

## Legal Services Act: Character and suitability test for non-lawyer managers of an LDP

### Legal Services Act: consultation paper 1 Questionnaire form

This form is designed to be completed electronically—in MS Word—not as a printed form. You must save it locally before and after completing it. For submission instructions, see page 10.

The SRA is in the process of developing its regulatory framework to facilitate the new forms of practice permitted under the Legal Services Act—legal disciplinary practices (LDPs) and alternative business structures (ABSs). The work on LDPs is particularly time-critical, as they could become available in 2009. We invite your comments on an important aspect of the project—the development of a “character and suitability” test for non-lawyers who wish to become managers in an SRA-regulated LDP.

Please tell us if you have any concerns under the specific headings below. Each heading names an issue addressed in **Character and suitability test for non-lawyer managers of an LDP**, available at [www.consultations.sra.org.uk](http://www.consultations.sra.org.uk). Paragraph references are included for your convenience.

#### **Do you agree with applying to non-lawyer managers the same general principles on the assessment of character and suitability as those applying to applicants for admission as solicitors?** (paragraphs 2.2 – 2.8)

Please enter your comments and/or concerns below:

Yes.

**Do you agree that the SRA should require from prospective non-lawyer managers the same kind of information as that required by the FSA under the “approved persons regime”? (paragraphs 2.9 – 2.11)**

Please enter your comments and/or concerns below:

No. We consider that the imposition of such requirements would not be "necessary in the consumer and public interest" and would not "minimise regulatory burdens and unnecessary bureaucracy".

The SRA does not require this information from persons applying for admission to the roll of solicitors, and we do not think it is relevant that the SRA "will have gathered considerable information [from such applicants] during the qualification process". The information obtained during the qualification process is nowhere near as extensive as the information required by the FSA. It does not include, for example, information about other directorships and business interests.

In any event, we understand that the criteria for admission are set out in the relevant regulations, and we would have some concerns if information and data provided to the SRA during the qualification process were to be used for an undisclosed purpose.

**Is there any other information which in your view the SRA should require?**

Please enter your comments and/or concerns below:

No.

**Do you agree that the test for non-lawyer managers should not include a training and competence requirement?** (paragraphs 2.12 – 2.14)

Please enter your comments and/or concerns below:

Yes. Further, any additional restrictions on activities of non-lawyer managers over and above the restrictions imposed by statute should only be imposed after appropriate consultation.

**Do you agree that prospective non-lawyer managers should be required to complete a Criminal Records Bureau standard disclosure?** (paragraph 2.15)

Please enter your comments and/or concerns below:

Yes.

**Do you agree that non-lawyers with other professional qualifications should be subject to the same character and suitability test as those with no professional qualification?** (paragraphs 2.16 – 2.18)

Please enter your comments and/or concerns below:

We consider that the SRA should take a pragmatic approach to this question. The issue appears to us to be similar to that of registration as a foreign lawyer, whereby, subject to compliance with administrative formalities, the SRA permits solicitors to practise in partnership with lawyers qualified in certain jurisdictions outside England and Wales. If it is feasible to establish a list of qualifying bodies, membership of which would constitute prima facie evidence of fitness to practise in partnership with solicitors, we consider that the SRA should do so. Ideally, we would favour a system of mutual recognition.

In this regard, we think it is important to consult with and consider the rules of other professions. If the SRA decides unilaterally to impose extensive obligations on members of other professional bodies before allowing solicitors to practise in partnership with them, would that increase the risk of those professional bodies imposing (or of failing to relax) their own restrictions on their members practising in partnership with solicitors?

Suppose a law firm with 200 solicitor partners wished to admit a member of (say) the Institute of Chartered Accountants of England and Wales ("ICEAW") as a partner. Would this mean that, in order to permit the accountant to practise in partnership with solicitors, the law firm concerned would need to provide details of each of its 200 solicitor partners to the ICEAW, in order for the ICEAW to satisfy itself that each solicitor was a fit and proper person with whom the accountant could practise in partnership? We would be keen to avoid this scenario.

**Do you agree that the SRA should require firms to submit the application for approval of their non-lawyer managers, and for the non-lawyers to verify the information given?** (paragraph 3.1)

Please enter your comments and/or concerns below:

We would prefer to follow the system used for registration of foreign lawyers. Although firms would assist in the preparation of applications, responsibility would lie with individual applicants.

**Do you think that firms taking on a non-lawyer manager from another firm should have to make a fresh application for approval? (paragraph 3.2)**

Please enter your comments and/or concerns below:

No. We do not think that would be necessary in the consumer and public interest. It would suggest that the SRA would be assessing the suitability of the firm, not the individual candidate. On what basis would a previously approved applicant be refused approval?

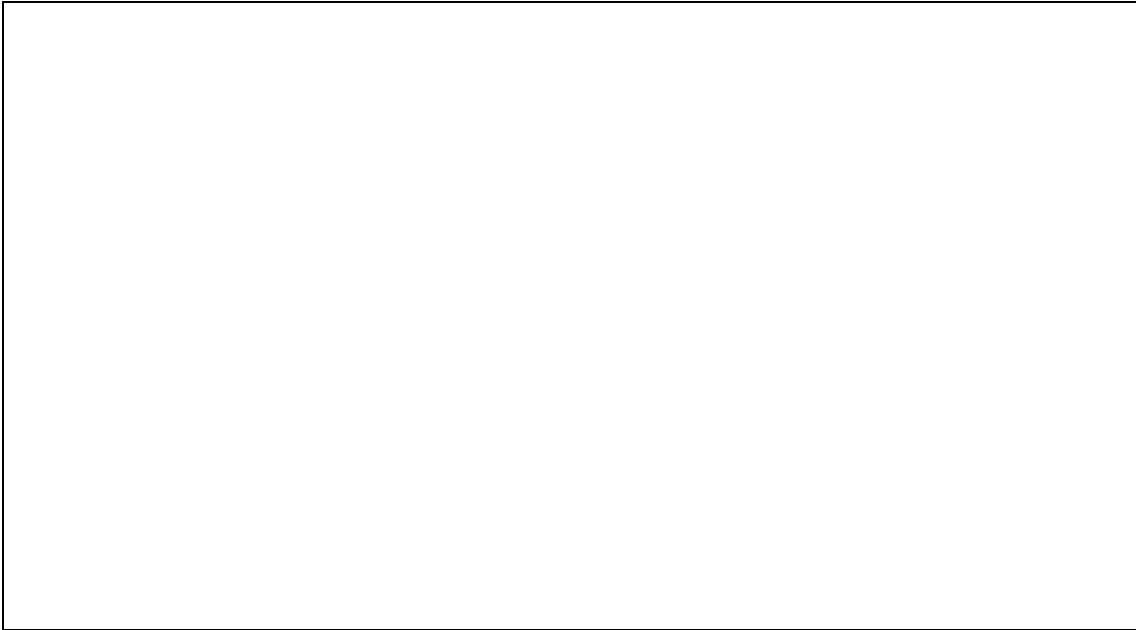
Further, we do not understand the comment that requiring a fresh application for approval "would increase the visibility of non-lawyers within the regulatory system". Any changes of firm would be visible to the SRA through the usual notification process.

**Do you believe any of these proposals will have an impact on equality and diversity?**

Please enter your comments and/or concerns below:

No.

**If you want to make any other comments, please do so below.**

A large, empty rectangular box with a thin black border, intended for users to provide additional comments or feedback.

## About you

Thank you for detailing your comments and initial concerns.

Please identify yourself below.

Surname

Thomas

Forename(s)

Ian Robert

Your SRA ID number (if applicable)

162369

Name of the firm or organisation where you work

Allen & Overy LLP

Please enter your email address below.

ian.thomas@allenoverly.com

We will use your email address if we need to contact you about your comments.

### Email updates

Would you like to receive email alerts about Solicitors  
Regulation Authority consultations?

Yes

No

### Confidentiality

We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.

Attribute my/our response and publish my/our name.

Do not attribute my/our response and do not publish my/our name.



## I am submitting comments...

Please identify the capacity in which you are submitting comments by selecting **one option only** from the list below. To select an option, click on the check box next to it.

on behalf of my firm	<input checked="" type="checkbox"/>	Please enter its name Allen & Overy LLP
on behalf of a Law Society board or committee	<input type="checkbox"/>	Please enter its name
on behalf of a representative group	<input type="checkbox"/>	Please enter its name
on behalf of a local law society	<input type="checkbox"/>	Please enter its name
as an academic	<input type="checkbox"/>	Please enter the name of your institution
on my own behalf as a solicitor in private practice	<input type="checkbox"/>	
on my own behalf as an employed solicitor	<input type="checkbox"/>	
as another legal professional	<input type="checkbox"/>	Please specify
as a non-lawyer interested in participating in the new forms of legal practice	<input type="checkbox"/>	Please specify
as a trainee solicitor	<input type="checkbox"/>	
as a student studying for a qualifying law degree or legal practice course	<input type="checkbox"/>	
as a member of the public	<input type="checkbox"/>	

in another capacity

Please specify

**Thank you for identifying yourself.**

## More about you

We want to ensure that responses capture the opinions of a wide cross-section of the profession and stakeholders. Please help us by answering several more questions about yourself.

### A. Questions about you

What is your gender?	Male <input type="checkbox"/>	Female <input type="checkbox"/>
Please enter your age—in years.		
Which of the following best describes your ethnicity? Select one option only from the list below. To select an option, click on the corresponding check box.		
White British	<input type="checkbox"/>	
White Irish	<input type="checkbox"/>	
White other	<input type="checkbox"/>	Specify
Mixed white and black Caribbean	<input type="checkbox"/>	
Mixed white and black African	<input type="checkbox"/>	
Mixed white and Asian	<input type="checkbox"/>	
Other mixed background	<input type="checkbox"/>	Specify
Black or black British Caribbean	<input type="checkbox"/>	
Black or black British African	<input type="checkbox"/>	
Other black or black British background	<input type="checkbox"/>	Specify
Asian or Asian British Indian	<input type="checkbox"/>	
Asian or Asian British Pakistani	<input type="checkbox"/>	
Other Asian or Asian British background	<input type="checkbox"/>	
Chinese or other ethnic group, Chinese	<input type="checkbox"/>	
Any other ethnic group	<input type="checkbox"/>	Specify
Decline to answer	<input type="checkbox"/>	
Do you have any disability that has a substantial and long-term effect on your ability to carry out day-to-day activities?	Yes	<input type="checkbox"/>
	No	<input type="checkbox"/>

## Submission instructions

Thank you for completing our **Comment submission form**.

Please **save a copy** of the completed form.

Please return it as an **email** attachment to [LSA@sra.org.uk](mailto:LSA@sra.org.uk), by **31 March 2007**.

Alternatively, **print** the completed form and post it to

Derek Mitchell  
Solicitors Regulation Authority  
Berrington Close  
Ipsley Court  
Redditch  
B98 0TD

or

Derek Mitchell  
Solicitors Regulation Authority  
DX 19114 Redditch

We are unable to acknowledge receipt of responses. We take this opportunity to thank you for your comments.