

CIVIL LITIGATION – DEBT RECOVERY ACCREDITED PARALEGAL

SCOPE OF ACCREDITED PARALEGAL'S COMPETENCE

The paralegal should be able to progress a debt recovery case, whether acting for creditor or debtor, from taking client's initial instructions through to conclusion of the case, including attending court with the solicitor, and appearing in court, if appropriate.

Specifically, the paralegal should be competent to:

- interview and correspond with client;
- correspond and liaise with the other side and with relevant bodies and authorities, as required
- advise client on procedural aspects of case, and on legal aid qualification and application procedure
- prepare case for court, including preparing and drafting, as appropriate, documentation, including court documentation, as required
- when acting for the creditor, obtain decree and proceed with enforcement measures;
- when acting for the debtor, prepare a defence and/or time to pay application;
- assist solicitor in attendance at court and, where appropriate, appear in court on behalf of solicitor to advocate case,
- negotiate settlement of debt in order to avoid litigation, where appropriate

KNOWLEDGE

By the end of the one year period as a Trainee Accredited Paralegal, a paralegal eligible to qualify for the Accredited Paralegal Marque in relation to Civil Litigation – Debt Recovery should be able to:

Demonstrate knowledge and understanding of:

- the steps involved in a debt recovery action, and in the appeal process
- the duty to the court and other authorities such as the liquidator and Accountant in Bankruptcy
- the rights and obligations of the creditor and debtor
- the information required from the client in order to prepare the case for court
- the procedure and options appropriate to the particular debt value
- the court rules and procedures appropriate to the particular debt action, and in relation to time to pay applications and debt arrangement scheme applications
- diligence on the dependence and in execution
- a creditor's pre-decree protective measures
- a debtor's protective measures and remedies
- the use of caveats
- court rules relating to prescription, deadlines and timescales in relation to debt recovery cases, as well as other relevant deadlines and time scales

- the implications of court judgements

Demonstrate knowledge and familiarity with:

- Bankruptcy Scotland Act 1986
- Small Claim Rules 2002
- Summary Cause Rules 2002
- Ordinary Cause Rules 1993
- Bankruptcy and Diligence etc (Scotland) Act 2008
- Debtors (Scotland) Act 1987
- Debt Arrangement and Attachment (Scotland) Act 2002
- Late Payment of Commercial Debts (Interest) Act 1998, as amended.

Demonstrate understanding of:

- the rules of evidence.
- the law relating to:
 - personal and commercial insolvency, as appropriate
 - prescription and limitation
- implications of the Data Protection Act 1998
- implications of the Freedom of Information Act 2000
- Insolvency Act 1986
- Consumer Credit Act 2006

Demonstrate awareness of:

- Sheriff Court Caveat Rules 2006
- Enforcement Abroad of Sheriff Court Judgements Act 1982
- Enforcement of Judgements under the Civil Jurisdiction and Judgements Act 1982
- Alternative Dispute Resolution procedures, including mediation, and their application.

SKILLS

By the end of the one year period as a Trainee Accredited Paralegal, a paralegal eligible to qualify for the Accredited Paralegal Marque in relation to Wills and Executries should be able to demonstrate:

Technical skills	Accuracy, literacy and numeracy	<ul style="list-style-type: none"> • an understanding of the importance of correct detail and the consequences/risks of carelessness. • attention to detail in his/her work. • that he/she is able to produce accurate work in terms of spelling, presentation and layout, as well as content. • that he/she is able to deal with figures and carry out computations accurately and proficiently, as required.
	Information Technology	<ul style="list-style-type: none"> • that he/she is able to use debt recovery software where appropriate • that he/she is able to use available technology effectively and efficiently • that he/she is able to use computers and word processors appropriately for carrying out and producing his/her work • that he/she is able to use case management systems and maintain electronic files, where appropriate
	Office Equipment	<ul style="list-style-type: none"> • that he/she is able to use office equipment such as voicemail, photocopier, fax competently and effectively. • that he/she is able to use the telephone effectively to communicate with clients and others, and to carry out legal business on the telephone efficiently.
	Office Systems and Procedures	<ul style="list-style-type: none"> • that he/she is able to use office business systems and resources appropriately and effectively, whether paper-based or computerised, including employing organisation's forms and precedents. • compliance with office procedures, including time recording.

		<ul style="list-style-type: none"> • compliance with all quality standards, and other policies and processes of employer organisation.
Organisational Skills	Personal Management	<ul style="list-style-type: none"> • an understanding of the importance of time-limits and of the risks of breaching time-limits. • that he/she is able to exercise effective judgement in respect of realistic timescales for completion of tasks and delivery of objectives, and manage his/her own time effectively. • that he/she is able to manage his/her personal workload, including managing a number of concurrent matters effectively so as to meet all objectives, priorities and deadlines in each matter • that he/she is able to use paper-based and/or electronic diaries and electronic task management systems to plan time and work effectively. • that he/she only accepts work which he/she feels competent to undertake. • that he/she is clear as to the work and responsibilities delegated to him/her by the Supervising Solicitor, and understands the limits in relation to that role • that he/she recognises the requirement to keep his/her Supervising Solicitor fully informed on a regular basis, the Supervising Solicitor having a responsibility to supervise matters, and that he/she does so. • that he/she recognises that it is paramount to raise concerns/issues relating to completion of tasks and meeting of deadlines with his/her Supervising Solicitor at the earliest opportunity, and that he/she does so. • that he/she recognises when it is necessary to seek support and/or advice from his/her Supervising Solicitor, when it is necessary or required to refer an issue in its entirety to the Supervising Solicitor, and that he/she does so. • that he/she recognises where a transaction is non-standard or includes non standard elements, and refers this to his/her supervising solicitor • that he/she passes on messages promptly and undertakes communications/ action arising from telephone calls, meetings or client interviews.

	File Management	<ul style="list-style-type: none"> • good file management practices in terms of: <ul style="list-style-type: none"> - opening new files - filing documents and correspondence as appropriate - keeping filing up to date - taking and filing accurate notes of telephone calls and meetings - closing file when completed or instructed to close file • that he/she is able to lodge documents or applications in the correct form, at the correct place and at the correct time
Communication Skills	Generally	<ul style="list-style-type: none"> • that he/she is able to communicate effectively with those with whom he/she needs to work, particularly the Supervising Solicitor, and with clients, the other side, relevant bodies and authorities, as appropriate, including: <ul style="list-style-type: none"> - identifying different communication options and selecting the communication form which is appropriate to the particular situation and/or client. - producing communications which meet client or Supervising Solicitor instructions, and which are fit for purpose. • confidence and assurance in his/her dealings with people, whether in person or over the telephone.
	Face to face Communication	<ul style="list-style-type: none"> • that he/she is able to communicate effectively in face-to-face situations, can listen and check understanding. • that he/she is able to communicate effectively by telephone, including: <ul style="list-style-type: none"> - using appropriate telephone answering and handling techniques - using a good telephone manner which is efficient and polite - being able to establish the content and nature of telephone calls from the caller, whether or not a client

	Written Communication	<ul style="list-style-type: none"> • that he/she is able to communicate effectively in writing: <ul style="list-style-type: none"> - using clear language, correct spelling and appropriate grammar, syntax and punctuation - demonstrating attention to detail - adopting a style appropriate to the recipient
	Electronic Communication	<ul style="list-style-type: none"> • that he/she is able to use electronic communications effectively and appropriately, including: <ul style="list-style-type: none"> - understanding and using proper business and professional etiquette within an electronic environment - understanding the difference between letters and e-mails and when the latter are appropriate - properly managing e-communications to avoid risk, including archiving e-mails safely and accurately.
Inter-personal Skills		<ul style="list-style-type: none"> • that he/she is able to develop and maintain effective working relationships with clients, colleagues (in particular the Supervising Solicitor) and others to achieve goals and to identify and resolve problems. • that he/she is able to work effectively as part of a team including: <ul style="list-style-type: none"> - working co-operatively and willingly with others in own and other's teams - communicating effectively with those with whom the paralegal needs to work - knowing when to ask for support from, or to offer support to, other team members - knowing when to refer issues or ask for guidance from Supervising Solicitor
Practice Skills	Research	<ul style="list-style-type: none"> • that he/she knows where to look for and find information required to carry out his/her work. • that he/she is able to use key primary (eg Acts, Regulations etc) and secondary (eg key text and reference books) sources
	Interviewing	<ul style="list-style-type: none"> • that he/she is able to conduct a client-centred interview effectively, including:

		<ul style="list-style-type: none"> - preparing for the interview appropriately - listening and eliciting required legal, personal and factual information, and full instructions from client - recording all relevant factual, legal, procedural and evidential matters arising in relation to the client's matter in a file note for future reference
	<p>Writing and drafting</p>	<ul style="list-style-type: none"> • that he/she is able to use precedents, prescribed forms and styles appropriate for debt recovery actions • that he/she is able to draft procedural documentation for debt recovery cases, such as writ, summons, petition, incidental application, motions • that he/she is able to draft small claim summons, summary cause summons and writ for payment documentation • that he/she is able to draft petition for sequestration, petition for winding up and associated documentation • that he/she is able to record narrative of evidence in court • that he/she is able to prepare and paginate productions • that he/she is able to write letters or reports appropriate for the recipient or audience and which achieve their purpose, including: <ul style="list-style-type: none"> - communicating clearly, concisely and unambiguously and appropriately with clients, solicitors, non-solicitors and others - tailoring style of communication to suit the purpose of the communication and the needs of different clients and other recipients - producing communications which meet client or Supervising Solicitor instructions following internal protocols, conventions and using required styles and/or precedents.

		<ul style="list-style-type: none"> • that he/she is able to draft documents which are: <ul style="list-style-type: none"> - well-organised - valid in terms of content and form - use correct legal terminology - address relevant legal and factual issues accurately - ensuring documents are validly executed and registered in relevant registers, where necessary • that he/she is able to use precedent documents and styles by: <ul style="list-style-type: none"> - identifying the appropriate precedent document or style required - adapting the precedent document or style to the particular context - understanding when non-standard variations may be needed and referring to Supervising Solicitor. • that he/she is able to complete prescribed forms accurately • that he/she is able to produce or prepare other required documentation which is: <ul style="list-style-type: none"> - accurate - well-organised - appropriate.
(if required for specific domain)	Negotiation	<ul style="list-style-type: none"> • that he/she is able to negotiate settlement terms in order to avoid litigation • that he/she is able to take part in a negotiation effectively, including: <ul style="list-style-type: none"> - preparing appropriately for the negotiation - negotiating - within the agreed instruction and remit - negotiating according to the practice and conventions of the particular Legal Domain
(if required for specific domain)	Advocacy	<ul style="list-style-type: none"> • that he/she is able to advocate a case effectively as a paralegal on behalf of a client for such matters as: <ul style="list-style-type: none"> - taxations

		<ul style="list-style-type: none"> - small claim hearings - summary cause first calling - time to pay hearings - exceptional attachment hearings <ul style="list-style-type: none"> • that he/she is able to advocate a case on behalf of a client effectively in accordance with relevant rules and procedure, in cases where an Accredited Paralegal has jurisdiction and authority to appear, or where preparing on behalf of the Supervising Solicitor where the Supervising Solicitor will appear, including: <ul style="list-style-type: none"> - preparing appropriately for the submission - using legal authorities, relevant facts and documentation in preparation for, and during, a submission - using effective speaking skills - demonstrating an understanding of the relevant rules, ethics and conventions governing advocacy
<p>VALUES AND ATTITUDES</p>		
<p>By the end of the period as a Trainee Accredited Paralegal, a paralegal eligible to qualify for the Accredited Paralegal Marque should demonstrate they:</p>		
<p>Legal and Ethical Issues</p>		<ul style="list-style-type: none"> • understands and complies with the Standards, and refers to the Standards of Conduct and Service for Scottish Solicitors • adheres to rules issued by the Society in respect of completion of ten hours of Registered Paralegal CPD per annum by way of qualifying activities recognised for solicitors' CPD. • that he/she complies with duty to the courts, and other authorities, such as liquidator or Accountant in Bankruptcy
<p>Attitudes</p>		<ul style="list-style-type: none"> • understands that responsibility for legal work undertaken rests with the Supervising Solicitor, including in relation to execution and signing of documentation

		<ul style="list-style-type: none"> • only accepts work which they feel competent to undertake. • is clear as to the work and responsibilities delegated to them by the Supervising Solicitor, and understands the limits in relation to that role. • recognises the requirement to keep his/her Supervising Solicitor fully informed on a regular basis, the Supervising Solicitor having a responsibility to supervise matters, and does so. • recognises it is paramount to raise concerns/issues relating to completion of tasks and meeting of deadlines with his/her Supervising Solicitor at the earliest opportunity, and does so. • recognises when it is necessary to seek support and/or advice from Supervising Solicitor when required or refers an issue in its entirety to the Supervising Solicitor, and does so. • recognises where a transaction is non-standard or includes non standard elements and refers to Supervising Solicitor. • updates Supervising Solicitor, client, court or others as appropriate, by conveying the appropriate information to the appropriate person. • engages with continuing professional and personal development, including: <ul style="list-style-type: none"> - being aware of the importance to self-assess, reflect and develop personally and professionally - assessing/identifying where development is required - evaluating strengths and weaknesses of own skills and knowledge, and working
Focus	Professional	<ul style="list-style-type: none"> • understands and adheres to good practice in carrying out the work he/she is instructed to do.
	Client	<ul style="list-style-type: none"> • works in a client-centred way and manages client service well, including: <ul style="list-style-type: none"> - being aware of the differences in acting for different types of client - communicating effectively with clients, following the terms of engagement that have been agreed with the client keeps client informed of progress on a regular basis - informs Supervising Solicitor of any client complaint immediately that it arises

		<ul style="list-style-type: none">- regularly updating Supervising Solicitor on work being done for clients• manages client expectations• is able to advise the client on the legal consequences of the client's instructions• that he/she is aware of:<ul style="list-style-type: none">- the costs of litigation- the possibilities for funding of court action, including the likely cost of debt recovery procedures balanced against the likely recovery of funds• that he/she understands that it is for the client to judge whether litigation is worthwhile
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