



APIL welcomes the opportunity to respond to the SRA's consultation, and welcomes the proposal to strengthen the SRA's continuing competence approach. APIL has always supported competence-based training – its own accreditation scheme being based on competency – and the SRA was right to move away from mandatory training that was simply a 'tick box' exercise. We approve of moves to strengthen competence requirements. Maintaining competence is vital for personal injury solicitors, and we welcome proposals that will ensure those who are injured as a result of negligence will receive the best service possible from their legal representative.

APIL has commented only from a personal injury law perspective.

Q1 To what extent do you agree or disagree with our proposal to require all solicitors to keep a record of their learning and development that:

- **Explains how they identified their learning and development need(s)**
- **Sets out the learning and development they carried out to address the identified need(s)**
- **Confirms that they have considered all aspects of their work and role**

We agree with this proposal. APIL remains supportive of a competence-based approach to training, and previously when the SRA was consulting on introducing a competence-based approach, we questioned the removal of mandatory CPD requirements. We welcome that solicitors would now be required to keep a record of their learning and development, explaining how they have identified their learning and development needs, setting out the learning and development they carried out to address the identified needs and confirming that they have considered all aspects of their work and role.

Members report that they already do this internally within their firms – indeed many have retained the requirement for staff to obtain a certain number of CPD hours - and it would not be overly onerous to provide this information to the SRA.

We also welcome the flexibility of this proposal, and that existing approaches used by firms and individuals to monitor and identify continual learning and development needs – for example the APIL accreditation scheme – can be maintained. Page 9 of the consultation mentions the current ways that the SRA carries out its ongoing monitoring of competence. We would suggest that it would be helpful for the SRA to monitor whether firms and individuals are part of any accreditation scheme, as this will tend to highlight that the firm/individual in question takes training and maintaining competence seriously.

Q2 To what extent do you agree or disagree with our proposal to require all solicitors to keep a record of their learning and development for at least three years?

We have no objection to this proposal.

Q3 To what extent do you agree or disagree with our proposal to require solicitors to confirm that they have:

- **Considered all aspects of their work and role**
- **Completed learning and development**
- **Evidence that meets our requirements when renewing their practising certificate?**

We agree. As above, members report that they already do this internally.

Q4 Do you have any other comments on consultation proposal one?

No.

Q5) To what extent do you agree or disagree with the proposal to introduce a new requirement for annual participation in mandatory ethics discussions?

We agree that training on ethics is necessary. While the SRA's proposals on the form that ethics discussions should take may be helpful for some, our members report that they already undertake annual ethics discussions within their firms. These may be face-to-face with those who are new starters within firms, an annual hourly discussion within the firm, or may take the form of an annual e-learning activity, which includes a test at the end to ensure that those who have undertaken the exercise have taken on board the messages presented. Rather than requiring discussions to be rigidly within the SRA's proposed framework, we would suggest that members should be able to certify that they have undertaken ethics discussions within their firm – in whatever form their firm deems appropriate - as part of their declaration when renewing their practising certificate. The SRA should provide general guidance on the format and agenda for ethics discussions, for those who do not already undertake such discussions, but there should not be prescriptive requirements on the form they should take. As the SRA notes in relation to their first proposal, there are systems in place currently that they do not wish to disrupt – the same principle should apply here.

We are also concerned that the requirement to undertake three hours of discussion annually is overly burdensome, and arbitrary. For firms, losing three hours of work per solicitor each year would be very costly. We also question the need for three-hour discussions annually. Unlike the content of personal injury law itself, which is constantly changing and of which there is a need to remain abreast of any changes, what is 'ethical' behaviour is fairly static and it is unlikely to substantially change year on year – it is likely that three hours each year will mean that discussions quickly become repetitive. If the SRA becomes aware of a new/novel ethical issue or development that requires further focus and discussion, they could communicate the need for firms to discuss this internally via guidance or a warning notice (we comment on guidance and warning notices at Q20).

Q6 – 15) deal with the detail of the SRA's mandatory ethics discussions proposals. As above, we think that there should be flexibility for firms as to what form ethics discussions take, and if firms are already holding annual discussions/training on ethics, this should be permitted to continue, with this being sufficient for the professional to certify that they have undertaken ethics discussions upon renewal of their practising certificate.

Q16) To what extent do you agree or disagree with our proposal to make a rule so that we can require some or all solicitors to complete specific learning and development

where we identify a competence concern or concern in how competence is maintained?

We agree in principle that if there is a genuine competence concern, the SRA should be able to require some or all solicitors to complete specific learning and development on the competence issue. We stress that this must however be used proportionately, to avoid it being overly onerous, and there need to be careful checks and balances in place. It would be highly unlikely that if failings are identified at a single firm, that it would be proportionate to require the entire profession to undertake further training.

Q17) To what extent do you agree or disagree with the proposal to make a rule that enables us to require non-authorised staff within SRA regulated organisations to complete specific learning and development where we identify a competence concern or concern in how competence is maintained.

We agree in principle, but again stress that any use must be proportionate.

Q18) To what extent do you agree or disagree with our proposal to make sure that any requirements as part of our proposed rule were proportionate by:

- **Publishing a regulatory and equality impact assessment before deploying requirements under this rule. This would demonstrate how we have considered impacts and identified an appropriate and proportionate approach.**
- **Publishing a clear, evidence-based rationale for prescribed learning and development. This would include explaining the concerns raised and how the approach would address it.**
- **Considering whether the approach should be adopted on a targeted/time-limited basis**

We would agree with this proposal, and agree that these steps would help to ensure proportionality.

Q20) Do you have any suggestions on how we can make the content of our continuing competence resources, warning notices, guidance and annual assessment of competence more engaging and increase awareness of their availability?

We suggest that where warning notices or guidance notes are published, the SRA should flag to all that new documents have been published. Members have remarked that often they only became aware of warning notices etc through their own monitoring, rather than being alerted to anything new by the SRA.

Another suggestion is that to make warning notices and guidance etc more engaging, it would be helpful for the SRA to provide more practical, real-life examples of how to deal with issues. Often warning notices focus on what should not be done and it would be helpful if the SRA could provide guidance and examples of how solicitors can deal with the issues raised in a compliant way.