

Legal Practice Course – written standards

Introduction

Aims of the course

- 1) to prepare students for practice
- 2) to provide a general foundation for subsequent practice

The student should be able to

- 1) perform, with understanding, the skills and tasks required to complete transactions, in a manner which effectively achieves the client's and solicitors' objectives
- 2) demonstrate knowledge of and identify the rules of professional conduct and issues of client care in the relationship between solicitor and client
- 3) identify the client's objectives and different means of achieving those objectives
- 4) identify the steps and decisions that need to be taken to implement those objectives
- 5) identify any difficulties that may arise in implementing those steps and procedures
- 6) perform the skills and tasks under the supervision normally and properly accorded to the trainee
- 7) make the most of the experience which follows and gain the confidence necessary for competence in practice
- 8) learn from the experience of the course and from future practice
- 9) transfer skills learnt in one context to another
- 10) demonstrate an awareness of the limits of their own competence and know when to ask for assistance
- 11) demonstrate an awareness of the need to consider the potential impact of European Community Law and to bear in mind that clients will frequently be unaware of the impact of EC provisions

For alternative formats, email info.services@sra.org.uk or telephone 0870 606 2555.

- 12) demonstrate a sufficient grasp of Revenue Law to understand and apply its principles to the Compulsory and Elective areas of the course studied
- 13) demonstrate an awareness of the law firm as a business
- 14) demonstrate an awareness of the commercial considerations which should be taken into account in achieving the clients objectives
- 15) demonstrate an awareness of the need to consider the potential impact of the Human Rights Act and the European Convention for the Protection of Human Rights and Fundamental Freedoms and bear in mind that clients will frequently be unaware of the impact of either the Act or the Convention provisions
- 16) be aware of the attendant costs, benefits and risks involved in any transaction or course of action

Preliminary knowledge

Before starting the Legal Practice Course students will be expected to have a basic knowledge of the seven Foundations of Legal Knowledge as identified in the Joint Announcement issued in January 1995 and in due course in the new Joint Statement issued in 1999.

In particular, students will be expected to have a basic knowledge and understanding of the following

- 1) the principal EC institutions
- 2) the European Convention for the Protection of Human Rights and Fundamental Freedoms and the Human Rights Act
- 3) the relationship between Community Law and National Law
- 4) sources of Community Law and the EC approach to legal reasoning
- 5) formation of contracts, formalities of written contracts, general principles concerning implied terms (although not the details of the Sale of Goods Act), misrepresentation, discharge and remedies for breach of contract
- 6) the nature of legal estates and interests, equitable interests, easements, covenants, mortgages, joint ownership, registered and unregistered land (including the registration of charges)
- 7) the nature of fiduciary relationships and the duties of fiduciaries
- 8) the powers and duties of trustees
- 9) the basic structure of the civil and criminal courts
- 10) the elements of common offences and causes of action, issues affecting who should be the appropriate parties to litigation (eg vicarious liability) and common defences to proceedings

It is also assumed that students will already have developed oral and written

communication skills, interpersonal skills, and the skills of legal analysis and research. It is assumed, in particular, that students should be able to

- 1) listen effectively
- 2) engage in oral discussion in a clear and concise fashion
- 3) record or summarise a discussion in clear and concise notes
- 4) write clearly and precisely with attention to grammar, style organisation, bibliographies and citations
- 5) work co-operatively with others in small groups
- 6) extract, analyse and apply up to date law from primary sources, including case reports, primary and delegated legislation

The core areas

1. Students should have an appreciation of the following contexts for the Course so as to permit appropriate development in the Compulsory and Elective Areas of the course

The ethical context An Introduction to Professional Conduct & Client Care, including Solicitors' Accounts Rules and Financial Services and Markets Act - this is dealt with in greater detail later at pp 20-24

The skills context An Introduction to the Skills (Practical Legal Research, Writing & Drafting, Interviewing & Advising and Advocacy) - this is dealt with in greater detail later at pp 27-30

The European context An Introduction to EU Law - this is dealt with in greater detail at pp 2 and 8

The taxation context An Introduction to Principles of Taxation, Trusts, and Tax Planning - this is dealt with in greater detail later at pp 4-6, pp 9-10

1.1 Revenue law

Students should have a sufficient grasp of Revenue Law to enable them to understand the tax aspects of the compulsory and elective areas of the course studied.

Income tax

An understanding of the main features of the income tax system, including the Schedules; total income; personal allowances; and the calculation of income tax liability.

The distinction between taxation at source and direct assessment. The taxation of income from investments and interest.

An appreciation of the existence of anti-avoidance legislation, such as the rules relating to gifts and settlements.

Capital gains tax

An understanding of the main principles of capital gains tax, including the charge on the disposal or deemed disposal of assets, and the calculation of chargeable gains.

The main exemptions and reliefs from capital gains tax.

Inheritance tax

An understanding of the principles relating to the charge to tax on death; on immediately chargeable lifetime transfers; in relation to potentially exempt transfers; and on gifts with the reservation of benefit.

Calculation and payment of tax due; exemptions and reliefs; the principle of cumulation; valuation; accountability and burden; anti-avoidance provisions.

Corporation tax

An understanding of the principles relating to the charge to tax and charges on income.

Value added tax

An understanding of the basic principles of VAT, including registration of taxable persons; taxable supplies; input and output tax; standard and zero rating; exemptions.

1.2 Trusts

An appreciation of the nature of fiduciary relationships.

Trustees powers and duties.

An understanding of the basic principles of the taxation of trusts and settlements.

1.3 Tax planning

Students should be able to demonstrate (as appropriate) an ability to apply the principles of Revenue Law to give basic tax planning in a private client and/or business client context.

For example, in Business Law & Practice, students should be able to advise on the taxation of profits generated by the business; the taxation of profits distributed to the proprietors; and the taxation implications of the death of a proprietor and the disposal of their interest inter vivos.

In a Wills, Probate & Administration elective, students should be able to advise a client as to the likely IHT position on death and be able to advise on the tax advantages/disadvantages of lifetime steps which could be taken to benefit partners and issue (eg inter vivos gifts and life assurance).

2. Students should also have an understanding of the following area of reserved practice.

Probate and administration of estates

Students should be given a general overview of the practice and procedure of obtaining grants of representation and the administration of an estate.

2.1 Pre-grant practice

Initial stages (including succession issues)

- 1) The validity of wills and codicils.
- 2) Revocation and alterations.
- 3) Intestacy - total and partial.
- 4) Identification of property passing by will and/or intestacy or outside of the estate.
- 5) How to ascertain the value of assets and liabilities and the taxable estate.

2.2 The application for a grant of representation

- 1) The necessity for a grant and its effect.
- 2) The main types of grant - Probate, Letters of Administration (simple and with will).
- 3) The powers and duties of personal representatives and their protection (e.g. s.27 notices).

- 4) Revenue requirements

Is an IHT Account necessary?

If so, the choice of IHT Form.

Note: students should be introduced to the general structure and content of Forms IHT 200 and 202.

Where necessary, prepare simple IHT calculation.

- 5) Court requirements

Main types of oath - for executors or administrators (simple administration and with will)

Note: students should be introduced to the general structure and content of these oath forms.

Lodge the necessary papers at the Probate Registry.

2.3 Post-grant practice

- 1) Collection and realisation of assets.
- 2) Payment of debts.
- 3) Payment of pecuniary legacies and vesting of gifted property in the beneficiaries entitled.
- 4) Preparation of accounts.

Note: students should be introduced to the general structure and purpose of estate accounts.

- 5) Distribution of the residuary estate.

The compulsory areas

1. Business law and practice

On completion of this compulsory area students should be able to understand the nature and structure of the different business media (sole traders, partnerships and companies), select an appropriate medium and structure to meet the client's commercial requirements and advise on the legal and taxation implications of and procedures required in common form transactions and developments arising during the life and development of the business.

Students should be able, throughout the transaction to

- 1.1) identify the client's goals
- 1.2) deal with client care implications where appropriate
- 1.3) investigate and identify the relevant facts
- 1.4) research and identify the relevant legal issues
- 1.5) identify alternative means of achieving the client's goals
- 1.6) advise the client on the legal consequences of his or her proposals
- 1.7) identify the overall nature of the transaction necessary to further the client's goals
- 1.8) plan the progress of a transaction to promote the client's interests
- 1.9) carry out the transaction through a series of steps and decisions
- 1.10) in appropriate circumstances, draft documentation to effect the transactions in clear and unambiguous language and with correct grammar
- 1.11) recognise conflicts of interest and act within the rules of professional conduct

Students should be able to advise and represent different parties involved in the business including sole traders, partners, directors, shareholders and also creditors of the business.

Students should be able to interpret and apply the company's Memorandum and Articles and other primary source material as appropriate.

Students should be able to advise on the types of finance appropriate to the transaction.

Students should understand, where appropriate, the impact of the Financial Services and Markets Act.

As part of their study of commercial agreements students will be expected to acquire an outline knowledge of EC Competition Law and the free movement of goods. They should be aware of the implications in Employment Law of major events affecting businesses and of the existence of provisions providing for free movement of workers, freedom of establishment and freedom to provide services, and for equal treatment for men and women.

Corporation tax

Students should also have an understanding of the principles of corporation tax and charges on income.

Value added tax

Students should also be introduced to the basic principles of VAT including registration of taxable persons, taxable supplies, input and output tax, standard and zero rating and exemptions.

Element 1

Students should, by acting on the client's instructions, be able to identify the client's goals, advise the client as to the advantages and disadvantages of different business media and be able to advise on the

- 1) form and legal structure
- 2) roles of the participant
- 3) liability of the participants
- 4) cost and formalities of setting up and running the business
- 5) taxation of profits (income and capital) generated by the business
- 6) taxation of profits distributed to the proprietors
- 7) taxation implications of the death of the proprietor and the disposal of their interest during their lifetime

Element 2

Students should be able to identify the steps that need to be taken to implement the client's instructions, take appropriate steps to resolve difficulties identified and advise on the procedures required to incorporate a company and/or form a partnership.

Students should demonstrate an appreciation of the procedures to

- 1) enable the company to commence trading
- 2) alter the constitution of the company
- 3) appoint and remove directors, the secretary and auditors
- 4) enter into contracts on behalf of the company, including contracts in which directors have an interest
- 5) issue and transfer shares (including different classes of shares)
- 6) borrow from internal and external sources

Students should be familiar with the need to

- 1) draft notices, agendas and minutes of meetings
- 2) complete and file routine statutory forms
- 3) maintain and up-date statutory books

Students should demonstrate an appreciation of the procedures needed to negotiate and/or draft a partnership agreement which effectively meets the requirements of the client.

Students should be aware of ethical issues that may render it inappropriate to act for more than one participant.

Students should be able to recognise the need to protect minority interests and advise the client on the appropriate steps to protect such interests.

Element 3

Students should be able to demonstrate an appreciation of

- 1) the duties and obligations of partners, directors and shareholders
- 2) the conflicts of interest that may arise when advising on those duties and obligations
- 3) the procedures to be adopted upon insolvency, eg bankruptcy, winding up and administration
- 4) the consequences of 3) above with particular reference to the circumstances in which past transactions may be disturbed and in the case of a company, when personal liability may be imposed

Element 4

Students should be able to identify the steps that need to be taken to implement the client's instructions, take appropriate steps to resolve any difficulties identified, and advise on the procedures required to give effect to a range of business contracts (for example, standard terms of supply and purchase and agency agreements). Where appropriate students should be able to analyse drafting weaknesses in such

contracts and be able to redraft poorly drafted clauses using clear, unambiguous language and correct grammar.

Element 5

Students should be able to demonstrate an understanding of the principles of corporation tax and charges on income.

Students should be introduced to the basic principles of VAT including registration of taxable persons, taxable supplies, input and output tax, standard and zero rating and exemptions.

2. Property law and practice

On completion of this compulsory area the students should have an appreciation of the nature of a property transaction, be able to identify the critical steps in a transaction and have gained experience through practice of some or all of the stages of a property transaction.

In the context of a domestic and/or commercial property transaction, students should be able to perform the following tasks – (whether dealing with registered or unregistered land; freeholds or leaseholds; the whole or part of a landholding; or new or existing properties):

- 2.1) identify the client's goals
- 2.2) deal with client care implications at all stages of the transaction
- 2.3) investigate and identify the relevant facts
- 2.4) research and identify the relevant legal issues
- 2.5) identify alternative means of achieving the client's goals and (in appropriate circumstances) advise on the implications of the conveyancing aspects of larger commercial transactions
- 2.6) advise the client on the legal consequences of his or her proposals
- 2.7) identify the overall nature of the transaction necessary to further the client's goals
- 2.8) plan the progress of a transaction to promote the client's interests
- 2.9) carry out the transaction through a series of steps and decisions
- 2.10) in appropriate circumstances, draft documentation to effect the transactions in clear and unambiguous language and with correct grammar
- 2.11) recognise conflicts of interest and act within the rules of professional conduct including the need to be aware of money laundering rules as they apply to property transactions
- 2.12) recognise the need to resolve problems through negotiation and be able to advise the client on disputes arising out of the transaction and possible remedies

Students should be aware of the implications of the Financial Services and Markets Act and should understand the obligations of an independent financial adviser.

Element 1

Students should, by acting on the client's instructions, be able to identify the client's goals and should be able to

- 1) identify the client's requirements
- 2) advise the client on the legal consequences of his or her proposals
- 3) advise the client on the financial, tax and cost implications of the transaction
- 4) advise the client about sources of finance and the types of finance appropriate to the transaction
- 5) decide, with the client where appropriate, what action needs to be taken and identify what action (if any) the client has to take

Students should be aware of conflicts of interest that may arise when acting for more than one party in a property transaction and the requirements of lenders as well as the need to consider money laundering issues.

Students should have a sufficient grasp of Revenue Law to understand the tax aspects involved in a property transaction, including Stamp Duty points, the principal exemptions and reliefs for Capital Gains Tax, and VAT implications (where appropriate to the transaction).

Element 2

Students should be able to identify the steps that need to be taken to implement the client's instructions, take appropriate steps to resolve difficulties identified, and implement the appropriate procedures through a series of steps and decisions.

Pre-contract Stage

Students should be able to

- 1) identify the steps needed to raise pre-contract enquiries for commercial and/or domestic transactions and make pre-contract searches
- 2) identify difficulties arising from those enquiries and searches, including relevant planning considerations
- 3) advise on the legal effects of issues identified in the enquiries and searches
- 4) investigate title as appropriate to the transaction
- 5) report on the transaction to the client
- 6) decide, with the client where appropriate, what action needs to be taken and identify what action (if any) the client has to take

The contract becoming binding

Students should be able to demonstrate an understanding of when the contract becomes binding and should appreciate the need to

- 1) advise the client on the offer of finance and its merits and ensure that adequate finance is available before committing the buyer to the contract

- 2) select a method of making the contract binding as appropriate to the transaction, having regard (where appropriate and if so instructed) to the need to synchronise related transactions

After the contract becomes binding

Students should be able to

- 1) take the deposit payable when the contract becomes binding, obtain appropriate undertakings and insure the property
- 2) report on the title to the lender
- 3) prepare the mortgage documentation
- 4) prepare for completion including pre-completion searches and select a method appropriate to the transaction
- 5) carry out the completion and the appropriate post-completion steps
- 6) complete the mortgage and protect the lender's security
- 7) discharge any existing mortgage over the property

Element 3

Students should be able to achieve the client's goals through preparing the appropriate documents whether paper based or electronic and in particular should be able to

- 1) select and modify appropriate precedents
- 2) draft a contract using clear, unambiguous language and correct grammar
- 3) analyse drafting weaknesses in a draft contract
- 4) redraft poorly drafted clauses using clear, unambiguous language and correct grammar
- 5) draft document(s) whether paper based or electronic necessary to transfer the legal estate
- 6) prepare and draft appropriate, clear and precise undertakings

3. Litigation and advocacy

On completion of this compulsory area the student should have an appreciation of the nature of civil and criminal litigation, be able to identify the critical steps in the process of litigation and have gained experience through practice of some or all of the stages of litigation.

Students should be able to

- 3.1) identify the client's goals
- 3.2) investigate and identify the relevant facts

- 3.3) research and identify the relevant legal issues
- 3.4) identify alternative means of achieving the client's goals
- 3.5) advise the client on the legal consequences of his or her proposals
- 3.6) identify the overall nature of the transaction necessary to further the client's goals
- 3.7) plan the progress of a transaction to promote the client's interests
- 3.8) carry out the transaction through a series of steps and decisions
- 3.9) in appropriate circumstances, draft documentation to effect the transactions in clear and unambiguous language and with correct grammar
- 3.10) recognise conflicts of interest and act within the rules of professional conduct
- 3.11) draft a straightforward brief to counsel

Students should be able to demonstrate an understanding of the need for preparation and the best way to undertake it, develop a case presentation strategy and agree a strategy with the client.

Students should appreciate the range of methods available to resolve disputes and in particular, should appreciate that it may be in the client's interest to resolve a dispute by settlement.

Students should understand the ethics of advocacy and be able to apply them.

Students should be aware of the need to deal with a range of personnel including medical and other expert witnesses, police, health and safety inspectors, probation officers etc.

Students should be aware of the need to instruct counsel as and when appropriate.

As part of their study of the enforcement of judgements, students should be aware of the arrangements for reciprocal enforcement of judgements under the Civil Jurisdiction and Judgements Act 1982.

Civil procedure

Element 1

Students should be able to analyse factual material, identify the legal context in which factual issues arise, relate the central legal and factual issues to each other and be able to

- 1) identify the elements of a selected cause of action
- 2) identify, analyse and if necessary, research the propositions of fact going to the elements and be able to identify, analyse, secure and preserve evidence to support propositions of fact
- 3) identify the material facts from parties' statements of case and other court documents

- 4) assess the strengths and weaknesses of each side's case, including where appropriate, the opponent's evidence

Element 2

Students should be able to identify possible courses of action, demonstrate an awareness of the legal and non-legal consequences of selecting that course of action and be able to advise as to

- 1) the attendant costs, benefits and risks of the matter
- 2) the appropriate forum for the resolution of the dispute
- 3) the advantages and disadvantages of resolving the dispute through negotiation, mediation and/or arbitration
- 4) the procedures to encourage settlement
- 5) the need to draft written terms of settlement

Element 3

Students should be able to demonstrate an awareness of the principles, ethics and strategies throughout the litigation process, including

- 1) an understanding of the overriding objective of the Civil Procedure Rules and their application
- 2) the consequences of non-compliance with the overriding objective and of other breaches of the Civil Procedure Rules both before and during court proceedings
- 3) the effect of Human Rights Act issues at all stages of the litigation process
- 4) the ability to deal with the client care implications at all stages of the litigation process

Element 4

Students should be able to advise the client as to the costs consequences of different outcomes, final or interim, and should be able to

- 1) advise a client about the availability of various forms of legal assistance and representation under the legal aid scheme and the community legal service
- 2) explain the tests that a client must satisfy in order to receive state funding for legal representation
- 3) explain the effect of conditional and contingent fees
- 4) explain the effect of the different costs rules and be able to demonstrate an awareness of the impact of likely costs orders on the conduct of litigation under the Civil Procedure Rules

Element 5

Students should be able to identify the steps that need to be taken in the conduct of a civil claim and in particular, should be able to

- 1) identify steps to be taken prior to commencement and in particular, steps to be taken pursuant to a pre-action protocol
- 2) issue, serve and respond to appropriate claim forms
- 3) advise on and effect interim applications
- 4) prepare and conduct applications to the master or district judge

Element 6

Students should be able to demonstrate an understanding of the court's role in the litigation process and in particular

- 1) the court's case management powers and duties
- 2) the process of allocation of a claim to a track
- 4) the exercise of judicial case management

Element 7

Students should be able to achieve the client's goals through preparing the appropriate documentation and should be able to draft claim forms, particulars of claim, defences, application notices, orders and witness statements.

Element 8

Students should be able to take the steps needed to prepare the case for trial and should be able to

- 1) marshal the factual and expert evidence
- 2) analyse the opponent's evidence
- 3) obtain more information through appropriate use of disclosure, notices to admit and requests for further information
- 4) understand how to obtain expert evidence for use at trial

Element 9

Students should be aware of the basic elements of trial procedure and should be able to

- 1) identify, analyse and assess the specific communication skills and techniques employed by the presenting advocate
- 2) demonstrate an understanding of the purpose, techniques and tactics of examination, cross-examination and re-examination to adduce, rebut and clarify evidence

Element 10

Students should be aware of the mechanisms which are available to enforce a judgement, and in particular, should be able to

- 1) choose an appropriate method to enforce a judgement in England and Wales and be able to take the necessary steps to do so
- 2) demonstrate an understanding of the reciprocal enforcement of judgements under the Civil Jurisdiction and Judgements Act 1982

Criminal procedure

Element 1

Students should be able to analyse factual material, identify the legal context in which factual issues arise, relate the central legal and factual issues to each other and be able to

- 1) identify the elements of a selection of criminal charges

- 2) identify, analyse and if necessary, research the propositions of fact going to the elements and be able to identify, analyse, secure and preserve evidence to support propositions of fact
- 3) assess the strengths and weaknesses of each side's case, including where appropriate, the opponent's evidence
- 4) gather and analyse evidence
- 5) advise as to admissibility and relevance of evidence
- 6) be aware of the possibility of complaint under the European Convention for the Protection of Human Rights and Fundamental Freedoms and the Human Rights Act

Element 2

Students should be able to attend to the client and deal with issues of client care, whether in custody or in the office, identify possible courses of action and the legal and non-legal consequences of selecting that course of action. The student should also be able to demonstrate an understanding

- 1) as to whether and when it is appropriate to exercise the right to silence, to stand in an identification parade, or agree to a caution
- 2) of the custody, review and detention limits under PACE and of the role of the custody officer

Students should be able to

- 1) advise as to the availability of legal aid or/and the duty solicitor
- 2) identify the steps involved in making a legal aid application
- 3) identify the steps involved in making or contesting a bail application
- 4) identify the practical and tactical considerations involved in determining the mode of trial, including an awareness of the range of sentences available, and advise the client accordingly

Element 3

Students should be able to assist in the preparation and conduct of a summary trial, committal proceedings and a trial on indictment and should be able to demonstrate an awareness of

- 1) the skills employed by the presenting advocate and be able to analyse and assess their own and other advocates' performance through examination or cross-examination; including dealing with issues of client care
- 2) the rules of professional conduct relating to advocacy

Students should be able to demonstrate an awareness of the possibility of complaint under the European Convention for the Protection of Human Rights and Fundamental Freedoms and the Human Rights Act.

Elective areas

Students must additionally study **three** elective subjects chosen from the appropriate range of Private and Corporate Client Electives approved by the Legal Practice Course Board (the Board).

Legal Practice Course providers shall produce for the Board's approval written standards/outcome statements for the range of electives to be offered on their respective courses.

Such written standards/outcome statements shall include indications as to how the written standards for the Core, Pervasive and Skills Areas are developed in the context of the elective concerned.

Please note - a **minimum** of 100 hours study spread over 10 weeks should be devoted to the study of the Elective Areas.

Pervasive areas

1. Professional conduct, client care and accounts

1.1 Introduction

Students are expected to be able to identify and advise the client on matters of Professional Conduct and Ethics arising both in the compulsory and elective subjects. They should be able to identify and deal with issues that will lead to better client care in all aspects of their work. Particular aspects of Professional Conduct and the fulfilment of client care by the use of appropriate communication skills are identified in the Written Standards relating to the Compulsory subjects and the prescribed Skills. For convenience there follows a general statement of the matters with which students must be familiar by the end of the course. More advanced courses on Client Care and Communication Skills, Professional Standards and Financial and Business Skills will be contained in the Professional Skills Course.

Students will be expected to be familiar with the relevant Solicitors' Practice Rules and the fundamental principles of the Solicitors' Accounts Rules 1998. Every student will be provided with a copy of the Law Society's Guide to the Professional Conduct of Solicitors on registering with the Society as a Legal Practice Course student.

1.2 Areas to be emphasised

1.2.1 Professional Conduct

Students must by the end of the course be familiar with those areas of substantive law (e.g. negligence and fiduciary duties) and the Rules of Professional Conduct that deal with the conduct of fee earning work of a type likely to be encountered by trainees before admission. These will include in particular

- 1) the retainer
- 2) fees – written professional standards on information as to costs and the basis of charging

- 3) conflict of interest – in contentious work and in non-contentious work including, particularly Solicitors Practice Rule 6
- 4) confidentiality
- 5) bad professional work and negligence
- 6) the solicitor and the court
- 7) professional undertakings, and
- 8) money laundering and the Proceeds of Crime Act 2002

1.2.2 Solicitors' Accounts

Students must by the end of the course have an understanding of the Solicitors' Accounts Rules, which should be gained in the context of systems and procedures to which they will be exposed in practice. This will include in particular an understanding of

- 1) the need to maintain separate office and client ledgers and bank accounts
- 2) the need to record receipts and payments of office and client monies, including split money
- 3) the obligations regarding payment into and drawings from client bank accounts, including split money
- 4) the entitlement to make transfers between client bank accounts and ledgers and between client and office bank accounts and the need to record such transfers
- 5) the obligation to pay interest to clients and the funding of such payments
- 6) the treatment of VAT on costs and the VAT element of disbursements
- 7) the need to record abatements, rents and bad debts
- 8) the requirements in respect of the holding of trust monies
- 9) the powers of the Law Society to secure compliance with the Solicitors' Accounts Rules

Students' understanding of the practical application of the above should be demonstrated by an ability to

- 1) recognise and record receipts into the payments from office and client accounts
- 2) analyse and interpret relevant ledger entries, and
- 3) prepare a simple statement for clients on completion of a matter

1.2.3 Business Accounts

Students must by the end of the course have an understanding of the basic principles of business accounting and should be aware of the need to

interpret business accounts to ensure clients are appropriately advised. In particular, students should

- 1) understand the need for accounts, the principles of book-keeping, the terms used in accounts and basic accounting concepts and their use
- 2) understand the process involved in recording transactions and how accounting data is used to prepare a trial balance, the profit and loss account and the balance sheet
- 3) understand the need to make provision for depreciation and other year-end adjustments
- 4) be able to analyse and interpret entries in the balance sheet and profit and loss account of a sole trader, partnership and limited company
- 5) understand the nature of shareholders' funds and the need to account for taxation and the circumstances in which consolidated final accounts are required

The students' appreciation of the practical application of the above should be evidenced by the ability to demonstrate an understanding of the construction of a simple profit and loss account and balance sheet.

1.2.4 Client care

Students must by the end of the course be able to understand and deal with issues of client care including Rule 15 of the Solicitors' Practice Rules.

1.3 Areas to be covered

Areas of which the students must be aware but need not have a detailed knowledge relate to those matters where the trainee will not be in a position to make decisions until admission or even later. In particular they include

1.3.1 The organisation of the profession

- 1) solicitors in practice – practising certificates, indemnity insurance
- 2) private practice – supervision of solicitors' offices, sole principals, partnerships and incorporation
- 3) employed solicitors
- 4) legal advice centres, law centres and duty solicitor schemes
- 5) the Office for the Supervision of Solicitors (OSS)
- 6) the Solicitors' Disciplinary Tribunal
- 7) the Solicitors' Compensation Fund

1.3.2 Obtaining work

- 1) General principles
- 2) Rules 1, 2 and 3 of the Solicitors' Practice Rules

- 3) The related Solicitors' Introduction and Referral Code and the Solicitors' Publicity Code

1.3.3 Professional relations

- 1) relations with other solicitors
- 2) relations with the Bar
- 3) relations with non-lawyers

2. Financial services

2.1 Introduction

A student who graduates from the Legal Practice Course should

- (1) have an awareness of the purpose and scope of financial services regulation
- (2) have an understanding of the financial services regulatory framework in general
- (3) have an appreciation of how the financial services regulatory framework applies in particular in relation to solicitors' firms
- (4) be able to recognise when financial services issues are raised in the type of transactions that a student is likely to encounter as a trainee in a solicitors' firm that has exempt professional firm status, and
- (5) be able to identify and find appropriate sources of information on financial services issues

Students should also have had practice in applying financial services regulations to a limited number of practical situations (such as those set out in 2.2.4 below).

2.2 Areas to be covered in the LPC

2.2.1 Introduction to the Financial Services and Markets Act 2000 (FSMA)

- The reasons and requirement for authorisation.
- The effect of conducting regulated activities without authorisation.
- Outline of the regulatory regime

Financial Services Authority (FSA)

Designated Professional Bodies (DPBs)

Exemption

- The definition of Regulated Activities

FSMA 2000 (Regulated Activities) Order 2001

Part II FSMA Specified activities

Part III FSMA Specified investments

Exclusions

- The definition of Financial Promotions
FSMA 2000 (Financial Promotion) Order 2001
Real-time and non-real-communications
Exemptions

2.2.2 The role of the regulatory bodies

- FSA
- DPBs (who they are and the scope of their authority)

2.2.3 Application to solicitors firms

- An outline of the Solicitors' Financial Services (Scope) Rules 2001 ("the Scope Rules").
- The differences between the mainstream and non-mainstream regulated activities.
- An outline of the Solicitors' Financial Services (Conduct of Business) Rules 2001 ("the Conduct of Business Rules") and relevant Solicitors Practice Rules.

2.2.4 The practical impact and implications of financial services regulation on solicitors' fee-earning work

- Practical application to types of legal work covered in the Legal Practice Course, for example

Business Law	corporate transactions, pensions, shares and debentures, financial promotions Property Law and Practice mortgages and linked investments
Litigation	lump sums
Private Client	portfolios and tax planning
Family Law	life policies and pensions
Probate	acquisition/disposal/management of assets

- Treatment of commissions
- Awareness of the Solicitors' Introduction and Referral Code

2.2.5 Money laundering

- overview of the legislation, including the international context
- understanding and appreciation of what money laundering is
- recognition of money laundering operations which may be met in practice

3. Human rights

3.1 Introduction

The Human Rights Act 1998 (the Act) requires that all public authorities must act in compliance with a person's human rights under the European Convention for the Protection of Human Rights and Fundamental Freedoms (the Convention). As the courts and tribunals are public authorities for the purposes of the Act, human rights issues will also be relevant as between two private bodies or individuals where disputes are raised before the courts.

The Convention is already part of the expected Preliminary Knowledge of any student entering onto the LPC. However, it will be for LPC providers to ensure that students are equipped at an early stage in the course with the basic knowledge of the Convention that will be required.

Students will be expected to be able to identify human rights issues wherever they arise in compulsory or elective areas of the course.

Students will also be expected to assess the likely implications of any human rights issues for any course of action that is being proposed in any transaction that arises in any subject which they are studying.

3.2 Areas to be covered

3.2.1 The key provisions of the Convention

Students must by the end of the course understand the key provisions of the Convention, as incorporated by the Act. These will include in particular

1) Article 5: the right to liberty and security

Article 6: the right to fair trial

2) Article 8: the right to respect for private and family life

3) Article 10: the right to freedom of expression

4) Article 11: the right to freedom of assembly and association

5) Article 14: the prohibition on discrimination

6) Protocol 1, Article 1: protection of property

Students are expected to understand the basic content of these provisions, but are not expected to have detailed knowledge of the jurisprudence in relation to each Article, except to the extent that this knowledge is relevant to an issue within a compulsory or elective subject.

Students should also be aware of, but are not required to have a detailed knowledge of, the procedures for bringing a matter before the European Court of Human Rights.

3.2.2 The key provisions of the Act

Students must by the end of the course understand the key provisions of the Act and in particular

- 1) Section 2: the interpretation of the Convention rights
- 2) Section 3: the interpretation of the legislation
- 3) Section 6: the prohibition on acts by public authorities which breach human rights
- 4) Section 7: the right to bring proceedings or to rely upon the Act as a defence
- 5) Section 8: the remedies available under the Act

Students must be aware of the significance of

- 1) the declaration of incompatibility procedures under the Act
- 2) sections 12 and 13: the particular safeguards in relation to freedom of expression and of religion

Students are not required to have a detailed knowledge of these provisions.

3.2.3 The implications of the Act within subject areas

Students must by the end of the course understand the implications of the Act in each of the subject areas studied on the course. This will include in particular

- 1) the relevance of any Convention rights to an issue arising within the subject area
- 2) the case law that the domestic courts are likely to have regard to in deciding whether a human right is in issue
- 3) how the courts will approach the duty to interpret legislation in accordance with the Act
- 4) whether a party is a “public authority” for the purposes of the Act
- 5) whether a party will be able to bring proceedings under the Act (and if so, what those proceedings will be), or will be able to use the Act as a defence to proceedings
- 6) what range of remedies is likely to be available to the court

Students’ understanding of the practical applications of the above should be demonstrated by an ability to

- 1) recognise when an issue arises or might potentially arise
- 2) locate, analyse and interpret any case law which is relevant in deciding whether a Convention right is in issue
- 3) identify any appropriate course of action which would be available in order to deal appropriately with the human rights issue

Skills

Students should be able to demonstrate a basic ability in the use of the skills needed to perform tasks and transactions in their substantive contexts effectively. They should also be able to explain the principles and criteria that underpin good performance in these skills and be able to apply the skills in a variety of settings.

Practical legal research

Students should understand the need for thorough investigation of the factual and legal issues involved in a client’s matter, the need for preparation and the best way to

undertake it.

Students should be able to

- 1) identify the objectives of the employer or client
- 2) identify and analyse the factual material
- 3) identify the legal context in which the factual issues arise
- 4) identify appropriate sources for investigating the relevant facts
- 5) determine when further facts are required
- 6) identify and analyse the legal issues
- 7) apply the relevant legal provisions to the facts
- 8) relate the central legal and factual issues to each other
- 9) identify the legal, factual and other issues presented by the documents;
- 10) analyse the client's instructions and be able to identify the legal, factual and other issues presented by them;
- 11) record and present the results of research in a clear, useful and reliable form.

Students should be able to demonstrate an understanding of

- 1) the use of primary and secondary sources
- 2) the methods of locating cases and statutes
- 3) the use of periodicals, digests and standard practitioner texts
- 4) the use of indices and citators
- 5) the use of electronic research tools

Writing and drafting

Students should have developed a basic skill in the preparation and drafting of a range of documents and should be able to formulate and present a coherent piece of writing based upon facts, general principles and legal authority, in a structured, concise and where appropriate, persuasive manner.

Students should be able to draft documents that

- 1) meet the client's goals, carry out the client's instructions and address the client's concerns
- 2) maintain a standard of care which protects the interests of the client
- 3) deal appropriately with client care and professional conduct issues
- 4) accurately address all the relevant legal and factual issues

- 5) where appropriate, identify relevant options, including the costs, benefits and risks of those options
- 6) where appropriate, demonstrate a critical use of precedents
- 7) are logically organised
- 8) form a consistent and coherent whole
- 9) follow the rules of grammar
- 10) demonstrate appropriate use of language
- 11) are succinct and precise
- 12) meet any formal legal or other requirements

Students should be able to explain the principles and criteria of good drafting practice and should be able to

- 1) identify pieces of drafting where those criteria are either met or not met
- 2) modify their own drafting errors to meet these criteria
- 3) transfer drafting principles or criteria learned in one context to other contexts
- 4) use techniques for appraising and developing their own writing and drafting style

Students should have developed a basic skill in the use of precedents, in setting out documents, in drafting clauses and should be able to write letters to lawyers, other professionals, clients and other non-lawyers.

Interviewing and advising

Students should be able to identify the client's goals, gather information to identify means of realising those goals and assist the client to reach decisions as to the appropriate means of implementing those goals.

Students should be able to

- 1) prepare for the interview
- 2) deal with appropriate client care and professional conduct issues during and after the interview
- 3) allow the client to explain his or her concerns
- 4) identify the client's goals
- 5) help the client reach priorities among those goals
- 6) elicit relevant information and distinguish between relevant and irrelevant information

- 7) use appropriate listening and questioning techniques
- 8) determine what further information is required
- 9) identify possible courses of action and the legal and non-legal consequences of selecting a particular course of action
- 10) assist the client to make a decision regarding the best course of action, including the costs, benefits and risks of that course of action
- 11) agree the action to be taken by both parties subsequent to the interview and an appropriate timeframe for such action
- 12) accurately record the interview, confirm instructions and confirm the action that needs to be undertaken
- 13) establish a professional relationship with the client and deal with any client care or professional conduct issues that may arise when advising the client

Students should be able to demonstrate an understanding of the principles and criteria of good interviewing and should be able to

- 1) conduct an interview in which those criteria are met
- 2) modify their own interviewing errors to meet these criteria
- 3) transfer skills learned in one context to other contexts
- 4) develop techniques for appraising and developing their own interviewing style

Students should be aware of the need to deal with a range of personnel including other lawyers, professionals, witnesses and parties. Students should be aware of the need to take instructions from their principal and other supervising solicitors.

Advocacy

Students should be able to formulate a coherent submission based upon facts, general principles and legal authority in a structured, concise and persuasive manner. The student should understand the crucial importance of preparation and the best way to undertake it. The student should be able to demonstrate an understanding of the basic skills in the presentation of cases before various courts and tribunals and should be able to

- 1) identify the client's goals
- 2) deal with appropriate client care and professional conduct issues in preparing and presenting the case
- 3) identify and analyse the factual material
- 4) identify the legal context in which the factual issues arise
- 5) relate the central legal and factual issues to each other
- 6) state in summary form the strengths and weaknesses of the case from each party's perspective

- 7) develop a case presentation strategy
- 8) outline the facts in simple narrative form
- 9) prepare in simple form the legal framework for the case
- 10) prepare the submission as a series of propositions based on the evidence
- 11) identify, analyse and assess the specific communication skills and techniques employed by the presenting advocate
- 12) demonstrate an understanding of the ethics, etiquette and conventions of advocacy

The standards and continuing education

A key component of the course is that students should learn from the experience provided by the Legal Practice Course and be able to learn from experience in practice.

This requires that the students should

- 1) be able to reflect on their learning
- 2) demonstrate an awareness of the limits of their own knowledge and skill
- 3) know when and how to ask for assistance or specific supervision
- 4) be able to identify their future learning needs

The key to this in the future is the Training Contract but the Legal Practice Course Written Standards can provide a valuable starting point, enabling the student to plan his or her future educational needs, according to the strengths and weaknesses identified by them during the course.

To assist this process, course providers should be able to indicate that a student is not only able to perform a task, transaction or skill but also that he or she is able to perform it under different levels of supervision. The following scale provides an indication of the different skill levels that might be achieved on the course.

- 1) The student is familiar with the skill, task or transaction, but not able to perform it.
- 2) The student can perform the skill, task or transaction, but requires closely supervised practice.
- 3) The student can perform the skill, task or transaction with minimal supervision.
- 4) The student can perform the skill, task or transaction adequately without further training.
- 5) The student can perform the skill, task or transaction in an outstanding manner with virtually no supervision and could provide assistance to others.

Course providers could then provide the student with a graduated record indicating the level of achievement demonstrated. The student should then be able to identify the level of supervision required in the future and be able to plan his or her future learning needs accordingly.