

LEGAL SERVICES COMMISSION

CRIMINAL DEFENCE SERVICE

LEGAL SERVICES COMMISSION POLICE STATION REGISTER ARRANGEMENTS 2001*

*As amended 30 April 2005 and 2 October 2006

Interpretation

1. 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 Commission to the assessment organisation to be given to and completed by the applicant;

"assessment organisation" is an organisation approved by the Law Society 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;

"Commission" means the Legal Services Commission at the current address of its Head Office in London;

"CPD" means continuing professional development as defined in the Law Society Training Regulations 1990 and at www.cpd.lawsociety.org.uk;

"legal advice at police stations" means advice and assistance provided under Section 13 of the Access to Justice Act 1999;

"police station register" is a listing of probationary and accredited representatives maintained by the Commission;

"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 test and the critical incidents test the details of which have been prescribed by the relevant assessment organisation. Probationary representatives who have passed the Law Society's final examination or completed the Legal Practice Course, Fellows and members of the Institute of Legal Executives who have passed the Institute's Level 4 Professional Higher Diploma in Law (previously known as the Part 2 examinations) which must include the criminal law and criminal litigation papers, solicitors without practising certificates and barristers (who have passed the Bar Vocational Course) are exempt from the written test;

"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;

"supervising solicitor" means the solicitor who is currently supervising the representative and who must be a current police station duty solicitor or, failing which, a solicitor who is acceptable to the Commission as meeting the Crime Category Supervisor Standard (including on a temporary basis) but not the Prison Law Supervisor Standard or the Criminal Cases Review Commission Supervisor Standard, and who must not have been suspended from supervising solicitor status under the General Criminal Contract.

Police Station Register

- 2.1 The Commission shall maintain a police station register of probationary and accredited representatives in respect of whom the Commission may pay remuneration to holders of a General Criminal Contract for giving legal advice at police stations.
- 2.2 The Commission shall, unless a senior member of staff in the Head Office CDS Policy Team decides 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 test, and the representative has applied to the Commission 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 Commission 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 Commission receives a properly completed application form and the Commission will notify the representative of the date of registration.
- 2.5 The Commission 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 Commission of any change of address or other details recorded on the police station register and the Commission shall not be liable for the consequences of suspending a representative from the register where it has not received a certificate of fitness or has not been notified of a change of address.
- 2.7 The representative may, where the Commission refuses to register under paragraph 2.2 or 2.9, appeal to a regional committee established under the Commission's Duty Solicitor Arrangements 2001 or a future version of those Arrangements.
- 2.8 An application to appeal under paragraph 2.7 must be made in writing to the Commission and must contain the reasons for the appeal. Any such appeal will be considered as permitted by the Duty Solicitor Arrangements 2001.
- 2.9 The Commission shall, unless a senior member of staff in the Head Office CDS Policy Team decides that 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.

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 Commission a properly completed application form incorporating a certificate of fitness properly completed.
- 3.3 The supervising solicitor must notify the Commission if he or she ceases to supervise the representative or satisfy the definition of supervising solicitor in paragraph 1 of these Arrangements.
- 3.4 The representative must notify the Commission if he or she ceases to be supervised by his or her supervising solicitor.

Suspension from the Police Station Register

- 4.1 The Commission 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 test) within six months of the date of registration with the Commission;

- 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 test) 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 Commission 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 test) 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 register shall not be treated as being registered and may therefore not be remunerated for legal advice at police stations.

Reinstatement

- 5.1 The Commission, 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 Commission that a representative has passed one of the relevant tests (not including the written test) 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 Commission 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 test) 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 Commission; or
 - v) where a representative is suspended under paragraph 4.1 v) and permission has been given by the Law Society for the representative to be employed by the employing solicitor or the Commission has consented to a permanently suspended representative being reinstated under paragraph 6.4.

Fitness to remain on 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 Office for the Supervision of Solicitors and the supervising solicitor must, in the light of any guidance issued by the Law Society, report the matter to the Commission.
- 6.2 Where a question arises as to the suitability of character of the representative to give legal advice at police stations the Commission may request the representative to obtain from the supervising solicitor a

certificate of fitness which must be received by the Commission within 14 days of the request being issued.

- 6.3 If the Commission 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 Commission 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 Commission may impose conditions which must be met before the representative is reinstated to the police station register. The Commission 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 Law Society;
 - 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 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 CPD annually on issues relevant to criminal law (which may include internal courses); or
 - vi) some other good reason arises.
- 6.5 The representative may, where suspended under paragraphs 6.3 and 6.4, appeal to a regional committee established under the Commission's Duty Solicitor Arrangements 2001 or a future version of those Arrangements.
- 6.6 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 regional committee having discretion to accept an appeal outside that period for good reason. The appellant shall submit written representations when giving notice of appeal. The Commission's staff may obtain and provide information relating to the appeal provided that the appellant receives a copy.
- 6.7 The Commission shall postpone a suspension until any appeal is heard unless it considers that there is good reason for suspending the representative prior to the appeal hearing which shall be notified to the representative.
- 6.8 On receipt of an appeal under paragraph 6.5 the Commission may reconsider its decision, but if it decides not to do so it shall refer the matter to the regional committee or to another regional committee if no suitable members of the regional committee are available to consider the appeal.
- 6.9 The regional committee shall normally consider appeals at the latest within three months of the date on which the appeal was received. The appellant shall have the right to make oral representations and the committee may, in any event, require personal appearance. The Commission may also be represented at the appeal.
- 6.10 If oral representations or written representations subsequently submitted include matters not mentioned in the written representations referred to in paragraph 6.6 above, the regional committee has a discretion not to consider such additional matters unless the appellant has given 14 days notice to the Commission's staff and the regional committee.
- 6.11 The regional committee shall consider the application afresh in accordance with the relevant criteria in these Arrangements and the decision of the regional committee will replace the decision of the Commission.
- 6.12 The regional committee may allow an appeal subject to such conditions as it considers appropriate.
- 6.13 Appellants will be notified of the decision of the regional committee in writing. The regional committee shall provide reasons for its decision.
- 6.14 An application for reinstatement must be made in writing to the Commission. A representative cannot be re-instated to the police station register following permanent suspension without the consent of the Commission. 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 Commission or an appeal decision by the regional committee.

Miscellaneous

7. The Commission shall approve forms for use in connection with the police station register.