



Guidance Notes for Training Managers

The Admission as a Solicitor (Scotland) Regulations 2019 requires that a Training Unit which intends to enter into a pre-PEAT training contract or training contract must appoint a solicitor from within the Training Unit as Training Manager and advise the Society of the identity of that solicitor at least 14 days before entering into that contract.

1. Who is eligible to be a Training Manager?

A Training Manager must be a solicitor who has:

- (a) Practised as a solicitor for a cumulative period of not less than three years;
- (b) Has held a practising certificate without conditions throughout that period, at the time of appointment and while acting as Training Manager.

2. What factors should Training Units take into account when appointing a Training Manager?

Training Managers have a pivotal role to play in ensuring that your Training Unit is compliant with the Admission Regulations. Moreover, Training Managers are deemed to be acting on behalf of the Training Unit in the discharge of their functions.

Training Managers also have to ensure that the Training Unit is training its trainee solicitors in line with the PEAT 2 Outcomes. The significance of this role for a Training Unit's reputation means that management should take due care in appointing their Training Manager and should actively support them in their role.

As outlined above, there are certain baseline requirements for the Training Manager. However, the Society would advise taking into account the following factors to ensure that the individual can undertake the role most effectively for the benefit of your organisation and your trainee solicitors:

2.1 Seniority within the Training Unit

The Training Manager needs to be sufficiently senior within the Training Unit. They need to have access to all relevant files (including performance reviews), systems and procedures so that they have a full picture of the firm's training strategy, processes and needs. This will enable them to make decisions and use the powers afforded to them under the Admission Regulations in good faith.

Decisions made by the Training Manager have the potential to result in disciplinary action against the Training Unit (including, for instance, preclude a Training Unit from hiring trainee solicitors in the future without the express written consent of the Law Society of Scotland's (the Society) Council (the Council)). Training Managers need to have the experience and authority to make these decisions on behalf of the Training Unit.

2.2 Adequate time to perform the role

Whilst it is unlikely that any Training Unit will be able to appoint a full-time Training Manager, Training Units should make allowances for the time it takes to be an effective Training Manager.

2.3 A knowledge of the training of trainee solicitors, legal education and professional development

The Training Manager needs to have a good understanding of the PEAT 2 Outcomes and how these Outcomes can be achieved in their own Training Unit.

Such knowledge can be gained in a number of ways but experience of the following may be positive indicators:

- Tutoring on the Diploma in Professional Legal Practice (PEAT 1).
- Designing and delivering Trainee CPD or other CPD for trainee solicitors.
- Experience of designing and delivering in-office training programmes.
- Undertaking PEAT 2 Quarterly Performance Reviews with trainee solicitors.

Training Managers will be required to make decisions using their professional judgement regarding an individual trainee's development. This might include, for instance, deciding whether or not a trainee – on cause shown – could complete a training contract earlier than the usual 24 months. Alternatively, it might be deciding that a trainee solicitor requires their training contract to be extended as the Training Manager using their professional judgement understands the trainee will not achieve the PEAT 2 outcomes by 24 months. Therefore, an understanding of how legal knowledge, skills and attitudes and values are acquired is fundamental to the role of the Training Manager.

The Training Manager must also ensure that anyone involved in the training and supervision of trainees has adequate legal knowledge and experience in the area(s) they are supervising and has the skills to provide adequate supervision.

2.4 Leadership buy-in

It is not acceptable for a Training Unit to devolve responsibility of training trainee solicitors and complying with the Admission Regulations and subsidiary guidance to the Training Manager alone.

Training becomes more effective and actually less of a burden for the Training Unit as a whole where you have senior management:

- Supporting the Training Manager in the implementation of systems and procedures for compliance.
- Adopting a cohesive training strategy.
- Demonstrating their own compliance with training systems and procedures to the rest of the Training Unit.

3. Guidance on the discharge of functions of a Training Manager

There are a number of functions devolved to the Training Manager under the Admission Regulations. These are as follows:

3.1 Acting as the named point of contact for the Council with the Training Unit in respect of an applicant who has entered into a pre-PEAT training contract or a training contract with that unit.

The Training Manager is the primary contact for the Society at the Training Unit on all matters relating to the training of trainees.

3.2 Ensuring the Training Unit meets the requirements under a pre-PEAT training contract or training contract.

The Training Manager is responsible – on behalf of their Training Unit - for compliance with the Admission Regulations and subsidiary guidance.

3.3 Ensuring the supervision and training of a trainee solicitor in that Training Unit and that any conditions imposed in a practising certificate issued by the Council are fully complied with by the trainee solicitor.

It is not expected – nor in some cases feasible – that the Training Manager will be able to supervise each trainee solicitor at their Training Unit. Training Managers should however ensure that the supervision and training of trainee solicitors by other solicitors in the Training Unit is adequate and appropriate.

Typical supervisory responsibilities include:

- Allocating work and tasks of an appropriate level, gradually increasing the level and complexity of the work over time, whilst encouraging trainee solicitors to suggest solutions.
- Providing a balance of substantive and procedural tasks that – as a whole – demands the use of a broad range of skills.
- Providing clear instructions and ensure that they have been understood.
- Providing an environment that encourages the trainee to take responsibility for their own development.
- Offering advice and guidance on appropriate research methods and materials along with sufficient information and factual backgrounds about a case or matter.
- Setting a realistic time-scale for work to be completed and answer questions as they arise, within a supportive environment that does not deter the trainee from asking questions in the future.
- Monitoring the trainee's workload to ensure they have a sufficient but not excessive amount of work.
- Helping ensure that the trainee maintains an up-to-date training record that identifies the work they have performed and the skills they have deployed.
- Reviewing the training record regularly to ensure that an appropriate balance of work and skills is struck.

- Giving regular feedback to the trainee regarding their performance, recognising achievements and improvements, and constructively addressing areas that require further effort.
- Conducting or participating in the PEAT 2 Quarterly Performance Reviews of the trainee (and prepare adequately for those reviews).

3.4 Ensures the trainee solicitor completes the required CPD.

The Society will issue separate guidance upon the nature, duration and extent of the required CPD that a trainee solicitor requires to undertake during their training contract. Supervising solicitors should assist trainee solicitors in sourcing appropriate required CPD for their personal development. Training Managers have an oversight role in compliance with the requirements.

3.5 Ensures that the trainee solicitor's quarterly performance reviews are undertaken timeously and overseeing assessment of the trainee solicitor's achievement of PEAT 2 Outcomes in accordance with the requirements of the Council.

Training Managers should undertake or should ensure that other solicitors in the Training Unit undertake PEAT 2 quarterly performance reviews with trainee solicitors in the way set out by the Society. Both trainee and supervising solicitor have responsibilities in the intimation of these reviews to the Society. Training Managers have an oversight role in compliance with requirements and should notify the Society (at the earliest possible juncture) of any trainee solicitor who is in danger of not achieving the PEAT 2 Outcomes.

3.6 Assessing and certifying that in their opinion the trainee solicitor is a fit and proper person to be a solicitor

Where necessary the Training Manager should consult with supervisors and consider the output of the PEAT 2 quarterly performance reviews before certifying an individual as a fit and proper person. The Society will issue separate guidance regarding fitness and propriety.

3.7 Other responsibilities of the Training Manager

3.7.1 Secondments

Training Managers have responsibility for informing the Society of any secondment that has occurred at their Training Unit. See 4.1 for guidance on the parameters of decision-making regarding secondments.

3.7.2 Number of trainee solicitors at a Training Unit

Training Managers have responsibility for deciding the number of trainee solicitors a Training Unit employs at any one time and are responsible for the objective justification of such a decision if asked to provide one by the Society. See 4.2 for guidance on the parameters of decision-making regarding trainee numbers.

3.7.3 Reducing the length of a training contract

Training Managers have the power to reduce the length of a training contract by up to six months. See 4.3 for guidance on the parameters of decision-making regarding reducing the length of a training contract.

3.7.4 Extending a training contract

Training Managers have the power to extend the length of a training contract by up to six months. See 4.4 for guidance on the parameters of decision-making regarding extending the length of a training contract.

3.7.5 Early Admission

The Admission Regulations allow for trainee solicitors to apply for admission after they have completed their first PEAT 2 Quarterly Performance Review and having successfully completed mandatory sitting in and the required advocacy course. Separate guidance outlines these matters as well as the range of activities a trainee can undertake once admitted.

Training Managers are responsible for determining that a trainee solicitor is fit and proper to be admitted. Training Managers are reminded that this is a solemn duty of the utmost importance. More than this, it is of fundamental importance that trainee solicitors – particularly those admitted early – are only allocated work that they are ready and competent to undertake.

4. Parameters for decision-making

4.1 Secondments

As per 3.7.1 Trainee solicitors can fulfil part of their training period on secondment at any of the Training Unit's places of business. The Training Unit's Training Manager remains ultimately responsible for supervision.

Trainee solicitors can also fulfil part of their training period at another training entity on secondment. Training Managers remain ultimately responsible for supervision during such secondments and are required to inform the Society of the location and duration of any secondment to another Training Unit although – unlike under former regulations – they do not need formal approval from the Society.

4.2 Number of trainee solicitors at a Training Unit

Previous Admissions Regulations stipulated the numbers of training contracts into which a Training Unit could enter.

The Training Manager – on behalf of the Training Unit – now has more ability to exercise their professional judgement to define the appropriate number of training contracts into which a Training Unit should enter.

In determining the number of trainee solicitors a Training Unit employs at any given time the Training Manager will exercise his or her professional judgement and in reference to this guidance. The Society would not normally seek to second guess the Training Manager's professional judgement unless the figure reached is so unreasonable that no other competent or reputable solicitor would come to the same conclusion.

Regulation 5(2) of the Admission Regulations notes that a "*Training Unit must not enter into a combined number of pre-PEAT training contracts and training contracts with applicants greater than that which may be determined by the Council*".

Acknowledging that all Training Units are different and, therefore, it is difficult to define precisely a one size fits all policy regarding appropriate supervision. Moreover, it is difficult to know at the start of a training contract the level and extent of support a given trainee solicitor will need and, on occasion, some trainees will need significant additional support over the course of the training contract. We, therefore, would be extremely concerned to see a ratio of more than 2 trainee solicitors to every solicitor who meets the requirements of the trainee manager at a given practice unit. It is likely that any such decision by a Training Manager would instigate an investigation by the Society.

Training Managers should be able to objectively justify their decision-making if asked to by the Society and should be able to demonstrate that the supervision of the trainees is adequate and appropriate for the Training Unit.

4.3 Shortening of training contracts

The Training Manager has some powers to reduce the length of the training contract. The Society is of the view that it is unlikely that such powers would be used frequently by Training Managers and, indeed, the frequent use of this power would normally be a cause for investigation by the Society.

The Society notes that it is likely that the overwhelming majority of trainee solicitors will achieve the PEAT 2 Outcomes around the 24 month stage – we note that as well as the PEAT 2 Outcomes the strength of the training contract is that it is a two-year experiential, supervised process.

We also recognise that some trainee solicitors may have worked in a legal environment (often for a significant amount of time) and have gained some equivalent experience before commencing their formal training period and, further, that on occasion such experience might have assisted the individual to meet or partially meet some of the PEAT 2 Outcomes or may expedite the achievement of the PEAT 2 Outcomes.

The Training Manager can – using their professional judgement – recognise relevant prior legal experience in assessing achievement of the PEAT 2 Outcomes and take this into account to reduce the period of training.

Training Managers are required to give serious consideration to risks to the profession, public and client which could conceivably arise regarding the possibility of a trainee having their training contract reduced.

Training Managers should consider the following guidance and questions when formulating their view:

- *Length of experience:* The length of experience relied upon by an applicant is relevant. It should be compared to the length of the reduction sought and the length of the two periods should have some relationship i.e. three months of work experience cannot justifiably result in a reduction in length of a training contract by a period of more than three months.
- *The nature and extent of the experience:* Training Managers should consider the questions below.
 - i. *Was the work experience under the supervision a Scottish solicitor?*
 - *If not, was the work experience under the supervision of an analogous professional (e.g. an Advocate, an English solicitor, an Irish solicitor?)*
 - ii. *Was the work experience gained in law applicable in Scotland?*
 - iii. *Is there evidence that the experience was supervised and appraised and has the Training Manager seen this evidence?*
 - iv. *Assuming the supervision was undertaken by another Scottish solicitor; does the solicitor agree with your assessment of a reduction in the length of a training contract'?*
 - v. *Is there demonstrable evidence that the individual has gained experience equivalent to that gained during a training contract?*
 - vi. *Have you seen a mapping exercise of the individual's experience against the PEAT 2 Outcomes and has such an exercise been verified?*

If the answer to one or more of the questions above is "no" it is unlikely that any reduction should be granted or if granted should not be substantial. The Society views question (vi) as particularly important.

- vii. *Does the trainee consent to the reduction?*

If the answer is 'No' then no reduction should be granted.

- viii. *Was the work experience gained any of the following?*
 - Undertaking a Pre-PEAT Training Contract
 - Work-based modules completed during the LLB or Diploma in Professional Legal Practice;
 - Summer work experience, internships, mini-pupillages or equivalent;
 - Work-shadowing;
 - Partaking in law clinics or undertaking a clinical LLB;

- Any unpaid work experience;
- Acting as MacKenzie Friend

If the answer to question (viii) is yes – and there is no other work experience – then no reduction should be granted.

- ix. *What was the type and level of work undertaken?*
- x. *What was the level of responsibility that the applicant was given?*
- xi. *What areas of law has the applicant experience within?*

Questions (ix) to (xi) are more complex than (i) to (viii) and will require the Training Manager to use their professional judgement on cause shown.

- *Considering the length and nature and extent of work experience together:* The simple accumulation of time spent in the legal sector cannot automatically correlate to a reduction in the length of the training contract. The time must be able to be evidenced as having helped the applicant meet some or all of the PEAT 2 Outcomes.

Therefore, it is entirely possible that an individual with six months intensive experience which can be evidenced as being aligned to the PEAT 2 Outcomes may receive a greater reduction to their training whereas an individual with fifteen years of experience in the legal sector doing work which is not aligned to the PEAT 2 Outcomes may receive a minimal reduction.

- *The recentness of the experience:* As a general principle, and in combination with above criteria, Training Managers should consider more recent experience, more favourably.
- *The nature of appraisal and supervision:* Achievement of the PEAT 2 Outcomes is a developmental process. Therefore, a Training Manager will be aided by evidence of how – and how frequently – the applicant was appraised, whether those appraisals can be objectively linked to the PEAT 2 Outcomes, and whether such appraisals can be evidenced.
- *The PEAT 2 Outcomes:* The Training Manager should consider the PEAT 2 Outcomes and how, if at all, the trainee has met (or partially met) some or more of the PEAT 2 Outcomes.

Period of reduction to be granted

The Training Manager may grant a reduction of no more than six months training. Given the nature of a training contract, it is extremely unlikely that recognition of prior experience would be on a like-for-like basis i.e. an individual who had been a paralegal for six months would be extremely unlikely to be eligible for a reduction of six months in the training contract.

The minimum amount of time that the Training Manager can reduce a training contract by is one month.

Training Managers are required to inform the Society of any such reduction and at which point the reduction should occur.

If the reduction takes place at the beginning of the training contract and, therefore, a trainee is immediately eligible for admission the reasons must include direct relevance to court/tribunal experience. It should be noted that trainees in such a circumstance are required to undertake the Required Advocacy Course and Mandatory Sitting in.

4.4 Extending a training contract

On occasion, it will become clear that a trainee solicitor is unlikely to meet the PEAT 2 Outcomes by the end of their 24 month traineeship. In such situations a Training Manager can extend the training contract by up to six months. This is likely to be a rare occurrence and one that should, when discussed with the trainee, not be a surprise to them. Trainee solicitors are required to undertake 8 quarterly performance reviews over the course of the 24 months and a trainee solicitor who is underperforming should be made aware that they are "*below the standard required*" at such reviews.

Training Managers – supported by those solicitors who supervise trainees other than the Training Manager – should act to rectify underperformance at an early stage. For instance, if a trainee solicitor is being found to be underperforming at quarter review 5 (roughly month 15) consideration should be given to how the trainee's performance can improve.

Whilst the reasons a trainee solicitor may be underperforming are numerous and the underlying causes may relate to competence or attitude the following may be considered:

- Workplace management might include:
 - More regular support/feedback/check-ins from the supervising solicitor.
 - Greater hands on experience within the working environment (e.g. if a trainee is struggling with a particular skill a good way for them to improve is to practise that skill).
 - One-to-one coaching with an experienced practitioner.
 - Fuller instructions when allocating a task: i.e. checking the trainee understands precisely what the supervising solicitor wants, to what standard and by what time.
 - Fuller debriefs after a task has been completed: i.e. asking '*what they thought went well; what they thought went badly; what would they do differently next time; what did they find difficult*'. Such informal reviews and debriefs will

support development and can be revisited at the next quarterly performance review.

- Allocating the trainee a mentor or encouraging the trainee to find mentoring support outside the Training Unit.
- Instituting a series of informal reviews between PQPRs.
- Varying the workload of the trainee solicitors. For some underperforming trainees this may mean asking them to undertake less work; to others it may mean more.
- Change of work space: some people respond to quieter spaces whereas others prefer to be in the “*body of the kirk*”.
- Change of the nature of supervision: some trainee solicitors struggle working with one solicitor but may well thrive working with another solicitor.
- Offering a secondment to gain more experience.
- Where necessary, the identification and completion of relevant CPD.
- Suggesting to the trainee that they speak to the Law Society of Scotland’s trainee helpline and/or LawCare.

It may still be the case, however, that a trainee solicitor underperforms and will not meet the PEAT 2 Outcomes by month 24. Training Managers are expected to alert the Society’s Education, Training and Qualifications team – and the trainee – at the earliest possible juncture to the possibility of a traineeship being extended.

This should be viewed as a related but different matter to the possibility of a Training Manager being of the opinion that a trainee will not meet the PEAT 2 Outcomes or that they are not a fit and proper person.

It should be noted that given the supporting structures that Training Managers have available to them that the frequent use of this power would normally be a cause for investigation by the Society.

5. Special circumstances

If a trainee is absent from their traineeship for a period of up to six months (for instance: due to illness, parental leave etc) then the Training Manager should consider the trainee’s performance during their traineeship in relation, in particular, to the achievement of the PEAT 2 Outcomes in deciding whether or not the training contract should be extended or not. The period of absence, if not greater than six months, can be disregarded as per guidance on reducing the length of a training contract.

6. What happens if a Training Unit needs to change their Training Manager?

There may be circumstances in which your Training Manager will no longer be able to undertake the role. These may be:

- The individual no longer meets the eligibility criteria;
- The individual is leaving your Training Unit;
- The individual is no longer able to fulfil the role (e.g. through extended sickness absences, parental leave etc); or

- It is the decision of the Training Unit to offer a development opportunity to another individual.

In these circumstances Training Units will need to nominate another eligible solicitor to fulfil the role and inform the Society within 14 days

7. Other relevant Society guidance

It is recommended that Training Managers consider the following Society rules, regulations, and guidance in conjunction with this guidance:

- [The Admission as Solicitor \(Scotland\) Regulations 2019](#)
- [The Law Society of Scotland Practice Rules 2011](#)
- Foundation Programme Guidelines
- [PEAT 1 Programme Guidelines](#)
- [Guidance Notes on the fit and proper person requirements for admission as a solicitor](#)
- [Published information on required CPD](#)
- [Published information on Early Admission](#)
- [The PEAT 2 Outcomes](#)
- Social media: advice and information for the legal profession.

This guidance was last reviewed on 29th November 2019.

This guidance is next due to reviewed on 17th October 2020.