



Solicitors  
Regulation  
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# Solicitors Qualifying Examination

## Draft Assessment Specification

June 2017

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# Preamble to the 2017 draft Assessment Specification

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## About the SQE

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In April 2017, the SRA Board agreed to introduce the Solicitors Qualifying Examination and the new approach to qualification. New regulations will come into effect from September 2020,<sup>1</sup> and anyone wishing to qualify as a solicitor will need to:

- have a degree or equivalent
- have completed a minimum period of qualifying legal work experience
- have passed the Solicitors Qualifying Examination (SQE)
- have satisfied our character and suitability requirements.

## Background to the Assessment Specification

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A draft Assessment Specification for the SQE was developed in 2016 by a small working group of legal academics and solicitors, supported by technical assessment experts, to explain what the design and content of an assessment of the Statement of Solicitor Competence (SoSC) could look like.

We asked for feedback on the draft Assessment Specification as part of the [second consultation](#) on the SQE.

Most of the feedback we received was about the proposed assessment methods, in particular the use of MCQs in stage 1 of the SQE. We received only a limited amount of detailed feedback on the content to be assessed by the SQE.

We have addressed some of the feedback on content in this version of the draft Assessment Specification. However, we feel that most of the feedback is best addressed through a period of pre-implementation development and testing before the SQE is introduced. The questions we wish to consider during this period are set out below.

- What is the minimum number of separate assessments required in stage 1 to reliably and validly assess the functioning legal knowledge we have set out in the Assessment Specification and Summary of Functioning Legal Knowledge (SFLK)? For example, by sampling more widely, could the same knowledge be assessed through fewer separate assessments? Should the assessments be taken in one session, or should they be modularised and taken over time?
- What number, format and type of questions and length of assessments will most reliably and validly assess the functioning legal knowledge we have set out in the Assessment Specification and SFLK? How might open book assessments be used within the SQE?

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<sup>1</sup> Transitional arrangements will be in place for anyone who started a QLD, GDL, LPC or PRT before the new regulations come into effect.

<ul style="list-style-type: none"> <li>What should the balance of practical legal skills assessments be between stage 1 and stage 2? For example, could legal drafting be reliably and validly assessed at stage 1? Could the stage 1 practical legal skills assessments be assessed at a different time from the functioning legal knowledge assessments?</li> </ul>
<ul style="list-style-type: none"> <li>What is the most valid, reliable and manageable way to assess Rights of Audience? For example, could Rights of Audience be assessed at stage 1?</li> </ul>
<ul style="list-style-type: none"> <li>What is the minimum number of separate assessments required in stage 2 to reliably, validly and cost-effectively assess the SoSC? For example, could fewer more synoptic assessments, covering a broader range of competences, be used at stage 2?</li> </ul>
<ul style="list-style-type: none"> <li>In what range of practice contexts should the stage 2 practical legal skills assessments be assessed? What is the impact of candidate choice and prior work experience on the reliability of assessments set in different practice areas?</li> </ul>
<ul style="list-style-type: none"> <li>What are the benefits and risks of retaining a non-compensatory standard setting model, as currently proposed, as opposed to a total compensatory or a partial compensatory (within clusters of competence) standard setting model?</li> </ul>
<ul style="list-style-type: none"> <li>When in the academic/calendar year, and how frequently, should the SQE assessments be available?</li> </ul>
<ul style="list-style-type: none"> <li>In addition to the Assessment Specification, what further information can and should be provided to enable universities, training providers and employers to prepare candidates for the SQE?</li> </ul>

This period of pre-implementation development and testing will begin after we have appointed the assessment organisation for the SQE in early 2018.

We will do this in a transparent and consultative way and work closely alongside all those, from academics to law firms, who have the expertise to help us get this right.

## SQE assessment approach

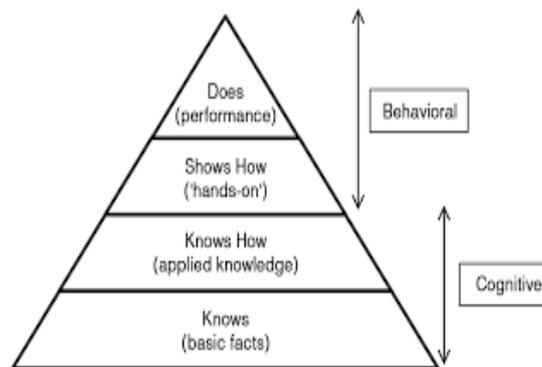
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In April 2015 we published a Statement of Solicitor Competence (SoSC) (annex 1), which sets out what solicitors need to be able to do to perform their role effectively and which provides consumers of legal services with a clear indication of what they can expect from their solicitor. The SoSC is supported by an underpinning Statement of Legal Knowledge (SLK) and a Threshold Standard, which describes the standard at which an individual can effectively use the title of solicitor and practise safely.

The SQE has been designed to establish the competence of candidates by the time they qualify as a solicitor. Therefore all candidates who have passed the SQE will have demonstrated the competences specified in the SoSC to the standard expected of a newly qualified solicitor as set out in our Threshold Standard. Annex 3 maps the SQE to the SoSC.

The SQE model we have developed uses Miller's pyramid<sup>i</sup> to provide a framework for the assessment of solicitor competence. Miller's pyramid is used extensively for the assessment of professional competence, including within medical and dental training.

### Miller's pyramid



### **SQE stage 1**

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Stage 1 assesses the Functioning Legal Knowledge required for effective practice – the 'knows' and 'knows how' of Miller's pyramid.

The depth and breadth of legal knowledge required of candidates is that of Functioning Legal Knowledge. This means that a candidate should be able to:

- identify relevant core legal principles or rules – whether derived from cases, statutes or regulatory sources
- apply them appropriately and effectively to client-based and ethical problems and situations encountered in practice.

Stage 1 does this through six assessments which integrate substantive and procedural law and also test ethical judgment:

- Principles of Professional Conduct, Public and Administrative Law, and the Legal Systems of England and Wales
- Dispute Resolution in Contract or Tort

- Property Law and Practice
- Business Law and Practice
- Wills and the Administration of Estates and Trusts
- Criminal Law and Practice.

These assessments use computer-based, objective testing, employing a range of question formats, including single best answer questions (SBAs) and extended matching questions (EMQs). These question formats usually include a scenario and/or other stimuli (written information, data, visual images, documents) where candidates have to apply their knowledge to the given context. Further information about the structure of the question formats is provided in annex 4.

Stage 1 also includes one practical legal skills assessment. This assesses the skills of legal research and writing through one research task and two writing tasks. Candidates complete all the assessment tasks on a computer. This task is intended to test whether candidates have a threshold skill level to enable them to work effectively in professional legal services in an unqualified capacity. In stage 2, the competences of legal research and writing are assessed again but at the standard required to practise effectively.

Candidates must take all assessments in secure examination centres.

Candidates must pass all assessments. Performance on the assessments is not graded beyond pass or fail but candidates will receive their score for each assessment.

## SQE stage 2

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Stage 2 assesses candidates' ability to carry out practical legal tasks, each assessing a number of elements from the SoSC, focusing primarily on the 'shows how' of Miller's pyramid. This is done through five assessments:

- Client Interviewing
- Advocacy/Persuasive Oral Communication
- Case and Matter Analysis
- Legal Research and Written Advice
- Legal Drafting.

Each assessment includes one or more tasks that a newly qualified solicitor would be expected to be able to carry out with minimal or no supervision.

Client Interviewing, Advocacy/Persuasive Oral Communication and Case and Matter Analysis are assessed through role-play exercises with trained actors playing the part of clients, colleagues or decision makers.

For the Legal Research and Written Advice assessment, candidates are asked to use a legal database to complete a research task and produce written advice for a client.

For the Legal Drafting assessment, candidates are asked to produce legal documents, both freehand and by reference to an electronic precedent bank. All written tasks are completed on a computer.

The assessments are set in a range of practice contexts to provide a platform for the assessment of competence. They assess the core competences required for effective practice, including ethical and professional conduct, but do not assess legal knowledge.

Primary legal resources will be provided to candidates. Although the stage 2 assessments are assessing skills, the candidate cannot be competent in a skill area if they misconceive the law. If candidates are not able to correctly identify and apply legal principles or ethical considerations, they will fail the assessment.

The assessments will be set in two different contexts from the following list:

- Criminal Practice
- Dispute Resolution
- Property
- Wills and the Administration of Estates and Trusts
- Business Practice.

Candidates must take all ten assessments in secure examination centres.

They must pass all assessments. Performance on the assessments is not graded beyond pass or fail but candidates will receive their score for each assessment.

Overview of the SQE	
Stage 1	Stage 2
<p><b>6 x Functioning Legal Knowledge Assessments:</b></p> <ul style="list-style-type: none"> <li>• Principles of Professional Conduct, Public and Administrative Law, and the Legal System of England and Wales</li> <li>• Dispute Resolution in Contract and/or Tort</li> <li>• Property Law and Practice</li> <li>• Business Law and Practice</li> <li>• Wills and the Administration of Estates and Trusts</li> <li>• Criminal Law and Practice.</li> </ul>	<p><b>2 x 5 Practical Legal Skills Assessments:</b></p> <ul style="list-style-type: none"> <li>• Client Interviewing</li> <li>• Advocacy/Persuasive Oral Communication</li> <li>• Case and Matter Analysis</li> <li>• Legal Research and Written Advice</li> <li>• Legal Drafting.</li> </ul> <p>All five assessments must be taken and passed in the same two practice contexts, making a total of ten assessments.</p> <p>The practice contexts are: Criminal Practice; Dispute Resolution; Property; Wills and the Administration of Estates and Trusts; Business Practice.</p>
<p><b>1 x Practical Legal Skills Assessment:</b></p> <ul style="list-style-type: none"> <li>• Legal Research and Writing.</li> </ul>	

# Arrangements for assessment

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## Location and frequency of assessments

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The SQE assessments are available in specified assessment windows.

Stage 1 assessments are available in designated examination centres across England and Wales and internationally.

The stage 2 Legal Research and Written Advice and Drafting assessments are also available in designated examination centres across England and Wales and internationally. To make sure that the assessments are comparable and consistent, the remaining three role-play stage 2 assessments are only available in designated examination centres in England and Wales.

Candidates are required to provide proof of identity before they can sit the assessments.

### Pre-implementation development and testing

The number and timing of assessment windows will be agreed with the Assessment Supplier, but our starting point is that there should be a minimum of two assessment windows or sessions per academic year.

## Entry rules, number of attempts and period of validity

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### Stage 1

All candidates must take all Stage 1 assessments in a single assessment window.

Candidates have three attempts to pass each stage 1 assessment. If they fail any of the stage 1 assessments, they must resit the assessment they have failed. Candidates are not allowed to resit to improve their marks. Only candidates who have failed are able to resit. They must take all resits in the same assessment session.

Candidates must pass all the functioning legal knowledge assessments before they start the practical legal skills assessments.<sup>ii</sup>

### Stage 2

Candidates must take at least five stage 2 assessments in the same context, in the same assessment session. They can choose to take all ten stage 2 assessments in the two practice contexts in the same assessment session if they wish.

Candidates have three attempts to pass each stage 2 assessment. If they fail any of the stage 2 assessments, they can resit the assessment they have failed. Candidates are not

allowed to resit to improve their marks. Only candidates who have failed are able to resit. They must resit the assessment in the same practice context and take all resits in the same assessment session.

### **Period of validity**

Candidates have a six-year time frame in which to pass all stage 1 and stage 2 assessments.<sup>2</sup>

If candidates cannot pass all assessments within this time frame, they can sit the stage 1 or stage 2 assessments afresh but their previous assessment results will not be counted towards qualification. This means that candidates must sit all seven stage 1 and all ten Stage 2 assessments again.

### **Setting the pass mark**

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The pass mark for each of the assessments is determined through the use of criterion-based standard-setting methodologies, which combine professional judgment and statistical analysis of candidate performance.

We use the Modified Angoff procedure to determine the pass mark in the Functioning Legal Knowledge Assessments and borderline regression to determine the pass mark in the stage 1 and stage 2 Practical Legal Skills Assessment.

These methods are used to make a judgment about the difficulty of each individual assessment and the minimum standard of performance expected of the candidates on that assessment. The minimum standard of performance for the stage 2 assessments is aligned to the standard expected of a newly qualified solicitor as articulated in the Threshold Standard.

The 'raw' pass marks for candidates for each assessment, derived through these standard-setting methodologies, are converted to a standardised mark scale to enable us to report consistent performance over time.

Further information about these standard-setting methodologies is provided in Annex 5.

### **Publication of results**

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For each assessment, we make available all candidate results on an anonymised basis.<sup>3</sup> We also publish or report on:

- the standardised pass mark
- the number of candidates who sat the assessment
- the pass rate
- the distribution of candidate scores (for example, by decile, top and bottom marks)

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<sup>2</sup> Starting from the date of the candidate registers for their first Stage 1 assessment to the date they receive their result for the last Stage 2 assessment.

<sup>3</sup> We will exclude small datasets where individuals might be identifiable, in order to comply with the Data Protection Act.

- the proportion of candidates passing and failing the SQE in terms of their protected characteristics (for example, the number of females entered, the percentage of females that passed the SQE stage 1 and stage 2), socio-economic background, prior education and SQE training.

Candidates receive their raw score and standardised score for each assessment, but the individual scores of named candidates are not be made publicly available.

### **Post-assessment analysis**

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We use a range of statistical measures to analyse the performance of assessment items, assessment tasks and the assessments overall from each assessment session to monitor the reliability and validity of the SQE and ensure consistency over time.

# Stage 1

## Overview of the Stage 1 Functioning Legal Knowledge Assessments

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There are six Functioning Legal Knowledge Assessments:

- Principles of Professional Conduct, Public and Administrative Law, and the Legal System of England and Wales
- Dispute Resolution in Contract or Tort
- Property Law and Practice
- Business Law and Practice
- Wills and the Administration of Estates and Trusts
- Criminal Law and Practice.

Candidates must pass all six assessments.

### Coverage of the SoSC

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The assessment objectives for these assessments reflect the following aspects of the SoSC:

<b>A. Ethics, professionalism and judgment</b>
A1 Act honestly and with integrity, in accordance with legal and regulatory requirements and the SRA Handbook and Code of Conduct.
A4 Draw on a sufficient detailed knowledge and understanding of their field(s) of work and role in order to practise effectively.
A5 Apply understanding, critical thinking and analysis to solve problems.
<b>B. Technical legal practice</b>
B3 Develop and advise on relevant options, strategies and solutions.
B7 Plan, manage and progress legal cases and transactions.
<b>D. Managing themselves and own work</b>
D2 Keep, use and maintain accurate, complete and clear records.
D3 Apply good business practice.

## Functioning legal knowledge

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The depth and breadth of legal knowledge required of candidates in any of the assessments is that of functioning legal knowledge. This means that a candidate should be able to:

- identify relevant core legal principles or rules – whether derived from cases, statutes or regulatory sources
- apply them appropriately and effectively to client-based and ethical problems and situations encountered in practice.

Candidates are not required to recall case names or cite statutory authority except where specified and they will not be assessed on the development of the law.

The functioning legal knowledge assessed in stage 1 is summarised in annex 2.<sup>4</sup>

### Sampling the assessment objectives and functioning legal knowledge

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Candidates should expect to be examined on any of the assessment objectives and on any aspect of the functioning legal knowledge specified for an assessment.

Individual examination papers will sample from the specified assessment objectives and functioning legal knowledge, but all aspects will be assessed over time through successive assessments.

### Level of knowledge and understanding

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Each assessment will include questions covering a hierarchy of knowledge and understanding, based on the revised Bloom's Taxonomy.

Level of difficulty	Example
	<i>For a given context/scenario/problem</i>
Questions measuring application of knowledge and understanding	<ul style="list-style-type: none"><li>■ Identify relevant legal principles</li><li>■ Extract relevant information</li><li>■ Extract relevant facts, legal and/or ethical issues</li><li>■ Identify a client's needs, objectives, priorities and/or constraints</li><li>■ Identify relevant procedures and/or processes to progress a matter</li></ul>
Questions measuring analysis and	<ul style="list-style-type: none"><li>■ Evaluate the quality and reliability of</li></ul>

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<sup>4</sup> In developing this Assessment Specification, we have identified where some changes to the 2015 Statement of legal Knowledge (SLK) are necessary. There are therefore differences between this knowledge set out in the SQE Assessment Specification and the SLK. Following pre-implementation testing and development, a revised SLK may be published.

evaluation	<p>information</p> <ul style="list-style-type: none"> <li>▪ Evaluate the strengths and weaknesses of a claim</li> <li>▪ Recognise inconsistencies and gaps in information</li> <li>▪ Recognise logical fallacies in reasoning</li> <li>▪ Identify/ develop and formulate different options</li> <li>▪ Identify the consequences of different options</li> <li>▪ Compare different options</li> <li>▪ Organise facts to support an argument or position</li> </ul>
Questions measuring synthesis	<ul style="list-style-type: none"> <li>▪ Reach reasoned decisions supported by relevant evidence</li> <li>▪ Select/propose options which best address a client's needs, commercial and/or personal circumstances</li> <li>▪ Develop a strategy to advance a client's interests</li> <li>▪ Advise as to a suitable course of action</li> </ul>

### Question format

Each of the six assessments uses computer-based, objective testing, including SBAs and EMQs formats. Some questions may be sequential, based around a common scenario.

#### Pre-implementation development and testing

Through pre-implementation development and testing, we will determine:

- the number of separate assessments
- the number of questions in each assessment
- the weighting given to different assessment objectives in each assessment
- the weighting given to the different hierarchy of questions in each assessment
- the split between different computer-based, objective question formats in each assessment
- the length of time for each assessment.

This information will be added to the Assessment Specification and described in an assessment blueprint for each assessment which will accompany the Assessment Specification.

# Principles of Professional Conduct, Public and Administrative Law, and the Legal System of England and Wales

## Functioning Legal Knowledge Assessment

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### Overview

Candidates are required to demonstrate that they know how to:

- A. Act honestly and with integrity in accordance with legal and regulatory requirements [SoSC A1, A4, A5, B3, B7, D2, D3].
- B. Comply with legal and regulatory requirements in the provision and funding of legal services [SoSC A1, A4, B3, D2, D3].
- C. Apply knowledge of the institutions and operation of constitutional law and EU law to develop and advise on option, progress cases and practise in accordance with the law and legal system of England and Wales [SoSC A4, B3, B7].
- D. Apply knowledge of relevant sources of law to develop and advise on options, progress cases and practice in accordance with the law and legal system of England and Wales [SoSC A4, B3, B7].
- E. Apply knowledge of the operation of the Human Rights Act 1998 and Equality Act 2010 to develop and advise on options, progress cases and practice in accordance with the law and legal system of England and Wales [SoSC A1, A4, B3, B7].
- F. Apply knowledge of the operation of the legal system of England and Wales to develop and advise on options, progress cases and practice in accordance with the law and legal system of England and Wales [SoSC A4, B3, B7].

They are expected to draw on and apply knowledge from the following areas of law and practice:

- Ethics, professional conduct and regulation
- Legal services
- Constitutional law and EU law
- Public and administrative law
- Sources of law
- The Human Rights Act 1998 and Equality Act 2010
- The legal system of England and Wales.

### Assessment Objectives

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Candidates are required to demonstrate that they know how to:

- A. Act honestly and with integrity in accordance with legal and regulatory requirements [SoSC A1, A4, A5, B3, B7, D2, D3].

Candidates might be asked to:

1. Apply the SRA principles and Code of Conduct to professional practice.
2. Recognise the solicitor's duties to the court, the client, third parties, the public, the profession and the regulator.
3. Apply the key aspects of the anti-money laundering legal and regulatory framework to professional practice in the context of dispute resolution, the administration of estates and trusts, property and business practice
4. Identify where anti-money laundering regulations would apply to a solicitor's instructions and advise on steps to comply.
5. Demonstrate an understanding of financial services regulation and what constitutes regulated activity, exempt regulated activities and compliance requirements.
6. Identify with reference to the legal and regulatory framework the best course of action to minimise and manage risk in the solicitor-client relationship.
7. Identify breaches of regulatory outcomes in terms of confidentiality and disclosure, security, data protection, file retention and destruction requirements, and select the most suitable course of action on given facts.
8. Recognise, with reference to the legal and regulatory framework, potential conflicts of interest or unethical behaviour and select the most suitable course of action on given facts.
9. Identify the best course of action to comply with legal and regulatory requirements for keeping client money safe
10. Identify the best course of action to comply with legal and regulatory requirements for keeping client money safe
11. Apply the rules of professional conduct to accounting and financial matters arising within the solicitor-client relationship.

**B. Comply with legal and regulatory requirements in the provision and funding of legal services [SoSC A1, A4, B3, D2, D3].**

Candidates might be asked to:

1. Identify the contractual basis upon which legal services are provided to a client
2. Analyse the regulatory effect on the solicitor-client relationship in the provision of legal services.
3. Demonstrate an understanding of reserved legal activities and the regulatory impact of carrying out such activities.
4. Identify relevant methods of funding of legal services and evaluate their suitability for a given client.
5. Identify best course of action to comply with confidentiality and disclosure, security and data protection requirements.

**C. Apply knowledge of the institutions and operation of constitutional law and EU law to develop and advise on options, progress cases and practise in accordance with the law and legal system of England and Wales [SoSC A4, B3, B7].**

Candidates might be asked to:

1. Identify the function of the organisations of state and the EU institutions.
2. Identify and apply principles of the British Constitution.
3. Demonstrate an understanding of what is meant by the concept of parliamentary sovereignty.
4. Demonstrate an understanding of what is meant by the doctrine of separation of powers and its practical effect.
5. Demonstrate an understanding of what is meant by the rule of law and parliamentary privilege.

6. Demonstrate an understanding of the royal prerogative and how government is held accountable to parliament .
7. Demonstrate an understanding of the purpose and principles of judicial review and how judicial control may be effected through the process of judicial review.
8. Identify the nature of, and procedure for passing, primary legislation.
9. Distinguish between primary and delegated legislation.
10. Demonstrate an understanding of the legislative competency of the National Assembly of Wales in the devolved subjects.
11. Consider the impact of EU law.

**D. Apply knowledge of relevant sources of law to develop and advise on options, progress cases and practice in accordance with the law and legal system of England and Wales [SoSC A4, B3, B7].**

Candidates might be asked to:

1. Demonstrate an understanding of common law as a source of law, including what is meant by, and the practical effect of, judicial precedent.
2. Distinguish between binding precedent and persuasive case law.
3. Demonstrate an understanding of the difference between legal and equitable interests.
4. Identify equitable interests and principles.
5. Identify common law and equitable remedies.
6. Demonstrate an understanding of the relationship between the common law and statute.
7. Demonstrate an understanding of the process by which primary and delegated legislation is passed.
8. Demonstrate an understanding of how a statute is structured.
9. Apply the rules of statutory interpretation.

**E. Apply knowledge of the operation of the Human Rights Act 1998 and Equality Act 2010 to develop and advise on options, progress cases and practice in accordance with the law and legal system of England and Wales [SoSC A1, A4, B3, B7].**

Candidates might be asked to:

1. Identify the application of the key provisions of the Human Rights Act 1998 to legal matters or to a client 's interests.
2. Identify the application of the key provisions of the Equality Act 2010 to legal practice, legal matters or to a client's interests.
3. Identify circumstances in which there is evidence of discrimination and a lack of respect for equality and diversity.
4. Select the most appropriate course of action to address equality and diversity issues and concerns which may arise in the solicitor-client relationship.

**F. Apply knowledge of the operation of the legal system of England and Wales to develop and advise on options, progress cases and practice in accordance with the law and legal system of England and Wales [SoSC A4, B3, B7].**

Candidates might be asked to:

1. Demonstrate an understanding of the court hierarchy, the relationship of courts to each other, their jurisdiction and court personnel.
2. Demonstrate an understanding of permitted rights of audience and its impact on practice

3. Demonstrate an understanding of court hierarchy and its relevance to judicial precedent in the development of case law.

### Legal Knowledge

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In the assessment candidates are expected to draw on and apply their knowledge of the following:

- Core principles as set out below of:
  - ethics, professional conduct and regulation
  - legal services
  - constitutional law and EU law
  - public and administrative law
  - sources of law
  - the Human Rights Act 1998 and Equality Act 2010
  - the legal system of England and Wales.

The depth and breadth of legal knowledge required of candidates is that of 'functioning legal knowledge'. This means that a candidate should be able to:

- identify relevant core legal principles or rules – whether derived from cases, statutes or regulatory sources
- apply them appropriately and effectively to client-based problems and situations encountered in practice.

Candidates are not be required to recall specific case names or cite statutory or regulatory authorities except those specified below.

### Ethics, professional conduct and regulation

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- The purpose, scope and content of the SRA Principles 2018.
- The purpose, scope and content of the SRA Code of Conduct for Solicitors, RELs and RFLs 2018 (hereafter referred to as the Code of Conduct for Solicitors)
- The purpose, scope and content of Solicitors' Accounts Rules 2018
- Money laundering:
  - Purpose, scope and content of anti-money laundering legislation -
    - Terrorism Act 2000
    - Proceeds of Crime Act (POCA) 2002
    - Serious Crime Act 2015
    - Money Laundering Regulations (MLR) 2007 (or its successors, and relevant amendments).
  - Definition of criminal property and the main money laundering offences
  - Due diligence requirements
  - Disclosure and reporting requirements and procedures.
- Financial services:
  - Purpose and requirements of the Financial Conduct Authority and regulatory requirements of the SRA
  - Regulated activities
  - S.327 FSMA Designated Professional Bodies
  - SRA Financial Services (Scope) Rules 2001
  - SRA Financial Services (Conduct of Business) Rules 2001
  - Financial Services and Markets Act 2000
  - Regulated Activities Order 2001
  - Non-exempt Activities Order 2001

## Legal services

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- Contractual basis of legal services.
  - Individual and entity-based regulation.
  - Solicitors, regulation and reserved legal activities.
  - Other regulated providers of legal services and their relationship with solicitors:
    - Barristers
    - Chartered Legal Executives.
  - Appropriate client options for funding of legal services
    - private retainer
      - fixed fee
    - hourly rate
    - disbursements
  - Conditional Fee Arrangements
  - Damages Based Agreements
  - Legal aid
  - Trade Union Funding
  - Third Party Funding
  - Legal Expenses Insurance
    - after the event
    - before the event
- Professional services delivered alongside legal services.

## Constitutional law and EU law

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- The organisation of the state:
  - the executive
  - the legislature -
    - Parliament
    - The Crown.
  - the judiciary.
- Key aspects of the British Constitution:
  - unwritten and uncodified
  - The rule of law
  - Separation of powers
- Parliamentary sovereignty:
  - legitimacy
  - law-making role and powers
  - The Royal Prerogative
  - Parliamentary privilege
  - The Government of Wales Acts 1998 and 2006
  - National Assembly of Wales
  - Welsh Assembly Government
  - Legislative competence and devolved subjects under Part 4 and Schedule 7 GoWA 2006
- Judicial control:
  - the nature and process of judicial review
  - supervisory nature
  - discretionary remedies
  - decisions which may be challenged
  - standing
  - grounds:
    - illegality
    - irrationality
    - procedural impropriety
    - legitimate expectation
  - time limits
  - outline of procedure.
- The place of EU law in the British Constitution:
  - effect of the European Communities Act 1972
  - regulations
  - directives
  - decisions
  - recommendations
  - opinions
  - the legal position following the UK's exit from the EU.
- An outline of the role of the institutions of the EU:
  - European Parliament

- European Council
- Council of the European Union
- European Commission
- Court of Justice of the European Union
- The legal position following the UK's exit from the EU.

## Sources of law

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- Common law
  - meaning
  - remedies.
- Development of case law:
  - judicial precedent
  - binding precedent and persuasive case law.
  - Practice Statement (Judicial Precedent) [1966] 1 WLR 1234 "1966 Practice Statement".
- Equitable interests, principles and remedies.
- Primary legislation:
  - Classification of Bills -
    - Public Bills
    - Private Bills.
    - Structure of a Statute-Enacting formula
    - Preamble
    - Main body
    - Schedules
    - Explanatory notes.
  - Progress of a Bill to Royal Assent.
- Delegated (secondary) legislation:
  - Statutory instruments.
- Rules of statutory interpretation:
  - the literal rule
  - the golden rule
  - the mischief rule
  - the literal approach
  - the purposive approach
  - presumptions
  - duty to interpret law in a way that is compatible with Convention Rights.

## The Human Rights Act 1998 and Equality Act 2010

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- Human Rights Act 1998:
  - the European Convention on Human Rights
  - Schedule 1 HRA 1998 the "Convention Rights"
  - Articles 1,6,7, 8 and 10
  - duty to interpret law in a way that is compatible with Convention Rights
  - impact on parliamentary sovereignty.
- Equality Act 2010:
  - protected characteristics

- prohibited conduct.
- impact on professional conduct and the provision of legal services

## The legal system of England and Wales

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- The main legal institutions and their interaction:
  - the court hierarchy and court personnel: the judiciary and court officials
  - jurisdiction.
  - Permitted rights of audience as a solicitor and civil higher rights of audience

## Scenario questions in the assessment

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The assessment objectives are assessed in scenarios typically encountered in general professional practice. The following are exemplar scenarios. This list is not exhaustive.

Candidates may be asked to consider:

- unethical or unprofessional behaviour and the exercise of appropriate professional judgment in a given context
- solicitor's duties to a range of stakeholders
- risk factors giving rise to concern regarding money laundering and the appropriate course of conduct in a given context
- financial advice and the most appropriate course of conduct in a given context
- requirements to manage confidentiality, security, data protection, file retention and destruction
- discriminatory behaviour and/or which lacks respect for equality and diversity and the exercise of appropriate professional judgment and conduct in a given context
- legal institutions, their personnel and jurisdiction, appropriate forums and rights of audience
- the common law and judicial precedent.

# Dispute Resolution in Contract and/or Tort

## Functioning Legal Knowledge Assessment

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### Overview

Candidates are required to demonstrate that they know how to:

- A. Analyse merits of a claim or defence, using knowledge of the core principles of the law of contract and tort [SoSC A1, A4, A5, B3].
- B. Evaluate pre-action considerations and steps to meet a client's objectives [SoSC A1, A4, A5, B3, B7].
- C. Apply the Civil Procedure Rules for bringing or responding to a claim in contract and/or tort [SoSC A1, A4, A5, B3, B7].
- D. Evaluate how best to progress or defend the claim to meet a client's objectives [SoSC A1, A4, A5, B3, B7].
- E. Evaluate the evidence needed to progress or defend a claim [SoSC A1, A4, A5, B3, B7].
- F. Prepare a case for a trial and take forward post trial steps [SoSC A1, A4, A5, B3, B7].

They are expected to draw on and apply knowledge from the following areas of law and practice:

- The core principles of contract law
- The core principles of tort
- The principles, procedures and processes involved in dispute resolution and the Rules of Civil Procedure

Throughout they must demonstrate their ability to act honestly and with integrity [SoSC A1] and in accordance with the SRA Principles and Code of Conduct for Solicitors.

### Assessment Objectives

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Candidates are required to demonstrate that they know how to:

**A. Analyse merits of a claim or defence, using knowledge of the core principles of the law of contract and tort [SoSC A1, A4, A5, B3].**

Candidates might be asked to:

1. Identify or challenge possible causes of action in contract and/or tort and their defences.
2. Identify the applicable law governing the dispute and available jurisdictions
3. Identify the legal context in which factual issues arise and relate the central legal and factual issues to each other.
4. Evaluate the strengths and weaknesses of each side's case.
5. Select the appropriate remedy for claims in contract or tort: debt, damages, injunctions and other non-pecuniary remedies.

**B. Evaluate pre-action considerations and steps to meet a client's objectives [SoSC A1, A4, A5, B3, B7].**

Candidates might be asked to:

1. Evaluate the best dispute resolution options in the interests of the client, demonstrating an understanding of the differences between litigation, mediation and arbitration.
2. Identify whether action is needed to preserve and secure evidence or assets, and if so the best mechanism for doing so.
3. Assess the value of the claim.
4. Identify and evaluate any limitation issues in a case in contract or tort.
5. Identify and advise on the most appropriate funding options.
6. Evaluate and advise on liability for costs and the impact of likely costs orders on the conduct of litigation, including qualified one way costs shifting and costs budgeting.
7. Identify appropriate pre-action protocols and apply their provisions to a dispute.
8. Identify and address professional conduct issues, recognising the solicitor's duty to the court
9. Identify where anti-money laundering regulations would apply to a solicitor's instructions and advise on the steps required to comply.

**C. Apply the Civil Procedure Rules for bringing or responding to a claim in contract and/or tort [SoSC A1, A4, A5, B3, B7].**

Candidates might be asked to:

1. Correctly identify and name, or challenge the parties in a case in contract or tort, and identify the correct forum in which to issue the claim.
2. Select the best method for serving the defendant in the jurisdiction.
3. Identify when and how a claim form may be served out of the jurisdiction, either with or without the court's permission.
4. Identify how to respond appropriately to the claim.
5. Identify the elements of a cause of action or a defence, and other information, to be included in a statement of case.
6. Identify and address professional conduct issues and recognise the solicitor's duty to the court.

**D. Evaluate how best to progress or defend the claim to meet a client's objectives [SoSC A1, A4, A5, B3, B7].**

Candidates might be asked to:

1. Identify the court's role in litigation, the overriding objective, the court's case management powers, parties' duty to consider alternative dispute resolution or mediation, allocation to tracks and sanctions for non compliance.
2. Develop a case strategy which takes into account the legal and factual issues in a case, the court's case management powers and the client's objectives and budget.
3. Evaluate the appropriateness of interim applications.
4. Identify the procedures involved in making and defending interim applications.
5. Identify and address professional conduct issues and recognise the solicitor's duty to the court.

**E. Evaluate the evidence needed to progress or defend a claim to meet a client's objectives [SoSC A1, A4, A5, B3, B7].**

Candidates might be asked to:

1. Evaluate the admissibility and relevance of evidence

2. Evaluate the issues arising from factual or expert evidence
3. Identify the steps required to adduce or challenge evidence
4. Identify procedures for disclosure and recognise when a document is subject to standard disclosure and/or is privileged.
5. Identify relevant mechanisms for obtaining documentary and oral evidence, pre-issue and pre-trial.
6. Evaluate the claim in light of emerging evidence, identifying the best option for the client, including making an offer under CPR Part 36, discontinuance, or proceeding to trial.
7. Recognise the solicitor's duty to the court.

#### F. Prepare a case for a trial and take forward post trial steps [SoSC A1, A4, A5, B3, B7]

Candidates might be asked to:

1. Identify the steps needed to prepare a case for trial including case management and pre-trial hearings.
2. Identify the elements of trial procedure.
3. Advise a client on costs rules and the possible cost consequences of different outcomes.
4. Identify and address professional conduct issues, including the solicitor's duty to the court.
5. Identify the best options for enforcing judgment.
6. Identify grounds for appealing the judgment and evaluate the prospects of success.

### Legal Knowledge

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In this assessment candidates are expected to draw on and apply knowledge from the following areas of law to civil dispute scenarios regularly encountered in practice:

- The core principles of contract law
- The core principles of tort
- The principles, procedures and processes involved in dispute resolution and the Rules of Civil Procedure.

The depth and breadth of legal knowledge required of candidates is that of 'functioning legal knowledge'. This means that a candidate should be able to:

- identify relevant core legal principles or rules – whether derived from cases, statutes or regulatory sources
- apply them appropriately and effectively to client-based and ethical problems and situations encountered in practice.

Candidates are not required to recall specific case names or cite statutory or other regulatory authorities except those specified below. Candidates are required to demonstrate an ability to navigate their way round the Civil Procedure Rules so as to be able to identify relevant provisions and apply them to the conduct of a civil dispute.

Candidates are expected to draw on and apply the relevant functioning legal knowledge specified in the Principles of Professional Conduct, Public and Administrative Law, and the Legal System of England and Wales assessment.

## Core principles of contract law

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- Formation:
  - offer and acceptance
  - consideration
  - intention to create legal relations
  - certainty.
- Parties:
  - privity of contract
  - rights of third parties.
- Contract terms:
  - express terms
  - incorporation of terms
  - terms implied by common law and statute
  - exemption clauses
  - boilerplate and other common terms (including retention of title, insurance and title clauses)
  - interpretation of contracts
  - variation.
- Vitiating factors:
  - misrepresentation
  - mistake
  - unfair terms
  - duress and undue influence.
- Termination:
  - expiry or other specified event
  - breach
  - frustration
- Remedies:
  - damages
  - liquidated sums and penalties
  - specific performance
  - injunctions
  - duty to mitigate
  - indemnities
  - guarantees
- Causation.

Candidates should also have an awareness of the principles of restitution for unjust enrichment (especially in the context of termination of a contract).

## Core principles of tort

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- Negligence:
  - duty of care and breach of duty of care
  - causation and remoteness of damage
  - pure economic loss and psychiatric illness damage.
- Breach of statutory duty and product liability.
- Nuisance, and the rule in *Rylands v Fletcher*.
- Vicarious liability.
- Remedies, including damages and injunctions.
- Defences, including consent and contributory negligence.

The principles, procedures and processes involved in dispute resolution and the Rules of Civil Procedure.

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Candidates should be able to apply, the following parts of the Civil Procedure Rules, and the associated practice directions: CPR Parts 1, 2, 3, 6, 7, 9–42, 44, 45, 47, 52, 71–74.

### *Different options for dispute resolution:*

- The characteristics of arbitration, mediation and litigation which make them an appropriate mechanism to resolve a dispute.

## *Resolving a dispute through a civil claim:*

- Preliminary considerations: limitation, pre-action protocols:
  - calculating limitation periods for claims in contract and tort
  - Practice Direction – Pre-action conduct
  - pre-action protocols governing particular claims.
- Where to start proceedings:
  - Allocation of business between the High Court and the County Court
  - jurisdiction of the specialist courts.
- Issuing and serving proceedings:
  - issuing a claim form
  - joinder of parties and of causes of action
  - service of a claim form within the jurisdiction
  - service of a claim form outside the jurisdiction, with or without the court's permission
  - deemed dates of service and time limits for serving proceedings
  - service by an alternative method.
- Responding to a claim:
  - admitting the claim
  - acknowledging service and filing a defence
  - disputing the court's jurisdiction
  - entering and setting aside judgment in default
  - discontinuance and settlement
  - time limits for responding to a claim.
- Statements of case:
  - purpose, structure and content of a claim form, particular of claim, or defence relating to a claim in contract or tort
  - purpose, structure and content of a reply, Part 20 claim, or defence to Part 20 claim
  - requests for further information about statements of case.
- Interim applications:
  - procedure for making an application
- purpose, procedure and evidence required for particular applications:
  - summary judgment
  - interim payments
  - interim injunctions (including freezing injunctions and search orders).
- Case management:
  - the overriding objective
  - track allocation
  - case management directions for cases proceeding on the fast or multi-tracks
  - non-compliance with orders, sanctions and relief
  - case management conferences.
- Evidence:
  - relevance, hearsay and admissibility
  - the burden and standard of proof
  - expert evidence -
    - opinion evidence
    - duties of experts
    - single joint experts
    - discussion between experts.
  - witness evidence -
    - producing witness statements.
- Disclosure:
  - standard disclosure
  - orders for disclosure
  - specific disclosure
  - privilege, without prejudice communications
  - pre-action and non-party disclosure
  - electronic disclosure.
- Trial:
  - summoning witnesses
  - preparations for trial -
    - pre-trial hearings
    - trial bundles.
  - conduct of the trial.
- Costs and funding:
  - costs management and budgeting
  - inter-partes costs orders
  - non-party costs

- qualified one-way costs shifting
- Part 36 and other offers
- security for costs
- fixed and assessed costs
- options for funding litigation: conditional fee agreements, damages-based agreements, fixed fees, third party funding, legal aid.
- destination of appeals
- grounds for appeals
- time limits for appeals.
- Enforcement of money judgments:
  - oral examination
  - methods of enforcement
  - mechanisms for enforcement in another country.
- Appeals:

### Scenario questions in the assessment

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The assessment objectives are assessed in the context of a civil dispute over straightforward disputes in contract and/or tort. For example, this may include scenarios including:

- a claim for breach of warranty in a commercial or consumer contract
- a claim for professional negligence, which could be brought either in contract or tort, or both
- a personal injury claim.

Candidates might be asked to apply relevant substantive and procedural law relating to:

- whether or not to bring or defend a claim in contract and/or tort
- choice of dispute resolution mechanism
- case analysis of the issues in a contract and/ or tort-based claim, or an application within it
- advice on funding and costs in the context of a claim in contract and/or tort
- development of an appropriate case management strategy
- analysing a case to determine the strongest lines of argument
- making or receiving a part 36 offer
- admissibility of and procedure for challenging evidence
- identifying and evaluating options for enforcing a judgment.

This list is not exhaustive.

# Property Law and Practice

## Functioning Legal Knowledge Assessment

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### Overview

Candidates are required to demonstrate that they know how to:

- A. Identify the key elements of a freehold property transaction to meet the needs of a client [SoSC A1, A4, A5, B3, B7].
- B. Conduct an investigation of a registered or an unregistered freehold title [SoSC A1, A4, A5, B3, B7].
- C. Carry out pre-contract searches and enquiries undertaken when acquiring a freehold property [SoSC A4, A5, B3, B7].
- D. Progress a freehold property transaction to exchange of contracts [SoSC A1, A4, A5, B3, B7].
- E. Carry out pre-completion steps relevant to a freehold property transaction [SoSC A1, A4, A5, B3, B7].
- F. Carry out completion and post-completion steps to meet the needs of a client [SoSC A1, A4, A5, B3, B7].
- G. Apply an understanding of the grant and the assignment of a commercial lease to meet the needs of a client [SoSC A4, A5, B3, B7].
- H. Apply an understanding of the key lease covenants in a commercial lease and the law relating to a breach of these covenants [SoSC A4, A5, B3, B7].

They are expected to draw on and apply knowledge from the following areas of law and practice:

- The core principles of land law and relevant aspects of trust and contract law.
- The core knowledge areas of freehold real estate law and practice.
- The core knowledge areas of leasehold real estate law and practice.
- The core principles of planning law.
- The core principles of property taxation.

Throughout they must demonstrate their ability to act honestly and with integrity [SoSC A1] and in accordance with the SRA Principles and Code of Conduct for Solicitors.

### Assessment Objectives

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Candidates are required to demonstrate that they know how to:

- A. Analyse a freehold property transaction to meet the needs of a client [SoSC A1, A4, A5, B3, B7].**

Candidates might be asked to:

1. Analyse a buyer client's initial instructions.
2. Identify and address issues arising at the instructions stage of a transaction, including professional conduct, costs, taxation and/or money laundering issues.
3. Identify issues and/or circumstances giving rise to a suspicion of money laundering and/or mortgage fraud and apply procedures for disclosure and reporting.

4. Identify whether the title to a freehold property is registered or unregistered.
5. Identify and explain the steps that need to be taken in the acquisition and disposal of a freehold property.

**B. Conduct an investigation of a registered or unregistered freehold title [SoSC A1, A4, A5, B3, B7].**

Candidates might be asked to:

1. Establish ownership of a registered and/or an unregistered freehold title.
2. Identify whether the title benefits from or is subject to any interests in land.
3. Analyse any issues arising from the title investigation and advise on whether any further action needs to be taken in respect of such issue.
4. Explain the purpose and process of reporting to the client.

**C. Carry out pre-contract searches and enquiries undertaken when acquiring a freehold property [SoSC A4, A5, B3, B7].**

Candidates might be asked to:

1. Explain the range and purpose of pre-contract searches and enquiries undertaken on an acquisition of a freehold property.
2. Analyse the results of the pre-contract searches and enquiries and identify any issues that would require further investigation, including planning and environmental issues.
3. Advise on the action to be taken in response to the results of searches and enquiries.

**D. Progress a freehold property transaction to exchange of contracts [SoSC A1, A4, A5, B3, B7].**

Candidates might be asked to:

1. Identify whether a client has sufficient funds to exchange contracts, including a consideration of sources of mortgage finance and a lender's requirements.
2. Identify the key provisions in a contract for the sale of a freehold property.
3. Review and suggest appropriate amendments to a contract drafted by the seller's solicitor.
4. Advise on the necessary steps to take at this stage to be able to exchange contracts.
5. Demonstrate an understanding of the role of professional undertakings in the exchange process and appreciate the different methods of exchange.
6. Advise on the consequences of exchanging contracts.

**E. Carry out pre-completion steps relevant to a freehold property transaction [SoSC A1, A4, A5, B3, B7].**

Candidates might be asked to:

1. Advise on the form of transfer for freehold property and the formalities for execution.
2. Identify relevant pre-completion searches and advise on the action to take when reviewing the results of such searches.
3. Identify the steps to take to prepare for completion of the freehold transaction.

**F. Carry out completion and post-completion steps [SoSC A1, A4, A5, B3, B7].**

Candidates might be asked to:

1. Identify the methods of completion for a freehold property transaction.
2. Identify the post-completion steps to be taken on the sale and purchase of a freehold property transaction.
3. Advise a seller and buyer of the consequences of failing to complete the transaction in accordance with the terms of the contract and the remedies available.

**G. Apply an understanding of the grant and the assignment of a commercial lease to meet the needs of a client [SoSC A4, A5, B3, B7].**

Candidates might be asked to:

1. Analyse the structure and identify the typical content of a lease.
2. Identify the procedural steps that are taken in a transaction involving the grant of a lease.
3. Identify the procedural steps that are taken in a transaction involving the assignment of a lease.
4. Identify the procedural steps that are taken in a transaction involving the grant of an underlease.
5. Analyse the provisions relating to alienation contained in a lease and apply the relevant statutory provisions.
6. Analyse the purpose and content of a licence to assign and a licence to underlet.

**H. Apply an understanding of the key lease covenants in a commercial lease and the law relating to a breach of these covenants [SoSC A4, A5, B3, B7]**

Candidates might be asked to:

1. Analyse and advise the client of the meaning and interrelationship of the repair and insurance provisions in a lease.
2. Analyse the provisions relating to alterations, use and planning contained in a lease.
3. Analyse the provisions relating to payment and review of rent contained in a lease.
4. Advise a landlord on the remedies available to it in the event of a breach by a tenant of its obligations under a lease.
5. Advise a landlord and/or a tenant on the procedures necessary to terminate and renew a lease under Landlord and Tenant Act 1954 (Part II).

## Legal Knowledge

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In the assessment candidates are expected to draw on and apply knowledge from the following areas of law and practice to scenarios regularly encountered in practice:

- The core principles of land law and relevant aspects of trust and contract law.
- The core knowledge areas of freehold real estate law and practice.
- The core knowledge areas of leasehold real estate law and practice.
- The core principles of planning law.
- The core principles of property taxation.

The depth and breadth of legal knowledge required of candidates is that of 'functioning legal knowledge'. This means that a candidate should be able to:

- identify relevant core legal principles or rules – whether derived from cases, statutes or regulatory sources; and
- apply them appropriately and effectively to client-based and ethical problems and situations encountered in practice.

Candidates are not required to recall specific case names, or cite statutory or regulatory authorities except those specified below.

Candidates are expected to draw on and apply the relevant functioning legal knowledge specified in the Principles of Professional Conduct, Public and Administrative Law, and the Legal System of England and Wales assessment.

### Core principles of land law and relevant aspects of trust and contract law

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The following are core principles to enable candidates to progress a freehold property transaction by taking initial instructions from the client, investigating title, exchanging contracts and finally effecting completion of the transaction:

- Nature of Land
  - how to acquire and transfer legal and equitable estates
  - how to acquire and dispose of legal and equitable interests in land
  - methods to protect and enforce third party interests
  - different ways in which land can be held
  - legal formalities required to create and transfer interests in land
  - the registered and unregistered land systems.
- Co-ownership and Trusts
  - differences between joint tenants and tenants in common in law and in equity
  - rule of survivorship
  - severance of joint tenancies
  - role of trustees and beneficiaries.
- Proprietary Rights
  - essential characteristics of easements
  - methods for creation of easements
  - rules for the passing of the benefit and burden of freehold covenants
  - mortgages including enforceability of terms, priority of mortgages and a lender's rights and duties.

The following are core principles to enable candidates to apply an understanding of a property transaction involving the grant, assignment or underletting of a lease:

- Landlord and Tenant:
  - relationship between landlord and tenant in a lease
  - essential characteristics of a lease including the difference between a lease and a licence
  - structure of a lease
  - privity of contract and privity of estate
  - purpose and effect of an alienation covenant.

The following are core principles to enable candidates to apply an understanding of leasehold covenants and breach of those covenants:

- Leasehold Covenants:

- rules for the passing of the benefit and burden of leasehold covenants and enforceability
- remedies for breach of leasehold covenants (including forfeiture)
- different ways a lease can be terminated
- scope of protection for tenants if they enjoy security of tenure under a lease.

## Core knowledge areas of freehold real estate law and practice

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- Investigation of a registered and unregistered freehold title:
  - key elements and structure of freehold property transactions
  - process of analysing Land Registry official copy entries
  - process of analysing an epitome of title and deducing ownership
  - issues that could arise from an investigation of title and further action required
  - purpose and process of reporting to the client.
- Pre-contract searches and enquiries:
  - range and purpose of making searches and raising enquiries
  - who would make the searches and raise enquiries
  - role of National Land Information Service
  - results of searches and enquiries.
- Finance:
  - sources of finance for a property transaction
  - types of mortgage
  - Financial Services and Markets Act 2000 and Regulated Activities Order 2001.
- Acting for a lender:
  - lender's requirements
  - purpose of a CLLS certificate of title.
- Preparation for, and, exchange of contracts:
  - key conditions contained in the:
    - Standard Conditions of Sale
    - Standard Commercial Property Conditions.
  - purpose of, and matters covered by, special conditions
  - methods of holding a deposit:
    - stakeholder
    - agent
  - insurance and risk
  - basics of VAT in a contract
  - timing for issuing draft CLLS certificate of title to a lender
  - the practice, method and authority to exchange
  - consequences of exchange.
- Pre-completion:
  - Form of transfer deed and formalities for execution
  - Pre-completion searches
  - Pre-completion steps.
- Completion and post-completion:
  - methods and effect of completion
  - post-completion steps.
- Remedies for delayed completion:
  - common law damages
  - contractual compensation
  - notice to complete
  - rescission.

## Core knowledge areas of leasehold real estate law and practice

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- Structure and content of a lease:
  - key landlord and tenant obligations in a lease
  - options for the term of a lease.
- Code for Leasing Business Premises

- drafting the lease
  - purpose of an agreement for lease
  - deduction of title
  - pre-contract enquiries and searches
  - pre-completion formalities
  - completion and post completion steps –
    - Stamp Duty Land Tax
    - Land Registry in England and Wales.
  
- deduction of title
  - pre-contract enquiries and searches
  - landlord's consent
  - deed of assignment and covenants for title
  - pre-completion formalities
  - authorised guarantee agreement
  - completion and post-completion steps –
    - Stamp Duty Land Tax
    - Land Registry
    - notice of assignment.
  
- considering the headlease
  - drafting the lease
  - deduction of title
  - pre-contract enquiries and searches
  - superior landlord's consent
  - pre-completion formalities
  - completion and post completion steps –
    - Stamp Duty Land Tax
    - Land Registry
    - notice of underlease.
  
- purpose and who prepares the draft
  
- privity of contract and how the licence deals with this
  - key provisions in the licence.
  
- liability on covenants in leases –
    - leases granted before 1 January 1996
    - leases granted on or after 1 January 1996
  
- purpose, effect and relationship between repair and insurance clauses
  - alterations, user and planning obligations
  - rent and rent review provisions.
  
- action in debt
  - forfeiture
  - Commercial Rent Arrears Recovery
  - pursue guarantors and/or rent deposit
  - specific performance
  - damages
  - self-help/*Jervis v Harris* clause.
  
- effluxion of time
  - notice to quit
  - surrender
  - merger.
  
- Landlord and Tenant Act 1954 (Part II) –
    - application of 1954 Act
    - renewal lease by the tenant
    - termination by the landlord
    - landlord's grounds of opposition
    - terms of new lease
    - availability of compensation.

## Core principles of planning law

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- Statutory definition of "Development".
- Matters that do not constitute "Development".

- Matters that do not require express planning permission.
- Building regulation control.
- Enforcement: time limits and the local planning authority's enforcement powers.

## Core principles of property taxation

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- Stamp Duty Land Tax:
  - understand the basis of charge in both England and Wales –
    - rates for residential freehold property
    - rates for non-residential or mixed use freehold property
    - leasehold property rates.
- Value-added tax:
  - understand the basis of charge –
    - what constitutes a Vatable supply
    - differences between standard, exempt and zero-rated supplies
  - reasons why a client would make an option to tax and the effect that has.
- Capital gains tax:
  - understand the basis of charge
  - principal private dwelling-house exemption.

## Scenario questions in the assessment

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The assessment objectives are assessed in scenarios typically encountered in professional practice. For example, this may include candidates being asked to:

- advise on the results of searches that had been undertaken for a particular property
- advise on what action could be taken by a landlord about a tenant's failure to observe tenant covenants in a lease; for example, repair or rent.

This list is not exhaustive.

# Business Law and Practice

## Functioning Legal Knowledge Assessment

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### Overview

Candidates are required to demonstrate that they know how to:

- A. Apply knowledge of business organisations, rules and procedures to advise on a business start up to meet a business's objectives [SoSC A1, A4, A5, B3, B7, D2, D3].
- B. Apply understanding of principles of contract law to advise a business client entering into a contractual arrangement [SoSC A1, A4, A5, B3, B7, D2, D3].
- C. Apply the rules and procedures necessary to ensure proper governance of a business and its compliance with statutory and other requirements [SoSC A1, A4, A5, B3, B7, D2, D3].
- D. Apply the rules for the calculation, distribution and taxation of profits to meet a business's objectives and ensure regulatory compliance [SoSC A1, A4, A5, B3, B7, D2, D3].
- E. Apply understanding of business accounting to advise a business [SoSC A1, A4, A5, B3, B7, D3].
- F. Apply understanding of business finance to meet a business's objectives [SoSC A1, A4, A5, B3, B7, D2, D3].
- G. Apply understanding of the law and practice relating to business insolvency to meet a client's objectives [SoSC A1, A4, A5, B3, B7, D2, D3].

They are expected to draw on and apply knowledge from the following areas of law and practice:

- Business organisations, rules and procedures.
- Taxation of business organisations.
- Core principles of contract law.

Throughout they must demonstrate their ability to act honestly and with integrity [SoSC A1] and in accordance with the SRA Principles and Code of Conduct for Solicitors.

### Assessment Objectives

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Candidates are required to demonstrate that they know how to:

**A. Apply knowledge of business organisations, rules and procedures to advise on a business start up to meet a business's objectives [SoSC A1, A4, A5, B3, B7, D2, D3].**

Candidates might be asked to:

1. Discriminate between the features of different business and organisational structures
2. Evaluate the most appropriate form of business and organisational structure for the client's needs.
3. Identify debt and equity funding options.
4. Identify the tax implications of a specific business and organisational structure.
5. Determine the appropriate procedures and documentation required to set up the relevant business.
6. Advise on relevant constitutional requirements to meet business's needs.
7. Identify liability and legal personality issues on a business start-up, including limited liability for companies and partnerships.

8. Identify professional conduct and ethical issues that may arise on advising on a business start-up

**B. Apply understanding of principles of contract law to advise a business client entering into a contractual arrangement [SoSC A1, A4, A5, B3, B7, D2, D3].**

Candidates might be asked to:

1. Advise on contract formation
2. Identify and evaluate the means of managing risks in commercial transactions and statutory limitations on achieving this.
3. Interpret the effect of specific contractual clauses
4. Identify business risks associated with a commercial transaction and advise on standard boilerplate clauses to protect against these risks
5. Identify causes of breach of contract
6. Evaluate remedies available in common commercial transactions, including the ability to terminate.
7. Analyse issues relating to the passing of property, title and risk in the subject matter of commercial transactions, including retention of title, ownership and insurance
8. Identify issues and/or circumstances giving rise to a suspicion of money laundering and apply procedures for disclosure and reporting.

**C. Apply the rules and procedures necessary to ensure proper governance of a business and its compliance with statutory and other requirements when carrying on its business [SoSC A1, A4, A5, B3, B7, D2, D3].**

Candidates might be asked to:

1. Identify and apply procedural steps and decision-making processes at board and company level, recognising issues of control.
2. Identify and apply decision-making processes required of partnerships, including PA 1890 and those commonly found in partnership agreements.
3. Recognise documentary, record-keeping, statutory filing and disclosure requirements.
4. Identify the duties, responsibilities and authority of company officers, agents and partners.
5. Identify disclosure duties of directors in business transactions and the potential need for shareholder approval of transactions involving directors.
6. Identify means of protection of minority shareholder rights.
7. Identify the steps required for the appointment and removal of directors
8. Identify suspect transactions and take appropriate steps under MLR and POCA
9. Advise on compliance issues.

**D. Apply the rules for the calculation, distribution and taxation of profits to meet a business's objectives and ensure regulatory compliance [SoSC A1, A4, A5, B3, B7, D2, D3].**

Candidates might be asked to:

1. Calculate available profits and gains for distribution for a range of business structures.
2. Identify options for distribution of profits and gains.
3. Analyse procedures and formalities required to distribute profits and gains.
4. Identify tax regimes applicable to profits and gains.
5. Calculate basic charges to tax.

6. Identify potential means of lawfully reducing or mitigating charges to tax, including the use of losses.
7. Recognise anti-avoidance provisions.
8. Identify payment and collection processes.

**E. Apply understanding of business accounting to advise a business [SoSC A1, A4, A5, B3, B7, D3].**

Candidates might be asked to:

1. Recognise requirements to maintain and submit financial information and accounts.
2. Identify standard elements of financial records and accounts.
3. Interpret basic accounting information in a set of business accounts.
4. Assess VAT implications of common business transactions, including charge, records and returns.

**F. Apply understanding of business finance to meet a client's objectives [SoSC A1, A4, A5, B3, B7, D2, D3].**

Candidates might be asked to:

1. Identify options for additional funding for growth.
2. Assess the most appropriate option for finance and type of security to meet client needs.
3. Recognise regulatory limitations on providing financial advice and other potentially regulated services to business clients.

**G Apply understanding of the law and practice relating to business insolvency to meet a client's objectives [SoSC A1, A4, A5, B3, B7, D2, D3].**

Candidates might be asked to:

1. Identify options available to individuals and companies in financial distress.
2. Assess procedural requirements of insolvency (corporate and personal).
3. Assess means by which insolvency practitioners can claw back assets for distribution to creditors.
4. Calculate the funds available to different types of creditors.

## Legal Knowledge

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In the assessment candidates are expected to draw on and apply knowledge from the following areas of law to scenarios regularly encountered in practice:

- business organisations, rules and procedures
- taxation of business organisations
- core principles of contract law.

The depth and breadth of legal knowledge required of candidates is that of 'functioning legal knowledge'. This means that a candidate should be able to:

- identify relevant core legal principles or rules – whether derived from cases, statutes or regulatory sources

- apply them appropriately and effectively to client-based and ethical problems and situations encountered in practice.

Candidates are not required to recall specific case names or cite statutory or regulatory authorities except those specified below.

## Business organisations, rules and procedures

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- Business and organisational structures (sole trader/partnership/LLP/private and public companies).
- Legal personality and limited liability.
- Procedures and documentation required to incorporate a company/form a partnership/LLP and other steps required under companies and partnerships legislation to enable the entity to commence operating:
  - Memorandum and articles of association
  - Companies House filing requirements
  - Partnership agreement.
- Finance:
  - funding options: debt and equity
  - types of security
  - distribution of profits and gains
  - financial records, information and accounting requirements
- Corporate governance and compliance:
  - rights, duties and powers of directors and shareholders of companies
  - company decision-making and meetings: procedural, disclosure and approval requirements
  - documentary, record-keeping, statutory filing and disclosure requirements
  - appointment and removal of directors
  - minority shareholder protection.
- Partnership decision-making and authority of partners:
  - procedures and authority under PA 1890
  - common provisions in partnership agreements
- Insolvency (corporate and personal):
  - options and procedures
  - claw-back of assets for creditors
  - order of priority for distribution to creditors

## Taxation of business organisations

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- Income tax:
  - who is chargeable (employees, sole traders, partners, shareholders, lenders and debenture holders).
  - what is chargeable (types of income/main reliefs and exemptions)
  - how is the charge calculated and collected (deduction at source/PAYE/self-assessment)
  - anti-avoidance provisions (in outline).

- Capital Gains tax:
  - who is chargeable (sole traders, partners, and shareholders)
  - what is chargeable (calculation of gains/allowable deductions/main reliefs and exemptions)
  - how is the charge calculated and collected (self-assessment/PAYE/agents)
  - anti-avoidance provisions (in outline).
  
- Inheritance tax:
  - basis of charge
  - relevant exemptions and business reliefs (including business property relief).
  
- Corporation tax:
  - basis of charge
  - calculation, payment and collection of tax (self-assessment)
  - tax treatment of company distributions or deemed distributions to shareholders
  - outline of anti-avoidance legislation.
  
- 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

#### Core principles of contract law

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|--|---|
| <ul style="list-style-type: none"> <li>■ Formation:               <ul style="list-style-type: none"> <li>■ offer and acceptance</li> <li>■ consideration</li> <li>■ intention to create legal relations</li> <li>■ certainty.</li> </ul> </li> <br/> <li>■ Parties:               <ul style="list-style-type: none"> <li>■ privity of contract</li> <li>■ rights of third parties.</li> </ul> </li> <br/> <li>■ Contract terms:               <ul style="list-style-type: none"> <li>■ express terms</li> <li>■ incorporation of terms</li> <li>■ terms implied by common law and statute</li> <li>■ exemption clauses</li> <li>■ boilerplate and other common terms (including retention of title, insurance and title clauses)</li> <li>■ interpretation of contracts</li> <li>■ variation.</li> </ul> </li> </ul> | <ul style="list-style-type: none"> <li>■ Vitiating factors:               <ul style="list-style-type: none"> <li>■ misrepresentation</li> <li>■ mistake</li> <li>■ unfair terms</li> <li>■ duress and undue influence.</li> </ul> </li> <br/> <li>■ Termination:               <ul style="list-style-type: none"> <li>■ expiry or other specified event</li> <li>■ breach</li> <li>■ frustration</li> </ul> </li> <br/> <li>■ Remedies:               <ul style="list-style-type: none"> <li>■ damages</li> <li>■ liquidated sums and penalties</li> <li>■ specific performance</li> <li>■ injunctions</li> <li>■ duty to mitigate</li> <li>■ indemnities</li> <li>■ guarantees.</li> </ul> </li> </ul> |
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Candidates should also have an awareness of the principles of restitution for unjust enrichment (especially in the context of termination of a contract).

## Scenario questions in the assessment

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The assessment objectives are assessed in the context of providing legal advice on individual or related commercial or corporate matters. For example, this may include scenarios involving one or more of the following types of activity or areas of advice:

- setting up a new business
- incorporating an existing business
- common commercial transactions
- transfers or disposals of interests in businesses and business assets
- financial distress (corporate and/or individual) and business recovery.

This list is not exhaustive.

# Wills and the Administration of Estates and Trusts

## Functioning Legal Knowledge Assessment

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### Overview

Candidates are required to demonstrate that they know how to:

- A. Assess the validity and interpret the contents of a will and advise on the distribution of testate, intestate and partially intestate estates [SoSC A1, A4 and A5].
- B. Apply the law and practice in connection with an application for a grant of representation [SoSC A4, A5, B3 and B7].
- C. Apply the law and practice of Inheritance Tax to lifetime gifts and transfers on death [SoSC A4, A5, B3 and B7].
- D. Plan, manage and progress the administration of an estate [SoSC A4, A5, B3 and B7].
- E. Apply the law and practice relating to Personal Representatives and Trustees to the administration of estates and any consequent trusts [SoSC A4, A5 and B7].

They are expected to draw on and apply their knowledge of the following areas of law and practice:

- Wills and intestacy
- Probate and administration practice
- Taxation and, in particular, Inheritance Tax
- Trust law.

Throughout they must demonstrate their ability to act honestly and with integrity [SoSC A1] and in accordance with the SRA Principles and Code of Conduct for Solicitors.

### Assessment Objectives

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Candidates are required to demonstrate that they know how to:

**A. Assess the validity and interpret the contents of a will and advise on the distribution of testate, intestate and partially intestate estates [SoSC A1, A4 and A5].**

Candidates might be asked to:

1. Identify and apply the relevant law in scenarios concerning testamentary capacity, duress, undue influence and the formal requirements for the execution of wills and codicils.
2. Identify the proper conduct of a solicitor in cases concerning testamentary capacity, duress and undue influence.
3. Interpret and give effect to alterations made or to be made to a will both before and after execution including the use of codicils
4. Identify and apply the relevant law in cases concerning the revocation of wills and the effects of marriage and divorce of a testator.
5. Interpret the individual clauses of a will in simple cases including the effect of different types of gift and the identification of situations where gifts fail.

6. Apply the law and practice relating to testamentary gifts to charities.
7. Identify cases of total or partial intestacy and apply the intestacy rules to advise on the distribution of the estate.
8. Identify property passing outside the estate and explain to whom it passes.

**B. Apply the law and practice in connection with an application for a grant of representation [SoSC A4, A5, B3 and B7].**

Candidates might be asked to:

1. Identify cases where a grant of representation is or is not needed.
2. Identify cases where either a grant of probate, a grant of letters of administration or a grant of letters of administration with the will annexed is required.
3. Identify who is entitled to apply for a grant of representation.
4. Identify cases where either renunciation or reservation or power is appropriate
5. Identify the procedure to apply for a grant of representation and the documents required (including, where necessary, affidavits of identity, due execution and plight and condition).

**C. Apply the law and practice of Inheritance Tax to lifetime gifts and transfers on death [SoSC A4, A5, B3 and B7].**

Candidates might be asked to:

1. Apply the principles of the charge to tax on potentially exempt transfers, lifetime chargeable transfers and transfers on death.
2. Apply exemptions and reliefs where applicable.
3. Apply the principles of the main anti-avoidance provisions.
4. Identify who is liable to pay the tax in respect of lifetime transfers and transfers on death.
5. Apply the principles of the valuation of assets: General principles, Jointly owned land, Related property, Quoted shares.
6. Identify the taxable estate on death.
7. Calculate the tax payable in respect of potentially exempt transfers and transfers on death and apportion the tax where necessary.
8. Identify the due dates for payment of tax
9. Identify and select the most appropriate method of raising funds to pay tax before the issue of the grant and describe the procedure for payment.

**D. Plan, manage and progress the administration of an estate [SoSC A4, A5, B3 and B7].**

Candidates might be asked to:

1. Apply the duty for Personal Representatives to collect in the assets of the estate to commonly occurring scenarios.
2. Recommend which assets should or should not be sold to raise any funds required to pay funeral and administration expenses, tax, debts and legacies.
3. Apply the duties and potential liabilities of Personal Representatives to commonly occurring scenarios.
4. Identify ways in which Personal Representatives may be protected
5. Identify possible claims against the estate under the Inheritance (Provision for Family and Dependents) Act 1975.

6. Identify the liability of Personal Representatives to Income Tax and Capital Gains Tax and the Capital Gains Tax implications of the vesting of property in beneficiaries.
7. Apply the requirement for Personal Representatives to pay pecuniary legacies, vest gifted property in the beneficiaries and distribute the residue
8. Identify issues and/or circumstances giving rise to a suspicion of money laundering and apply procedures for disclosure and reporting.

**E. Apply the law and practice relating to Personal Representatives and Trustees to the administration of estates and any consequent trusts [SoSC A1, A4, A5 and B7].**

Candidates might be asked to:

1. Identify the main kinds of trust arising under a will or an intestacy and their application in practice.
2. Apply the law and practice relating to the more commonly used powers of Personal Representatives and Trustees.
3. Apply the fiduciary duties of trustees and the rights, remedies and powers of beneficiaries.
4. Identify where anti-money laundering regulations would apply to a solicitor's instructions and advise on the steps required to comply.
5. Identify where a solicitor's instructions may involve specified activities in relation to specified investments and distinguish activities capable of exclusion under the Regulated Activities Order from those prohibited under the Non-Exempt Activities Order and requiring authorisation from the Financial Conduct Authority.

## **Legal Knowledge**

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In the assessment candidates are expected to be able to draw on and apply their knowledge of the following:

- Wills and intestacy
- Probate and administration practice
- Taxation and, in particular, Inheritance Tax
- Trust law.

The depth and breadth of legal knowledge required of candidates is that of 'functioning legal knowledge'. This means that a candidate should be able to:

- identify relevant core legal principles or rules – whether derived from cases, statutes or regulatory sources
- apply them appropriately and effectively to transactional and ethical problems and situations encountered in practice.

Candidates are not required to recall case names or cite statutory authority except those specified below.

Candidates will not be required to demonstrate knowledge relating to foreign assets, foreign law or foreign taxes.

Candidates are expected to draw on and apply the relevant functioning legal knowledge specified in the Principles of Professional Conduct, Public and Administrative Law, and the Legal System of England and Wales assessment.

## Wills and Intestacy

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- Validity of wills and codicils:
  - testamentary capacity
  - duress and undue influence
  - formal requirements.
  
- Professional conduct:
  - proper conduct of a solicitor in cases concerning testamentary capacity, duress and undue influence.
  
- Personal Representatives
  - the appointment of executors
  - renunciation and reservation of power
  
- Alterations and amendments to wills:
  - effect of alterations made to wills both before and after execution
  - use of codicils.
  
- Revocation of wills:
  - methods of revocation
  - effect of marriage and divorce of a testator.
  
- The interpretation of wills:
  - effect of different types of gift
  - failure of gifts.
  
- The intestacy rules:
  - Section 46 of The Administration of Estates Act 1925
  - the statutory trusts.
  
- Property passing outside the estate.
  - joint property
  - life policies
  - pension scheme benefits
  - trust property.

## Probate and Administration Practice

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- Grants of representation:
  - need for
  - the relevant provisions of the Non-Contentious Probate Rules
  - application procedure
  - excepted estates
  - methods of funding the initial payment of Inheritance Tax.
  
- Administration of estates:

- duties of personal representatives
  - liabilities of personal representatives and their protection
  - the sale of assets to raise funds to pay funeral expenses, tax, debts and legacies
  - distribution of the estate.
- ▣ Claims against estates under the Inheritance (Provision for Family and Dependents) Act 1975:
    - time limit
    - applicants
    - grounds.

## Taxation

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- ▣ Inheritance tax in the context of:
  - lifetime transfers
  - transfers on death
  - exemptions and reliefs
  - anti-avoidance.
- ▣ Income and Capital Gains Tax in respect of the period of the administration of an estate:
  - the personal representatives' liability to Income Tax and Capital Gains Tax
  - the beneficiaries' liability to Capital Gains Tax on inherited assets.

## Trust Law

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- ▣ How to recognise and when to use the more commonly arising kinds of trust:
  - trusts for minors
  - life interest trusts
  - the statutory trusts
  - discretionary trusts.
- ▣ Powers of Personal Representatives and Trustees in the context of:
  - charging
  - investment
  - insurance
  - maintenance
  - advancement
  - appropriation.
- ▣ Personal Representatives and Trustee of will trusts:
  - their duties
  - their liabilities
  - their protection.
- ▣ Beneficiaries:
  - their rights
  - their remedies
  - their powers.
- ▣ Regulation
  - Money laundering –
    - the purpose and scope of anti-money laundering legislation
    - due diligence, procedural, reporting and record keeping requirements.
  - Financial services –
    - the purpose and requirements of the Financial Conduct Authority and regulatory requirements of the SRA.
  - Reporting obligations relevant to a solicitor's practice.

## Scenarios in the assessment

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The assessment objectives are assessed in scenarios involving the preparation of wills, the administration of estates and the administration of trusts arising under wills and intestacies. For example, this may include:

- Taking instructions for the preparation of a will and advising on its content.
- Advising on the validity and/or interpretation of a will and its individual clauses.
- Identifying and advising on the application of the Intestacy Rules in cases of total or partial intestacy.
- Explaining and calculating the Inheritance Tax payable on lifetime gifts and/or the estate on death.
- Advising Personal Representatives and/or beneficiaries during the administration of an estate.
- Advising Trustees and/or beneficiaries in connection with a continuing trust.
- Applying for a grant of representation.
- Explaining the devolution of property which passes outside the estate.

This list is not exhaustive.

# Criminal Law and Practice

## Functioning Legal Knowledge Assessment

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### Overview

Candidates are required to demonstrate that they know how to identify and apply the following key legal principles:

- A. Apply the core principles of criminal liability to analyse the merits of the prosecution case or defence [SoSC A4, A5, B3].
- B. Apply the procedure and processes involved in advising a client at the police station and in criminal litigation in order to evaluate pre-trial considerations and steps [SoSC A1, A4, A5, B3, B7].
- C. Apply the procedure and processes involved in criminal litigation to follow the appropriate procedure within the Criminal Procedure Rules and other relevant legislation for prosecuting or defending a criminal case [SoSC A1, A4, A5, B3, B7].
- D. Apply the core principles of criminal liability and the procedure and processes involved in criminal litigation to determine how best to prosecute or defend the claim to meet the client's objectives and the interests of justice [SoSC A1, A4, A5, B3, B7].
- E. Apply the core principles of criminal liability and the procedure and processes involved in criminal litigation to determine what evidence is needed to prosecute or defend a claim and take steps to admit or exclude that evidence [SoSC A1, A4, A5, B3, B7].
- F. Apply the core principles of criminal liability and the procedure and processes involved in criminal litigation to prepare a case for trial and take forward post trial steps [SoSC A1, A4, A5, B3, B7].

They are expected to draw on and apply knowledge of the following areas of law and practice:

- the core legal principles of criminal liability relating to a range of criminal offences
- the procedure and processes involved in advising clients, including vulnerable clients, at the Police Station
- the procedure and processes involved in prosecuting and defending a case before the Magistrates', Crown and Youth courts

Throughout they must also demonstrate their ability to act honestly and with integrity [SoSC A1] and in accordance with the SRA Principles and Code of Conduct for Solicitors.

### Assessment Objectives

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Candidates are required to demonstrate that they know how to:

**A. Apply the core principles of criminal liability to analyse the merits of the prosecution case or defence [SoSC A4, A5, B3].**

Candidates might be asked to:

1. Assess a suspect's liability for a range of different criminal offences.
2. Identify the relevant applicable law and advise on available lines of defence.
3. Identify key facts governing criminal liability and relate these to the applicable law.
4. Evaluate the strengths and weaknesses of each side's case.

**B. Apply the procedure and processes involved in advising a client at the police station and in criminal litigation in order to evaluate pre-trial considerations and steps [SoSC A1, A4, A5, B3, B7].**

Candidates might be asked to:

1. Advise a detained person as to their rights and whether to answer police questions or not.
2. Apply the procedure for charging the suspect and granting police bail.
3. Identify and advise on the availability of legal representation and funding options.
4. Apply the procedure involved in applying for court bail and advise on the likely success of the application.
5. Advise a detained person on the significance and weight of evidence against them.
6. Seek disclosure from the police of evidence against a detained person.
7. Advise a detained person about any defences which may be available to them.
8. Advise a detained person about the significance of particular questions posed by the police.
9. Identify the solicitor's role at the police station and consider associated conduct issues.

**C. Apply the procedure and processes involved in criminal litigation to follow the appropriate procedure within the Criminal Procedure Rules ('CPR') and other relevant legislation for prosecuting or defending a criminal case [SoSC A1, A4, A5, B3, B7].**

Candidates might be asked to:

1. Apply the process for allocation of business between the Magistrates' and the Crown Court.
2. Apply the procedure for determining Plea before Venue.
3. Apply the procedure governing Case management and Pre-trial hearings.
4. Advise on and apply the requirements for disclosure and service of evidence.
5. Apply the appropriate steps required to progress the case on behalf of either Prosecution or Defence.

**D. Apply the core principles of criminal liability and the procedure and processes involved in criminal litigation to determine how best to prosecute or defend a claim to meet the client's objectives and the interests of justice [SoSC A1, A4, A5, B3, B7].**

Candidates might be asked to:

1. Identify the steps to be taken to comply with the court's role and case management powers.
2. Advise the client on entering a plea.
3. Develop a case presentation theory which takes into account the client's instructions, the relevant law and the legal and evidential burden in the case.

**E. Apply the core principles of criminal liability and the procedure and processes involved in criminal litigation to determine what evidence is needed to prosecute or defend a claim and take steps to admit or exclude that evidence [SoSC A1, A4, A5, B3, B7].**

Candidates might be asked to:

1. Identify relevant mechanisms for obtaining and serving documentary and oral evidence.
2. Evaluate the admissibility and relevance of evidence.
3. Take any relevant steps required to adduce or challenge evidence.
4. Identify appropriately issues which arise from evidence disclosed including deploying the relevant procedure for seeking to exclude evidence.

**F. Apply the core principles of criminal liability and the procedure and processes involved in criminal litigation to prepare a case for trial and take forward post trial steps [SoSC A1, A4, A5, B3, B7].**

Candidates might be asked to:

1. Advise on and apply the steps needed to prepare a case for trial including case management and pre-trial hearings.
2. Identify and apply the elements of trial procedure including appropriate witness handling techniques and professional conduct issues, including the solicitor's duties to the court and the client.
3. Identify the distinct roles of Judge and Jury in a Crown Court trial.
4. Advise a client as to sentencing.
5. Identify appropriate content and structure of a plea in mitigation.
6. Advise a client on appeals.

## Legal Knowledge

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In the assessment candidates are expected to be able to draw on and apply their knowledge of the following:

- the core legal principles of criminal liability relating to a range of criminal offences
- the procedure and processes involved in advising clients, including vulnerable clients, at the Police Station
- the procedure and processes involved in prosecuting and defending a case before the Magistrates', Crown and Youth courts

The depth and breadth of legal knowledge required of candidates is that of 'functioning legal knowledge'. This means that a candidate should be able to:

- identify relevant core legal principles or rules – whether derived from cases, statutes or regulatory sources
- apply them appropriately and effectively to client-based and ethical problems and situations encountered in practice.

Candidates are not required to recall case names, or cite statutory authority except those specified below.

Candidates are expected to draw on and apply the relevant functioning legal knowledge specified in the Principles of Professional Conduct, Public and Administrative Law, and the Legal System of England and Wales assessment.

## Core principles of criminal liability

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The core principles of criminal liability relating to the following specified criminal offences listed below:

- Definition of the offence:
  - actus reus
  - mens rea.
  
- Defences available specific to the offence and more generally:
  - intoxication
  - loss of control
  - diminished responsibility
  - necessity.
  
- Secondary participation.
- Conspiracy and attempts.
- Relevant sentencing principles.
  
- Specified criminal offences:
  - offences against the person –
    - assault and battery
    - assault occasioning actual bodily harm
    - wounding and grievous bodily harm.
  - theft offences –
    - theft
    - burglary
    - robbery.
  - criminal damage –
    - simple criminal damage
    - aggravated criminal damage
    - arson.
  - Homicide –
    - murder
    - manslaughter.

Candidates are expected to know the law relating to the above specified offences. Additionally, candidates are expected to apply principles of criminal liability to a range of additional unfamiliar offences, such as, for example, sexual offences, drugs, motoring, fraud or public order offences. In this case the relevant statutory definition of the offence and any other relevant information will be supplied to candidates as part of the question paper.

The procedure and processes involved in advising clients, including vulnerable clients, at the police station

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- Rights of a suspect being detained by the police for questioning
  - Appropriate police conduct and limitations on police detention
  - Time limits under PACE 1984 code C for detaining a suspect.
- Identification procedures;
  - When an identification procedure must be held

- Different types of identification procedure
- Procedure for carrying out an identification procedure PACE 1984 code D
- ▣ Advising a client whether to answer police questions:
  - Right to silence
  - Adverse inferences
  - Vulnerable clients
- ▣ Procedure for interviewing a suspect
  - PACE 1984 code C
  - Appropriate conduct by defence solicitor sitting in on a police interview
- ▣ Procedure for charging the suspect and granting police bail PACE 1984 Code C
  - Charging standards
  - Bail conditions
- ▣ The suspect's rights under PACE 1984 and the Human Rights Act 1998

### The procedures and processes involved in criminal litigation

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| <ul style="list-style-type: none"> <li>▣ Bail applications:           <ul style="list-style-type: none"> <li>▪ the right to bail and exceptions</li> <li>▪ conditional bail</li> <li>▪ procedure for applying for bail</li> <li>▪ further applications for bail</li> <li>▪ appeals against decisions on bail</li> <li>▪ absconding and breaches of bail.</li> </ul> </li> <li>▣ First hearings before the Magistrates:           <ul style="list-style-type: none"> <li>▪ applying for a representation order</li> <li>▪ procedural overview – what will happen at the hearing</li> <li>▪ the role of the defence solicitor at the hearing.</li> </ul> </li> <li>▣ Plea before Venue:           <ul style="list-style-type: none"> <li>▪ procedure on defendant entering plea</li> <li>▪ advising the client on trial venue.</li> </ul> </li> <li>▣ Allocation of business between Magistrates' Court and Crown Court:           <ul style="list-style-type: none"> <li>▪ procedure sections 19–20 Magistrates' Courts Act 1980</li> <li>▪ sending without allocation section 50A Crime and Disorder Act 1998.</li> </ul> </li> <li>▣ Case management and pre-trial hearings:           <ul style="list-style-type: none"> <li>▪ Magistrates' Court case management directions</li> <li>▪ Crown Court preliminary hearings</li> <li>▪ plea and case management hearing</li> </ul> </li> </ul> | <ul style="list-style-type: none"> <li>▪ disclosure – prosecution, defence and unused material.</li> <li>▣ Procedures to admit and exclude evidence:           <ul style="list-style-type: none"> <li>▪ visual identification evidence and corroboration</li> <li>▪ inferences from silence ss 34, 35, 36, 37 Criminal Justice and Public Order Act 1994.</li> <li>▪ hearsay evidence –               <ul style="list-style-type: none"> <li>▪ definition</li> <li>▪ procedure for admitting hearsay evidence.</li> </ul> </li> <li>▪ confession evidence –               <ul style="list-style-type: none"> <li>▪ definition</li> <li>▪ admissibility</li> <li>▪ challenging admissibility sections 76 and 78 PACE 1984.</li> </ul> </li> <li>▪ character evidence –               <ul style="list-style-type: none"> <li>▪ definition of bad character</li> <li>▪ the 7 gateways s 101 (1) Criminal Justice Act 2003</li> <li>▪ procedure for admitting bad character evidence</li> <li>▪ court's power to exclude bad character evidence</li> <li>▪ evidence of good character.</li> </ul> </li> <li>▪ exclusion of evidence –               <ul style="list-style-type: none"> <li>▪ Section 78 PACE and the right to a fair trial</li> <li>▪ illegal searches</li> <li>▪ police undercover operations</li> <li>▪ abuse of process.</li> </ul> </li> </ul> </li> </ul> |
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- Trial procedure in Magistrates' and Crown Courts:
  - the prosecution case –
    - opening speech
    - prosecution evidence including examination, cross examination and re-examination of witnesses.
  - The defence case:
    - submission of no case to answer
    - defence witnesses including examination, cross examination and re-examination of witnesses
    - closing speech.
  - modes of address and Court room etiquette
  - directions to the Jury (basic principles; candidates are not be required to know the detail of JSB specimen directions)
  - solicitor's duty to the court.
- Sentencing principles:
  - sentencing powers
  - types of sentence – custodial and community
  - Newton hearings
  - Mitigation.
- Appeals procedure:
  - appeals from the Magistrates' Court –
    - procedure for appeal against conviction and/or sentence
    - powers of the Crown Court
    - appeal to the High Court by way of case stated
  - appeals from the Crown Court –
    - grounds of appeal
    - procedure for making the appeal
    - powers of the Court of Appeal.
- Youth Court procedure
  - Jurisdiction
  - Allocation
  - sentencing

### Scenario questions in the assessment

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The assessment objectives are assessed in the scenarios regularly encountered in practice. For example:

- the investigation, prosecution or defence in the Magistrates' and Crown Court of:
  - offences against the person
  - theft offences
  - criminal damages offences.
  - a variety of additional offences, where the statutory definition and other relevant information will be supplied as part of the question paper.

The above may include secondary participation and attempts.

This list is not exhaustive.

# Stage 1 Practical Legal Skills Assessment

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## Overview

This assessment will consist of 2 tasks, to be completed in a specified period of time:

- a structured research task
- a two-part writing skills task.

For the research task, candidates are asked to undertake research on a directed legal issue. The task will arise out of one or more of the areas of law covered in the stage 1 Functioning Legal Knowledge assessments.

The research task is carried out online and the candidate must produce a research trail. The candidate must then report their findings in a memorandum or briefing note, suitable for review by a supervising lawyer.

For the written skills task, candidates are asked to produce two formal letters on procedural or administrative matters. The first intended recipient is a client and the second is a third party. Guidance on house style is provided alongside the assessment.

The tasks are marked by a trained assessor, who is a qualified solicitor.

This assessment covers the following competences:

- Act honestly and with integrity in accordance with legal and regulatory requirements [SoSC A1].
- Draw on sufficient knowledge and understanding [SoSC A4].
- Apply understanding, critical thinking and analysis to solve problems [SoSC A5].
- Obtain relevant facts [SoSC B1].
- Undertake legal research [SoSC B2].
- Communicate clearly and effectively in writing [SoSC C1].

Candidates are expected to complete the tasks to the level required to work effectively in professional legal services in an unqualified capacity.

## Assessment Objectives

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Candidates are required to:

### A. Carry out research into a directed legal issue.

They must:

1. Accurately identify the nature of the legal issue.
2. Logically identify areas requiring research.
3. Identify relevant and reliable sources.
4. Produce a research trail, noting references and citations for sources and materials
5. Extract information which is relevant, current and reliable.

6. Analyse research findings and apply appropriately to the legal issue.
7. Correctly identify issues of ethical and professional conduct and exercise judgment to resolve them honestly and with integrity.
8. Plan and manage time effectively.
9. Produce a memorandum or briefing note which clearly and effectively explains the relevant legal and factual issues and shows understanding of legal principles.
10. Communicate clearly and fluently in grammatically correct language.

**B. Produce two formal letters on a procedural or administrative matter.**

They must:

1. Correctly identify and meet the purpose of the letter(s)
2. Adopt house style and use formalities appropriate to the purpose and context
3. Communicate clearly and fluently in grammatically correct language in a way that is appropriate to the recipient of the letter, purpose and context.

### **Pre-implementation development and testing**

Through pre-implementation development and testing, we will determine:

- the practical legal skills to be assessed at stage1
- the number of assessments
- the number of separate assessment points in each assessment
- the length of time for the assessment.

This information will be added to the Assessment Specification and described in an assessment blueprint for the assessment which will accompany the Assessment Specification.

## Stage 2

### Overview of the Practical Legal Skills Assessments

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There are five Practical Legal Skills Assessments:

- Client Interviewing
- Advocacy/Persuasive Oral Communication
- Case and Matter Analysis
- Legal Research and Written Advice
- Legal Drafting.

The assessments will be set in the following contexts:

- Dispute Resolution
- Property
- Business Practice
- Criminal Practice
- Wills and the Administration of Estates and Trusts.

Each of the five practical legal skills assessments is assessed twice in two different contexts. This is a total of ten assessments. All ten assessments must be passed.

### Methods of Assessment

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Practical Legal Skills Assessment	Method of Assessment
Client Interviewing	<ul style="list-style-type: none"><li>■ The assessment consists of a role-play exercise with a client, played by a trained actor, and observed by a trained assessor, a qualified solicitor.</li><li>■ Candidates have a specified period of preparation time to review a file of supporting background information, including any relevant primary legal materials. They then have a specified period of time to carry out an interview with the client and another specified period of time to produce an attendance note.</li><li>■ The interview and attendance note are assessed by the qualified solicitor, informed by feedback provided by the client on the client handling skills demonstrated by the candidate.</li></ul>

<p>Advocacy/Persuasive oral communication</p>	<ul style="list-style-type: none"> <li>■ The assessment consists of a role-play exercise with a judge/decision-maker, played by a trained assessor, who is a qualified solicitor.</li> <li>■ Candidates have a specified period of preparation time to review a file of supporting background information, which includes any relevant primary legal materials, and to prepare a submission/presentation to be presented by the candidate to a judge or other decision-maker. The objective is to persuade the judge or other decision maker to the candidate's point of view.</li> <li>■ Candidates may choose to be assessed in either advocacy or in persuasive oral communication. Neither option involves witness handling or an opposing party. In a civil or criminal litigation context, the assessment consists of an oral submission to the court. In non-contentious contexts, it consists of a presentation on a legal topic, advocating on behalf of a client.</li> <li>■ The presentation is assessed by the judge or decision maker.</li> </ul>
<p>Case and Matter Analysis</p>	<ul style="list-style-type: none"> <li>■ The assessment consists of a role-play exercise involving a structured interview with a supervisor, played by a trained assessor, who is a qualified solicitor.</li> <li>■ Candidates have a specified period of time to review a file concerning a case or transaction that will involve some negotiation to prepare a brief for the supervisor on the file. The review includes identifying the legal and factual issues, legal risks and next steps. It also includes consideration of an opening offer to be made and next steps in the negotiation. Candidates then present their review analysis to the supervisor for discussion.</li> <li>■ The candidate's performance in the discussion is assessed by the supervisor.</li> </ul>
<p>Legal Research and Written Advice</p>	<ul style="list-style-type: none"> <li>■ The assessment consists of a computer-based research and writing task.</li> <li>■ Candidates have a specified period of time to carry out a piece of research arising from instructions received from a client in a given scenario. They are required to</li> </ul>

	<p>identify and understand the nature of the legal problem, undertake legal research to identify relevant legal sources and apply them to the scenario.</p> <ul style="list-style-type: none"> <li>■ Having undertaken research, and based upon the outcome of that research, candidates are required to produce a letter to the client which applies the law to the client's problem and provides practical advice and recommendations.</li> <li>■ The client letter and thereby the underpinning research, are assessed by a trained assessor, who is a qualified solicitor.</li> </ul>
<p>Legal Drafting</p>	<ul style="list-style-type: none"> <li>■ The assessment consists of a computer-based drafting task.</li> <li>■ Candidates have a specified period of time to draft a document or documents. They have access to an on-line standard precedent bank and are also required to draft clauses or parts of clauses without the use of precedent. The documents must accurately reflect the client's instructions.</li> <li>■ The documents are assessed by a trained assessor, who is a qualified solicitor.</li> </ul>

## Coverage of the SoSC

The assessment objectives for each assessment reflect the following aspects of the Statement of Solicitor Competence (SoSC):

	Client Interviewing	Advocacy/Persuasive Oral Comm.	Case and Matter Analysis	Legal Research and Written Advice	Drafting
<b>A. Ethics, professionalism and judgment</b>					
A1 Act honestly and with integrity, in accordance with legal and regulatory requirements	x	x	x	x	x
A2 Maintain the level of competence and legal knowledge needed to practise effectively	x	x	x	x	x
A3 Work within the limits of their competence and the supervision which they need	x	x	x	x	x
A4 Draw on a sufficient detailed knowledge and understanding of their field(s) of work and role in order to practise effectively	x	x	x	x	x
A5 Apply understanding, critical thinking and analysis to solve problems	x	x	x	x	x
<b>B. Technical legal practice</b>					
B1 Obtain relevant facts	x		x	x	x
B2 Undertake legal research				x	

B3 Develop and advise on relevant options, strategies and solutions	x		x	x	x
B4 Draft documents which are legally effective and accurately reflect the client's instructions					x
B5 Undertake effective spoken and written advocacy		x			
B6 Negotiate solutions to clients' issues			x	x	x
B7 Plan, manage and progress legal cases and transactions	x		x	x	x
<b>C. Working with others</b>					
C1 Communicate clearly and effectively, orally and in writing	x	x	x	x	x
C2 Establish and maintain effective professional relationships with clients	x		x	x	
C3 Establish and maintain effective and professional relations with other people		x	x	x	
<b>D. Managing themselves and own work</b>					
D1 Initiate, plan, prioritise and manage work activities	x	x	x	x	x
D2 Keep, use and maintain accurate, complete and clear records	x		x	x	x
D3 Apply good business practice	x		x	x	x

## Functioning legal knowledge

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The Stage 2 Practical Legal Skills assessments assume that the candidates can apply the legal principles in the materials with which they are provided to the given scenario.

Any additional or specific substantive or procedural law legal knowledge required to complete the assessment tasks will be provided during the assessment.

## Threshold Standard

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The Threshold Standard for the Statement of Solicitor Competence describes the level at which the competences in the SoSC should be performed upon qualification as a solicitor:

Functioning legal knowledge	Standard of work	Autonomy	Complexity	Perception of context	Innovation and originality
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 judgment, 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 judgments about possible courses of action and ways forward.

This Threshold Standard therefore defines the minimum standard of performance required to pass the stage 2 Practical Legal Skills Assessments.

### Pre-implementation development and testing

Through pre-implementation development and testing, we will determine the following:

- the practical legal skills to be assessed at stage 2
- the number of assessments
- the number of practice contexts in which an assessment must be sat
- whether there is a choice of practice contexts
- the number of separate assessment points in each assessment
- the length of time of each assessment.

This information will be added to the Assessment Specification and described in an assessment blueprint which will accompany the Assessment Specification.

# Client interviewing

## Practical Legal Skills Assessment

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### Overview

The assessment consists of a role-play exercise with a client, played by a standardised trained actor and observed by a trained assessor who is a qualified solicitor.

Candidates have a specified period of preparation time to review a file of supporting background information, including any relevant primary legal materials. They then have a specified period of time to carry out an interview with the client and a specified period of time to produce an attendance note.

The interview, feedback provided by the client, and the attendance note are assessed by the qualified solicitor.

The assessment covers the following competences:

- Act honestly and with integrity in accordance with legal and regulatory requirements [SoSC A1].
- Maintain the level of competence and legal knowledge needed to practise effectively [SoSC A2].
- Work within the limits of their competence and the supervision which they need [SoSC A3].
- Draw on a sufficient detailed knowledge and understanding of their field(s) of work and role in order to practise effectively [SoSC A4].
- Apply understanding, critical thinking and analysis to solve problems [SoSC A5].
- Obtain relevant facts [SoSC B1].
- Develop and advise on relevant options, strategies and solutions [SoSC B3].
- Plan, manage and progress legal cases and transactions [SoSC B7].
- Communicate clearly and effectively, orally and in writing [SoSC C1].
- Establish and maintain effective and professional relations with clients [SoSC C2].
- Initiate, plan, prioritise and manage work activities and projects [SoSC D1].
- Keep use and maintain accurate, complete and clear records [SoSC D2].
- Apply good business practice [SoSC D3].

### Assessment Objectives

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Candidates are required to:

#### A. Conduct an interview with a given client.

They must:

1. Establish and maintain an effective relationship with the client
2. Communicate clearly and effectively in a way that is suitable for the client to understand.
3. Use questioning effectively to ascertain relevant facts and information from the client.

4. Actively listen and provide appropriate responses and reassurance.
5. Respond appropriately to verbal and non-verbal cues.
6. Clarify information received from the client to ensure accuracy and understanding of issues and instructions.
7. Identify the nature of the problem and correctly establish whether legal assistance is necessary or appropriate.
8. Apply understanding, critical thinking and analysis to:
  - provide appropriate immediate legal advice
  - correctly identify whether further expertise or third party opinion is needed
  - advise on options, strategies and solutions.
9. Conduct themselves in a way that respects diversity and is fair and inclusive.
10. Correctly identify issues of ethical and professional conduct and exercise judgment to resolve them honestly and with integrity.
11. Structure and manage the interview to make effective use of time.

### B. Produce an attendance note of the interview for another solicitor

They must:

1. Produce an accurate record of the interview including: the key issues discussed; any advice given and any instructions received; attendees, date and time spent.
2. Present the note in a logically structured format.
3. Communicate clearly and effectively in clear, grammatically correct language.
4. Show accurate understanding and application of legal principles to the client's interests or instructions.

### Practice contexts for the assessment

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The assessment objectives are assessed in the following practice contexts:

- Dispute Resolution
- Property
- Business Practice
- Criminal Practice
- Wills and the Administration of Estates and Trusts.

Example scenarios

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Candidates assessed in a Dispute Resolution context may be required to interview a client:

- who is contemplating a claim in the context of contract or tort against another person
- who is contemplating defending a claim in contract or tort threatened or started by another person
- about the proposed resolution of a claim which the client has brought or is defending.

Candidates who are assessed in the context of Property may be required to interview a client:

- who is buying or selling a piece of real estate
- who is landlord or tenant under a lease of commercial premises
- who is landlord or tenant under a lease of residential premises
- who has been served with Notice to Quit.

Candidates who are assessed in the context of Business Practice may be required to interview a client:

- who plans to establish a business as a sole trader
- who plans to establish a business as a partnership
- who plans to establish a business as a company
- who is in dispute with their fellow partners/directors or shareholders
- wants to exit the business with which they are involved
- wants advice on a range of contractual matters
- wants to expand their business
- wants to introduce new partners or directors to the business.

Candidates who are assessed in the context of Criminal Practice may be required to interview a client:

- who has been charged with a criminal offence
- who wants advice on bail
- who wants advice on sentencing.

Candidates who are assessed in the context of Wills and Administration of Estates and Trusts may be asked to interview a client who:

- wants to discuss a will being drafted for them
- wants to discuss a will as beneficiary
- wants to discuss a will as personal representative
- wants to talk about the intestacy of their partner/parent/child or friend.

# Advocacy/Persuasive Oral Communication

## Practical Legal Skills Assessment

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### Overview

The assessment consists of a role-play exercise with a judge or decision-maker, played by a trained assessor, who is a qualified solicitor.

Candidates have a specified period of preparation time to review a file of supporting background information, which includes any relevant primary legal materials, and to prepare a submission/presentation to be presented by the candidate to a judge or other decision maker. The objective is to persuade the judge or other decision maker to the candidate's point of view. No questions are put to the candidates.

The presentation is assessed by the judge or decision maker.

The assessment covers the following competences:

- Act honestly and with integrity in accordance with legal and regulatory requirements [SoSC A1].
- Maintain the level of competence and legal knowledge needed to practise effectively [SoSC A2].
- Work within the limits of their competence and the supervision which they need [SoSC A3].
- Draw on a sufficient detailed knowledge and understanding of their field(s) of work and role in order to practise effectively [SoSC A4].
- Apply understanding, critical thinking and analysis to solve problems [SoSC A5]
- Undertake effective spoken advocacy [SoSC B5].
- Communicate clearly and effectively, orally and in writing [SoSC C1].
- Establish and maintain effective and professional relations with other people [SoSC C3].
- Initiate, plan, prioritise and manage work activities and projects [SoSC D1].

Candidates are assessed in either advocacy or in persuasive oral communication.

### Assessment Objective

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Candidates are required to:

**A. Present a persuasive argument to a judge or decision maker.**

They must:

1. Correctly identify the objectives to be achieved to further the client's interests or instructions.
2. Apply understanding, critical thinking and analysis to:
  - identify relevant facts and legal principles from background information

- prepare a presentation which is appropriate to the audience and context
  - prepare an argument which is grounded in relevant facts and legal principles  
anticipate and prepare for counter arguments and challenges.
3. Structure the presentation to make effective use of time.
  4. Present their argument effectively by:
    - communicating clearly and fluently
    - observing standards of etiquette appropriate to the audience and context
    - establishing and maintaining effective relations with the audience.
  5. Conduct themselves in a way that respects diversity and is fair and inclusive
  6. Correctly identify issues of ethical and professional conduct and exercise judgment to resolve them honestly and with integrity.

### **Practice contexts for the assessment**

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The assessment objective is assessed in the following practice contexts. Candidates are assessed in either advocacy or in persuasive oral communication, depending on their chosen practice context.

- Dispute Resolution – Advocacy
- Property – Persuasive Oral Communication
- Business Practice – Persuasive Oral Communication
- Criminal Practice – Advocacy
- Wills and the Administration of Estates and Trusts – Persuasive Oral Communication.

Neither option involves witness handling or an opposing party. In a civil or criminal litigation context, the assessment consists of an oral submission to the court. In non-contentious contexts, it consists of a presentation on behalf of a client on a legal topic, including an element of persuasion.

#### Example scenarios

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Candidates assessed in a Dispute Resolution context may be required to make or resist an interim application involving:

- summary judgment
- setting aside a default judgment
- strike-out
- interim damages
- security for costs
- interim injunction.

Candidates assessed in a Property context may be required to persuade on behalf of a client regarding:

- protection of their interests in a property
- ownership of is most appropriate
- a tenant's failure to observe tenant covenants; for example, repair or rent.

Candidates assessed in a Business Practice may be required to persuade on behalf of a client regarding:

- compliance with corporate governance
- arrangements for a company sale
- dealing with insolvency
- raising finance.

Candidates assessed in a Criminal Practice context may be required to:

- apply for bail
- resist an application for bail
- make a submission of no case to answer or a closing speech in a simple case
- make a submission at a Newton hearing
- submit a plea in mitigation
- apply to exclude or admit evidence.

Candidates who are assessed in the context of Wills and Administration of Estates and Trusts may be required to persuade on behalf of a client:

- that a person cannot carry out a particular action, for example make a will, because they lack capacity
- that a person cannot carry out a particular action, for example because it would be a breach of trust
- that the provisions of a will or intestacy are or are not binding.

# Case and Matter Analysis

## Practical Legal Skills Assessment

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### Overview

The assessment consists of a role-play exercise involving a structured interview with a supervisor, played by a trained assessor, who is a qualified solicitor.

Candidates have a specified period of time to review a file concerning a case or transaction that will involve some negotiation to prepare a brief for the supervisor on the file. The review includes identifying the legal and factual issues, legal risks and next steps. It also includes consideration of an opening offer to be made and next steps in the negotiation. Candidates then present their review analysis to the supervisor for discussion.

The candidate's performance in the discussion is assessed by the supervisor.

The assessment covers the following competences:

- Act honestly and with integrity in accordance with legal and regulatory requirements [SoSC A1].
- Maintain the level of competence and legal knowledge needed to practise effectively [SoSC A2].
- Work within the limits of their competence and the supervision which they need [SoSC A3].
- Draw on a sufficient detailed knowledge and understanding of their field(s) of work and role in order to practise effectively [SoSC A4].
- Apply understanding, critical thinking and analysis to solve problems [SoSC A5]
- Obtain relevant facts [SoSC B1].
- Develop and advise on relevant options, strategies and solutions [SoSC B3]
- Negotiate solutions to clients' issues [SoSC B6].
- Plan, manage and progress legal cases and transactions [SoSC B7].
- Communicate clearly and effectively, orally and in writing [SoSC C1].
- Establish and maintain effective and professional relations with clients [SoSC C2].
- Establish and maintain effective and professional relations with other people [SoSC C3].
- Initiate, plan, prioritise and manage work activities and projects [SoSC D1].
- Keep use and maintain accurate, complete and clear records [SoSC D2].
- Apply good business practice [SoSC D3].

### Assessment Objective

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Candidates are required to:

**A. Present and discuss an analysis of a case and matter review with a supervisor.**

They must:

1. Apply understanding, critical thinking and analysis to:
  - extract relevant information as to the facts of the matter and its current position
  - correctly identify and evaluate the strengths and weaknesses of a case
  - correctly identify and analyse the factual, legal, procedural, commercial and evidential issues (as appropriate to the context)
  - accurately differentiate between historical and current objectives and instructions
  - correctly identify any outstanding matters
  - advise on the merits and suitability of any offer made, with regard to the client's interests; propose relevant options, strategies and solutions to further the client's best interests; identify and prioritise further action to be taken
  - consider the possible consequences of any recommended course of action.
2. Communicate clearly and fluently during the interview.
3. Demonstrate detailed understanding and critical analysis of the case and matter during the interview.
4. Identify issues of ethical and professional conduct and exercise judgment to resolve them honestly and with integrity.

### Practice contexts for the assessment

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The assessment objective is assessed in the following practice contexts:

- Dispute Resolution
- Property
- Business Practice
- Criminal Practice
- Wills and the Administration of Estates and Trusts.

#### Example scenarios

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Candidates assessed in a Dispute Resolution context may be required to conduct a Case and Matter Analysis with a supervisor about:

- a new client matter where the client is bringing or defending proceedings in a claim in either contract or tort a review of evidence
- next steps in civil proceedings
- an offer to settle which has been received from the other side
- an offer to settle which you will be advising your client to make.

Candidates who are assessed in the context of Property may be required to conduct a Case and Matter Analysis with a supervisor about:

- a new client matter where the client is buying or selling a piece of real estate
- a new client matter where the client is to be landlord or tenant under a lease of commercial premises
- a new client matter where the client is to be landlord or tenant under a lease of residential premises.

Candidates who are assessed in the context of Business Practice may be required to conduct a Case and Matter Analysis with a supervisor about:

- a client matter where the client plans to establish a business as a sole trader
- a client matter where the client plans to establish a business as a partnership
- a client matter where the client plans to establish a business as a company
- an existing client matter about business expansion/colleagues joining or exiting the business or about contractual disputes.

Candidates who are assessed in the context of Criminal Practice may be asked to conduct a Case and Matter Analysis with a supervisor about:

- a client matter where the client has been charged with a criminal offence
- a client matter where the client wants advice on bail
- a client matter where the client is about to be sentenced including the likely sentence
- a review of evidence on a client matter
- charging a detained person
- grounds for appeal.

Candidates who are assessed in the context of Wills and Administration of Estates and Trusts may be asked to conduct a Case and Matter Analysis with a supervisor about:

- a client matter where the client is seeking advice about a will to be drafted for them
- client matter where the client is seeking advice about the contents of a will where they are a beneficiary
- a client matter where the client is seeking advice about their role as personal representative
- a client matter where the client is seeking advice about intestacy
- a client matter where the client wants advice on challenging a will.

# Legal Research and Written Advice

## Practical Legal Skills Assessment

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### Overview

The assessment consists of a computer-based research and writing task.

Candidates are required to carry out a piece of research arising from instructions received from a client in a given scenario in a specified period of time. The complexity of the task will be greater than the equivalent task in stage 1. Candidates are required to identify and understand the nature of the legal problem, undertake legal research to identify relevant legal sources and apply them to the scenario. Candidates are able to access a database of all relevant materials to enable them to carry out the task.

Having undertaken research, and based upon the outcomes of that research, candidates will be required to produce a letter to the client or third party which applies the law to the client's problem and provides practical advice and recommendations.

The client letter, and the quality of the underpinning research, will be assessed by a trained assessor, who is a qualified solicitor.

The assessment covers the following competences:

- Act honestly and with integrity in accordance with legal and regulatory requirements [SoSC A1].
- Maintain the level of competence and legal knowledge needed to practise effectively [SoSC A2].
- Work within the limits of their competence and the supervision which they need [SoSC A3].
- Draw on a sufficient detailed knowledge and understanding of their field(s) of work and role in order to practise effectively [SoSC A4].
- Apply understanding, critical thinking and analysis to solve problems [SoSC A5].
- Obtain relevant facts [SoSC B1].
- Undertake legal research [SoSC B2].
- Develop and advise on relevant options, strategies and solutions [SoSC B3].
- Negotiate solutions to clients' issues [SoSC B6].
- Plan, manage and progress legal cases and transactions [SoSC B7].
- Communicate clearly and effectively, orally and in writing [SoSC C1].
- Establish and maintain effective and professional relations with clients [SoSC C2].
- Establish and maintain effective and professional relations with other people [SoSC C3].
- Initiate, plan, prioritise and manage work activities and projects [SoSC D1].
- Keep use and maintain accurate, complete and clear records [SoSC D2].
- Apply good business practice [SoSC D3].

## Assessment Objective

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Candidates are required to:

**A. Produce a letter of advice for a client based on research into a legal matter.**

They must:

1. Accurately interpret the client's instructions and identify the nature of the legal matter and areas requiring research.
2. Identify appropriate sources and extract information which is current, reliable and relevant to the legal matter.
3. Apply understanding, critical thinking and analysis to:
  - evaluate research findings
  - develop options, strategies or solutions to address the client's interests or instructions.
4. Plan and manage time effectively.
5. Produce a logically structured letter which clearly and accurately explains relevant legal principles, options, strategies and solutions in way that is appropriate to the client.
6. Communicate clearly and fluently in a way that is appropriate to the client and context.
7. Correctly identify issues of ethical and professional conduct and exercise judgment to resolve them honestly and with integrity.

## Practice contexts for the assessment

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The assessment objective is assessed in the following practice contexts:

- Dispute Resolution
- Property
- Business Practice
- Criminal Practice
- Wills and the Administration of Estates and Trusts.

Example scenarios

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Candidates assessed in a Dispute Resolution context may be required to:

- research issues in respect of a claim based in contract
- research issues in respect of a claim based in negligence
- research principles relating to different heads of damages recoverable in a contract or tort claim
- research a procedural issue
- write a letter of advice, based on the research, to a client or third party.

Candidates who are assessed in the context of Property may be required to:

- research an issue relating to sale or purchase of land
- research an issue relating to lease of a property
- research an issue relating to rent

- write to a client or third party about the outcome of the research.

Candidates who are assessed in the context of Business Practice may be required to:

- research an issue about partnership law
- research an issue about company law (private or public)
- research an issue about funding a business
- write to a client or third party about the outcome of the research.

Candidates who are assessed in the context of Criminal Practice may be asked to:

- research the law relating to a criminal offence
- research the law relating to an aspect of criminal procedure
- research the law relating to sentencing
- write to a client or third party about the outcome of the research.

Candidates who are assessed in the context of Wills and Administration of Estates and Trusts may be asked to:

- research the law relating to an aspect of a will
- research the law relating to intestacy
- research a claim under the Inheritance (Provision for Family and Dependents) Act 1975
- write to a client or third party about the outcome of the research.

# Legal Drafting

## Practical Legal Skills Assessment

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### Overview

The assessment consists of a computer-based drafting task.

Candidates are required to draft a document or documents for a given client in a specified period of time. They have access to an on-line standard precedent bank to use as necessary but may also be required to draft clauses or parts of clauses without the use of precedent. The documents must accurately reflect the client's instructions.

The documents are assessed by a trained assessor, who is a qualified solicitor.

The assessment covers the following competences:

- Act honestly and with integrity in accordance with legal and regulatory requirements [SoSC A1].
- Maintain the level of competence and legal knowledge needed to practise effectively [SoSC A2].
- Work within the limits of their competence and the supervision which they need [SoSC A3].
- Draw on a sufficient detailed knowledge and understanding of their field(s) of work and role in order to practise effectively [SoSC A4].
- Apply understanding, critical thinking and analysis to solve problems [SoSC A5].
- Obtain relevant facts [SoSC B1].
- Undertake legal research [SoSC B2].
- Develop and advise on relevant options, strategies and solutions [SoSC B3].
- Draft documents which are legally effective and accurately reflect the client's instruction [SoSC B4].
- Negotiate solutions to clients' issues [SoSC B6].
- Plan, manage and progress legal cases and transactions [SoSC B7].
- Communicate clearly and effectively, orally and in writing [SoSC C1].
- Initiate, plan, prioritise and manage work activities and projects [SoSC D1].
- Keep use and maintain accurate, complete and clear records [SoSC D2].
- Apply good business practice [SoSC D3].

### Assessment Objective

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Candidates are required to:

#### A. Draft a legal document or documents for a given client.

They must:

1. Accurately interpret the client's instructions and identify the nature of the legal matter.
2. Understand the purpose, nature, function and value of the document required.
3. Draw on understanding of relevant law to manage or progress the case or transaction.

4. Apply understanding, critical thinking and analysis to draft documents which are legally effective and accurately reflect the client's instructions and interests.
5. Select and use relevant precedents (as appropriate to context).
6. Include all material relevant to the legal matter.
7. Structure documents correctly, observing all necessary formalities and requirements.
8. Communicate clearly, concisely and unambiguously in grammatically correct language
9. Correctly identify issues of ethical and professional conduct and exercise judgment to resolve them honestly and with integrity.

### Practice contexts for the assessment

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The assessment objective is assessed in the following practice contexts:

- Dispute Resolution
- Property
- Business Practice
- Criminal Practice
- Wills and the Administration of Estates and Trusts.

Example scenarios

---

Candidates assessed in a Dispute Resolution context may be required to draft:

- some or all of a statement of case in a claim in contract or tort
- some or all of an application to court in a claim in contract or tort including some or all of a witness statement in support
- some or all of an order in a claim in contract or tort
- some or all of a witness statement in a claim in contract or tort.

Candidates who are assessed in the context of Property may be required to draft:

- some or all of a contract for exchange
- some or all of a transfer document
- some or all of a lease
- some or all of a licence.

Candidates who are assessed in the context of Business Practice may be required to draft:

- some or all of a partnership agreement
- some or all of the articles of a company's articles
- some or all of a shareholder agreement
- some or all of a commercial contract
- some or all of a director's service contract.

Candidates who are assessed in the context of Criminal Practice may be asked to draft:

- some or all of a witness statement
- some or all of an application for the admission of hearsay evidence or bail application.

Candidates who are assessed in the context of Wills and Administration of Estates and Trusts may be asked to draft:

- some or all of a will or a letter of wishes to accompany a will
- some or all of probate documentation
- some or all of an oath.

## Annex 1 – Statement of Solicitor Competence

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This statement 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 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 judgment**

**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 judgment 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.
- 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 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.

**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 judgments.
- 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.

**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 advocacy, including:**

- a) Preparing effectively by identifying and mastering relevant facts and legal principles.
- b) Organising 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 formalities.
- f) Dealing with 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**

**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 to accounting and financial matters
- d) Managing available resources and using them efficiently.

## Annex 2 – Summary of Functioning Legal Knowledge

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### Background

This annex summarises the functioning legal knowledge set out in each of the Stage 1 functioning legal knowledge assessments.

### Ethics, professional conduct and regulation

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- The purpose, scope and content of the SRA Principles 2018.
- The purpose, scope and content of the SRA Code of Conduct for Solicitors, RELs and RFLs 2018
- The purpose, scope and content of Solicitors' Accounts Rules 2018
- Money laundering:
  - Purpose and scope of anti-money laundering legislation -
    - Terrorism Act 2000
    - Proceeds of Crime Act (POCA) 2002
    - Serious Crime Act 2015
    - Anti- money Laundering Regulations MLR) 2007 (or its successors, and relevant amendments).
  - Definition of 'criminal property and the main money laundering offences
- Due diligence requirements
- Disclosure and reporting requirements and procedures.
- Financial services:
  - Purpose and requirements of the Financial Conduct Authority and regulatory requirements of the SRA
  - Regulated activities
  - S.327 FSMA Designated Professional Bodies
  - SRA Financial Services (Scope) Rules 2001
  - SRA Financial Services (Conduct of Business) Rules 2001
  - Financial Services and Markets Act 2000
  - Regulated Activities Order 2001
  - Non-exempt Activities Order 2001

### Legal services

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- Contractual basis of legal services.
- Individual and entity-based regulation.
- Solicitors, regulation and reserved legal activities.
- Other regulated providers of legal services and their relationship with solicitors:
  - Barristers
  - Chartered Legal Executives.
- Appropriate client options for funding of legal services
  - private retainer
    - fixed fee
    - hourly rate
    - disbursements
  - Conditional Fee Arrangements
  - Damages Based Agreements
  - Legal aid
  - Trade Union Funding
  - Third Party Funding
  - Legal Expenses Insurance

- After the event
  - Before the event.
- ▣ Professional services delivered alongside legal services.

## Constitutional law and EU law

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- ▣ The organisation of the state:
  - the executive
  - the legislature -
    - Parliament
    - The Crown.
  - the judiciary.
- ▣ Key aspects of the British Constitution:
  - unwritten and uncodified
  - The rule of law
  - Separation of powers
- ▣ Parliamentary sovereignty:
  - legitimacy
  - law-making role and powers
  - The Royal Prerogative
  - Parliamentary privilege
  - The Government of Wales Acts 1998 and 2006
  - National Assembly of Wales
  - Welsh Assembly Government
  - Legislative competence and devolved subjects under Part 4 and Schedule 7 GoWA 2006
- ▣ Judicial control:
  - the nature and process of judicial review
  - supervisory nature
  - discretionary remedies
  - decisions which may be challenged
- standing
- grounds:
  - illegality
  - irrationality
  - procedural impropriety
  - legitimate expectation
- time limits
- outline of procedure.
- ▣ The place of EU law in the British Constitution:
  - effect of the European Communities Act 1972
  - regulations
  - directives
  - decisions
  - recommendations
  - opinions
  - the legal position following the UK's exit from the EU.
- ▣ An outline of the role of the institutions of the EU:
  - European Parliament
  - European Council
  - Council of the European Union
  - European Commission
  - Court of Justice of the European Union
  - The legal position following the UK's exit from the EU.

## Sources of law

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- ▣ Common law
  - meaning
  - remedies.
- ▣ Development of case law:
  - judicial precedent
  - binding precedent and persuasive case law.
  - Practice Statement (Judicial Precedent) [1966] 1 WLR 1234 "1966 Practice Statement".
- ▣ Equitable interests, principles and remedies.
- ▣ Primary legislation:

- Classification of Bills -
  - Public Bills
  - Private Bills.
  - Structure of a Statute - Enacting formula
  - Preamble
  - Main body
  - Schedules
  - Explanatory notes.
- Progress of a Bill to Royal Assent.
  
- ▣ Delegated (secondary) legislation:
  - Statutory instruments.
  
- ▣ Rules of statutory interpretation:
  - the literal rule
  - the golden rule
  - the mischief rule
  - the literal approach
  - the purposive approach
  - presumptions
  - duty to interpret law in a way that is compatible with Convention Rights.

## **The Human Rights Act 1998 and Equality Act 2010**

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- ▣ Human Rights Act 1998:
  - the European Convention on Human Rights
  - Schedule 1 HRA 1998 the "Convention Rights"
  - Articles 1,6,7, 8 and 10
  - duty to interpret law in a way that is compatible with Convention Rights
  - impact on parliamentary sovereignty.
  
- ▣ Equality Act 2010:
  - protected characteristics
  - prohibited conduct
  - impact on professional conduct and the provision of legal services.

## **The legal system of England and Wales**

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- ▣ The main legal institutions and their interaction:
  - the court hierarchy and court personnel: the judiciary and court officials
  - jurisdiction.
  - Permitted rights of audience as a solicitor and civil higher rights of audience

## **Core principles of contract law**

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- |  |   |
|--|---|
| <ul style="list-style-type: none"> <li>▣ Formation:           <ul style="list-style-type: none"> <li>▪ offer and acceptance</li> <li>▪ consideration</li> <li>▪ intention to create legal relations</li> <li>▪ certainty.</li> </ul> </li> <br/> <li>▣ Parties:</li> </ul> | <ul style="list-style-type: none"> <li>▪ privity of contract</li> <li>▪ rights of third parties.</li> <br/> <li>▣ Contract terms:           <ul style="list-style-type: none"> <li>▪ express terms</li> <li>▪ incorporation of terms</li> </ul> </li> </ul> |
|--|---|

- terms implied by common law and statute
- exemption clauses
- boilerplate and other common terms (including retention of title, insurance and title clauses)
- interpretation of contracts
- variation.
- Vitiating factors:
  - misrepresentation
  - mistake
  - unfair terms
  - duress and undue influence.
- Termination:
- expiry or other specified event
- breach
- frustration.
- Remedies:
  - damages
  - liquidated sums and penalties
  - specific performance
  - injunctions
  - duty to mitigate
  - indemnities
  - guarantees.
- Causation.

Candidates should also have an awareness of the principles of restitution for unjust enrichment (especially in the context of termination of a contract).

### Core principles of tort

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- Negligence:
  - duty of care and breach of duty of care
  - causation and remoteness of damage
  - pure economic loss and psychiatric illness damage.
- Breach of statutory duty and product liability.
- Nuisance, and the rule in *Rylands v Fletcher*.
- Vicarious liability.
- Remedies, including damages and injunctions.
- Defences, including consent and contributory negligence.

### The principles, procedures and processes involved in dispute resolution and the Rules of Civil Procedure.

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Candidates should be able to apply, the following parts of the Civil Procedure Rules, and the associated practice directions: CPR Parts 1, 2, 3, 6, 7, 9–42, 44, 45, 47, 52, 71–74.

#### *Different options for dispute resolution:*

- The characteristics of arbitration, mediation and litigation which make them an appropriate mechanism to resolve a dispute.

#### *Resolving a dispute through a civil claim:*

- Preliminary considerations: limitation, pre-action protocols:
  - calculating limitation periods for claims in contract and tort
  - Practice Direction – Pre-action conduct
  - pre-action protocols governing particular claims.
- Where to start proceedings:

- Allocation of business between the High Court and the county courts
- jurisdiction of the specialist courts.
  
- Issuing and serving proceedings:
  - issuing a claim form
  - joinder of parties and of causes of action
  - service of a claim form within the jurisdiction
  - service of a claim form outside the jurisdiction, with or without the court's permission
  - deemed dates of service and time limits for serving proceedings
  - service by an alternative method.
  
- Responding to a claim:
  - admitting the claim
  - acknowledging service and filing a defence
  - disputing the court's jurisdiction
  - entering and setting aside judgment in default
  - discontinuance and settlement.
  
- Statements of case:
  - purpose, structure and content of a claim form or defence relating to a claim in contract or tort
  - purpose, structure and content of a reply, Part 20 claim, or defence to Part 20 claim
  - requests for further information about statements of case.
  
- Interim applications:
  - procedure for making an application
  - purpose, procedure and evidence required for particular applications:
    - summary judgment
    - interim payments
    - interim injunctions (including freezing injunctions and search orders).
  
- Case management:
  - the overriding objective
  - track allocation
  - case management directions for cases proceeding on the fast or multi-tracks
  - non-compliance with orders, sanctions and relief
  - case management conferences.
  
- Evidence:
  - relevance, hearsay and admissibility
  - the burden and standard of proof
  - expert evidence -
    - opinion evidence
    - duties of experts
    - single joint experts
    - discussion between experts.
  - witness evidence -
    - producing witness statements.
  
- Disclosure:
  - standard disclosure
  - orders for disclosure
  - specific disclosure
  - privilege, without prejudice communications

- pre-action and non-party disclosure
- electronic disclosure.
  
- Trial:
  - summoning witnesses
  - preparations for trial -
    - pre-trial hearings
    - trial bundles.
  - conduct of the trial.
  
- Costs and funding:
  - costs management and budgeting
  - inter-partes costs orders
  - non-party costs
  - qualified one-way costs shifting
  - Part 36 and other offers
  - security for costs
  - fixed and assessed costs
  - options for funding litigation: conditional fee agreements, damages-based agreements, fixed fees, third party funding, legal aid.
  
- Appeals:
  - destination of appeals
  - grounds for appeals
  - time limits for appeals.
  
- Enforcement of money judgments:
  - oral examination
  - methods of enforcement
  - mechanisms for enforcement in another country.

## **Core principles of land law and relevant aspects of trust and contract law for property law and practice**

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The following are core principles to enable candidates to progress a freehold property transaction by taking initial instructions from the client, investigating title, exchanging contracts and finally effecting completion of the transaction:

- Nature of Land
  - how to acquire and transfer legal and equitable estates
  - how to acquire and dispose of legal and equitable interests in land
  - methods to protect and enforce third party interests
  - different ways in which land can be held
  - legal formalities required to create and transfer interests in land
  - the registered and unregistered land systems.
  
- Co-ownership and Trusts
  - differences between joint tenants and tenants in common in law and in equity
  - rule of survivorship
  - severance of joint tenancies
  - role of trustees and beneficiaries.
  
- Proprietary Rights
  - essential characteristics of easements

- methods for creation of easements
- rules for the passing of the benefit and burden of freehold covenants
- mortgages including enforceability of terms, priority of mortgages and a lender's rights and duties.

The following are core principles to enable candidates to apply an understanding of a property transaction involving the grant, assignment or underletting of a lease:

🌀 Landlord and Tenant:

- relationship between landlord and tenant in a lease
- essential characteristics of a lease including the difference between a lease and a licence
- structure of a lease
- privity of contract and privity of estate
- purpose and effect of an alienation covenant.

The following are core principles to enable candidates to apply an understanding of leasehold covenants and breach of those covenants:

🌀 Leasehold Covenants:

- rules for the passing of the benefit and burden of leasehold covenants and enforceability
- remedies for breach of leasehold covenants (including forfeiture)
- different ways a lease can be terminated
- scope of protection for tenants if they enjoy security of tenure under a lease.

## Core knowledge areas of freehold real estate law and practice

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🌀 Investigation of a registered and unregistered freehold title:

- key elements and structure of freehold property transactions
- process of analysing Land Registry official copy entries
- process of analysing an epitome of title and deducing ownership
- issues that could arise from an investigation of title and further action required
- purpose and process of reporting to the client.

🌀 Pre-contract searches and enquiries:

- range and purpose of making searches and raising enquiries
- who would make the searches and raise enquiries
- role of National Land Information Service
- results of searches and enquiries.

🌀 Finance:

- sources of finance for a property transaction
- types of mortgage
- Financial Services and Markets Act 2000 and Regulated Activities Order 2001.

🌀 Acting for a lender:

- lender's requirements
- purpose of a CLLS certificate of title.

🌀 Preparation for, and, exchange of contracts:

- key conditions contained in the:
  - Standard Conditions of Sale
  - Standard Commercial Property Conditions.
- purpose of, and matters covered by, special conditions
- methods of holding a deposit:
  - stakeholder
  - agent

- insurance and risk
- basics of VAT in a contract
- timing for issuing draft CLLS certificate of title to a lender
- the practice, method and authority to exchange
- consequences of exchange.
- ▣ Pre-completion:
  - Form of transfer deed and formalities for execution
  - Pre-completion searches
- Pre-completion steps.
- ▣ Completion and post-completion:
  - methods and effect of completion
  - post-completion steps.
- ▣ Remedies for delayed completion:
  - common law damages
  - contractual compensation
  - notice to complete
  - rescission.

## Core knowledge areas of leasehold real estate law and practice

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- ▣ Structure and content of a lease:
  - key landlord and tenant obligations in a lease
  - options for the term of a lease
  - Code for Leasing Business Premises
- ▣ Procedural steps for the grant of a lease:
  - drafting the lease
  - purpose of an agreement for lease
  - deduction of title
  - pre-contract enquiries and searches
  - pre-completion formalities
  - completion and post completion steps –
    - Stamp Duty Land Tax
    - Land Registry in England and Wales.
- ▣ Procedural steps for the assignment of a lease:
  - deduction of title
  - pre-contract enquiries and searches
  - landlord's consent
  - deed of assignment and covenants for title
  - pre-completion formalities
  - authorised guarantee agreement
  - completion and post-completion steps –
    - Stamp Duty Land Tax
    - Land Registry
    - notice of assignment.
- ▣ Procedural steps for the grant of an underlease:
  - considering the headlease
  - drafting the lease
  - deduction of title
  - pre-contract enquiries and searches
  - superior landlord's consent
  - pre-completion formalities
  - completion and post completion steps –
    - Stamp Duty Land Tax
    - Land Registry
    - notice of underlease.
- ▣ Licence to assign and licence to underlet:
  - purpose and who prepares the draft
  - privity of contract and how the licence deals with this
  - key provisions in the licence.
- ▣ Leasehold covenants:
  - liability on covenants in leases –
    - leases granted before 1 January 1996
    - leases granted on or after 1 January 1996
- ▣ Contents of a lease:
  - purpose, effect and relationship between repair and insurance clauses
  - alterations, user and planning obligations
  - rent and rent review provisions.
- ▣ Remedies for breach of a leasehold covenant:
  - action in debt

- forfeiture
- Commercial Rent Arrears Recovery
- pursue guarantors and/or rent deposit
- specific performance
- damages
- self-help/*Jervis v Harris* clause.
- Termination of a lease:
  - effluxion of time
  - notice to quit
  - surrender
- merger.
- Security of tenure under a business lease:
  - Landlord and Tenant Act 1954 (Part II) –
    - application of 1954 Act
    - renewal lease by the tenant
    - termination by the landlord
    - landlord's grounds of opposition
    - terms of new lease
    - availability of compensation.

### Core principles of planning law

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- Statutory definition of "Development".
- Matters that do not constitute "Development".
- Matters that do not require express planning permission.
- Building regulation control.
- Enforcement: time limits and the local planning authority's enforcement powers.

### Core principles of property taxation

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- Stamp Duty Land Tax:
  - understand the basis of charge in both England and Wales –
    - rates for residential freehold property
    - rates for non-residential or mixed use freehold property
    - leasehold property rates.
- Value-added tax:
  - understand the basis of charge –
    - what constitutes a taxable supply
    - differences between standard, exempt and zero-rated supplies
  - reasons why a client would make an option to tax and the effect that has.
- Capital gains tax:
  - understand the basis of charge
  - principal private dwelling-house exemption.

### Business organisations, rules and procedures

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- Business and organisational structures (sole trader/partnership/LLP/private and public companies).
- Legal personality and limited liability.
- Procedures and documentation required to incorporate a company/form a partnership/LLP and other steps required under companies and partnerships legislation to enable the entity to commence operating:
  - Memorandum and articles of association
  - Companies House filing requirements
  - Partnership agreement.

- Finance:
  - funding options: debt and equity
  - types of security
  - distribution of profits and gains
  - financial records, information and accounting requirements
  
- Corporate governance and compliance:
  - rights, duties and powers of directors and shareholders of companies
  - company decision-making and meetings: procedural, disclosure and approval requirements
  - documentary, record-keeping, statutory filing and disclosure requirements
  - appointment and removal of directors
  - minority shareholder protection.
  
- Partnership decision-making and authority of partners:
  - procedures and authority under PA 1890
  - common provisions in partnership agreements
  
- Insolvency (corporate and personal):
  - options and procedures
  - claw-back of assets for creditors
  - order of priority for distribution to creditors

## Taxation of business organisations

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- Income tax:
  - who is chargeable (employees, sole traders, partners, shareholders, lenders and debenture holders).
  - what is chargeable (types of income/main reliefs and exemptions)
  - how is the charge calculated and collected (deduction at source/PAYE/self-assessment)
  - anti-avoidance provisions (in outline).
  
- Capital Gains tax:
  - who is chargeable (sole traders, partners, and shareholders)
  - what is chargeable (calculation of gains/allowable deductions/main reliefs and exemptions)
  - how is the charge calculated and collected (self-assessment/PAYE/agents)
  - anti-avoidance provisions (in outline).
  
- Inheritance tax:
  - basis of charge
  - relevant exemptions and business reliefs (including business property relief).
  
- Corporation tax:
  - basis of charge
  - calculation, payment and collection of tax (self-assessment)
  - tax treatment of company distributions or deemed distributions to shareholders
  - outline of anti-avoidance legislation.
  
- 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

## Wills and Intestacy

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- Validity of wills and codicils:
  - testamentary capacity
  - duress and undue influence
  - formal requirements.
  
- Professional conduct:
  - proper conduct of a solicitor in cases concerning testamentary capacity, duress and undue influence.
  
- Personal Representatives
  - the appointment of executors
  - renunciation and reservation of power
  
- Alterations and amendments to wills:
  - effect of alterations made to wills both before and after execution
  - use of codicils.
  
- Revocation of wills:
  - methods of revocation
  - effect of marriage and divorce of a testator.
  
- The interpretation of wills:
  - effect of different types of gift
  - failure of gifts.
  
- The intestacy rules:
  - Section 46 of The Administration of Estates Act 1925
  - the statutory trusts.
  
- Property passing outside the estate.
  - joint property
  - life policies
  - pension scheme benefits
  - trust property

## Probate and Administration Practice

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- Grants of representation:
  - need for
  - the relevant provisions of the Non-Contentious Probate Rules
  - application procedure
  - excepted estates
  - methods of funding the initial payment of Inheritance Tax.
  
- Administration of estates:
  - duties of personal representatives
  - liabilities of personal representatives and their protection
  - the sale of assets to raise funds to pay funeral expenses, tax, debts and legacies
  - distribution of the estate.

- Claims against estates under the Inheritance (Provision for Family and Dependants) Act 1975:
  - time limit
  - applicants
  - grounds.

## Taxation for Wills and the Administration of Estates and Trusts

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- Inheritance tax in the context of:
  - lifetime transfers
  - transfers on death
  - exemptions and reliefs
  - anti-avoidance.
- Income and Capital Gains Tax in respect of the period of the administration of an estate:
  - the personal representatives' liability to Income Tax and Capital Gains Tax
  - the beneficiaries' liability to Capital Gains Tax on inherited assets.

## Trust Law

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- How to recognise and when to use the more commonly arising kinds of trust:
  - trusts for minors
  - life interest trusts
  - the statutory trusts
  - discretionary trusts.
- Powers of Personal Representatives and Trustees in the context of:
  - charging
  - investment
  - insurance
  - maintenance
  - advancement
  - appropriation.
- Personal Representatives and Trustee of will trusts:
  - their duties
  - their liabilities
  - their protection.
- Beneficiaries:
  - their rights
  - their remedies
  - their powers.
- Regulation
  - Money laundering –
    - the purpose and scope of anti-money laundering legislation
    - due diligence, procedural, reporting and record keeping requirements.

- Financial services –
  - the purpose and requirements of the Financial Conduct Authority and regulatory requirements of the SRA.
- Reporting obligations relevant to a solicitor's practice.

## **Core principles of criminal liability**

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The core principles of criminal liability relating to the following specified criminal offences listed below:

- Definition of the offence:
  - actus reus
  - mens rea.
- Defences available specific to the offence and more generally:
  - intoxication
  - loss of control
  - diminished responsibility
  - necessity.
- Secondary participation.
- Conspiracy and attempts.
- Relevant sentencing principles.
- Specified criminal offences:
  - offences against the person –
    - assault and battery
    - assault occasioning actual bodily harm
    - wounding and grievous bodily harm.
  - theft offences –
    - theft
    - burglary
    - robbery.
  - criminal damage –
    - simple criminal damage
    - aggravated criminal damage
    - arson.
  - Homicide –
    - murder
    - manslaughter.

Candidates are expected to know the law relating to the above specified offences. Additionally, candidates are expected to apply principles of criminal liability to a range of additional unfamiliar offences, such as, for example, drugs, motoring, fraud or public order offences. In this case the relevant statutory definition of the offence and any other relevant information will be supplied to candidates as part of the question paper.

## **The procedure and processes involved in advising clients, including vulnerable clients, at the police station**

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- Rights of a suspect being detained by the police for questioning
  - Appropriate police conduct and limitations on police detention
  - Time limits under PACE 1984 code C for detaining a suspect.
- Identification procedures.
  - When an identification procedure must be held
  - Different types of identification procedure
  - Procedure for carrying out an identification procedure PACE 1984 code D
- Advising a client whether to answer police questions:
  - Right to silence
  - Adverse inferences
  - Vulnerable clients
- Procedure for interviewing a suspect
  - PACE 1984 code C
  - Appropriate conduct by defence solicitor sitting in on a police interview
- Procedure for charging the suspect and granting police bail PACE 1984 Code C
  - Charging standards
  - Bail conditions
- The suspect's rights under PACE 1984 and the Human Rights Act 1998

## The procedures and processes involved in criminal litigation

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- Bail applications:
  - the right to bail and exceptions
  - conditional bail
  - procedure for applying for bail
  - further applications for bail
  - appeals against decisions on bail
  - absconding and breaches of bail
- First hearings before the Magistrates:
  - applying for a representation order
  - procedural overview – what will happen at the hearing
  - the role of the defence solicitor at the hearing.
- Plea before Venue:
  - procedure on defendant entering plea
  - advising the client on trial venue.
- Allocation of business between Magistrates' Court and Crown Court:
  - procedure sections 19–20 Magistrates' Courts Act 1980
  - sending without allocation section 50A Crime and Disorder Act 1998.
- Case management and pre-trial hearings:
  - Magistrates' Court case management directions
  - Crown Court preliminary hearings
  - plea and case management hearing
  - disclosure – prosecution, defence and unused material.
- Procedures to admit and exclude evidence:
  - visual identification evidence and corroboration
  - inferences from silence ss 34, 35, 36, 37 Criminal Justice and Public Order Act 1994.
  - hearsay evidence –
    - definition

- procedure for admitting hearsay evidence.
  - confession evidence –
    - definition
    - admissibility
    - challenging admissibility sections 76 and 78 PACE 1984.
  - character evidence –
    - definition of bad character
    - the 7 gateways s 101 (1) Criminal Justice Act 2003
    - procedure for admitting bad character evidence
    - court's power to exclude bad character evidence
    - evidence of good character.
  - exclusion of evidence –
    - Section 78 PACE and the right to a fair trial
    - illegal searches
    - police undercover operations
    - abuse of process.
- 🌀 Trial procedure in Magistrates' and Crown Courts:
- the prosecution case –
    - opening speech
    - prosecution evidence including examination, cross examination and re-examination of witnesses.
  - The defence case:
    - submission of no case to answer
    - defence witnesses including examination, cross examination and re-examination of witnesses
    - closing speech.
  - modes of address and Court room etiquette
  - directions to the Jury (basic principles; candidates are not be required to know the detail of JSB specimen directions)
  - solicitor's duty to the court.
- 🌀 Sentencing principles:
- sentencing powers
  - types of sentence – custodial and community
  - Newton hearings
  - Mitigation.
- 🌀 Appeals procedure:
- appeals from the Magistrates' Court –
    - procedure for appeal against conviction and/or sentence
    - powers of the Crown Court
    - appeal to the High Court by way of case stated
  - appeals from the Crown Court –
    - grounds of appeal
    - procedure for making the appeal
    - powers of the Court of Appeal.
- 🌀 Youth Court procedure
- Jurisdiction
  - Allocation
  - sentencing.



## Annex 3 – SQE Assessment Mapping

SoSC	Stage 1 Functioning Legal Knowledge Assessments						Stage 1 Skills	Stage 2 Practical Legal Skills Assessments				
	Princ..of Profess. Conduct	Dispute Resol. in Contract or Tort	Property Law and Practice	Business Law and Practice	Wills and the Admin. of Estates and Trusts	Criminal Law and Practice		Legal Research and Writing	Client Interview.	Advocacy/ Persuasive Oral Commun.	Case and Matter Analysis	Legal Research and Written Advice
<b>A. Ethics</b>												
<b>A1</b>	X	X	X	X	X	X	X	X	X	X	X	X
<b>A2</b>								X	X	X	X	X
<b>A3</b>								X	X	X	X	X
<b>A4</b>	X	X	X	X	X	X	X	X	X	X	X	X
<b>A5</b>	X	X	X	X	X	X	X	X	X	X	X	X
<b>B. Technical legal practice</b>												
<b>B1</b>							X	X		X	X	X

<b>B2</b>							<b>X</b>				<b>X</b>	
<b>B3</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>		<b>X</b>		<b>X</b>	<b>X</b>	<b>X</b>
<b>B4</b>												<b>X</b>
<b>B5</b>									<b>X</b>			
<b>B6</b>										<b>X</b>	<b>X</b>	<b>X</b>
<b>B7</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>		<b>X</b>		<b>X</b>	<b>X</b>	<b>X</b>
<b>C. Working with other people</b>												
<b>C1</b>							<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>
<b>C2</b>								<b>X</b>		<b>X</b>	<b>X</b>	
<b>C3</b>									<b>X</b>	<b>X</b>	<b>X</b>	
<b>D. Managing themselves and their own work</b>												
<b>D1</b>								<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>
<b>D2</b>	<b>X</b>			<b>X</b>				<b>X</b>		<b>X</b>	<b>X</b>	<b>X</b>
<b>D3</b>	<b>X</b>			<b>X</b>				<b>X</b>		<b>X</b>	<b>X</b>	<b>X</b>

## Annex 4 – Question formats used within the Functioning Legal Knowledge Assessments

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### 1. Single best answer (SBA)

SBAs consist of a stem, lead-in question and five options. The five options should all be possible solutions or responses to the question arising from the stem. However, one of the options will be the best response, and the remaining four will be inferior.

Candidates make a single mark on their answer sheet next to their choice for each question. Marks will only be awarded for a single correct answer. If candidates make more than one response to a question then no marks are awarded for that question.

### 2. Extended matching questions

Extended matching questions (EMQs) consist of lettered options followed by a list of numbered problems/questions. For each numbered problem/question, candidates select the one lettered option that most closely answers the question. Candidates can use the lettered options once, more than once, or not at all.

Candidates make a single mark on their answer sheet next to their choice for each question. Marks are only awarded for a single correct answer.

## Annex 5 – Standard-setting methodologies

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### 1. Using the Modified Angoff procedure to determine the pass mark in the Functioning Legal Knowledge Assessments

The Modified Angoff procedure is one of the most popular procedures for setting a criterion-referenced passing point to determine the initial passing score for an examination used to certify or license practitioners.

It is not a norm-referenced method, when a candidate's pass or fail status is determined by his or her performance in relation to other candidates. Using the Modified Angoff procedure, once the passing point is determined, a candidate's pass/fail performance is established independently of the group who sat for the exam. Candidates are judged by comparing their performance to an absolute standard, not to other candidates. Theoretically, all candidates can pass or all can fail.

The process begins by selecting a group of subject matter experts who develop a definition of a hypothetical 'minimally competent practitioner' (MCP). They are shown an item on the examination and asked to consider how many of a group of 100 MCPs are likely to answer that item (question) correctly. Initial ratings are discussed, and they are allowed to change their ratings, based on the discussion. This process is repeated for each item on the examination. The ratings are averaged across all items and all experts to determine the overall pass mark or cut score.

Once the initial pass mark or cut score is set, the standard is maintained through test equating, a statistical process of determining comparable scores on different forms of an examination.

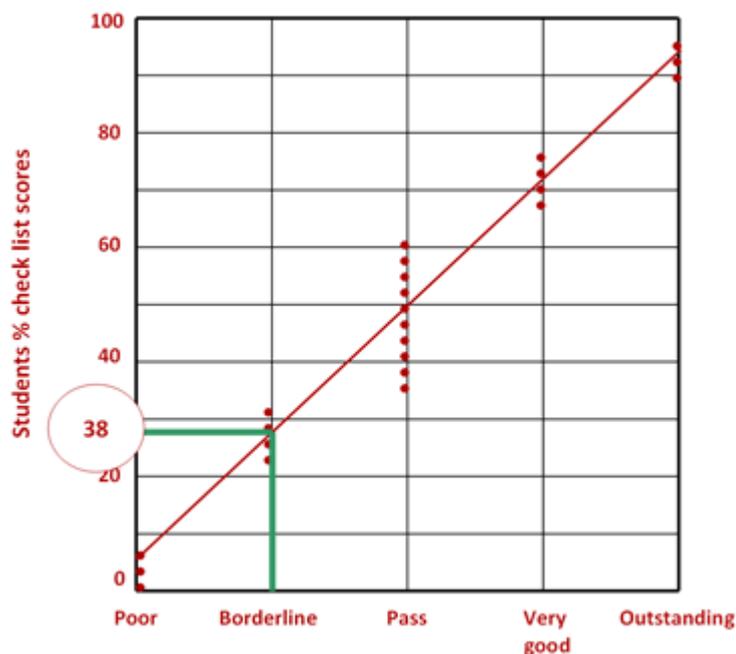
## 2. Using borderline regression to determine the pass mark in the Practical Legal Skills Assessments

In this method, examiners are asked to complete the checklist score for a candidate performing a skills assessment. Following this, they are asked to award a global score or grade on a 5 point global score rating scale – namely:

- Outstanding – provides a comprehensive solution to the client’s needs
- Very good – provides a thorough and detailed solution to the client’s needs
- Pass – meets all the needs of the client
- Borderline – meets most of the needs of the client
- Fail/poor – fails to meet the needs of the client.

The borderline grade reflects those candidates whom the examiner feels haven't performed well enough to pass the assessment but equally not enough to clearly fail.

Following this candidates' checklist scores are collated. The global scores are also collated and statistically regressed against the checklist scores. This process then determines the 'cut score' or pass mark.



## References

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<sup>i</sup> Miller, G.E., 1990. The assessment of clinical skills/competence/performance. *Academic Medicine* 65(9); 563-567