

A proposed Competence Statement for Solicitors Consultation Response

Purpose

- 1 To provide a summary of feedback received during our recent consultation on a proposed Competence Statement for solicitors, and seek the Board's approval for our proposed response.

Recommendations

- 2 The Board is asked to:
 - a) consider and approve the response to the consultation (paragraphs 4 to 8 and Annex 1);
 - b) approve the publication of the amended Competence Statement for solicitors, and its associated documents (paragraphs 4 to 8 and Annex 1);
 - c) note the position in relation to the development of new apprenticeship routes to qualification as a solicitor (paragraphs 10 to 12); and
 - d) approve an amendment to the guidance notes under Principle 5 of the SRA Principles 2011 to make clear that, for a solicitor, meeting the competences set out in the Competence Statement forms an integral part of the requirement to provide a proper standard of service in accordance with Principle 5 by including the following statement:

"For a solicitor, meeting the competences set out in the Competence Statement forms an integral part of the requirement to provide a proper standard of service."

(paragraphs 13 to 16).

**If you have any questions about this paper please contact: Julie Brannan,
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A proposed Competence Statement for Solicitors Consultation Response

Background

- 3 On 20 October 2014, our Consultation Paper, *A Competence Statement for Solicitors*, was published. The consultation closed on 12 January 2015, with 72 responses received.

The consultation exercise

- 4 Attached at Annex 1 is a summary of the feedback we received during the consultation exercise together with our response to the issues raised. All of the consultation responses are available to Board members in advance of the meeting if they would like to read them in full. The Education and Training Committee considered the draft response at its meeting on 26 February and recommended publication of the response, and of the Competence Statement, Threshold Standard and Knowledge Statement.
- 5 No issues were raised in the consultation to cause us to reconsider publishing these documents in principle. However, in the light of feedback from the consultation, we propose making small amendments to the Competence Statement and its associated documents. Drafts of all these documents, showing the proposed changes, are attached to the draft consultation response at Annex 1.
- 6 In our response, we have identified the major themes from the consultation and our responses to them.
- 7 Feedback in relation to the Competence Statement and Threshold Standard was very positive, but views in relation to the Knowledge Statement were more mixed. While a majority of those who expressed a clear view were supportive, education and training providers, in particular, were more critical.
- 8 Despite this, for the reasons set out in the response, we would like to proceed to publish the three documents. We will use them in the next phase of our work to review the assessment framework for initial qualification and as part of the introduction from 1 April of the new approach to continuing competence.

Recommendations: the Board is asked to:

- a) **consider and approve the response to the consultation; and**
- b) **approve the publication of the amended Competence Statement for solicitors, and its associated documents.**

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Assessment options

- 9 A large number of the responses we received commented on the three models of assessment put forward in our consultation. As noted in our response, we are grateful for these early views, which will feed into our development of an assessment framework.

Apprenticeships and the Competence Statement

- 10 Board members will be aware that we have been working with the Department of Business, Innovation and Skills (BIS) on the development of a Trailblazer apprenticeship leading to qualification as a solicitor in England and with Skills for Justice (the sector skills council) on an apprenticeship leading to qualification as a solicitor in Wales.
- 11 The principle we have adopted in this work is that the apprenticeship standard for qualification as a solicitor should be the same as that required for qualification through any other pathway. We have also taken the decision that the apprenticeship standard should be aligned to the emerging new qualification and assessment framework, rather than the current requirements for the academic, vocational and work based stages of training (a law degree or common professional examination, Legal Practice Course and period of recognised training). Therefore a draft of the Competence Statement has been used as the basis for the standard and associated assessment plan for both English and Welsh apprenticeships. The Trailblazer assessment plan was submitted to BIS for approval in accordance with their timetable on 12 February 2015. The Welsh apprenticeship is due to be submitted for approval to the Welsh government at the end of March.
- 12 We have written to the UK government and to Skills for Justice to confirm that the proposals are subject to our consultation processes, including the outcome of, and Board's decision regarding, the consultation on the Competence Statement. We have also notified them that, if and when the proposals are approved by them, we will be consulting on and, subject to the consultation seeking Board approval of, the necessary amendments to our regulations to permit apprentices to qualify as solicitors upon satisfactory completion of the apprenticeship assessment. Accordingly, and subject to consultation, we will be seeking board approval this summer for a rule change to enable qualification as a solicitor through the apprenticeship route.

Recommendation: the Board is asked to:

- c) note the position in relation to the development of new apprenticeship routes to qualification as a solicitor.**

Next steps

- 13 Board members are aware that the Competence Statement and its associated documents have two functions: to define the standard required for admission, and to define the standard for continuing competence.
- 14 So far as admission to the profession is concerned, if the Board agrees to adopt the Competence Statement and its associated documents, we will continue our work on proposals for assessing against these standards, leading up to a consultation on a new assessment framework at the end of 2015.
- 15 So far as continuing competence is concerned, and again if the Board agrees, the Competence Statement and its associated documents will be implemented from 1 April 2015. The new approach to continuing competence will require 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. Solicitors will be able to opt in to the new approach from that date. The new approach will be compulsory for all solicitors from 1 November 2016.
- 16 We propose amending the notes to Principle 5 of the SRA Principles 2011 to make clear that, for a solicitor, meeting the competences set out in the Competence Statement is one requirement of providing a proper standard of service in accordance with Principle 5. We indicated our intention to do this in our consultation paper and received no responses which would cause us to change our mind. The Legal Services Board has indicated that it will deal with this change to our guidance under its exemption procedure.

Recommendation: the Board is asked to:

- d) **approve an amendment to the guidance notes under Principle 5 of the SRA Principles 2011 to make clear that, for a solicitor, meeting the competences set out in the Competence Statement forms an integral part of the requirement to provide a proper standard of service in accordance with Principle 5 by including the following statement:**

"For a solicitor, meeting the competences set out in the Competence Statement forms an integral part of the requirement to provide a proper standard of service."

Business/operational/financial impacts

- 17 There are no business, operational or financial impacts arising from the introduction of the Competence Statement for solicitors.

SRA Board
11 March 2015



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Supporting information

Links to the Strategic Plan and / or Business Plan

- 18 Objective 3: Develop the SRA regulatory arrangements and tools to better meet the regulatory objectives and the principles of better regulation and to mitigate emerging risks and anticipate changes in the external environment - the Training for Tomorrow programme of reform is a key priority in delivery of this objective.

How the issues support the principles of better regulation

- 19 The articulation of standards of competence for solicitors as part of the development of a robust assessment of competence at the point of qualification, and the move to an outcomes based approach to continuing competence, is the most effective way for the SRA to achieve its objectives of enhanced flexibility and rigour in assuring standards for solicitors whilst minimising the cost of regulation.

How the action will be evaluated

- 20 We will use responses received to review our approach to developing an assessment framework.

What engagement approach has been used to inform the work (and what further communication and engagement is needed)

- 21 The Competence Statement, Threshold Performance Standard and Statement of Legal Knowledge have been subject to qualitative and quantitative testing, as set out in the response paper. A position statement on continuing competence was issued in October 2014 and publication of a toolkit (including the new Competence Statement) will be made available in Spring 2015.

What equality and diversity considerations relate to this issue

- 22 A full Equality Impact Assessment (EIA) was undertaken in relation to the new approach to continuing competence. An EIA of the assessment of the Competence Statement will be undertaken before the proposed Autumn 2015 consultation on the Assessment Framework.

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Annexes

Annex 1 Response to Competence Statement Consultation

Annex 1



Solicitors
Regulation
Authority

A Competence Statement for Solicitors

SRA response to the consultation
March 2014

Introduction

1. This paper provides a background to, and summary of, the 72 formal responses received during our consultation: *A Competence Statement for Solicitors*. This paper also sets out our response and proposed next steps.

Executive Summary

2. In this consultation we sought views on our statement for solicitor competence - made up of the Competence Statement, Threshold Standard and Statement of Legal Knowledge - and how it could be used as a framework for admission to the profession, as well as a tool to support the new approach to continuing competence for solicitors.
3. We were encouraged that the great majority of responses received were supportive of the Competence Statement. Most respondents agreed that it reflected what they would expect a competent solicitor to be able to do. Some respondents provided comments on the Competence Statement which we have summarised below together with our response to the issues raised. We have also made a number of minor drafting changes as a result of comments received (see Appendix 1).
4. The responses also showed broad support for the Threshold Standard and for the use of the Competence Statement as a tool for continuing competence, although some respondents requested further clarification on how it might be used in practice for this purpose. Our response to these issues is set out below.
5. The widest range of views was expressed on the Statement of Legal Knowledge and views differed between different stakeholder groups. The comments received are summarised below together with our response to the issues raised. We have made a small number of amendments to the Statement of Legal Knowledge as a result of the feedback (see Appendix 1).
6. Respondents also took the opportunity to provide comments on how the competence statement might be assessed as part of the framework for qualification as a solicitor. We are grateful for these comments and propose to issue a further consultation on this issue later this year.
7. Overall, we are encouraged by the feedback received through the consultation exercise and aim to publish final versions of the Competence Statement, Threshold Standard and Statement of Legal Knowledge shortly. All three documents will be kept under review as we develop our approach to assessment.

Background

8. The development of a Competence Statement for solicitors is part of our response to the Legal Education and Training Review (LETR), which called for a greater focus of regulatory attention on the standards we require both at qualification and on an ongoing basis.
9. A competence statement is a model that defines effective performance within an organisation, profession or sector. The statement we have proposed is intended to capture:
 - the competences to be demonstrated in order to qualify as a solicitor; and,
 - the competences to be maintained throughout a solicitor's career.
10. The statement has been drafted so that it:
 - tells consumers what they can expect from their solicitor;
 - tells solicitors what activities are required for effective performance as a solicitor;
 - informs education and training providers about what courses they need to develop to train intending or practising solicitors;
 - shows intending solicitors what they need to demonstrate in order to qualify; and
 - allows practising solicitors to see what they need to do to maintain their competence.
11. When developing the statement, we built a large evidence base around the key activities undertaken by solicitors, and the expectations that consumers of legal services have of the solicitors they instruct. This evidence base included:
 - 44 interviews with solicitors, academics, Legal Practice Course providers, consumer representative groups and individual consumers;
 - three workshops with around 40 participants from different backgrounds at each session, including education and training providers, sole practitioners, City and regional firms; and,
 - establishing a 'Delphi Group' comprising of eight members with experience and expertise in developing professional competence frameworks.
12. The empirical evidence gathered was used to form a robust draft, which was then thoroughly tested through independent online and telephone surveys. Respondents to the online survey included 1070 solicitors from private practice (78%) and in-house practice (22%) across all major practice areas as well as 503 individual consumers of legal services and 204 businesses who had used solicitors in the last three years
13. 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).
14. Prior to the closure of the consultation, we delivered a webinar for interested parties to learn more about our proposals and to provide some initial

quantitative feedback through online voting. The relevant responses are provided in Appendix 2.

15. The responses to this consultation provided an important final stage of testing, ensuring that we had qualitative feedback on the content of the competence statement, and views on its core functions, from a range of stakeholders.

Responses Received

16. We received 72 formal responses to the consultation from a range of stakeholders, including: regulatory bodies, individual solicitors and regulated entities, training providers, representative groups, higher education providers, individual academics, and the Law Society. Appendix 3 provides a list of those respondents who did not state a clear preference for anonymity.
17. We are grateful to those who have provided responses, particularly as in many cases they were detailed and well evidenced. As a result of the consultation, and where there was strong and consistent evidence to do so, we have made a number of changes to the Competence Statement and Statement of Legal Knowledge. These changes are outlined in the response below and visible in the final version of the statement, attached at Appendix 1.

A. The Competence Statement

18. We explained the content and structure of the Competence Statement in the consultation and asked for views on whether the Competence Statement reflected what stakeholders would expect from a qualified solicitor. There was broad support for the structure and content of the Competence Statement although some respondents caveated their response with drafting comments or with more fundamental issues of substance. The key issues raised are summarised below together with our response.

Broad support

19. The vast majority of respondents agreed that the Competence Statement reflected what they would expect a competent solicitor to be able to do:

"The competence framework sets out the relevant skills and competencies required of a competent solicitor."

-The Chartered Institute of Legal Executives (CILEX)

"Yes, the competence statement does reflect what we would expect a competent solicitor to be able to do. It is encouraging that the competence statement deals with a comprehensive range of skills and abilities since it is important that a competence statement should not be a means of watering down standards of competence within the profession."

-The Sole Practitioners Group (SPG)

"We agree this will be a useful tool, particularly for smaller entities which do not have competency frameworks in place..."

-Lewis Silkin LLP

"The Panel has consistently embraced the notion of day one competence and we agree that overall the statement reflects what a competent solicitor should be able to do."

- The Legal Services Consumer Panel

"The statement broadly reflects the capabilities that we would expect of a solicitor who has embarked upon practice in a given field."

-The Law Society

"We consider that the competence statement does generally reflect what we would expect a competent solicitor to be able to do."

- Graham Virgo, Academic, The University of Cambridge

The Association of Law Teachers commented that competence C2 was more properly the responsibility of the entity within which the individual worked, but subject to this said: *"We consider the competences as such to be appropriate and fit for purpose."*

Response

20. We are encouraged that the majority of respondents agreed that the Competence Statement broadly reflects what they would expect a competent solicitor to be able to do. This reflects the feedback we received through our pre-consultation testing. We are also encouraged that the empirical evidence

that we collected during the development phase has produced an accurate and robust Competence Statement.

Additional competences

21. Most respondents did not consider that additional competences should be included in the Competence Statement.

" The contents of the Competence Statement should furnish a newly-qualified solicitor with the ability to pick up further specialist skills and knowledge as their career progresses. Save for the detailed points made elsewhere in this response, we do not suggest the inclusion of any additional competences."

- The Law Society

22. Some respondents felt that the Competence Statement was too broad, and not specific enough:

"We do, however, have a number of concerns with the competence statement itself. Our main concern is that the competence statement is too broad and non-specific. We are unsure how it would ensure competence as a stand-alone document. Whilst it addresses the generic skillset required to be a solicitor, it does not address what would be required should a solicitor wish to be competent in a specific practice area. We recognise that this would be impossible to achieve in one statement – the skillset required to be a competent personal injury lawyer is different to that required to be a competent family lawyer or commercial lawyer, for example. To combat this, we suggest that the SRA statement is seen as a starting point, and further work must be undertaken by the individual to remain competent in their practice area."

- Association of Personal Injury Lawyers (APIL).

Response

23. We are encouraged that the majority of respondents agreed that the Competence Statement included all relevant competences.

24. The Competence Statement is intended to be broad and generic so that it can be applied to the profession as a whole. Some skills required for particular areas are encompassed within it without being explicitly referred to. Statutory interpretation, for example, would be covered within competence B2. Legal aid would be covered within competence C2g. We recognise that solicitors will specialise in certain areas of the law, and as such, will need to apply the competence statement to their individual area. All aspects of professional conduct are encompassed with competence A1, and we do not think it necessary or appropriate to single out particular rules of professional conduct in the Competence Statement.

25. As the response from the Association of Personal Injury Lawyers correctly identifies, it would be impossible to cover - in one statement - the full range of competences of solicitors practising in every field. Nor would it be desirable, even it were possible, to have multiple documents with detailed competences for every particular practice area. We agree that the Competence Statement is a starting point, which firms and individuals may wish to build upon to apply to their own particular practice.

Standard required for practice

26. Some respondents, particularly professional bodies, suggested that the Competence Statement should make clear that the standard required for practice was a high one.

"The competence statement should make it clear that the standard expected of a solicitor is a high one to differentiate a solicitor from someone who does not have that qualification and enable them to cope with what is a very demanding and responsible role."

- Association of South Western Law Societies

Response

27. We agree that it is a hard thing to practise safely and competently as a solicitor. However, we believe that this is better and more accurately communicated through the range of competences specified in the Competence Statement rather than through a statement about the standard being "high" without explaining what that means.

Section A4 - Maintaining knowledge beyond practice area

28. A large number of respondents, particularly individual solicitors and firms, were concerned that the provision in A4c¹ meant that all solicitors need to maintain knowledge of all the areas set out in the document's footnote:

"The main area of concern that we have with the Competence Statement is with A4C. The solicitor has a retainer with the customer to carry out a particular piece of work and whilst general practitioners may be able to spot relevant issues, those who have been practising in a niche area for several years would not be up to date on other areas to spot relevant issues."

- Riverview Law Limited

29. Some respondents felt that this was unrealistic and dangerous, as it would distract them from what they really need to know to do their job.

Response

30. There is an overriding obligation for solicitors to be competent and this requires more than a narrow knowledge of a particular practice area; it requires solicitors to know areas of law which are relevant, even if outside their particular practice area. This wider knowledge is what solicitors gain from broadly based training.

31. Nevertheless, we said in our consultation paper that it was not our intention to require solicitors to maintain knowledge of law which had no bearing on their practice area. To make this clearer on the face of the Competence Statement, we have made an addition to A4c that awareness of background law is only required insofar as is relevant to a solicitor's practice. This is consistent with the provision in A2d (which requires solicitors to maintain an adequate and up-to-date understanding of relevant law, policy and practice). We have also made additions to the footnote to make it clear that solicitors must have awareness of all relevant law which affects their area of practice, regardless of whether listed in the footnote or not.

¹ Competence Statement A4c: *Spotting relevant issues that are outside their expertise and taking appropriate action, using both an awareness of a broad base of legal knowledge (insofar as relevant to their practice area) and detailed knowledge of their practice area.*

Comments on structure and drafting

32. We received a range of comments on the structure and drafting of the Competence statement. These included some confusion amongst respondents on whether the Competence Statement should be read as a whole, or whether particular parts of the statement need to be re-stated elsewhere; a suggestion that 'working with other people' should logically come before managing oneself and own work; and concern that commercial and business management issues were not covered in enough detail.

Response

33. We have amended the Competence Statement to reflect these points, as marked up on the draft at Appendix 1. We have included a note in the Competence Statement that it should be read holistically, so that a requirement in one competence applies to another. For example, the need to act inclusively does not need to be re-stated in other competences, as it applies to them all. We have reorganised the structure of the Competence Statement so that "Working with Other People" now appears as domain C and "Managing themselves and their own work" appears as domain D. Commercial and business management is covered in what was section C3 of the Competence Statement. However, we have enhanced C3a (D3a in Appendix 1), so it now reads: "Demonstrating an adequate understanding of the organisational, *commercial* and financial context in which they work and their role in it".

The Competence Statement as a tool for continuing competence

34. We explained in the consultation that we intend the Competence Statement to be used as both a regulatory and a learning tool for solicitors. It will be incorporated into the SRA Handbook to make clear the importance we attach to the Competence Statement and to solicitors taking appropriate steps to maintain their competence. Solicitors will also be able to use it to identify individual and organisational development needs and to plan relevant training and development activities. We asked for views on whether the Competence Statement would be a useful tool to help entities and individuals comply with Principle 5 of the SRA Principles 2011 and ensure their continuing competence.
35. The majority of respondents welcomed the Competence Statement as a tool for continuing competence. Some respondents expressed confusion about how the Competence Statement should be used in the new approach to continuing competence and a large number called for guidance on how it should be used for this purpose. Some respondents also highlighted the opportunities that will be made available as a result of our new approach to continuing competence.

"As we indicated in our earlier response to the consultation on the new rules for continuing competence, one of our concerns was the lack of clarity surrounding the non-mandatory guidance and the outcomes-focused approach, and the potential for uncertainty that this created. This concern is considerably tempered by the Competence Statement which should assist even the most 'non-reflective' of solicitors, to consider exactly what areas of education and training he or she requires in order to maintain competence (and improve upon it to excellency) with the Competence Statement. Further,

the Competence Statement also alleviates some of our concern surrounding the potential for training budgets to be cut and the resulting potential difficulty for trainee solicitors/newly-qualified and junior solicitors within a firm to persuade a partner that they should have permission to attend training courses..."

-Sole Practitioners' Group

"We believe the Competence Statement will be a useful tool for firms, with the appropriate level of guidance and the inclusion of examples of how competence will and will not be able to be demonstrated."

- Herbert Smith Freehills LLP

"The change in approach to CPD offers firms the opportunity to develop a more holistic approach to development rather than just focusing on attendance at training sessions."

-Berwin Leighton Paisner LLP

Response

36. We are encouraged by the responses that expressed support for our new approach to continuing competence and recognised the opportunities this will provide. We are also encouraged that many respondents could see the usefulness of the Competence Statement as a tool to support the new approach.

37. To support solicitors and entities in moving to the new approach, we will issue a range of online resources, which will include a frequently asked question section on using the Competence statement. The toolkit will also provide advice on.

- ways to reflect on your practice and identify training needs;
- the range of ways in which training needs might be addressed;
- how to record and reflect on training undertaken;
- tools that are available to assist with continuing competence, such as the Competence Statement; and,
- examples of good practice and frequently asked questions.

38. Resources will be available in spring 2015.

B. The Threshold Standard

39. We explained in the consultation that, 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 the point of qualification. We set this out in the Threshold Standard which should be read alongside the Competence Statement. We asked for views on whether the Threshold Standard articulates the standard at which stakeholders would expect a qualified solicitor to work.

40. The majority of the respondents commented that the Threshold Standard was broadly correct. Some respondents indicated that we should explain more clearly the anticipated level of demand required to be demonstrated at the point of qualification to ensure that those seeking admission are able to

satisfy the Threshold Standard. A number of responses were concerned that it was difficult to provide a substantive comment without knowing more details of the assessment framework, and a small number of respondents felt that the Threshold Standard was set either too low, or too high. For example, both Linklaters LLP and Freshfields Bruckhaus Deringer LLP commented that the standard could be set too high. Others thought differently:

“Level 3 seems to be an indicator of low performance. The standard given is what we would expect from paralegals. Therefore, we would have higher expectations set out for newly qualifieds.”

- Mischon de Reya

Response

41. Our research and the majority of responses to the consultation suggest that the Threshold Standard is broadly set at the correct level so we do not propose to make any changes. However, we will keep the Threshold Standard under review when undertaking our work around assessment.
42. We deal with the link between the Competence Statement, Threshold Standard and Statement of Legal Knowledge and how they are assessed in paragraphs 64ff.

C. The Statement of Legal Knowledge

43. The Statement of Legal Knowledge forms part of the Competence Statement and will be of particular assistance to legal education and training providers, who wish to offer suitable training and assessment to prepare individuals for qualification.
44. In our consultation, we asked for feedback on whether 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. We also asked whether it reflected the right balance between the broad qualification consumers understand by the title solicitor, and the degree of focus which comes in time with practice in a particular area.
45. Whilst a majority of respondents who expressed a clear view were positive about the Statement of Legal Knowledge, comments were both divergent and strongly held. Views from regulated entities and individual solicitors were broadly positive; however, responses from higher education providers, academics and representative groups often noted concerns.
46. Many respondents believed that the Statement of Legal Knowledge did reflect, in broad terms, the knowledge that solicitors should be required to demonstrate prior to qualification.

“We generally consider the Statement of Legal Knowledge does strike the right balance. A number of members of the Faculty of Law at the University of Cambridge were consulted about this Statement and there is general consensus that the right balance has been reached.”

-Graham Virgo, Academic, University of Cambridge

"The Statement of Legal Knowledge is a helpful and comprehensive codification of the broad base of knowledge required of a qualified solicitor at the point of admission. It also illustrates that the solicitor qualification and the licence to practise it provides is rooted and contingent on a broad understanding of a full spectrum of legal knowledge."

- Paulo Karat

"It is considered that the Statement of Legal Knowledge does strike a balance between what a consumer understands by the title of solicitor and the degree of focus needed in specialist areas. The list, though detailed, does not cover all areas but does fully cover the highly specialised nature of legal practice today."

-Government Legal Service

"The Statement of Legal Knowledge does strike the right balance and reflects the technical knowledge one would expect through the qualification process."

-Burgess Salmon

"The Statement of Legal Knowledge does strike the correct balance, in our view, 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. It is extremely important that all solicitors have this basic underpinning of legal knowledge at the point of qualification, in order to ensure that they can go on to meet the competency standards, particularly those set out at A3 and A4 of the draft competence statement."

-Sole Practitioners' Group

Response

47. We were pleased that many respondents agreed that the Statement of Legal Knowledge reflected the right level of knowledge required of a solicitor at the point of qualification. This is consistent with the messages we received prior to the consultation.

Gaps in the Knowledge Statement

48. A large number of comments were submitted from the profession suggesting that additional areas should be included in the Knowledge Statement. A regular comment, for example, was that employment, intellectual property and family law should feature. Many respondents, particularly representative groups, argued that their own specific area of practice should be included.

50. Others understood that the Knowledge Statement was not intended to capture all areas of practice:

"The statements of Legal Knowledge underpinning the competence statement are broad, and we accept that they are not to be viewed as comprehensive syllabi as an individual will have detailed knowledge of his/her own area of specialism/work but sufficient awareness outside of their expertise."

-Birmingham Law Society

51. Some responses suggested that the reserved areas of practice were no longer required:

"We no longer believe it is necessary for probate (wills and the administration of estates) to form part of the Statement of Legal Knowledge. This is a stand

alone area that is easily identified without the need to have a broad base knowledge of this area. It is believed that the inclusion of this area is a hangover from the days when a high street practice was the prevalent business model. Conversely, consideration should be given to including employment law as this is a far more pervasive area and an area we believe all solicitors should have a broad knowledge base."

-Nottinghamshire Law Society

52. However, others took an opposite view:

"The Statement of Legal Knowledge, as is essential, covers the reserved activities and broadly reflects the legal knowledge requirements of the present system."

-The Law Society

53. Some respondents felt that the Statement of Legal Knowledge did not contain enough detail. The City of London Law Society, for example, thought that the Statement of Legal Knowledge needed to give a sense of the depth of coverage required as well as the breadth.

"A list of topics gives no sense of the depth of knowledge that is required or the lateral coverage. It will be entirely open to interpretation and will create great uncertainty at all levels."

- The City of London Law Society

54. The University of Law echoed this view:

" The University of Law does not believe the statement of legal knowledge adequately reflects the knowledge that a solicitor should be expected to possess in order to practise in the UK. Our contention is that this statement will fail to ensure that solicitors have the depth of knowledge that is required in order for them to practise effectively. The statement is light on detail, ambiguous and will be open to interpretation."

- The University of Law

54. The view that the Knowledge Statement was too limited was accompanied by the view that it represented a more restricted body of knowledge than is currently required of intending solicitors:

"The University of Law is confident that any move to limit the body of knowledge held by a solicitor will cause concern across the industry and encourage our international competitors to present the move as dilution of standards - at great cost to legal education in the UK."

- The University of Law

"We.... question whether there is a call for a radical rolling back of what is required to be studied as the legal knowledge requirements."

- The City of London Law Society

Response

54. Making qualification as a solicitor less robust or rigorous does not form any part of our plans. Whilst the Statement of Legal Knowledge does not include subjects currently covered in Part 2 of the LPC (the elective subjects), it is not a requirement of the current system that a solicitor must have studied

any of these subjects to be admitted to the profession or to practise in the relevant area.

55. The Competence Statement and Statement of Legal Knowledge were developed to be broad and cover the key areas that we expect a solicitor to know. The areas of knowledge that have been included were identified, through our research, as being the core building blocks of solicitor competence. This same research, and subsequent testing, also confirmed that family law, employment law and intellectual property law did not form part of this.
56. The reserved activities, as set out in Section 12 and Schedule 2 of the Legal Services Act, are at the heart of what we regulate. Without including the reserved activities in the Statement for Underpinning Legal Knowledge, we would not be able to authorise persons to carry out reserved work. For that reason, we believe it is essential that they are included.
57. We recognise that there are many areas outside these key building blocks and areas of practice that have not been included. As noted previously, individuals will need to have a detailed knowledge of their own areas of work and specialism. We do not think it would be helpful to list all areas of practice, or specify the knowledge required for them.

Too much detail

58. In contrast to the view that the Knowledge Statement was lacking in detail and too narrow, a number of other respondents, particularly (but not exclusively) universities, expressed a view that the knowledge statement was too detailed, too prescriptive and too wide:

"...[The Knowledge Statement] is both overly broad and too detailedthere is a danger of over-regulation in setting out the different areas of legal knowledge in such detail, and this brings with it the possibility that the development of the solicitors' profession may be unnecessarily stifled."

- The Society of Legal Scholars

"We strongly suggest that the potential implications of an unnecessarily detailed Annex C for academic freedom are seriously considered. There is a public interest in the SRA adopting as a matter of policy the principle that it not take steps that might undermine the appeal of academic law degrees to those who have no interest in becoming practising lawyers, and the principle that academic legal research and research-based teaching is valuable to the nation."

- The University of Sheffield Law School

"The SLK needs to be stated at a broader level. All solicitors should be required to demonstrate an understanding of the following: legal systems [England and Wales, EU and international]; civil, criminal and public law; evidence and procedure.

However, within those broad areas we would expect less prescription than the headings currently suggest. There is no obvious reason why wills and administration of estates, tax and real property are required to the exclusion

of, for example, family, employment and environmental law. We would recommend that there are indicative rather than prescriptive subjects within the broad areas.

The SLK subjects contain unnecessary prescriptive detail. Again if the core areas or subjects are to include details of topics these should be indicative rather than prescriptive. This would be consistent with the current requirements for the QLD."

- The Committee of Heads of Law Schools (CHULS)

" The Statement of Legal Knowledge is too prescriptive and we do not think that it can practically be used in a meaningful way to define competence."

- Linklaters

Response

59. We recognise that the Statement of Legal Knowledge prescribes a level of detail beyond what is currently included in the Joint Statement². It is inevitable, as we shift our regulatory focus to standards rather than process, that this will involve prescribing outcomes more closely, whilst at the same time relaxing regulatory requirements about how those outcomes are achieved.

60. We do not agree that our approach undermines academic freedom. It is for universities to decide what they wish to teach. It is for the SRA to prescribe what a competent solicitor must be able to do and therefore what the requirements are for admission to the profession. Universities and other education and training providers can choose what role they wish to play in preparing students for practice as a solicitor.

Knowledge Statement - Conclusion

61. As can be seen from this summary, views on the Knowledge Statement were divergent, as well as strongly held. Where amendments were suggested, there was rarely consensus about what they should be. For the time being, therefore, we do not propose making further amendments beyond those marked on the draft attached at annex 1, although we will keep this document under review as we develop our proposals for initial qualification.

Assessment and other issues

62. We explained in the consultation that, having defined the competences that solicitors must have and the Threshold Standard, we also need to have in place mechanisms which assure us that they have been met.

63. A large number of respondents took the opportunity to comment on issues relating to the development of an appropriate assessment framework. Broadly the issues raised can be summarised as follows.

² A Joint Statement issued by the Law Society and the General Council of the Bar on the Completion of the Initial or Academic Stage of Training by Obtaining an Undergraduate Degree, September 2002

The Competence Statement and the pre-qualification assessment framework

64. A large number of respondents stated that it was hard to comment on the Competence Statement, and its associated documents, without understanding how, or when, they would be assessed:

"CDLS considers that the competence statement reflects what a competent practising solicitor should be able to do. However, CDLS is concerned about how a solicitor's competence should be assessed."

- Cardiff and District Law Society

"We appreciate that the SRA will consult on the assessment of the competence statement at a later date. However there is such a strong link between the competence statement and the assessment process that the absence of a scheme of assessment linked to the competence statement is a flaw in the consultation which renders it incomplete."

- Association of South Western Law Societies

"It is not clear to us when [competences] would be assessed."

- The Committee of Heads of Law Schools (CHULS)

65. Similarly, the Society of Legal Scholars commented:

"We note that the SRA has chosen to move first on drawing up the Statement and secondly on arrangements for assessment. However, it is our view that these two aspects are inextricably intertwined. We would welcome a formal commitment by the SRA that both elements will be finalised together, leaving it open for provisional views on the content of the Statement to be modified in the light of the outcomes of the work on assessment."

- The Society of Legal Scholars

Graduateness

66. Some respondents, particularly, but not only, universities and the Learned Associations in Law, were concerned to ensure that qualification as a solicitor was tied explicitly to graduateness:

"To summarise our position, it is that we find it highly surprising that the SRA appears thus far to be prepared to depart so far from the consensus of the international legal profession, and also from the consensus of professional bodies in different disciplines in England by divorcing its competences completely from the QAA Framework and also by ignoring the reality that a recognised higher education qualification in law is the international yardstick for recognition as a full legal professional. This carries with it a clear risk that the solicitor qualification will cease to be regarded in the context of the provision of legal services internationally as a 'full' legal professional qualification."

- Association of Law Teachers

"The University of Law believes that the law should remain principally a graduate profession and prescribed pathways of learning must be retained in order to equip an individual with the knowledge to practise as a solicitor."

- The University of Law

"A university degree is not the only way of starting a career in the law, but it is a very good one; higher education is good for the individual, society and the economy and the system of legal education and training should encourage prospective lawyers to take this route. This could be achieved through retaining appropriate exemptions from further assessment for law graduates or those who have completed a GDL."

- The Law Society

"Graduate level education brings with it an intellectual rigour and discipline which is essential to the practice of law."

- The City of London Law Society

Transitional arrangements

67. A number of education providers, academics and firms were concerned with transitional arrangements, particularly citing the need to ensure current and future cohorts of students are aware of the changes and are not adversely affected by them. Some academic respondents also pointed out the length of time it can take universities to revised their courses:

"Legal education providers mostly operate within larger institutions in the university sector. There is a long planning cycle for institutions and for prospective students. Information about QLDs (or any replacement qualification route) and systems of assessment has to be publicly available a least two years before a prospective student or aspiring solicitor embarks on the education and training process."

- The Committee of Heads of Law Schools (CHULS)

Response

68. We took the decision in our work to review the training and assessment framework to start by defining the standard before we developed the assessment model. We have already stated that it is our expectation that the Competence Statement and its associated documents will naturally evolve with time and we will keep them under review on an ongoing basis. We agree with respondents' comments that we need to ensure the competences are fit for purpose within the assessment framework which is eventually adopted and therefore we will keep them under review as part of our work in relation to assessment.

69. So far as the assessment for admission is concerned, we anticipate that additional guidance will be required, beyond the three documents on which we have consulted, to communicate more accurately the level of demand and learning outcomes required for assessment. We will provide more details on our approach for assessment and the level of demand in a further consultation later this year.

70. We agree that it is important to give early guidance about transitional arrangements and we will issue a statement by July 2015.

Assessment options

71. A number of respondents expressed views on the three assessment options set out in paragraph 33 of our consultation paper. Respondents often expressed the desire to retain the status quo and stressed the need for any new approach to be rigorous and to maintain high standards. A strong desire was also expressed by some respondents that any new assessment

framework should preserve the current requirement for a recognised period of work-based training.

Response

72. We are grateful for these early views on the approach to assessment and we will take these into account in our development of the assessment framework. We will publish a further consultation setting out our proposed approach to assessment later this year. As we have already stated, our approach in this work will be to ensure that any new assessment framework:

- validly assesses the competences required for safe practice as a solicitor;
- is consistent and reliable;
- is fair;
- is feasible; and
- encourages innovation and flexibility in legal education and training.

73. We believe that an assessment framework which meets these criteria will provide both a high level of protection for consumers of legal services and a high degree of confidence in the profession, both in this country and internationally.

Next steps

74. The Competence Statement and its associated documents will be published on the SRA website shortly.

75. We will be using the Competence Statement and its associated documents as the foundation for our work in developing assessment, and as noted, we will publish a consultation on how we will assess it later this year. We wish to have a full and ongoing dialogue with stakeholders as our work progresses.

Appendix 1

Statement of solicitor competence

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.

The competence statement should be read holistically. By way of example, the requirement in A1d to respect diversity and act fairly and inclusively pervades all areas of work and underpins all of the competences in the statement.

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 lawyer
 - c. Identifying the relevant SRA principles and rules of professional conduct and following them Resisting pressure to condone, ignore or commit unethical behaviour
 - d. 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 knowledge³ (insofar as relevant to their practice area) 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

³Legal 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, law of organisations business-law-and-practice (including company/commercial-law) and taxation, and other areas relevant to the solicitor's particular field of practice

- 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.

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 advocacy⁴, 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
- h. Identifying strengths and weaknesses from different parties' perspectives

B6 Negotiate solutions to clients' 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

C Working with other people

⁴ Note this applies to advocacy both in and out of court

C1 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

C2 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

C3 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

D Managing themselves and their own work

D1 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

D2 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

D3 Apply good business practice, including

- a. Demonstrating an adequate understanding of the commercial, organisational and financial context in which they work and their role in it
- b. Understanding 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 onto accounting and financial matters
- d. Managing available resources and using them efficiently

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	Unlikely to be satisfactory unless closely supervised on a task by task basis	Needs close supervision or instruction	Unable to do more than 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 awareness of legal principles to develop and critically evaluate a range of options to overcome dilemmas and problematic situations	Excellence achieved with ease	Takes full responsibility for outcomes of case or transaction	Deals with complex transactions intuitively and with ease; confident decision-maker	Understands clearly the strategy for the case/transaction and alternative approaches to deliver it within a vision of what may be possible.	Develops innovative solutions and ways forward in complex and unpredictable situations	

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Statement of 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

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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

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- 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. Law of organisations ~~Business Law and Practice (including company/commercial law)~~

4a. Business ~~and organisational~~ 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; [Land Registration Act 2002](#)

5c. Estates and interests in land [and their transfer](#): freeholds, leases, mortgages, easements; and rights over land: licences, tenancies at will

5d. The trust of land and co-ownership

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- 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

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- 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

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- 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)

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- 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

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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

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Appendix 2

Webinar Responses

Do you think the Competence Statement captures all the core activities a solicitor should be able to do?

Yes	No
69	11

Those of you who said the Competence Statement does not capture all of the core activities a solicitor should be able to do, what are the most important gaps/omissions related to?

Ethics/professionalism and judgment	Technical legal practice	Managing yourself and your work	Something else
3	3	2	5

Does the Threshold Standard accurately describe the level required for initial qualification?

Yes	No it is set too low	No it is set too high
53	9	5

Does the Knowledge Statement capture the core areas of law solicitors need to know?

Yes it captures the core areas of law solicitors need to know	No it refers to too many areas of law including some that solicitors do not need to know	No it does not capture enough of the areas of law that solicitors need to know
60	14	9

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Breakdown of respondents by sector

Regulated Firm	Sole Practitioner	Education	Other	Unknown
61	4	6	11	7

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Appendix 3

List of respondents who did not clearly state a preference for anonymity.

Adrienne Edgerley Harris
Alison Devlin
Andrew Sanders
Angus Lyon
Association of Law Teachers
Association of Personal Injury Lawyers
Association of South Western Law Societies
Association of Women Solicitors, London
Berwin Leighton Paisner LLP
Birmingham Law Society
British and Irish Association of Law Librarians
Burgess Salmon
Cardiff Law School, Cardiff University
Cardiff and District Law Society
Central Law Training
Christopher Bryan
CHULS
City of London Law Society
Cripps LLP
Devon & Somerset Law Society
DLA Piper
E. S. Singleton
Freshfields Bruckhaus Deringer LLP
Government Legal Service
Graham Virgo
Herbert Smith Freehills LLP
Hertfordshire County Council
Immigration Law Practitioners' Association
Jennifer Woodyard
Land Registry
Laurence Mann
Law Centres Network
Legal Services Consumer Panel
Leicester De Montfort Law School, De Montfort University
Lewis Silkin LLP
Linklaters LLP
Liverpool Law Society
MASS Training
Mental Health Lawyers Association
Mishcon de Reya
Michael Draper

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Monmouthshire Law Society
Newcastle upon Tyne Law Society
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Resolution
Riverview Law Limited
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Sheffield Hallam University
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Society of Legal Scholars
Socio-Legal Studies Association
Sole Practitioners Group
The University of Sheffield Law School
The Bar Council
The Chartered Institute of Legal Executives
The Law Society
Tim Press
Timothy Dempster
Tunbridge Wells and Tonbridge District Law Society
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