio must be completed, and the portfolio must be signed by the candidate and the supervising solicitor. Assessment regulations must provide that if any of these conditions are not satisfied, the candidate must fail the portfolio. Each case report must be identified by using the CDS Unique File Number. Where it is a legal aid case, each case report must be identified by using the CDS file. In non-legal aid cases, a firm's reference or custody number can be used.
- 5.10 Assessment regulations may require that the format of the portfolio complies with guidance issued by the AO.
- 5.11 Assessment regulations must provide that a portfolio is marked in accordance with a portfolio assessment form agreed between the SRA and the AOs.
- 5.12 Assessment regulations must provide that if a candidate fails the portfolio, they may re-submit it subject to the provisions in section 10.

## **6. Portfolio assessment criteria**

- 6.1 The portfolio must be in a form approved by the AO to which it is submitted and must include any prescribed certification. The AO should provide written advice on the format

and content of the case reports to prevent failures due to omissions of relevant information. The assessment criteria are set out below. The candidate must provide information to cover the topics below. Please note these are not suggested portfolio topic headings other than case description.

- **Case description.** Provide a brief description of the case, setting out what the case was about, describing what had to be done by the candidate, and what the result was. Each case must include the Unique File Number, which is required to be allocated to cases under the general criminal contract or other criteria identified in 5.9.
- **Obtaining information.** State the relevant information that was obtained from the police, the client and any relevant third party.
- **Assessment of information and advice to client.** Describe and analyse how the candidate assessed the information obtained, how they formulated their advice, and the advice given to the client.
- **Dealing with the police and third parties and making representations.** Describe and analyse how the candidate dealt with the police and third parties, including representations made, and how they dealt with any issues or problems that arose.
- **Professional ethics.** Demonstrate that the candidate complied with relevant professional and ethical rules.
- **Feedback and reflection.** Demonstrate that the candidate has received feedback on their performance by the supervisor, has adequately reflected on their performance, including consideration of training needs where appropriate.

6.2 In applying the criteria, the AO will have regard to the Standards of competence for the accreditation of solicitors and solicitors' representatives advising at the police station (Standards of Competence).

## 7. The Critical Incidents Test (CIT)

7.1 The outcome of the CIT is to enable an AO to assess a candidate's effectiveness in advising and assisting a client at the police station by reference to the Standards of Competence.

7.2 The CIT is a role-play test consisting of several issues or problems posed to the candidate, either verbally or in terms of their behaviour, by a police officer, client or third party. The recording will indicate when a response is expected of the candidate. The candidate then has 30 seconds in which to commence a response. There is no restriction on the length of the response given by the candidate. If the candidate fails to respond within 30 seconds, they lose the opportunity to respond to that issue or problem. The test is conducted under examination conditions.

7.3 The AO must establish written procedures for administering the CIT, which must include a requirement to record on audiotape the entire test procedure in respect of each candidate. The AO must keep the recordings secure and in accordance with data protection obligations and destroy them at the end of the expiry of the assessment appeals process.

7.4 Assessment regulations must provide that the CIT may only be taken after a candidate has registered with the LAA as a probationary representative.

## **8. Assessment criteria for CIT**

8.1 Assessment regulations must provide for the CIT to be assessed according to the following criteria:

- Control - this is concerned with the extent to which the candidate is able to demonstrate appropriate control in the context of the problem or issue raised.
- Confidence - this is concerned with the extent to which the candidate acts with self-assurance in responding to the problem or issue posed.
- Content - this is concerned with the legal, procedural and factual content of the candidate's response, including whether they have analysed the facts correctly and whether they have applied the law to those facts correctly.

8.2 Each criterion in section 8.1 above is to be given equal weighting. To pass, a candidate must achieve at least 50 per cent in respect of each criterion. This must be provided for in the assessment regulations.

8.3 Assessment regulations must state that a gross professional error, committed in the context of the assessment, must lead to a candidate failing the CIT even though their numerical score equals or exceeds the pass mark. It is the responsibility of the Assessment Board to decide what constitutes a gross professional error. Assessment organisations will have in place a process for recording and reporting to the SRA malpractice and/or unethical behaviour.

## **9 Assessment regulations and Assessment Board**

9.1 Each AO must establish an Assessment Board, the membership of which must include the assessors who assess the Accreditation Assessments and must include Duty Solicitors who have experience of skills assessment (who may or may not act as assessors).

9.2 The Assessment Board must also include an appropriately qualified external moderator whose role is defined to include ensuring that Accreditation Assessments are conducted in a fair and consistent manner. And to the appropriate standard having regard to the Standards of Competence, and to liaise with the SRA appointed External Examiner where appropriate.

9.3 The SRA appointed External Examiner is permitted to attend an Assessment Board as an observer.

9.4 AOs must devise and publish assessment regulations governing the Accreditation Assessments. The assessment regulations must comply with the Assessment Guidelines and must be submitted to the SRA for approval. Each candidate must be provided with a copy of the AO's assessment regulations at the time of booking with the AO.

9.5 The assessment regulations must provide for the quorum for the Assessment Board, which must be no less than six, or 50 per cent of the membership of the Board (whichever is the greater), and that at least three current duty solicitors are present. A representative from the AO will chair the Assessment Board.

- 9.6 The assessment regulations must set out the terms of reference of the Assessment Board, which must include requirements:
- to ensure that all assessments are properly conducted
  - approve processes for ensuring assessments are fairly and consistently marked to required standard
  - to decide whether a candidate has passed an assessment
  - to determine what action should be taken, in accordance with the relevant assessment regulations, in the case of a candidate who commits an assessment offence
  - to determine what action should be taken, in accordance with the relevant assessment regulations, in the case of a candidate who asks for mitigating circumstances to be considered
  - to provide feedback to candidates who fail an Accreditation Assessment
  - to make recommendations to the AO on any matter concerning the Accreditation Assessments.

9.7 Assessment regulations must contain provisions for a review of assessments and assessment procedures, and procedures for dealing with such reviews.

## **10. Resits and resubmissions**

10.1 Assessment regulations must establish procedures for resubmission of portfolios and resits of live assessments or written examinations in case of failure by the candidate. Assessment regulations must cover the following areas.

### **Portfolio**

10.2 If a portfolio is failed on first submission, the candidate must submit a new case report for each failed report. Case reports that have been failed may not be reworked and resubmitted. The case reports need not be in chronological order, but new cases must be clearly identified.

10.3 In the event of suspension from the representatives register, the failed cases must be replaced by cases undertaken prior to the suspension. Alternatively, suspended representatives can complete cases at the police station if legal aid is not claimed for such work.

10.4 Previously passed case reports may be included in resubmitted portfolios subject to the time limits in 10.6. Assessment regulations must show that once a candidate has passed a case submitted as part of a portfolio then that pass mark will stand regardless of which AO receives the resubmitted portfolio.

10.5 Where a re-submitted portfolio is received by an AO and the portfolio contains cases that were not included in a portfolio previously submitted, the cases need not be in chronological order, but new cases must be clearly identified.

10.6 Assessment regulations must provide that if a candidate fails the portfolio, they may resubmit it within 12 months of the date of submission of the original portfolio, even though some of the cases may have occurred more than 12 months. But no more than 24 months prior to the date on which the portfolio is resubmitted.

10.7 Candidates can choose to resubmit a portfolio to a different AO. If they do this, then the time limits for resubmissions described in section 10.6 will still apply, even though the second AO will view the portfolio as a 'new' submission. Each case report within such

portfolios must be clearly marked by the candidate to indicate this, however, and Assessment Regulations must advise the candidate accordingly.

### **Critical Incidents Test**

10.8 If a candidate fails the CIT they must be permitted to take any further CIT with any AO.

### **Written examination**

10.9 If a candidate fails the written examination, they must be permitted to take any further written examination with any AO.

## **11. Assessment offences**

11.1 Assessment regulations must establish procedures to be followed in the event of a suspected assessment offence being committed by a candidate. The regulations must provide that a proven assessment offence will result in the candidate failing the relevant assessment. Further, assessment regulations must provide that the Assessment Board will report the candidate to the SRA where it is of the opinion that the offence has a bearing on the candidate's character and suitability to be a Police Station Representative. The SRA may then pass on the details to the LAA, which could ultimately result in temporary or permanent suspension from the representatives' register.

11.2 Assessment offences include (but are not limited to):

- Cheating
- Plagiarism
- Collusion
- Passing off work produced by someone else
- Failing to disclose if a case has previously been submitted in a portfolio
- Making false declarations or false representations as to relevant dates or periods relevant to the submission of a portfolio.

## **12. The External Moderator**

12.1 The AO must appoint an appropriately qualified external moderator whose role is defined to include ensuring that Accreditation Assessments are conducted in a consistent manner and to the appropriate standard having regard to the Standards of Competence, and to liaise with the SRA appointed External Examiner.

## **13. Feedback to failed candidates**

13.1 The level and detail of feedback provided to candidates should be agreed between the AO and the SRA.

## **14. Assessment Organisation policies**

14.1 The AO will have in place and manage policies to support the effective administration of the assessment including but not limited to, appeals, complaints, and mitigating circumstances. Policies should be available for those taking the assessment. There is no right of appeal to the SRA.