



**TRAINING FOR TOMORROW - A NEW APPROACH
TO CONTINUING COMPETENCE**

**A RESPONSE BY
THE CHARTERED INSTITUTE OF LEGAL
EXECUTIVES
AND
ILEX PROFESSIONAL STANDARDS LIMITED**

DATE: MARCH 2014

Introduction

This response represents the joint views of The Chartered Institute of Legal Executives (CILEx), an Approved Regulator under the Legal Services Act 2007 (the 2007 Act), and ILEX Professional Standards Limited (IPS), the regulatory body for 22,000 members of CILEx. The consultation was separately considered by CILEx and IPS. The outcomes of those respective considerations were exchanged and with no significant difference of opinion between the two organisations, a joint response is tendered. For the purposes of this response, 'we' is used to mean both CILEx and IPS unless the context indicates otherwise.

We promote proper standards of conduct and behaviour among Chartered Legal Executives and other members of CILEx. We aim to ensure CILEx members are competent and trusted legal practitioners and are fully aware of their obligations to clients, colleagues, the courts and the public. We aim to help good practitioners stay good and improve throughout their careers and to ensure the public know the quality of work Chartered Legal Executives can provide.

The recent Legal Education and Training Review (LETR) was a joint project between the Solicitors Regulation Authority (SRA), the Bar Standards Board (BSB) and IPS. This was an evidence-based review of education and training requirements across regulated and non-regulated legal services in England and Wales and concluded with a number of recommendations for the legal sector, including one that CPD should move from hours and input based to outputs based and reflective.

Question 1: Do you foresee any impacts from option 1, positive or negative that we have not already identified?

The SRA has clearly highlighted in its consultation paper that its favoured approach for continuing professional development (CPD) would be option 1, where the individual and the entity would be responsible for their own training needs. The SRA believe that this would remove the prescriptive requirement for Solicitors to undertake CPD through specific rules. If option 1 is applied it will be a shift from the current CPD system. IPS and CILEx agree that the one size fits all CPD scheme is not appropriate, where it is defined in terms of an arbitrary number of hours, and that the reflective approach is more likely to enable solicitors to target their CPD appropriately.

Although this option is less onerous on Solicitors, it does give rise to a number of potential problems. Passing responsibility entirely to the entity may not be the best approach to maintain the competence of individual solicitors, as there may be a temptation on occasion to cut corners with on-going learning and development when resources are limited.

We believe that the scheme seems to be reactive rather than proactive as taking action once the lack of proper CPD has been discovered may be too late for the consumer. The burden on small firms and sole practitioners is likely to be relatively greater than for larger firms with in house training departments; and the risk of non-compliance would also be greater for small firms. It can be argued that in firms utilising performance management procedures, professional development will be embedded, but there is no indication of the extent to which that is the case.

If firms are delegated the responsibility of determining competence of solicitors, with only non-mandatory guidance, it may be difficult for solicitors to adapt this guidance into evidence of CPD. Also option 1 would be inherently different from the CPD carried out by CILEx members, who are usually employed in Solicitors' firms and therefore there will be differences in training and the provision of courses. If option 1 is introduced then firms would tailor in house CPD training with Solicitors in mind and this would have a detrimental impact on CILEx members. The risk is that if there is no structured provision in solicitors firms for CPD, CILEx members who work in those firms may not be able to get their CPD records signed off.

Question 2: Do you foresee any impacts from option 2, positive or negative, that we have not already identified?

The CPD provisions in option 2 are more compatible with the CPD arrangements of CILEx members. Although this option does retain a mandatory CPD requirement for Solicitors, it allows the SRA to have some oversight of Solicitors training and development. This option also allows for a certain level of flexibility for Solicitors to analyse and reflect on the gaps in their competence and focus on these areas when they undertake their CPD.

Question 3: We would welcome your views on whether or not the SRA should continue to suggest a minimum number of hours CPD for all solicitors.

Option 3 is a continuation of the current CPD model, focusing on Solicitors having to complete core minimum hours. The profession is at ease with this method and an advantage of option 3 is that it will incorporate a wider range of activities to form a part of CPD. However the SRA will have to be careful that this approach does not create more work for them, in having to go through more materials and approve them as valid CPD resource for Solicitors.

The difficulty with option 3 is that if Solicitors concentrate primarily on their practice area of CPD only, then they risk not acquiring a broader understanding of issues in the legal sector and thus limiting their legal knowledge. Also with this model it does

not necessarily deliver any relevant professional development, because it only requires formal recording of activity. If it is to have any rigour, it will need more monitoring than has been undertaken in the past. The responsibility of compliance falling on entities and requiring them to make annual declarations on behalf of Solicitors would create more work and expense for firms, which would be passed onto consumers.

Question 4: What do you see as the advantages and disadvantages of these alternative approaches to monitoring?

The appointment of a Compliance Officer for Legal Practice (COLP) may be beneficial as this nominated individual would be in charge of CPD training for all the Solicitors in the firm. This would also give the SRA a contact point to liaise with and provide guidance to. If option 2 and 3 are applied, then SRA would not have to chase non-compliant Solicitors for CPD but instead discuss this with the firm. However there could be certain drawbacks of appointing a COLP, an example of this is when a partner in the firm has failed to complete their CPD training; in reality how much influence does the COLP have in getting this partner to comply, especially in a small firm?

CILEx/IPS