

*Community
Legal Service*



The Specialist Quality Mark Standard

Post Consultation Summary Report February 2005

December 2004 Amendment



Introduction

In December 2004 a consultation paper outlining amendments to the Specialist Level CLS Quality Mark was published. The consultation period closed on the 3rd of February 2005. The changes will come into effect in April 2005 or such later date that we may notify you in writing.

The amendments follow the introduction of the Immigration and Asylum Accreditation Scheme and the wish to clarify the requirements relating to the provision of cost information in criminal cases heard in the Crown Court where there is potential for a Recovery of Defence Costs Order (RDCO) to apply.

On reflection the decision has been made not to implement the amendments relating to the provision of costs information in criminal cases heard in the Crown Court where there is potential for a RDCO to apply. This is because there is no change in respect of the requirements.

This report summarises the responses to consultation and the Commissions reply. It also includes the finalised amendments.

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Summary of Responses

D3.2 – Supervisor’s legal competence standard- Definitions

Clarification was felt necessary in respect of the use of the word caseworker in the title ‘For Panel Members /Immigration & Asylum Accredited Caseworkers and the contents of the first bullet point under this heading.

The word caseworker is replaced by the word supervisor, as this section relates to the supervisor’s legal competence.

The first bullet point under this title clarifies the requirement to produce documentary evidence and keep the LSC informed of membership status for panel members and supervisors accredited under IAAS. This only applies where the supervisory route for the category as laid out in Annex A requires membership and therefore this section remains.

D3.3 Supervisory Skills – Requirement

The last bullet point covered in the definitions relates to the exemption of Immigration Supervisors from the supervisor level assessment where they are not supervising others, as they are the only person at their firm/organisation performing publicly funded immigration work. It was suggested this should move to the Requirements. This point will remain under definitions, as no further clarity would be gained by a move.

D5.2 Legal qualification or minimum hours – Requirement

It was felt that the second paragraph could be viewed as an alternative rather than a qualification of the requirements. This is noted and the second paragraph removed to avoid confusion, as this point is made clear under the definitions for the requirement.

D5.2 Legal qualification or minimum hours – Definitions

The second bullet point was felt to create confusion when stating that caseworkers should be encouraged to become members of IAAS as it suggests it is optional. This is accepted and the following sentence will be added to clarify this point ‘Membership of the Immigration & Asylum Accreditation Scheme is compulsory for work funded by a CLS General Civil Contract.’

The third and ninth bullet points were felt to contradict each other in respect of the documentation requirements. The third bullet point is amended to refer to the requirements in the ninth.

It was suggested that the final bullet point in this section concerning Immigration & Asylum Probationers refer to the IAAS scheme rather than give brief details. The bullet point remains, it is felt beneficial to outline these basic requirements.

Annex A –SUPP (IMM) Form

In respect of exemption from OISC at Point i) clarification of acceptable evidence of exemption for solicitors was raised. This has not been an issue in practise since the OISC requirements came in and therefore no further detail is added to Annex A in this respect.

G5 – Risk Management

Confirmation is sought to the status of this requirement as it was not implemented as a mandatory requirement in October 2002 and remains optional.

This status is correct and as such the requirement will be removed from the SQM requirements in this update. It will remain in the supporting SQM Guidance as an optional recommendation not subject to audit.

List of Respondents

The Law Society
Advice Service Alliance
Citizens Advice

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D3: Supervisors

Requirements

D3.2 Supervisors' legal competence

D3.2 Each supervisor meets the *relevant* legal competence standard, as follows:

- a) The category-specific supervisor standard set out in Annex A.

Or, but only after agreement with the Legal Services Commission (LSC), either:

- b) The LSC generic standard for Specialist supervisors.

Or

- c) Limited caseload in a specified range, plus a plan to meet the standard at D3.2 (b) within three years.

Definitions:

The definitions below qualify the requirement and are mandatory where the word “must” appears.

Where the sentence or paragraph begins with the word “Note”, it contains information to help you (see also the separate Guidance document) and is not mandatory.

D3.2 Supervisors’ legal competence standard

(a) Category-specific standards in Annex A

- Where category-specific standards are given in Annex A, these **must** be met in full (subject to the note below); the criteria in D3.2 (b) and D3.2 (c) are not alternative unless you are advised by the auditor (with authority from the LSC) that this is specifically so in your case.
- Note that exemptions from meeting the standard can be made in extremely rare cases, and are entirely at the discretion of the LSC (see Guidance for details).

For Panel Members/Immigration & Asylum Accredited Supervisors

- Documentation showing current panel membership / Immigration & Asylum accreditation at Level 2 or Level 3 **must** be supplied with the Quality Mark application. Panel / Immigration & Asylum Accreditation Scheme suspensions and terminations **must** be notified to the LSC within five working days (including temporary suspensions on moving organisation).
- In addition, the supervisor **must** be able to confirm that case involvement (as defined in Annex A for each category of law) has been consistently maintained at the minimum level specified (usually 350 hours per year). You **must** provide documentation detailing compliance on application and thereafter **must** notify the auditor if at any point the supervisor no longer meets this requirement. Note that the auditor can ask for documentation to be provided (i.e. by completion of the supervisor standard self-declaration form (usually used for applications) or by maintenance of a portfolio of cases) wherever they have concerns about compliance with this requirement.

Where Annex A requires a portfolio

- A portfolio **must** be supplied for each supervisor, and cases to which you have referred (as evidence of meeting the requirements) **must** be available at the time of the audit (unless they are retained by another organisation, when summary notes about each case will be required). In addition to the portfolio, case involvement (in the relevant category of law) by the supervisor **must** consistently be maintained at the minimum level specified in Annex A (usually 350 hours per year), and, on application, the supervisor **must** be able to demonstrate past case involvement at the same level for the last three years, if full-time, or the same total hours (usually 1050 hours) over five years, if part-time.

(b) LSC generic standard (for niche areas)

- Note that from April 2002 the LSC will have a standard setting out generic requirements for Specialist-level supervisors. This will be available strictly at the discretion of the LSC, applicable only to particular niche areas within existing specialist categories (before a new category-specific standard (for the niche area) is developed), and in other exceptional circumstances (i.e. it will not act as an alternative to category-specific standards in Annex A).

(c) Limited caseload in a specified range (for emerging areas)

- Note that this standard is available strictly at the discretion of the LSC, and specifically to cater for the emergence of new areas of law (see Guidance for further information on caseload and range).
- Where a new category-specific standard (for the emerging area) is developed (for inclusion in Annex A), this **must** be met within one year of implementation. In its absence, a plan **must** be available, explaining what steps are being taken to meet the requirements in D3.2 (b) within three years.

D3: Supervisors

Requirements:

D3.3 Supervisory skills

D3.3 Each supervisor (including sole practitioners) meets *one* of the following supervisory skills standards: (unless there are category specific requirements which must be met instead).

- a) Assessed as working at Level 3 or higher (within the NVQ framework) in relevant elements of the national standards (see Guidance).

Or

- b) Training covering key supervisory skills (see Guidance) completed in the 12 months immediately preceding the Quality Mark application.

Or

- c) Able to demonstrate experience as an effective supervisor (covering supervision of *all* of the work being done in the department) of at least one full-time member of staff (or equivalent) for at least one year in the last five years.

Category Specific

- d) Immigration & Asylum supervisors working under an LSC General Civil Contract must supply evidence that they have passed the Supervisor Level Assessment of IAAS. IAAS is the Immigration & Asylum Accreditation Scheme developed by the LSC in conjunction with the Law Society.

Definitions:

The definitions below qualify the requirement and are mandatory where the word “must” appears.

Where the sentence or paragraph begins with the word “Note”, it contains information to help you (see also the separate Guidance document) and is not mandatory.

D3.3

Supervisory skills

- *Note* that supervisors may select which of the three routes D3.3 (a) (b) or (c) is most suitable for them except
- Where there is a category specific requirement then D3.3 (d) is the only route that supervisors operating in this category may select.
- *Note* for Immigration & Asylum Supervisors who have already had their supervision skills assessed as part of a recognised qualification, they may apply to the LSC for an exemption from the Immigration & Asylum supervisor assessment.
- *Note* for Immigration & Asylum Supervisors who do not supervise others because they are the only person at their firm/organisation performing publicly funded Immigration work they will be exempt from the assessment of their supervisor skills. Should they be required to supervise others at a later stage they must register for the supervisor skills assessment.

D5: Individual Competence

Requirements:

D5.2	Legal qualification or minimum hours
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D5.2	All caseworkers have a professional legal qualification or conduct a minimum of 12 hours' casework per week (or equivalent).
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Definitions:

The definitions below qualify the requirement and are mandatory where the word “must” appears

Where the sentence or paragraph begins with the word “Note”, it contains information to help you (see also the separate Guidance document) and is not mandatory.

D5.2

Legal qualification or minimum hours

- *Note* that caseworkers falling into one of the individual categories from 1-16, listed in Annex B, qualify as having a ‘professional legal qualification’.
- *Note* where there are panels or accreditation schemes in a category of law e.g. Law society panel or Immigration and Asylum Accreditation scheme, caseworkers are encouraged to become members of these schemes, as they provide clear evidence of the competence of the individual. Membership of the Immigration & Asylum Accreditation Scheme is compulsory for work funded by a CLS General Civil Contract.
- *Note* that there is no need to document anything further as long as it is clear from existing records that each caseworker either falls within one of the individual categories from 1-15, in Annex B, or for non-immigration/asylum caseworkers that they conduct at least 12 hours’ (or equivalent) casework per week (e.g. from your staff summary at A1.1, an employment contract or an individual’s training record). The documentation required for immigration/asylum caseworkers (category 16) is specified below.
- Qualified solicitors or barristers working as caseworkers, but no longer holding themselves out as solicitors or barristers, can be treated as having a professional legal qualification for a maximum of five years after they last practised. Following this they **must** demonstrate individual competence by conducting a minimum of 12 hours’ casework per week (or equivalent) instead.
- *Note* that for the purpose of meeting the minimum number of hours, ‘casework’ can include any case involvement as defined in the relevant supervisor standard and Self-Declaration Form (at Annex A), as well as time being trained or supervised, but not time spent in ordinary (non-legal) team meetings.
- All qualifying casework **must** be subject to supervision that meets the requirements at D4.
- Where professional legal qualification is only by virtue of panel membership or other periodically assessed accreditation (including for duty solicitors) the individual **must** be able to demonstrate that they continue to meet the relevant requirement in the intervening period if asked to do so.
- Immigration & Asylum Accredited Caseworkers (at all levels)
- Immigration & Asylum caseworkers **must** provide a current accreditation certificate issued by the LSC, to be able to carry out work under an LSC General Civil Contract. Certificates will expire 3 years after the issue date. Certificates must be supplied to confirm that the caseworker is able to undertake work in this area of law.
- Immigration & Asylum Probationers
- Immigration & Asylum Probationers (i.e. a caseworker who has registered with the LSC for the Immigration and Asylum Accreditation Scheme but who has not completed the accreditation process, excluding suspended or barred representatives) **must** register with the LSC and have attained accredited status with the Law Society’s assessment organisation within 12 months of this date or they will not be allowed to perform any publicly funded work in immigration under an LSC General Civil Contract until they have achieved accreditation. Probationers must provide evidence that they have registered with the LSC **and** within 3 months from this date have passed the Multiple Choice Test. Probationers who have not passed this test within 3 months **must** not undertake **any** publicly funded work until they have passed the test. (Please refer to the accreditation scheme Competence Standards and Work Restrictions document).

Annex A – Category-specific Requirements

Part I: Summary of Category-specific Requirements

8.G Immigration

D3.2a Legal Competence Standard for Supervisors

See SUPP(IMM) self-declaration form (that follows) for details of the requirements that **must** be met by all immigration supervisors, including those relating to OISC, and the requirement that they are accredited at level 2 or 3 as part of the LSC's Accreditation Scheme (IAAS). *Members of the Law Society's Immigration panel have been passported onto the accreditation scheme (route two). This route is only available until the expiry date of their Law Society Immigration Panel membership.*

Note: The provision of a portfolio of cases (route three) is only available to organisations which are not carrying out work under an LSC General Civil Contract.

There is also a minimum case involvement for immigration supervisors of 350 hours (as qualified on the form) in each of the last three years (or a total of 1050 hours over the last five years if the supervisor worked part-time). The standard requires continuous case involvement to at least this level for the entire duration that the Quality Mark is awarded.

Part II: Supervisor Standards and Self-declaration Forms



SUPERVISOR STANDARD AND SELF DECLARATION FORM

- Use for **Immigration and Asylum**
- You should photocopy this page as required and submit a completed copy (one form for each supervisor) with your Specialist Quality Mark application

Details of organisation/supervisor applying		
Organisation's name: Organisation's supplier number: Supervisor's name: Offices supervised:		
i)	OISC Requirements	
	The proposed supervisor must meet, or be declared exempt from, all the OISC requirements. Evidence must be provided	Tick for compliance <input type="checkbox"/>
D3.2a Legal Competence Standard for Supervisors		
ii)	Accreditation requirement (Route One)	Only routes one and two are available to holders of an LSC General Civil Contract.
a)	Level 2 or 3 of the Immigration & Asylum Accreditation Scheme (IAAS).	<p style="text-align: center;">Date of accreditation</p> <p style="text-align: center;">_____</p> <p style="text-align: center;"><u>Level of accreditation (level 2 or level 3)</u></p> <p style="text-align: center;">_____</p> <p style="text-align: center;"><input type="checkbox"/></p> <p style="text-align: center;">Provide copy certificate</p>
iii)	Passported (Route Two)	Only routes one and two are available to holders of an LSC General Civil Contract.
	Passported onto Level 2 of the Immigration & Asylum Accreditation Scheme (as previously member of the Law Society's Immigration Panel or assessed by the Law Society as meeting the Immigration Panel) Route Two is only available until the expiry date of membership of the Law Society Immigration Panel.	<p style="text-align: center;">Date of admittance</p> <p style="text-align: center;">_____</p> <p style="text-align: center;">Due date of accreditation (Prior to expiry of panel admittance).</p> <p style="text-align: center;">_____</p> <p style="text-align: center;">Provide a copy certificate/confirmation of positive assessment</p>

iv)	Portfolio (Route Three)		Only available to work not under an LSC General Civil Contract		
a)	Deportation (administrative action/court recommendations) – 2 case files		1. 2.		
b)	Refusals – Appealable – 1 case file				
c)	Refusals – Non Appealable – 1 case file				
d)	Outside rules – 3 case files		1. 2. 3.		
e)	Marriage (to enter or to remain) – 2 case files		1. 2.		
	Skills/Procedure/Knowledge – examples from the last 12 months				
f)	Referral to further progress a case or representation - 2 examples		1. 2.		
g)	The ability to recognise the possibility of judicial review proceedings, (inc. the purpose and the client’s role (and, for NfP organisations, if the decision is taken to progress the case, the need for referral to a solicitor)) – 1 example				
v)	Case Involvement (at 350 hours in the previous 12 months)	Minimum/Maximum hours allowed	Hours completed in the previous 12 months	Hours completed in the previous 12 to 24 months	Hours completed in the previous 24 to 36 months
a)	Personal casework Direct (documented) supervision	Total minimum of 235 hours (of which personal casework cannot make up less than 115 hours).			
b)	File Review (including face-to-face)	Maximum 60 hours (i.e. approx. 50% of 115 hours)			
c)	External training delivery (CPD-accredited)	Maximum 115 hours			
d)	Documented research and the production of publications	Maximum 115 hours			
e)	Other supervision	Maximum 115 hours			
Full time			Part time (If part time, please provide evidence of hours completed in the previous 36-60 months on a separate sheet).		

D3.3	Supervisory Skills- This requirement is compulsory for supervisors qualifying via route one and route two.	Details
	<p>Supervisory Skills</p> <p>Immigration Supervisors supervising work under a LSC Civil Contract must have achieved the Supervisor Level Assessment of the Immigration & Asylum Accreditation Scheme (IAAS).</p>	<p>Date of accreditation</p> <hr/> <p style="text-align: center;"><input type="checkbox"/></p> <p style="text-align: center;">Provide copy certificate</p> <hr/>

	Other Requirements (as detailed in the standard)	Details
D3.4	<p>Legal Training</p> <p>Please provide information to show how you met the legal training requirement for supervisors (at D3.4) in the last 12 months.</p>	<p style="text-align: center;">Title</p> <hr/>
D4.4	<p>Subscription to at least 1 nationally published specialist journal</p>	
D4.5	<p>Updating Legal Information</p> <p>Please summarise how you become aware of changes in legislation and case law (as required at D4.5). If you rely on subscription to a specialist journal you should provide the title(s).</p>	

Declaration
<p>I declare that the information provided is accurate to the best of my knowledge.</p> <p>Signed:</p> <p>Date: Signed and dated by the supervisor named above</p>

Annex B – Caseworker and Case Classifications

1. The following classifications are provided to assist you in meeting requirement A1.1 (regarding identifying caseworkers' area of expertise and their legal/professional qualification in your business plan) and requirement D5.2 (regarding demonstrating individual competence for caseworkers by reference to their legal qualification or minimum hours worked). You may also want to make reference to casework classifications to assist with file lists (requirement E1.1) and file reviews (requirement E2.1 (b)).
2. It is not, however, a requirement that you use either set of classifications, if you prefer to devise your own.

Individual Caseworker Classifications

- (1) A solicitor supervisor (meeting all requirements at D3).
- (2) A non-solicitor supervisor (meeting all requirements at D3).
- (3) A solicitor panel member.
- (4) A non-solicitor panel member (or confirmed as meeting the panel standard).
- (5) A FILEX supervisor (i.e. a Fellow of the Institute of Legal Executives and an accredited representative, see E2.3).
- (6) A temporary supervisor (not meeting all requirements at D3).
- (7) An individual who meets requirements D3.2 (legal competence for a supervisor).
- (8) A duty solicitor in (i) a police station, (ii) a court or (iii) both.
- (9) An accredited police station representative.
- (10) A probationary police station representative.
- (11) A fellow of ILEX.
- (12) A member of ILEX.
- (13) Other solicitor staff.
- (14) A qualified barrister.
- (15) Other trainee solicitor staff.
- (16) Immigration & Asylum Accredited Caseworker (at all levels).
- (17) Immigration & Asylum registered Probationer.
- (18) Other non-solicitor staff.
- (19) A volunteer member of staff.

3. Please note that the classifications listed above are not mutually exclusive.