

Guidelines for Compliance with Continuing Professional Development Regulations.

The Regulations came into full effect on 1st November 1996. They apply to solicitors holding a Practising Certificate. The Guidelines will be reviewed periodically and may be amended in the light of experience.

Annual Requirement

Solicitors to whom the Regulations and Guidelines apply will require to undertake 20 hours Continuing Professional Development in each practice year. For solicitors practising in Scotland, England or Wales a minimum of 15 hours will require to be in Group Study and up to five hours can be by Private Study, except for authors of published books or articles (see below). Solicitors practising outwith Scotland, England or Wales may comply with the Regulations by undertaking 20 hours Private Study.

Where a solicitor has achieved the required number of hours of group study by the end of September in any year, time spent during the month of October at any further event which qualifies as group study may be counted towards the requirement for the following practice year which commences on 1st November of that year. Also, where a solicitor has failed to achieve the required number of hours of group study by the end of October in any one year, time spent during the month of November at any event which qualifies as group study may be counted towards the requirement for the year ended on 31st October of that year.

Note: If you fall into the category of carrying forward attendances please do not record them for both Years. They should be recorded only in the record for the Year in which they are being claimed. The Society will not make any attempt to reallocate hours incorrectly recorded.

Trainees

Trainees gaining the Diploma prior to 1st January 2001 who are in their second year and hold a restricted Practising Certificate are admitted solicitors and will require to undertake C.P.D. in accordance with these Guidelines.

Trainees gaining the Diploma on or after 1st January 2001 are not required to undertake CPD until the start of the practice year (1st November) following the date on which their training contract ends assuming that the solicitor has been admitted and holds a Practising Certificate

Definition

In the Regulations Continuing Professional Development is defined as "relevant education and study by a solicitor to develop his or her professional knowledge, skills and abilities".

This means education and training in

1. Specific legal areas and topics.
2. Management and organisation.
3. Communication and client care skills.
4. Other areas relevant to the solicitor's practice.
5. Any area designed to improve an individual's ability to operate properly and effectively as a solicitor.

Method

The Society wishes solicitors to have as much control and responsibility for their own development as possible. The parameters are therefore expressed in broad outline.

Private Study

Private Study means study undertaken by less than three persons together. No more than five hours private study per annum will count towards fulfilling the CPD requirement.

Private study includes:

1. Distance learning by audio/visual/correspondence courses, television and radio courses, and computer-based learning.
2. The reading of relevant periodicals and books.
3. Writing relevant books or articles in periodicals or textbooks which are published (in which case the time occupied may be up to ten hours of the total C.P.D. requirement for the particular practice year).

Note: This list is not exhaustive but merely illustrative.

Group Study

Group study means study in a group of three or more people which lasts for a minimum of half an hour. For solicitors in Scotland, England or Wales, with the sole exception of authors of books or articles as stated above, it must occupy a minimum of 15 of the required hours per annum and must be in a form which can be verified. Group study includes the following: discussion groups; tutorials; study meetings of special interest groups; workshops; seminars; or courses.

These may feature in-house training or training by outsiders and may be run by firms; departments of organisations and/or firms; local faculties and societies; groups of firms; the Society's UPDATE Department; or other providers. Group study may take place within or outwith Scotland and does not require to be in groups which only comprise solicitors. It does require to be relevant to the solicitor's practice.

The Law Society does not intend to award accreditation to any courses or course providers nor will it guide solicitors on what is relevant to them. Solicitors should exercise their own judgment on what training is relevant to their particular practice requirements. Such judgement will require to be exercised reasonably.

The preparation and delivery of training for others is a very effective means of learning. Solicitors involved as lecturers, tutors or leaders in any form of relevant group study may count preparation time up to a maximum of four hours towards the C.P.D. group study requirement, in addition to actual presentation time.

Some group study will involve workshops and role-play. Courses requiring delegates' active participation in these ways are more effective than traditional lecture-based courses. Solicitors undertaking such participation may count an additional one-quarter of the actual time of the course towards their C.P.D. requirement.

Management and Professional Development Skills

A frequent cause of difficulty for solicitors arises out of lapses in management either of the office or the case and/or poor communication with clients, rather than simple ignorance of law or procedure. For this reason at least, five hours of the total annual requirement (of which a minimum of three hours must be in GROUP Study) shall be spent on training in management (including self-management), organisation, client care and communication skills. These include Professional Ethics, Financial and Business Management, Budget Control, Computer Skills, Foreign Languages, Interview Techniques, Setting Priorities and Time Management. This list is only illustrative not exhaustive.

Distance Learning Guidelines

The Distance Learning guidance will be effective from first October 2003 in relation to carrying forward hours into the 2003 / 2004 practice year otherwise from 1st November 2003.

Distance Learning is defined as: Continuing Professional Development delivered by a permitted provider, remote to the audience, which includes marked assignments, or multi-choice questionnaires, or records of e-mail conferencing / communications, or an essay, or a dissertation, or any other proof of interactive participation.

Distance Learning provided by permitted providers will be permissible up to a maximum of five hours of the fifteen hours allocated to Group Study.

Distance Learning providers will be required to apply to the Competence Committee of the Society for permission to offer Distance Learning courses. Permission may be granted based on the satisfactory completion by the provider of an application including an undertaking confirming that the courses, offered to our members, will satisfy the definition of Distance Learning above.

Providers will be required under the monitoring arrangements to provide evidence of a 5% random selection of participants' participative work and also provide a summary of the performance of all solicitor participants.

For the avoidance of doubt the permission will relate to the provider and not individual courses.

Failure by the provider to submit the requested evidence of participation may result in the withdrawal by the Committee of permission to provide Distance Learning under the Society's CPD regulations.

The member who attended the course will also suffer a penalty in that he or she will be required to undertake a course or courses to 'make up' the hours disallowed as a result of the providers failure to provide the required evidence unless the delegate can provide evidence of interactive participation.

Providers which have permission withdrawn will not be permitted to reapply for permission until two years from the date of withdrawal.

Double Training Relief

Solicitors who require to undertake compulsory training other than by reason of the Continuing Professional Development Regulations may count such training as part of the requirement for C.P.D. in that particular practice year. The following are some examples. They are not an exhaustive list:

Practice Management Course: Solicitors who require to attend a Practice Management Course by virtue of the Solicitors (Scotland) (Practice Management Course) Practice Rules 2001.

Extended Rights of audience: Solicitors who require to attend a Training Course in terms of the Solicitors (Scotland) (Admission as a Solicitor with Extended Rights (Scotland) Rules 1992.

England and Wales: Solicitors practising in England and Wales who require to undertake continuing training in that jurisdiction will not require to undertake further C.P.D. to comply with these Rules. Solicitors who do not require to undertake such continuing training shall undertake C.P.D. in accordance with the above requirements.

Monitoring and Enforcement

Solicitors will be expected to complete the record honestly and truthfully, and will be required to produce their record if required to do so under the monitoring requirements.

Except in the case of Distance Learning the Society will study in detail a random sample of 5% of records to check that the required hours of C.P.D. have been properly completed and will take steps to verify that the solicitors in the sample have undertaken the group study part of C.P.D. Group study may be verified by for example an Attendance Register.

Providers of Distance Learning courses will be required under the monitoring arrangements to provide evidence of a 5% random selection of participants' participative work and also provide a summary of the performance of all solicitor participants.

If a solicitor has not complied with the requirement and is not entitled to exemption, further time will be given for compliance as a first sanction and independent evidence of group study will require to be produced to show that compliance has been achieved.

Records of compliance will be maintained by the Society.

Solicitors not working full time throughout the year

Solicitors who do not work full time throughout the year will be exempt from the requirement to undertake 20 hours C.P.D. per annum as follows:

1. Solicitors, other than locums, working 150 hours or less during the practice year - total exemption from undertaking CPD. However, members in this category are required to record the claim for exemption and this must be included on the record if and when the record is returned to the Society for monitoring.
2. Part-time solicitors who work for more than 150 hours in the practice year will undertake one hour's C.P.D. per annum for every two hours per week worked with a minimum of ten hours C.P.D. per annum.
3. Locums and Solicitors who only work part of the year will undertake 1½ hours C.P.D. for every four weeks worked in aggregate with a minimum of ten hours C.P.D. per annum.
4. Solicitors who are unemployed for part of the year will undertake 1½ hours C.P.D. for every four weeks worked in aggregate.
5. Solicitors suffering long term illness for ten weeks or more in respect of the same illness in any practice year may reduce their C.P.D. requirement in proportion to the number of weeks worked during the practice year, rounded up to the nearest complete hour. To calculate the required number of hours divide the number of weeks worked by 2.6 and round up to the nearest whole number e.g. solicitors who work between 37 and 39 weeks in a practice year will require to undertake 15 hours C.P.D. in that year).
6. Solicitors taking maternity leave may reduce their C.P.D. requirement in proportion to the number of weeks worked in the practice year rounded up to the nearest complete hour in accordance with the formula in No. 5 hereof.
7. Solicitors who take sabbatical leave of six weeks or more in the practice year may reduce their C.P.D. requirement in proportion to the number of weeks worked in the practice year but with a minimum of ten hours C.P.D. per annum.
8. Solicitors admitted during the practice year (1st November to 31st October) will be exempt in the course of that practice year but will require to undertake full C.P.D. in the following practice year.
9. Solicitors retiring during the practice year and not renewing their practising certificate will be exempt in the course of that practice year.

Note: In all of the above the proportions of group study, management and professional development skills and private study will be reduced pro-rata.

Monitoring of CPD takes place throughout the whole of the following practice year. Members are requested to ensure that relevant papers are retained to be available, if required, during the monitoring process.