



EDUCATION AND TRAINING COMMITTEE

THE FUTURE OF LEGAL EDUCATION, TRAINING, AND CPD

REPORT TO 2009 AGM

EXECUTIVE SUMMARY

This paper summarises the status of the Education and Training Committee's review of legal education, training and continuing professional development (CPD), outlines the new framework for legal education and training and sets out the timetable for implementation.

This project has brought forward a new framework for legal education and training for the future which (i) will produce newly qualified solicitors who are educated and trained to the highest possible standard; (ii) can be delivered by the academic and training communities, and (iii) is suitable for Scotland and the Scottish legal services market.

Post-AGM, the Education and Training Committee will (i) progress the project plan for implementation and (ii) implement the new education, training and CPD regime working with the Society's members, providers of legal education and training, and other stakeholders.

This paper is split into four sections:

- PROGRESS TO DATE
- PHASE I – NEW EDUCATION AND TRAINING FRAMEWORK
- PHASE II – IMPLEMENTATION
- APPENDIX A – ONGOING STRANDS OF WORK

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PROGRESS TO DATE

Consultations

In November 2006, the Education and Training Committee (the Committee) issued a consultation paper, 'Shaping the future of legal education and training'.

The proposals were refined by subject experts and a limited consultation was held, predominantly with academic providers, in a further consultation, 'Discussing the Detail', in February 2008.

In light of responses to the 'Discussing the Detail' consultation, the proposals were further refined and revised and a policy paper, 'The Way Forward' was approved by the Society's Council in October 2008 and launched in November 2008. Consultation on that paper closed in February 2009 and work has been undertaken to analyse responses and further develop the policy position.

Phase I and Phase II

At the very outset of the project in 2006, it was envisaged that by the 2009 AGM, the Society might have been in a position to place revisions to the Admission as a Solicitor (Scotland) Regulations 2001 and Solicitors (Scotland) (Continuing Professional Development) Regulations 1993 before the meeting for approval.

However, due to the scale of the project and the many strands which it comprises, two distinct phases of the project emerged – Phase I, which is now complete, having been to develop a framework for the future which is sound from an education and training perspective, Phase II being change management and implementation of that new framework:

- Phase I is complete and a framework is therefore presented to the 2009 AGM, by virtue of proposals 1 to 7
- Development work on the detail underpinning the policy proposals, in the form of working parties and reference groups (some of which are already in progress) is ongoing in anticipation of Phase II
- Phase II requires the development of a project plan for implementation, including timescales, resources and costs. This will be made public on the Society's website in the form of a draft project plan, and will be presented to the 2009 SGM

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- It is anticipated that, as part of Phase II revisals to the Admission as a Solicitor (Scotland) Regulations 2001 and Solicitors (Scotland) (Continuing Professional Development) Regulations 1993 will be presented to the 2010 AGM (it should be noted that revisals to the Admission as a Solicitor (Scotland) Regulations 2001, taking account of the Services Directive 2006/123/EC, will be proposed at the 2009 SGM to comply with EU timescale).

The next two sections of this paper discuss Phases I and II in more detail.

PHASE I – NEW EDUCATION AND TRAINING FRAMEWORK

Final (third) consultation

The Society's Council approved the policy proposals contained in 'The Way Forward' in October 2008. Responses were generally in favour of the changes proposed, although there was some concern raised by members of the profession about the requirement to consider training needs in advance, plan the year's CPD and reflect on the learning undertaken. Initial analysis of the responses received was undertaken by the Committee, and has been taken into account in the preparation of the proposed framework.

The Committee sought the Council's approval to present to the AGM an update on what is effectively a work in progress. The framework for a new education and training regime is outlined below:

Proposals 1 - 7

Proposal 1: Outcomes

1.1: to adopt learning outcomes (descriptions of competence which must be demonstrated in order to satisfy threshold requirements in knowledge, skills and values) across all stages of Scottish pre-qualification legal education and training, underpinned by robust and rigorous assessment requirements, and appropriate accreditation schemes.

Proposal 2: Foundation Programme

2.1: to re-name the academic stage of legal education and training in Scotland (currently the LLB degree or Society exams combined with a three year pre-Diploma training contract) the "Foundation Programme".

2.2: to develop learning outcomes for the Foundation Programme.

2.3: that an exempting Scottish degree programme ("Scottish Exempting Degree") for qualification as a solicitor will be offered at the same level as the present degree programme, the LLB, with the benefits of more flexibility in the programme to deliver subjects outside the professional subjects.

2.4: that providers will be able to combine the Foundation Programme and a new Professional Education and Training Stage 1 (current Diploma stage) into a programme, subject to accreditation by the Society.

2.5: that practice-based questions be used as a further method of assessment in the new Scottish Exempting Degree.

2.6: to review the current entry selection criteria and process for entry onto the PEAT 1 stage.

2.7: to review the alternative route to qualification for individuals who do not study for an LLB degree.

Proposal 3: Professional Education and Training Programme (PEAT)

3.1: to re-categorise the vocational (currently the Diploma) and work-based learning (currently the traineeship) stages as the Professional Education and Training Programme (PEAT), and re-name the vocational stage PEAT 1 and the work-based learning stage PEAT 2.

3.2: to have a common set of outcomes of professionalism, professional communication and professional ethics and standards common to both PEAT 1 and PEAT 2.

Proposal 4: PEAT 1

4.1: that learning outcomes be adopted for PEAT 1.

4.2: to include elective subjects in PEAT 1.

4.3: that PEAT 1 will comprise a core and electives, with the core having a required minimum content determined by the Society and the proportion of core and elective otherwise to be determined by each provider for its particular course.

4.4: to consider the fairness or otherwise of current funding arrangements for PEAT 1.

4.5: to encourage providers to offer the option of PEAT 1 as a part-time course.

4.6: to review the role of the Society in the provision of core materials for PEAT 1.

Proposal 5: PEAT 2

5.1: that the two-year traineeship will include a programme of structured learning and a set of outcomes to be met at the end of it.

5.2: that trainees be required to undertake 60 hours of accredited Trainee CPD during PEAT 2.

5.3: that the Professional Competence Course be discontinued on the basis of Proposals 5.1 and 5.2.

5.4: that an e-portfolio be promoted as a form of work-based assessment.

5.5: that firms offering PEAT 2 nominate an authorised “Training Partner”.

5.6: that flexible options for PEAT 2 be developed.

5.7: that additional support and advice resources be made available to smaller firms, to assist them in being able to provide PEAT 2 training.

Proposal 6: Accreditation of legal education providers

6.1: that a new accreditation scheme be introduced for the pre-qualification stages of legal education.

Proposal 7: Continuing Professional Development (CPD)

7.1: that solicitors be required to complete and submit a form each year to demonstrate they have:

- identified learning needs,
- planned and undertaken CPD activity to address those needs; and
- evaluated the outcome.

7.2: to assist solicitors in complying with these requirements the Society will:

- offer training;
- develop examples, tools and good practice templates, which set out how the planning and evaluation process should be used for personal and professional development.

7.3 that the annual CPD cycle be retained with obligations of self-certification and monitoring.

7.4: that the current annual CPD requirement of 20 hours be retained.

7.5: that the practice of carrying hours forward and back cease, other than in exceptional circumstances.

7.6: that:

- the range of activities recognised for CPD be extended, focussing on relevance, competence and enhancement of skills and compliance with the Society’s conduct and service standards;
- activities to be recognised, but which are not currently, include structured and formal one-to-one training, coaching and on-line training.

- recognition of additional hours for preparation of and delivery of training will be increased to a maximum of 10 hours;
- 25% of the 20 required hours must relate to personal/professional development, such as risk, ethics and people management; and
- 50% of the required hours must be spent in interactive training methods where attendees are required to contribute to the activity and not simply listen passively.

7.7: that each firm and in-house legal department be required to appoint a Training Partner/Supervisor for CPD purposes.

7.8: that solicitors achieving specified milestones, such as assuming responsibility for the supervision of staff, be required to undertake five hours of people management training as part of their CPD requirement for that year.

PHASE II - IMPLEMENTATION

Timescales

At its May 2009 meeting, the Education and Training Committee committed to an approach which sees various strands of work launching, as a package, in 2011 - a “big bang” approach. The Committee, having been approved thereafter by a meeting of the Society’s Board, decided that:

- (i) universities be accredited in time to allow the implementation and delivery of the revised Foundation Programme and PEAT 1 stages during the 2011/2012 academic year. **It should be noted that the Committee had previously been working to an accreditation timescale allowing implementation and delivery in session 2010/2011. However, for various reasons, the strategic decision has been taken to allow delivery from session 2011/2012. This timescale requires the Society to accredit up to 30 providers of legal education in Scotland, to allow the delivery of newly accredited courses by academic session 2011/2012**
- (ii) that training firms **must** run a full, Outcomes-based PEAT 2 programme, incorporating Trainee CPD, from 2011 onwards
- (iii) that a revised CPD regime be introduced for the commencement of the 2011/12 practice year

(cont...)

Ongoing strands of work

Appendix A to this document is a high level outline of strands of work which are required to complete Phase II, and provides the foundations for the emerging implementation plan. With the transition from policy formulation to implementation it is possible of course that further strands of work may emerge.

Cost and Resources

The Society must balance factors such as other key projects requiring its resources, and the current economic climate, with its requirement to ensure a rigorous and respected route to qualification, and CPD regime, which ensures the competence of the current and the next generation of Scottish solicitors.

As working parties continue, a final project plan for implementation will be devised, incorporating timescales. It should be noted:

- As part of its change management regime, the Society will require to develop many different forms of guidance for universities, trainers, the profession, and those on the route to qualification.
- The new regime requires the development of new systems (*e.g IT systems for the recording of CPD*) and processes (*e.g quality assurance of degree courses, and PEAT 2*) which will impact on the resources of the Society's staff in the Education and Training Department, Liz Campbell (Director) and Collette Paterson (Deputy Director).
- The Society will make costs savings, where appropriate (*e.g. liaising with the Society's project team in relation to the new Customer Relationship Management system, rather than creating bespoke IT software for this project*)
- The Society will endeavour to develop income streams from the new regime, where appropriate.

The Education and Training Committee will make both the project plan, incorporating timescales, and costings, available as Phase II progresses. **At the 2009 SGM, the profession will be provided with:**

- The Education and Training Committee's indicative costs relating to Phase II of this project, for the forthcoming financial year (November 2009 to October 2010)
- Further costings in relation to the subsequent financial year (November 2010 to October 2011)

(cont...)

ACTION REQUIRED

The Committee requests the Annual General Meeting to note the contents of this paper and in particular to note (i) the policy framework comprised within Phase I, (ii) the comments in relation to the commencement of Phase II, and (III) that it is the intention of the Committee to bring forward for the Society's 2009 Special General Meeting a project plan incorporating timescales and costings for Phase II.

END

Christine McLintock – *Convener, Education and Training Committee*

Liz Campbell - *Director (Education and Training)*

Collette Paterson – *Deputy Director (Education and Training)*

APPENDIX A – ONGOING STRANDS OF WORK

The following list, although not exhaustive, is a high-level indication of the strands of work being progressed by the Education and Training Committee. At the 2009 SGM, the implementation project plan and associated costings will be provided to the profession.

WORKSTREAM	DETAIL
Change management	managing change with stakeholders, in respect of the various stages of legal education and training.
Foundation (formerly LLB) outcomes	finalising work on educational outcomes for the Foundation stage, to allow accreditation and implementation of new Foundation course by providers by academic session 2011/2012.
Foundation programmes	discussion with providers on possible models for the Foundation programme.
Pre-Diploma Training Contract	revision of/replacement of Society exams as alternative to LLB (there is a commitment to maintain this route until an alternative can be established).
PEAT 1 (formerly Diploma) Entry	a project determining the future of entry criteria for the Diploma/PEAT 1, given a move towards outcomes-based learning and possible funding from academic session 2010/2011.
PEAT 1 materials	review of common materials and future of alternative arrangements.
PEAT 1 programmes	discussion with providers on possible models.

PEAT outcomes	drafting of new outcomes for the exit point of PEAT 2/qualification including a revisal of earlier drafted PEAT 1 outcomes which PEAT 2 outcomes must derive from.
PEAT e-portfolios	development of IT software for the online capture of achievement of outcomes at PEAT 1 and PEAT 2.
PEAT 2 monitoring and quality assurance	development of criteria for monitoring achievement at PEAT 2 in association with e-portfolios, and quality assurance protocols for the future.
Phasing out of Professional Competence Course /phasing in of Trainee Continuing Professional Development	Phasing out of PCC, and development of Trainee CPD, to run in association with the new PEAT 2, and ultimately to lead on from PEAT 1.
PEAT 2 flexible options/Admissions Regulations	development of new, permissive criteria in relation to PEAT 2.
Fit and Proper	finalisation of 'fit and proper' guidelines and procedures, for those on route to qualification and those who train them, in relation to Entrance Certificate and qualification stages.
Accreditation	finalisation of accreditation guidelines, following which accreditation of Foundation, PEAT 1, PEAT 2 and Trainee CPD providers - for commencement of Foundation, PEAT 1, PEAT 2 and Trainee CPD in 2011.
Continuing Professional Development Regulations and Guidance	development of new CPD regime, guidance and IT software allowing solicitors to plan, undertake, and reflect on CPD.
Trainee CPD/Solicitors' CPD provision	for the Society to look at extending its CPD provision to include Trainee CPD

Requalification	reconsideration of transfer arrangements and transfer test for re-qualification of overseas lawyers.
Funding for legal education	a project looking at funding for legal education and training, from academic session 2010/2011, given the Society's commitment to widening access.