

SRA Assessment of Character and Suitability Rules

Introduction

All individuals applying for admission or restoration to the roll of solicitors or those applying for or renewing their registration to be an REL or an RFL must be of satisfactory character and suitability. Those applying to become an authorised role holder, must be fit and proper to hold the role, and for ease we use the term “character and suitability” in this context also.

These provisions set out the kind of factors we will take into account when considering your character and suitability, and the obligations you have, both at the outset and on an ongoing basis, to provide relevant information to inform the decisions we make.

These requirements are underpinned by our role to act in the public interest. For more information about the issues we consider to present a risk to the public interest, and our approach to taking regulatory action, see our [Enforcement Strategy](#).

This introduction does not form part of the SRA Assessment of Character and Suitability Rules.

Part 1: Character and suitability requirements

Application

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1.1 These rules apply where the [SRA](#) is making a decision as to whether it is satisfied regarding your [character and suitability](#):

1.2 on early assessment under regulation 5.2 of the SRA Authorisation of Individuals

Regulations;

- 1.3 at admission or restoration to the roll under regulations 1.1, 3.1, 3A.1, 3F.1, 4.1 and 5.9 of the SRA Authorisation of Individuals Regulations;
- 1.4 on approval as an authorised role holder under rule 13.1 of the SRA Authorisation of Firms Rules;
- 1.5 on registration or renewal of registration as an REL or RFL under regulations 6.3 or 6.4 of the SRA Authorisation of Individuals Regulations.

Glossary terms

SRA

character and suitability

REL

RFL

Assessment

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- 2.1 When considering your character and suitability, the SRA will take into account the overriding need to:
 - 2.2 protect the public and the public interest; and
 - 2.3 maintain public trust and confidence in the solicitors' profession and in legal services provided by authorised persons.

In doing so, the SRA will take into account the nature of your role, and your individual circumstances, on a case by case basis.

- 2.4 The SRA will therefore consider any information available to it and take into account all relevant matters. These will include but are not limited to the criminal and other conduct or behaviour set out in rules 3 and 4 below.
- 2.5 If you are applying for approval as a compliance officer, in assessing your suitability the SRA will consider whether you are of sufficient seniority and in a position of sufficient responsibility to fulfil the requirements of the role.
- 2.6 If on the information available, the SRA cannot be satisfied you are of good character and suitable for the role, and it considers that any risk to the public or the public interest can be addressed by the imposition of conditions on your authorisation or approval under regulation

7.1(b) of the SRA Authorisation of Individuals Regulations, or rule 3.1 or 13.8 of the SRA Authorisation of Firms Rules, as appropriate, the SRA must impose such conditions accordingly.

- 2.7 Following any decision by the SRA that it is not satisfied as to your character and suitability, you may only seek a further assessment of your character and suitability, where there has been a material change in your circumstances relevant to the SRA's assessment under these rules.

Glossary terms

character and suitability

SRA

solicitor

authorised person

compliance officer

Part 2: Conduct and behaviour

Criminal conduct

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- 3.1 The SRA will consider criminal conduct when assessing your character and suitability, in accordance with Table 1 below, subject to the Rehabilitation of Offenders Act 1974 and the Rehabilitation of Offenders Act 1974 (Exceptions Order) 1975 and bearing in mind the public interest in supporting the rehabilitation of offenders. For the avoidance of doubt, Table 1 is a non-exhaustive list.

Table 1: Criminal conduct

Most serious

(A finding in this category is likely to result in refusal)

Serious

(A finding in this category may result in refusal)

You have been convicted by a **court** of a criminal offence:

- for which you received a custodial or suspended sentence;
- involving dishonesty, fraud, perjury, and/or bribery;
- of a violent or sexual nature;
- associated with obstructing the course of justice;
- which demonstrated behaviour showing signs of **discrimination** towards others; or
- associated with terrorism.

You have been convicted by a **court** of more than one criminal offence (these could be less serious offences when considered in isolation but taken more seriously because of frequency and/or repetition).

You have shown a pattern of criminal offences or criminal behaviours (eg starting from a caution but moving through to convictions).

You have accepted a caution from the police for an offence involving dishonesty, violence or discrimination, or a sexual offence.

You have been included on the Violent and Sex Offenders register.

You have accepted a caution for, or been convicted by a **court** of, a criminal offence not falling within the most serious category (which is likely to result in refusal).

You are currently subject to a conditional discharge or bind over by a **court**.

Glossary terms

SRA

character and suitability

court

discrimination

Other conduct and behaviour

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4.1 Table 2 sets out non-exhaustive examples of the types of conduct or behaviour that the **SRA** will take into account when assessing your **character and suitability**.

Table 2: Other conduct and behaviour

Type of behaviour	Examples
	<p>You have behaved in a way:</p> <ul style="list-style-type: none">• which is dishonest;• which is violent;• which is threatening or harassing;• where there is evidence of <u>discrimination</u> towards others.
Integrity and independence	<p>You have misused your position to obtain pecuniary advantage.</p> <p>You have misused your position of trust in relation to vulnerable people.</p> <p>The SRA has evidence reflecting on the honesty and integrity of a <u>person</u> you are related to, affiliated with, or act together with where the SRA has reason to believe that the <u>person</u> may have an influence over the way in which you will exercise your authorised role.</p>
Assessment offences	<p>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, in order to gain an advantage for you or others.</p>

Type of behaviour

Examples

Financial
conduct/events

There is evidence:

- that you have deliberately sought to avoid responsibility for your debts;
 - of dishonesty in relation to the management of your finances;
 - that you have been declared bankrupt, entered into any individual voluntary arrangements, have a current County Court Judgment issued against you or have been made subject to a Debt Relief Order;
 - that any **company**, **LLP** or **partnership** 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;
 - that you cannot satisfactorily manage your finances (eg you have fallen behind with six or more consecutive payments and/or have been registered with a credit reference agency);
 - that you are subject to possession proceedings (eg for falling behind on mortgage payments) and/or are subject to a Liability Order (eg for non-payment of council tax).
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Type of behaviour

Examples

Regulatory or disciplinary findings

You have been made the subject of a serious disciplinary or regulatory finding, sanction or action by a regulatory body and/or any **court** or other body hearing appeals in relation to disciplinary or regulatory findings.

You have failed to disclose information to a regulatory body (including the **SRA**) when required to do so or have provided false or misleading information.

You have significantly breached the requirements of a regulatory body.

You have failed to comply with the reasonable requests of a regulatory body resulting in a finding against you.

You have been rebuked, reprimanded, or received a warning about your conduct by a regulatory body.

You are disqualified from being a **charity** trustee or a trustee for a **charity** under section 178(1) of the Charities Act 2011.

You have been removed and/or disqualified as a **company director**.

You are a corporate person and other matters that call into question your fitness and propriety are disclosed or come to light.

You have committed an offence under the **Companies Acts**.

Glossary terms

SRA

character and suitability

discrimination

person

company

LLP

partnership

manager

court

charity

Part 3: Aggravating and mitigating factors

Aggravating and mitigating factors

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5.1 Table 3 sets out a non-exhaustive list of the types of aggravating and mitigating factors the **SRA** will take into account where you have disclosed, or it has received, information which raises a question as to your character and suitability.

Table 3: Aggravating and mitigating factors

Aggravating Factors

- No evidence of successful rehabilitation.
- No evidence of steps taken to remedy conduct.
- No (or little) evidence of remorse.
- Repeated behaviour, or a pattern of behaviour, or event occurred very recently.
- You were in a position of trust.
- You held a senior position.
- Vulnerability of those impacted by the behaviour.
- Behaviour likely to harm public confidence in the profession.

Mitigating Factors

- Evidence of successful rehabilitation.
- Evidence of steps taken to remedy conduct.
- Evidence of remorse.
- One off event, or event occurred some time ago.
- You were in a junior or non-legal role.
- No evidence of harm being caused to individuals.
- Behaviour unlikely to harm public confidence in the profession.
- Credible and cogent supporting references.

Glossary terms

SRA

character and suitability

Part 4: Disclosure and evidential requirements

Disclosure and evidential requirements

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- 6.1** Subject to rule 6.3 below, on making an application under any of the provisions set out in rule 1.1, you must disclose all matters, wherever they have taken place (including **overseas**), which are relevant to the **SRA's** assessment of your **character and suitability**, including, where practicable, any information set out in Table 4 which is relevant to the matter in question.
- 6.2** On making an application under any of the provisions set out in rules 1.1(a) to (c), you must also provide a certificate from the Disclosure and Barring Service, or equivalent, which is no more than three months old.
- 6.3** If you are making an application for:
- 6.4** registration as an **REL** or **RFL**; or
- 6.5** approval as a **manager** or **owner** of an **authorised body**, in circumstances where if approval is granted you will fall within rule 13.2(b) of the Authorisation of Firms Rules, you must, and need only, provide a certificate of good standing which is no more than three months old from any regulatory body with which you are registered or authorised.
- 6.6** If the **SRA** requests any further information in order to assess your **character and suitability**, including a certificate from the Disclosure and Barring Service, or equivalent, you must provide it by the date specified (which will be no less than 14 days from the date of the request).
- 6.7** You have an ongoing obligation to tell the **SRA** promptly about anything that raises a question as to your **character and suitability**, or any change to information previously disclosed to the **SRA** in support of your application, after it has been made. This obligation continues once you have been admitted as a **solicitor**, registered as an **REL** or an **RFL**, or approved as a role holder.
- 6.8** The onus is on you to provide any evidence relevant to the **SRA's** consideration of your **character and suitability**. However, the **SRA** may undertake any investigation as it considers appropriate to determine your **character and suitability** and may verify any evidence you provide with a third party.
- 6.9** If you fail to disclose any information relevant to the **SRA's** assessment of your **character and suitability**, the **SRA** will take this into account when making a determination as to your **character and suitability**

Table 4: Information and evidence relevant to matters disclosed

General evidence

- Credible references, where possible written in the knowledge of the matters reported. Credible references will generally be written in the knowledge of the matters reported by an independent person who knows you and your work well, such as a current or former employer or an academic tutor.
- Evidence of any rehabilitation that shows you have learnt from an experience or event, such as probation reports, references from employers or tutors.
- Documentary evidence in support of your case and, where possible, an independent corroboration of your account of the event.
- A statement from you including details of the event leading up to the matter disclosed and which reflects your attitude towards the event.
- Proof that you have also disclosed the matter to any professional or other body to which you have an obligation to do so.

Evidence relating to criminal offences

- At least one independent report relating to the event such as a report from the police, a **court**, or a **solicitor**.
- Any sentencing remarks for your case.
- Any Memorandum of an Entry on the Court Register.
- Proof you have paid any penalty or fine imposed or costs ordered for you to pay as a result of the matter you disclosed.
- In relation to any motoring offence, your online driving licence.

Evidence relating to assessment offences

- Any minutes from any meeting and any transcripts from any hearing relating to the offence.
- Outcome of any investigation, any decision, sanction or appeal relating to the offence.
- Details which describe the extent to which you could reasonably have been expected to realise that the offence did not constitute legitimate academic practice.

Evidence relating to financial conduct/events

- In relation to county court judgments or Individual Voluntary Arrangements, proof that you have met the creditor's agreement in full or that it continues to be met; a

copy of any judgment; a certificate of satisfaction from the court or a Registry Trust Limited report; and a credit report of no more than one month old.

- In relation to bankruptcy, a copy of the bankruptcy petition; or if you have been discharged from bankruptcy, a copy of the Certificate of Discharge; and a credit report no more than one month old.
- Details of any actions you have taken to clear any debts, satisfy any judgments and manage your finances.

Glossary terms

overseas

SRA

character and suitability

REL

RFL

manager

owner

authorised body

solicitor

court

Supplemental notes

Made by the SRA Board on 30 May 2018.

Made under sections 28 and 31, of the Solicitors Act 1974, section 9 of the Administration of Justice Act 1985, section 89 of, and paragraphs 2 and 3 of Schedule 14 to, the Courts and Legal Services Act 1990 and section 83 of, and Schedule 11 to, the Legal Services Act 2007.