

Training for Tomorrow

A Competence Statement for Solicitors

20 October 2014

Foreword

In this consultation we invite views on a topic that is of critical importance to the future of the profession, clients and the administration of justice: what standards should we expect of solicitors when newly-qualified and subsequently?

This is a new approach to identifying the education and training needs of solicitors. Until now the SRA's regulatory focus has largely been on the process by which education and training is delivered (specified academic, vocational and "on-the-job" training; mandatory 16 hours continuing professional development (**CPD**)) with less emphasis on whether the process results in qualified solicitors achieving the necessary professional standards to meet their obligations to their clients, the court and the public.

Our proposed new approach is to start by defining the standards we expect of solicitors on qualification and subsequently. The education and training requirements can then be geared to support the acquisition and retention of these standards.

By making substantive standards, rather than process, the focus of our education and training regime we aim to ensure that solicitors are able to fulfil the important service that they provide to their clients and in support of the rule of law. In short, a move away from the current process driven system to one based around standards places quality rather than procedure at the heart of our education and training system.

Our definition of standards has at its heart a new Competence Statement for solicitors. In order to identify what competences this should include, we have undertaken an extensive exercise involving solicitors from a range of practice type, academics, vocational course providers and consumers. Our initial conclusions are set out in this consultation document. In brief, we believe that there are a number of core activities relating to matters such as ethical behaviour, technical skills (drafting, negotiating, researching), management of work (planning, prioritising, record keeping) and working and communicating with other people that all solicitors should be able to undertake competently. How these qualities are demonstrated will vary according to practice area and experience but all competent solicitors should possess them. We recognise that competence continues to develop after qualification and we have defined a "threshold" level of competence that those wishing to qualify as solicitors must demonstrate.

While the specific areas of legal knowledge necessary to ensure that a practising solicitor meets his or her obligations to the court and public will depend on the solicitor's area of practice, there is a core of such knowledge that underpins all practice and which we would expect all newly-qualified solicitors to have on admission and practising solicitors to maintain an awareness of throughout their career insofar as it touches their practice. That knowledge encompasses business

law, property, torts, criminal law and process, contract, equity, constitutional and EU law, English legal system and civil litigation. These core requirements have not changed very much over the years and we believe that they continue to provide the basic underpinning of legal practice. However, we invite views on whether they remain appropriate.

Identifying the appropriate standards, through the proposed Competence Statement with its underpinning Statement of Legal Knowledge and Threshold Standard, is an essential first step in enabling us to assess standards more rigorously and with greater consistency. The next step will be to consider, and consult on, how the competences are to be assessed for qualification as a solicitor and in what level of detail we need to specify the process by which the competences are acquired.

We have already demonstrated our focus on the substance of a solicitor's skills and knowledge, rather than process, in our new approach to CPD where we have decided to require that solicitors undertake appropriate professional development to ensure that they remain competent rather than continuing to formulaically mandate the number of hours of CPD that must be undertaken.

The role that solicitors perform as defenders of individual rights and liberties, guardians of the rule of law and facilitators of commercial and economic activity means that the standards expected of competent solicitors are not just a matter for the legal profession but are of importance to society as a whole. We therefore encourage responses to this consultation from all stakeholders including the profession, other legal service providers, the academic community, the judiciary and business and personal users of legal services.

Martin Coleman

Chair, SRA Education & Training Committee

Introduction

1. This consultation paper is part of *Training for Tomorrow*, our response to the 2013 report of the Legal Education and Training Review (LETR)¹ which called for a greater focus of regulatory attention on the standards we require of solicitors both at qualification and on an on-going basis.
2. In the *Training for Tomorrow* Policy Statement of October 2013 (the Policy Statement), we said that an early task in our programme of reform would be to define solicitors' standards more rigorously through the development of a competence statement for solicitors, this would:
 - "Support the obligations already placed on individuals and entities through the Code of Conduct
 - Provide confidence to the public and individual and business consumers of legal services that those we regulate are meeting the standards that they would expect from those authorised by us
 - [be] flexible enough to recognise the wide range of environments within which regulated individuals now operate and the wide range of roles that they undertake
 - [be] valued and respected by employers and complement their own objectives".
3. Since October 2013, we have been working to develop the Competence Statement and the purpose of this consultation is to seek views on the draft we have produced, and the function it is intended to serve. A copy of the draft Competence Statement is attached at Annex A.
4. We have reviewed the proposals set out in this consultation paper to ensure they meet the outcomes specified by the Legal Services Board in their Statutory Guidance on Education and Training, dated 4 March 2014.
5. This consultation document is in three parts. We start by describing how we have developed the Competence Statement and the approach we have taken to the drafting, and we invite comments on content. In parts two and three we go on to explore, and seek views on, its two core functions, namely
 - (a) to set out the standard of competence that we would expect from anyone applying to us for the award of the title of solicitor; and
 - (b) to define the continuing competences we require from all qualified solicitors.

Part One: Developing the Competence Statement

What is a Competence Statement?

6. Competence statements are increasingly being used as a way to set and assure standards within a wide range of professions, such as engineers,

¹ <http://letr.org.uk/the-report/index.html>

doctors to civil servants and pharmacists - as a means of setting and assuring standards. This trend has been driven by a growing interest in professional accountability and an enhanced focus on professional standards from regulatory and professional bodies.

7. A competence statement is a model that defines effective performance within an organisation, profession or sector. Competence statements are usually linked to, and will drive, associated learning and assessment systems.
8. The Competence Statement we are proposing is intended to capture the key activities required for effective performance as a solicitor. It tells consumers what they can expect from their solicitor and solicitors what activities they should be able to perform competently. It informs education and training providers about what courses they need to develop to train intending or practising solicitors; intending solicitors what they need to demonstrate they can do in order to qualify; and practising solicitors what they need to do to maintain their competence.

The evidence base for the Competence Statement for Solicitors

9. In order to ensure that our proposed Competence Statement is therefore based on empirical evidence about the key activities undertaken by solicitors and the expectations which consumers of legal services have of the solicitors they instruct. We have involved a wide range of stakeholders throughout the development process. We contracted with an external research company who conducted an initial scoping exercise through 44 interviews with solicitors, academics, Legal Practice Course providers, consumer representative groups and individual consumers. We then held three workshops with around 40 participants at each session. The workshop participants included solicitors drawn from a range of practice types including, in-house, sole practitioners, City and regional firms. A range of education and training providers were represented including those who deliver Legal Practice Course (LPC), Graduate Diploma in Law (DGL) and Bachelor of Laws (LLB) programmes. Additionally, regulators and consumer representatives also participated. We also established a 'Delphi Group'² comprising of eight members with experience and expertise in developing professional competence frameworks. The Delphi Group provided expert advice during the development phase. The members of the Delphi Group are not known to each other and, in line with the standard Delphi model, have worked independently of each other.
10. The draft Competence Statement has been tested through independent online and telephone surveys. The research contractor selected a random sample of 10,000 solicitors from the SRA's Practising Certificate holder database and sent e-mail invitations to this sample to complete the questionnaire on a staged

² Delphi groups are a qualitative method for obtaining consensus among a group of experts. The underpinning rationale of a Delphi Group is to establish as objectively as possible a consensus on a complex problem, eliminating subjective and critical judgements as much as possible. As such, much of the consideration and deliberation is undertaken on an individual basis by Delphi Group participants rather than through group based methods, with questionnaires being used as the basis for posing issues and gaining responses. These responses are then analysed and collated and fed back to participants. Delphi Groups are generally operated through having anonymous participants.

basis. The response rate was monitored against a range of characteristics including gender, practice area, post qualification experience, and location. Respondents were then sent reminder e-mails to complete the survey, with particular focus being paid where there was under representation. Respondents to the online survey included 1070 solicitors from private practice (78%) and in-house practice (22%) across all major practice areas and 503 individual consumers of legal services (i.e. members of the general public who had used the services of solicitors within the last 3 years). In addition, a telephone survey was conducted with 204 businesses who had used solicitors in the last three years.

11. The findings from the quantitative testing were positive with 87%, 87% and 90% of practitioners, individual consumers and business consumers respectively giving ratings of between 7 and 10 on a 10-point scale in relation to the Competence Statement (where 1 is low and 10 is high).
12. This consultation forms part of our research into and testing of the Competence Statement and views from respondents will be taken into account in producing the final version.

Generic outcomes

13. Through this process of gathering and testing evidence about the key activities which solicitors undertake, we identified a core set of competences that are common to all solicitors, regardless of their role, their practice area or their level of experience. Reflecting this, the Competence Statement has the following preface:

"This document takes a broad definition of competence as being 'the ability to perform the roles and tasks required by one's job to the expected standard' (Eraut and Boulay, 2001). The advantage of this definition is that it recognises that requirements and expectations change depending on job role and context. It also recognises that competence develops and that an individual may work competently at many different levels, either at different stages of their career, or indeed from one day to the next depending on the nature of their work."

14. We have adopted an activity-based approach to formulating the Competence Statement. We have described the activities that all solicitors need to be able to do competently, rather than describing the attributes that solicitors require in order to be competent (ie the knowledge, skills, behaviours, attitudes). We have chosen this approach because, as regulator, we are not concerned with the precise balance of skill, knowledge, behaviours or attitudes through which the outcomes are delivered. Our focus, instead, is on the activities which must be delivered competently.

Bar Standards Board

15. The first stages of the development of the Competence Statement were conducted in consultation with the Bar Standards Board (BSB) and included representatives from the barristers' profession as well as solicitors. We endeavoured to develop a Competence Statement with, so far as was

appropriate, a common structure and compatible content. However, testing and consultation processes are being conducted separately, to ensure the Competence Statement properly reflects the particular requirements of each profession. Our aspiration is to produce a Competence Statement which, so far as appropriate, demonstrates consistency of approach with that devised by the BSB for barristers, identifying differences in practice and facilitating flexibility between the two professions.

The content and structure of the Competence Statement

16. The Competence Statement is divided into four domains: ethics, professionalism and judgement; technical legal practice; managing yourself and your work; working with other people. Key activities are listed for each domain and are supported by the critical factors which affect the individual's ability to perform the activities competently.
17. Much of the content of the Competence Statement is self-explanatory. However there are two aspects which require comment, both part of the first domain - ethics, professionalism and judgement.

(a) Ethics

18. Ethics is the first element of the Competence Statement because of the importance we, and those we spoke to in developing the Statement, attach to it. As a key part of this domain equality and diversity have been embedded into the Competence Statement, through a requirement at paragraph A1(e) requiring all solicitors to respect diversity and act fairly and inclusively. We believe that highlighting this behaviour in the Competence Statement will reinforce the principles of equality of opportunity and respect for diversity in line with Principle 9 of the SRA Handbook.

(b) Legal knowledge

19. We have recognised the importance of legal knowledge by specifying, in line with the activity-based approach to competence, what practitioners need to be able to do with the knowledge they possess. That is, to "draw on a sufficiently detailed knowledge and understanding of their field(s) of work in order to practise effectively, including
 - a. Identifying relevant legal principles
 - b. Applying legal principles to factual issues, so as to produce a solution which best addresses a client's needs and reflects the client's commercial or personal circumstances
 - c. Spotting relevant issues that are outside their expertise and taking appropriate action, using both an awareness of a broad base of legal knowledge and detailed knowledge of their practice area".³

³ Paragraph A4 of the Competence Statement

20. This means that a solicitor must have a detailed knowledge of the law (which we do not specify) as it applies to their area of practice. In addition, we require qualified solicitors to have "an awareness" of background legal knowledge, sufficient to spot relevant issues and to know when to seek additional advice. We recognise that detailed knowledge of areas of law outside a solicitor's practice area will decline over time. However, a broadly based training and knowledge of the law distinguishes solicitors from other legal professionals who receive training which is more focused on their specific area of practice. The "broad base" of legal knowledge which we say all solicitors should have an awareness of, is summarised in the footnote to paragraph A4 of the Competence Statement. The areas of law included in the footnote reflect:
- a. the current generic solicitors' qualification which confers rights to practise in all of the reserved areas⁴; and
 - b. research we conducted when developing the Competence Statement which revealed a high level of consensus that solicitors should have a broad base of background legal knowledge, over and above the specialist knowledge required for their area of practice, and about what that legal knowledge should be.
21. We have expanded the areas of law in the footnote into a Statement of Legal Knowledge. This is intended to inform practising solicitors in more detail of the areas of law of which we expect them to have a background awareness and to guide curriculum design for education and training providers (see para. 28). We have tried to strike a middle ground between the need to spot issues outside a solicitor's practice area and the recognition that the broad knowledge which solicitors have on qualification will inevitably fade where it is not used. We do not expect practising solicitors to retain active, knowledge of all these knowledge areas, or to undertake professional development activities in relation to legal topics which are unlikely ever to have a bearing on their practice area. What we do expect, in line with a broadly based qualification, is that solicitors should be able to recognise possible problems even when these are outside their immediate area of practice.

Consultation question 1

Does the competence statement reflect what you would expect a competent solicitor to be able to do?

Consultation question 2

Are there any additional competences which should be included?

Consultation question 3

Have we struck the right balance in the Statement of Legal Knowledge between the broad qualification consumers tell us they understand by the title solicitor and the degree of focus which comes in time with practice in a particular area?

⁴ [Legal Services Act 2007, s.12](#)

Part Two: using the Competence Statement to assure competence at admission

22. LETR had two key concerns about the current framework for qualification as a solicitor -, inconsistency and inflexibility. The report stated that "a move to clearer, more consistent standards and outcomes is a critical first step in maintaining quality whilst delivering flexibility to the education and training market". The draft Competence Statement is a statement of these outcomes – i.e. what we expect all aspiring solicitors to be able to demonstrate in order to qualify. It is at the heart of our project to focus our regulation of education and training more rigorously on assuring the standards of solicitors.
23. The framework for initial qualification as a solicitor will have three elements:
 - The Competence Statement itself;
 - A document which sets out the threshold standard at which the competences should be performed upon qualification as a solicitor; and
 - A statement of legal knowledge which solicitors will need to demonstrate they have prior to qualification.

The Threshold Standard

24. Because the Competence Statement is generic and applies to all solicitors, we need to set out the standard at which we expect would-be solicitors to be able to perform at point of qualification. The setting of this threshold standard for qualification is a crucial step in the development of the competence statement as a tool to assess competence for admission.
25. A draft statement of the threshold standard for qualification is attached at Annex B. The Threshold Standard should be read alongside the Competence Statement. It will provide clarity for intending solicitors about the standard of performance that we require in order to award the title of solicitor. It will be critical in helping us to put in place the right system for assessing whether an individual has met the required standard and it will assist education and training providers to develop training courses to prepare individuals for qualification.
26. We have described this as the 'Threshold' Standard, to reflect the fact that it is the boundary for admission. However, this term is not intended to imply a low level of performance. Rather, it needs accurately to reflect the standard of performance on qualification i.e. the standard at which the individual can practise safely and effectively using the title of solicitor. Firms will have particular requirements for the solicitors they employ. But our duty as a regulator requires us to set the standard at a level that is appropriate to protect consumers and uphold the rule of law but does not unjustifiably prevent anyone who is competent from entering the profession.
27. This Threshold Standard has also been developed and tested through workshops, quantitative testing and with expert input from the Delphi Group.

It has been tested through an on-line survey of 545 randomly selected practitioners. 78% of respondents rated the Threshold Standard at 7 or above, in terms of being an accurate reflection of the standard that they were at as a newly qualified solicitor, with over a third (37%) of respondents scoring it at 9 or 10 (where 1 was low and 10 was high).

Statement of Legal Knowledge

28. We have referred in para. 21 above to the underpinning knowledge of law which we will require intending solicitors to demonstrate before qualification. We have set this out in more detail in a Statement of Legal Knowledge (see annex C). This is based on our current requirements for the categories of legal knowledge specified, tested through targeted consultation with expert academics and practitioners to ensure that they remain up to date and comprehensive. The names of the individuals who have advised us on the Knowledge Statement are listed on it. This Statement of Legal Knowledge forms part of the Competence Statement and will assist those education and training providers who wish to offer suitable training and assessment to prepare individuals for qualification. It is deliberately broad and high level. It is not intended to be an exhaustive list of legal topics or to constitute an educational curriculum. Nor is it intended to dictate what must be taught in a law degree. Too detailed a list of topics will have inevitable gaps, will rapidly date and risks stifling innovation and limiting flexibility. But a broad statement can support the development of a curriculum and guide individuals' own learning.

Consultation question 4

Do you think that the Threshold Standard articulates the standard at which you would expect a newly qualified solicitor to work?

Consultation question 5

Do you think that the Statement of Legal Knowledge reflects in broad terms the legal knowledge that all solicitors should be required to demonstrate they have prior to qualification?

Mechanisms to assess competence at admission

29. Having defined the competences that a solicitor must have and the Threshold Standard, we also need to have in place mechanisms which assure us that they have been met. We must make sure, therefore, that the competence standards that we set are all capable of being assessed objectively and consistently, whether through work place assessment, formal assessment (i.e. examination, role plays etc) or a combination of both.
30. Applying the key principles of assessment, we want to be confident that our approach ensures assessment which is:
- valid - it is assessing what must be assessed

- reliable - that assessors acting independently using the same criteria would reach the same judgement
 - relevant - the context in which the competences are assessed are relevant to the work that a solicitor will do
31. There are a wide range of assessment methods which could meet these principles, depending on the assessment context, such as formal written examinations, supervised skills assessments (which provide a simulated assessment under timed and supervised conditions of the candidate's ability to perform specified activities), structured clinical assessments (using standardised clients and a number of different tests), or work based assessment which can draw on real-life tasks. All elements of the Competence Statement are capable of being assessed through one or more of these mechanisms.

Review of qualification as a solicitor

32. The next stage of our work will be to review the process for qualification as a solicitor and to develop a framework for assessing the Competence Statement prior to qualification. Individuals are currently required to demonstrate that they meet the standards for qualification through the Qualifying Law Degree (QLD) (or Common Professional Examination (CPE)) and the Legal Practice Course (LPC) and through the training they undertake through a recognised period of training. This approach to assuring standards needs to be reviewed because of the concerns about consistency highlighted in the LETR report and also because of the need to enable a more flexible range of pathways to qualification to emerge. Flexibility of pathways does not imply any flexibility of standards. A new assessment framework would need to enable us to assess standards accurately, consistently and rigorously as well as removing the barriers created by a single pathway to admission which prevent individuals who have the potential to be good solicitors from qualifying.
33. Our work is at an early stage, but at present we have identified three alternative approaches (or combinations of them) for the assessment framework:
- a. Continuing to prescribe specific pathways to qualification (such as the QLD/CPE + LPC + recognised period of training, subject to their being aligned to the Competence Statement) and authorising providers to deliver them.
 - b. Authorising any training pathway proposed by a training provider which enables a candidate to demonstrate they can perform the activities set out in the Competence Statement to the standard required in the Threshold Standard.
 - c. Developing centralised assessment of competence that all candidates are required to undertake prior to qualification. Candidates might be able to take the assessment regardless of the education and training pathway which they have followed. This approach could also include

specifying pre-requisites such as satisfactory completion of a period of practical experience or of an authorised pathway.

34. We have substantial amounts of work to do to evaluate these options to identify the one which will best meet the aims of our review and is most consistent with our regulatory obligations. We intend to issue a second consultation towards the end of 2015 which will set out our proposals.

Part Three: using the Competence Statement to define continuing competence

35. In May 2014, in response to concerns about the Continuing Professional Development (CPD) scheme for solicitors, the SRA Board agreed a new approach to continuing competence to replace the current CPD scheme. The aim of the new approach is to give solicitors the freedom and flexibility to decide for themselves what training and development they need to undertake in order to perform their roles effectively. Providers of legal services and individuals will be able to adopt the new approach to continuing competence from Spring 2015 if they choose to and the new approach will be fully implemented from November 2016.
36. The new approach to continuing competence requires solicitors to consider their training needs on an annual basis and to take appropriate measures to maintain their competence, as defined in the Competence Statement.

Embedding the Competence Statement in the SRA Handbook

37. We would therefore propose to incorporate the Competence Statement into the Handbook by an amendment to the notes to Principle 5, to make clear that complying with the Competence Statement is one requirement of providing a proper standard of service in accordance with Principle 5.
38. This makes clear the importance we attach to the Competence Statement, and to solicitors taking appropriate steps to maintain their competence.

Using the Competence Statement to support practitioners to maintain their competence

39. As well as being a regulatory tool, the Competence Statement is a learning tool. Solicitors will be able to use the Competence Statement to reflect on their competence within the context of their own role and practice. It will help them to identify any gaps in their competence and determine where their future development needs might lie.
40. It might also help regulated entities to identify individual and organisational development needs and to plan relevant training and development activities. We know that many firms and in-house legal departments already have in place sophisticated competence frameworks which set out the competences required of solicitors at various stages and in various roles within their own entity. We do not expect the Competence Statement to replace these entity-based systems. Instead we hope that it will complement them and help

solicitors to understand the generic competence that is expected of them as a regulated individual. We also hope that it will act as a useful tool for firms who wish to develop competence frameworks for solicitors in the future.

Consultation question 6

Do you think that the Competence Statement will be a useful tool to help entities and individuals comply with Principle 5 in the Handbook and ensure their continuing competence?

Equality Impact Assessment

41. We have undertaken an initial screening of the function of the Competence Statement as a tool to assure continuing competence and did not identify any adverse impacts. We undertook a full Equality Impact Assessment of our new approach to continuing competence as part of our consultation on it. We will undertake a full Equality Impact Assessment of the Competence Statement as a mechanism to assure standards at point of qualification as part of our work in developing a new qualification framework.

Consultation question 7

Are you aware of any impacts, either positive or negative, which might flow from using the competence statement as a tool to assist entities and individuals with complying with Principle 5 in the Handbook and ensuring their continuing competence?

How to respond

Use our online [consultation questionnaire](#) to compose and submit your response. (You can save a partial response online and complete it later.)

Email

Please send your response to trainingconsultations@sra.org.uk. You can download and attach a Consultation questionnaire.

Please ensure that

- you add the title "SRA – Competence statement" in the subject field,
- you identify yourself and state on whose behalf you are responding (unless you are responding anonymously),
- you attach a completed About You form,
- you state clearly if you wish us to treat any part or aspect of your response as confidential.

Post

If it is not possible to email your response, hard-copy responses may be sent instead to:

Education and Training Unit
SRA
The Cube
199 Wharfside Street
Birmingham
B1 1RN.

Deadline

Please send your response by **12 January 2015**.

Confidentiality

A list of respondents and their responses may be published by the SRA after the closing date. Please express clearly if you do not wish your name and/or response to be published. Though we may not publish all individual responses, it is SRA policy to comply with all Freedom of Information requests.

More on Training for Tomorrow

A series of events, a webinar and a video recording are planned to support this consultation process. Further information can be found at [T4T connect](#) page on the Training for Tomorrow microsite. You can also keep abreast of latest developments or contribute to discussions via our Twitter account [@sra_t4t](#). You can also post comments on the [T4T blog](#).

Annexes

- Annex A Draft Competence Statement
- Annex B Draft Threshold Standard
- Annex C Draft Statement of Underpinning Knowledge

Annex A: Draft Competence Statement

This document takes a broad definition of competence as being “the ability to perform the roles and tasks required by one’s job to the expected standard” (Eraut & du Boulay, 2001).

The advantage of this definition is that it recognises that requirements and expectations change depending on job role and context. It also recognises that competence develops, and that an individual may work ‘competently’ at many different levels, either at different stages of their career, or indeed from one day to the next depending on the nature of their work.

Solicitors should be able to:

A Ethics, professionalism and judgement

A1 Act honestly and with integrity, in accordance with legal and regulatory requirements and the SRA Handbook and Code of Conduct, including

- a. Recognising ethical issues and exercising effective judgement in addressing them
- b. Understanding and applying the ethical concepts which govern their role and behaviour as a solicitor
- c. Identifying the relevant SRA principles and rules of professional conduct and following them
- d. Resisting pressure to condone, ignore or commit unethical behaviour
- e. Respecting diversity and acting fairly and inclusively

A2 Maintain the level of competence and legal knowledge needed to practise effectively, taking into account changes in their role and/or practice context and developments in the law, including

- a. Taking responsibility for personal learning and development
- b. Reflecting on and learning from practice and learning from other people
- c. Accurately evaluating their strengths and limitations in relation to the demands of their work
- d. Maintaining an adequate and up-to-date understanding of relevant law, policy and practice
- e. Adapting practice to address developments in the delivery of legal services

A3 Work within the limits of their competence and the supervision which they need, including

- a. Disclosing when work is beyond their personal capability
- b. Recognising when they have made mistakes or are experiencing difficulties and taking appropriate action

- c. Seeking and making effective use of feedback, guidance and support where needed
- d. Knowing when to seek expert advice

A4 Draw on a sufficient detailed knowledge and understanding of their field(s) of work and role in order to practise effectively, including

- a. Identifying relevant legal principles
- b. Applying legal principles to factual issues, so as to produce a solution which best addresses a client's needs and reflects the client's commercial or personal circumstances
- c. Spotting relevant issues that are outside their expertise and taking appropriate action, using both an awareness of a broad base of legal knowledge⁵ and detailed knowledge of their practice area

A5 Apply understanding, critical thinking and analysis to solve problems, including

- a. Assessing information to identify key issues and risks
- b. Recognising inconsistencies and gaps in information
- c. Evaluating the quality and reliability of information
- d. Using multiple sources of information to make effective judgements
- e. Reaching reasoned decisions supported by relevant evidence

B Technical legal practice

B1 Obtain relevant facts, including:

- a. Obtaining relevant information through effective use of questioning and active listening
- b. Finding, analysing and assessing documents to extract relevant information
- c. Recognising when additional information is needed
- d. Interpreting and evaluating information obtained
- e. Recording and presenting information accurately and clearly.

B2 Undertake legal research, including:

- a. Recognising when legal research is required
- b. Using appropriate methods and resources to undertake the research
- c. Identifying, finding and assessing the relevance of sources of law
- d. Interpreting, evaluating and applying the results of the research
- e. Recording and presenting the findings accurately and clearly.

⁵Legal System of England and Wales, constitutional law and EU law (including human rights), contract law, torts, ethics, professional conduct and regulation, including money laundering and solicitors accounts, criminal law and evidence, criminal litigation, civil litigation, property law, wills and administration of estates, trusts and equitable wrongs, business law and practice (including company/commercial law) and taxation

B3 Develop and advise on relevant options, strategies and solutions, including

- a. Understanding and assessing a client's commercial and personal circumstances, their needs, objectives, priorities and constraints
- b. Ensuring that advice is informed by appropriate legal and factual analysis and identifies the consequences of different options

B4 Draft documents which are legally effective and accurately reflect the client's instructions including

- a. Being able to draft documents from scratch as well as making appropriate use of precedents
- b. Addressing all relevant legal and factual issues
- c. Complying with appropriate formalities
- d. Using clear, accurate and succinct language

B5 Undertake effective spoken and written advocacy⁶, including

- a. Preparing effectively by identifying and mastering relevant facts and legal principles
- b. Organising the facts to support the argument or position
- c. Presenting a reasoned argument in a clear, logical, succinct and persuasive way
- d. Making appropriate reference to legal authority
- e. Complying with any formalities
- f. Dealing with any witnesses appropriately
- g. Responding effectively to questions or opposing arguments Identifying strengths and weaknesses from different parties' perspectives

B6 Negotiate solutions to client's issues, including

- a. Identifying all parties' interests, objectives and limits
- b. Developing and formulating best options for meeting parties' objectives
- c. Presenting options for compromise persuasively
- d. Responding to options presented by the other side
- e. Developing compromises between options or parties

B7 Plan, manage and progress legal cases and transactions, including

- a. Applying relevant processes and procedures to progress the matter effectively
- b. Assessing, communicating and managing risk
- c. Bringing the transaction or case to a conclusion

⁶ Note this applies to advocacy both in and out of court

C Managing themselves and their own work

C1 Initiate, plan, prioritise and manage work activities and projects to ensure that they are completed efficiently, on time and to an appropriate standard, both in relation to their own work and work that they lead or supervise, including

- a. Clarifying instructions so as to agree the scope and objectives of the work
- b. Taking into account the availability of resources in initiating work activities
- c. Meeting timescales, resource requirements and budgets
- d. Monitoring, and keeping other people informed of, progress
- e. Dealing effectively with unforeseen circumstances
- f. Paying appropriate attention to detail

C2 Keep, use and maintain accurate, complete and clear records, including

- a. Making effective use of information management systems (whether electronic or hard copy), including storing and retrieving information
- b. Complying with confidentiality, security, data protection and file retention and destruction requirements

C3 Apply good business practice, including

- a. Demonstrating an adequate understanding of the organisational and financial context in which they work and their role in it
- b. Understand the contractual basis on which legal services are provided, including where appropriate how to calculate and manage costs and bill clients
- c. Applying the rules of professional conduct on accounting and financial matters
- d. Managing available resources and using them efficiently

D Working with other people

D1 Communicate clearly and effectively, orally and in writing, including

- a. Ensuring that communication achieves its intended objective
- b. Responding to and addressing individual characteristics effectively and sensitively
- c. Using the most appropriate method and style of communication for the situation and the recipient(s)
- d. Using clear, succinct and accurate language avoiding unnecessary technical terms
- e. Using formalities appropriate to the context and purpose of the communication
- f. Maintaining the confidentiality and security of communications
- g. Imparting any difficult or unwelcome news clearly and sensitively

D2 Establish and maintain effective and professional relations with clients, including

- a. Treating clients with courtesy and respect
- b. Providing information in a way that clients can understand, taking into account their personal circumstances and any particular vulnerability
- c. Understanding and responding effectively to clients' particular needs, objectives, priorities and constraints
- d. Identifying and taking reasonable steps to meet the particular service needs of all clients including those in vulnerable circumstances
- e. Identifying possible courses of action and their consequences and assisting clients in reaching a decision
- f. Managing clients' expectations regarding options, the range of possible outcomes, risk and timescales
- g. Agreeing the services that are being provided and a clear basis for charging
- h. Explaining the ethical framework within which the solicitor works
- i. Informing clients in a timely way of key facts and issues including risks, progress towards objectives, and costs
- j. Responding appropriately to clients' concerns and complaints

D3 Establish and maintain effective and professional relations with other people, including

- a. Treating others with courtesy and respect
- b. Delegating tasks when appropriate to do so
- c. Supervising the work of others effectively
- d. Keeping colleagues informed of progress of work, including any risks or problems
- e. Acknowledging and engaging with others' expertise when appropriate
- f. Being supportive of colleagues and offering advice and assistance when required
- g. Being clear about expectations
- h. Identifying, selecting and, where appropriate, managing external experts or consultants

Annex B: Draft Threshold Standard

Level	Functioning knowledge	Standard of work	Autonomy	Complexity	Perception of context	Innovation and originality	
1.	Recognises some of the standard legal issues relevant to the particular case or transaction area of practice	Satisfactory provided closely supervised on a task by task basis	Needs close supervision or instruction	Able to do simple routine tasks	Tends to see actions in isolation	Works within given procedures or instructions	
2.	Recognises some of the standard legal issues relevant to the area of practice, and begins to see how they apply to a particular case or transaction	Straightforward tasks likely to be completed to an acceptable standard	Achieves some steps using own judgement, but supervision needed for overall case or transaction	Able to deal effectively with straightforward cases and transactions	Sees actions as a series of steps	Uses experience to check information provided	
3.	Identifies the legal principles relevant to the area of practice, and applies them appropriately and effectively to individual cases	Acceptable standard achieved routinely for straightforward tasks. Complex tasks may lack refinement.	Achieves most tasks and able to progress legal matters using own judgement, recognising when support is needed	Able to deal with straightforward transactions, including occasional, unfamiliar tasks which present a range of problems and choices	Understands the significance of individual actions in the context of the objectives of the transaction/strategy for the case.	Uses experience to check information provided and to form judgements about possible courses of action and ways forward	Threshold Standard required at qualification
4.	Applies a depth of understanding of the area of practice and a broad background awareness of legal principles to solve problems and progress the case.	Full acceptable standard achieved routinely	Takes full responsibility for progressing the case or transaction	Deals with complex transactions through deliberate analysis and planning	Develops a strategy for the case/transaction to deliver the overall objective and uses it to analyse individual steps.	Produces innovative solutions and ways forward	
5.	Uses mastery of the area of practice and a broad background	Excellence achieved with ease	Takes full responsibility for outcomes of case	Deals with complex transactions	Understands clearly the strategy for the case/transaction and	Develops innovative solutions and	

	awareness of legal principles to develop and critically evaluate a range of options to overcome dilemmas and problematic situations		or transaction	intuitively and with ease; confident decision-maker	alternative approaches to deliver it within a vision of what may be possible.	ways forward in complex and unpredictable situations	
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Annex C: Statement of Underpinning Legal Knowledge

1. Ethics, professional conduct and regulation, including money laundering and solicitors accounts

- 1a. The ethical concepts governing the solicitor's role and behaviour, including as expressed in the law, and the economic, social and cultural influences that can bias independent and ethical judgement
- 1b. The SRA Principles
- 1c. The Code of Conduct:
 - commitment to the rule of law and proper administration of justice
 - duties and responsibilities owed to clients
 - running the business
 - interacting with the regulator
 - duties to others
- 1d. Money laundering
- 1e. Financial services
- 1f. Solicitors' accounts
 - identification of office/client money
 - receipts into and payments out of office and client account/money
 - payment of deposit interest
 - accounting systems and internal controls
 - recording transactions and preparation of financial statements
 - regulatory controls
- 1g. Obligations to report relevant to a solicitor's practice

2. Wills and administration of estates

- 2a. Pre-grant practice
 - validity, revocation and alteration of wills and codicils
 - total and partial intestacy

- identification of property passing by will, intestacy or outside of the estate
- valuation of assets and liabilities and the taxable estate
- 2b. Application for a grant of representation
 - the necessity for and main types of a grant
 - the powers and duties of personal representatives and their protection
 - the main types of oath for executors or administrators
 - the prior submission of inheritance tax account to HMRC before grant is obtained and payment of tax shown due on account
- 2c. Post-grant practice
 - collection and realisation of assets, and claims on the estate
 - raising funds and the payment of all tax and debts
 - pecuniary legacies, vesting of gifted property in the beneficiaries entitled and distribution of the residuary estate

3. Taxation

- 3a. Income tax
 - who is chargeable (residence/domicile)
 - what is chargeable (types of income/main reliefs and exemptions)
 - how is charge levied (deduction at source/PAYE/self-assessment)
 - outline of anti-avoidance provisions
- 3b. Capital Gains Tax
 - who is chargeable (residence/domicile)
 - what is chargeable (calculation of gains/ allowable deductions/ main reliefs and exemptions)
 - how is charge levied (self-assessment/recovery through PAYE system/agents)
 - outline of anti-avoidance provisions
- 3c. Inheritance Tax

- Key principles
 - basis of charge to tax (potentially exempt gifts/lifetime chargeable gifts/transfers on death)
 - main exemptions/reliefs
 - outline of anti-avoidance provisions (reservation of benefit regime, restrictions on deductibility of certain debts/ encumbrances)
 - person liable to make returns and payment

3d. Corporation Tax

- Key principles
 - chargeability to corporation tax
 - tax treatment of company distributions or deemed distributions to shareholders
 - payment and collection of tax (self-assessment)
 - outline of anti-avoidance legislation

3e. Value Added Tax

- key principles relating to scope, supply, input and output tax
- registration requirements and issue of VAT invoices
- returns/payment of VAT and record keeping

4. Business Law and Practice (including company/commercial law)

- 4a. Business structures
- 4b. Legal personality and limited liability
- 4c. Procedures required to incorporate a company/form a partnership/LLP and the approvals and other steps required under companies and partnerships legislation to enable the entity to commence operating
- 4d. Corporate governance
 - rights, duties and powers of directors and shareholders of companies
 - procedures relating to company decision making and meetings
 - minority shareholder protection rights
- 4e. Raising capital, including company borrowing

4f. Insolvency (corporate and personal insolvency)

5. Property

5a. Key concepts of real property

5b. The property legislation of 1925; registered and unregistered land

5c. Estates and interests in land: freeholds, leases, mortgages, easements; and rights over land: licences, tenancies at will

5d. The trust of land and co-ownership

5e. Adverse possession

5f. The landlord/tenant relationship; leasehold covenants; enfranchisement

5g. Real property and human rights

5h. Tax considerations relevant to property transactions

6. Torts

6a. Negligence:

- duty of care and breach of duty of care
- causation and remoteness of damage
- problematic areas, including pure economic loss and psychiatric illness damage

6b. Breach of statutory duty and product liability

6c. Nuisance, and the rule in *Rylands v Fletcher*

6d. Trespass to the person

6e. Defamation

6f. Vicarious liability

6g. Remedies, including damages and injunctions

6h. Defences, including consent and contributory negligence

7. Criminal law and evidence

- 7a. Elements of offences - actus reus and mens rea. Factors affecting culpability: e.g. insanity, automatism and intoxication. Capacity to commit offences
- 7b. Modes of liability: secondary participation, vicarious and corporate liability
- 7c. Specific offences: public order offences, fatal, non-fatal and sexual offences against the person, property offences
- 7d. Inchoate offences: assisting and encouraging crime, attempt and conspiracy
- 7e. Defences: self-defence, necessity, duress. Partial defences to murder -loss of control, diminished responsibility
- 7f. Evidence, including burden and standard of proof, bad character and hearsay
- 7g. The European Convention of Human Rights, particularly articles 5 and 6

8. Criminal litigation

- 8a. Criminal Procedure Rules, their overriding objective, and their application
- 8b. Pre-trial procedures, including plea before venue and allocation
- 8c. The role of the defendant's representative in police stations both as own client and as duty solicitor and the role of the defendant's solicitor at court under the duty solicitor scheme
- 8d. Custody, review and detention limits under PACE and the role of the custody officer
- 8e. Key steps for making an application for a representation order
- 8f. Key steps for making or contesting a bail application
- 8g. The trial process
- 8h. Sentencing
- 8i. Appeals

9. Contract Law

- 9a. Formation, including offer and acceptance, consideration, intention to create legal relations, certainty
- 9b. Variation and promissory estoppel
- 9c. Privity of contract and rights of third parties

- 9d. Terms, including terms implied by common law and statute
- 9e. Interpretation of contracts
- 9f. Exemption clauses and unfair terms
- 9g. Vitiating factors: including mistake, misrepresentation, duress and undue influence
- 9h. Termination of contract for breach or frustration
- 9i. Remedies: damages, award of an agreed sum, specific performance, injunctions
- 9j. Restitution for unjust enrichment (especially in the context of termination of a contract)

10. Trusts and equitable wrongs

- 10a. Difference between legal and equitable interests
- 10b. Creation of express trusts
- 10c. Resulting trusts
- 10d. Constructive trusts
- 10e. Charitable and non-charitable purpose trusts
- 10f. Trustees: their appointment, removal, powers, duties and liabilities
- 10g. Fiduciary duties and remedies for breach of these duties
- 10h. Knowing receipt of trust property and dishonest assistance in breach of trust or fiduciary duty
- 10i. The rights, remedies and powers of beneficiaries, including proprietary remedies after tracing
- 10j. Equitable remedies: specific performance, injunctions, rescission, rectification and proprietary remedies

11. Constitutional law and EU law (including Human Rights)

- 11a. The basic institutions (the Crown and Parliament, central government, devolved institutions, EU institutions and the judiciary) and principles of the British Constitution
- 11b. The nature, status and procedure for passing primary and delegated legislation

- 11c. Government accountability (and in particular the relationship between the Government and Parliament)
- 11d. Parliamentary sovereignty
- 11e. Separation of powers (including judicial independence)
- 11f. The rule of law
- 11g. The place of EU law in the constitution
- 11h. Human Rights Act 1998 and key principles of anti-discrimination legislation
- 11i. Judicial control of the Executive, in particular the process and principles of judicial review.

12. Legal system of England and Wales

- 12a. The main legal institutions (including the main legal professions)
- 12b. Sources of law:
 - legislation
 - case law
 - European context
- 12c. Rules of interpretation
- 12d. Legal services
- 12e. Funding of legal services

13. Civil litigation

- 13a. Different options for dispute resolution: litigation, arbitration, mediation and other forms of alternative dispute resolution
- 13b. Funding
- 13c. Costs consequences, possible liability for costs and cost recoveries
- 13d. Preliminary considerations: limitation, jurisdiction and applicable law
- 13e. The Civil Procedure rules, including Practice Directions, Forms and Court Guides
- 13f. Pre-action steps, court structure and choice of court, issue, service, acknowledgment of service, judgments in default and summary judgment,

drafting and service of statements of case, disclosure, part 36 and other settlement offers, interim applications and interim remedies, preparing for trial, settlement

- 13g. The court's case and costs management powers and duties
- 13h. Evidence: expert witnesses and witnesses of fact
- 13i. Key elements of trial procedure
- 13j. Methods of enforcement and enforcement procedures
- 13k. Rights of appeal and appeal procedures

Appendix 1: Acknowledgements - Statement of Legal Knowledge

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Associate Professor Jacqui Kempton	University of Law
Iain Miller	Bevan Brittan
Professor Richard Moorhead	University College London
Anna Pertoldi	Herbert Smith Freehills LLP
Matthew Sturgeon	Blake Morgan LLP
Amy Tschobotko	Bevan Brittan LLP
Professor Graham Virgo	University of Cambridge
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Team members	Clifford Chance LLP