



# The City of London Law Society

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## **Response to consultation regarding approval of new partnerships and non-lawyer managers: new application forms**

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The City of London Law Society (CLLS) represents over 13,000 City lawyers, through individual and corporate membership including some of the largest international law firms in the world. These law firms advise a variety of clients from multinational companies and financial institutions to Government departments, often in relation to complex, multi-jurisdictional legal issues.

The CLLS responds to a variety of consultations on issues of importance to its members through its 17 specialist committees. This response to the consultation regarding approval of new partnerships and non-lawyer managers: new application forms has been prepared by the CLLS Professional Rules and Regulation Committee.

### **1. Generally**

- 1.1. The forms leave insufficient space for names and details and, as presented in pdf format, can only be completed in hard copy.

It would be helpful if they were available in a format which can be completed in soft copy and which was compatible with the software in common use within law firms (eg. MicroSoft).

- 1.2. Related to point 1.1, there are certain sections of the forms which may require duplication (eg. the qualifications data in section 2 of the NL1 and section 4 of the RB1). The format used to deliver the form needs to accommodate this sort of tailoring.

As a practical matter related to ease of use, particularly for applications involving large numbers of people or entities, an approach similar to that used for simplified tax returns could be adopted. If that were done, each form could start with a checklist of what should follow on which the applicant would identify, say, how many pages relating to employees accompanied an RB1.

- 1.3. Throughout these forms reference is made to "surnames" and "forenames". It cannot be assumed that all applicants will have names following the European convention. These references should be changed to something with a general application (eg. "family name" and "given name").
- 1.4. The forms require signature on behalf of the applicant to confirm that the information given is "true and complete to the best of my knowledge and belief".

This is a very high standard. What duties are being imposed on the individual to make independent checks to confirm details? Further guidance on the extent of these obligations is required, particularly given the wide ranging nature of the questions and the fact that they have no time limit. If all that is expected is that the applicant asks the candidate, what is being achieved? If more is expected, how is the applicant firm meant to discharge its obligations in practice?

Other concerns arising from the specific declarations attaching to each form are set out below.

- 1.5. Both forms combine (a) initial applications with renewal applications and (b) applications for registration of new law firms and partners with applications covering existing law firms and partners. This may lead to confusion which could be avoided by the provision of separate forms for each situation or (preferably) separate sections on each form for each situation.
- 1.6. Subject to our comments in sections 2 and 3 below we are satisfied that:
  - we were able to understand the questions asked; and
  - the guidance notes were sufficiently clearly written to be understood in conjunction with the associated form.

## **2. Form NL1**

### **2.1. Section 1 - Applicant's details**

2.1.1. There is a potential timing difficulty with the preferred start date approach. The law firm will need to know the date on which the candidate is approved by the SRA sufficiently in advance to be able to make various practical arrangements, for example to comply with the obligations to disclose the identity of the managers of the firm. This means that the point cannot be left entirely in the hands of the SRA (although it is understood that the SRA will need time to consider each application).

2.1.2. Most law firms would wish to choose a particular date for their own internal administrative and accounting purposes. They will need some idea of how long things can be expected to take. One answer would be to put some specific time frames around the various stages of the process, e.g. applications to be submitted at least four weeks before the preferred start date and the SRA to respond either with approval or with a revised date with two weeks of receipt of the application.

### **2.2. Section 2 - Candidate's details**

2.2.1. What if the candidate has been a member of a legal professional and/or regulatory body in more than one jurisdiction?

2.2.2. What if the candidate is qualified in more than one profession? As stated in 1.2 above, users will require the facility to duplicate this section of the form where people are dual or multi qualified.

2.2.3. The question at the top of page 2 presumably means "if 'No' give the name of the candidate's current employer".

### **2.3. Section 3 - CRB check**

- 2.3.1. To give this confirmation the applicant will need to see the CRB application as submitted. If the intention is that the candidate makes this application separately for reasons of confidentiality then the question should not be asked of the applicant. Otherwise, why not make the CRB application an appendix to the main form?

### **2.4. Section 4 - Regulatory history**

- 2.4.1. We would expect the SRA to be in the best position to answer questions (b) to (d).
- 2.4.2. Question (c) should be phrased “the subject of an intervention by the SRA” or some such.
- 2.4.3. Can the applicant firm check these details independently with the authorities concerned and, if so, is it expected to do so? More guidance would be helpful.
- 2.4.4. The applicant firm can only ask the candidate for the answer to (e). It is questionable what is being achieved here. (The comma at the end should be a question mark.)

### **2.5. Section 5 - Character and suitability**

- 2.5.1. See general comment 1.4.

### **2.6. Section 7 - Applicant's declaration**

- 2.6.1. The candidate will have already confirmed that the information about them on the form is correct and complete to the best of their knowledge and belief when signing off the candidates declaration in section 6,

We do not consider it reasonable to expect the applicant to make a similar declaration in section 7 when they will also be relying on assurances from the candidate in relation to much of this personal data. We suggest that this confirmation should be removed from point 4 of the applicant's declaration.

- 2.6.2. The inclusion on the form of a checklist listing the information and documentation which must be obtained and kept in accordance with regulation 3.4C (ii) and (iii) would be aid to those completing the form. This would help prevent oversight and give the SRA some visibility of what has been obtained.
- 2.6.3. As stated at the bottom of section 7, the approval continues until withdrawn or two years have elapsed during which the non-lawyer has not been a manager of a recognised body. Given that this form may be used by someone who has previously been granted approval and this will be relevant to the new application, the form should include space in which this can be documented.

## **2.7. Section 9 - returning the form**

2.7.1. The reference in the Notes on Form NL1 to including form NL1 on the enclosure list is incorrect.

## **3. Form RB1**

### **3.1. Section 2 - Practice commencement date**

3.1.1. As with form NL1, some thought needs to be given to how the timing will actually work in relation to the Practice commencement date. The new partnership will need to have some certainty over the dates to which it is working.

3.1.2. The guidance notes (see the FAQs section) are confusing in relation to cases where approval of a non-lawyer manager is also required. The first paragraph, read alone, seems to imply that it could be sufficient if a form NL1 has been submitted. However, the second paragraph says that form RB1 will not be processed to completion until all proposed non-lawyer partners have been approved. It would be clearer if the guidance said that where a new partnership includes a non-lawyer partner requiring SRA approval forms NL1 and RB1 will be considered together as one application. That said, if the new partnership otherwise satisfies the requirements why can it not be recognised so as to be able to begin practice leaving the non-lawyer partners to be admitted later once they have been approved?

### **3.2. Section 3 - Head/main office**

3.2.1. Is a generic email address being requested here? What will it be used for? Generic addresses are not ideal for communication from a Regulator since things can too easily go astray.

### **3.3. Section 4 - Other offices**

3.3.1. See general comment 1.2, users will require a facility to duplicate this section of this form for multiple offices.

3.3.2. See comment at 3.2.1 re generic email addresses.

3.3.3. The word "not" is missing from the penultimate paragraph of the Notes on this section.

### **3.4. Section 5 - Accountant's report section**

3.4.1. With reference to the general comment in 1.2 the space provided for listing offices which will be subject to a separate accountants report is likely to be inadequate. Would it be better to ask this question in relation to each office in section 4?

### **3.5. Section 7 - Main contacts**

3.5.1. There is insufficient space to fill in most people's names.

3.5.2. Would it not be sensible to ask for individual email addresses here rather than request generic addresses in Sections 3 and ?

3.5.3. What is the relevance of naming a single partner qualified to supervise in this section? In most firms there will be multiple persons so qualified and this information can be ascertained from the information provided in section 9.

### **3.6. Section 9 - Solicitor, REL, RFL and EEL partners**

3.6.1. Refer to the general comment in 1.2 above regarding space.

### **3.7. Section 10 - Other lawyer partners**

3.7.1. Refer to the general comment in 1.2 above regarding space.

3.7.2. This form assumes that "other lawyer partners" will have only one qualification on which their application is based. Space is required to record dual and multiple qualifications against each individual.

3.7.3. The last question would more clearly obtain the confirmation sought by the SRA if it said "Has the new firm obtained written confirmation from the approved regulator named above that the individual is entitled to practice ..."

### **3.8. Section 11 - Non-lawyer partners**

3.8.1. As noted at 3.1.2 above, if there are non-lawyer partners requiring approval it would be simpler to require the relevant forms NL1 to be submitted along with the form RB1. This would avoid the apparent illogicality of forms being submitted with question (C) answered in the negative.

### **3.9. Section 12 - Bodies Corporate**

3.9.1. Refer to the general comment in 1.2 above regarding space.

3.9.2. What is the relevance of the website address?

### **3.10. Section 14 - Other information**

3.10.1. This section is devoted to gathering information about the ways in which firms practise: introductions, referrals, positions of influence and other roles of the partners. Information given will have to be updated at each annual renewal. The guidance notes say that this information could be taken into account in assessing applications, referring to Recognised Bodies Regulation 2.2(c) under which the SRA may refuse recognition if it reasonably considers that it would be against the public interest to grant it.

3.10.2. The questions are very widely worded - for example, might borrowing covenants need to be declared under question 2? The scope of question 3 is particularly unclear in referring to "work outside of the firm". The guidance notes specify what the SRA is not trying to identify - some examples of which are directly caught by the wording (part-timers, for

example). The SRA's proper interest lies in activities that might compromise the firm's operations (whether or not they are "work") and that is the question (if any) that we think should be asked.

### **3.11. Section 16 - Declaration**

3.11.1. The language of this section pre-supposes the new partnership is already in existence, which will not necessarily be the case. This is inconsistent with the approach taken in relation to partners where it is accepted that the individual may still be practising at a previous firm.