

# Probate training records review

13 December 2024

Probate law can be complex to navigate for clients who can often be vulnerable. It is vital that solicitors are competent to provide good quality probate services.

Solicitors are required to maintain their competence by keeping their knowledge and skills up to date. To do this, solicitors should regularly reflect on their practice, identify areas that require improvement and address these. Solicitors must declare when renewing their practicing certificate, that they have met this requirement.

Our [2023 annual assessment of competence](https://upgrade.sra.org.uk/sra/research-publications/annual-assessment-continuing-competence-2023/) [https://upgrade.sra.org.uk/sra/research-publications/annual-assessment-continuing-competence-2023/] found that probate and estate administration generated the third highest volume of reports to us and complaints to the Legal Ombudsman. We said we would review the training records of a sample of solicitors providing probate services to identify if, and how, they are keeping their knowledge and skills up to date.

We have now completed our review. Our findings are outlined below along with the key messages for solicitors and firms providing probate services and the further steps we will be taking.

## What we did

We contacted 100 firms to request the training records for solicitors who provided probate services between 1 January 2023 to 31 December 2023.

We reviewed 140 records submitted to understand:

- Whether the evidence provided demonstrates that the solicitor had taken steps to maintain their competence.
- The extent to which any learning and development focused on the area of probate.
- Whether the training record evidenced that the solicitor had reflected on their practice.
- If and how learning and development activity was recorded.

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## **Key findings**

### **Solicitors are carrying out learning and development activities**

We found that 136 of the 140 solicitors who provided us with their training records had completed learning and development. Of the four solicitors who did not provide us with evidence they had completed learning and development, three provided appropriate reasons why this was the case.

Of the 136 who had completed learning and development, there were variations in the total number of learning and development activities carried out. A third recorded more than 10. We found:

- that 40 solicitors recorded 1-5 activities
- that 52 solicitors recorded 6-10 activities
- that 44 solicitors recorded more than 10 activities.

Of course, this measure does not tell us about the nature, duration or quality of the activities.

### **Most learning and development focused on probate**

Almost all solicitors who provided evidence of learning and development completed at least one activity focused on probate. We found that 30 solicitors carried out more than 10 probate-related activities. We found that learning and development activities relating to probate law focused on the following areas:

- Drafting, management and dispute of wills.
- Trusts and tax.
- Residential and rented property.
- Estates planning and administration.
- Inheritance tax.
- Private clients.
- Digital assets.

Only two solicitors reported that none of their learning and development related to probate.

We were pleased to find evidence that some solicitors carried out learning and development beyond maintaining their technical knowledge of probate law. These areas included:

- Consumer vulnerability and vulnerable clients (including the elderly).
- Anti-money laundering.
- Specialised legal areas (e.g., French, Indian, Spanish law).

### **Variety of approaches used to identify and address learning and development needs**

We expect all solicitors to reflect regularly on their strengths and weaknesses and to consider areas for improvement. This helps them

identify what learning and development is required to maintain competence. The records we reviewed used the following approaches to identify learning and development needs:

- Identifying a change in the law or procedure.
- Analysis of their performance or strengths and weaknesses.
- Reviewing client files or case discussion.
- Looking at what they wanted to do in the future.

We do not prescribe how solicitors should address their learning and development needs. However, we found that solicitors used the following approaches:

- Attending webinars and training sessions on probate law.
- Carrying out reading and research, such as:
  - Keeping up to date with family investment companies
  - Inheritance tax updates
  - STEP (The Society of Trust and Estate Practitioners) certification and qualifications
  - Legal updates on wills, probate, residential, and commercial property
  - CQS training (Conveyancing Quality Scheme)
  - LPA procedures and updates (Lasting power of attorney)

We found that 17 of the solicitors whose records we reviewed had used our guidance, warning notices and resources to help address their learning and development needs.

## **Variable record keeping**

Some of the training records we reviewed showed good practice in meeting our requirements for continuing competence by:

- Demonstrating that reflection was ongoing.
- Thoroughly evidencing how the individual had reflected and identified their learning and development needs and how these will be addressed.
- Clearly explaining the activity carried out and how it addressed the identified need.
- Showing how the learning will be applied to their practice.

These records were often linked to a template that outlined the competencies in our [Statement of Solicitor Competence](https://upgrade.sra.org.uk/solicitors/resources/continuing-competence/competence-statement/1) or internal competencies bespoke to a firm or role.

Other records were less comprehensive and 66 solicitors simply listed the learning and development carried out. This included the name of the course and when it was completed. There was no evidence of how or why

the learning and development was required or whether the activity had addressed the original need.

### **Key messages for probate practitioners**

From the reviews of training records carried out, we are pleased there is evidence that solicitors providing probate services are undertaking learning and development to maintain their competence.

However, there is room for improvement, particularly in relation to the detailing of reasons why learning and development was required or whether the activity addressed the original need.

### **Maintain competence to meet your regulatory obligation**

All solicitors have an individual responsibility to maintain competence. To do this, you should:

- Regularly reflect on your practice to identify learning and development needs. We have [resources](https://upgrade.sra.org.uk/solicitors/resources/continuing-competence/understanding-continuing-competence/) [https://upgrade.sra.org.uk/solicitors/resources/continuing-competence/understanding-continuing-competence/] to help you reflect.
- Reflect on all aspects of the [Statement of Solicitor Competence](https://upgrade.sra.org.uk/solicitors/resources/continuing-competence/competence-statement/) [https://upgrade.sra.org.uk/solicitors/resources/continuing-competence/competence-statement/]. This covers ethics, professionalism and judgment, working with other people in addition to maintaining technical legal practice.
- Understand and apply any [guidance](https://www.sra.org.uk/solicitors/resources/immigration-services/) [https://www.sra.org.uk/solicitors/resources/immigration-services/] or warning notices relevant to your work.

### **Make sure you record your reflection**

We do not require solicitors to keep a training record or document reflection. However, doing so enables you to demonstrate to us that you have taken the necessary steps to keep your knowledge and skills up to date.

A failure to record reflection raises concerns that not all needs are being identified and addressed. We therefore expect to see evidence of reflection in training records or evidence of learning and development, not just a list of activities carried out.

Your training record or evidence of learning and development should show how you:

- reflected on your practice to identify your learning and development needs
- planned and completed these needs



- evaluated the effectiveness of your learning and development.

You can use our [learning and development template](https://upgrade.sra.org.uk/solicitors/resources/continuing-competence/templates/)

[\[https://upgrade.sra.org.uk/solicitors/resources/continuing-competence/templates/\]](https://upgrade.sra.org.uk/solicitors/resources/continuing-competence/templates/) to help you. Firms we regulate and other organisations employing solicitors should consider whether their current approach to recording learning and development could further help solicitors meet their obligations and complete the steps we expect.

## **Consider future learning and development needs**

We analysed training records to understand any future learning and development activities solicitors providing probate services considered necessary to keep their skills and knowledge up to date. The findings included:

- Conducting individual analysis of performance of strengths and weaknesses.
- Identifying changes in the law or procedures.
- Reviewing client files or discussing cases.

Solicitors also noted future needs beyond probate practice, such as a better understanding of the following:

- Regulations on money laundering, cybercrime, tax evasion, mortgage, fraud and cybersecurity.
- Firm compliance and regulations regarding COLP (Compliance Officer for Legal Practice) and COFA (Compliance Officer for Finance and Administration) responsibilities, and handling complaints.
- Meeting needs of vulnerable clients.
- Developing networking opportunities and broader professional business training.

## **What we will do next**

This review of probate practitioner training records is part of our [overall programme of work](https://upgrade.sra.org.uk/sra/research-publications/annual-assessment-continuing-competence-2024/) [\[https://upgrade.sra.org.uk/sra/research-publications/annual-assessment-continuing-competence-2024/\]](https://upgrade.sra.org.uk/sra/research-publications/annual-assessment-continuing-competence-2024/) to understand if and how solicitors are maintaining their competence.

We constantly review findings from this work to understand if our continuing competence regulation is driving the learning and development behaviours we expect to see. It also helps us to understand if regulation is helping solicitors meet our requirements and is addressing competence risks we have identified.

Evidence from this review of probate practitioner records and our overall programme of monitoring work suggests that some solicitors and firms are failing to meet their continuing competence requirements.

We are therefore reviewing how we can further improve our current continuing competence regulation. We are at the early stages of our review and are considering a range of options. We will consult, if necessary, on changes to our continuing competence approach in summer 2025.

In the meantime, we are taking some action following this review of training records. We are seeking further assurances from the one solicitor who did not provide evidence of learning and development that they are maintaining their competence. We will also contact their firm to understand the policies and processes they have in place to ensure the competence of their solicitors.

We will contact the 66 solicitors who simply listed training activity and did not provide us with sufficient assurance they are maintaining their competence. We will explain what we expect in a training record and understand the steps they are taking to maintain their competence. We will also contact their firm to understand how they maintain competence of their solicitors.

We are considering the need for further action, for example, whether we need to introduce guidance to contextualise what competence looks like for solicitors practising in this area.

Finally, we will continue to monitor reports we receive about probate advice to identify any competence-related themes and risks.