



TEST OF PROFESSIONAL COMPETENCE

comprising

LOGBOOKS & QUARTERLY TRAINEE PERFORMANCE REVIEWS

Guidance note for trainees and employers

The Test of Professional Competence (“TPC”) is an ongoing assessment by the Law Society of Scotland of all trainee solicitors intending to enter the profession of solicitor in Scotland.

The TPC is a requirement for all trainees, except that a trainee who became entitled to the award of the Diploma prior to 1 October 2000 is exempt from passing the TPC.

The TPC consists of a series of logbooks which are maintained by the trainee and Quarterly Trainee Performance Reviews (“Reviews”) which are completed by the training solicitor in discussion with the trainee and then submitted to the Law Society of Scotland (“the Society”) for monitoring.

At the end of the two year training contract, the employer is required to confirm to the Society that the trainee is a fit and proper person to enter the profession.

The responsibility for deciding to issue the trainee with a full Practising Certificate rests with the Society, and in discharging this duty the Society will consider the completed Reviews, the full logbooks if necessary, and the employer’s confirmation.

Logbooks

The Society has prepared logbooks in a wide range of legal practice areas. All logbooks are available on the Society’s website which can be found at www.lawscot.org.uk. Some employers have been granted permission to use existing in-house logbooks in place of the Society’s own.

The Society’s logbooks are not designed to be comprehensive or exhaustive and should be used flexibly. **It is not intended that every trainee has to complete a logbook for every legal practice area.** The only logbooks which should be completed are those which relate to the areas of practice undertaken by the employer and which are experienced by the trainee during the training contract.

The logbook for each practice area provides a guide to trainees and reviewers as to the range of experience which a trainee in that particular practice area

might expect to obtain. **It is not intended that every item in a logbook must be ticked off.** However, reviewers should take steps to ensure that trainees experience a wide range of the items in the logbook. Similarly, the trainee should bring to the attention of the reviewer any gaps in the experience he or she is gaining.

There is no upper or lower limit as to the number of legal practice areas and related logbooks which a trainee must cover during the training contract. It is possible that a trainee may work from more than one logbook at a time, and that another trainee will use logbooks from only one practice area during the two years. Both situations are acceptable to the Society. As already stated, logbooks are to be used flexibly and are to fit around the existing practice and structure of the employer.

The Society may from time to time request sight of a random sample of completed logbooks, so it is vital that logbooks are completed and maintained in an organised manner.

How to use the logbooks

Each logbook lists the activities a trainee in the particular practice area might undertake and space is provided in which to record, by placing a tick in the appropriate box, when the various activities are experienced. Each logbook lasts for the period of one quarter, and the 13 columns each represent one week. A fresh logbook should be started each quarter, even if the trainee is to continue working in the same practice area and will be working from a new copy of the same logbook. A logbook must be in progress at all times during the training contract. Space is provided at the end to record any work done which cannot be recorded fully in the tick box section of the logbook. There is also space for recording any seminars or courses attended during the quarter. The trainee is responsible for maintaining the logbook and it is recommended that it is updated at least weekly.

The Quarterly Trainee Performance Review

The Review is separate from the logbook. It covers the skills which a trainee should develop. Further information about these skills – in terms of what the trainee should be aiming for and what the reviewer should be looking for – can be found in the appendix to this document entitled “Professional Competence”. A Review must be completed and submitted to the Society every quarter. The reviewer is responsible for completing the Review, which must be done quarterly to coincide with the end of each logbook. If the trainee has been working from more than one logbook during the quarter, it is not necessary to complete a separate Review for each logbook.

A major aim of the Review system is to ensure that every trainee has the opportunity to meet with the reviewer at least every quarter to talk about the

trainee's development and to plan further development. The Review must be completed as part of such a meeting. The development of competence is an ongoing process and it is recommended that reviewers and trainees meet informally but regularly throughout each quarter to discuss progress. Each completed Review must be submitted to the Education and Training Department of the Society. The full logbook(s) should not be sent but should be kept in the trainee's file.

Completed reviews will be monitored by the Society and if these give any cause for concern, a member of the Education and Training Department will contact the employer and trainee concerned, with a view to resolving any difficulties being experienced by either party. At this or any other stage the Society may require sight of the full logbook(s), so it is vital that these are completed and kept in an organised, accessible manner.

How to complete the review

The top section of the form should be filled in to show:

- Name and Training Contract number of the trainee
- Name of the employing firm or organisation
- Name of the reviewer
- Review due date
- Date of completion of review
- The number of the quarter (1-8) to which the review relates.

Nine areas of skill are listed in the first column and the reviewer should indicate, with a tick in one of the next three columns, the current level of competence of the trainee in relation to each skill. The reviewer must consider competence in relation to the current stage of the training contract. If completing the Review on paper rather than on-line, **please note that ticks must not be placed on the borders between the columns**, and that skills must not be sub-divided by the reviewer and marked separately.

The reviewer is also asked to rate the overall performance of the trainee from 1 to 9, with 9 being the highest. As mentioned above, the reviewer must consider the performance of the trainee in relation to the current stage of training. A rating of 5 indicates that the trainee is performing at the level which could reasonably be expected of a trainee at the current stage of training. A rating of more than 5 means that the trainee is performing beyond that level, and a rating of less than 5 means that the trainee has not yet demonstrated that level of performance. **Please note that only whole individual numbers may be recorded** ie fractions (eg 6.5) and borderlines (eg 3¼) must not be used. **If something other than a whole number is recorded it will be rounded down to the nearest whole number.**



Each completed review should be submitted to the Education and Training Department of the Law Society. **Reviews can be submitted on-line** and the Society's website provides information about this. Trainees and firms are urged to use the on-line method of submission, although, in the meantime, paper copies are available from the Education and Training Department or may be printed from the Society's website.

Late submission of Reviews

If a Review is not received by the Society on its due date (calculated from the first day of the training contract), a letter will be sent to the trainee during the first week after the due date. This letter is simply a reminder which, if the Review has just been sent to the Society, may be disregarded. If the Review is still not received, a further letter will be sent to the employer.

In the event of a Review being late, please note that the next Review will be due three months from the date on which the late Review was originally due. Eight Reviews must be completed during the training contract.

The employer is responsible for the completion and submission of completed Reviews and the Society views seriously any instances of repeated and/or significantly late submission. If a Review becomes late by more than one month, the on-line submission system becomes unavailable and a paper Review must be sent.

PROFESSIONAL COMPETENCE

This document defines the skills which a trainee solicitor should acquire during the training contract. It is a guide, although neither exhaustive nor prescriptive, for trainees and employers/reviewers and should be referred to when progress is being discussed and Quarterly Reviews are being completed.

Professional Conduct and Ethics

Identify and adhere to the rules of professional conduct and ethical requirements in day-to-day practice in relation to

- client care issues
- handling clients' money
- conflict of interest
- confidentiality
- adequacy of service/negligence issues
- professional undertakings
- obligations to the court
- the Law Society's Code of Conduct for Scottish Solicitors

Communication Skills

- decide when communication is appropriate
- observe and interpret complex legal situations and determine strategy
- determine on form of communication media to be used (conversation, letter, memo, phone, fax, email) and timing
- assess tone, register and structure of own communications
- consider the needs, expectations and social and professional context of the recipient
- use oral or written discourse appropriate to client, witness(es), other members of the legal profession and members of other professions
- use appropriate questioning skills orally and in writing
- prepare and present legal submissions to clients or colleagues
- gather, organise and present evidence orally or in writing
- create and maintain a sense of confidence and trust
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Time and Work Management

- balance competing demands arising from handling a number of transactions and/or clients
- meet deadlines
- use IT deemed necessary by the employing firm for particular types of work
- manage files and records relating to progress of transactions



Dealing with Clients

- prepare correspondence and reports to clients in clear and plain language
- prepare and conduct effective client interviews
- ascertain the nature of a client's wishes/problems
- identify the legal issues arising from the above
- maintain accurate records of the interview and subsequent communications
- confirm instructions
- undertake necessary follow up work
- plan to ensure that as far as is reasonably practicable the client's goals are achieved and/or difficulties resolved
- advise clients of proposed plans
- maintain progress and regularly review action taken on client's behalf
- resolve and conclude matters on behalf of clients

Legal Research

- identify and analyse the detailed facts of a particular client's position or problem
- review associated paperwork and documentation: correspondence, reports, titles etc.
- identify and use appropriate legal sources to clarify relevant legal issues arising
- identify the means of achieving practical solutions and approaches to issues raised

Drafting

- draft a well organised and factually accurate document
- ensure that relevant legal and factual issues are addressed in the document
- articulate within the document relevant arguments and/or identify options
- use the appropriate form/style
- demonstrate that appropriate use of precedents have been made
- exercise the appropriate standard of care

Negotiation skills

- identify and analyse the facts and key legal issues in any dispute
- realistically assess the bargaining position of the client and party in dispute
- identify and evaluate the options available to the client
- plan appropriate strategies
- identify strategy and tactics likely to be used by the other party

Commercial Awareness

- demonstrate an awareness and understanding of commercial issues relevant to the practice in which the training is based
- demonstrate an understanding of basic accounting principles relevant to the practice in which the training is based
- demonstrate an understanding of the form and content of the accounts of different trading enterprises
- interpret simple accounting information

Office Procedures

Demonstrate an understanding and an ability to utilise in practice the arrangements relating to the following:

- Office Administration
- Office Systems
- Personnel