



Solicitors
Regulation
Authority

Annual keeping of the roll exercise
Consultation Paper
31 March 2014

Purpose of the consultation

1. This consultation is to seek your views on proposals to remove the unnecessary and over burdensome process which requires solicitors who do not hold practising certificates (PCs) to complete a yearly online application and pay a fee if they wish their name to remain on the roll of solicitors.
2. Solicitors would continue to have their name entered onto the roll following admission. The process for solicitors to request removal of their name from the roll will remain unchanged as will regulations allowing the SRA to bar removal of the name of solicitors subject to disciplinary proceedings or a complaint.

Summary

3. The Solicitors Regulation Authority (SRA), as the regulatory arm of The Law Society, is obliged by law to keep a list of all solicitors called the roll. Solicitors' names are entered onto the roll following admission. All solicitors who hold a current practising certificate (PC) are automatically listed on the roll.
4. All solicitors on the roll who do not hold a current PC are asked every year to confirm whether or not they wish to remain on the roll. If so, the solicitor must make an application and pay a fee of £20. This process was carried out online through mySRA for the first time in 2013. Because the regulatory value of the process was thought to be low, the SRA decided to review the need for the annual process and whether the regulatory burden on this group of mainly non-practising solicitors could be lifted by allowing them to remain on the roll without the annual application and fee.
5. Under the proposal, the annual exercise would stop in 2015. However, in order to keep the roll up to date, the SRA will retain the power to carry out the KR1¹ process at such times as it may decide in the future.
6. The proposed changes to the SRA Keeping of the Roll Regulations 2011 are set out in Annex 1.

Background

7. Section 6 of the Solicitors Act 1974 (SA) requires the Law Society to "continue to keep a list of all solicitors of the Senior Courts, called "the roll"." The roll is central to the qualification, practising requirements and disciplinary processes for solicitors. Because of this, keeping the roll is a regulatory function, delegated to the SRA under the Law Society General Regulations.
8. The SA requires the Law Society to enter names on the roll on evidence of admission and following an order to restore a person to the roll who has been removed or struck off. There are powers to remove names from the roll

¹ KR1 is the process in which the SRA enquires of solicitors on the roll but not holding a practising certificate whether they wish to remain on the roll. Those who do not respond by making the requisite application and paying a fee have their names removed from the roll.

following a request and to enter names which have been removed. There are also specific powers to make regulations about keeping of the roll.

9. Under the Solicitors Keeping of the Roll Regulations 2011, once a year the SRA asks every solicitor who is on the roll and without a PC whether s/he wishes to remain on the roll. If a solicitor fails to reply or pay the prescribed fee of £20, the SRA gives them notice that they will be removed from the roll. If the solicitor does not respond, their name is subsequently removed from the roll.

Regulatory function of the roll

10. The roll is central to SRA's ability to regulate and discipline solicitors. If a solicitor's name is on the roll, the SRA can regulate them even if they do not hold a PC. For this reason it is important that we maintain regulations which prevent a solicitor's name from being removed from the roll if they are subject to disciplinary proceedings or if a complaint made against them is being investigated.
11. Stopping the annual updating exercise will still allow us to retain oversight of this group of solicitors and also the practising solicitors described below who are exempt from holding practising certificates.

Solicitors exempt from holding practising certificates

12. The majority of solicitors on the roll without PCs are non-practising. This is due to retirement or because of a career break. There is a group of practising solicitors who are on the roll but exempt from holding a PC under section 88 of the SA. They numbered 1671 following the end of the 2013 annual update. The exemption under section 88 preserves certain rights and privileges which pre-exist the SA. These are not set out in detail in the SA. The solicitors concerned are mainly those working for government departments.
13. As part of the KR1 application, solicitors are asked to tick a box if they are exempt from holding a PC under section 88 and to choose from a drop down box the type of organisation where they work.
14. There is a regulatory value in the SRA being able to keep track of this group of solicitors as they continue to practise. If they change their employment, they may no longer be entitled to exemption. We will deal with any regulatory issues raised by this group through the review of SRA Practice Framework Rule 4.

Representative function of the roll

15. Under the Law Society Royal Charter of 1845, the roll also has a representative function as the Charter provides that the Law Society can make bye-laws about membership for:

"such persons as they shall think fit, who are:–

- (a) included in the roll of solicitors kept under section 6 of the Solicitors Act 1974 (or any statutory modification or re-enactment of that provision);

- (b) European lawyers registered in accordance with Directive 98/5/EC (as amended or replaced from time to time); or
- (c) foreign lawyers registered under section 89 of the Courts and Legal Services Act 1990 (or any statutory modification or re-enactment of that section), provided the Council has agreed to extend eligibility for membership to them;"

16. This means that the roll together with the registers of foreign and European lawyers form the basis of the Law Society 's membership.

Benefits of being on the roll

17. For non-practising solicitors who remain on the roll, the benefits are:
- i. they are members of the Law Society which brings
 - a. The right to vote in the Law Society elections of Council members and special general resolutions
 - b. Access to the Law Society Hall and library;
 - c. discounted subscription to The Law Society Gazette; and
 - d. a range of other discounts and benefits
 - ii. they are entitled to call themselves non-practising solicitors; and
 - iii. If they return to practice, they can apply for a PC without needing to undergo the Suitability Test.

Options considered

18. We considered a number of alternative options for the updating process:
- i. transferring responsibility for keeping of the roll to the Law Society; or
 - ii. combining KR1 with the practising certificate renewal exercise; or
 - iii. reducing the frequency of updates to every three or five years; or
 - iv. applying the process only to the 1500-2000 solicitors claiming exemption from holding a practising certificate; or
 - v. continuing with the annual update process unchanged; or
 - vi. stopping the annual updating process (whilst retaining the power to carry out updates as and when we consider appropriate);
19. **The Law Society** - The keeping of the roll is a regulatory function and, as such, it should be undertaken by an independent regulator rather than a membership body. This analysis is supported by the Legal Service Board's Internal Governance Rules 2009.
20. **Combine with PC renewal exercise** - This option seemed attractive at first. However, there would be difficulties with those (mainly central government) solicitors who are exempt from holding PCs. Only a small minority of practising solicitors fall within this exemption. Combining the two processes would involve asking all practising solicitors whether or not they fall within this exemption. It is

likely that this would lead to confusion and could result in solicitors claiming the exemption when not entitled to do so. This would create additional work for Authorisation, the Contact Centre and Ethics Guidance. In any event, those who rely on the exemption are required to ensure that their details are maintained on an annual basis and an additional level of regulatory oversight is therefore not consistent with the better regulation principles.

21. **Updates every 3 to 5 years** - This option was considered lawful and could be a step towards de-regulation. However, retaining updates at fixed intervals is too rigid and inflexible. We felt it was better for the SRA to have the ability to decide when updates are required in the light of circumstances at the time.

22. **Limiting the process to solicitors with PC exemption** - This option would mean we would make enquiries every year only of those solicitors (mostly working for Government departments) who claim they are exempt from holding a practising certificate. Although these are practising solicitors, their activities represent a very low risk to our regulatory objectives as they do not act for the public or hold client money. We therefore felt it was unnecessarily burdensome to require them to go through the process every year. Furthermore it would not be proportionate or targeted to require an annual update for this group of solicitors.

23. **Stopping the annual updating process** - We concluded that this was the best option. It allows the SRA to fulfill its legal duty to keep the roll whilst reducing the burden of the regulatory process for the approximately 27,000 solicitors who currently have to complete the annual process. The SRA can retain the power to run updates as and when we consider it is needed.

Proposed Changes

24. We propose to stop carrying out the KR1 exercise on a yearly basis. 2015 would be the first year that KR1 is not carried out.

25. The SRA would continue to enter onto the roll the names of solicitors who are newly admitted. Solicitors' names would remain on the roll, unless they request removal or an order is made that they be removed. This means that solicitors would no longer have to go through the formalities and pay a fee every year.

26. We would also retain the regulations which enable us to bar removal of a solicitor's name from the roll if they are under investigation or subject to disciplinary action.

27. We propose that the regulations should be drafted to allow the SRA to make the KR1 enquiry from time to time at such intervals as it may decide. This will mean that we can occasionally carry out a KR1 operation to ensure the roll is up to date.

28. The SRA will run sample tests of data quality of the roll in order to give an indication of whether and when a further update exercise is needed.

The benefits of the proposals

29. The proposals will help the solicitors affected as they will no longer have to remember to make an application every year to keep the advantages of being on the roll. All they will need to do is ensure that they keep their contact details up to date on mySRA.
30. There will be a saving of resources for the SRA Contact Centre and Authorisation.
31. The Contact Centre report that the proportion of calls received on the mySRA and Login lines all increased sharply during the Keeping of the Roll exercise in 2013. At the peak there was an increase of 150% in calls on the mySRA line and 252% on the Login line.
32. The daily average number of calls offered showed a double peak within the period covered by the KR1 exercise. An initial peak corresponded with the period for applications to be made, and a second more pronounced peak corresponded to the period following the notification of intent to remove from the roll. At their height, Login calls increased by 452% following notification to solicitors of intent to remove them from the roll.
33. The extra resources needed during this period to deal with calls about use of the online system meant that the Contact Centre had fewer resources to respond to calls from consumers and about education. If the proposals are implemented, we expect that there will be a significant saving of Contact Centre resources from April to July 2015 onwards which should result in improved service levels for other callers.
34. The equivalent of four full time staff were required to process the annual update exercise in Authorisation in 2013 during a four month period. Discontinuing the process will therefore save resources that can be better used on other work.

Impacts

Impact on regulated community

35. The proposals will have no impact on the majority of the regulated community who hold practising certificates. For the 30,000 solicitors who do not hold practising certificates, this is a de-regulatory measure as they will no longer have to complete an online form and pay an annual fee.

Impact on general public and consumers

36. Reduced demand from solicitors should lead to better service levels in SRA Contact Centre. This will benefit consumers and the general public. There is some risk that the roll will contain some inaccurate information as personal details will be updated less often. This will be countered by running sample tests

of data quality in order to determine if and when a further exercise to update the roll is needed.

Equality Impact statement

37. We considered equality impacts and concluded that the proposal will have a positive impact on retired and non-practising solicitors by reducing the burden of making yearly applications.
38. 23.6% of those who had not activated their mySRA online accounts were over 65 years old. This compares with 15% of solicitors without PCs who were over 65 and compares with 5% of all solicitors on the roll who were over 65. There was therefore a greater relative impact in 2013 on solicitors over 65 as more of them needed to activate their mySRA account in order to remain on the roll.
39. Retaining the current system would have a disproportionately negative impact on older solicitors for the next 10 to 20 years. Discontinuing KR1 altogether or applying it only to section 88 exemption solicitors would allow older non-practising solicitors to enjoy the benefits of being on the roll without having to make an annual online application and pay a fee every year.
40. The impact of the various options in terms of ethnicity or gender is neutral, therefore we cannot see any significant negative impact on any group.

Consultation questions

Consultation questions

1. Do you agree with the proposal to stop the annual updating process while keeping the power for the SRA to carry out updates when we think this is needed?
2. If not, what other suggestions do you have?

How to respond to this consultation

Online

Use our [online](#) consultation questionnaire {insert link} to compose and submit your response. (You can save a partial response online and complete it later.)

Email

Please send your response to consultation@sra.org.uk. You can download and attach a [Consultation questionnaire \[insert link\]](#).

Please ensure that

- you add the title "Keeping of the Roll" in the subject field,

- you identify yourself and state on whose behalf you are responding (unless you are responding anonymously),
- you attach a completed [About You form](#),

If it is not possible to email your response, hard-copy responses may be sent instead to

Solicitors Regulation Authority
Keeping of the roll consultation
Policy and Strategy Unit
The Cube
199 Wharfside Street,
Birmingham,
B1 1RN

Deadline

Please send your response by 27 May **2014**.

Confidentiality

A list of respondents and responses may be published by the SRA after the closing date. Please express clearly if you do not wish your name and/or response to be published.

Though we may not publish all individual responses, it is SRA policy to comply with all Freedom of Information requests.

Annex 1 - Changes to Keeping of the Roll Regulations

The proposed changes to the Solicitors Keeping of the Roll Regulations are shown below.

Solicitors Keeping of the Roll Regulations 2011

These regulations, dated 17 June 2011, commencing on 6 October 2011, made by the Solicitors Regulation Authority Board, under sections 28, 79 and 80 of the Solicitors Act, with the approval of the Legal Services Board under paragraph 19 of Schedule 4 to the Legal Services Act 2007.

"Regulation 6: Annual enquiry

6.1 The SRA shall ~~once a year~~ at such times as it decides appropriate ask every solicitor without a practising certificate whether the solicitor wishes his or her name to remain on the roll. "