



The Law Society

# **Mental Health Scheme**

## Guidance Notes and Policies



# Application Form Guidance Notes Mental Health Accreditation Scheme

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## Overall Guidance

1. These guidance notes are to assist you in applying for membership of the Mental Health Accreditation Scheme. The application form includes basic instructions to help you complete the form correctly. Additional guidance notes are provided here.
2. The Mental Health Accreditation Scheme covers the representation of patients in all proceedings before the First-tier Tribunal (Mental Health) under the Mental Health Act 1983.
3. From August 2014, it is a requirement of the Legal Aid Agency (LAA) that all publicly funded representatives in proceedings before the First-tier Tribunal are members of the Law Society's Mental Health Accreditation Scheme.
4. **Emboldened words** (apart from document headings and advisory notes) are defined in the **Glossary of Terms** which follows.
5. The application form is designed to be completed electronically in Microsoft Word (1997 and later). Please answer all relevant questions and use the 'tab' key to progress through the form. Questions require a combination of typed answers, choosing an option from a drop-down menu or check box confirmation. You are also required to provide separate supporting documentation, which must be submitted along with your completed application form.
6. References to statutes and regulations include any subsequent statute, legislation or regulation directly or indirectly amending, consolidating, extending, replacing or re-enacting that statute or regulation and to all orders, directions and notices made or served under them.

If any developments after submission of this form would affect the answers given (whether in relation to complaints, claims, regulatory matters, changes to relevant persons or otherwise), you must notify the Law Society as soon as possible and, in any event, within 14 days of the change or the decision to make the change, whichever is the earlier.

## Expected Standards of Competence

Applicants to the Mental Health Accreditation Scheme are expected to have undertaken a substantial amount of mental health casework for a period at least six months within the 12 months preceding the application to **the Scheme** and must demonstrate the following competencies:

- Knowledge of the law and procedure which is essential to representing clients before the First-tier Tribunal
- Ability to prepare and present cases effectively for clients in proceedings before the First-tier Tribunal
- Sufficient knowledge of those areas of law, such as mental capacity, community care and human rights, which are relevant to advising and representing clients in proceedings before the First-tier Tribunal
- Sensitivity to and awareness of the particular difficulties clients may face because of mental disorder and by virtue of being subject to Mental Health Act powers
- Commitment to representing clients with mental disorder
- Adherence to the ongoing requirements of Law Society Accreditation Scheme Membership and to the [Mental Health Accreditation Scheme Code of Practice](#).

### Questions?

We cannot process your application if any relevant information or documentation is missing from your application form. If you are unable to resolve your query using information provided in the scheme guidance notes below, please contact us:

**Tel:** 020 7320 5797

**E-mail:** [accreditation@lawsociety.org.uk](mailto:accreditation@lawsociety.org.uk)

## Glossary of Terms

Term	Definition
<b>Continuing Professional Development (CPD)</b>	Once accredited, all members of the Scheme will be required to ensure that they complete at least 6 CPD hours of Mental Health related courses.
<b>Disclosure and Barring Service (DBS)</b>	The DBS helps make safer recruitment decisions and replaces the Criminal Records Bureau (CRB) and Independent Safeguarding Authority (ISA).
<b>Enhanced Disclosure and Barring Service (EDBS)</b>	As accredited members will be working with vulnerable clients, whether children or adults, an <i>enhanced</i> check is required. The EDBS check looks at spent and unspent convictions, cautions, reprimands, final warnings and any additional information held by local police that is reasonably considered relevant to the role in question.
<b>Glossary</b>	The glossary contained within these guidance notes.
<b>Limited Liability Partnership (LLP)</b>	A recognised body within the <b>SRA</b> Practice Framework Rules 2011.
<b>Practice</b>	Any law firm regulated by the <b>SRA</b> , including <b>Sole Practitioners</b> , partnerships, companies and <b>LLPs</b> .
<b>Scheme Design</b>	The document setting out the framework of <b>the Scheme</b> including its objectives, benefits and the eligibility criteria.
<b>Sole Practitioners</b>	A recognised sole practitioner pursuant to the <b>SRA</b> Practising Regulations 2011 until 31/3/2012 and thereafter the Authorisation Rules 2011.
<b>SRA</b>	Solicitors Regulation Authority.
<b>The Scheme</b>	The Law Society's Mental Health Accreditation Scheme, a quality standard for representation of patients under the Mental Health Act 1983, as set out in the <b>Scheme design</b> .

## Section 1: General Information

All Applicants should complete sections A and B.

Item	Guidance
5	The SRA ID is the <b>Practice's</b> reference number which identifies the <b>Practice</b> and appears on the Law Society's public register. Each branch office of the <b>Practice</b> will have its own individual SRA ID. The SRA ID being asked for here is the SRA ID for the main office.
6	The 'main office' will be the office that you have listed with the <b>SRA</b> as the main address for your <b>Practice</b> .
7	Please provide the DX address for the <b>Practice</b> .

Section C - To be completed by Applicants who are a solicitor.

Section D - To be completed by Applicants who are not a solicitor.

## Section 2: Initial Assessment

### E. Suitability for Admission

Applications for membership of **the Scheme** may be accepted from solicitors, Fellows and Members of the Chartered Institute of Legal Executives, trainee solicitors, and other caseworkers, subject to approval by the Law Society.

Non-solicitor Applicants must be employed by a practice regulated by the **SRA**. There must be at least one solicitor within the practice who specialises in mental health work and provides supervision.

Applicants will also be expected to meet a set of minimum requirements before their application can proceed to interview stage. We will reject applications on initial assessment, if Applicants are unable to demonstrate that they meet the minimum requirements.

We also carry out checks to ascertain whether an Applicant is a fit and proper person to be accredited by **the Scheme**. Further details can be found below and in the [General Application Criteria and Guidance](#) on the website.

### Enhanced Disclosure and Barring Service (EDBS)

Please note we cannot process applications unless we receive an **Enhanced Disclosure and Barring Service (EDBS)** check certificate which is no more than three months old at the date the Accreditation Office receives your application. Please be aware that we may request additional **EDBS** checks to be undertaken at any point during your accreditation or re-accreditation. Compliance with such a request will be required to ensure your continued membership of **the Scheme**.

All Applicants are required to apply for an enhanced disclosure check from the **DBS**, whether pursuing an initial or re-accreditation application. This can be obtained online using our preferred provider, [Atlantic Data](#).

You can, however, use any other provider of your choice, but must ensure that we are provided with the original **EDBS** check certificate in support of your application, regardless of which organisation that certificate is obtained through. As **EDBS** checks can take up to six weeks, we strongly encourage you to start the process as soon as possible, as failure to provide the **EDBS** certificate within 21 days of submitting your application to **the Scheme** will result in your application being refused.

If a disclosure check reveals information that raises doubt about your suitability to be a member of **the Scheme**, your application may be rejected by the Accreditation Office after initial assessment. For further details, regarding the Law Society's Initial Eligibility Checks, please refer to the Individual Accreditation Schemes, [General Application Criteria and Guidance](#) on the website.

Item	Guidance
16 - 19	Please ensure that you provide full details of any issues that may affect your application and the Mental Health Accreditation Scheme's reputation. Kindly note this information will be cross checked against information we hold.

## F. Scheme Specific Requirements

Item	Guidance
20	<p>Applicants must attend an approved training course prior to applying for membership of <b>the Scheme</b>.</p> <p>Applications must be submitted within six months of attendance on the approved course and a copy of the course certificate must be enclosed with the application.</p> <p>The compulsory training course must be provided by specifically approved training organisations and will be of two days' duration. A list of course providers can be found on our <a href="#">website</a>. Applicants for re-accreditation do not need to attend a compulsory training course.</p>
21	<p>Applicants must be able to confirm that within the period of not more than 12 months preceding submission of the application they have represented at, or observed, 4 hearings before the First-tier Tribunal (Mental Health) including:</p> <ul style="list-style-type: none"> <li>• one section 2 hearing</li> <li>• one section 3 or unrestricted section 37 hearing</li> <li>• one restricted hearing</li> <li>• one other hearing of whatever type.</li> </ul>
22	<p>Applicants must ensure that they meet the expected standards of competence and have the requisite level of experience, prior to applying for membership to the Scheme.</p> <p>All Applicants should have undertaken a substantial amount of mental health casework for a duration of at least six months within the 12 months prior to their application.</p>
23	<p>The Law Society expects all Mental Health Accreditation Scheme Applicants to provide full <b>CPD</b> records for one <b>CPD</b> year preceding submission of the application. Applicants should have gained at least six <b>CPD</b> hours in the year in the subject area of mental health, or related areas such as mental capacity, community care and human rights.</p>

## G. References

Item	Guidance
24-25	Please note we do not request references unless considered necessary by the Accreditation Office, Interview Panel or Chief Assessor. If we decide to contact your referees, we may do so at any point during the application process.

## Declaration

The Applicant and a Partner or Senior Partner must each complete a declaration to confirm that:

- the information provided by the Applicant is accurate and true
- the Applicant has undertaken a substantial amount of mental health casework for a duration of at least 6 months within the 12 months preceding their application
- the Applicant understands how the information provided by them will be used by the Law Society.

## About the Assessment Process

### What Happens to the Completed Application Form?

When an application form is received, we will send an acknowledgment email. We will then check the application to confirm that you are eligible to apply for accreditation – for example, that you have attended an approved training course and observed the requisite number and types of tribunal hearings. If at this stage you appear not to be eligible, we will contact you and ask for further information in support of your application. If you are eligible, we will follow the processes set out below for initial accreditation and reaccreditation.

### Initial Accreditation

We will send you an email with a proposed time and date for interview.

### The Interview

All interviews take place at The Law Society's London Office. The interview will be conducted by two of **the Scheme's** Assessors, who will have read the application form.

It is **essential** that Applicants arrive **one hour** before the scheduled time of the interview.

On arrival Applicants will be given a case study to read, which will concern a person detained under the Mental Health Act who has applied to the First-tier Tribunal. The task, on the basis of the information provided in the case study, is to prepare to represent that person at a tribunal hearing. Applicants will have to consider how best to prepare and present the client's case and how to deal with the issues of law, procedure and evidence which arise in the case study. These matters will be tested by questions asked in the accreditation interview.

Applicants may make use of books and other reference material when preparing the case study and may take these and any notes into the interview. Please note that Applicants are not permitted to speak to anyone about the case study before the interview.

Approximately 15 minutes before the appointed interview time Applicants will be given a Multiple Choice Questionnaire on law and procedure. The time allowed for its completion is 10 minutes. The Questionnaire is comprised of 20 questions to be answered without access to books or other reference materials.

Following completion of the Multiple Choice Questionnaire Applicants will then be invited in for interview. The total time allowed for the interview is one hour.

The interview comprises two elements:

1. **Practice and Professional Conduct Assessment** - Applicants will be asked 10 questions on Practice and Professional Conduct.
2. **Case Study Assessment** - Applicants will be asked 12 questions on the case study provided on arrival. These questions cover law, procedure, evidence, case preparation and presentation.

## How Decisions Will be Made

Once all three elements of the assessment have been completed, the Assessors conducting the interview will consider and mark the answers provided. They will then make a recommendation on the basis of the score achieved, as to whether the Applicant should be accredited, either conditionally or unconditionally, or refused. In making their recommendations, Assessors may exercise their discretion in those instances where an Applicant has narrowly missed achieving accreditation.

If the Assessors consider that there were any special factors which may have affected the Applicant adversely during the interview they may record their views in writing and what they say will be taken into consideration, should the Applicant wish to appeal the decision.

## Information to be Provided Following the Interview

It will not be possible to give a decision on the day of the interview. Applicants will be informed of the Law Society's decision on their application by email within two weeks of the interview.

## Membership Term and Re-accreditation

Membership is for an initial term of three years, after which time a member will be required to demonstrate their continued suitability to remain on **the Scheme** by successfully completing a process of re-accreditation.

Thereafter, re-accreditation occurs every three years. A reminder will be sent to members three months prior to the due date.

Under the re-accreditation procedures and criteria you will be asked to demonstrate your continued competence by:

- providing relevant information on the application form
- providing four case reports, compiled from cases completed during the past 12 months
- providing details of continuing professional development training attended throughout the duration of accreditation
- having a satisfactory professional record and satisfactory **EDBS** check.

The Law Society will also carry out checks against internal records and other sources as may be considered appropriate.

Referees should include at least one Tribunal Judge (either salaried or fee-paid).

Members must continue to familiarise themselves with changes in law, practice and procedure, by completing at least six hours of Mental Health law-related **CPD** training per year throughout their period of membership.

As part of the re-accreditation process, we will require scheme members to supply details of **CPD** training they have completed during the period of their membership.

Re-accreditation will usually be via an application form, but if the Chief Assessor or an Assessor considers it necessary, you will be invited to attend an interview at the Law Society.

## Appeals

Any Applicant who is dissatisfied with a decision made by **the Scheme's** Assessors on an application for accreditation or re-accreditation is entitled to appeal to the Law Society against a refusal of accreditation or a conditional recommendation for accreditation.

Appeals will be determined by **the Scheme's** Chief Assessor on the basis of the application form, the interview documentation and any written representations made by the Appellant. Please refer to our [General Application Criteria and Guidance](#) for further information on our appeals process.