

NEW TRAINING REGULATIONS FOR SOLICITORS FROM 1 NOVEMBER 2016

New SRA Competency Approach

From 1 April 2015, the SRA's traditional requirement that solicitors must obtain at least 16 hours Continuing Professional Development (CPD) points every year was replaced by a new approach called the SRA Competency Approach.

This has to be adopted by all solicitors from **1 November 2016**.

Summary of New Approach

To achieve SRA competency (which must be declared on an annual basis before a practising certificate can be awarded) the new approach requires:

- A solicitor to reflect on their practice; and
- Undertake regular learning and development so that their skills and knowledge remain up to date.

However the new approach is not prescriptive as to how this is to be done. Although the SRA no longer mandates the manner in which competency is achieved and recorded, a solicitor needs to be able to demonstrate (and record) their continuing professional development themselves.

The SRA recognises that competency can be achieved through formal training and more informal, on-the-job learning, so it is possible through a combination of attending and delivering formal training and learning-through-doing, a solicitor can achieve SRA competency.

The Competence Statement (the Statement)

The Statement defines in detail the continuing competences that the SRA requires from solicitors. Meeting the competences within the Statement will, according to the SRA, ensure that a solicitor is providing a proper standard of service in accordance with Principle 5 of the SRA Principles.

<https://www.sra.org.uk/solicitors/cpd/tool-kit/resources/use-competence-statement.page>

The Statement uses a broad definition of competence being 'the ability to perform the roles and tasks required by one's job to the expected standard'. This does not assist greatly in identifying what a solicitor needs to do on a practical level in order to comply with the SRA's requirements and to provide clients with the required level of service. The Statement is detailed and is broken down into four sections covering the following areas:

- Ethics, professionalism and judgement;
- Technical legal practice;
- Working with other people; and
- Managing yourself and your own work.

Whilst the Statement does not provide any practical guidance it does contain a comprehensive set of competencies that must be attained by all solicitors.

Each year, every solicitor will need to reflect on their practice and declare that they are competent.

The Toolkit

The SRA state in their Toolkit that they require a solicitor to **reflect** on the quality of their practice by reference to the Statement and identify learning and development needs. Thereafter a solicitor is required to **plan** and **address** those needs, and **record** this information so that if the SRA needed to engage with the solicitor on a regulatory matter, or where they suspect a competence risk, the solicitor can demonstrate the steps taken to ensure their competence. The SRA state that '*failure to demonstrate that you have reflected on the quality of your practice and addressed any learning and development needs may be an aggravating factor in any action we may take*'.

A solicitor will be required to make an annual **declaration** that they have completed these steps.

The SRA state that strict compliance with the Toolkit is not mandatory. What is clear is that at each stage, from planning and addressing learning needs, comprehensive records should be kept to evidence the steps taken. The Toolkit provides suggested ways in which a solicitor can address their learning needs, which includes not just formal training but also in-house training, shared learning, informal training and research, reading and discussion.

It is suggested that a development record is kept, containing information that would enable the solicitor to demonstrate they have taken sufficient and appropriate measures to maintain their competence and level of service. There is no specific prescribed approach to this record however the Toolkit does suggest what should be in such a document. See the link below.

<http://www.sra.org.uk/solicitors/cpd/tool-kit/continuing-competence-toolkit.page>

What should a solicitor be doing to ensure compliance?

1 Appraisals

Many firms will already have a competency framework in place through their formal appraisal system.

2 Plan their learning

- 2.1 Most solicitors will be set objectives as part of their annual appraisal and often there will be consideration of training and development needs. It will also be necessary to plan learning and record it. This is important because it enables a solicitor to identify and set priorities.
- 2.2 To help a solicitor prepare a plan, consideration needs to be given to the following:
 - 2.2.1 what they need to learn (including resources);
 - 2.2.2 why they need to do it;
 - 2.2.3 when they need to do it (target dates and completion);
 - 2.2.4 how they will achieve it;
 - 2.2.5 how to measure success;
 - 2.2.6 prioritising learning and development needs.
- 2.3 A solicitor will need to record their thinking in a Development Plan each year and this has to be kept under regular review.

3 Learning and Recording

- 3.1 Learning takes many forms:
 - 3.1.1 Training courses, internally or with external providers;
 - 3.1.2 On-the-job training;
 - 3.1.3 Mentoring /coaching;
 - 3.1.4 Giving training to others;
 - 3.1.5 Reading;
 - 3.1.6 Discussion;
 - 3.1.7 Attending meetings with clients.

- 3.2 The learning needs to be recorded. Many firms will be able to assist their solicitors to do this through their time recording systems (e.g. specifically developed non chargeable codes to follow the different areas set out above). However some detail needs to be given as to how the activity has improved the solicitor's competency.
- 3.3 The obligation to record learning must be taken very seriously because a solicitor needs to certify to the SRA that they are competent, based on verified evidence of learning, to obtain a practising certificate.

4 Declaration of Competence

- 4.1 From **October 2017** a solicitor will need to make the following declaration when applying for a practising certificate:

"I have reflected on my practice and addressed any identified learning and development needs."

- 4.2 A solicitor will need to make this declaration via their MySRA form on the SRA website.