

Restoring the annual keeping of the roll exercise: Consultation

March 2022

Contents

About this consultation	3
How to respond	4
Online questionnaire.....	4
Reasonable adjustment requests and questions.....	4
Publishing responses.....	4
Background to consultation	5
Our rationale for change	5
What is the roll?	7
Who are solicitors without practising certificates and what is the profile of this cohort?.....	8
Our decision in 2014 not to continue with the annual exercise	9
Benefits for those who wish to be solicitors without practising certificates	9
Rule change	10
Options considered in ensuring we restore the completeness of our data:.....	10
Benefits	10
The charge and what it covers	11
Our questions in full	Error! Bookmark not defined.
Annex one: Equality Impact Assessment.....	13
Annex two: Changes to the regulations	16

About this consultation

We are seeking your views on proposals to reinstate the annual keeping of the roll exercise that ensures the solicitors roll is kept up to date and to reintroduce an administration charge to pay for it. We are keen to hear your feedback on these proposals.

You can find the equality impact assessment at annex one and details of the changes to our regulations at annex two.

This consultation is open from Tuesday 22 March 2022 until Friday 20 May 2022.

After the consultation closes, we will collate and analyse all the responses. We will use the consultation feedback to decide whether to take forward our approach.

How to respond

Online questionnaire

Our online consultation questionnaire is a convenient, flexible way to respond. You can save a partial response online and complete it later. You can download a copy of your response before you submit it.

[Start your online response now.](#)

Reasonable adjustment requests and questions

We offer reasonable adjustments. [Read our policy to find out more.](#)

Contact us keepingoftheroll@sra.org.uk if you need to respond to this consultation using a different format or if you have any questions about the consultation.

Publishing responses

We will publish and attribute your response unless you request otherwise.

Background to consultation

What are we proposing?

1. The Solicitors Regulation Authority (SRA) is the regulator of solicitors and law firms in England and Wales.
2. We work to protect members of the public and support the rule of law and the administration of justice. We do this by overseeing all education and training requirements necessary to practise as a solicitor, licensing individuals and firms to practise, setting the standards of the profession and regulating and enforcing compliance against these standards.
3. We are the largest regulator of legal services in England and Wales, covering around 90 per cent of the regulated market. We oversee some 212,000 solicitors and around 10,000 law firms.
4. Until 2014, all solicitors without practising certificates (PCs) were required to complete an application each year and pay an administration fee if they wished to remain on the roll. In 2014 we decided not to continue with updating the roll on an annual basis for those solicitors that were no longer practising. The primary reasons for this were that we were not using the information and the annual process was seen as burdensome for solicitors.
5. The vast majority of the individual respondents to the 2014 consultation supported the proposal to stop carrying out the annual enquiry as to whether solicitors without practising certificates wish to remain on the roll.
6. We now propose to reintroduce a process to check, update and maintain data held on the roll annually. We propose this should be carried out following the completion of the practising certificate renewals each year.
7. Our rationale for reintroducing the process is that the environment in which we operate has changed since 2014 because of two key reasons:
 - The General Data Protection Regulation (GDPR) requires that the information we hold about individuals is current, and the information on

the roll about solicitors without practising certificates has become progressively more out of date since 2014.

- We now have a modernised IT system, particularly the user interface. This will make the process of maintaining personal records considerably less arduous for solicitors than it was.
8. In addition, recent events have demonstrated the value of maintaining accurate data about solicitors without practising certificates so that we can contact them about matters that might affect them. For instance, we recently wanted to contact solicitors without practising certificates to let them know about our proposals on the future of the Solicitors Indemnity Fund (SIF).
9. In view of this, we are now consulting on:
- Our proposal to reintroduce the annual keeping of the roll exercise.
 - The level of the administration charge.
 - The conclusions of the equality impact assessment we have carried out.
10. To give all those potentially affected an opportunity to prepare for the change before it is introduced, we propose to restart the keeping of the roll exercise in April 2023.

Our rationale for change

11. We are obliged, by law, to keep a list of all solicitors, which is called the roll. Solicitors' names are entered onto the roll following admission. All solicitors who hold a current practising certificate (PC) are automatically listed on the roll. Our annual keeping of the roll exercise ran until 2015 and asked every solicitor who is on the roll and without a PC whether they wished to remain on the roll. If a solicitor failed to reply or pay the prescribed fee, we gave them notice that they would be removed from the roll. If the solicitor did not respond, their name was subsequently removed from the roll. The purpose of this consultation is to explain and seek views on the approach we are taking to the keeping of the roll for solicitors without practising certificates. We are proposing to reintroduce an annual returns exercise to ensure our data remains up to date, in line with current legislation, and that we can keep in touch with this group of solicitors. This will

Restoring the annual keeping of the roll exercise and its charge: Consultation

mean a small annual administration fee for all solicitors who wish to remain on the roll.

12. We have a requirement to keep our records for solicitors without practising certificates accurate and be clear who currently has this status. Information on the roll is publicly accessible and some of the information we gather for it can be found in the [Solicitors Register](#). This is the definitive, impartial source of information about the law firms and people regulated by us.
13. There are also requirements under the General Data Protection Regulation (GDPR) 2016 and the [seven principles](#) that govern the holding and retention of data. Under GDPR we have responsibility as a data controller to ensure we maintain accurate data relating to individuals and we are processing it fairly and lawfully.
14. It is also important that we, and the representative body, the Law Society, can contact solicitors when necessary. Our recent work on options for the future of post six-year run-off insurance cover and the [Solicitors Indemnity Fund](#) has highlighted this. The profession will benefit from us acting in the public interest by holding up-to-date records so that we are able to contact them when necessary.
15. For these reasons, we need to periodically review the information we hold. An annual keeping of the roll exercise is the most efficient way to satisfy this requirement to ensure these records are up to date. Our proposed approach, enabled by advances in our IT systems, will be quick, simple to use and delivered through the mySRA portal. It offers data accuracy and is a proportionate option. We will provide support for users who are not familiar with mySRA.

What is the roll?

16. Until 2014, under the Solicitors Keeping of the Roll Regulations 2011, once a year we asked every solicitor on the roll and without a practising certificate whether they wished to remain on it. If a solicitor failed to reply or pay the prescribed fee of £20, we gave them notice that they would be removed. If the solicitor did not respond, their name was subsequently removed from the roll.
17. Section 6 of the Solicitors Act 1974 (SA) requires the Law Society to “continue to keep a list of all solicitors of the Senior Courts, called “the roll”.” The roll is central

to the qualification, practising requirements and disciplinary processes for solicitors. Because of this, keeping the roll is a regulatory function, delegated to us under the Law Society General Regulations.

18. The Act requires us to enter names on the roll based on evidence of admission and following an order to restore a person to the roll who has been removed or struck off. We can remove names from the roll following a request and to enter names which have been removed. The Act also delegates authority to us to make regulations about keeping of the roll.
19. The roll is central to our ability to regulate solicitors and maintain high professional standards. If a solicitor's name is on the roll, we regulate them even if they do not hold a practising certificate. A solicitor's record must remain on the roll even if they are removed. We also wish to prevent solicitors removing themselves from the roll while an investigation is being conducted.

Who are solicitors without practising certificates and what is the profile of this group?

20. A practising certificate is required if a solicitor is carrying out any reserved legal activities as defined in section 12 of the Legal Services Act 2007 or supervising an unqualified person carrying out such activities. Many solicitors on the roll without practising certificates are not currently practising as solicitors. This may be due to retirement or because of a career break. Others may be employed in-house and providing legal services but do not require a practising certificate for the work they are undertaking. There is also a group of practising solicitors who are on the roll but are exempt from holding a practising certificate under [section 88 of the SA](#). This includes solicitors who work in:

- any department of central government in the UK
- executive agencies
- the National Assembly of Wales, and
- any other non-ministerial department

21. The exemption under section 88 preserves certain rights and privileges which precede the Act. These rights and privileges are not set out in detail in the Act. Further guidance on section 88 of the Act can be found [here](#).

22. As part of the previous keeping of the roll exercise, solicitors were required to indicate that they were exempt and confirm details on the type of organisation for which they worked.
23. This process was carried out online through mySRA, an online portal, through which all solicitors now manage their individual details and interactions with us) for the first time in 2013. We decided to review the need for the annual process and explore whether the regulatory burden on this group could be lifted by allowing solicitors without practising certificates to remain on the roll without the annual application and associated fee. [A consultation setting out this approach](#) was published in May 2014.
24. We ceased carrying out the annual exercise and levying a fee in 2015 following our consultation the previous year. We said at the time that we would “retain the power to run updates as and when it is considered necessary.”
25. We have not run this exercise since then. The landscape has now changed because of GDPR, and we need to ensure our records remain up to date.
26. Solicitors can [apply to be removed](#) from the roll at any time if they wish to do so.

Our decision in 2014 not to continue with the annual exercise

27. Our 2014 consultation clearly stated that we felt the annual exercise at that time was a “burdensome process” and a “regulatory burden” and the individual respondents to the consultation agreed with this view. Since then, we have introduced a new IT system that has improved any updates or notifications of changes of status. The result is the process is no longer administratively burdensome for solicitors or for us. Our new approach allows solicitors to update their records easily using mySRA. These changes ensure accuracy and completeness of our records, which is fundamental to our role as a regulator.

Benefits for those solicitors without practising certificates who wish to remain on the roll

28. The roll confers a number of benefits on solicitors without practising certificates. In addition to being able call themselves ‘solicitors without practising certificates’ when supplying legal services, this group also have continued membership of the Law Society. This includes the right to vote in the Law Society Council elections,

access to the Law Society Hall and its library, and a range of other discounts and benefits.

29. If they return to practice, solicitors without practising certificates can apply for a PC without needing to undergo the character and suitability assessment, as they would have to if they came off the roll.

Rule change

30. If we decide to proceed with restoring the annual keeping of the roll, it will require a rule change. Details of the proposed changes can be found in annex 2

Our proposal

Options considered to maintain the accuracy of our data:

31. Our preferred option is run the exercise on an annual basis as it ensures the most accurate data is maintained and it becomes part of our annual practising certificate renewal regime. It is administratively more efficient for us to include the keeping of the roll exercise within our pre-existing annual processes. We also considered updating our records on a less frequent basis, such as every three to five years. However, this option would not fulfil a number of requirements. The main purpose of restarting the annual keeping of the roll exercise is to ensure the data we hold is accurate and not retained any longer than necessary. Though we could run the exercise less frequently, this would negate the benefits of keeping the data up to date. It would also not align with how we update our practising certificate records and could lead to inaccuracies in our record keeping. We also considered leaving the situation as it currently exists. However, as explained this was not possible because of the significant need to ensure our data was up to date and correct.

Benefits

32. The benefits of the approach we are proposing will be a simple, clear and transparent annual approach to checking the data we hold on solicitors without practising certificates. If agreed, we plan to carry out the exercise each year,

beginning in April 2023 and at the same time annually after that. This date is preferred as it follows the completion of all aspects of our annual practising certificate renewal exercise starting in October and the identification of those who no longer wish to hold practising certificates.

Basis of our charging principles

We are a not-for-profit organisation and our proposals align with our charging principles, which are as follows:

- Be fair to fee payers
- Be efficient and economical to administer
- Ensure a predictable income to meet the cost of regulation
- Be stable – charges should not vary considerably year on year
- Be as simple as possible – to enable the regulated profession to predict their likely fees
- Be based on data that can be verified
- Ensure that, where possible, the costs of processes that are not of general application should be borne by those making such applications as far as possible, on a cost-recovery basis.

We also want to encourage solicitors without practising certificates to engage with us using their mySRA account as the most effective way of ensuring our records remain accurate. We will ensure that there is sufficient support from our Contact Centre and online for those currently unfamiliar with using it.

The administration charge and what it covers

33. To pay for the cost of the annual keeping of the roll exercise and maintenance of the records, we will reintroduce a small administration charge. This is to cover the cost of the exercise and is intended to be proportionate. We are proposing an indicative amount in the range of £30-40. The amount will be confirmed in light of responses to this consultation and once our proposals have been approved.

Our proposed approach for those who do not respond to the keeping of the roll exercise

34. We will make every effort to contact those who are currently solicitors without practising certificates on the roll. In the event that we receive no communication after repeated attempts to contact them, we will remove their names from the roll. If individuals subsequently contact us and wish to be restored to the roll, they will need to pay the £30-40 administration charge and we will carry out a character and suitability assessment for which there is a further £39 charge.

35. We are keen to hear your views on our changes to keeping of the roll and the reintroduction of a charge. The list of our questions is below.

Question one. Do you agree with our proposal to reintroduce the annual keeping of the roll exercise in April 2023?

Question two. Based on our plan to reintroduce an annual charge to cover the cost of running the keeping of the roll exercise and maintaining the data, do you consider it fair and proportionate to charge directly for this exercise? We anticipate the unsubsidised administration charge amount will be no more than £30-£40. If not, what alternative would you suggest to meet these costs?

Question three. Do you agree with the conclusions in our equality impact assessment (EIA)? Do you have any information about the impact of our proposals on any other groups? Do you have any evidence to support this?

Annex one: Equality Impact Assessment

Impact on the regulated community

The proposals will have no immediate impact on those who hold practising certificates, only impacting those who in the future chose not to renew their practising certificates but wish to remain on the roll.

Impact on the public and consumers

The proposals will have limited impact on the public and consumers, although they will benefit from improvements in the accuracy of the roll. They also receive greater protection as we are able to investigate those on the roll for failings of professional standards, but cannot do so for those who are not.

Impact on those solicitors without practising certificates

The proposals will have a direct impact on solicitors without practising certificates, and we have looked at the diversity breakdown of this group compared to all solicitors for the groups where we had sufficient data, namely gender, age and ethnicity. The data and our initial conclusions about potential equality impact are set out below.

Age

The data shows that 22 per cent of solicitors without practising certificates are aged between 51 and 60 (compared to 18 per cent among all solicitors) and 10 per cent are over 60 (compared to five per cent among all solicitors). 74 per cent of solicitors without practising certificates have not held a PC for five years or more and 49 per cent for ten years or more.

This suggests that individuals in this group are more likely to be retired from practice, might not have kept their information on mySRA up to date and will be more difficult to contact. There is a potential negative impact on those who wish to continue to remain on the roll, as they will need to participate in the keeping of the roll process each year paying the requisite fee. They will also benefit from having a more accurate current record of their status. There is a potential negative impact on those

who do not respond or who we cannot reach who might then be removed from the roll. We have considered this and its effect. We think our approach is proportionate. As mentioned above, we plan to offer support and training to those who are unfamiliar with our mySRA portal.

Sex/gender, pregnancy and maternity and caring responsibilities

The split between men and women among solicitors without practising certificates is similar to all solicitors, in that women are slightly over-represented compared to men. However, the changing demographic of the profession in recent years suggests that women might be disproportionately represented among solicitors without practising certificates, retiring earlier than men or moving to in-house roles which may not require a practising certificate. We also anticipate that among solicitors without practising certificates there will be people who are on a career break, and among this group there might be women who are on maternity leave and parents on a career break to look after children or have other caring responsibilities. We will explore this further through our consultation on these proposals.

Ethnicity

There is a similar pattern in the ethnic breakdown among solicitors without practising certificates as there is with all solicitors, although the changing demographic of the profession in recent years means the number of Black and Asian solicitors without practising certificates is lower than for all solicitors. Based on this data, we have not identified any potential impact on ethnicity at this stage.

Disability and other protected characteristics

The data we have on disability and the other protected characteristics is limited but we anticipate that among solicitors without practising certificates, there will be people who are on a career break, which might include those taking time out because of ill health or a disability. We will explore this further through our consultation on these proposals.

We have not identified any particular impacts on groups with other protected characteristics, namely, marriage or civil partnership, religion or belief, sexual orientation, gender reassignment, nor on social mobility.

Mitigating potential negative impacts

We propose to mitigate these potential negative impacts by keeping the fee low, providing reasonable adjustments for the online keeping of the roll exercise for those who need them, delaying its introduction until 2023 and developing an extensive (but proportionate) plan for communication about the exercise to reach those who have not kept their contact details up to date (and who we are therefore unable to reach by our usual communication methods).

Annex two: Changes to the regulations

Text to be added is shown underlined, and text to be deleted is shown in strikethrough.

Retention

- 5.4 If you are a *solicitor* and you do not hold a practising certificate, the *SRA* will write to you once a year at the last notified version of your postal or email address, to ask you whether you wish your name to remain on the roll, ~~at appropriate intervals as *prescribed* if you do not hold a practising certificate.~~
- 5.5 If, following an enquiry under regulation 5.4, you wish your name to remain on the roll, you shall be required to pay a fee of [£30-£40]. ~~as may be *prescribed* in regulations.~~