



## LAW SOCIETY OF SCOTLAND REGISTERED PARALEGAL SCHEME

### ADDITIONAL COMPETENCIES QUESTIONNAIRE FOR NEW LEGAL DOMAINS - GUIDANCE

#### General comments

1. The Registered Paralegal Scheme is a competence-based scheme. This means that it sets out competencies as the measure of a paralegal's competence. "Competencies" comprise the supporting knowledge, skills and professional attitudes which enable a paralegal to perform competently and reliably in the paralegal's role – in other words, what the paralegal needs to know and be able to do in order to be considered competent. Consequently, the competencies for the Registered Paralegal Scheme are categorised as:

- Knowledge and application
- Skills
- Attitudes and Values,

and are summarised in Appendix A.

2. Although a paralegal tends to work in one specific area of practice, this being known as a 'Legal Domain', the Society believes that there are competencies which are common to all paralegals who meet the Society's standards, irrespective of the context of the particular Legal Domain. These are the "General Competencies" and can be found in Appendix B to the Scheme of Operation.

3. On top of these General Competencies, however, are "additional competencies", specific to the particular Legal Domain. These are predominantly detailed Knowledge competencies, but also specific competencies in Skills, Attitudes and Values required by the particular Legal Domain. The Legal Domains which have been recognised for the launch of the Registered Paralegal Scheme are called "Guide Areas" and currently comprise the following Legal Domains:

- Civil Litigation – Debt Recovery
- Criminal Litigation
- Domestic Conveyancing
- Liquor Licensing

- Wills and Executries,

each of which has its own set of Additional Competencies. A paralegal wishing to become a Registered Paralegal in one of the Guide Areas is required to meet both the General Competencies and the Additional Competencies for the relevant Guide Area. For convenience, consolidated versions of both the General and Additional Competencies for each Guide Area are available as Appendix B to the Scheme of Operation, and available on the Society's website – [www.lawscot.org.uk/paralegals](http://www.lawscot.org.uk/paralegals)

4. There is no general Civil Litigation Legal Domain under the Scheme, since "Civil Litigation" encompasses such a wide range of possible Legal Domains that a paralegal would not be expected to be competent in all. However, a paralegal can be registered in relation to a specific Civil Litigation Legal Domain, such as Debt Recovery which is one of the Guide Areas under the current Scheme. So, for a paralegal to be registered for a Civil Litigation Legal Domain under the Scheme, he/she would be expected to meet a generic set of "additional" Civil Litigation competencies, as well as specific Additional Competencies for the particular Civil Litigation Legal Domain. In the case of the Civil Litigation Legal Domain of Debt Recovery, a paralegal applying for registration would therefore be required to demonstrate the Scheme's General Competencies, the generic Civil Litigation Additional Competencies, and the specific Debt Recovery Additional Competencies. The Society anticipates that other Civil Litigation Legal Domains may be appropriate for recognition under the Scheme subject to requirements of market demand and appropriateness, as set out in the Scheme of Operation.

5. Where a paralegal works in a Legal Domain which is not currently a Guide Area under the Scheme, the paralegal may apply to the Society to have the Legal Domain recognised under the Scheme. The application, which should be made to the Society's Registered Paralegal Standing Committee, requires completion of a questionnaire appropriate to the particular Legal Domain, in order to provide the Society with information about the work a paralegal would be expected to do in this Legal Domain, and the knowledge, skills, attitudes and values a paralegal doing this sort of work would be expected to have. The questionnaire is available on the Society's website – [www.lawscot.org.uk/paralegals](http://www.lawscot.org.uk/paralegals). Applicants are advised to submit the questionnaire, duly completed, to the Registered Paralegal Standing Committee as soon as they wish to submit an application. Thereafter:

- The Standing Committee will publish on the Society's website a list of proposed Legal Domains which are being considered.
- If the Standing Committee receives a number of applications for the same Legal Domain (the Standing Committee would be unlikely to approve a new Legal Domain on the basis of a single applicant, as market demand is one of the criteria for recognition), the Standing Committee will put those applicants in contact with each other for the purpose of producing a joint application. The joint application will need to be agreed and signed by all the applicant paralegals and supervising solicitors who support the application.
- It should be noted that the Committee will consider each application on its own merits. For example, 'market demand' might be demonstrated by the number of

applicants wishing to create the new area, but this might not always be the case, such as in the case of a niche area of law.

- The Standing Committee will also require a supporting statement to be submitted with an application, whether individual or joint, as to why the applicant/s, and the applicant's/applicants' supervising solicitor/s, believe the new Legal Domain should constitute a new Guide Area under the Scheme.

The process outlined above will assist the Standing Committee in approving a new Legal Domain. The Standing Committee must be satisfied that the proposed Legal Domain is appropriate to be included in the Scheme. In considering the appropriateness of a proposed Legal Domain, the Standing Committee reserves the right to refer an application to a subject expert in order that the Standing Committee may better understand the proposed Legal Domain and the work undertaken in it, and to enable appropriate Additional Competencies to be produced for the Legal Domain should it be approved. For further details, please see section 2 of the Scheme of Operation, particularly in relation to the length of time it may take to create a new Legal Domain.

### **Guidance on completing the questionnaire**

**IMPORTANT:** To understand the standard the Society is setting, and the level of competence a Registered Paralegal is expected to demonstrate, reference should be made, generally, to the existing Guide Areas which were created as a result of the questionnaire below being completed. For ease of reference this guidance note draws out **particular** examples from the existing Guide Area competencies.

#### **1. What is the Legal Domain?**

This merely requires the name of the Legal Domain, such as "Domestic Conveyancing", to be inserted.

#### **2. What are the transactions/cases/procedures a paralegal would be involved in or expected to be able to carry out in this Legal Domain?**

Depending on the Legal Domain and whether it involves contentious or non-contentious work, it may or may not be appropriate to talk about "transactions" or "cases". In some Legal Domains, the work would involve the following of procedures i.e. where there was no other party as such but, for example, an application is made to a body or authority, such as in the case of Liquor Licensing. Therefore, answering this question requires a description of the sort of transactions, cases or procedures it is that a paralegal working in that Legal Domain area would be expected to carry out. Please bear in mind that the competencies for the Scheme are regarded as minimum competencies which set a minimum standard for eligibility to enter the Scheme. Therefore it is not appropriate to include activities which would not be expected to fall to the lot of the generally competent paralegal in that Legal Domain.

**For each type of transaction/case/procedure a paralegal would be involved in or expected to be able to carry out, please specify the knowledge, skills, values and attitudes a paralegal would be required to demonstrate in addition to those set out in**

**the Competency Framework, or which are particular to the transaction/case/procedure.**

See General Comments above.

## **KNOWLEDGE AND APPLICATION**

The Knowledge and Application competencies address various levels of “Knowledge” used in a generic sense, namely:

- Knowledge and Understanding
- Knowledge and Familiarity
- Understanding
- Awareness,

as well as the ability to apply that “Knowledge” appropriately.

The highest level is that of “Knowledge and understanding”. This means not merely knowing that something exists, such as a particular law, and knowing the contents of that law, but also understanding either how the law applies to the Legal Domain or what its significance is for the Legal Domain.

The next level is that of “Knowledge and Familiarity”. This means knowing, for example, that a particular law exists, and perhaps knowing one’s way around the law, or perhaps knowing how or why it is used or is relevant in that Legal Domain.

Then there is “Understanding”. This is more to do with concepts and procedures – understanding what the legal concept or issue is and what its application or impact is, for example.

Finally, there is “Awareness” which means, literally, that a Registered Paralegal needs to be aware that certain Acts, for instance, are relevant to the Legal Domain, and is able to refer to them correctly. Further, a Registered Paralegal would also need to be aware that there are implications should certain situations arise, and that, when this happens, a Registered Paralegal would need to refer to his/her supervising solicitor, for instance.

### **3. what is the knowledge and/understanding and/or familiarity the Paralegal would be required to demonstrate, specifically:**

Bearing in mind the guidance in relation to “KNOWLEDGE AND APPLICATION” above, this section requires you to identify what is relevant under 3.1-3.11, below, to that Legal Domain, and then, specifically, to allocate the level of “knowledge” which it is appropriate for a paralegal to have for each of 3.1-3.11, bearing in mind that the paralegal is not expected to meet the Knowledge standards of a solicitor. For this reason, varying levels of knowledge have been identified as possibly being appropriate: would a paralegal be expected to have: knowledge and understanding, knowledge and familiarity, understanding or just awareness?

A word of caution: it is not expected that all of 3.1-3.11 will be appropriate to every Legal Domain; rather, the list of 3.1-3.11 is intended as a prompt for the person completing the questionnaire, in case any of 3.1-3.11 happen to be relevant to that Legal Domain. Solicitors completing the questionnaire with paralegals should not worry unnecessarily about the various levels, as these are intended to be a guide only.

### **3.1 of the law which underpins these transactions/cases/procedures?**

What is the relevant or guiding law? For instance, in the case of Domestic Conveyancing, it is the law of real rights.

### **3.2 of the sources (primary and/or secondary) of the relevant law?**

Primary sources include legislation, whether statutes or regulations and the like; secondary sources include other sources such as manuals, rule books. By way of illustration, a primary source in Criminal Litigation would be the Legal Profession and Legal Aid (Scotland) Act 2007, while a secondary source would be the Scottish Legal Aid Board Handbook.

### **3.3 of internal/external policies or protocols in relation to those transactions/cases/procedures?**

Are there any policies which a paralegal would need to know in order to carry out the transactions, cases or procedures competently? These could be internal policies on how to proceed, or they could be externally-imposed policies. For protocols, it is a matter of fact whether any exist or not in a particular Legal Domain. For example, there are protocols under the Code of Conduct for Criminal Work in Criminal Litigation. Equally, a firm or legal department may have its own protocols for how work should be done, or practitioners, themselves, may voluntarily comply with generally accepted protocols, such as using agreed standard forms of documents in the case in some standard property transactions.

### **3.4 of official/internal forms and precedents relevant to the transactions/cases/?**

Certain areas of practice and certain procedures involve pre-defined forms and documentation which must be used. This can be an internal requirement by the firm or legal department for quality control purposes or to encourage best practice, or certain official bodies or authorities may require certain forms to be used, such as Registers of Scotland Forms 10, 11, 12 and 13 or Stamp Duty Land Tax forms in Domestic Conveyancing.

### **3.5 of time scales/deadlines relevant to the transactions/cases/procedures?**

Some Legal Domains involve important deadlines or time scales which must be adhered to, failing which there can be detriment to the client. For instance, Criminal Litigation deadlines and time scales, custody timescales and appeal timescales. It is these sorts of deadlines and time scales which should be specified.

### **3.6 of the different implications in terms of procedures, policies and law depending on which party is being acted for in the particular transaction/case/procedure?**

Sometimes, depending on which party an organisation is acting for, there will be different obligations or different procedures or processes involved. The defender in Criminal Litigation is an obvious example, similarly the testator in will drafting, or the executor as opposed to beneficiary in the administration of an estate. If these implications are important for a paralegal to know, they should be specified.

### **3.7 of risk management/professional conduct procedures relevant to the particular transaction/case/procedure?**

This question seeks to elicit any particular procedures in relation to risk management or professional conduct which need to be complied with in that Legal Domain, such as anti-money laundering procedures, or procedures to be followed to avoid conflicts of interest in litigation. These procedures would sit on top of the Registered Paralegal's general obligation to refer to Solicitors' Standards in carrying out his/her work, notwithstanding that the solicitor for whom the Registered Paralegal is working retains ultimate responsibility for the work undertaken by the Registered Paralegal.

### **3.8 of interaction with other related/non-related areas of law and practice?**

Are there any other areas of law or practice which are relevant in a 'peripheral vision'-type of way? For instance, in Wills and Executries, Inheritance Tax is relevant in knowing how to carry out the administration of an estate, as may knowledge of the interaction of the law of succession with family law and conveyancing be; in Domestic Conveyancing, Stamp Duty Land Tax would be relevant.

### **3.9 of procedures to be followed?**

Are there any commonly accepted procedures which need to be followed, or which are required to be followed by a relevant authority? An example would be the procedure required to be followed to apply for, and obtain, legal aid in a criminal litigation case.

### **3.10 of procedures/protocols for dealing with non-standard transactions/cases/procedures?**

This is exactly what it says: where something is not standard, are there any procedures or protocols, whether internal or external (see guidance in relation to 3.3above) which a paralegal would be expected to follow?

## **ADDITIONAL SKILLS**

### **4. Which skills would a Paralegal be required to demonstrate in addition to the General Competencies in the Competency Framework or which are specific to the particular type of transaction/case/procedure:**

All Registered Paralegals would be expected to demonstrate all the Skills set out in the General Competencies (See Appendix B to the Scheme of Operation) in relation to:

- Technical Skills
- Organisational Skills
- Communication Skills
- Inter-personal Skills, and
- Practice Skills of Research, Interviewing, Writing and Drafting,

Depending on the particular Legal Domain, the further Practice Skills of:

- Negotiation and/or
- Advocacy

may also be relevant.

There may also be additional or specific Skills, or particular contexts for Skills, in the Legal Domain. It is those additional or specific Skills which should be specified under 4.1-4.4.

#### **4.1 additional/specific Technical Skills?**

Are there any competencies in relation to Technical Skills, other than those provided in the General Competencies, which a paralegal would be expected to demonstrate? For instance, in Criminal Litigation, a paralegal would be expected to demonstrate the additional Technical Skill of being able to complete legal aid accounts, and the Information Technology Skill of using the Scottish Legal Aid Board on-line system. In Domestic Conveyancing, it could be an additional Information Technology Skill of submitting SDLT forms electronically.

#### **4.2 additional/specific Organisational Skills?**

Are there any competencies in relation to Organisational Skills, in addition to those provided in the General Competencies or specific to the Legal Domain, which a paralegal would be expected to demonstrate in his/her work in that Legal Domain, such as maintaining a diary for specific deadlines in Civil Litigation proceedings?

#### **4.3 additional/specific Communication Skills?**

Are there any competencies in relation to Communication Skills, in addition to those provided in the General Competencies or specific to the Legal Domain, which a paralegal would be expected to demonstrate in his/her work in that Legal Domain? For example, does the paralegal deal with vulnerable groups and require particular communication skills as a result?

#### **4.4 additional/specific Inter-personal Skills?**

Are there any competencies in relation to Inter-personal Skills, in addition to those provided in the General Competencies or specific to the Legal Domain, which a paralegal would be expected to demonstrate in his/her work in that Legal Domain?

#### **4.5. Are there any other skills in addition to those in the Competency Framework or specific to the particular transaction/case/procedure not otherwise covered in the Competency Framework?**

This is intended to be a catch-all, in case there are other Skills required for a Legal Domain which are not otherwise covered under technical, organisational, communication, inter-personal or practice skills, and which a paralegal working in that Legal Domain would be expected to demonstrate.

### **PRACTICE SKILLS**

#### **5. 1 Would a paralegal be expected to use Negotiation or Advocacy Skills in the Legal Domain, in addition to Research, Interviewing, Writing and Drafting?**

If a paralegal would be required to undertake negotiation and/or advocacy in the Legal Domain, then this needs to be specified.

#### **5.2 Of the Practice Skills, are there any specific or additional competencies to those already set out in the Competency Framework, that a paralegal would be expected to demonstrate for the particular Legal Domain?**

Are there any competencies in relation to the Practice Skills of Research, Interviewing, Writing and Drafting, or, if applicable, Negotiation or Advocacy, in addition to those provided in the General Competencies or specific to the Legal Domain, which a paralegal would be expected to demonstrate in his/her work in the Legal Domain?

An example of specific or additional Research skills is the ability to find and apply the policies and procedures of the relevant licensing board in a Liquor Licence application.

An example of specific or additional Interviewing skills is the ability to take full instructions to enable preparation of a will, in the Guide Area of Wills and Executries.

Examples of specific or additional Writing and Drafting Skills in the Guide Areas include: the ability to complete Legal Aid forms in Criminal Litigation; the ability to draft Missives in Domestic Conveyancing.

An example of specific or additional Negotiation Skills is the ability to negotiate settlement terms in Civil Litigation.

An example of specific or additional Advocacy Skills is the ability to advocate a case as a paralegal on behalf of a client in small claim hearings for Debt Recovery.

### **ADDITIONAL VALUES AND ATTITUDES**

#### **5. What are the values and attitudes a Paralegal would be required to demonstrate in addition to those in the Competency Framework, or which are specific to the particular type of transaction/case/procedure:**

All Registered Paralegals are expected to demonstrate all the Values and Attitudes set out in the General Competencies (See Appendix B to the Scheme of Operation) in relation to:

- Legal and ethical values
- Attitudes
- Professional and Client Focus.

### **5.1 additional/specific Legal and Ethical Values?**

Are there any competencies in relation to Legal and Ethical Values, in addition to those provided in the General Competencies or specific to the Legal Domain, which a paralegal would be expected to demonstrate in his/her work in the Legal Domain? Examples include complying with duties, not only to the court, but also to other authorities such as liquidators or the Accountant in Bankruptcy in Debt Recovery; complying with the obligations imposed by the Code of Conduct for Criminal Work in Criminal Litigation.

### **5.2 additional/specific Attitudes?**

Are there any competencies in relation to Attitudes, in addition to those provided in the General Competencies or specific to the Legal Domain, which a paralegal would be expected to demonstrate in his/her work in the Legal Domain?

### **5.3 additional/specific Focus (Professional/Client)?**

Are there any competencies in relation to Professional or Client Focus, in addition to those provided in the General Competencies or specific to the Legal Domain, which a paralegal would be expected to demonstrate in his/her work in the Legal Domain? An example in Debt Recovery is understanding that it is for the client to judge whether or not litigation is worthwhile.

### **5.4 other?**

Are there any other competencies in relation to Values and Attitudes not covered under 5.1-5.3 which a paralegal would be expected to demonstrate in his/her work in the Legal Domain?

Appendix A

| <b>SUMMARY OF KNOWLEDGE, SKILLS, VALUES AND ATTITUDES THE PARALEGAL IS REQUIRED TO DEMONSTRATE</b> |                                 |  |
|--|---------------------------------|--|
| <b>KNOWLEDGE AND APPLICATION</b>   | <b>Knowledge</b>                | <ul style="list-style-type: none"> <li>• Knowledge and understanding</li> <li>• Knowledge and familiarity</li> <li>• Understanding</li> <li>• Awareness</li> </ul>                         |
|  | <b>Application</b>              | <ul style="list-style-type: none"> <li>• Application of knowledge</li> <li>• Carrying out procedures</li> </ul>  |
| <b>SKILLS</b>  | <b>Technical Skills</b>         | <ul style="list-style-type: none"> <li>• Accuracy, literacy and numeracy</li> <li>• Information Technology</li> <li>• Office equipment</li> <li>• Office systems and procedures</li> </ul> |
|  | <b>Organisational Skills</b>    | <ul style="list-style-type: none"> <li>• Personal management</li> <li>• File management</li> </ul>   |
|  | <b>Communication Skills</b>     | <ul style="list-style-type: none"> <li>• Generally</li> <li>• Personal communication</li> <li>• Written communication</li> <li>• Electronic communication</li> </ul>                       |
|  | <b>Inter-personal Skills</b>    |  |
|  | <b>Practice Skills</b>          | <ul style="list-style-type: none"> <li>• Research</li> <li>• Interviewing</li> <li>• Writing and drafting</li> <li>• Negotiation</li> </ul>  |
| <b>VALUES AND ATTITUDES</b>  | <b>Legal and ethical values</b> |  |
|  | <b>Attitude/s</b>               |  |
|  | <b>Focus:</b>                   | <ul style="list-style-type: none"> <li>• Professional</li> <li>• Client</li> </ul>   |