



# The Recorder

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### **Special Edition Recorder - The Code of Practice**

This special edition of The Recorder explains how the Code will affect individual solicitors and firms and what you need to do to achieve registration.

Please click on the topics in the Contents (on the left) for more information.

### **The Code of Practice**

#### **How it will affect you**

The Code of Practice for solicitors and firms undertaking criminal legal assistance work has been approved by the Secretary of State in terms of the Crime and Punishment (Scotland) Act 1997 and will be published on 1 April. From 1 October only solicitors and firms registered under the Act can undertake criminal legal assistance.

Solicitors and firms who wish to undertake criminal legal assistance must apply for inclusion on the Criminal Legal Assistance Register. To enable applications to be processed by 1 October, completed application forms should be sent to the Board by 31 July. We cannot guarantee to process by 1 October applications received after 31 July.

Copies of the Code, along with relevant guidance notes, application forms and sample documents, are being sent to all practitioners in Scotland who have provided criminal legal aid within the last two years. In addition, any solicitor or firm intending to undertake criminal legal aid work in the future must apply for registration and should contact the Board for a copy of the Code and relevant application forms.

This special edition of The Recorder explains how the Code will affect individual solicitors and firms and what you need to do to achieve registration.

#### **Roadshows**

At the dates and venues below, the Board will be running a series of eight roadshows for the profession to explain the Code and the registration process and answer questions. For further details, see Roadshows.

Oban	15 April
Glasgow	16 April
Ayr	20 April
Dumfries	21 April
Edinburgh	23 April
Aberdeen	27 April
Inverness	28 April

Dundee

30 April

If you want to register under the Code it is in your interest to come along.

### ***What does the Code cover?***

The Code covers three main areas of work:

- standards of professional conduct
- quality of service
- systems of management and administration.

It sets out the standards expected of solicitors and firms in these three areas. With the registration pack we will be providing examples of documentation which will meet the requirements of the Code. These sample documents are intended as guidelines to the quality of materials required, not as exact requirements. We would expect you to adapt them to suit your own practice.

Additional copies of the Code and application forms will be available from our Communications Office on Ext. 426.

### ***How do I apply for registration?***

Firms must submit an application form, completed by the Compliance Partner, who will be the Board's point of contact for all matters relating to the Code and registration, along with details of policy and procedures for -

- standards of professional conduct
- time/work recording
- case recording
- financial recording
- training, and a sample training record
- supervision of staff
- document control
- case review
- client reporting
- corrective action
- any target setting instructions for staff

Individual solicitors must complete an application form, submit a copy of his/her practising certificate, details of any targets which s/he sets for staff and details of appropriate training. An individual solicitor's application cannot be considered until the firm s/he is connected with has been registered, so applications for connected solicitors should be sent with the firm's application. This will allow us to process the applications more efficiently and quickly.

Completed applications should be sent to the Criminal Legal Assistance Registration Unit, Scottish Legal Aid Board, 44 Drumsheugh Gardens, Edinburgh EH3 7SW by 31 July.

### ***How will the applications be assessed?***

The Board has recruited a team of four Compliance Auditors who will be involved in assessing the applications for inclusion on the Register and advising solicitors on the standards required by the Code. After October, they will be responsible for monitoring continued compliance with the Code.

These auditors will carry out an initial check on applications to ensure that the form and supporting documentation is complete. We will then acknowledge receipt of the application and notify you if any information is missing.

Applications by firms will be assessed first, and once we are satisfied that a firm's application for registration is acceptable, we can assess the applications from solicitors

connected with the firm. For applications from firms, we will address all correspondence to the Compliance Partner.

The Compliance Auditors will also be available to offer advice on meeting the standards set out in the Code and to answer any questions about the application process. Where appropriate, they will be making visits to firms to confirm that procedures have been implemented.

We aim to assess applications as quickly as possible. However, if you have not been informed of a decision on your application by Monday 21 September, you should [telephone our Compliance Auditors](#).

### ***What should I do if I change firms?***

The Compliance Partner of both the new and the old firm should tell us of such a change. As at present, the solicitor will notify the Board of his move.

Of course we need to be told of every change that affects the firm's or the individual solicitor's registration. Such changes include:

- newly qualified solicitor joins the firm
- solicitor leaves the firm
- partnership dissolves
- new firm is formed
- office procedure is changed
- allocation of responsibilities is changed

An individual solicitor should also tell us of any change affecting their own registration, such as when they complete their traineeship, and of course they must confirm when they complete the CPD requirement for Code compliance.

### ***How will compliance with the Code be monitored in future?***

Our team of Compliance Auditors will be responsible for monitoring compliance with the Code. They will do this by making pre-arranged visits to firms of solicitors' offices to inspect records and procedures relating to the standards set out in the Code and ensure that these are implemented. Each firm can expect to be visited by a Compliance Auditor, on average, once every two years.

As possible indicators of how a firm or solicitor operates, we will also look at

- the standard of applications, accounts and correspondence submitted to the Board
- numbers and costs of cases handled by a solicitor
- attendance on training courses by solicitors

At a later stage, we hope to introduce an element of peer review by using experienced criminal practitioners from private practice to examine how cases are handled. We also intend to survey client satisfaction.

### **Our Compliance Auditors are:**

Jane MacNaughton is a law graduate of the University of Kent at Canterbury and, prior to joining the Board, was the Partnership Manager at Hodge James and Allen solicitors in London.

Fiona Mackintosh is a law graduate of Glasgow University and has an LLM in European Law from Strathclyde. Having worked for the European Commission for Human Rights in Strasbourg, she comes to the Board from Brodies solicitors in Edinburgh.

Robertson Mair - after a 10 year career in the police force, Robertson graduated from Strathclyde University last year with a BSc in Quality Management.

Brian Millar is a modern history graduate of St Andrews University and joins the Board from a background in project management with the Royal Bank of Scotland.

***What happens if my firm or a solicitor is not registered?***

If at 1 October a firm has not been registered, the firm will not be able to undertake criminal legal assistance work. If an individual solicitor is not registered, s/he will not be able to carry out criminal legal assistance work regardless of the status of any firm they are connected with.

We will, of course, continue to process new applications as they are received.

***Code of Practice timetable***

<b>1 April</b>	The Code of Practice is published Copies of the Code, guidance notes, forms and sample documents will be sent to all criminal practitioners
<b>From April 15-30 April</b>	The Board will accept applications from individual solicitors and firms The Board will host a series of roadshows around Scotland to give solicitors an opportunity to discuss and ask questions about the Code of Practice and compliance
<b>31 July</b>	All applications must be with the Board to ensure that they can be processed by October
<b>1 October</b>	The Code of Practice takes effect and any solicitor or firm who wants to do criminal legal assistance work must be registered with the Board

Jim Wardlaw of Wardlaw Stephenson Allan, Edinburgh, had the following to say about the Code of Practice:

"Some time ago now we identified the need for an office manual to embody our working practices and procedures.

We succeeded in drafting a manual and putting it into practice within a relatively short time period. When SLAB issued their draft code in 1997, we were therefore readily able to identify and remedy any weaknesses in our systems of work.

Many firms may find a need to document their methods of working more clearly but this should help rather than hinder the effective management of their businesses.

One of the aims of SLAB is to keep the cost of criminal legal aid work at a reasonable level, whilst the criminal law practitioner is concerned with providing a quality service to his or her client. In our view, the Code of Practice will assist both those financing and those providing the service to achieve their objectives."

***Roadshows***

During april we will be holding a series of roadshow throughout Scotland to give solicitors the opportunity to discuss any aspect of the Code with authorised staff from the Board. If you have any specific questions about you or your firm's application or would like some advice on how the standards set out in the Code relate to your practice, please bring along your copy of the Code and any relevant documents and our staff will be happy to answer your questions.

**The dates and venues for the roadshows are:**

Oban	Soroba House Hotel	15 April
Glasgow	Strathclyde Graduate Business School	16 April
Ayr	Belleisle House Hotel	20 April
Dumfries	Cairndale Hotel	21 April
Edinburgh	Stakis Grosvenor	23 April
Aberdeen	Patio Hotel	27 April
Inverness	Jarvis Caledonian Hotel	28 April
Dundee	Stakis Hotel	30 April

All the roadshows begin at 7pm and refreshments will be available from 6.30pm.

**Compliance with the Code need not require you to purchase any particular computer system or use any consultancy services. Board staff attending the series of roadshows and the Compliance Auditors are the only people authorised to offer guidance on compliance. You can contact the auditors at the Criminal Legal Assistance Registration Unit (CLARU) on 0131 226 7061 ext. 215 or 333**