



**Response to SRA Consultation  
Training for Tomorrow: A Competence Statement for Solicitors  
20 October 2014**

**I Background**

1. While this is an individual response of CHULS, given the imperative that the four Associations attach to this matter we have met on several occasions to discuss the proposals and are continuing to meet. You will see that the views of all the Associations are closely aligned.
2. The Committee of Heads of University Law Schools (CHULS) consists of the heads of every United Kingdom university law school/department funded by the higher education funding councils.
  - 2.1. The work of CHULS focuses on issues of concern to the heads of law schools, including:
    - The development of policies which may have an impact upon legal education in the university sector and their administration;
    - the representation of the views of heads of law schools to organisations involved in legal education;
    - the organisation of responses to official consultation papers, whether from government or from the legal professions;
    - the dissemination of good practice concerning legal education and assisting in the promotion of good management practice in law schools;
    - the running of events for its members including principally an annual conference;
    - liaising with other learned societies in the academic law sector;
    - work is undertaken on behalf of the membership by the Executive Committee, currently chaired by Mrs Sheree People, Head of the de Montfort Law School.
3. 100 or more UK law schools provide Qualifying Law Degrees and Graduate Diplomas (or senior status law degrees).
  - 3.1. there are over 600 QLD courses available across the UK and the Republic of Ireland<sup>1</sup>

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<sup>1</sup> LETR The Future of Legal Services Education and Training Regulation in England And Wales June 2013, para 2.10

- 3.2. The LPC is offered by 29 institutions with 6035 full time and 2793 part time students in 2012-13.<sup>2</sup>
- 3.3. The BPTC is offered by 8 institutions with 1682 places in 2011-12.<sup>3</sup>
4. CHULS is therefore singularly well placed to provide an informed and expert response to the Consultation Document, and particularly to questions 3, 4 and 5.

## II General observations

5. We will refer to these general observations in our responses to specific questions.
  - 5.1. We note that views are sought on the standards we should expect of solicitors when newly qualified and subsequently (Foreword, para 1) and that the 'education and training requirements can then be geared to support the acquisition and retention of these standards'. (Foreword, para 3)
  - 5.2. We note the claim that the Competence Statement has been developed following 'an extensive exercise involving solicitors...academics, vocational course providers and consumers.' (Foreword, para 5). This comprised 44 interviews followed by three workshops with 40 participants in each session (TfT, para 9). Given the wide spread of stakeholders involved, these are very small numbers on which to be basing the new framework.
  - 5.3. We note that work on the framework for assessing the Competence Statement is 'at an early stage' (para 32).
  - 5.4. We note that the Competence Statement is divided into four domains: ethics, professionalism and judgement, technical legal practice; managing yourself and your work; working with other people (TfT para 16). There is an explanation of the rationale for 'ethics' being the first element (para 18) which is followed by a paragraph on 'legal knowledge' (para 18). We are not clear where 'legal knowledge' fits within the four domains. The Competence Statement refers to 'knowledge' (and equivalents) in A4, B2, B3, B4, C2 and C3.
  - 5.5. The Statement of Legal Knowledge 'which solicitors will need to demonstrate they have prior to qualification' forms one of three elements in the 'framework for initial qualification' (para 23) and is intended to 'guide curriculum design for education and training providers' (paras 21, 28).
  - 5.6. We note that there is no indication of the level or standard to be attained in relation to these areas. There are references to 'sufficiently detailed knowledge' (para 19), to 'an awareness of background legal knowledge sufficient to spot relevant issues' (para 20) and 'background awareness' (para 21).
  - 5.7. This raises a number of questions the answers to which would affect our responses to the Consultation questions:
    - 5.7.1. At what level and in what detail will the Statement of Legal Knowledge need to be demonstrated?
    - 5.7.2. How (and when – see later) and by whom will it be assessed?

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<sup>2</sup> LETR para 2.15

<sup>3</sup> LETR para 2.21

- 5.8. These observations taken together suggest that the emphasis in Tft on substantive standards rather than process (Foreword para 4) assumes a rather unrealistic and impractical division between the achievement of standards across the four domains and the methods and stages through which those are developed and assessed. The fallacy at the heart of the SRA proposals (in Foreword para 4) is the conflation of ‘process’ with ‘procedure’. There is no merit in procedure per se, but the *educational process* is another matter. The *process* of studying for a QLD integrates general intellectual skills (vital to become a professional, and common to most degree subjects), specifically legal skills, and legal knowledge. All are developed from a basic level in year 1 to a relatively sophisticated level by the end of the degree programme. Going through this process makes it unnecessary for graduates to ‘know’ any particular area of law because they have their proven ability to apply their intellectual and legal skills to any topic. One would not expect their level of knowledge of subjects studied at year 1 to be the same as for those studied in their final years, but that would not matter. The non-law graduate with a CPE/GDL is in a similar position. We do not believe that one test or set of tests, all carried out at one time, would take account of this.
- 5.9. If approaches (b) or (c) are taken to the assessment framework (ie no longer requiring QLD/CPE + vocational education + training contract) it is not clear to us when students would be expected to demonstrate their competence. Logically it would be following a training contract (or whatever on-the-job-training might replace it). But if this is done, the question arises as to what students would be expected to know and understand in advance of that training. Students can learn a huge amount in the course of a 2-year training period, and can realistically be expected to do so if they have a high quality graduate level education following the process outlined above. It would be strange to expect students to learn detailed legal knowledge best learned on-the-job in advance of starting training. But how are firms to select students for training if there are no standards set for incoming trainees? This seems to us to create a potential issue of access for those from pathways not well known, or perhaps not well known, to firms. Assessments on the current lines or as envisaged in para 33 c would provide firms with the basis for selection – but what parts of the SLK would students be expected to grasp for that exam, and what parts would be left to learn during training?
- 5.10. We are concerned that there should be a full and ongoing dialogue with the current education providers before any changes are made.
- 5.10.1. The pathways to qualification need to be fully costed in order to make evident how they will enhance diversity of entry to the profession. In particular there needs to be consideration of the importance of access to student loans.
- 5.10.2. 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.

### III Responses to Consultation Questions

**Consultation question 1**

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

CHULS response:

1. The Competence statement is comprehensive. Many parts of each domain are currently covered by the legal education stage (university law degrees, QLDs, GDLs) viz:

A1 a, b, e;

A2a-d;

A3 b-d;

A4 a, b and c (in part);

A5 a – e;

B2;

B5a-d, g;

C (in part).

In respect of the others we believe the LPC already incorporates some of them.

2. CHULS represents the vast majority of the institutions currently engaged in providing (including assessing) the academic stage and many of us also provide the vocational stage. The Consultation talks generically of 'education and training'. It would be helpful to have some clarity on the mapping of the different stages of education and training against the domains in the Competency statement
3. Something about skills?

**Consultation question 2**

*Are there any additional competences which should be included?*

[.....]

**Consultation questions 3 and 5**

**We see these questions as interlinked and deal with them together.**

**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?*

**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?*

CHULS response

4. Our response should be read in conjunction with our General Observations (in particular paras 5.5 to 5.7). In our view it is not possible to provide a full response to these questions without more explanation and work on what levels of knowledge would need to be achieved, and how and when they would be assessed. The 'right balance' would depend on

levels and standard to be achieved and by when. This lack of clarity suggests to us a possible inconsistency between ‘background awareness’ (as in para 28) and the threshold standard of ‘identifying legal principles and applying them appropriately and effectively to individual tasks’. The level of detail in the SLK would not realistically be held, or could sensibly be expected of a Day 1 qualified solicitor.

5. 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.
6. 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.
7. 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

**Consultation question 4**

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

**CHULS response**

As indicated in our response to question 5 the threshold standard is potentially high in relation to what is called ‘functioning knowledge’. Expecting at Day 1 that a solicitor could apply the relevant legal principles appropriately and effectively would depend on what is meant by ‘the area of practice’.

**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?*

[...]

**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?*