



Assessing the impact of our competence reforms

A thematic review

December 2018

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Executive summary

Assessing the impact of our competence reforms

Historically, solicitors demonstrated their continuing competence to practise by annually undertaking 16 hours of continuing professional development (CPD). However, there were increasing concerns¹ that the focus was too fixed on complying with the minimum hours requirement, rather than the standards we want solicitors to achieve to remain competent. For many solicitors, CPD had become a tick box exercise, with a race to complete the target by practising certificate renewal.

In February 2015, the Legal Services Board (LSB) agreed to our proposals to reform CPD. The new approach became compulsory for all solicitors on 1 November 2016 and a key change was to remove the annual requirement to undertake 16 hours of CPD. In its place is a more outcomes focused approach that places responsibility for continuing competence on the profession.

However, while we no longer prescribe how solicitors should maintain competence, they must undertake regular learning and development to meet the standards of competence set out in the Competence Statement². This statement defines the continuing competences required from all solicitors. It is underpinned by the Statement of Legal Knowledge³, the Threshold Standard⁴ and an overarching obligation to provide a proper standard of service under Principle 5 of the SRA Principles 2011⁵. Finally, solicitors must make an annual declaration that they have reflected on their learning and development needs.

Key findings

Our report is a qualitative review to evaluate impacts and therefore we engaged with a small sample of 20 randomly selected practices. They consisted of a wide range of sizes and, for the first time in a thematic review, included in-house solicitors. Overall, we found that most practices viewed the changes to CPD positively, particularly, the wider opportunities to undertake training that is more cost effective and relevant to their practise.

A summary of our key findings from the project is set out below.

Adapting to the new approach

Fourteen of the 20 practices sampled used our competence toolkit when designing their approach to maintaining competence. Of the six who had not:

- two were unaware that the resources existed
- two wanted to continue with the existing system

¹ letr.org.uk/the-report/index.html

² www.sra.org.uk/solicitors/competence-statement.page

³ www.sra.org.uk/solicitors/competence-statement/statement-legal-knowledge.page

⁴ www.sra.org.uk/solicitors/competence-statement/threshold-standard.page

⁵ www.sra.org.uk/solicitors/handbook/handbookprinciples/content.page

- two had used external consultants to design a new system. It appeared that the consultants had used the competence toolkit.

Six practices adopted new forms of training and development because of the new approach. Examples of new methods of training included:

- networking
- training from barristers chambers
- e-learning
- shared learning and group discussion
- peer to peer informal learning
- internal e-learning
- regular internal seminars.

Some solicitors said that they were aware of colleagues who preferred to keep to the old system of required hours. Solicitors are free to maintain this system if they choose. A significant minority of the sample, eight practices, retained an internal target of hours per year. These ranged from 15 to 104 hours (the latter reflecting two hours per week).

Impact of our new approach

- Most practices had adapted easily to the new approach and reported that in terms of impact on their practice, there was either no difference or an improvement in learning and development.
- Some practices said learning and development costs had increased but this was usually due to short term, one off expenditures, for example, producing training materials.

Benefits of our new approach

- Overall, the new approach has resulted in benefits for both practices and individual solicitors. It is generally seen as more flexible, cost effective and has improved staff morale. This is primarily because practices can deliver their own in-house training or access a wider range of external training, for example, free training from barristers chambers.
- The changes have caused practices to widen the variety of learning and development methods they used. For example, collaborating with others to deliver training or share best practice. These were usually informal arrangements for mutual benefit, but others took a more formal approach, partnering with others to provide a set amount of training each year.
- Most solicitors felt that training is more targeted and relevant to their specialisms.
- Two firms did not feel there was a difference, and one did not know. The last said that the market had diversified due to market forces, rather than our new approach.

Competence processes: identifying, addressing and recording learning needs

- Most solicitors identified learning needs informally, for example, by keeping up to date with changes in the legal market. This was closely followed by more formal methods, such as annual appraisals or monthly meetings with managers to reflect on their performance.
- Solicitors described using a wide variety of formal and informal tools to address training needs. The most common method, despite there being no longer a requirement to do so, was attendance at external training courses. However, most solicitors embraced the opportunity to access a wider range of training options now and were less likely to attend accredited courses. In all cases, training was supplemented with in-house learning. This is significant because under the new approach, all types of learning and development is now considered to contribute to maintaining competence.
- Record keeping is not mandatory but is a useful tool for maintaining competence. Most solicitors we spoke to kept records, usually development plans, and were able to provide evidence that they were meeting Principle 5 of the SRA Principles 2011.
- As well as individual records, 15 practices kept a central record of competence activity. This can help practices to evaluate and plan for future training, and evidence their annual bulk competence declaration.
- Three firms did not keep central records of training courses but considered that it was an individual solicitor's responsibility to keep their own records.
- Two solicitors retained certificates from external training courses and it was clear evidence that they were maintaining competence. However, they were unable to show how their learning met a specific learning need or that they had evaluated their development.

Competence Statement and toolkit

- Most thought the amount of guidance we provide was about right. Two in-house practices said that our guidance was too complex, and some solicitors said the toolkit was only used when they were implementing the new approach.
- The Competence Statement sets out the core activities that all solicitors should be able to undertake competently. They are qualities that should be possessed by all competent solicitors but how they are demonstrated will vary according to practice area and experience. Some solicitors found it difficult to identify how they maintained competence in ethics, professionalism and judgement and managing themselves and their own work. Much stronger evidence was provided about maintaining technical practice.
- In-house solicitors were better able to evidence development in all four areas of the Competence Statement.

Challenges and innovation

- The greatest challenge to maintaining competence expressed by all practices concerned managing time pressures. Solicitors employed several strategies to overcome this, including:
 - moving away from performance-based pay
 - collaborating with other practices to deliver training
 - presenting external training back to internal colleagues
 - delivering virtual training sessions via Skype to dispersed colleagues.
- While an equal split of our sample reported they were spending more time on maintaining competence, or the same amount of time as before, only half of practices built in an allowance of time to undertake learning and development.
- Six practices described innovative ways of managing competence, including seeking feedback from peers at the end of each project, using an online development portal and an internal chatbot for solicitors to raise ethical queries.

Focus on in-house solicitors

- Overall, we identified a high level of commitment to maintaining competence at in-house practices. All solicitors reported that their employers were supportive and, recognised that this was an integral part of employing a solicitor.
- In-house solicitors were particularly good at recognising and reinforcing their ethical and professional duties. Significantly, most of the innovative practice we found came from these practices. However, it is acknowledged that our sample consisted of large organisations with access to healthy budgets and/or resources.
- Collaboration to deliver training was also a key feature of some in-house practices.
- Organisations employing in-house solicitors generally had sophisticated training processes in place and reported little impact when implementing the new approach.

Conclusion

Our review found that most solicitors in our sample viewed our new approach to competence as having a positive impact and they had adapted easily. Overall, they reported that it is more flexible, less costly and provides more opportunities to access relevant training.

Our review has helped us to better understand the processes practices have in place to maintain competence with some valuable examples of good practice, particularly from in-house practices.

Some solicitors did not record their learning and development plans. While record keeping is not mandatory, it is a useful tool for maintaining and demonstrating competence. Solicitors should consider using records to help them reflect on their practice and plan for future learning needs. This will also help them to demonstrate that they are meeting Principle 5 of the SRA Principles 2011.

Recommendations

It is recommended that colleagues in Regulation and Education consider:

- working with External Communications to draw attention to our articles and newsletters as a way of developing competence. This could take the form of a digital label or tag, in tandem with ongoing work on personalised content, to signpost which parts of the Competence Statement and Toolkit it could help address. For example, our conveyancing thematic review could be marked as assisting with:
 - ethics, professionalism and judgement
 - technical legal practice
 - managing themselves and their own work.

This would remind solicitors of what can count towards their annual declaration and prompt them to record it

- adding further case studies and materials about small practices to our online toolkit, as two solicitors commented that our guidance did not seem as relevant to small firms
- setting up an in-house solicitors' virtual reference group in addition to our small firms' reference group
- encouraging solicitors to see maintaining competence as part of their role, for example, by tailored development plans
- raising awareness of collaboration in sourcing, funding and delivering training. This could take the form of:
 - an item at the Compliance Officers' conference
 - promoting ancillary benefits, such as networking and marketing
 - making further use of our small firms reference group to promote collaboration between firms.
- having a regular competence slot at the Compliance Officers' conference, to reiterate that this is an important part of their role.

Introduction

Underpinning the new approach to competence is Principle 5 of the SRA Handbook 2011, which sets out that solicitors must: “*provide a proper standard of service to [their] clients*”. This is defined in the accompanying notes as follows:

“You should... provide a proper standard of client care and of work. This would include exercising competence, skill and diligence, and taking into account the individual needs and circumstances of each client.

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

Our Competence Statement sets out four areas where we expect solicitors to continue to develop their skills:

- ethics, professionalism and judgement
- technical legal practice
- working with other people
- managing themselves and their own work.

Before November 2016, solicitors had to demonstrate their competence by undertaking a rigid system of required hours of CPD per year. They now need to make an annual declaration of competence, but there is no requirement to meet an annual hourly target. While the method of delivery has changed, solicitors’ duty under Principle 5 of the SRA Handbook 2011 has remained the same and we expect the same standard of service as before.

Pre-November 2016

- Mandatory minimum of 16 hours of CPD activity per year.
- Could only be delivered by accredited CPD providers, usually as external courses.
- Mandatory requirement to attend an SRA Management Course Stage 1 within three years of admission.

Post-November 2016

- No CPD hours target – solicitors decide for themselves how much they need.
- Solicitors can include learning from any source, and we no longer accredit providers.
- Solicitors must make an annual declaration of competence as part of practising certificate renewal.

Purpose of this report

To support the new approach, and to address concerns raised by stakeholders, including the LSB⁶ about potential indirect costs for solicitors, we made a commitment to undertake a post implementation review of the changes. The purpose of this report is therefore to explore how solicitors and firms have implemented and adapted to the new approach to CPD, with a specific focus on any impact on resources.

Who we met

We visited 20 practices as part of the review. Our consultation⁷ raised some concerns about the impact on smaller practices, on the basis that they would not have the same resources and impetus to maintain competence as larger firms⁸. We therefore wanted to assess the impact of our new approach on these practices.

We also wanted to see how in-house solicitors were dealing with the changes, given their unique position compared to the rest of the profession. Therefore, our sample included five practices from each of the following categories:

- sole practitioners
- small firms, under our definition of four or fewer managers and turnover of less than £400,000 per annum⁹
- medium firms, with a turnover of £400,000 to £10m
- in-house solicitors.

The practices were randomly selected from within each category.

What we did

We contacted each practice to give a brief overview of our project and sent them a link to select a slot for a visit. This email also contained a link to our competence webpages.

Our review of each practice consisted of three parts:

- An online questionnaire completed by the practices before the visit. This asked for a general overview of the practice's approach to competence and their views on the impact of the changes. We also asked practices to upload their competence policies and any accompanying documentation.
- An interview with the manager responsible for maintaining competence at each practice, which expanded on the answers given online and considered the question of impact further.
- In the case of firms with more than one solicitor, we also spoke to a fee earner and asked additional questions that reflected the training and record keeping questions we asked managers. This included an examination of their training records. In the case of in-house and sole practitioners, we asked these questions to the same individual.

⁶ Letter from Paul Philip to the LSB, 13 February 2015

www.legalservicesboard.org.uk/what_we_do/regulation/pdf/Ltr_To_Richard_Moriarty_13_2_15.pdf

⁷ <https://www.sra.org.uk/sra/consultations/t4t-assessing-competence.page>

⁸ www.legalservicesboard.org.uk/Projects/statutory_decision_making/pdf/20141223_Annex_A_Continuing_Competence_Consultation_Responses.pdf

⁹ <http://www.sra.org.uk/solicitors/small-firms.page>

Impact and benefits

Adapting to the new approach

Fourteen of the 20 practices sampled had used our competence toolkit when designing their approach to maintaining competence. Of the six who had not:

- two were unaware that the resources existed
- two wanted to continue with the existing system
- two had used external consultants to design a new system. It appeared that the consultants had used the competence toolkit.

Six practices told us that they had adopted new forms of training and development because of the new approach. These included:

- External training:
 - e-learning
 - business development coaching
 - networking
 - training from barristers' chambers.
- Internal training:
 - shared learning and group discussion
 - peer to peer informal learning
 - internal e-learning
 - regular internal seminars
 - weekly knowledge sharing meetings
 - self-directed research.

Some solicitors also mentioned to us that they were aware that certain colleagues preferred the old system of required hours. However, it should be noted that our new approach allows solicitors to maintain this system if they choose. A significant minority of the sample, eight practices, had retained an internal target of hours per year. These ranged from 15 to 104 hours (the latter reflecting two hours per week). Some solicitors also noted that accreditation schemes, such as the Conveyancing Quality Scheme or the Legal Aid Agency's Specialist Quality Mark, imposed their own independent requirements.

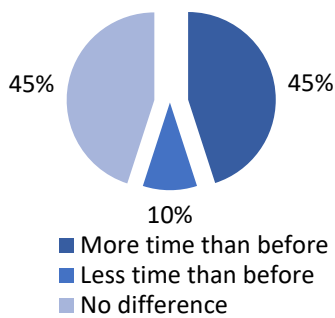
Impact of our new approach

We asked solicitors about the impact our new approach had on various aspects of their practice. Most practices reported either no difference or an improvement. Also shown are a selection of the comments solicitors made when asked to explain the answers they gave.

In terms of cost, while most practices reported no difference or less cost, 25 percent said it had increased. They explained that this was due to:

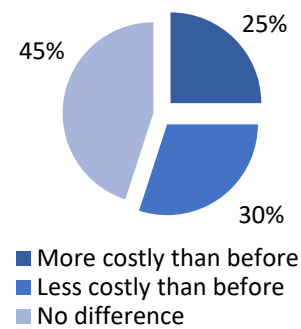
- one-off expenditures, such as a mediation course or the Legal Practice Course, which they had paid for since 2016
- the cost of arranging and producing training materials in-house
- increased cost of external courses. This, however, conflicts with other practices who highlighted the rise in free training.

Time spent on training



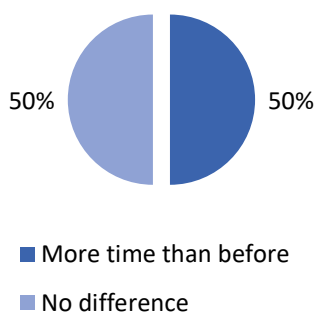
- *We are able to count more activities towards our competence.*
- *We are able to perfect our specialist areas of practice and the quality of service given.*
- *As we are doing less external training, we now prepare the materials internally, which takes more time.*

Ongoing financial cost



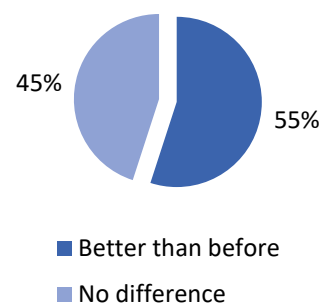
- *No significant difference as I am also doing this activity as part of my accreditation.*
- *We can now use free materials to count towards this.*
- *No impact, as the cost has shifted to solicitor time rather than a cash cost.*

Time spent on maintaining competence



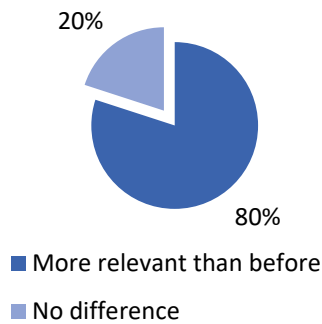
- *We are able to focus on what our needs are rather than just meet a target.*
- *We have employed a dedicated practice manager to look at the way we maintain our competence.*
- *No difference, as the time I would have spent on formal training is now spent on other methods.*

Quality of training



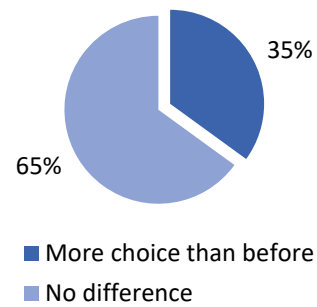
- *Conferences are now comprised of more quality sessions as that is what is needed. It is not just a matter of meeting the hours, solicitors are seeking quality training.*
- *Better than before as there is more choice - the old CPD approach was artificial and not largely relevant to our work. Solicitors were not compelled to think 'what do I need to do to be competent?'*
- *Better than before. I think that trainers have become more competitive so that the quality has improved. They can't turn out generic training that isn't fit for purpose.*

Relevance of training



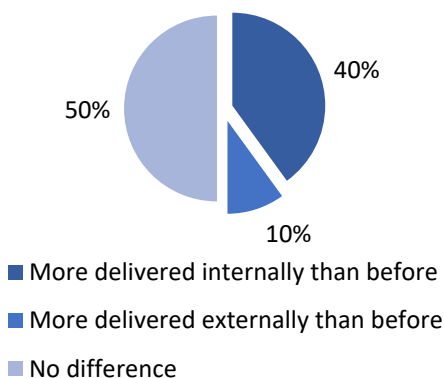
- *More relevant as we can deliver our own courses and we do not have to attend off the shelf accredited training.*
- *More hands-on, more tailored, more relevant to this firm. It is delivered by internal experts. In the old accredited courses, the trainer was not always a practitioner.*
- *There has been a shift away from CPD just for the sake of it. People only go on training if it will upskill them.*

Choice of training providers



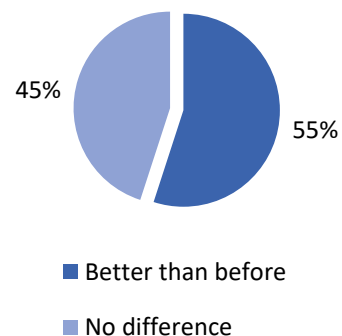
- *The market is much wider. Before we were confined to accredited trainers and not all the products available were relevant to us – it felt like money for old rope.*
- *The market has become more competitive and there is more freedom of choice and courses are better value for money, particularly with options to have free courses at chambers.*
- *More choice than before. The market has really opened now and there is a wider spread of new providers, for example accountants and company directors are now prepared to offer training on business issues.*

How training and development sessions are delivered



- *No significant difference as we are already doing much of this activity as part of accreditation and other audit requirements.*
- *More internal training than before. We deliver our own courses, which we feel ensures a high quality.*
- *More internal due to new staff and their creative approach. Vlogs, webinars, workshops and informal recurring Wednesday Wisdom e-mails.*

Quality of solicitors' work

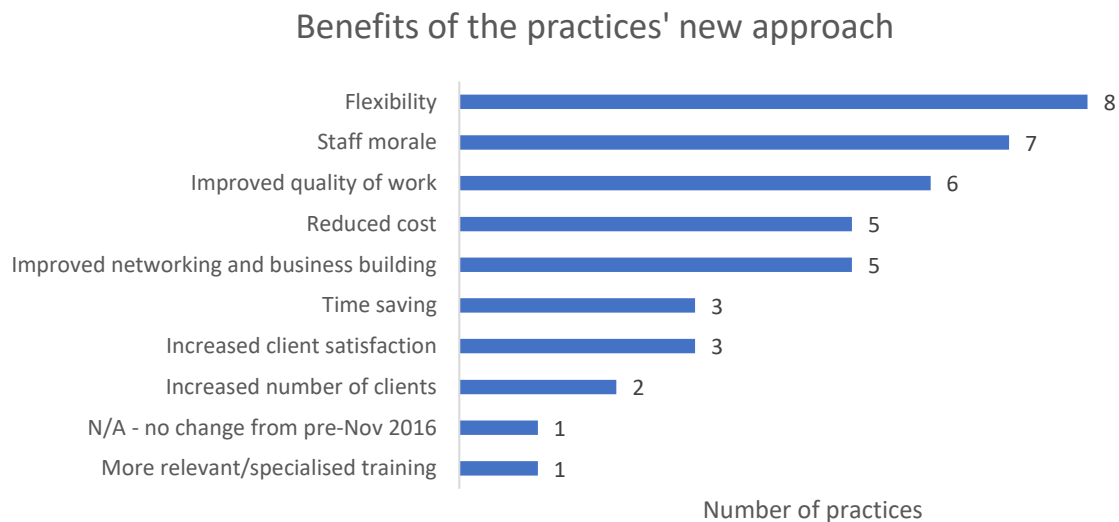


- *On balance slightly better as people have gained more experience and training is a part of that.*
- *File reviews have improved since we adopted the new approach. An unexpected and pleasant surprise.*
- *Better than before - by reflecting on and targeting gaps I'm becoming a better solicitor and can now purposefully work towards excelling in the future.*

Additionally, none of the practices said that complaint and insurance claims had increased since our new approach. It was also encouraging to see that two practices reported that complaints and claims had reduced since the new approach. Possibly linked to this, 55 percent of the practices told us that they felt that the quality of solicitors' work had improved. One explanation provided for this was that they were able to access more relevant training. Two solicitors highlighted that raising standards across the board ultimately benefited the whole profession as well as their own practices.

Benefits of our new approach

Solicitors also identified several benefits to the new approach. The most commonly-identified benefit was flexibility, followed by staff morale. The flexibility to choose methods of training was often linked to reduced costs, as solicitors were able to attend free training (for example from barristers chambers). Significantly, a small firm said that the new approach meant that they no longer had to close so that all fee earners could attend external courses. Many practices identified more than one benefit to the way they had implemented our new approach.



A majority, 60 percent, of the sample said that their practices collaborated with others to deliver training, learning and development, or sharing best practice. This could be with other solicitors, barristers chambers or non-legal businesses such as accountants or specialist clients. These were usually informal arrangements for mutual benefit, but others took a more formal approach, partnering with others to provide a set amount of training each year.

In terms of relevance, 80 percent of the sample felt that the new approach had allowed training to be more targeted to solicitors' needs. Two firms did not feel there was a difference, and one did not know. The last said that the market had diversified due to market forces, rather than our new approach.

Annual declaration

Most of the sample were practices with more than one solicitor. These practices declared their solicitors' competence during the bulk practising certificate renewal. We asked managers how they assured themselves that they were in a position to make this declaration on behalf of their staff. This was done in a number of ways:

- requesting all solicitors to make the declaration internally before the application is sent
- checking learning and development records
- having each solicitor make a signed declaration in each appraisal.

A few firms said they trusted their processes and so did not check. One said that the managing partner “*just knows*” that the firm’s solicitors were competent. We consider that requiring an internal declaration is a useful practice which helps to remind solicitors of their individual obligations.

We asked what solicitors thought some of the benefits of the new approach were. Some of their answers are set out below.

Benefits to solicitors	Benefits to the business
<i>Flexibility so that fee earners needs are met. There is a culture of accepting that they need to constantly upskill themselves.</i>	<i>Value for money – our approach reflects our business practices and that we learn organically over time and grow from experience.</i>
<i>No longer a box-ticking exercise and encourages communication within the office.</i>	<i>Saves time, cost effective, improves morale.</i>
<i>We have to present back on training received and building on individual strengths and knowledge and working together closely.</i>	<i>Our approach has given staff confidence to perform their jobs because courses are tailored to exactly what we want rather than being generic and widespread. Training is an ongoing process that creates trust between colleagues.</i>
<i>I can now choose courses that meet my needs more and get more benefit from them.</i>	<i>There is a culture of fee earners accepting that they constantly need to upskill themselves.</i>
<i>It has provided us with a flexible framework that we can adapt to suit our needs. Solicitors can choose courses from specialist chambers.</i>	<i>Solicitors are more aware of the need to upskill and undertake training in a more relevant and bespoke way.</i>
<i>Greater imperative to meet with peers and review files.</i>	<i>It provides me with flexibility to engage in a range of different activities that manage competency as we all learn in different ways.</i>

Competence processes

Our online guidance and toolkit¹⁰ on competence describe some of the key processes that solicitors need to carry out to maintain continuing competence. These are:

- reflecting on and identifying learning needs
- planning and addressing competence needs
- recording and evaluating whether those needs have been met.

The guidance is not mandatory but was designed to support solicitors adopting the new approach. We looked at the processes the sample had in place to maintain competence.

Reflecting on and identifying learning needs

We asked practices how they reflect on the quality of their practice and identify solicitors' competence needs each year. All the solicitors in our sample said that their practice took steps to identify gaps in competence. Most solicitors reported that they identified needs informally, for example through discussions with colleagues, external peers or feedback from clients. Only three practices in our sample had no set process or policy at all to identify any competence needs.

Carrying out regular research and keeping up to date with changes in the legal market was also considered to be a valuable informal tool to assess competence needs. Common examples were reviewing subscription based online resources or websites specific to their practice area.

This was closely followed by more formal methods with many solicitors using development plans, annual appraisals or monthly meetings with managers to reflect on their performance and identify future competence needs. Some practices used tailored software packages, coaches and talent programmes to identify competence needs. All firms used more than one method to identify competence needs.

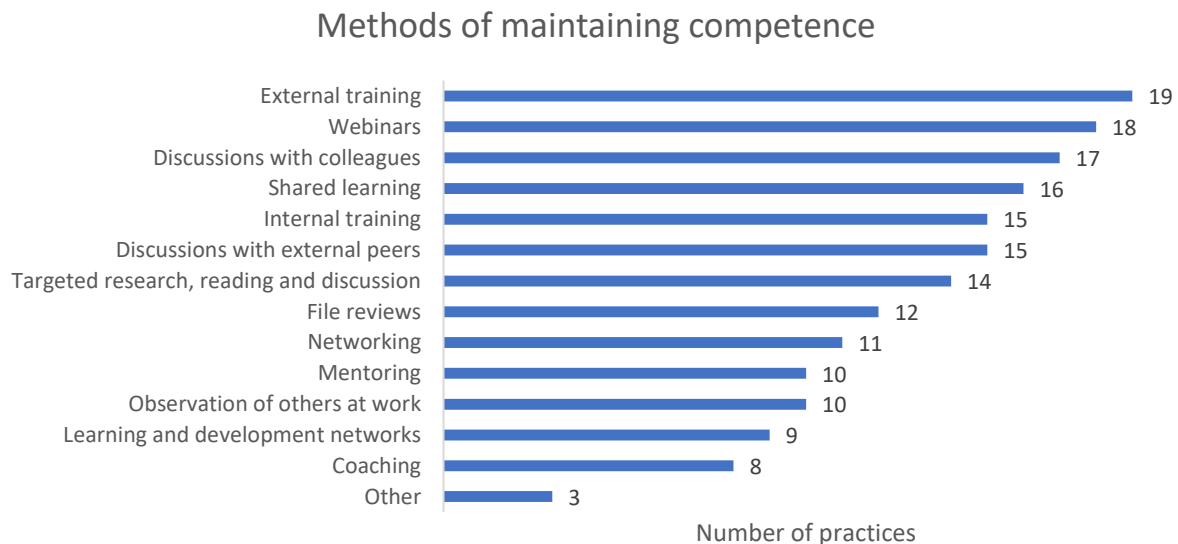
How are competence needs identified?



¹⁰ www.sra.org.uk/solicitors/cpd/tool-kit/continuing-competence-toolkit.page

Planning and addressing competence needs

Once competence needs have been identified, solicitors need to plan how they can be addressed to make sure they continue to be competent to practise. Solicitors in our sample generally used annual appraisals and one to one meetings with managers, to plan how they would address needs. Solicitors described using a wide variety of formal and informal tools to address training needs.



'Other' included the following:

- Legal Aid Agency supervision and file audit requirements
- an analysis of where gaps in the firm's skills lay
- external research tools.

The most frequent method of maintaining competence was attendance at external training where all but one solicitor attended external courses to address any competence needs. In all cases, this was supplemented with a wider variety of in-house learning and development.

However, the majority reported that they were now less likely to attend accredited courses. Only one sole practitioner said that he relied entirely on external accredited courses because he preferred a highly structured system. Overall, the range and cost effectiveness of external courses varied widely. For example, many solicitors attended training courses arranged by practitioners' groups, other firms and barristers chambers which were often free and specific to their practice area.

The next most frequently used method was internal training courses and webinars, which now count towards maintaining competence. Solicitors told us that this was beneficial to their practice because they were more cost effective and courses could be designed to their specific requirements.

Solicitors also reported that they regularly used more informal methods to maintain competence, for example reviewing the legal press.

Despite there being no formal requirement to do so, most solicitors continue to use external training providers to some extent. However, there is a greater recognition of the value of informal in-house learning and development.

Planning and addressing competence: case study

One medium sized firm had a particularly effective way of addressing competence. The firm's competence activity is almost all carried on internally, although external courses for subjects like anti money laundering and General Data Protection Regulation are made available to staff. Each month, the firm holds a seminar on a current issue or change in the law.

Materials are circulated in advance to all fee earners, who then attend a seminar hosted by one of the senior partners. These include both a presentation and a discussion, to which fee earners are expected to contribute. If any fee earners hold files which are affected by the issue under discussion, they are encouraged to book in a short meeting with the senior partner to discuss it. All attendees are also asked to feed back on the seminar's usefulness. This is a cost efficient and effective way to maintain competence.

Recording and evaluating

Most solicitors we spoke to kept records of how they maintained competence and were able to provide evidence that they were meeting Principle 5 of the SRA Principles 2011.

Records were usually some form of personal learning and development plan that identified solicitors' competence needs and what they did to meet those needs. Development plans enabled solicitors to record training needs, learning carried out and track development by evaluating whether training has met their learning needs and objectives.

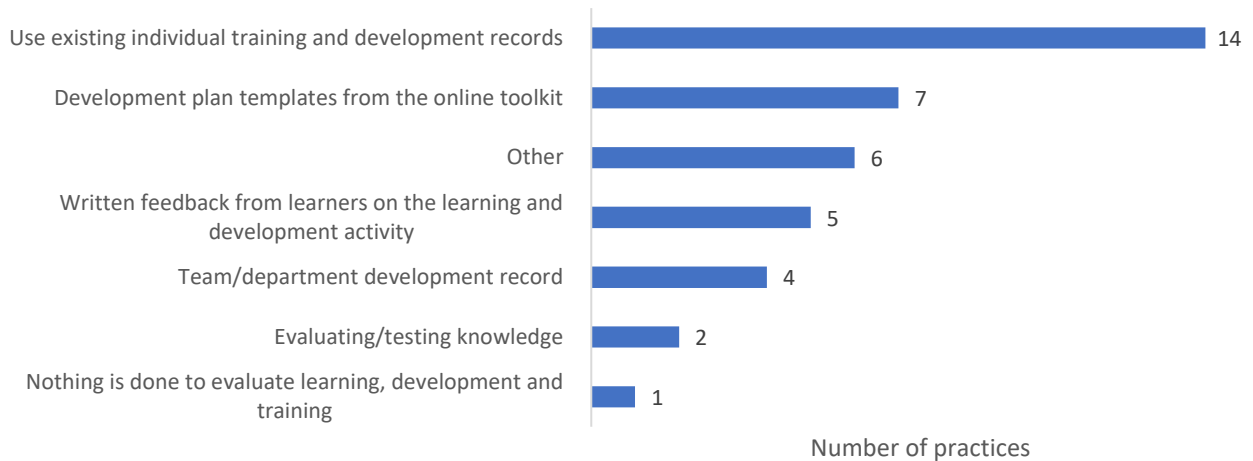
We examined 18 individual training records (the remaining two solicitors were not able to produce them):

- fourteen of the records showed evidence of reflecting, planning to address and addressing competence needs
- eleven records also showed evidence of evaluation
- all but one included training directly relevant to the solicitor's area of practice.

The quality of records varied. For example, some were comprehensive and set out future competence needs as well as evaluating past activity, while others were simply a reference point of training undertaken. Two solicitors kept copies of certificates from external training courses they had attended but were unable to show how this met a specific learning need or that they had evaluated their development.

As well as individual records, two practices kept a central record of competence activity. This can help practices to evaluate and plan for future training, and evidence their annual bulk competence declaration. Three firms did not keep central records of training courses but considered it to be an individual solicitor's responsibility to keep their own records.

How is training and development assessed?



'Other' included:

- Legal Aid Agency audits
- appraisals
- regular discussions with peers
- oral feedback on the activity undertaken.

Recording in practice

Not all solicitors were good at recording their competence activity. We visited a sole practice consisting of a single solicitor and a trainee. The solicitor was diligent in arranging the trainee's learning programme but neglected his own competence. In place of written records, he had collected legal magazines in a binder.

When we spoke to him about the various methods set out in the Competence Statement, however, it was clear that he was undertaking a wider range of activities but failing to record them. If his competence was ever called into question, this could be a significant aggravating factor in any regulatory proceedings. We gave him advice on how to manage his recording and what our expectations are. He has accepted our comments and told us that he will put a new system in place.

Competence Statement and SRA toolkit

In terms of the guidance and support we provide on competence:

- sixteen thought the amount was about right
- two thought there was too much
- one thought there was not enough
- one could not offer a view as they had not looked at it.

Some solicitors said that they found that the toolkit was useful when they were implementing the new approach, but they have not used the toolkit since. Two in-house practices said that the guidance was too complex and could be more concise.

We also asked how practices maintained solicitors' competence in the four areas of the Competence Statement. In general, they were able to give clear and detailed answers in relation to how they maintained competence in technical legal practice.

The Competence Statement sets out the four core activities that all solicitors should be able to undertake competently:

- ethics, professionalism and judgement
- technical legal practice
- working with other people
- managing themselves and their own work.

How these activities are demonstrated will vary according to a solicitor's practice area and experience. Some solicitors found it particularly difficult to identify how they maintained competence in ethics, professionalism and judgement and managing themselves and their own work. For example, managing themselves and their own work produced weaker responses such as "*we keep diaries*", "*we have an office manual*", and "*the senior partner is obsessive about spelling and grammar*".

Much stronger evidence was provided about maintaining technical practice. This is understandable as it is a practice's main commodity. However, the other areas should equally be developed where it is relevant, so that solicitors can deliver legal advice effectively, accurately and ethically.

Some firms had detailed systems in place to maintain competence in these areas, and a few examples are set out below.

Technical legal practice

- Membership of sector and professional associations.
- Using legal webinars.
- Monthly seminars on current topics.
- Using contacts with other firms to provide training.
- Regular discussions with other fee earners.
- Review of upcoming changes in the law, for example Law Commission proposals.

Ethics, professionalism and judgement

- Anti-bribery law training.
- Annual workshops including an ethical dimension.
- Equality and diversity training.
- Using the services of a compliance consultant.
- Making responses to ethical issues an integral part of routine file reviews.
- Organising an internal conflict seminar to discuss common issues.

Working with other people

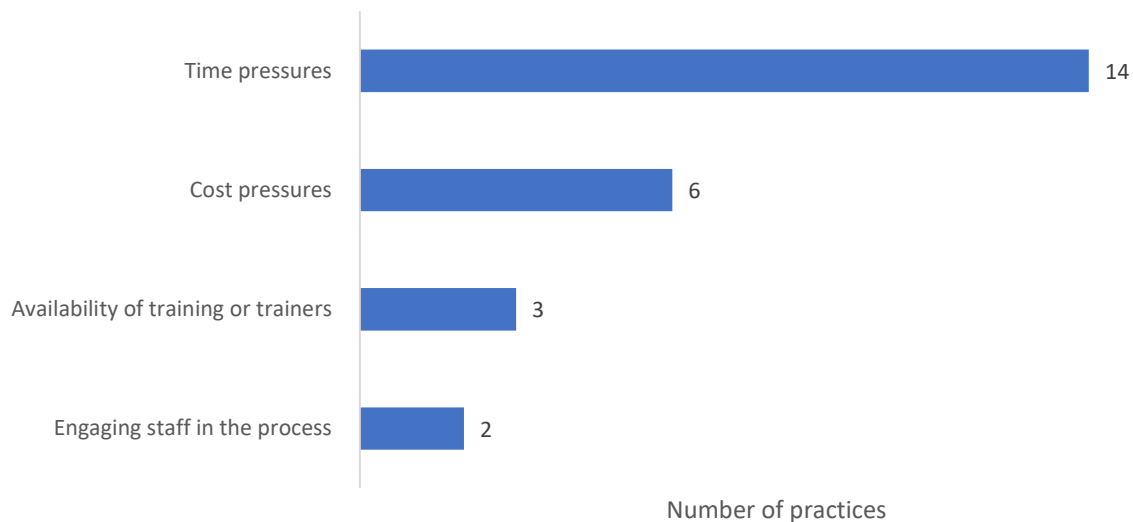
- Soft skills training, for example stakeholder management courses.
- A mentoring system.
- Mandatory feedback from clients and third parties at the conclusion of a project.
- Training on effective and jargon-free writing.
- Cyber security training.

Managing themselves and their own work

- A time management seminar delivered by a partner.
- A project looking at how fee earners allocate their time, to see if they could work more effectively.
- Financial management training for partners.

Challenges and innovation

We also discussed the challenges practices faced in maintaining competence. Some described more than one, while others said they did not face any challenges. By far the most widespread challenge faced by practices was time pressures. A greater emphasis by solicitors on the competence area of managing themselves and their own work might assist with this.



Some practices also cited other pressures such as:

- maintaining the right ethos needed to reflect on one's own practice
- finding courses for very specialised areas of practice
- frequent regulatory and legal changes, such as the introduction of General Data Protection Regulation.

Two practices reported no challenges at all in maintaining competence.

Solicitors employed several strategies to overcome these pressures:

- moving away from performance-based pay, as it encouraged solicitors to neglect development activity
- using in-house trainers
- collaborating with similar practices to arrange and deliver training
- virtual training sessions delivered via Skype
- making sure that line managers are briefed to support fee earning staff in maintaining competence
- sharing tasks effectively between fee earners
- having managers describe how they maintain their own competence, to give useful support and guidance to fee earners
- a reduced caseload for managers, so that they could prepare and provide internal training
- making sure that all external training is wholly relevant and a good use of the solicitor's time.

Only half of the practices we spoke to said they made a regular allowance of time for solicitors to maintain competence, preferring to arrange training on an ad hoc basis. While practices did facilitate a wide variety of methods to meet competence needs, failing to build

regular time into a working week may give the impression that maintaining competence is separate from a solicitor's practice.

We also asked whether there was anything which prevented solicitors from attending training. Two cited time pressures, and two others cited cost and availability of training.

We also asked whether practices had introduced any innovative ways of managing competence. Most did not feel that they had, but six described innovative ways of managing competence:

- a standard method of seeking feedback from peers at the end of each project
- an internal chatbot for solicitors to raise ethical queries
- an online development portal and video learning
- a business wide consideration of workloads
- hiring an external coach to provide one to one sessions with fee earners
- an emphasis on learning styles which aimed to deliver training in a variety of ways, for example podcasts for staff to use while travelling.

Focus on in-house solicitors

In-house solicitors are employed by organisations to deal with internal or external legal issues. As they effectively only have one client, the challenges they face can be different from those in private practice. It was important to include in-house solicitors in our sample, to check the impact of our new approach beyond private practice.

The five in-house solicitors we visited worked for a wide variety of employers:

- a high street bank
- a local authority
- an energy provider
- a management consultancy
- a technology company.

Overall, we identified a high level of commitment to maintaining competence at these practices. All the sampled in-house solicitors reported that their employers were supportive of continuing competence and recognised that it was an integral part of employing a solicitor. All reported having a departmental training budget, which they felt was sufficient. It is also significant that most innovative methods we found came from in-house practices.

We found that in-house solicitors were particularly good at recognising and reinforcing their ethical and professional duties. For example:

- a local authority had specific training and support for legal staff in handling political pressure from the councillors they worked with and upholding the law
- a technology company had adopted ethical values which all employees were expected to share, and which were regularly reinforced. Of particular relevance was a commitment not to exercise a predatory attitude towards intellectual property rights, which the legal department had to make sure was enshrined in contracts the company entered into.

An ethos and commitment to ethical and professional standards was evident in these practices, supported in some cases by companywide values. These were regularly reinforced and applied to all staff.

Collaboration in delivering training was also a key feature of some in-house practices. The local authority partnered with others in the area to fund and deliver training, while private companies used business relationships with corporate partners to arrange training.

Another interesting feature was that these companies generally had sophisticated and extensive training requirements in place before November 2016 and therefore noticed little difference when our new approach came in.

Overall, we were impressed by the level of commitment to maintaining competence demonstrated by in-house solicitors in particular, the sophisticated processes they had in place. This positive picture applied to all the in-house practices we visited, despite covering a wide range of sectors and entities. While these were large and, generally, well-resourced entities, we do not consider that this was simply a financial matter. The practices we visited had a culture of continuous improvement which could apply to any firm in private practice.

Advice to new practices

As part of the review, we wanted to understand what firms had learned from implementing our new approach. We also wanted these practices to have an opportunity to pass on the benefit of their experience. We asked: “*What advice would you give to a new practice about maintaining competence?*” Below is a selection of responses.

Take advantage of flexibility while you build up your firm. Online resources are good value for time and money.

Have a training and development plan that is committed to paper as this forces you to think about the issues. Think about the impact/benefits of accreditation if applicable. May place some constraints on you but helps focus your development.

Have a mixture of training. Take on more external training to begin with. Get a mentor. You need to do some internal training - keep up to date with the law to make sure it is accurate. Money may be tight, but maintaining competence is unavoidable.

Use the SRA toolkit and don't reinvent the wheel. Get a system in place now because when a firm grows it will then already be in place.

Keep it simple. People need to understand what is required and when. This doesn't cost any money, but it will enhance people's participation and development.

It can be difficult to get lawyers to think about how they develop careers more broadly. They should change that mindset as they need help and support to develop personally and professionally.

Good practice in maintaining competence

Sole practitioners

1. *“At the time of the change over to the continuing competence system there was a lot of training available and articles in the legal press. As a new sole practitioner, I employed a compliance consultant to assist me with the drafting of our firm's policy to ensure it was sufficient.”*
2. *“This is an ongoing process and done on a case by case basis. Establishing a new firm has brought lots of challenges and I have been very aware of this. When a new need is identified I will go into 'fact-finding mode' - what do I need to find out, how will I do this? There is a formal process every few months when I will sit down with colleagues and think about what is needed, but this is also an ongoing daily process.”*
3. *“I use the toolkit and reflect on likely work flow to plan future needs. I will usually diarise particular events to attend throughout the year which I know will be useful for example my local Law Society, or property and litigation updates from chambers. I network with a group of accountants from the banking industry in a business forum that provides a plan of seminars across the year.”*

In-house solicitors

1. *“Our approach has given staff confidence to perform their jobs because courses are tailored to exactly what we want rather than being generic and widespread. Training is an ongoing process that creates trust between colleagues. Our use of a balanced scorecard for all staff means that targets and achievements are transparent. We think this is an effective way of building staff confidence.”*
2. *“We deal with trends in our essentials workshops. Where organisation-wide issues were detected these were addressed with specific workshops for example financial knowledge and Microsoft programmes - excel and word etc. There is also a virtual team that horizon scans for future issues. They feedback into the training team and this helps dictate what training will be provided. If individuals want specific training the organisation encourages them to raise it. We have a very large training budget that regularly fails to be exhausted. There is no hold put on training and it is encouraged.”*

Small firms

1. *“I will initially try to work through it myself. Then, I would consider whether this need would be a benefit to the business and others and if so I would ask for training.”*
2. *“Lawyers identify and plan their professional development needs each year to reflect on their practice. Lawyers are expected to document a running pro forma record of their professional development over 12 months. Professional development is subject to review at performance review meetings with each lawyer in September/October of each year. A central record is kept of each lawyer's professional development record. In advance of the new framework lawyers received briefings about the SRA statement of solicitor competence. The partners review the firm's training and development policy statement: most recently in January 2018.”*

Medium-sized firm

“We have implemented a system of PPR (People Performance Review) throughout the organisation which embraces administrative staff as well as the lawyers. Until then, the competence was maintained though the appraisal system which was used to identify training needs and to review generally the ongoing competence and development of the lawyers. The PPR was introduced in order to create a more insightful method of ensuring competence on all levels to include training and updating of skills.

We have retained a high-level personal development coach. This coach helped us to identify and address development areas with the lawyers on more generic issues which are equally important such as leadership, stress management and case management skills and personal projection (with clients and at court). This is an unusual approach to training and addresses important core skills required by lawyers on a personal effectiveness level. This work is undertaken in addition to the essential requirement for ensuring that lawyers are given access to webinars, seminars, conferences etc which relate to updating legal knowledge.

We have upskilled two key senior lawyers by committing to training them in mediation and collaborative law which was a significant allocation of budget in one year for both lawyers. Both are now able to deliver services in these important areas. In addition, the lawyers keep training records of the CPD type training that they attend over the course of the year.”

Conclusion

Our review found that most solicitors in our sample viewed our new approach to competence as having a positive impact and they had adapted easily. Overall, they reported that it is more flexible, less costly and provides more opportunities to access relevant training.

Our review has helped us to better understand the processes practices have in place to maintain competence with some valuable examples of good practice, particularly from in-house practices.

Some solicitors did not record their learning and development plans. While record keeping is not mandatory, it is a useful tool for maintaining and demonstrating competence. Solicitors should consider using records to help them reflect on their practice and plan for future learning needs. This will also help them to demonstrate that they are meeting Principle 5 of the SRA Principles 2011.

Recommendations

It is recommended that colleagues in Regulation and Education consider:

- working with External Communications to draw attention to our articles and newsletters as a way of developing competence. This could take the form of a digital label or tag, in tandem with ongoing work on personalised content, to signpost which parts of the Competence Statement and Toolkit it could help address. For example, our conveyancing thematic review could be marked as assisting with:
 - ethics, professionalism and judgement
 - technical legal practice
 - managing themselves and their own work.

This would remind solicitors of what can count towards their annual declaration and prompt them to record it

- adding further case studies and materials about small practices to our online toolkit, as two solicitors commented that our guidance did not seem as relevant to small firms
- setting up an in-house solicitors' virtual reference group in addition to our small firms' reference group
- encouraging solicitors to see maintaining competence as part of their role, for example, by tailored development plans
- raising awareness of collaboration in sourcing, funding and delivering training. This could take the form of:
 - an item at the Compliance Officers' conference
 - promoting ancillary benefits, such as networking and marketing
 - making further use of our small firms reference group to promote collaboration between firms in providing training.
- having a regular competence slot at the Compliance Officers' conference, to reiterate that this is an important part of their role.