



**Leading Legal Excellence – how can we best ensure that our education and training standards are flexible, promote equal access to and drive excellence within the legal profession?**

## Foreword

1. We are committed to fair access to the profession. We believe that all those with the skills, ability and desire to become a solicitor should be able to attempt to do so.
2. We have a strategic objective to ensure that '*Our education and training standards are flexible, promote equal access to and drive excellence within the legal profession*'.
3. We believe that the route to qualification as a solicitor which most people undertake is strong and produces world-class solicitors. Over 95% of the solicitors who qualify in Scotland each year have either undertaken an accredited LLB (either Honours or accelerated), or an accredited PEAT 1 programme, and then have completed a two-year training contract. We are aware of criticism of each stage of this route to qualification. That said, the general consensus is that the "standard" route does produce high-quality junior solicitors.
4. We are aware of concerns regarding the cost and length of the route to qualification. Comparing with other jurisdictions in the British Isles, it generally takes one year longer to become a solicitor in Scotland than it does in other jurisdictions. This is largely down to the four year degree that Scottish students generally undertake.

Comparing both within the British Isles and internationally the cost of becoming a solicitor in Scotland is low. We do acknowledge though that the length and cost of the route to qualification is still prohibitive for some people. We note that the reform to PEAT 1 finance 2013/14 has been a contributing factor to more people undertaking the PEAT 1 qualification. Worries that a change from fee awards for some individuals to loans available to all individuals would lead to fewer people (and fewer people from the most disadvantaged backgrounds) studying for PEAT 1 appear to be unfounded.

5. Whilst we are confident that our routes to qualification do promote excellence we are aware that the standards – or more correctly the pathways to meeting those standards – are not as flexible as we might like.
6. Aside from the "*standard route*" there are other routes that theoretically exist which are virtually never utilised. These are:
  - a. The '*alternative route*' otherwise known as the Pre-PEAT Training Contract. This sees someone who works in a solicitor's office entering into a certain type of contract, undertaking certain training, gaining experience across a number of areas of law, and sitting (and passing) a number of examinations. The successful completion of this allows them to join the standard route (i.e. they do the Diploma and then a training contract). In reality, this is an alternative to the LLB only. Fewer than 15 people per year utilise this route.

- b. The Non-PEAT Training Contract. This allows an LLB graduate or an individual who has completed a Pre-PEAT Training Contract to undertake a three-year traineeship and a series of examinations rather than the Diploma in Professional Legal Practice and then a traineeship. These can be granted in exceptional circumstances. There are generally fewer than five people undertaking such a route at any time. The definition of '*exceptional circumstances*' is usually defined narrowly.
  - c. There are some other routes but these are largely variants on the "standard" route. These routes include flexible traineeships (e.g. a trainee splitting their traineeship between two or more practice units; part-time traineeships; online LLBs etc.).
- 7. We believe that a fair assessment of the current system is that it does drive excellence within the legal profession but the route to qualification is not particularly flexible and does not promote equal access as well as it might.
  - 8. To meet our strategic objective, we need to move to a more flexible system which also promotes equal access. In doing so, we must remain cognisant of the risk that by increasing flexibility we may undermine our reputation for educational excellence
  - 9. I encourage you to engage with the consultation and to take this opportunity to influence the routes to qualification as a solicitor in Scotland.

Jane MacEachran

Convenor of the Education & Training (Standard Setting) Sub-Committee

## **Is there an appetite from those looking to qualify as a solicitor?**

1. There are three groups of people who generally ask the Society for greater flexibility regarding the route to qualification.
  - a. Those who want to become solicitors and who cannot access the LLB and/or those who want to become solicitors and who cannot access the Pre-PEAT training contract
  - b. Graduates of the LLB or Pre-PEAT Training Contract who cannot access the Diploma.
  - c. Those who have graduated from the Diploma who cannot access a training contract.

### *Those who cannot access the LLB or Pre-PEAT Training Contract*

2. It is difficult to scope the precise size of this cohort. We know that there is a group of individuals who wish to qualify via the Pre-PEAT Training Contract. The Society fields around 100 phone calls per annum on this matter. Most of these do not work in the legal sector and given the way in which most people are recruited into a Pre-PEAT Training Contract this means there is no route for someone outside of the profession to qualify. They must undertake the 'standard route'. For some people, this may be unfeasible for many reasons. There is at present more demand for an alternative route than the Pre-PEAT contract can currently satisfy.

### *Those who cannot access PEAT 1*

3. We know that there is a small group of individuals who cannot access PEAT 1. This may be down to cost (although reformed finance in recent years and universities taking more DLP students has negated this to some extent); location (the nature of PEAT 1 means that some in more rural locations cannot access the course); a lack of part-time provision (particularly in Edinburgh); or a mix of the above. Some others may actively choose not to access PEAT 1 because of uncertainty over their traineeship prospects.
4. As above, we accept that it is technically possible to qualify without undertaking the Diploma subject to exceptional circumstances being agreed by the Society's Admissions Sub-Committee (i.e. the Non-PEAT Traineeship – three year training contract plus a number of examinations)

### *Those that cannot access the training contract*

5. We know from a recent consultation in England and Wales that significant elements of the profession and the wider public would not countenance – or have any faith in – a route to qualification that did not include significant work-based learning (i.e. a training contract). It is extremely unlikely that the Scottish solicitor profession would view this matter differently. The Society believes that some mandatory period of training should be required regardless of reforms to make the route to qualification more flexible.

**Is there an appetite from those who recruit trainee and NQ solicitors? And/or is there an appetite from those who do not currently recruit trainee and NQ solicitors but who may do so if there was reform of the routes to qualification?**

6. This consultation seeks to focus particularly on this question. So far as we are aware at this stage there is limited evidence that the recruitment market wants significantly increased flexibility.

Since the inception of PEAT in 2011, we have had two approaches from organisations seeking to test pilot changes to the route to qualification. Neither of these approaches would have offered any alternative to the LLB and one of these solely looked to offer the Diploma in a slightly different format whilst leaving the route to qualification otherwise untouched.

Whilst neither proceeded to a pilot stage these are the only requests for innovative provision we have received since the reforms to legal education in 2011.

7. Even the advent of the apprenticeship levy has not provoked many calls from the profession as of yet. We acknowledge this may change in due course. So far the main drive for an apprentice route to qualification has come from suggestions from various committees within the Society rather than externally from the market.

**How can we improve flexibility without compromising our standards?**

8. We have a strategic objective which demands that we promote flexibility whilst also improving standards. We know that there are groups of individuals who would like more flexibility regarding the route to qualification. We suspect that there is a general enthusiasm for some additional flexibility but there is – so far as we are aware – little agreement as to what that flexibility will look like.
9. Having monitored developments over a number of years and discussing this topic fully, the Society's Education & Training (Standard) Setting Sub-Committee would like to consult on the desirability of four areas of flexibility. These are:

- a. ***Merging the Pre-PEAT traineeship and non-PEAT traineeship into one six/seven year process with the possibility of this new route becoming a degree-level apprenticeship***): As Pre-PEAT traineeships are work-based the Diploma in Professional Legal Practice can create a barrier that does not exist in the same way for LLB graduates. Pre-PEAT trainees may have to leave paid employment for the better part of a year before returning to work. We know that this prevents some organisations hiring Pre-PEAT trainees and we know that this presents difficulties for some Pre-PEAT trainees.

The Committee would like to hear views on whether or not these routes should be merged whilst leaving individuals the option to move to the

“standard route” at the end of the Pre-PEAT Training Contract.

- b. **Introducing a PEAT 1 entrance examination for non-Scots Law LLB candidates:** each year we hear from a number of individuals who have undertaken an English or Northern Irish LLB who wish to practise in Scotland. Many of these individuals choose not to proceed with a career in Scotland because they do not wish to undertake a second LLB degree.

The Committee would like to hear views on whether or not it is superfluous to require such individuals to undertake an accelerated LLB.

- c. **Introducing an exam-based distance study route organised by the Society which replicates the LLB and the Diploma:** Whilst theoretically the Pre-PEAT Training Contract is open to anyone we know that the current alternative route is really only open to those already working in the law (e.g. usually this is only open to those working as a paralegal or legal secretary). The Society is not aware of any organisation ever publicly offering a Pre-PEAT Training Contract.

The Committee would like to hear views on the desirability of an exam-based system which would replicate the LLB and Diploma for those who cannot access either the LLB or the Pre-PEAT Training Contract

- d. **Introducing a transition test for Registered Paralegals to become solicitors:** The Society is contacted from time to time by those with Law Society of Scotland's Registered Paralegal status looking for either their experience as a Registered Paralegal to count towards a significant portion of a traineeship or for clearer guidance on how to implement transition.

The Committee would like to hear views on the desirability of creating a transition route for Registered Paralegals to become solicitors.

## An overview of the routes to qualification at present

Years	"Standard" route	Accelerated LLB route	Alternative route	Non-PEAT route
1	LLB (accredited by the LSS)	Non-law undergraduate	Pre-PEAT Training Contract	LLB (accredited by the LSS)
2	LLB (accredited by the LSS)	Non-law undergraduate	Pre-PEAT Training Contract	LLB (accredited by the LSS)
3	LLB (accredited by the LSS)	Non-law undergraduate	Pre-PEAT Training Contract (may extend to a fourth year)	LLB (accredited by the LSS)
4	LLB (accredited by the LSS)	Non-law undergraduate	Diploma	LLB (accredited by the LSS)
5	Diploma	LLB (accredited by the LSS)	Traineeship	Non-PEAT Training Contract
6	Traineeship	LLB (accredited by the LSS)	Traineeship	Non-PEAT Training Contract
7	Traineeship	Diploma	Qualified	Non-PEAT Training Contract
8	Qualified	Traineeship	Qualified	Qualified
9	Qualified	Traineeship	Qualified	Qualified
10	Qualified	Qualified	Qualified	Qualified
<i>Overview</i>	Over 95% of those who qualify each year will qualify via one of these two routes		Usually fewer than 15 people per year	Usually fewer than five people per year

It should be noted that the four year LLB and the fourth year non-law undergraduate degrees could actually be three years in length. Most who enter the profession opt to undertake Honours (largely because the graduate recruitment market tends to demand Honours).

## A future system?

Years	"Standard" route	Accelerated LLB route	Approved jurisdiction route	Alternative route	Alternative route 2	Distance learning route	Registered Paralegal
1	LLB	Non-law undergraduate	Approved jurisdiction LLB	Pre-PEAT Training Contract	Pre-PEAT Training Contract	Distance learning and examinations	Distance learning and examinations
2	LLB	Non-law undergraduate	Approved jurisdiction LLB	Pre-PEAT Training Contract	Pre-PEAT Training Contract	Distance learning and examinations	Distance learning and examinations
3	LLB	Non-law undergraduate	Approved jurisdiction LLB	Pre-PEAT Training Contract (may extend to a fourth year)	Pre-PEAT Training Contract	Distance learning and examinations	Distance learning and examinations
4	LLB	Non-law undergraduate	Entrance exam		Diploma	Non-PEAT Training Contract	Distance learning and examinations
5	Diploma	Accelerated LLB	Traineeship	Traineeship	Non-PEAT Training Contract	Distance learning and examinations	Qualified
6	Traineeship	Accelerated LLB	Traineeship	Traineeship	Non-PEAT Training Contract	Traineeship	Qualified
7	Traineeship	Diploma	Qualified	Qualified	Qualified	Traineeship	Qualified
8	Qualified	Traineeship	Qualified	Qualified	Qualified	Qualified	Qualified
9	Qualified	Traineeship	Qualified	Qualified	Qualified	Qualified	Qualified
10	Qualified	Qualified	Qualified	Qualified	Qualified	Qualified	Qualified

This is solely presented as an indication of what potential different routes may look like.



## Questions

<b>Name</b>	
<b>Name of the organisation where you work (if applicable)</b>	Faculty of Advocates
<b>Your email address</b>	Deans.Secretariat@advocates.org.uk
<b>We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.</b>	Attribute our response and publish our name.
<b>Please identify the capacity in which you are submitting a response.</b>	I am submitting a response as... The Faculty of Advocates

## Background questions (for solicitors in private practice or in-house)

<b>1. Does your organisation currently – or if not currently ‘usually’ – employ trainee solicitors?</b>	N/A
<b>2. If so, how many trainee solicitors do you generally employ at any one time?</b>	N/A
<b>3. If your organisation does not employ trainee solicitors, please outline the main reasons for not doing so?</b>	N/A

<b>4. Does – or in the last five years has – your organisation ever utilised any of the following routes to qualification?</b>	<i>The Pre-PEAT Training Contract (i.e. alternative to the LLB)</i>	N/A
	<i>The Non-PEAT Training Contract (i.e. a combination of a lengthier training contract and examinations which removes the requirement for the Diploma. This is granted only in exceptional circumstances)</i>	N/A
	<i>Flexible traineeships (i.e. sharing a trainee with another organisation under the same training contract)</i>	N/A
	<i>Part-time traineeships</i>	N/A

<b>5. Please use the text box to explain your experiences of these alternative routes to qualification.</b>	
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**Questions for all respondents**

<b>6. To what extent do you agree or disagree with the suggestion that there should be more flexible and varied routes to qualification as a solicitor in Scotland?</b>	
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**Comments**

The Faculty of Advocates is the professional body to which Advocates in Scotland belong, and has regulatory responsibilities in respect of Advocates. It is, of course, entirely a matter for each branch of the legal profession in Scotland to set its own entrance requirements, and the Faculty would not seek in any way to transgress into the Law Society's sphere in this regard. However, the Faculty is pleased to participate in the various bodies/groups which allow discussion and appropriate liaison between academic institutions, the Law Society and the Faculty – and it is in this spirit that the following limited comments are offered. The Faculty is grateful to the Law Society for the opportunity to offer such comment, and hope that what follows is of some assistance. At the outset, we would wish to stress that naturally the Faculty supports the Law Society's desire to maintain high standards in the Scottish legal profession, whilst ensuring fair access to the profession.

<b>7. Do you have any thoughts on how the Society could make the route to qualification more flexible?</b>	-
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## Pre-PEAT Route

<b>7. Should the Pre-PEAT training contract and Non-PEAT training contracts (inclusive of any necessary examinations) be merged creating a new entirely work-based route to qualification?</b>	
<b>Comments</b>	
The Faculty's only observation is to suggest that generally an individual will derive great benefit from a period of high-quality, structured, classroom-based study forming one part of the individual's journey into a professional legal career. In case it is of assistance, the Faculty would explain that its own admission regulations currently require applicants to hold a Scots Law degree and Diploma in Legal Practice, but do make provision for exemption to be granted from those requirements in appropriate circumstances (assessed on a case-by-case basis), thus permitting the necessary flexibility (and the admission regulations also provide a special pathway for barristers from other UK jurisdictions and legal practitioners from other EU Member States).	
<b>8. Would your organisation consider employing individuals who have undertaken the new work-based route to qualification?</b>	
<b>Comments</b>	
N/A	
<b>9. Do you think individuals undertaking a new work-based route to qualification should have the option at a certain stage to move to the "standard route (i.e. LLB, Diploma, traineeship)"?</b>	
<b>Comments</b>	
Please see the Answer to Q7 above.	
<b>10. Do you have any other thoughts on this new potential work-based route to qualification?</b>	-

## Non-Scots LLB Route

<b>11. To what extent do you think the Society should introduce a mandatory PEAT 1 Entrance Examination for candidates who hold an LLB from another British Isles jurisdiction?</b>	
<b>Comments</b>	
<p>The Faculty would seek simply to emphasise its continuing commitment to ensuring that legal professionals serving the Scottish public (and all parties who engage with the Scottish legal system), should have a proper knowledge and understanding of the Scottish legal system and the principles of Scots law, in order to be able to give the highest quality of advice. Protection of the public dictates that the public should always be assured that a practitioner with a professional qualification as a lawyer is competent to practise in the jurisdiction in question – and this is also necessary for the sound administration of justice in Scotland. The Faculty notes too that successful completion of the accelerated LLB will generally be of great benefit to any individual (not already holding a Scots Law LLB) wishing to practise in Scotland. The Faculty would explain that its own admission regulations contain a special pathway for barristers from other UK jurisdictions and legal practitioners from other EU Member States – both are required to sit and pass an Aptitude Test covering a number of aspects of Scots law (subject to any exemptions which may be appropriate in an applicant's individual circumstances).</p>	

<b>12. Would your organisation consider employing individuals who have completed a mandatory PEAT 1 Entrance Examination for candidates who hold an LLB from another British Isles jurisdiction?</b>	
<b>Comments</b>	
N/A	

<b>13. To what extent do you think the Society should introduce a mandatory PEAT 1 Entrance Examination for candidates who hold a non-law degree?</b>	
<b>Comments</b>	
<p>The Faculty would simply again stress its views that: protection of the public, and the need to ensure the sound administration of justice, dictate that practitioners within the Scottish legal system should have appropriate knowledge and understanding of Scots law and the Scottish legal system; and that an individual will generally derive great benefit from a period of high-quality, structured, classroom-based study forming one part of their journey into the legal profession. As already noted, the Faculty would explain that its own admission regulations currently require applicants to hold a Scots Law degree and Diploma in Legal Practice, but do make provision for exemption to be granted from those requirements in appropriate circumstances (assessed on a case-by-case basis) thus permitting the necessary flexibility.</p>	

<b>14. Would your organisation consider employing individuals who have completed a mandatory PEAT 1 Entrance Examination and have a non-law degree?</b>	
<b>Comments</b>	
N/A	

<b>15. Do you have any other thoughts on either of these mandatory PEAT 1 Entrance Examination options as a potential route to qualification?</b>	-
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**Exam-based route to qualification**

<b>16. To what extent do you think the Society should create a new route to qualification which is entirely exam/distance-based study until the point of commencing a training contract?</b>	
<b>Comments</b>	
<p>The Faculty would simply repeat its earlier observation, that it would suggest that generally individuals will derive great benefit from a period of high-quality, structured, classroom-based study forming a part of their journey into the legal profession – and, in case it is of assistance, would confirm that the Faculty’s own admission regulations currently require applicants to hold a Scots Law degree and Diploma in Legal Practice, but do make provision for exemption to be granted from those requirements in appropriate circumstances (assessed on a case-by-case basis) thus permitting the necessary flexibility (and the admission regulations also provide a special pathway for barristers from other UK jurisdictions and legal practitioners from other EU Member States).</p>	

<b>17. Would your organisation consider employing individuals who have completed an entirely exam/distance-based study?</b>	
<b>Comments</b>	
N/A	

<b>18. Do you have any other thoughts on this potential route to qualification?</b>	-
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## Registered Paralegal Route to Qualification

**19. To what extent do you think the Society should create a new route to qualification which is entirely exam/distance-based study for Registered Paralegals until the point of commencing a training contract?**

**Comments**

Again, the Faculty would simply repeat its earlier observation, suggesting that individuals will generally derive great benefit from a period of high-quality, structured, classroom-based study across a range of Scots law topics, forming one part of their journey to becoming a legal professional – and, in case it is of assistance, would confirm that the Faculty’s own admission regulations currently require applicants to hold a Scots Law degree and Diploma in Legal Practice, but do make provision for exemption to be granted from those requirements in appropriate circumstances (assessed on a case-by-case basis) thus permitting the necessary flexibility.

**20. Would your organisation consider employing individuals who are Registered Paralegals and have completed exam/distance-based study?**

**Comments**

N/A

**21. Registered Paralegals need to have:**

- (a) Significant experience in at least one practice area
- (b) A formally recognised and assessed qualification (this could range from a HNC to an LLB) relevant to their area of practice
- (c) A requirement to undertake CPD
- (d) A supervising solicitor who confirms their competence (against a competency framework) in their practice area(s) of choice

If there were to be a Registered Paralegal route to qualification what of the following should this entail? (Choose as many as you think necessary)

- (i) a requirement to undertake some/all of the examinations that Pre-PEAT trainees require to undertake
- (ii) a requirement to undertake a PEAT 1 Programme
- (iii) a requirement to undertake a certain length of a traineeship
- (iv) We will soon change the system of examinations for those seeking to requalify from other jurisdictions. Could Registered Paralegals access these examinations to prove their competence?

Please use the box below to explain your thinking.

**Comments**

Please see Answer to Q19 above.

**21. Do you have any other thoughts on this potential route to qualification?**

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**Other flexible routes to qualification**

**22. Do you have any other comments regarding the flexibility of the route to qualification?**

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**23. Do you have any other ideas about how an alternative route to qualification could be constructed?**

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Please send completed responses to [legaeduc@lawscot.org.uk](mailto:legaeduc@lawscot.org.uk)