

# Professional Skills Course – Written standards

## *Advocacy and Communication Skills*

### *Aims and objectives*

On completion of this area of the compulsory core, trainees should be able to exercise the rights of audience available on admission in the civil and criminal courts.

### *Assumed knowledge from the Legal Practice Course (LPC)*

As a consequence of completing the LPC trainees should be able to:

- interview a client
- identify the client's goals
- identify and analyse factual material
- identify the legal context in which factual issues arise
- relate the central legal and factual issues to each other
- state in summary form the strengths and weaknesses of the case from each party's perspective
- develop a case presentation strategy
- outline the facts in simple narrative form
- prepare in simple form the legal framework for the case
- formulate a coherent submission based upon facts, general principles and legal authority in a structured, concise and persuasive manner
- identify, analyse and assess the specific communication skills and techniques employed by the presenting advocate
- demonstrate an understanding of the purpose, techniques and tactics of examination, cross-examination and re-examination to adduce, rebut and clarify evidence
- demonstrate an understanding of the ethics, etiquette and conventions of advocacy

Trainees should, in addition, be able to advise a client on the appropriate pre-trial procedures and proceedings, understand the crucial importance of preparation and the best way to undertake it, and assist in the preparation and conduct of pre-trial procedures and proceedings.

Trainees should be able to make an interlocutory application before a District Judge.

### *Element 1*

Trainees should be able, in the context of a civil and a criminal case, to:

- use language appropriate to the client, witness(es) and triers of fact and law
- listen, observe and interpret the behaviour of triers of fact and law, clients, witness(es) and other advocates and be able to respond to this behaviour as appropriate

- speak and question effectively and thereby competently use appropriate presentation skills to open and close a case
- use a variety of questioning skills to conduct examination in chief, cross examination, and re-examination
- prepare and present a coherent submission based upon facts, general principles and legal authority in a structured, concise and persuasive manner
- present a submission as a series of propositions based on the evidence
- organise and present evidence in a coherent and organised form

## *Element 2*

Trainees should be able to identify and act upon the ethical problems that arise in the course of a trial.

## *Client Care and Professional Standards*

### *Aims and objectives*

On completion of this area of the compulsory core, trainees should be able to:

- identify and understand the significance of client care, ethical and professional conduct issues and be able to respond in an appropriate way within the training context
- apply appropriate professional standards
- understand and apply business awareness
- understand the need to work effectively with others
- initiate and implement appropriate methods of personal work organisation and
- appreciate the importance of and take responsibility for their own personal and professional development

### *Assumed knowledge from the LPC*

As a consequence of completing the LPC, trainees should be able to:

- identify, understand and deal with aspects of client care, ethics and professional conduct which may arise while conducting matters covered within the LPC
- understand the relevant practice rules and basic principles of the Solicitors Accounts Rules
- understand those areas of substantive law (e.g. negligence and fiduciary duties) and the practice rules which deal with the conduct of fee-earning work of a type which trainees are likely to encounter before admission
- understand the relevant practice rules and basic principles regulating the organisation of the profession, obtaining work, client care and professional relations
- appreciate the need for good personal organisation and an orderly approach to work

Trainees should be able to identify and deal with issues concerning their ethical responsibilities to:

- their clients
- the Court

- other solicitors
- other professionals
- the Solicitors Regulation Authority and other relevant bodies
- their colleagues
- themselves

This area of the compulsory core comprises three Elements:

- Client Care and Communication Skills
- "Professional Standards" and
- Work and Case Management.

### *Element 1 – Client Care and Communication Skills*

- Communication both orally and in writing
- Interviewing skills
- Taking instructions
- Keeping clients informed
- Discussing costs
- Handling client expectations
- Dealing with difficult clients
- Avoiding complaints
- Identifying potential complaints
- Handling complaints

### *Element 2 – Professional Standards*

- The Practice Rules
- Client confidentiality
- Conflicts of interest
- Undertakings
- Negligence warnings
- Discussing advising and reporting on costs
- Contingency arrangements
- Retainers
- Letters of Engagement
- Avoiding, identifying and handling complaints

### *Element 3 – Work and Case Management*

- Time limits
- Time management

- Identifying and minimising risk
- The risk of professional liability
- Case file management

## *Financial and Business Skills*

### *Aims and objectives*

On completion of this area of the compulsory core, trainees should:

- have developed improved financial awareness
- be able to undertake exempt regulated activities under part XX FSMA
- be able to apply the rules of professional conduct relating to financial and accounting matters

### *Assumed knowledge from the LPC*

Trainees who have undertaken the LPC prior to September 2001 will not have gained any understanding of the Financial Services and Markets Act 2000 (FSMA), the Solicitors' Financial Services (Scope) Rules 2001 (Scope Rules), or the Solicitors' Financial Services (Conduct of Business) Rules 2001 (Conduct of Business Rules). However as a consequence of completing the LPC trainees should have gained an understanding of:

*Solicitors' accounts and the Solicitors' Accounts Rules 2011 (SAR). This will have included:*

- *the need to maintain separate office and client accounts*
- *the obligations regarding payment into and drawing from client account*
- *The need to record receipts and payments of office and client monies*
- *transfers between client accounts and between client and office accounts*
- *the obligation to prepare accounts in respect of clients accounts*
- *the power of the Council to secure compliance with the SAR*
- *the processes involved in recording transactions for the purposes of paying of VAT*
- *the processes involved in recording abatements, bad debts and split money*
- *the processes involved in preparing a statement for clients on completion of a matter*
- *the need to pay interest to clients when appropriate*
- *the distinction between interest earned in general deposit and designated deposit accounts and preparation of accounts as appropriate*
- *the requirements in respect of the holding of trust monies*

The principles of accounting and an awareness of the need to interpret business accounts to ensure clients are appropriately advised. This will have included:

- *an understanding of the need for accounts, the principles of bookkeeping, the terms used in accounts and basic accounting concepts and their uses*
- *an understanding of the processes involved in recording transactions, familiarity with books used to record transactions and an understanding of how accounting data is used to prepare trial balances and profit and loss accounts and a balance sheet*

- *an understanding of the need to make provision for depreciation and other year end adjustments*
- *the ability to analyse and interpret entries in the balance sheet and profit and loss accounts of a sole trader, partnership and limited company*
- *an understanding of the nature of shareholders' funds and the need to account for taxation and the circumstances in which consolidated fund accounts are required*

### *Element 1 – Accounting and financial issues*

Trainees should be able to identify accounting and financial issues in the areas of work in which they or the training establishment are involved, and have an awareness of:

- the potential need to involve other professionals (e.g. accountants, financial services specialists) when advising business and/or private clients
- possible sources of financial information which can be utilised in advising business and/or private clients
- the need to determine whether additional accounting and financial information is required (including in appropriate cases the possibility of employing investigative accounting techniques) to meet the client's needs
- the financial regulatory environment in which clients' businesses operate and the need to identify the appropriate accounting regulatory regime applicable to a client's business

### *Element 2 – Introduction to the market place*

Trainees should also be able to identify the main investment products on the market, distinguish their main features (e.g. long or short term, safe or speculative) and determine their suitability for different types of client.

Trainees should be able to identify the tax and other advantages or disadvantages of particular types of investment.

### *Element 3 – The regulatory framework*

Trainees should have an understanding of the implications of:

- the Financial Services and Markets Act 2000 (FSMA),
- the Solicitors' Financial Services (Scope) Rules 2001 (Scope rules),
- the Solicitors' Financial Services (Conduct of Business) Rules 2001 (Conduct of Business rules), and
- any Money Laundering Regulations (MLR).

Trainees should have an understanding of the role of the Financial Services Authority (FSA) and the role of the Solicitors Regulation Authority as a Designated Professional Body (DPB).

Trainees should have an awareness of:

- what is regulated by the Financial Services Authority
- the requirements for FSA authorisation
- the consequences of carrying out a 'regulated activity' without FSA authorisation
- the method of obtaining FSA authorisation

Trainees should have an understanding of:

- what constitutes a 'regulated activity' and the principal exclusions in the FSMA (Regulated Activities) Order 2001 (RAO)
- the exemption in 'Part XX' of the FSMA for professional firms not conducting 'mainstream regulated activities' but carrying on "exempt regulated activities"
- basic conditions which must be satisfied by firms wishing to undertake 'exempt regulated activities' (S327 FSMA & FSMA (Non-exempt Activities) Order 2001)

Trainees should be able to relate the FSMA, the Scope rules and the Conduct of Business rules to the areas of work in which they or the training establishment are involved.

In the context of the regulatory structure set up by the FSMA and the concepts underpinning it, trainees should have an understanding of:

- the distinction between tied and independent sectors; (to be kept under review)
- the FSA and the major compliance obligations contained in the FSA Handbook
- the appropriate Law Society rules and guidance.

Trainees should know what constitutes a financial promotion and the principal exemptions in the FSMA (Financial Promotion) Order 2001

#### *Element 4 – The Scope Rules*

Trainees should be able to identify the type of regulated activities which may be undertaken under the Scope Rules and be aware of the consequences of a breach of the Scope Rules.

Trainees should be able to identify the steps needed to comply with the Scope Rules, the Conduct of Business Rules and the Practice Rules relevant to regulated activities under the FSMA.

Trainees should have an understanding of the role of the solicitor in the financial services industry and should understand the implications of:

- the solicitor's independence
- the employment of investment specialists, the establishment within a practice of a specialist financial services department and the mechanisms for such an establishment
- the inter-relationships of financial services work with other areas of work in the training establishment

Trainees should be able to identify the steps needed to comply with the Conduct of Business rules for exempt regulated activities.

Trainees should be able, under appropriate supervision, to maintain the required records and follow the firm's complaints procedure.

Trainees should understand how the receipt of commission should be dealt with under Practice Rule 10 and the Scope rules and should also understand the significance of the receipt of commission in connection with some of the exclusions in the RAO.

Trainees should:

- have a good understanding of when an activity "arises out of or is complementary to" a particular professional service to a particular client

- know who is able to act as an authorised person
- be able to identify the appropriate authorised person for use in any particular situation

### *Element 5 – Money laundering*

Trainees should be able to apply the rules of professional conduct in connection with financial dealings and in particular should understand what constitutes money laundering and the steps necessary to comply with any MLR.

### *Element 6 – Mortgage fraud*

Trainees should be able to apply the rules of professional conduct in connection with financial dealings and understand the need to be alert to the possibility of mortgage fraud.