



THE WAY FORWARD...A consultation on the
future of legal education and training for solicitors in Scotland

The Law Society of Scotland
Education and Training Committee
November, 2008

Foreword

This paper is the culmination of some four years' work by individuals from a range of backgrounds, all experts in their fields, and who have in common their commitment to the excellence of Scottish legal education and training. The point the process started from has changed slightly in the time since the first consultation, and the Society is now facing additional and different challenges in devising a legal education and training system which will be robust against challenge and criticism, and which will stand up to scrutiny. However, because of the hard work and enthusiasm which has gone into this project, the Society is able to put forward proposals in this paper for a way forward to achieve these aims. Most importantly, however, I hope that this paper will be inspirational in encouraging practitioners, educational providers and all others with an interest in the success and reputation of the Scottish solicitors' profession, and in the delivery of excellent legal services to the public, to aspire to the highest standards in a new education and training system.

I would like to thank the members of the Education and Training Committee, the members of staff of the Society's Education and Training Department, and the members of the various working parties and committees, for all their hard work over the four years, and I would like to encourage you, the respondents, to engage in this exercise as constructively and actively as possible, which will be for the benefit of all of us involved in the Scottish solicitors' profession.

A handwritten signature in blue ink, appearing to read 'Richard Henderson', written in a cursive style.

Richard Henderson

President of the Law Society of Scotland

14 November 2008

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Executive Summary

The review of legal education and training in Scotland started in 2004. Following a consultative conference on the Diploma in Legal Practice, working parties produced proposals which were put out to consultation in 2006, “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. The proposals in this paper are the result of refinement and revision of the earlier proposals in light of responses to the “Discussing the Detail” consultation.

The paper sets out the current Scottish legal education and training system, which, leading up to qualification, comprises:

- the academic stage: Exempting Scottish LL.B. and Society’s Professional Exams;
- the vocational stage: Diploma in Legal Practice, and
- the work-based learning stage: traineeship and Professional Competence Course,

and post-qualification comprises:

- the Continuing Professional Development regime, and
- the Practice Management Training Course.

In order to meet the Society’s regulatory aims and corporate objectives, the system has been reviewed in the light of particular **challenges being faced by the Society and the profession**, many of which are common to the solicitors’ profession in other jurisdictions, as well as other non-solicitor professions. In particular, the paper describes issues of:

- **currency**: the system has not been reviewed as a whole since the introduction of the Diploma in Legal Practice in 1981;
- **changing trends in professional education**: in particular the move away from prescription of process to outcomes, and the increasing trend to study law as a post-graduate degree and/or in combination with other studies;
- **post-Clementi provision of legal services**: the Society’s proposed move to Alternative Business Structures, which is in the Scottish Government’s legislative agenda for the current session of Parliament;
- **access**: widening access to the profession in line with the Society’s commitment to diversity and equal opportunity, and dealing with the existing bottlenecks at entry to the Diploma in Legal Practice and the traineeship;

- **diversity in Scottish solicitor practice:** not only in terms of size, but also type and area of practice (eg private practice firm, legal aid firm, in-house legal department), and geographical spread;
- **new Standards:** for both conduct and service, and the establishment of the new Scottish Legal Complaints Commission;
- **professional tension:** the profession's perception of the current system and the impact of those perceptions effective delivery of legal education and training, and
- **academic tension:** caused by the fact that an estimated half the number of students on law degrees do not enter the profession, and the limited resources of universities.

In reviewing the current system in light of these challenges, a set of **over-arching principles** have been adhered to, which deal with:

- fostering the culture and values of the Scottish legal tradition;
- benefiting from collaboration with the stakeholders in Scottish legal education and training;
- adopting best educational practice;
- ensuring competence as a minimum, but still promoting excellence;
- demonstrating competence at key stages;
- ensuring consistent quality across educational providers;
- ensuring consideration of the client's perspective and developing public and client respect;
- ensuring and promoting equality and diversity;
- inspiring creativity, and challenging and encouraging intellectual skills and abilities;
- recognising that not all law can be taught;
- encouraging responsibility for training and development, at both the individual and firm level;
- ensuring consistency with the Society's other regulatory and standard-setting functions, and
- adopting best practice in regulation: proportionate, risk-based and targeted.

The proposals which the Society is putting forward in this paper are as follows:

Proposal 1: Outcomes

1.1: that learning outcomes be adopted 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 the “Foundation Programme”.

2.2: to replace the current Professional Exams with a graduate-level, non-law degree route which may not require a pre-Diploma traineeship but which would not result in a lowering of standards.

2.3: that learning outcomes be developed for the Foundation Programme.

2.4: an exempting Scottish degree programme for qualification as a solicitor (“Scottish Exempting Degree”) would have to comprise not fewer than 190 SCQF credits in the study of the Professional Subjects, within a degree programme of not fewer than 240 credits of law overall and taught at SCQF level 7/8.

2.5: that providers should be able to combine the Foundation and PEAT 1 stages of legal education in a programme, subject to accreditation by the Society.

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

2.7: to review the current entry selection criteria and process for entry onto the Diploma.

Proposal 3: Professional Education and Training Programme (PEAT)

3.1: to re-categorise the vocational and work-based learning 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 up to 60 SCQF credits of elective subjects in PEAT 1.

4.3: that the Diploma should comprise 120 SCQF credits which would include a core and electives, the core being no fewer than 60 SCQF credits, and the proportion of credits for 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 the Diploma.

4.5: to consider ways of delivering the Diploma as a part-time course.

4.6: that the use of core materials for the Diploma be reviewed.

Proposal 5: PEAT 2

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

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

5.3: that the PCC be discontinued on the basis of Proposals 5.1 and 5.2.

5.4: that an e-portfolio be introduced.

5.5: that firms offering traineeships nominate an authorised "Training Partner".

5.6: that flexible options for the traineeship 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

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 a new CPD regime be introduced based on an annual cycle, with obligations of self-certification and monitoring.

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

7.3: that the practice of carrying hours forward and back be ceased.

7.4: that the range of activities recognised for CPD be extended.

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

7.6: that solicitors achieving specified milestones be required to undertake five hours of people management training as part of their CPD requirement for that year.

7.7: that Annual Law Society of Scotland Excellence in Training Awards should be introduced.

The following comparative table compares the current system with the system which would be created by the above proposals:

Current system	Proposed system
<p>Academic stage:</p> <p>Exempting Scottish LL.B. Degree:</p> <ul style="list-style-type: none"> • no fewer than 180 SCQF credits for Professional Subjects of not less than 2 years out of not fewer than 240 SCQF credits in law, taught at SCQF level 7/8) • prescription as to curriculum • accreditation of provider <p>or</p> <p>Society's Professional Exams</p>	<p>Foundation Programme:</p> <p>Scottish Exempting Degree:</p> <ul style="list-style-type: none"> • no fewer than 190 SCQF credits for Professional Subjects out of not fewer than 240 SCQF credits of law, taught at SCQF level 7/8): • outcomes, no prescription <p>or</p> <p>Society's Professional Exams or replacement</p>
<p>Vocational stage:</p> <p>Diploma in Legal Practice:</p> <ul style="list-style-type: none"> • 120 SCQF credits • Prescription as to curriculum etc • Accreditation of provider • one option out of choice of two 	<p>PEAT 1:</p> <p>Diploma in Legal Practice:</p> <ul style="list-style-type: none"> • 120 SCQF credits – minimum of 60 SCQF credits for core • Outcomes, no prescription • Accreditation of provider • elective subjects of up to 60 SCQF credits
<p>Work-based learning stage:</p> <p>Traineeship (2 years)</p> <p>+</p> <p>Professional Competence Course</p>	<p>PEAT 2:</p> <p>Traineeship (2 years)</p> <p>or</p> <p>flexible traineeship,</p> <p>with:</p> <ul style="list-style-type: none"> • Training Partner • outcomes • reflective log • 60 hours CPD

<p>Post-qualification:</p> <p>CPD(minimum of 20 hours)</p> <p>+</p> <p>Practice Management Training Course</p>	<p>Post-qualification:</p> <p>CPD (minimum of 20 hours)</p> <ul style="list-style-type: none"> • Incl 5 hours of people management training at career milestones <p>+</p> <p>Practice Management Training Course</p>
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Introduction

The legal profession in Scotland, like that in many jurisdictions, is facing enormous challenges: the profession is becoming increasingly diverse and specialised, as is the legal services market in which the profession operates. With the advent of the Legal Services Act 2007 in England and Wales, and the proposals supporting the introduction of ‘alternative business structures’ in Scotland, which were approved by the AGM of the Law Society of Scotland in May 2008, these challenges are only heightened.

The quality of, and confidence in, a profession is underpinned by the quality and rigour of the education and training which leads to entry to that profession. The legal profession in Scotland is one which is well-respected both nationally and internationally, as is its legal education system. In the post-Legal Services Act world, however, it becomes even more important for the legal profession to be able to justify why the public should choose to use a solicitor, as opposed to a non-solicitor “lawyer”, or even non-lawyer, to deliver the legal services the client needs.

The Law Society of Scotland believes that, in justifying the value of using a solicitor, and in justifying the commitment required of someone wishing to qualify as a solicitor, it is timely to review both the current route to qualification and the quality assurance system post-qualification, in order to ensure that the challenges which are outlined in this paper, can be, and will continue to be, met.

The role of the Society as regulator is to act as ‘gatekeeper’ to the profession, and, in so doing, to monitor and assure standards of legal education and training. In order to carry out that role effectively, the Society must not only respond to developments as they arise, but must also anticipate developments and issues in order to have an appropriate response ready. To this end, the Society’s Education and Training Committee has been carrying out a considerable amount of work over the past four years to identify future developments, as well as immediate needs, which require addressing in the Scottish legal education system. This consultation paper embodies the results of this work in a set of proposals for change to the current system. The proposals are bold. However, they have been derived from best practice in professional education generally, as well as from best practice in legal professional education in other jurisdictions, and have been formulated so as to consolidate the strengths of the current system, whilst, at the same time, introducing innovation to ensure the system’s currency and continuing relevance.

For any change to be successful, the need for change has to be recognised, and the change itself needs to be appropriate and effective in dealing with the particular issue to be addressed. The discussion and working groups which have been involved in developing these proposals to date have covered a wide representation of those with an interest in both Scottish legal education and the Scottish legal profession - “stakeholders”, as they are more often called. They have included practising solicitors from a range of practices, universities, students, trainees, consumer groups and the Faculty of Advocates. Every lawyer in Scotland has a stake in the education and training of future solicitors. So, too, do those involved in the education of solicitors, policy makers, and the public, which the profession serves, and which is entitled to expect high standards. Not only does training affect the quality, skills and experience of individuals who become solicitors in law firms, but it also affects the perception of the profession by the public and by those who scrutinise the profession.

However, any change to a system which has worked well to date must be embraced by all if implementation of change is to be successful. Given that this consultation represents the final stage in the review process which started some four years ago, it is important that as wide an involvement as possible is achieved in responding to the changes proposed in this document. The proposals will then be accepted, refined or rejected by the Education and Training Committee and the Society’s Council, accordingly, before being formulated in a final proposal to the AGM of the Law Society of Scotland for its consideration and decision in May 2009.

The Society therefore asks you to provide it with the benefit of your experience and the value of your own particular perspective in responding to the proposals in this paper.

With the benefit of the expertise of those who have been involved in the process so far, it has been possible to formulate actual proposals in many areas. The fact that a proposal has been made, however, does not mean that it is the only solution and if you believe there is an alternative solution which may not have been considered, then please let the Society have the benefit of your ideas. The Society seeks consensus. However, where there are conflicting views, it is the Society’s responsibility as regulator to make the ultimate decision by weighing the evidence. So, please provide relevant information in support of any alternative views you might have. What is important is that the right solutions are decided upon to maintain the high reputation of Scottish legal education and the Scottish legal profession in the provision of legal services.

There are also areas where proposals have not yet been formulated usually because the issue has not been consulted upon before and where views need to be sought.

Given the Society's commitment to equality and diversity, a full Equality Impact Assessment will be undertaken by the Society following this consultation, as well as a regulatory impact study of the potential cost and other impact of the proposals.

This consultation has been kept deliberately concise. More detailed information on the evidence and work underpinning the proposals is available on the Society's website www.lawscot.org.uk, to which you will be directed in the body of the document.

The sections which follow will explain the procedure for responding to the consultation paper, the background to the consultation, the current Scottish legal education and training system for solicitors, the case for change which underpins the proposals, and the proposals themselves. For convenience, an executive summary is also provided, as well as a glossary of terms.

How to respond

Responses must be submitted by close of business on **Friday, 6th February, 2009** and should be submitted by via a link to be uploaded here.

The Committee appreciates that respondents may wish to add comment in addition to the specific questions asked, but would be grateful if responses relate to the specific questions asked, to enable easier analysis of all responses.

To assist ease of understanding and response, questions are embedded within the relevant sections of the document which follows. However, a separate response form will be provided .

If submitting your response electronically is not possible, or you have a query, please contact the Society:

Contacts: *Liz Campbell* – Director (Education and Training)

Telephone: 0131 476 8150/8200

Text-phone: 0131 476 8359

Correspondence: The Law Society of Scotland
26 Drumsheugh Gardens
Edinburgh
EH3 7YR

Background

In December 2004, the Society held a consultative conference, “Diploma in Legal Practice – to Change or not to Change”, with stakeholders from legal education and the profession, as well as representatives from other UK jurisdictions and educational experts. The purpose of the conference was to address criticisms of the Diploma in Legal Practice which had arisen from discussions of the Diploma Project Board, and to consider how well the Diploma was meeting the needs of the profession. The conference was based around discussion groups, and, at the end of a session, key issues arising from the discussions were voted upon. Although the voting could only be indicative, given the range of interests represented, the Society believed the results of the voting provided a mandate to explore options for change further. For instance, 91% of those attending favoured a revised Diploma syllabus, and 96% felt that the Society should be clearly laying out competency statements.

Following the conference, various working parties comprising practitioners from large and small firms, the in-house sector, the Faculty of Advocates, as well as representatives of the universities and the Society, then set about the task of drafting proposals and recommendations in relation to the syllabus for the LLB; ‘competency statements’ for the Diploma; issues relating to the traineeship and training firms, and ideas of how CPD might develop in the future. Evidence and examples were gathered from other jurisdictions and professions, and their respective statements of standards in relation to legal education.

The proposals and recommendations which were formulated by the working parties were put out for consultation with all stakeholders in November 2006 in the “Shaping the future of legal education and training” consultation paper. The responses to the consultation were sufficiently positive for the Education and Training Committee to recommend, and the Society’s Council to authorise, the most recent phase of work.

This recent phase of work has been carried out by subject experts, who, in looking at the academic, vocational, work-based learning and post-qualification stages of legal education, formulated various proposals for change. Before putting these proposals out for a full, formal consultation, however, it was decided to test reception of the proposals in a limited consultation, predominantly with law schools, Diploma units, the Joint Standing Committee on Legal Education, the Society’s Board of Examiners, the UK Centre for Legal Education, and the Faculty of Advocates. This was done in a consultation paper entitled “Discussing the detail”, which was also made available on the Society’s website for others who might be interested in responding at that stage.

The responses received to the “Discussing the detail” paper have formed the basis for further work which has since been carried out by the Education and Training Committee to review and refine the “Discussing the detail” proposals. Concerns which were raised by respondents and which have been taken into account in this consultation paper include:

- flexibility not being introduced at the expense of quality;
- removal of Tax and Evidence from the law degree;
- introduction of electives during the traineeship;
- reduction in the length of the Diploma, and
- the impact of the proposed changes on SAAS funding for students doing the Diploma.

Revised and refined proposals are set out in this consultation paper. They have been formulated to consolidate the strengths of the current system, whilst introducing innovations which will meet the demands of a new legal services market of alternative business structures

The proposals also recognise that the Scottish legal education and training system does not exist in isolation but interacts with other professions, jurisdictions and regulatory frameworks, which adds a further layer of complexity to any review.

The Society’s desire is to create more flexible paths to qualification as a solicitor in order to promote access to the profession, and to ensure equality of access at all stages of the education and training process. The Law Society of Scotland has an ongoing commitment to increasing diversity within the solicitor profession.

For more detailed information on the prior consultations and work undertaken by the various working parties, please refer to the Law Society of Scotland website www.lawscot.org.uk/training/consult. The Society hopes that, through the consultation process, it will be able to facilitate ways for stakeholders to share best practice, and that communities of practice will arise in relation to the specific areas for development.

Issues which it has not been possible to address in this paper are:

- **Re-qualification from other jurisdictions:** A key issue for many firms and individuals is how practising solicitors from other jurisdictions qualify into the Scottish legal profession. The Education and Training Committee is committed to an approach which would fit with the pre-qualification framework proposed in this paper and plans to re-visit this issue once the proposals in this paper have been considered.
- **Solicitor-Advocates: The area of education,** training and assessment of Solicitor-Advocates does not currently fall within the remit of the Education and Training Committee, and further discussion by the Society with other stakeholders is required before proposals for this area may be developed. It is likely that the Society, **in the future, will** seek to ensure a consistent approach across all aspects of training for which it is responsible, for which the proposals outlined in this paper may be relevant.
- **Registered Paralegals:** The Society produced a position paper in May 2008 entitled “Registered Paralegals – Position Paper: Creating a new professional status for Paralegals in Scotland, in association with the Scottish Paralegal Association”, to prompt discussion on proposals to introduce a ‘registered’ status for paralegals in Scotland. The work on this is not sufficiently advanced to be able to incorporate the proposal in this paper.

The current Scottish legal education and training system for solicitors

At present, the Scottish legal education and training framework consists of three stages leading to qualification, followed by a Continuing Professional Development regime post-qualification.

Academic stage

The first stage in the route to qualification is the academic stage which, in Scotland, can be undertaken either by way of an Exempting Scottish LL.B. Degree accredited by the Law Society of Scotland, or by way of the Society's own Professional Exams.

Exempting Scottish LL.B. Degree

The Society does not regulate academic law degree programmes (not least because not all students studying on a law degree wish to enter the legal profession, but also because the law degree is at present common for both qualification as a solicitor or as an advocate), but prescribes the programme content and structure for degree programmes to be accredited as Exempting Scottish LL.B. Degrees, which, together with other training, will provide entry to the Scottish solicitors' profession. The content and structure is equivalent to the curriculum for the Society's Professional Exams ('the Examination Syllabus').

As the Society's current "Accreditation Guidelines for Applicants" for the Exempting Scottish LL.B. Degree state:

"The professional subjects taught within the wider context of the LL.B. allow students exiting from an LL.B. to have acquired the requisite knowledge, understanding and generic skills of those subjects that form the foundation of subsequent professional training".

Specifically, those requirements are for:

Subject-specific abilities of:

- Knowledge
- Legal and Ethical Values
- Application and Problem-Solving
- Sources and Research

General Transferable Intellectual Skills of:

- Analysis, Synthesis, Critical Judgement and Evaluation
- Independence and Ability to Learn

Key Personal Skills of:

- Communication and Literacy
- Personal Management
- Numeracy, Information Technology and Teamwork

And the following Professional Subjects:

- Public Law and The Legal System
- Conveyancing
- Scots Private Law
- Evidence
- Scots Criminal Law
- Taxation
- European Community Law
- Scots Commercial Law

An Exempting Scottish LL.B. Degree can be either a three-year ordinary or four-year Honours full-time undergraduate law degree, or an equivalent part-time programme, or a full-time two-year 'graduate entry' law degree. Students must satisfactorily complete the core syllabus of the Professional Subjects if they wish to follow the path to qualification as a solicitor. However, the Society does not specify the number of credits to be attached to particular courses or, indeed, the overall number of credits to be allocated to the core subjects. What the Society's LLB accreditation guidelines do specify is that the programme of study for an accredited LLB must include the study of the Professional Subjects for the equivalent of not less than two years. In the context of the Scottish Credit and Qualifications Framework ('SCQF'), the Society requires that a student must gain not less than 240 credits in the study of legal subjects in a degree programme or combination of degree programmes containing either 360 or 480 credits. One credit equates to 10 hours of learning (including, in appropriate combination, contact hours, reading, preparation and directed learning). Of these 240 credits, no fewer than 180 credits must be devoted to material equivalent to the Society's Professional Subjects. The Law degree, like all university degrees, is subject to quality assurance by the UK Quality Assurance Agency ('QAA').

Professional Exams

Unlike the Exempting Scottish LL.B. Degree accredited by the Society, the Society's Professional Exams require the individual to be in a pre-Diploma training contract under the supervision of a practising solicitor. The Professional Exams may also be taken by an individual who has graduated or is eligible to graduate with an Exempting Scottish LL.B. Degree but who lacks passes in all of the Professional Subjects. Although there is no validation or authorisation by the Society of firms offering pre-Diploma 'traineeships', the Society requires the pre-Diploma 'traineeship' to cover experience in Conveyancing, Litigation and either Trusts and Executries, or where the training solicitor is not engaged in private practice, the legal work of the training solicitor. Although these requirements may preclude some firms or in-house legal departments from employing pre-Diploma 'trainees', the Society does allow secondment arrangements in order to assist the pre-Diploma trainee in obtaining the necessary experience.

The Professional Examinations are assessed by qualified examiners but are not otherwise subject to an external examiner regime or to equivalent requirements for Exempting Scottish LL.B. degrees.

Vocational stage

Having obtained an Exempting Scottish LL.B. Degree, or having successfully completed the Society's Professional Exams, students then enter the vocational stage of legal education.

Diploma in Legal Practice

This stage currently consists of the 26-week Diploma in Legal Practice ('Diploma') which is run once a year. The Diploma is offered by six Diploma providers in Scotland: five universities and one joint venture between two universities, and is taught both by academics and practitioners. The aim of the Diploma is to provide a bridge between the academic stage and practice.

Students are required to pass summative assessments, which are run under an external examination regime. Currently, the Diploma curriculum consists of subjects which include the reserved areas of practice. "Contact hours" refer to face-to-face teaching sessions, and "study hours" to preparation and review for assessment.

Subjects:

- Conveyancing
- Criminal Court Practice
- Civil Court Practice
- Private Client
- Financial Services and Related Skills
- Professional Ethics and Conduct

Electives:

- Company and Commercial
- Public Administration

Practice Skills:

- Interviewing and interpersonal skills (incl advising clients)
- Letter writing
- Legal research and problem solving (incl formal opinions)
- Drafting
- Negotiating (incl ADR and mediation)
- Advocacy

The above subjects are compulsory, except for the elective subjects, of which students must study one. Practice skills are taught pervasively in each of the six practice area Subjects, and may also be taught discretely during an induction course to introduce the Practice Skills. Diploma providers are free, however, to add further Elective subjects to the course should they so wish, which some providers have started to do.

Places on Diploma courses in Scotland are limited (this is in contrast to the Legal Practice Course in England, which is under-subscribed in terms of total number of places available) and, consequently universities run their own selection process to allocate places. This selection process relies on students' performance in the Professional Subjects in their law degree studies, which are usually taken in the first two years of their degree studies. The Diploma Co-ordinating Committee ('DCC'), which comprises representatives of all Diploma providers, the Society and the Faculty of Advocates, has oversight of admission policy but does not make decisions on entry applications which are wholly the preserve of the particular university offering the course applied for.

The number of places on Diploma courses is not limited by the Society but is determined by the providers and the teaching resources providers have available (the Society requires a staff/student ratio on Diploma courses of 1:12 in order to cater for the 'small group' teaching which is a feature of the course).

Work-based learning stage

Having successfully completed the Diploma, students need next to obtain a traineeship, which, with the Professional Competence Course ('PCC') comprises the work-based learning stage.

Traineeship

Although traineeships are offered predominantly by private practice firms, they are also offered by the Crown Office and Procurator Fiscal Service, in-house legal departments, local authority legal departments, the Scottish Government Legal Service and the Public Defence Solicitors Office.

As is the case for pre-Diploma traineeships, firms offering post-Diploma traineeships are not validated or authorised by the Society. Unlike the pre-Diploma traineeship and the Training Contract in England and Wales, the Society does not prescribe areas of practice or experience during the traineeship. In terms of supervision, the Society requires firms to carry out quarterly reviews of each trainee, and that the report of the review is sent to the Society. The Society uses the reports to identify any issues which require follow-up or investigation. The only requirements imposed upon firms by the Society is that the solicitor supervising the trainee must have been admitted to practice for at least three years, and the number of trainees a firm may have is specified by a ratio based on the number of partners in the firm. The Society does provide log books for different areas of practice which the Society requires trainees to use, although firms are able to develop their own for approval by the Society. The log books, which trainees use to record the sort of work that they have done, are not intended to be prescriptive but to be used as a tool for meaningful discussion in the quarterly performance reviews.

The traineeship is for a period of two years, at the end of which the trainee will be signed off as fit for practice by the training solicitor.

Professional Competence Course ('PCC')

During the two-year traineeship, the trainee is also required to complete the Professional Competence Course, or "PCC" as it is commonly known. The PCC may be offered by firms accredited to do so for the firm's own trainees, or by accredited external providers, accreditation being carried out by the Society. The PCC should, ideally, be taken by trainees at the end of the first year of their traineeship, but certainly after the first six months and before the last six months of the traineeship, although it is possible to take it at any stage. In practice, some trainees are not able to do some or all of the PCC during the traineeship, often because their firm does not allow them the time away from work to do so. In those circumstances, the Society may allow the trainee to make an application to the Society's Admissions Committee to complete the PCC after the trainee has completed the traineeship, in which case an undertaking will be required from the trainee. A number of firms are currently accredited, as are a number of external providers which include universities as well as the Writers to the Signet Society, Glasgow Bar Association and Scottish Law Agents Society. Under the current accreditation regime, accredited providers are required to provide the Society with an annual report which includes feedback from students. The course itself comprises 36 hours of core modules and 18 hours of electives and is offered in various ways: as a two-week block of core and electives, or as a core only, with the electives picked up later. Different providers of the PCC offer different electives and of different lengths. The course is not assessed; instead, students are given feedback on their performance by the course provider in respect of each subject.

The core modules are:

- Personal organisation and time management
- Practice and Ethics
- IT and the Legal Office
- Client Care
- Financial and Commercial Awareness
- Drafting
- Writing
- Negotiation
- Interviewing

Admission after Year 1 of Traineeship

It is possible for a trainee to be admitted to the Roll of Solicitors after only one year of their traineeship and before he or she has, in fact, completed the full education and training required by the Society for qualification as a solicitor. This is necessary because of the requirement that only “solicitors” are entitled to appear in court (with the exception of Procurator Fiscal Service). In order to enable the trainees to have the experience of appearing in court, the practice has been allowed to admit a trainee after a year of the traineeship, subject to an undertaking to the Society that he or she will complete the second year of the traineeship, including partaking in quarterly performance reviews. The trainee will also have restrictions on his/her practising certificate (since they are, to all intents and purposes, solicitors by having been entered on the Roll) that, during the second year of their traineeship, he/she may not act as a principal and may not conduct legal aid work as the named solicitor. If the trainee does not perform his/her undertaking to complete the second year of the traineeship, the Society can refuse to renew the individual’s practising certificate, although he/she will still be entered on the Roll of Solicitors.

Post-qualification

Continuing Professional Development

Since 1st January, 1993, solicitors admitted in Scotland have been required to undertake continuing professional development (‘CPD’) of 20 hours per annum. This must comprise a minimum of 15 hours as “group study” (in groups of three or more), and up to five hours of private study. Of the 20 hours, at least five hours must be in management and professional development skills, of which three hours must be in group study.

The Society allows limited on-line delivery of training which may count as CPD but this, unlike other forms of CPD, has to be accredited by the Society. Apart from accredited on-line study and allowed private study, all other CPD activity has to be face-to-face.

The 20 hours of CPD must be achieved in the practice year from 1st November to 31st October, although carrying forward and carrying back of CPD is permitted in relation to CPD completed in the months of October and November.

Practice Management Training Course

In addition to the annual CPD requirement, qualified solicitors, on becoming a partner, are required by the society to attend a compulsory Practice Management Training Course. The Course is run by the Society through its Update Department, and runs for two days but is not assessed.

There is no equivalent requirement for solicitors who are not in private practice, such as those working as a manager in an in-house legal department, to attend the Practice Management Course.

The case for change

The Law Society of Scotland states in its Corporate Plan Financial Year 2008 that it has as its over-arching aim:

“to be recognised as an effective, relevant and innovative professional body, protecting the public interest and leading a successful and respected profession.”

This aim translates into the Society’s “Corporate Objectives”, to:

- “1. Offer a rigorous and respected route to qualification as a Solicitor and continuing development of requisite professional and business skills*
- 2. Be recognised as a centre of excellence for career-long training, development and professional recognition of Solicitors and associated legal practitioners*
- 3. Ensure the Society adopts a flexible and responsive approach to improving quality and standards of service and conduct in compliance with the regulatory framework*
- 4. Encourage our members to aspire to and deliver exacting but meaningful standards in all the work they do...”*

The proposals in this consultation paper arise from the Society’s need to deal with challenges which could impede its ability to be effective, relevant and innovative in protecting the public interest and in leading a profession which is successful and respected. It is worth noting that many of the challenges identified in the work carried out by, and under the auspices of, the Law Society of Scotland’s Education and Training Committee over the past four years, are not unique to Scotland: other jurisdictions and professions are grappling with similar challenges and much can be learnt from the approaches being taken elsewhere.

For the Scottish legal education and training system, however, the particular challenges which the Education and Training Committee has identified are as follows:

- **Currency:** prior to the start of the consultative conference in 2004, the Scottish legal education and training system had not been reviewed comprehensively since the introduction of the Diploma in Legal Practice in 1981. Given the changes and developments in the structure of education for professional legal practice over the period since then, a review of the education system itself and the principles underlying it are long-overdue. This is necessary to ensure a system which is not only fit for purpose now but which will continue to be in the foreseeable future, and will be able to respond effectively to the changing needs of both the profession and the public.

- **Changing trends in professional education:** Increasingly, the trend in professional education has been to move away from prescription of ‘process’ (ie specifying the length of the course, the curriculum, class sizes, tutor ratios, library holdings, and the like), to description of outcomes which need to be demonstrated. These are often referred to as “competencies”, and are, increasingly, being adopted by firms in their use of ‘competence frameworks’ in order to measure or assess staff performance in a more objective and meaningful way. Jurisdictions in Australia, and England and Wales, as well as other professions, have adopted an outcomes-based approach, an approach which is also supported and encouraged by the UK Quality Assurance Agency for higher education.

A further trend in professional legal education is to study law as a post-graduate degree and/or in combination with other studies. One thing all firms are keen to attract is talent. Students who have studied subjects (and degrees) in addition to law tend to bring maturity and breadth of experience. It is also the case in countries such as Australia that law can no longer be studied as an undergraduate degree on its own, but in combination with another degree or as a post-graduate degree (the position also in the USA). A similar demand by students at Scottish Universities to study law in combination with other subjects is also being seen.

- **Post-Clementi provision of legal services:** The Clementi reforms have already been enacted in England and Wales through the Legal Services Act 2007. In Scotland, the Scottish Parliament hopes to have legislation enabling the introduction of “alternative business structures” in place in 2009. Although no bill has yet been presented to Parliament, it is in the Government’s legislative agenda for the current session of Parliament.

It is already the situation in Scotland, as it is in England and Wales, that, apart from the “reserved” areas of practice, there is nothing to prevent legal services being provided by non-lawyers, as well as ‘lawyers’ in the traditional sense (solicitors and advocates). The difference the Clementi reforms will make to the current Scottish legal services landscape will be to expand the delivery of legal services beyond the traditional vehicles of private practice or legal aid law firms, sole practitioner practices, in-house legal departments or government departments, to structures which may be owned by non-solicitors and which may also offer services other than legal services. In England and Wales, Legal Disciplinary Partnerships which may consist of or be owned by a wider definition of “lawyers” (to include solicitors, barristers, trade mark agents, patent agents, notaries, licensed conveyancers and Legal Executives) will be permitted from March 2009, and Alternative Business Structures with external non-lawyer ownership, able to offer legal and non-legal services, are

expected to be permitted in England and Wales from 2012. In Scotland, the Society's AGM moved to approved the proposals in its Policy Paper "Public Interest: Delivering Scottish Legal Services" to move to Alternative Business Structures as soon as possible in order to provide flexibility to legal service businesses. This means that, with the advent of the post-Clementi legal services market, there has never been a more important time for the solicitor qualification to represent an assurance of high standards, so that the qualification may stand out from alternative, non-solicitor suppliers of legal services. This is about strengthening the "Scottish solicitor" brand. Of particular importance in distinguishing solicitors will be the areas of practice currently reserved to them, and which only solicitors are able to practise.

It has to be said that this issue of post-Clementi provision of legal services was not in the Society's contemplation when it started its review in 2004, but has arisen since and, although not one of the original reasons for the review, does now need to be taken into account.

- **Access:** The Society is committed to widening access to the profession. Yet, under the current education and training system, challenges relating to entry exist through lack of flexibility in course provision or lack of learning choices, and bottlenecks at entry points to different stages, such as the Diploma and the Traineeship. Universities and firms are limited in the study options they can offer, and students who might otherwise make valuable additions to the profession are prevented from doing so. For instance, the introduction of accredited part-time degrees has created access to the profession from good quality candidates who may be seeking a career change and bring with them relevant experience from previous careers. The part-time degree option means that these people are able to continue in paid employment, which is what enables them to take up their law studies. Unfortunately, not having a part-time Diploma option makes further progression to qualification difficult.

There are also valuable, potential entrants to the profession, for whom even part-time study is not possible because of caring commitments, for instance, or who may be mature applicants without the necessary academic qualifications but who have experience as a paralegal. The Society must ensure that viable, flexible pathways exist to ensure that the profession, and the public, benefit from the entry of talented and committed individuals who will enhance the profession, and the profession's service to the public.

A related issue is that the education and training system must enable transferability: although students may have an idea of the type of legal practice they want to work in, and the area of practice that interests them, the reality is that they will not actually know whether their inclinations are correct until they start practising. If they find that they have chosen the wrong

environment or the wrong area, they need to be able to move to something else so that they do not waste the time and money they have invested in their studies to date. Sound underlying knowledge of legal principles and strong practitioner skills are eminently transferable; areas and types of practice are a matter of context, the detail of which can be readily acquired with good research and intellectual skills. Consequently, the legal education and training system must support transferability.

- **Diversity in Scottish solicitor practice:** Scottish solicitor practice, in terms of dimension, covers everything from the large to the small, the smallest being the sole practitioner; in terms of type of practice, everything from private practice partnerships (or limited liability partnerships ('LLPs')), to legal aid practices, in-house legal departments and government department legal advisers (the Scottish legal aid sector has its own challenges, particularly in the area of civil litigation practice); in terms of geography, everything from 'city' locations to remote islands with limited transport connections. What is essential for the Society to ensure is that no one type of firm or practice is treated preferentially, and that the Society's regulatory framework allows, and supports, this diversity. It also has to be remembered that, notwithstanding the diversity, the Scottish market is a small one, which means that the lack of critical mass can limit the breadth of choice which, realistically, is able to be offered. There is also limited resource in terms of the Society's own services.
- **New Standards:** With the establishment of the new Scottish Legal Complaints Commission, all complaints relating to work conducted by solicitors and initiated on or after 1st October, 2008, whether regarding service or conduct, will now go to the Commission, rather than to the Society as previously. The Commission will then refer conduct complaints to the Society. Although the Commission does not have standard-setting powers, its establishment has created an opportunity for the Society to review and define standards for the profession. New Standards for conduct and for service were approved by Special General Meeting of the Society on 26th September, 2008. The Education and Training system must therefore be able to deliver these new standards of conduct and service in terms of those entering the profession. The new Standards of Service specifically refer to application of the standards requiring "*the use of effective systems, good training and appropriate supervision*".
- **Professional Tension:** As mentioned above, there is great diversity in the Scottish solicitor profession in terms of the type of practice and the trend to specialisation. Vocationally-focused education and training is only relevant if it fits students for practice, which means that it must match the needs of practice. Although the Diploma receives positive feedback, there are criticisms; the Professional Competence Course currently suffers from negative perceptions from both trainees and firms, and CPD is more often

regarded as a matter of compliance rather than a commitment to life-long learning. Whether or not justified, these sorts of perceptions ultimately and inevitably impact on the effectiveness of courses. It is essential that the education and training system must have the support and confidence of the profession as being fit for purpose.

- **Academic tension:** An estimated half the number of students who study on a law degree do not enter the legal profession. Understandably, the universities regard the law degree as a liberal education and not vocational. However, the law degree also forms the main basis of entry to qualification as a solicitor or advocate, and therefore must be able to meet the needs of both. This has to be balanced against the fact that universities are subject to limited resources, so that the impact of change to what universities are required to do for the profession must be taken into account. It is important, therefore, that there is an active and constructive partnership between the professions, the Society and the academic providers.

So, it is not surprising that, at a time when the profession is on the verge of unprecedented change with the post-Clementi reforms, the Society should wish to review its legal education and training system to ensure that it is fit for purpose. The Society's responsibility is to decide what is the best way of assuring standards for the protection of the public and clients, for the interests of the profession, and for the good of the brand of solicitor in an ever-increasingly competitive legal services market. Its legal education and training system is key in underpinning this.

The Proposals

Principles

In developing the proposals which follow, the Society's Education and Training Committee has adhered to the following overarching statement of principles, namely, that the pre- and post-qualification professional legal education system for solicitors in Scotland should:

1. foster the culture and values of the **Scottish legal tradition**, recognising the fundamentally distinct nature of Scots law and the Scottish legal system, and its adherence to high ethical standards, whilst teaching this comparatively in its practical UK, EU and International law context.
2. benefit from the involvement of all those who have an interest in legal education of solicitors, whose **collaboration** should be encouraged and knowledge and expertise shared. Those with an interest include the Scottish Government and Parliament, the public, the legal profession as a whole, clients, legal education providers, trainees and students.
3. adopt **best educational practice** in the field of professional education and training, such as accreditation of those providing education and training, facilitation of learning, and integration of knowledge with skills and professional values and attitudes.
4. **ensure competence** in legal practice as a minimum, whilst promoting excellence.
5. **demonstrate competence** at several key post-graduate stages in the education and training process.
6. be of a **consistent quality** across different providers, fit for its purpose and open to innovation. The accreditation framework should, however, be sufficiently flexible to meet the needs of particular markets and enable innovation by providers, subject to consistency in quality of design through the use of a common 'core' in each stage of the education and training process.
7. actively ensure consideration of the **client's perspective** and the development of public and client respect. It is how the client experiences, perceives, and values the profession that will be one of the key measures of its success. The term 'client' covers the broad range of client types, from major corporate clients, to in-house clients, or individual members of the public.
8. ensure and promote **equality and diversity** throughout the education and training framework.

9. inspire **creativity**, challenge and encourage legal thinking, critical thinking, and intellectual agility – skills and abilities which are all important in distinguishing the solicitor qualification in a post-Clementi legal services market.
10. acknowledge that the idea that ‘all’ law can be taught during training is both impossible and artificial, and that any legal education and training system must be about **quality** and developing enduring skills.
11. encourage solicitors to take **individual responsibility** for their own training and development, and encourage firms to take responsibility for the future training and development of the profession.
12. at all times ensure consistency with the other regulatory and standard-setting functions of the Society so that a **single, coherent, and integrated framework** is achieved which assures the standards which underpin the solicitor qualification.
13. be underpinned by standards based on the best practice in regulation, as set out in the “Principles of Good Regulation” (Cabinet Office, 2003) , namely, regulation which is proportionate, risk-based and targeted.

As mentioned in **The case for change**, the Scottish legal education and training system does not exist in isolation but interacts with other legal education and training systems, such as that for Scottish advocates; with similar systems in other jurisdictions, such as England and Wales, and with other overlapping regulatory frameworks and requirements. It is worth noting that there is commonality between England and Wales in all of the over-arching principles set out above, other than those relating specifically to Scotland. The Society believes this should assist in ensuring there is mutual respect between the two systems, which, in turn, will assist in managing the process of re-qualification between the jurisdictions.

In terms of access for European lawyers, and the requirements of the Council of Bars and Law Societies of Europe (‘CCBE’), the proposals which follow are not intended to reduce EU free-movement but, rather, to enhance movement in and out of the jurisdiction by providing a clear and definitive statement of outcomes and assessment requirements, against which other qualifications can be mapped in whole or in part.

In preparing the over-arching statement of principles, the Society examined the statements of other professional bodies, as well as the law societies or bar associations of other jurisdictions, namely, England and Wales, Northern Ireland, Republic of Ireland, Denmark, Canada, South Africa, Hong Kong, Australia, Singapore, Germany, New Zealand, Norway and Sweden.

In terms of other professions, a broad range of bodies was examined, from the traditional 'professions' (the General Medical Council and many of the medical Royal Colleges) through to more contemporary organisations (such as the Chartered Institute of Personnel and Development). Other professions also recognise the importance of engaging with 'stakeholders' and many are concerned to ensure clear assessment standards which do not conflict with equality and diversity (in particular disability), and how best to assess in-workplace performance. Many also have projects planned for the future in relation to reviewing assessment arrangements.

It is through considering the issues discussed in **The Case for change** that the Society has formulated the following proposals for change to the existing Scottish legal education and training system for solicitors:

Proposal 1: Outcomes

Proposal 1.1: that learning outcomes be adopted across all stages of Scottish pre-qualification legal education and training, underpinned by robust and rigorous assessment requirements, and appropriate accreditation schemes.

In addressing the issue of changing trends in professional education and, specifically, the move away from prescription of process to "outcomes", or demonstration of "competencies", the Society examined the arrangements in other professions. A common feature which the Society observed was a similar move to 'learning outcomes', 'competency statements' and 'benchmark statements', and away from prescription of process. The rationale behind an outcomes-based approach is that, provided students are able to demonstrate that they have achieved the outcomes, the programme of learning need not be prescribed, but may be left to the educational institution to design. This means that greater coherence between different stages of education can be achieved, as well as enabling flexibility in delivery, all of which assists with addressing the issues of access, professional tension and currency, as providers are empowered to design the programmes or courses which they believe will, educationally, best assist the students to demonstrate the required outcomes.

However, the inherent flexibility which an outcomes-based approach permits must be balanced by the concern to assure quality to the public. Most professions have had to address the dilemma a move to outcomes necessarily involves, of reconciling the focus on 'thresholds' as minimum standards which must be met, with the desire to encourage the highest possible standards of education and training. This makes the assessment of the outcomes critical when adopting an outcomes-based approach. Equally critical in assuring quality is accreditation of the programmes and courses which are used to develop proficiency in the outcomes.

Proposal 2: Foundation Programme

Proposal 2.1: to re-name the academic stage of legal education and training in Scotland the “Foundation Programme”.

The Scottish solicitors’ profession does not have law graduate entry only, even now, as its academic stage comprises both the Exempting Scottish LL.B. Degree, as well as the Society’s Professional Exams. Given the Society’s desire to ensure accessible and flexible routes to qualification, which are set out further below, the Society would like to break with current terminology, and re-name the academic stage the “Foundation Programme”, in order to reflect the choice of both law degree and non-law degree pathways to qualification.

Proposal 2.2: to replace the current Professional Exams with a graduate-level, non-law degree route which may not require a pre-Diploma traineeship but which would not result in a lowering of standards.

Whilst not diminishing the value of the Scottish law degree, which the Society anticipates will continue to be the main route to qualification, the Society needs to be able to provide access to the profession for talented individuals who will contribute to the reputation of the profession, but for whom the law degree is not a viable route. Although the Professional Exams do provide an alternative, non-law degree route, there is an inherent inflexibility in that the Professional Exams require the student to obtain a pre-Diploma Traineeship first and then, having been provided with a syllabus and reading list by the Society, to study independently for the exams whilst working. The Society is concerned at the problems the requirement for a pre-Trainee Diploma traineeship causes. However, it is also concerned that a non-law degree entry route which removes that obstacle should not result in a lowering of standards. As it is, the current regime for the Professional Exams does not meet the accreditation standards required for universities offering law degrees, having no external quality control and no assistance to student learning.

The Society would like to consider, therefore, whether there would be an alternative, graduate-level, non-law degree route, different to the present Professional Exams, which, whilst providing more flexibility than at present, would not mark a dilution in standards. Possible options could involve distance learning delivery or an ‘Open University’- type programme of study. Subject to views, the Society would set up a working party to look at options for the Professional Exams. As the Society has not consulted on this before, it would welcome suggestions for possible alternative routes.

Although the Society would like to explore alternatives to the Professional Exams it is not proposing their removal until and unless an appropriate alternative is able to be put in their place.

Question 1: Please provide your suggestions for alternative routes to the Professional Exams.

The Society, in looking at a non-law degree route, is not proposing that entry to the vocational stage be at anything other than degree-equivalent level – as is the case now. A concern which was raised in responses to the “Discussing the Detail” consultation was that students in the Further Education sector studying an HND in Legal Services, which is not taught at the same level as undergraduate or graduate entry Law, could be able to benefit from direct entry into the vocational stage. Entry from an HND onto PEAT 1 would only be possible if the HND was an accredited Foundation Programme, which would mean having to meet the Society’s accreditation requirements for the Foundation Programme, including SCQF credits, teaching at SCQF Level 7/8, and outcomes.

Proposal 2.3: that learning outcomes be developed for the Foundation Programme.

An issue in having non-degree as well as degree routes is the concern to assure quality. The way to maintain standards and assure quality is by ensuring that, irrespective of the route followed, all students, ultimately, have to meet the same standards. This is made easier with the outcomes-based approach the Society proposes across the whole Scottish pre-qualification legal education and training framework [see **Proposal 1** above]. For the Foundation Programme, the proposed learning outcomes which would have to be satisfied would comprise outcomes for:

- Knowledge areas
- Skills
- Values and Context

The Knowledge areas would cover:

- Sources of law
- The profession of law;
- Legal systems and Institutions affecting Scotland;

- Human Rights, Freedoms and Protections;
- Persons; Property; Obligations; Commerce; Crime.
- Evidence

The Skills would include:

- Research and using sources
- Communication

The Values and Context would include the areas of Legal and Ethical values which are currently in the law degree.

The next step is to develop the outcomes themselves, and the Education and Training Committee will be setting up a working party to take this work forward.

Providers of Foundation Programmes would be able to use the Outcomes to move away from subject-specific outcomes so that the Skills and Values outcomes could be taught in any Knowledge Area. This would give providers the freedom to be innovative and to deliver their programmes in different ways, subject to meeting accreditation requirements as discussed below. Unlike the present situation where the Professional Subjects must be taught in the first two years of the law degree, the new framework would enable providers to teach the Outcomes in any subject and in any combination.

In the “Discussing the Detail” consultation paper, it was proposed that Tax and Evidence be removed from the ‘knowledge areas’ (equivalent to the current Professional Subjects). However, having considered the points made in the responses to that consultation, the Society proposes removing Tax as a Knowledge Area from the Foundation Programme but including it within the outcomes for PEAT 1 as a mandatory outcome. This would not restrict its ability, however, to be taught pervasively in the context of other Knowledge Areas in which specific types of tax and tax issues tend to arise. Evidence, on the other hand, would remain in the Foundation Programme as a Knowledge Area: the Society accepts that Evidence as a substantive subject is a fundamental knowledge domain. The procedural aspects of Evidence, however, would be included in the outcomes for the mandatory areas of Civil Litigation and Criminal Litigation in PEAT 1. A further suggestion which was made in the responses to the “Discussing the detail” consultation was for Private International Law to be included in the Knowledge Areas. Private International Law was considered by the working party on Professional Subjects which decided that it did not meet the criteria for inclusion in the Knowledge Areas, the criteria being that a subject should comprise one of the ‘building blocks’ which make many areas of law accessible (such as Obligations), or areas of law which pervasively affect a range of practice (such as Human Rights law), or areas of law of which all legal practitioners ought to be aware.

The Skills and Values learning outcomes would not need to be achieved solely in the above Knowledge Areas but could be achieved, for example, in stand-alone skills subjects, or in subjects on law or law-related topics. It would, however, be for an applicant for accreditation as a provider to demonstrate that all of the learning outcomes have been achieved through assessment following an accredited course.

The Outcomes would provide a framework which universities could use to design degree programmes (whether law or non-law) to meet the outcomes in the way they best thought fit.

The outcomes would have to be demonstrated in the context of a rigorous assessment which would be subject to external scrutiny under an external examiner system to assure the nature and level of the assessment. Programmes would also have to be accredited and a new accreditation scheme would be proposed. The general features of the scheme are discussed in **Proposal 6. Accreditation**.

Providers of the Foundation Programme might have concerns about higher compliance costs resulting from the proposals, which could have a knock-on effect on fees, which, in turn, could have negative impact on access and diversity. The Society believes these concerns are unfounded: universities offering Exempting Scottish LL.B. Degrees already need to go through an accreditation process, the costs of which are currently subsidised by the Society, further costs would not be envisaged under a new accreditation scheme.

Proposal 2.4: an exempting Scottish degree programme for qualification as a solicitor (“Scottish Exempting Degree”) would have to comprise not fewer than 190 SCQF credits in the study of the Professional Subjects, within a degree programme of not fewer than 240 credits of law overall and taught at SCQF level 7/8

The limitation with an outcomes-based approach is that not every outcome can or will be tested in an assessment, and some prescription of process is necessary in order to ensure that competence to meet all the outcomes is able to be developed. Consequently, students would be required to complete a formal programme of study in order to give them the opportunity to develop the necessary competencies to meet all the outcomes, even if not all outcomes are assessed.

The Society recognises that the law degree is not geared solely to developing competence in legal practice, but has broader intellectual aims, particularly since more than half the number of students who study law do not join the legal profession. The Society is not intending to change this, or to interfere with the requirements for qualification as an Advocate. However, with the exception of those who pursue any accredited non-law degree route to qualification [see Proposal 2.2 above] those who wish to become a solicitor would be required to study on a new Scottish Exempting Degree which contained the Professional Subjects, in the same way as is done now.

However, the Society does recognise that a constraint on flexibility in the law degree is the Society's current requirement that the Professional Subjects, which must be no fewer than 180 credits, must be studied for the equivalent of not less than two years and therefore take up the majority of a degree programme's 240 credits in the first two years. This causes concern amongst academics and criticism from students that the Society's requirements for the Professional Subjects makes the degree overly vocational, and, for those students who do wish to use the law degree as the basis for qualification, the current requirements prevent opportunity for students to enhance their attractiveness to employers, as there is little opportunity for students to do much beyond the Professional Subjects. As mentioned in **The case for change**, because of the increasing trend of students wishing to study other subjects on their degree programme in addition to law subjects, degree providers are offering, and wish to offer, broader courses involving law and other non-law studies. Under the law degree's current structure, there is little opportunity for students to broaden their studies with non-Professional Subjects, let alone non-law subjects, if they also wish to pursue the route to qualification. This is an issue for a number of reasons: one reason is that it is in the interests of the profession to have people entering it who have maturity, breadth of experience and knowledge beyond law. It is the reason that in England and Wales, many firms favour non-law graduate students who have followed the 'conversion course' route in England and Wales – not because of a preference for the way law is taught on the one-year Common Professional Exam (or 'CPE'), but because of the additional maturity, knowledge and skills the individual has obtained through their earlier non-law study.

The Society recognises the concern, and further recognises that, not only is it not possible to teach all law in the course of a law degree, it is also important to achieve breadth at this stage of the legal education process, as opposed to too early specialisation. For students looking to qualify as a solicitor, this is particularly important, so that they may gain experience of a sufficient breadth of areas of law in order to know where they would like to practise, and also to provide a foundation of knowledge which would allow them to change disciplines should they wish to. However, there needs to be 'space' within the degree programme in order to achieve breadth.

For all these reasons, the Society proposes prescribing that a Scottish Exempting Degree programme would have to comprise not fewer than 190 SCQF credits in the study of the Knowledge Areas, within a degree programme of not fewer than 240 credits of law overall and taught at SCQF level 7/8 (equivalent to ordinary, rather than honours, degree level). This would allow students and providers the flexibility to explore other areas of law and legal practice not covered in the core. Students would, however, have the choice of being taught at a higher level since providers would be free to teach programmes at higher levels, should they wish to do so, and would have to do so in the case of Honours degree programmes.

Given the tension between the desire for specialisation and the desire for breadth, the Society believes both would be satisfied under the proposed model, with breadth being established in the academic stage, and specialist interest being developed in the vocational, work-based and post-qualification learning stages

Proposal 2.5: that providers should be able to combine the Foundation and PEAT 1 stages of legal education in a programme, subject to accreditation by the Society

In response to the issues of currency, access and professional tension discussed in **The Case for change**, the Society proposes that an applicant should be allowed to demonstrate achievement of the outcomes for the Foundation Programme in a variety of different ways. In addition, a further flexibility of the Foundation Programme outcomes is that the Foundation Programme could itself be combined with the vocational stage, in whole or in part. This would be similar to the “Exempting Law Degree” in England and Wales (not to be confused with the new Scottish Exempting Degree). The Exempting Law Degree in England and Wales combines the English and Welsh “Qualifying Law Degree” with the Legal Practice Course, whereas ‘combined degrees’, as they are known, combine the conversion course (‘Common Professional Exam’), which is only available in England and Wales, with the Legal Practice Course.

In Scotland, this sort of Exempting Law Degree has not been pursued because of funding concerns. However, combining the two stages within what is already a four-year programme, for example, via a ‘professional’ programme at Honours level, would be possible under the current degree structure; the proposed outcomes would allow providers and assessors to use the outcomes to construct a programme framework which they considered appropriate for delivering some of or all of the requirements of the Foundation Programme, and which they would justify to the Society through accreditation. This would have to be a four-year Honours degree programme, unless it was ‘graduate entry’, in which case, the combined programme could, conceivably, be three years.

Apart from funding issues, there may be concern that programmes which combine the Foundation Programme with the Diploma would be pushing students down a vocational route too early, particularly given the tension described above about the nature of the law degree. However, the Society believes this danger is more perceived than real: even if a student were to follow a vocational route and then find that he/she wished to do something different, the training on the Foundation Programme and the Diploma would have provided the student with legal knowledge which can be used in many alternative careers, as well as readily transferable skills of intellectual analysis and cognitive ability. The Society therefore believes that allowing providers the ability to develop combined programmes would be an important feature of a new legal education and training system.

Proposal 2.6: that practice-based questions be used as a further method of assessment in the new Scottish Exempting Degree

The tension between the academic nature and the vocational focus of a law degree referred in **The Case for Change** above, and which came out in responses to the “Discussing the Detail” consultation, is of concern to the Society, as there is no disagreement by it that the law degree needs to cater for more than those students who do wish to enter the profession, and that the law degree is intended to provide general intellectual training and not merely vocational training.

However, in the same way that students who enrol on a medical degree (or dentistry degree or veterinary science degree, for that matter) will do so with a vocation in mind, a high proportion of students enrol on law degree programmes with an equivalent vocational ambition to be a lawyer. That does not mean that all law degree programmes need to be or should be Scottish Exempting Degrees, but it does mean that a vocational focus in the new Scottish Exempting Degree is justified.

Providers of all law degree programmes are encouraged to use the full range of assessment methods appropriate for the law degree’s conceptual and theoretical approach. However, for the new Scottish Exempting Degrees, which necessarily have a vocational focus, it would be appropriate for providers also to use practice-based methods of assessment, in order to assist students in preparing for the vocational stage of training. This would not just mean problem-solving based solely on problems arising in a solicitor’s practice, but conceptual problem-solving also, which would extend the student’s interpretative and cognitive skills. Although practice-based problem-solving is relevant for those intending to qualify as solicitors, it is part of the broader aim not to produce merely ‘technocrats’ but to develop solicitors who are able to think relevantly for themselves.

Proposal 2.7: to review the current entry selection criteria and process for entry onto the Diploma

A consequence of removing prescription as to when the Knowledge Areas have to be studied and assessed would be that it would not be possible to continue the current Diploma entry selection. In terms of the issue of access, one of the two main bottlenecks in the current route to qualification as a solicitor in Scotland is at the point of entry onto the Diploma. This is because the entry selection criteria are based on a student's performance in the Professional Subjects, which are usually studied during the first two years of the law degree. Students who find the transition from secondary to tertiary education difficult and may take longer to mature and settle down to their studies, can be disadvantaged if the results of only their first two years at university are considered. Students from non-traditional backgrounds, who may be the first generation to go to university, could be a further example.

The Society therefore needs to consider an appropriate replacement for entry selection onto the Diploma. One alternative which has been suggested is that the current selection process be replaced by an entrance exam. The Society would welcome further views and ideas for an entry process onto the Diploma, which would be fairer for all students. Should preference be for an entrance exam, disability and other issues relating to student performance would need to be taken into account. Unlike the Legal Practice Course in England, there is no central admissions body for the Diploma in Scotland. If there were no selection process and no entrance exam, there would be a concern to ensure fairness across the board to applicants, and consistency in individual university requirements to ensure that students would not be disadvantaged and would not, effectively, be entering a lottery to find a place on a Diploma course.

Question 2:

2.1 Would you favour an entrance exam for the Diploma?

2.2 If not, what would you suggest to replace the current entry selection criteria and process?

Proposal 3: Professional Education and Training Programme (PEAT)

Proposal 3.1: to recategorise the vocational and work-based learning 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

As the purpose of the vocational stage of legal education is to provide a bridge between the academic stage of study and the work-based learning stage of training, it is important that the stage builds on what has been learnt in the academic stage or Foundation Programme, and provides the necessary preparation for the work-based learning stage. Equally, the work-based learning stage should build upon what is learnt in the vocational stage. All stages therefore need to be consistent and incremental. However, as the vocational and work-based learning stages are entirely vocationally-focused, these lend themselves to a more holistic approach by treating both stages as an integrated whole. For this reason, the Society proposes calling the combined vocational and work-based learning stages, the "Professional Education and Training Programme". To distinguish between the different objectives of the vocational and work-based learning stages, they would be called "PEAT 1" and "PEAT 2", respectively: PEAT 1 would be a programme of study and performance which introduces students to the complexities of legal practice and prepares them for the traineeship; PEAT 2 would be a second programme which would involve performance and study, but in the context of work-based learning.

Proposal 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

By taking a holistic approach, the Society proposes a set of core outcomes which would be common to both PEAT 1 and 2. These would consist of a set of overarching outcomes in:

- Professionalism
- Professional Communication
- Professional Ethics and Standards,

These core outcomes would be taught pervasively through the Knowledge and Skills areas of PEAT 1 and PEAT 2. This would enable consolidation of learning in each stage, using what, in educational terminology, is called a "spiral" approach, meaning that learning, in terms of knowledge, skills and values, is re-visited at later stages, at increasingly higher levels of understanding and proficiency, and in different contexts. This would move away from the current design of the Diploma, in which subjects are taught and assessed as discrete units, with little integration. It would also enhance the development of professionalism at an earlier stage (under the current system,

there is no prescription by the Society for the Diploma in relation to Professional Skills and Values, and Professional Ethics, or for the traineeship). Given the importance of the concept of professionalism in distinguishing the solicitor from other providers of legal services, this is a gap which needs to be filled if the issues to do with the post-Clementi provision of legal services, discussed in **The case for change**, are to be addressed.

Proposal 4: PEAT 1

Proposal 4.1: that the learning outcomes described below be adopted for PEAT 1

As mentioned in Proposal 3 above, the Diploma would continue as the programme of study and performance for PEAT 1. Although the Diploma receives a lot of positive feedback, it is sometimes regarded by those supervising trainees as divorced from professional practice and not integrated with the traineeship (the issue of professional tension discussed in **The case for change**). Students have also commented that they are required to study too much volume on the Diploma, some of it in subjects in which they have little or no interest, and with no flexibility to choose other subjects.

The Society believes the outcomes-based approach it proposes to adopt across all pre-qualification stages of legal education and training would address this. Outcomes would provide flexibility for providers, whilst ensuring good practice and consistency in quality across providers.

In addition to the Core Outcomes set out in **Proposal 3.2**, the PEAT 1 curriculum would have the following knowledge area outcomes:

- Business, Financial and Practice Awareness
- Litigation
- Private Client
- Conveyancing
- Tax

Current	Proposed
<p>Diploma</p> <p>Subjects:</p> <p>Conveyancing</p> <p>Criminal Court Practice</p> <p>Civil Court Practice</p> <p>Private client</p> <p>Financial Services and Related Skills</p> <p>Professional Ethics and Conduct</p>	<p>Mandatory Outcomes [PEAT 1 only]:</p> <p>Conveyancing</p> <p>Criminal – High Court and Sheriff Court</p> <p>Civil Litigation</p> <p>Private Client</p> <p>Business, Financial & Practice Awareness</p> <p>Tax</p>
<p>Electives:</p> <p>Company and Commercial</p> <p style="text-align: center;"><i>or</i></p> <p>Public Administration</p>	<p>Up to 60 SCQF credits of elective subjects</p>
<p>Practice Skills:</p> <p>Interviewing and interpersonal skills (incl. advising clients)</p> <p>Letter writing</p> <p>Legal Research and problem solving (incl. formal opinions)</p> <p>Drafting</p> <p>Negotiating (incl. ADR and mediation)</p> <p>Advocacy</p> <p><u>PCC</u></p> <p>Personal Organisation and time management</p> <p>Practice Ethics</p>	<p>Core Outcomes (PEAT 1 & 2):</p> <p>Professionalism</p> <p>Professional Communication:</p> <ul style="list-style-type: none"> - Professional relationships - Interviewing - Negotiation - Writing and drafting - Transactional research - Use of technology - Advocacy <p>Professional Ethics and Standards</p>

IT and the Legal Office	- Regulatory framework and professional standards
Client Care	- Duties to the Court
Financial and Commercial Awareness	- Duty to the profession
Drafting	- The client-solicitor relationship
Writing	- Conflict of interest
Negotiation	- Confidentiality
Interviewing	

Litigation, Private Client and Conveyancing are included because they are reserved areas of practice. A concern which was raised in the “Discussing the Detail” consultation paper responses was that the four Reserved Area subjects should not be given equal weighting, since not all solicitors practise the Reserved Areas. Given the post-Clementi legal services market [see **The case for change**], it is essential that future solicitors receive training in those areas of practice which are reserved only to them. Not to do so would mean that the Society was not carrying out its responsibility to assure the quality of solicitors’ practice to the public. Further, given the concern for breadth rather than specialisation at this stage, acquiring competence in the reserved areas would provide this breadth should the student need to practise in any of these areas. In any case, the intention is not that each of the subjects be given equal emphasis, but that it is for providers to use the flexibility provided by the proposals to give the weighting they wish.

In the “Discussing the detail” consultation paper, it was proposed that Tax be removed from the Foundation Programme, with the assumption that it would be included in PEAT 1. This attracted criticism in the responses that the reason for moving it to PEAT 1 was simply because no place could be found for it in the Foundation Programme. This is not the case: Tax is an area which naturally arises in practice and therefore it is logical that it be taught in the vocational stage. It is envisaged that Tax would be mainly taught in the context of the other knowledge domains - stamp duty in Conveyancing, corporations tax in Company, inheritance tax in Private Client, and so on.

Proposal 4.2: to include up to 60 SCQF credits of elective subjects in PEAT 1

A criticism which has been levelled at the Diploma is that it is 'one size fits all', giving rise to issues of access and professional tension, as discussed in **The case for change**. This arises particularly from the fact that, at present, students are only able to study one elective subject out of a choice of two. In the "Discussing the detail" consultation paper, it was proposed to introduce 10 SCQF credits of elective subjects into PEAT 2. The points raised in the responses to the consultation have resulted in the Education & Training Committee changing this proposal, and, instead, proposing that up to 60 SCQF credits of electives be included in PEAT 1, which the Committee believes would go some way to addressing this concern. Most importantly, studying electives at this stage should assist students in preparing for the work-based learning stage.

Proposal 4.3: that PEAT 1 should comprise 120 SCQF credits which would include a core and electives, the core being no fewer than 60 SCQF credits, and the proportion of credits for core and elective, otherwise to be determined by each provider for its particular course.

In the "Discussing the Detail" consultation paper, the proposal was made to shorten the length of PEAT 1 to a minimum of 60 SCQF credits, irrespective of whether it was delivered part-time, through distance-learning or block release. On a full-time basis, this would mean that the length would be virtually half of what it is currently. The reasons for shortening PEAT 1 included the ability to run a 16-week course twice in a year full-time, and over a year part-time, which might have the added advantage of reducing course fees. A further reason was that a shorter PEAT 1 could more easily be offered on a part-time basis and could be articulated with either the Foundation Programme or with PEAT 2.

However, given the proposal to include Tax in the knowledge outcomes for PEAT 1 and to include elective subjects into PEAT 1, the course should remain at 120SCQF credits. The Society is committed to having a PEAT 1 stage which is rigorous and challenging, and more effective at preparing students for practice, as well as meeting the needs of practice.

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

An advantage of not shortening PEAT 1 is that the possibility of losing SAAS funding for as long as the funding continues to be available would not arise (the proposed model of a core plus electives would be a funded model). However, there are issues with how SAAS funding is allocated, which does not necessarily achieve the support for access and diversity which it could do. Consequently, even though SAAS funding is not an issue in terms of the proposals for PEAT 1, the Society believes it is appropriate to look at the criteria for allocation of funding and to initiate discussions with SAAS about more equitable ways of funding students on the PEAT 1 stage.

Question 3:

3.1 Do you have concerns about current funding arrangements for students on the PEAT 1?

3.2 Please provide suggestions for how the current funding arrangements could be improved.

Proposal 4.5: to consider ways of delivering PEAT 1 as a part-time course

Students concerned about student debt are looking at options which allow them to work while they study. Currently, the choice is to study the Diploma full-time followed by a traineeship. This is not because of prescription by the Society but because providers currently only offer full-time course. This is not easily solved, however, as teaching on the Diploma relies heavily on practitioners who do the teaching. To run a part-time PEAT 1 course would require practitioner availability in the evenings and on weekends, which may not be feasible. However, not being able to offer part-time delivery of PEAT 1 is a problem for access. The Society would be grateful for views and suggestions on how part-time delivery could be achieved without loss of quality. In England and Wales, the Legal Practice Course is taught by permanent teaching staff who must be either a solicitor or barrister. To do similar in Scotland would be likely to result in higher course fees to cover the considerable additional staffing resource, which, in turn, would create access issues. The Society cannot require providers to offer part-time courses, but would encourage providers to do so in order to help achieve greater, and fairer, access.

Question 4: Please provide suggestions for how part-time delivery of PEAT 1 could be achieved.

Another possibility would be to ‘detach’ the electives in PEAT 1 from the core, so that students could choose to study the electives at a later date, but before commencing the traineeship. This is the approach which has been taken by the SRA in England and Wales to the new Legal Practice Course from 2010. It will also mean that students could choose to study their LPC electives with a different provider. This would be difficult in Scotland under the proposals in this paper, as it would be for each provider to determine how many credits would contribute to the core and the electives, within the parameters set in Proposal 4.3 above.

Question 5: Would you be in favour of the electives on PEAT 1 being able to be ‘detached’ and studied at a later date but before commencement of the traineeship?

Proposal 4.6: that the use of core materials for PEAT 1 be reviewed

With regard to course materials on the Diploma, a set of core materials has been used, traditionally, by all Diploma providers, co-ordinated by the Diploma Co-ordinating Committee. Diploma providers which use the core materials are asked to provide feedback on typographical errors, errors and changes in the law, to the lead author for each set of materials. The concern has been expressed that, if the Diploma no longer needs to be taught to a prescribed curriculum common to all, it would not be possible for providers to use core materials which, at the moment, provide a substantial saving, particularly to small providers. The Society’s experience has been, however, that little feedback, if any, is provided to lead authors to assist them with updating and quality control, and the cost of producing and publishing the core materials is heavily subsidised by the Society. The idea originally behind the core materials was that all Diploma providers would use the materials, which would have the additional benefit of ensuring consistency across Diploma courses. However, over the years, the materials have ceased to be used by all providers and, consequently, their use, and the justification for producing them, is due for discussion irrespective of proposals to enable more flexible delivery of the future PEAT 1 stage.

It is true that smaller providers may struggle to produce their own materials but it would be possible for consortia of providers to produce materials which suited their particular PEAT 1 courses. The proposals give PEAT 1 providers the opportunity to produce materials suitable for their courses and, given that the core would be able to be delivered in different ways, it may be that core materials would not be required at all.

Question 6:

- 6.1 Please provide your views on the use of core materials on PEAT 1.
- 6.2 Please provide suggestions for alternatives to core materials.

Proposal 5: PEAT 2

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

Whilst the Society is committed to a period of work-based learning leading to qualification, a lengthy period of supervision could be a barrier to entry and must, therefore, be justified. As it is, entry to the traineeship provides the second main bottleneck in the Scottish route to qualification.

For students who do obtain traineeships, however, the issue of quality assurance arises: firms which offer traineeships are not accredited to do so by the Society. Further, there is currently no curriculum or training requirements for the traineeship, other than a requirement that trainees attend the PCC during the traineeship. With the need to assure quality of the profession in the post-Clementi legal services world, and to comply with the Society's new standards [see **The case for change**], the current absence of any specification as to what needs to be achieved, how it will be assessed, and how it will be quality-assured, needs to be addressed. In the "Discussing the detail" consultation paper, it was proposed that PEAT 2 should comprise a two-year traineeship (full-time, or an equivalent period part-time), with a programme of 100 hours of structured learning, and a set of outcomes to be met at the end of the traineeship, as well as 10 SCQF credits of electives which are dealt with in Proposal 5.2 below. Firms offering traineeships would be required to provide the programme of structured learning training to a required standard, and would be monitored.

Responses to the consultation expressed concern at the burden that this proposal would impose upon firms, and the Society recognises that the imposition of a more structured framework for PEAT 2 must be balanced against the need to make the PEAT 2 training both desirable and manageable for firms, so that firms continue to be encouraged to take trainees.

Consequently, the Society is dispensing with the requirement for 100 hours structured learning, which would be inconsistent with an outcomes-based approach in any case, but proposes reviewing the structure of the traineeship overall.

Proposal 5.2: that trainees be required to undertake 60 hours of accredited Trainee CPD during the traineeship

The “Discussing the Detail” consultation paper also proposed that Trainees would undertake the equivalent of 10 SCQF credits of structured, accredited training as “elective” subjects. This would equate to 100 notional hours of student effort, which would include reading, preparation, distance-learning time, assessment revision, coursework preparation, as well as face-to-face teaching; it would not equate to 100 hours of training which a firm would have to provide. Although there would be no prescription as to topic, subject matter or curriculum structure, responses to the consultation expressed concern at the burden this proposal for electives would also impose on firms.

The Society considered the comments in the responses to this proposal. On the basis that there would be up to 60 SCQF credits of electives in the Diploma, which would serve to introduce students to different areas of practice, the Society proposes that, instead, trainees should be required to undertake 60 hours of accredited CPD during the two-year traineeship, in order to take forward their development in line with the sort of work they are doing, and the level at which the work is being done.

Proposal 5.3: that the PCC be discontinued on the basis of Proposals 5.1 and 5.2

At present, the work-based learning stage consists not only of the two-year traineeship, but also the Professional Competence Course (‘PCC’). The PCC is inflexible in the way it may be done, requiring actual attendance and not allowing distance-learning, and has attracted much criticism in recent years. Many firms are not seeing the benefit or purpose of the PCC, but regard it as a repetition of the Diploma, rather than the next iteration of vocational development. This negative perception of the Course by firms can influence trainees, who, in turn, approach the Course negatively and, therefore, do not obtain the full benefit of the Course.

In light of Proposals 5.1 and 5.2 above, the Society proposes to discontinue the PCC on the basis that the areas currently covered by the PCC would be covered by the new outcomes for PEAT 1 and 2 [see **Proposal 4.1**].

Proposal 5.4: that an e-portfolio be introduced

An important issue is how a trainee's demonstration of the PEAT 2 outcomes would be assessed. In the "Discussing the Detail" consultation, various forms of assessing were proposed. Rather than imposing a new regime, the Society would prefer to harness practices which are already in place and being used by many firms and trainees. Where no assessment is in place, the Society will work with firms to develop assessment tools as an aid to firms in obtaining the best from their trainees. At present, trainees are required to undertake quarterly reviews and to maintain log books of the transactional work they do. Trainees may either use the log books provided by the Society, or log-books developed by their firm which the Society will approve. For ease of use and greater convenience, the Society would like to introduce the use of e-portfolios, to be used to record work done in the place of the existing checklists, and to reflect on their performance to the extent possible. The e-portfolios would be used as a tool at the quarterly performance reviews to form the basis of assessing whether the trainee had demonstrated the PEAT 2 outcomes. However, as it will not be possible to introduce the technology in the short-term, the Society would propose continuing with the current practice of using log books. The PEAT 2 outcomes would form the basis of the quarterly reviews and would record whether, and the extent to which, trainees have demonstrated the outcomes. By using the quarterly reviews, with the outcomes addressed at each review, there would be a move away from the 'one-time assessment' approach which militates against 'spiral' and consolidated learning. It would also mean that firms would have a self-compiling record of the trainee's performance over the two-year period [see Proposal 5.6 below]. This would also achieve a closer connection and relevance between the content and form of assessment in PEAT 2, and practice, by using a combination of reflective portfolio and self- and peer assessment

The firm would then be able to sign off the trainee, or not, as the case may be, at the end of the two-year traineeship, based on evidence provided by the Quarterly Performance Reviews.

Proposal 5.5: that firms offering traineeships nominate an authorised “Training Partner”

At present, firms do not need to be authorised to take trainees, which has quality assurance issues as discussed in Proposal 5.1. This is in contrast to the position in England and Wales, where a firm may only offer a training contract if it has been authorised by the Solicitors Regulation Authority (‘SRA’) as a “Training Establishment”, and then must comply with the obligations placed upon it by the SRA, including experience and supervision requirements, and compliance with a monitoring regime. The SRA is about to pilot a new scheme for assessment and signing off trainees, the results of which will be of interest to the Law Society of Scotland.

The Society is not proposing that an equivalent regime to that in England and Wales be imposed at this stage; Scotland is a different profession, particularly in terms of size and composition, and the Society recognises the difficulties such a regime would cause some firms. However, quality assurance of the traineeship must be achieved. What the Society, therefore, proposes is that firms or organisations offering traineeships nominate an authorised “Training Partner/Supervisor” who would be a named point of contact for the Society, as well as being the person responsible for the firm’s supervision of trainees and for the trainees’ completion of the PEAT 2 training requirements and assessment of demonstration of the PEAT 2 outcomes. This is ‘light touch’ regulation: it goes nowhere near the much more extensive requirements in England and Wales, and is not dissimilar in fact to what happens now. In the in-house context, it would be someone equivalent to partner who would be required to be Training Partner. The Society would also require minimum training requirements for Training Partners (or an equivalent individual in-house), so that they would be able to confirm the firm’s compliance with the Society’s requirements for firms or other organisations offering traineeships.

Proposal 5.6: that flexible options for PEAT 2 be developed

Given the diversity in Scottish legal practice, discussed in **The case for change**, the Society is concerned that that diversity is reflected in the range of traineeships which are on offer. This is not currently the case, however: of the 958 trainees currently in a traineeship, 9% are in non-private practice traineeships, even though up to a third of solicitors are employed in in-house positions.

The particular issue for legal aid practice firms, in contrast to the position in other jurisdictions, is that the Scottish Legal Aid Board (“SLAB”) does not fund traineeships in legal aid firms. Consequently, the cost of traineeships must be borne by the legal aid practice itself, which, because of the challenges facing legal aid work in Scotland [see **Case for Change**], creates further difficulty, particularly in the case of civil law practices which are declining in number.

The Society would therefore like to explore ways of creating traineeship opportunities in a more diverse range of practices to reflect better the current and future make-up of the profession in Scotland. One way of doing this would be through arrangements to share trainees, which, even now, the Society is able to approve.

Many smaller firms are concerned that they may not be able to offer a range of experience, even without prescription to do so by the Society, or may not be able to support a trainee for the full two years. One possibility which was suggested in the responses to the “Discussing the detail” consultation, was for a consortium of public authority, in-house legal department, and specialist practices, for example, which would, potentially, substantially increase the number of traineeships that could be offered by an organisation, but still be the same salary commitment for an organisation over the two years.

The idea of experience in these different legal practice environments is not new and is an approach taken in a number of Continental European jurisdictions by way of compulsory training. The Society is not proposing any compulsory element but would be interested to facilitate initiatives to encourage traineeships across a broader range of practice, which would have the further beneficial effect of exposing more trainees to legal aid practice.

Although it is not the Society’s responsibility to create jobs, the Society recognises that it is well-placed to facilitate such arrangements. The Society has never been in a position to dictate the number of places on the law degree, on the Diploma or the number of traineeships. Nor has the Society had any desire to do so since these are a factor of the market place. However, to be able to facilitate solutions to what are obvious problems, is the Society’s objective.

Question 7: Please provide suggestions for flexible options or alternatives to the traineeship.

Proposal 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

The Society recognises that smaller firms may require additional support and advice resources, which the Society would put in place. It would therefore be interested to have suggestions as to what these could comprise.

Question 8: Please provide suggestions for the additional support and advice resources which would assist smaller firms and practices.

Proposal 6: Accreditation

Accreditation guidelines are already in place for the Exempting Scottish LL.B. Degree, the Diploma and the PCC, and the Society proposes using these as the bases for the proposed Accreditation regimes for the Foundation Programme, PEAT 1 and PEAT 2, rather than re-inventing the wheel since these accreditation regimes are seen as working effectively. Draft accreditation guidelines for the proposed new stages will be circulated for comment before being finalised and will be made available on the Society's website. Changes to the current accreditation scheme, which have been formulated according to the over-arching principles set out in **The Proposals**, can be summarised as follows:

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

General Principles

The basic principle of the new accreditation regime will be that only programmes and courses which are accredited by the Society will be eligible to be counted as components of a solicitor's training.

Period

Accreditation will be for a period of four years.

Quality assurance

Prior to application for accreditation by the Society, the programme or course for which accreditation is being applied must have gone through a process of external validation and the programme or course will also need to be subject to a system of independent external examining, the details of which would need to be provided to the Society as is presently done.

Outcomes

One of the advantages of using learning of outcomes is that the Society would not need to prescribe syllabus, reading lists and the like.

A further advantage is that the routes for access to the profession will permit different combinations of education and training, subject to the learning outcomes being satisfied. This means the Society would be able to accredit a course which integrated PEAT 1 with the Foundation Programme, subject to all accreditation requirements being met, similarly, part-time, distance and open learning models of delivery would be able to be accredited, subject to all other accreditation requirements being met.

What applicants for accreditation will be required to demonstrate clearly, however, is how the learning outcomes will be met, and it may be that the Society will require a matrix which cross-references learning outcomes and related assessments.

Information

Overall, the Society will require less 'structural' information (such as information on library and IT resources) although it will need to be satisfied that there is appropriate teaching and learning accommodation and that there is an effective infrastructure of student support and pastoral care, as well as equality and diversity policies.

Providers will also need to give details of their policy on course attendance and how they report professional lapses or what could amount to misconduct. There is no attendance requirement prescribed by the Society and no consistency across providers in relation to attendance. However, it does go to the development of professionalism and professional attitudes.

The Society will also continue to require documentation and information, as appropriate, from providers as part of their application, on:

- the relationship between learning outcomes and related assessments, set out in a matrix described in 3. above;
- details of staff qualification and training;
- details of external validation;
- sample learning and assessment materials;
- student feedback;
- basic programme information, including the number of students the provider intends to recruit into the first year of the programme;
- programme delivery details, including learning and teaching methods, class sizes and ratios, entrance requirements, and
- the opportunity for students to be given formative feedback on their progress. The feedback should be in a form appropriate to degree level (or equivalent) programme of study, whether for the Foundation Programme, or for PEAT 1 and 2. For PEAT 1 electives, as there are no prescribed topics, information about which electives will be provided will also need to be included.

Application process

The deadline for the submission of an application for accreditation will be mutually agreed with the Society. All accreditation documentation will need to be submitted in electronic form by the applicant. However, the accreditation application and documents submitted with it, as well as the accreditation process itself, will remain confidential until such time as the accreditation has been approved by the Society.

Existing accredited providers will continue to have their programmes recognised by the Society until a date is agreed with the Society, from which date the recognition will be subject to the provider having met the requirements of the new accreditation guidelines.

More specific detail of the timescale and transitional arrangements which will be needed will be discussed by the Joint Standing Committee on Legal Education, following discussion by the Education and Training Committee and recommendations made to Council.

Accreditation panels

Applications for accreditation will be considered by an accreditation panel, the composition of which will reflect a breadth of practice and experience. Panels will have between three and five panel members, but with a quorum of three. There will be a pool of trained panellists and, once the Society has agreed a timetable for applications, the Society will decide the membership for each panel. At least one member of a panel will be a member of the Education and Training Committee, Admissions Committee or Council; at least one member will be a solicitor qualified to practise in Scotland and who has been involved in teaching and administration of the Diploma for more than two years, and at least one academic representative with experience of providing an LLB. In addition to these categories, the Society will normally ask one member of the panel to be an experienced legal academic in either of the latter two categories from outside the jurisdiction. An applicant will be asked to confirm its acceptance of the composition of the panel in writing.

The accreditation panel will make a recommendation to the Society's Council either for accreditation, for refusal of the accreditation, or for interim accreditation which would be subject to conditions. Applicants will have a right of appeal to the Court of Session against the accreditation decision, as part of the general right of appeal in the Admission as Solicitor (Scotland) Regulations 2001.

The Society will reserve the right to issue notices in the *Journal*, detailing the outcome of the accreditation process and any concerns about the accreditation arising from the annual reporting process, such as failure to submit the annual report or major breaches of accreditation which come to light.

To assist applicants in the process, the Society will have a named contact to deal with enquiries about the accreditation procedure, which will be dealt with promptly. Because of the Society's limited resources, however, the Society will reserve the right to place a limit on the number of accreditation applications that it will deal with in any given period. This is to ensure efficiency for the benefit of providers in undergoing the accreditation process.

Fees

An initial accreditation fee will be payable by the accredited provider to the Society when the application is submitted, followed by an annual fee to cover the costs of inspections, processing annual reports, dealing with enquiries and variations to accreditation.

Variations to accreditation

Any request to vary accreditation will need to be made to the Education and Training Committee, which will determine whether the requested variation is minor and able to be approved by the Committee, or whether the variation requires a new accreditation process.

Ongoing obligations

The accreditation panel will visit new providers during the first year of provision and will reserve the right to make further visits at the panel's discretion. Any further visits will be arranged with the provider after giving one month's written notice. The accredited provider will be required to provide the Society with an annual report at the end of each academic year for the duration of the accreditation. The annual report will be in a standard format and will contain, amongst other things, retention rates, equality and diversity statistics, and details of schemes for widening participation where such schemes exist.

Information to students

For PEAT 1 accredited providers, it will be necessary to demonstrate to the Society that they have made appropriate arrangements (including compliance with Data Protection legislation) which allows the provider to supply the Society on an annual basis at the start of the accredited programme or course, with an electronic spreadsheet containing the students' names, e-mail addresses, and the stage of study. Where the Society wishes to contact students, it will give providers a minimum of one week's notice before e-mailing students. It is anticipated that this would only occur once or twice a term/semester. These communications with students would be part of the Society's engagement strategy with students.

The Society recognises, that, in the case of law degree programmes in the Foundation Programme, not all students enrolling on the law degree programme will be looking to qualify as a solicitor and that it is therefore inappropriate to require this information of all students. However, for students who are intending to follow a vocational path, it is important for the Society to be able to communicate with those students so that it can provide appropriate and relevant information at the right time to help those students with their career decisions and planning. The Society is always open to suggestions as to how it can improve its communications with students.

Question 9: Please provide ideas as to how the Society could better communicate information to students.

Even for law degree students, however, it is important that they are able to receive information from the Society: although a student may start out on their law degree not wishing to qualify into the profession, that may change, and it is important that the appropriate information is available should they decide to do so.

Consequently, as part of the Society's engagement strategy with students, the Society will wish to visit providers to speak to students. These visits would include a visit by the Society's New Lawyer's Co-ordinator during the first three weeks of term in the first year to give a brief presentation on the New Lawyer's Engagement Strategy; a visit by the New Lawyer's Co-ordinator during the first three weeks of PEAT 1 to give a presentation on the New Lawyer's Engagement Strategy; a visit by the Director of Education and Training and a Council member to Diploma students to explain the role of the Society and its Council, and to conduct an open forum with Diploma students about current issues; a Professional Responsibility Workshop to discuss client care, complaints procedures, and other professional practice issues; and a visit by the Manager (Education and Training) to explain procedures for progressing to traineeship and qualification. In order to arrange these with providers, the Society will send providers a list of the visits the Society wishes to make, and will ask the provider to facilitate these. In order that the visits are effective from both the Society's and the students' perspectives, providers will be asked to agree dates for the visits with the Society within six weeks of the Society's notice to the provider, and providers will be asked to communicate to students the details of the visit and its purpose.

The Society will also ask providers generally, to communicate key information to students at the Society's request, such as the Society's policy on 'fit and proper' and other professional requirements and information. Providers would be asked to confirm to the Society how and when the information was communicated to students.

Providers will also be asked to notify the Society of dates of law fairs, careers events and open days. Although some providers do this already, not all do and it means that students are then denied information which will help them in their career planning and career choices. The Society has no desire to be overly bureaucratic about this but wants to ensure that all students have the same opportunities to receive appropriate information and that no one group is being disadvantaged by not receiving information. The Society is keen to be able to put information about law fairs, careers events and open days on the Society's website so that it is available through an easily accessed source and would assist universities in publicising these events.

Progression

Where courses are not combined, students will not be allowed to progress from the Foundation Programme to PEAT 1 unless all outcomes for the Foundation Programme have been met. It is currently possible for a student to pass a law degree programme but not to have passed the current Professional Subjects if the university has different subject pass requirements. However, a student must pass the Professional Subjects, in order to enter on the Diploma. An accredited PEAT 1 provider which accepts onto its course a student who has not satisfied all the Foundation Programme outcomes, will be treated by the Society as having breached the terms of its accreditation.

In the “Discussing the detail” consultation, it was proposed that accredited providers should be required to communicate concerns about a student’s “fit and proper” suitability to become a solicitor, immediately upon a concern arising, and in writing. This caused some concern for university providers, which the Society understands. It is, however, an important issue: only those who are fit and proper should have access to the profession, and it is important to identify concerns earlier rather than later. However, this must be balanced against the reality of a student’s need to develop and the opportunity to learn from mistakes and experience. The Society therefore welcomes any ideas on what would be an effective solution, whilst balancing the competing concerns.

<p>Question 10: Please provide suggestions on how and when a provider’s concerns about a student being ‘fit and proper’ should be raised with the Society.</p>

In order for a student to enter a traineeship, a reference will be required from a student’s PEAT 1 provider. This is something universities are already required to provide and the Society proposes a continuation of the existing practice which uses a standardised reference.

The Society had also proposed in the “Discussing the Detail” consultation that a standardised student transcript be required of providers. This was seen to have difficulties by respondents, since each university will have its own standard transcript. The Society’s concern in making this proposal was not to impose standardisation across all university providers but to ensure that it is able to obtain confirmation of successful completion of the Foundation Programme which it is able to rely upon. This confirmation is necessary before a student may commence the Traineeship and, where a university does not provide a transcript (which, unfortunately, does happen), or does not do so automatically but only on payment of a fee by the student (which, unfortunately, also happens), the student is caused unnecessary distress and inconvenience. The current situation is different to the

practice in other jurisdictions, where transcripts are produced automatically and without further payment, and bears investigation and review.

For students entering the traineeship, PEAT 1 providers will be required to provide a pass list to the Society within a reasonable period of time following the provider's Board of Examiners meeting.

Contravention

Should the terms of accreditation be contravened, the Society will withdraw accreditation.

CPD

Although provision of training which qualifies as CPD is not subject to accreditation currently, the Society anticipates that a CPD accreditation regime would be introduced in the next three years. The reason for this staged approach is to avoid unduly burdening firms with new regulatory requirements all at once. However, as far as the new trainee CPD [see **Proposal 5.2**] is concerned, it is proposed that accreditation be required which would probably be similar to the accreditation current required for the PCC.

Proposal 7: Continuing Professional Development (CPD)

The current post-qualification legal education and training regime introduced formal CPD requirements to the legal profession in Scotland, which have been successful to the extent that regulated continuing professional development is now an accepted part of professional life. As with other parts of the legal education and training system, there is an issue of currency with the CPD regime which has been operating for some 15 years, and the Society believes it is an appropriate time to consider the future shape of the regime.

One of the over-arching principles [see **Proposals – General**] is that solicitors should be encouraged to take individual responsibility for their own training and development, as should firms, which should also be encouraged to take responsibility for the future training and development of the profession. This, together with the new Standards, presupposes that training and development is ongoing – career-long - and does not cease on qualification. A CPD regime is the means of ensuring ongoing development so as to assure the public of ongoing competence and continuous improvement in the service from the profession. To achieve this, the regime needs to apply to all solicitors, and needs to allow the individual to assess what the skills and knowledge are that he/she needs to develop for his/her current role, as well as for his/her future career. The converse obligation on the part of the individual is that the training he/she undertakes should be directly relevant to his/her development and training needs. For a solicitor to go on a training

course which is not relevant to his/her practice, or is not going to advance his/her skills or knowledge, merely to obtain the necessary CPD hours to satisfy the annual requirement, defeats the whole object of the regime.

From the regulatory perspective, the regime must be capable of effective compliance by the profession, in that the time and effort required must be reasonable and justifiable, and also capable of consistent monitoring by the Society. It must also be coherent in terms of linking in to pre-qualification education and training.

Learning the craft of lawyering is complicated in itself; given the diverse nature of the Scottish solicitors' profession [see **The case for change**], achieving a CPD regime which is suitable for all the different training needs created by this diversity only adds further complication, and the Society's concern is that the current CPD regime does not do this and, instead, has become merely a bureaucratic exercise where the focus is on only achieving the minimum. This attitude of achieving 20 hours of CPD and no more is also inconsistent with another development over the past 15 years in education generally, but also in professional education, which has been the promotion of the "reflective practitioner" and the value of reflection as a key element of learning. In higher education generally, reflection is being encouraged through the introduction of Personal Development Plans ('PDPs'). It is therefore important that a new CPD regime is able to encourage reflection and a 'life-long learning' approach, and moves away from mere box-ticking.

One way of dealing with this is for the regime to recognise the existing commitment of many firms and in-house departments to ongoing training and development and, in so doing, avoid imposing unnecessary duplication or bureaucracy, but, rather, add value to the training and development already taking place. For example, many solicitors maintain their competence on an ongoing basis in a variety of ways, such as by supporting colleagues and younger professionals. In the case of in-house legal departments, the employed solicitors will, more often than not, be subject to the company's own processes in terms of best practice in annual appraisals, job descriptions and tailored training and evaluation which will be part of the corporate ethos and policy. Other jurisdictions and compliance and specialist requirements such as legal aid and IFA also need to be accommodated.

All of this indicates that the Society aspires to develop and operate a regime which requires everyone to complete a common minimum requirement but which allows a 'blended' approach to learning, and, in doing so reflects diversity and recognises the 'good professional'. Equally, the time and effort required for compliance must be justifiable and reasonable

Proposal 7.1 that a new CPD regime be introduced based on an annual cycle, with obligations of self-certification and monitoring

The Society will introduce a new regime for maintaining and monitoring the competence of its solicitors, which it will continue to call 'Continuing Professional Development'. The current annual cycle will be maintained, with individuals self-certifying that they have met the year's CPD requirements.

All solicitors will need to be able to demonstrate in a written form what they do to maintain their annual competence, should they be called upon to do so by the Society. The solicitor may select which method to adopt, and may use, for instance, annual appraisal forms, in-house training programmes, or reflective portfolios. The Society will formally review each individual's written demonstration at least once every four years. Firms and in-house legal departments will be able to use their own tailored form to record the CPD activities of their solicitors, if approved by the Society.

The Society will introduce a written, self-diagnostic form which every solicitor must complete and submit annually. This will require reflection on four elements: review of current area of practice and competence to identify learning needs; planning to address these; activity undertaken, and evaluation of the outcome. This will be an ongoing exercise, reviewed by the individual midway through the cycle to make any necessary adjustments. In addition, the Society will develop templates of good practice, including examples of what constitutes learning, sample completed self-diagnostic forms and written submissions.

Proposal 7.2: that the current annual CPD requirement of 20 hours be retained

In the "Discussing the detail" consultation paper, it was proposed that the annual required hours be increased to 40 hours per annum from the current 20 hours on the basis that 20 hours is effectively 15 hours (after the five hours of personal study is deducted), and is much lighter than the requirement for other professions. The Society recognises that, without further explanation, this increase may appear excessive. The increase, however, would be linked to development of competence in specific practice areas, specialisation, in other words, which necessarily would involve a greater time commitment than the current CPD requirement would allow. However, as detailed proposals of how competence-based CPD would operate have not been developed yet, the Society proposes retaining 20 hours for the annual CPD requirement, rather than 40 at this stage.

However, no matter what the requirement is in terms of number of hours, if the CPD is not meaningful and relevant and does not fit the solicitor's training needs, and has not been reflected upon and properly documented, then the number of hours is irrelevant.

Proposal 7.3: that the practice of carrying hours forward and back be ceased

In recognition of the purpose of CPD as ongoing assurance of competence and ongoing improvement, the Society proposes that the practice of allowing hours to be carried forward and back from future and previous years should cease.

Proposal 7.4: that the range of activities recognised for CPD be extended

The Society realises that the current narrow definition of group study is not helpful, and proposes that the range of recognised activities should be extended to include activities such as structured and formalised one-to-one training, coaching and on-line training, none of which are currently recognised. Further, the recognition of additional hours in relation to preparation of and delivery of training would be increased to a maximum of 10 hours; 25% of the required hours would have to relate to personal/professional development, such as risk, ethics and people management, and 50% of the required hours would have to be spent in interactive training methods where attendees were required to contribute to the activity and not simply listen passively.

<p>Question 11: Please provide suggestions for other activities which should count as CPD.</p>

Proposal 7.5: that each firm and in-house legal department be required to appoint a Training Partner/Supervisor for CPD purposes

Given the new entity-based approach to regulation of the profession demonstrated by the new Standards, it is appropriate that there is firm or department responsibility for ensuring compliance with the CPD regime. The Society therefore proposes that employer firms and in-house legal departments be required to appoint a solicitor as the Training Partner/Supervisor. He or she will be responsible for maintaining the CPD compliance of all solicitors of the firm or department. In addition, employer firms and in-house legal departments can apply for exemption from individual self-certification by submitting an annual written application which demonstrates what they do to manage the four-stage exercise described above. The application will also need to contain each individual solicitor's written consent to this application for exemption. The Society will reserve the right to seek supplementary information and/or monitor the application, as it considers appropriate.

Proposal 7.6: that solicitors achieving specified milestones be required to undertake five hours of people management training as part of their CPD requirement for that year

Being appointed to the role of Training Partner would form a career milestone after those of formally assuming line management responsibility for non-legally qualified staff, and assuming line management responsibility for legally qualified staff. (There is, in fact, a further milestone, which is that of becoming a partner, at which point the solicitor is required to undertake the Practice Management Training Course.)

Either before or within three months of assuming any of these three types of responsibility, a solicitor would be required to complete five hours of people management training as part of their annual CPD.

Proposal 7.7: that Annual Law Society of Scotland Excellence in Training Awards should be introduced

Annual Law Society of Scotland Excellence in Training Awards will be introduced to allow firms, legal departments and external CPD providers to apply for recognition of quality and innovation in their education and training initiatives. The Society would also be interested to investigate a possible “Investors in People”-style accreditation scheme in relation to education and training, as a way of harnessing and rewarding best practice and achieving ‘lighter touch’ regulation, and would be interested to hear views.

Question12:

12.1 Do you agree with Proposal 7.7?

12.2 Would you be in favour of an IIP-style accreditation scheme for education and training being introduced?

Further information

Further information is available from:

- Website:** www.lawscot.org.uk/training/consult
- E-mail:** consult@lawscot.org.uk
- Telephone:** 0131 476 8150/8200
- Text-phone:** 0131 476 8359
- Correspondence:** The Law Society of Scotland
26 Drumsheugh Gardens
Edinburgh
EH3 7YR
- Contacts:** *Liz Campbell* – Director (Education and Training)

Glossary

ABS	Alternative business structures
alternative business structures	A proposed future business structure for the Scottish legal profession, which would allow solicitors, advocates and registered foreign lawyers, or which would allow solicitors and non-lawyers to practise as partners in the same firm or as members in the same incorporated practice, and which would allow external ownership or control of legal practices. [See “The Public Interest: Delivering Scottish Legal Services – Policy Paper on Alternative Business Structures”]
block release	Grouping of teaching events, such as face-to-face study, into short spans of time. Typically, blocks can last anything from several hours to several weeks.
Clementi reforms	Reforms to regulation of the legal profession in England and Wales arising out of the review by Sir David Clementi at the request of the Department of Constitutional Affairs
Committee	The Education and Training Committee of the Law Society of Scotland
competence/competency	As used in this paper, achievement of outcome “competencies” refers to a system of minimum standards, achievement of which or is demonstrated by performance and outputs.
continuing professional development	Formal processes for maintaining and monitoring competence
CPD	Continuing Professional Development
DCC	The Diploma Co-ordinating Committee
Diploma	Diploma in Legal Practice
external examiner regime	A system of quality assurance using external peers to review and comment on assessment

	and standards
formative assessment	An assessment designed primarily to give feedback to those being assessed. Often a practice or ‘mock’ assessment
Foundation Programme	proposed new academic stage of legal education in Scotland
Knowledge Area	A knowledge area in the Foundation Programme, equivalent to the existing Professional Subjects in the Exempting Scottish LL.B. Degree
Legal Executive	An alternative, academic stage, non-degree route to qualification in England and Wales, based on work experience and assessment. Legal Executives are required to satisfy the same vocational stage requirements, but are exempted completing the work-based learning stage.
LLB or LL.B.	Bachelor of Laws
LLP	Limited liability partnership
LSA	Legal Services Act 2007
Outcome	As used in this paper, a description of competence which must be demonstrated in order to satisfy threshold requirements in knowledge, skills and values.
PCC	Professional Competence Course
PEAT 1	Proposed new vocational stage of legal education and training in Scotland
PEAT 2	Proposed new ‘work-based learning’ stage of legal education and training in Scotland
pervasive	A pervasive subject is one which is learned in the context of other subjects, without being learned as a discrete curriculum subject itself.
Professional Subjects	Law subjects which are specified by the Society for an Exempting Scottish LL.B. degree. Now termed “knowledge area”.

QAA	Quality Assurance Agency
SAAS	Student Awards Agency for Scotland
Scottish Exempting Degree	A proposed exempting Scottish degree programme for qualification as a solicitor
SCQF	Scottish Credit and Qualifications Framework
Society	The Law Society of Scotland
spiral	In educational terms, a spiral curriculum allows the student to pass through the material to be learnt a number of times, but at higher or more sophisticated or complex levels of knowledge or attainment each time. This is as opposed to learning the material once and not re-visiting the area again.
SRA	The Solicitors Regulation Authority, now the regulatory arm of what was previously The Law Society of England and Wales, following the Clementi reforms. The Law Society of England and Wales now carries out a representative, as opposed to regulatory, function.
stakeholder/s	Stakeholders in legal education and training in Scotland are persons and entities who have a legitimate interest in, or who are affected by, the Scottish legal education and training system. They include: the profession, the educational providers, the regulators (the Society and the Faculty of Advocates), the government, clients, students, the public.
Standards	The Society's new Standards for conduct and for services, which were approved by Special General Meeting of the Society on 26th September, 2008
summative assessment	A 'high-stakes' assessment, the result of which is important as a record of attainment or for the purposes of passing from one stage of an educational programme to the next.
threshold standard	Description of a minimum standard which must

be met in assessed performance.

Training Solicitor

Defined in the Admission as Solicitor (Scotland) Regulations 2001 and who employs a trainee/s.

WBL

Work-based learning

work-based learning

The period of education and training following PEAT 1 and leading to qualification, which consists of 'on the job' training.

END

RESPONSE FORM

To be e-mailed to consult@lawscot.org.uk

Name of organisation/individual responding:

If an organisation is responding, name of contact:

Contact e-mail address:

Contact telephone no.:

Proposal 2: Foundation Programme

Question 1: Please provide your suggestions for alternative routes to the Professional Exams. *[Proposal 2.2]*

Question 2:

2.1. Would you favour an entrance exam for the Diploma? *[Proposal 2.7]*

Yes / No

If not, what would you suggest to replace the current entry selection criteria and process?

Question 3:

3.1 Do you have concerns about current funding arrangements for students on the Diploma? *[Proposal 4.3]*

Yes / No

If so, please give reasons:

3.2 Please provide suggestions for how the current funding arrangements could be improved. *[Proposal 4.3]*

Proposal 4: PEAT 1

Question 4: Please provide suggestions for how part-time delivery of the Diploma could be achieved. *(Proposal 4.4)*

Question 5: Would you be in favour of the electives on the Diploma being able to be 'detached' and studied at a later date but before commencement of the traineeship?
[Proposal 4.5]

If not, please give reasons:

Question 6:

6.1 Please provide your views on the use of core materials on the Diploma.
[Proposal 4.6]

6.2 Please provide suggestions for alternatives to core materials. *[Proposal 4.6]*

Proposal 5: PEAT 2

Question 7: Please provide suggestions for flexible options or alternatives to the traineeship. *[Proposal 5.7]*

Proposal 6: Accreditation

Question 8: Please provide suggestions for the additional support and advice resources which would assist smaller firms and practices. *[Proposal 6.1]*

Question 9: Please provide ideas as to how the Society could better communicate information to students. *[Proposal 6.1]*

Question 10: Please provide suggestions on how and when a provider's concerns about a student being 'fit and proper' should be raised with the Society. *[Proposal 6.1]*

Proposal 7: CPD

Question 11: Please provide suggestions for other activities which should count as CPD. *[Proposal 7.4]*

Question12: Do you agree with Proposal 7.7? [*Proposal 7.7*]

Yes/No

If not, please give reasons: