

Authorisation Review 2018/19

14 December 2020

[Read in Welsh](#) [/sra/how-we-work/archive/reports/201819-mewn-adolygiad/adolygiad-o-awdurdodi-201819/]

Authorisation – an overview

Authorisation is the key point at which we make sure individuals and businesses meet the high professional standards we and the public expect when they enter the profession. Our Authorisation team does this by carrying out background checks, character and suitability checks, and by making sure applicants have the right skills and qualifications. Our priority is to be sure there is no risk to the public in allowing individuals or firms to join the profession. We also try to make this process work as efficiently and as smoothly as possible.

Who we authorise and regulate

- Solicitors who practise English and Welsh law in England and Wales
- Solicitors who practise English and Welsh law overseas
- Law firms and other types of businesses in England and Wales that offer legal services
- RELs RFLs, and EELs (see glossary)
- The roll of solicitors

Background and character and suitability checklist

We ask people who want to become a solicitor or firms who want to enter the legal market for a range of information. This helps us decide whether it is safe to allow them to offer legal services to the public. We need to make sure that people entering the profession will act with integrity and that the public can trust them. The checklist below shows some of the questions we ask.

| Solicitors | Firms |
|--------------------------------|--|
| Do you have a criminal record? | Who are the corporate managers and owners? |
| Have you ever had a warning | Do any of the managers, owners or officers have a criminal record? |



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| from the police? | |
| Have you ever been bankrupt? | Does the firm have professional indemnity insurance? |
| Has the county court ever made a judgment against you? | If the firm has received funding to get started or for any other reason, where did the money come from? |
| Has any other regulator taken action against you? | Has any other regulator ever refused to regulate or overturned its decision to regulate the firm? |
| Have you ever abused a position of trust for financial gain? | Who will be the compliance officer, responsible for making sure the firm follows our rules? |
| Have you ever plagiarised or cheated during your education? | Will your firm offer legal services that are subject to money laundering regulations, and, if so, which ones? |
| | Who will be the money laundering compliance officer and money laundering reporting officer, responsible for making sure the firm follows money laundering regulations? |
| | If you have a new beneficial owner, officer or manager joining or switching firm, have they carried out a Disclosure and Barring Service (DBS) check and submitted this to us? This is so that we can authorise them to carry out their new role. |

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Authorisation – glossary

Alternative business structure (ABS)

A structure that allows non-lawyers to own or invest in law firms.

Authorisation

Where we consider applications from individuals and firms to enter the legal services market.

Exempt European lawyer (EEL)

Lawyers who practise in England and Wales on a non-permanent basis and who are based outside England and Wales. The term comes from an EU directive.

Incorporated company

A business which has been set up by one or more person. Incorporated companies are subject to different tax and governance rules, which can be attractive to the owners, depending on their business needs. The owners' financial liability is also limited.

Limited liability partnership (LLP)

A business structure where there are two or more partners. It limits the financial liability of the partners.

Multi-disciplinary practice

A business structure that offers customers legal and other professional services, such as accountancy or surveying.

Partnership

A business structure where there are two or more partners. Partnerships can be easier to form, manage and run. Unlike an incorporated company or LLP, you do not need to file any documents with the government to make your business a partnership. Also, partnerships do not need to prepare and publish their accounts.

Practising certificate

A document we issue that allows solicitors to practise the law. Solicitors must renew their practising certificate every year.

Registered European lawyer (REL)

An EU-qualified lawyer who registers with us to practise English and Welsh law in England and Wales.

Registered foreign lawyer (RFL)

A lawyer from outside the EU and the European Economic Area who registers with us to practise English and Welsh law in England and Wales.

Roll of solicitors

This is a record of solicitors that we have authorised to practise English and Welsh law. Not all solicitors on the roll will actively be practising the law.

Sole practitioner

A solicitor who runs their own legal practice on their own.

Profile of the market

Profile of law firms

The number of law firms choosing to apply for an ABS licence continues to increase and is an especially popular choice for incorporated companies. The overall number of law firms in England and Wales has stayed relatively stable, but we know that the legal profession is growing (see profile of solicitor population).

| | 2016/17 | 2017/18 | 2018/19 |
|---------------------------|---------|---------|---------|
| Total number of law firms | 10,420 | 10,407 | 10,341 |
| Firms with an ABS licence | 681 | 791 | 877 |

Please note, our business year is 1 November to 31 October. These figures are as of the end of October each year.

Profile of solicitor population

The number of practising solicitors continued to grow in 2018/19, and hit an all-time high in October 2019, showing that working as a solicitor in England and Wales remains an attractive career option. The solicitor population has increased year-on-year over the past decade, with numbers increasing each year by approximately 2,000 to 6,000.

Please note, these figures do not include RELs, RFLs or EELs and show the numbers as at October of the latter year.

Waivers and the Innovation Space

We want to see firms innovate and grow in a modern legal market, working in new ways for their customers, and making it easier for people to find the legal service they need.

We are committed to helping current providers of legal services develop their businesses in new ways and to supporting new types of organisations who are thinking of delivering legal services for the first time.

Our rules can sometimes get in the way of firms and solicitors offering legal services in novel and creative ways. Our waivers policy [\[sra/decision-making/guidance/granting-waiver/\]](#) and Innovation Space [\[solicitors/resources/sra-innovate/\]](#) (introduced in 2016) allow firms, solicitors and new entrants to the market to explore different ways of running their business and to introduce original ideas. The Innovation Space is a controlled test area for ideas that are likely to benefit the public. More information on how we aim to promote innovation in the coming year can be found in the future work chapter.

[\[#_Future_work\]](#)

Since the introduction of our new Standards and Regulations on 25 November 2019, we will no longer grant some of the waiver types shown in the table below. This is because our rules are now more flexible and less prescriptive, meaning there is no need to offer a workaround.

Types of waivers granted 2017—2019

We can agree that firms do not contribute to the Compensation Fund. We will do this where a firm has only held a very small amount of client money for a very short period, and there is no risk of their clients making a claim on the fund.

| Waiver granted | What it means | Number granted in 2017/18 | Number granted in 2018/19 |
|--------------------------|--|---------------------------|---------------------------|
| Authorisation Rules | We can waive some of our Authorisation Rules if they are burdensome for a firm to follow. For example, we will allow a firm to appoint a manager at short notice and then ask us to authorise them. We must authorise all managers in the firms we regulate before they are appointed to make sure they meet the standards we set, and we generally do this before they take up their position. Allowing firms to do this gives them more flexibility in running their businesses. | 19 | 28 |
| Practice Framework Rules | We can waive our rules on how and where solicitors and other people we regulate can work. We will allow this if we | 38 | 33 |

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| | <p>can see there is a benefit to the public. For example, under our rules, a solicitor who wants to set up their own law firm must be managed by someone with three or more years' experience. We will waive this rule if a solicitor wants to set up their own practice as a sole practitioner and has three years' experience.</p> | | |
| <p>Access to solicitors through the 'Innovation Space'</p> | <p>This is a safe space for new and existing firms to trial new ideas that benefit the public. To make sure the ideas are trialled in a safe way and to protect the public, firms must get insurance that meets our minimum terms and conditions. The of waivers we have granted in our Innovation Space so far have, for instance, allowed solicitors to work in firms we do not regulate and which are not regulated by another legal services regulator, so long as they do not handle client money. We have done this because we think it benefits the business's clients to access the services of a solicitor. We only waive a rule when we can see there will be no harm to the public. Under the new Standards and Regulations, which came into force in November 2019, firms no longer have to apply for this particular waiver, as this arrangement is now allowed.</p> | 3 | 2 |
| <p>Professional indemnity insurance (PII) requirements</p> | <p>Where we agree that firms do not have to get the minimum terms and conditions PII that they usually must under our rules. We do this in instances where the firm has an alternative insurance policy that has equivalent or better terms than our own.</p> | 6 | 4 |
| <p>To submit Accountants' Reports</p> | <p>We can agree that firms do not need to send us an annual report of their accounts if they are shutting down. For example, we waive this rule if we can see there has been a very small</p> | 6 | 9 |



| | | | |
|-----------------------|---|---|---|
| | number of client transactions handled over a period of time. | | |
| Compensation Fund fee | We can agree that firms do not contribute to the Compensation Fund. We will do this where a firm has only held a very small amount of client money for a very short period, and there is no risk of their clients making a claim on the fund. | 2 | 3 |

Legal Access Challenge

During 2019, we ran the Legal Access Challenge along with Nesta Challenges. We received money to run the challenge from The Regulators' Pioneer Fund, a government initiative set up to help make sure regulators keep pace with technological advancements.

The competition saw participants submit their innovative legal tech ideas, focused on improving access to justice, to try to secure funding towards making them a reality.

The initial challenge prize of £500,000, set aside for winners, and to cover the costs of running the challenge, was increased by £250,000 as a result of the scale of interest. There were 117 applications, covering a diverse scope of issues and areas of law. In September 2019, eight finalists were each awarded £50,000 to develop their ideas and we offered them a range of support to help them move forward with their ideas. All but one of the finalists said the challenge had accelerated the development of their solution.

In April 2020, we gave an additional £50,000 to two winning finalists:

- RCJ Advice who created a technology platform which helps survivors of domestic abuses protect themselves, through integrating technology with human advice and support.
- Mencap and Access Social Care who developed a chatbot to assist people, including those with learning disabilities, understand their social care rights.

Both finalists offered potential solutions in overcoming the restrictions imposed by the current Covid-19 crisis. The need for support to women facing domestic abuse was seen as being particularly urgent.

More information can be found in our The Legal Access Challenge, conclusion and next steps report [[/globalassets/documents/sra/research/sra-legal-access-challenge.pdf?version=49dad5](#)] .

Regulation in Wales

Some 3,927 practising solicitors and 430 head offices are based in Wales, largely in Cardiff (this is an estimate figure due to cross-border working). This is around 4% of all law firm head offices.

In 2018/19, 1,205 practising solicitors indicated that they speak Welsh. And, some 779 practising certificates were issued in Welsh last year, supporting in providing services to Welsh-speaking people. Wales-based law firms continued to thrive in 2018/19. Their turnover came to £430m in 2017/18, up £50m compared with four years ago.

Regulating Wales: Headline stats

| | Practising certificate holders based in Wales | Head offices based in Wales | Percentage of law firms based in Wales | Practising certificate holders who indicate they speak Welsh | Practising certificates issued in Welsh | Turnover |
|---------|---|-----------------------------|--|--|---|----------|
| 2016/17 | 3,770 | 440 | 4% | 1,140 | 737 | £397m |
| 2017/18 | 3,885 | 443 | 4% | 1,172 | 777 | £410m |
| 2018/19 | 3,927 | 431 | 4% | 1,205 | 779 | £428m |

Wales focus

Presence and engagement

Over recent years, we have increased our engagement, presence and activities in Wales. We have held regular consultation events for the public and the profession, small firm events, focus groups, Board meetings and events and meetings with key organisations. From 2021, we will look to further increase our presence by opening an office in Wales, subject to the effect of Covid-19 on our plans and make suitable arrangements.

Communicating in Welsh

Although we are not listed under the Welsh Language Measure 2011 (Welsh legislation to promote and facilitate the use of the Welsh language), our aim is to meet the needs of Welsh users of legal services. This is why we publish a wide range of our corporate material in Welsh. This includes our Public Engagement Charter [[/globalassets/documents/consumers/welsh-public-engagement-charter.pdf?version=496522](#)] , Board accountability [[/sra/how-we-work/our-board/welsh/datganiad-atebolrwydd/](#)] and transparency statements [[/sra/how-we-work/our-board/welsh/datganiad-tryloywder/](#)] , and web pages on reporting solicitors [[/consumers/problems/report-solicitor/cymraeg/riportio-unigolyn-neu-gwmni/](#)] . We also use

Welsh in our social media work. We will continue to communicate many of our key messages and materials in Welsh, to make sure we achieve our aim.

Delivering the SQE in Welsh

The new assessment all aspiring solicitors will need to take before they qualify, the Solicitors Qualifying Examination (SQE), will be introduced in autumn 2021. We have engaged with a wide range of Welsh stakeholders as we and Kaplan (the assessment provider for the SQE) develop the exam. Stakeholders were clear that they want to see full parity of approach between English and Welsh on the SQE, and we recognise why this is important.

There will be a phased introduction of the SQE in Welsh, leading to full parity after four years. The four key phases are:

- Phase 1: 2021 (from the start of the SQE). Candidates can provide their responses to the SQE2 written skills assessments in Welsh.
- Phase 2: 202/23. Candidates can provide their responses to the SQE2 oral assessments in Welsh.
- Phase 3: 2023/24. Questions for oral and written skills assessments will be translated into Welsh, and candidates can respond in Welsh. This means complete parity for SQE2.
- Phase 4: 2024/25. SQE1 functioning legal knowledge questions are translated into Welsh. This means full parity for both SQE1 and SQE2.

More information on the SQE [\[sra/policy/solicitors-qualifying-examination/\]](/sra/policy/solicitors-qualifying-examination/) and its design [\[sra/policy/solicitors-qualifying-examination/sqe-final-design/\]](/sra/policy/solicitors-qualifying-examination/sqe-final-design/) can be found on our website.

Future work

Standards and Regulations review

We commissioned independent research [\[sra/how-we-work/archive/reports/better-information-legal-services-market/\]](/sra/how-we-work/archive/reports/better-information-legal-services-market/) in October 2020 to review the impact of our Transparency Rules, which showed that they are starting to make a difference. The rules, first introduced in December 2018, mean all firms need to provide information on their complaints procedures and display the SRA clickable logo [\[solicitors/resources/transparency/clickable-logo/\]](/solicitors/resources/transparency/clickable-logo/). Some firms also need to provide information on the type and cost of legal services they offer. Encouragingly, 77% of the public find that the information now available online is useful in helping them find and choose potential legal providers.

We will carry out the year-one evaluation of our new Standards and Regulations [\[solicitors/standards-regulations/\]](#) – our revised rules and regulations which we introduced in November 2019. Aimed at cutting out unnecessary bureaucracy, and making our rules easier to navigate, we will look at how they are working in practice. This includes a review of how the Innovation Space is working and we will use the evaluation to decide how best to develop its focus and operation. Part of this will be considering how we can better help small firms to develop their services in innovative ways.

Monitoring the effects of Covid-19

We have been working closely with the profession, other legal regulators, and representative groups to understand what the implications of Covid-19 are for the sector now and what they might be in the future.

We recognise that this is a worrying time for solicitors and firms, and we will continue to monitor the situation and support solicitors and firms – as well as the public – through publishing and updating resources and information.

Leaving the European Union

We will continue to monitor how the UK's exit from the EU will change the way solicitors and law firms work. Our priority is to make sure that the public, from every community, can be confident that high standards are maintained in a changing landscape. In order to do this, we will work closely with the government and other agencies, including EU and international regulators, to ensure a smooth transition to any new arrangements.

Our Corporate Strategy 2020—23

November 2020 marks the beginning of our next three-year corporate strategy [\[sra/corporate-strategy/\]](#). We have made a commitment to further promote legal tech and innovation as part of this, because we know that tech and innovation will radically reshape what businesses offering legal services look like and what that looks like for consumers.

We, like others, need to consider how best innovation and technology can help people, recognising that digital access varies and digital poverty exists. Research into legal tech we plan on carrying out in the year ahead will likely focus on how best technology can help those with limited or no access to digital services.

Building on the success of our 2019/20 Legal Access Challenge [\[sra/how-we-work/archive/reports/legal-access-challenge/\]](#), we will look at how the second round of the Regulators' Pioneer Fund, which will provide £10m of funding, can contribute further to increasing access to justice. We are also engaged in the Lawtech Delivery Panel work [\[https://technation.io/\]](https://technation.io/) to secure government

funding to support a legal sector technology sandbox, where new ideas can be tested.