



Legal Aid
Agency

Police Station Register Arrangements 2001

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6	2001	21 July 2023	Service Development

Version History

Version	Date	Reason
6	21 July 2023	Updated the exemptions from the Relevant Tests in accordance with the police station representative accreditation scheme assessment guidelines published by the Solicitors Regulation Authority (SRA)
5	20 February 2020	New appeals procedure
4	29 April 2013	Change from the Legal Services Commission to the Legal Aid Agency
3	2 October 2006	
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Interpretation

1.1. Unless otherwise stated, definitions set out in Legal Aid Legislation and the Standard Crime Contract apply to these Arrangements.

1.2. In these Arrangements, unless the context otherwise requires:

"Accredited Representative" is a representative the name of whom is included on the Police Station Register who gives Legal Advice at Police Stations having passed the Relevant Tests;

"Application Form" is the current form for applying for inclusion on the Police Station Register issued by the Agency to the Assessment Organisation to be given to and completed by the applicant;

"Assessment Organisation" is an organisation approved by the Solicitors Regulation Authority to apply the Relevant Tests;

"Certificate of Fitness" is a certificate given by the Supervising Solicitor that the Representative is of suitable character to provide Legal Advice at Police Stations and that the applicant should be so regarded by the police in accordance with paragraph 6.13 of the Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers;

"Agency" means the Legal Aid Agency at the current address of its Head Office in London;

"Legal Advice at Police Stations" means advice and assistance provided under Section 13 of the Legal Aid Sentencing and Punishment of Offenders Act 2012;

"Police Station Register" is a listing of Probationary and Accredited Representatives maintained by the Agency;

"Probationary Representative" is a Representative who has not passed the Relevant Tests and the name of whom is included on the Police Station Register. A Probationary Representative cannot give advice in connection with indictable only cases;

"Relevant Tests" are the tests undertaken by a Probationary Representative who must have satisfied an Assessment Organisation that he/she has passed the portfolio test covering the Part A and B cases, the written examination and the critical incidents test the details of which have been prescribed by the relevant Assessment Organisation.

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 also exempt. 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 Exemption;

"Representative" is a Probationary or Accredited Representative included on the Police Station Register who gives Legal Advice at Police Stations and who falls within paragraph 2.2. A Representative may include a person who is not a Solicitor and a Solicitor with a practising certificate who is not a Duty Solicitor.

"Standard Crime Contract" means the contract so named between the Lord Chancellor and a person with whom the Lord Chancellor has made an arrangement under section 2(1) of the Act for the provision of advice, assistance and representation made available under sections 13, 15 and 16 of the Act(a).

"Supervising Solicitor" means the Solicitor who is currently supervising the Representative and who must be a current Duty Solicitor or, failing which, a Solicitor who is acceptable to the Agency as meeting the Crime Category Supervisor Standard (including on a temporary basis) but not the Prison Law Supervisor Standard or the Appeals and Reviews Supervisor Standard, and who must not have been suspended from Supervising Solicitor status under the Standard Crime Contract.

Police Station Register

- 2.1. The Agency shall maintain a Police Station Register of Probationary and Accredited Representatives in respect of whom the Agency may pay remuneration to holders of a Standard Crime Contract for giving Legal Advice at Police Stations.
- 2.2. The Agency shall, unless there is good reason to refuse, register a Representative on the Police Station Register once an Assessment Organisation has certified that the Representative has submitted sufficient details of the Part A portfolio cases to it which have been prescribed by the relevant Assessment Organisation and has passed or is exempt from the written examination, and the Representative has applied to the Agency for registration within three months of the certification by the Assessment Organisation.
- 2.3. A Representative shall not be employed as a special constable or in any other capacity that may cause a conflict of interest when undertaking criminal defence work.
- 2.4. The Agency shall not include an Accredited or Probationary Representative on the Police Station Register unless an application has been made on a properly completed Application Form provided by the Assessment Organisation and completed by the Representative. Such Representatives will be registered from the date the Agency receives a properly completed Application Form and the Agency will notify the Representative of the date of registration.
- 2.5. The Agency shall record the Representative as an Accredited Representative when it has been notified by an Assessment Organisation that the Representative has passed the Relevant Tests.
- 2.6. Representatives are responsible for notifying the Agency of any change of address or other details recorded on the Police Station Register and the Agency shall not be liable for the consequences of suspending a Representative from the Police Station Register where it has not received a Certificate of Fitness or has not been notified of a change of address.
- 2.7. The Agency shall, unless there is good reason to refuse, register a Representative on the Police Station Register as accredited without having to complete any of the Relevant Tests if the applicant has previously been a Duty Solicitor and currently holds either CLAS membership or the Police Station Qualification (by passporting or otherwise), provided he or she provides proof of the same together with a signed Certificate of Fitness from a Supervising Solicitor.
- 2.8. The Representative may, where the Agency refuses to register under paragraph 2.2 or 2.7, appeal, in accordance with the arrangements set out in section 7 of these Arrangements.

Certificate of Fitness

- 3.1. The Application Form must include a Certificate of Fitness which must be signed by the Supervising Solicitor.
- 3.2. No person applying to be registered on the Police Station Register as a Probationary or Accredited Representative can be so registered without submitting to the Agency a properly completed Application Form incorporating a Certificate of Fitness properly completed.
- 3.3. The Supervising Solicitor must notify the Agency if he or she ceases to supervise the Representative or satisfy the definition of Supervising Solicitor in section 1 of these Arrangements.
- 3.4. The Representative must notify the Agency if he or she ceases to be supervised by his or her Supervising Solicitor.

Suspension from the Police Station Register

4.1. The Agency shall:

- i) subject to any suspension under sub-paragraph iii), suspend a Probationary Representative from the Police Station Register where it does not receive notification from an Assessment Organisation that the Representative has passed one of the Relevant Tests (not including the written examination) within six months of the date of registration with the Agency;
- ii) unless the Representative has previously been suspended under sub-paragraph i) and subject to any suspension under sub-paragraph iii), suspend a Probationary Representative from the Police Station Register where it does not receive notification from an Assessment Organisation that the Representative has passed all the Relevant Tests (not including the written examination) within one year from the date of registration;
- iii) suspend a Probationary Representative from the Police Station Register at the request of the Representative for a minimum period of one month where the Representative gives prior notice on one occasion only or, where prior notice is not given subject to the reason for suspension being for illness, pregnancy or loss of employment, for a minimum period of one month. Suspension will be for a maximum period of not more than three years from the date of suspension;
- iv) suspend a Representative from the Police Station Register if a Certificate of Fitness required under paragraph 6.2 is not received within 14 days;
- v) suspend a Representative from the Police Station Register from the date of an order made by the Solicitors Disciplinary Tribunal under Section 43 of the Solicitors Act 1974 or a decision to suspend made under paragraph 6.3;
- vi) suspend a Probationary or Accredited Representative where the Supervising Solicitor informs the Agency that he or she is no longer supervising the Representative and the Representative has not provided a Certificate of Fitness signed by another Solicitor;
- vii) if the Representative has previously been suspended under sub-paragraph i) and reinstated under sub-paragraph 5.1 i), and subject to any suspension under sub-paragraph iii), suspend a Probationary Representative from the Police Station Register where it does not receive notification from an Assessment Organisation that the

Representative has passed all the Relevant Tests (not including the written examination) within six months of the date of reinstatement.

- 4.2. A Representative (except for a Solicitor with a practising certificate who does not undertake Duty Solicitor cases) who has been suspended from the Police Station Register shall not be treated as being registered and may therefore not be remunerated for Legal Advice at Police Stations.
- 4.3. Where the Agency suspends a Representative under paragraph 4.1, there is no right of appeal (except for a suspension made under paragraph 6.3, referred to at paragraph 4.1(v)).

Re-instatement

- 5.1. The Agency, having received the relevant notification, shall reinstate a Probationary or an Accredited Representative who has been suspended from the Police Station Register from the date when one of the following events takes place:
- i) where an Assessment Organisation informs the Agency that a Representative has passed one of the Relevant Tests (not including the written examination) after six months but before one year from the date of registration subject to any period of suspension under paragraph 4.1(iii). Reinstatement shall take effect from the date the Agency is notified by the Assessment Organisation that the Representative has passed one of the Relevant Tests;
 - ii) where all the Relevant Tests (not including the written examination) have been passed;
 - iii) at the end of a period of suspension referred to in 4.1 iii) but only for the balance of the probationary period of one year;
 - iv) where the Representative has not submitted a Certificate of Fitness under paragraph 6.2 within the relevant period subject to the Certificate being received by the Agency; or
 - v) where a Representative is suspended under paragraph 4.1 v) and permission has been given by the Solicitors Regulation Authority for the Representative to be employed by the employing solicitor or the Agency has consented to a permanently suspended Representative being reinstated under paragraph 6.4.
- 5.2. An application for reinstatement must be made in writing to the Agency. A Representative cannot be re-instated to the Police Station Register following permanent suspension without the consent of the Agency. An application for re-instatement against permanent suspension cannot be made for a period of one year from whichever is the later of the date of the decision of the Agency or an appeal decision by the Head of the Agency's Service Development Team.

Fitness to remain on the Police Station Register

- 6.1. A Representative must inform his or her Supervising Solicitor where the Representative is under investigation for or has been charged with a criminal offence or is the subject of an investigation by the Solicitors Regulation Authority and the Supervising Solicitor must, in the light of any guidance issued by the Law Society, report the matter to the Agency.
- 6.2. Where a question arises as to the suitability of character of the Representative to give Legal Advice at Police Stations the Agency may request the Representative to obtain from the Supervising Solicitor a Certificate of Fitness which must be received by the Agency within 14 days of the request being issued.
- 6.3. If the Agency is not satisfied that, either before or after a Certificate of Fitness is received by it, the Representative is fit to remain on the Police Station Register the Agency may in respect of one or more of the grounds set out in paragraph 6.4 suspend a Representative either for a period of up to 12 months or permanently from the Police Station Register. On suspension the Agency may impose conditions which must be met before the Representative is reinstated to the Police Station Register. The Agency shall notify the Supervising Solicitor of any suspension.
- 6.4. A Representative may be suspended where:
 - i) he or she is in breach of a requirement of these Arrangements;
 - ii) he or she is under investigation, faces an outstanding criminal charge or has been convicted of a criminal offence or is the subject of an investigation by the Solicitors Regulation Authority;
 - iii) he or she does not demonstrate the level of competence required by the Relevant Tests;
 - iv) he or she has not undertaken at least 25 police station cases (Legal Advice at Police Stations) annually involving attendance at the police station, unless this is for a good reason;
 - v) he or she has not undertaken at least six hours' professional development on issues relevant to criminal law;or
 - vi) some other good reason arises.

- 6.5. The Representative may, where suspended under paragraphs 6.3 and 6.4, appeal in accordance with the arrangements set out in section 7 of these Arrangements.

Appeals

- 7.1. A Representative's appeal against suspension will be determined on the papers by the Head of the Agency's Service Development Team. In an exceptional case, and only where the suspension is permanent, the Head of the Agency's Service Development Team may refer the appeal to a Panel comprising the Head of Service Development, the Principal Legal Advisor to the Director of Legal Aid Casework and the Deputy Director of Service Development and Central Commissioning. The Panel has a discretion as to whether the appeal will be determined on the papers or whether to hold a hearing at which the Representative is permitted to make oral representations.
- 7.2. All appeals shall be made in writing within 30 days of receipt of the decision against which the appeal is to be made, subject to the Head of the Agency's Service Development Team having discretion to accept an appeal outside that period for good reason. The appellant shall submit written representations when giving notice of appeal. The notice of appeal and written representations should be submitted to the Head of the Agency's Service Development Team at Legal Aid Agency, 102 Petty France, London, SW1H 9AJ (or such other address as we may notify to you). The Agency's staff may obtain and provide information relating to the appeal provided that the appellant receives a copy.
- 7.3. The Agency shall postpone a suspension until any appeal is decided unless it considers that there is good reason for suspending the Representative prior to the appeal which shall be notified to the Representative.
- 7.4. On receipt of an appeal under paragraph 7.1 the Agency may reconsider its decision, but if it decides not to do so it shall refer the matter to the Head of the Agency's Service Development Team to consider the appeal.
- 7.5. The Head of the Agency's Service Development Team shall normally consider appeals at the latest within three months of the date on which the appeal was received.
- 7.6. If, subsequent to the appellant submitting the appeal, Agency staff provide information on the appeal under paragraph 7.2, the appellant may make further written representations in response. The appellant should submit any further written representations within 14 days of being provided with the information from the Agency, after that it will be at the discretion of the Head of the Agency's Service Development Team whether to consider the further written representations.

- 7.7. The Head of the Agency's Service Development Team shall consider the application afresh in accordance with the relevant criteria in these Arrangements and the decision of the Head of the Agency's Service Development Team will replace the decision of the Agency.
- 7.8. The Head of the Agency's Service Development Team may allow an appeal subject to such conditions as he/she considers appropriate.