



CONSULTATION

PROPOSALS TO REVISE THE QUALIFYING EMPLOYMENT

ARRANGEMENTS FOR ILEX MEMBERS

INTRODUCTION

ILEX Professional Standards Ltd (IPS) is the regulatory body for Legal Executives and other grades of members registered with the Institute of Legal Executives (ILEX). ILEX is an approved regulator under the Legal Services Act 2007.

ILEX and IPS have identified that the qualifying employment scheme for ILEX members should be revised. ILEX members wishing to qualify as Fellows of ILEX (Legal Executives) must complete the academic stages of qualification and have gained 5 years of qualifying employment.

Qualifying employment is defined broadly. IPS and ILEX have developed work-based learning outcomes which set out what a Fellow will be able to do upon qualification. Presently we determine whether a person has met the qualifying employment arrangements through an application form process. Our proposal is that achievement of work-based learning outcomes will be recorded through a work-based diary approach.

This consultation seeks views on the new work based learning outcomes and the work-based diary approach.

The consultation will close on 15 October 2010

QUALIFYING EMPLOYMENT - WORK OF A LEGAL NATURE

1. Under the ILEX rules qualifying employment is presently defined as follows

A person is in qualifying employment if he is employed either:

- (1) By a solicitor or a firm of solicitors in private practice;
- (2) By a Licensed Conveyancer or a firm of Licensed Conveyancers;
or
- (3) By any firm, corporation, undertaking, department or office where the employment is subject to supervision by a Fellow, Solicitor, Barrister or Licensed Conveyancer employed in duties of a legal nature by that firm, corporation, undertaking, department or office; and

in each case, his duties under the terms of his employment are wholly or principally of a legal nature rather than of an administrative nature.

2. There is discretion to accept a person as meeting the qualifying employment requirements where their employment falls outside the above categories.
3. The important issue has been that the current definition of the actual work is vague, i.e., 'wholly or principally of a legal nature rather than of an administrative nature'. The broad definition is open to interpretation and creates a degree of uncertainty. Situations can arise where members and their employers think that their work is of a legal nature but there is a risk that it might be deemed otherwise when the member makes an application for Fellowship of ILEX.
4. We have developed a new definition of 'work of a legal nature'. It is:

Work of a legal nature may include the following:

- Taking instructions from clients, acting upon those instructions in a legal context, for example, Conveyancing or Litigation work.
- Progressing a client's matter from start to finish.
- Dealing with the other party to a transaction, which may be, a litigation or conveyancing matter or dealing with interested parties in a transaction, which may be beneficiaries and executors to an estate.

5. We are interested in hearing your views on the new definition.

Q1 Provide your comments on the new definition of 'work of a legal nature'.

WORK BASED LEARNING OUTCOMES

6. IPS and ILEX determined that qualifying employment itself should be defined by reference to work-based learning outcomes which will be achieved through work of a legal nature. Work-based learning outcomes are a list of activities that a member should be able to undertake at the point of Fellowship of ILEX.
7. In developing the outcomes we looked at what activities are essential for Fellows. They are intended to cover all areas of legal practice. We have divided the outcomes into seven key areas. The key areas are:
 - (1) Practical Application of the Law and Legal Practice
 - (2) Communication
 - (3) Client Relations
 - (4) Management of Workload
 - (5) Professional Conduct
 - (6) Self Awareness and Development
 - (7) Working with Others
8. Each key area is subdivided into specific activities that a member must be able to undertake. The work-based learning outcomes appear as an appendix to the work based learning diary 'handbook' that is attached at annex 1 to this consultation. In this annex we have provided explanatory notes to some outcomes, where we felt this was necessary.
9. In developing the outcomes we have referred to outcomes developed by the Solicitors Regulation Authority (SRA) for qualification as a solicitor. ILEX and IPS are keen to retain the present exemption from the training contract. We began discussing our proposed outcomes with the SRA with a view to retaining this exemption.

Q 2 Do you agree that qualifying employment should be defined by reference to work-based learning outcomes? If not, please say why and indicate how you think qualifying employment should be defined.

Q 3 Do you agree with the seven categories of activities that we have included in the work-based learning outcomes? Please give reasons for your responses.

Q 4 What are your views on the activities set out under each of the main activities in the outcomes?

Q 5 What are your views on the explanatory notes to the outcomes?

Q 6 Are there any other outcomes that would benefit from explanation? Please explain which ones.

Q 7 Do you have any other comments on the outcomes? If so, please provide them.

TIMESCALE FOR ACHIEVEMENT

10. The proposal is that members must demonstrate that they have worked towards the work-based learning outcomes for a minimum of 3 years. We take the view that this is an appropriate period of time during which members will develop their experience and more suitable than the current 5 year requirement. However, we have not determined whether any of this 3 year period needs to be completed after reaching the Graduate membership grade of ILEX. Graduate members will have completed the academic qualification.

11. We are considering three proposals as to when the work-based learning outcomes must be completed. They are:

- Option 1 – all three years may be completed at any time. Under this proposal a member may have met their work-based learning outcomes by the time they reach Graduate Membership.
- Option 2 – at least one of the three years of work-based learning outcomes must be completed after a member reaches Graduate Membership.
- Option 3 – at least two of the three years of work-based learning outcomes must be completed after a member reaches Graduate Membership.

12. It is therefore possible that members can begin working towards achieving some or all of these outcomes during the academic stage of their qualification.

Q 8 Do you agree that members should work towards the work-based learning outcomes for a period of 3 years? Please give reasons for your responses.

Q 9 Which of the three options at paragraph 11 should we adopt. Please give reasons for your responses.

WORK-BASED DIARY

13. We have identified that achievement of work-based learning outcomes should be recorded through a work-based diary approach. This decision was made after preliminary consultation with members and employers.
14. A draft diary has been produced along with accompanying guidance notes. These are attached to this consultation in the draft work-based learning diary 'handbook' at **annex 1**.

GUIDANCE NOTES

15. The 'handbook' begins by guiding members and employers through the new arrangements. It caters both for instances where a member's employer will facilitate their achievement of the work-based learning outcomes and where they are unable to take a proactive role.
16. As a minimum, a member's employer must verify and sign off a member's work diaries and act as a final signatory for the member's Fellowship application. We do, however, encourage employers to take a more proactive role in the member's work towards the work-based learning outcomes.
17. A member will need to ask their employer to regularly sign off their diary entries. Sign offs could be linked in with work reviews and appraisals. Employers will need to ensure that the entries agree with their understanding of the work that the ILEX member has undertaken. The employer is expected to make these 'sign off' judgments using their own sense of what is competent, professional and business-like.
18. A member will add each of the outcomes signed off in the diary into an outcomes checklist grid. At the end of their three year work based learning period they will show their employer the outcomes checklist grid and a work-based learning completion form. Employers will need to check these and sign them off.
19. In addition to the above, an employer may wish to put in arrangements to supervise the ILEX member and devise a work plan to facilitate their progress towards the work based learning outcomes. Employers can then review progress

against the work plan with ILEX members on a regular basis. Where an employer is unable to take a proactive role with an ILEX member, the member should consider developing a work plan for themselves.

Q 10 What are your views on the guidance notes to the diary?

Q 11 Do you agree that we should include guidance for employers and members? Please give reasons for your responses.

Q 12 What are your views on the level of input we expect from employers?

Q13 We intend that employers judge the quality and standard of the member's work based upon their own view of what is competent, professional and business-like? Should we rely on this 'measure' or be looking to implement a more formal, objective standard?

DIARY FORMAT

20. The diary sets out a number of headings which members must complete each time they meet a work-based learning outcome.

21. A member must meet each outcome at least 3 times during their period of qualifying employment. Wherever possible they should show they met the outcome through a variety of activities. However, we recognise that in some areas of work it is difficult to achieve such variety.

Q 14 What are your views on the headings for the diary?

Q 15 Do you agree that members should meet each outcome on at least three occasions and through a variety of activities wherever possible? Please give reasons for your responses.

OUTCOMES CHECKLIST GRID

22. To assist members and employers we have produced an outcomes checklist grid where members can record the date they met each outcome and the outcomes considered as satisfied by the employer. The grid is both intended to provide a

quick outline of a member's progress towards achieving the requirements of the scheme, and will serve as a way of informing employers about completion of requirements when a member claims a 'final sign off' on the scheme.

Q 16 What is your view of the purpose and design of the outcomes checklist grid?

WAIVERS

23. Presently, members who have gained a substantial amount of qualifying employment may seek an exemption from the requirement to obtain 2 years qualifying employment after completion of the academic qualification. We propose to retain a waiver from the requirement to complete 2 years work-based learning outcomes after the academic qualification where a member otherwise meets the outcomes.

Q 17 Do you agree that a member should be able to seek a waiver from the requirement to complete two years work-based learning outcomes after completion of the academic qualification? Please give reasons for your responses.

Q 18 Do you have any other comments on the waiver proposals?

IMPLEMENTATION ARRANGEMENTS

24. We aim to introduce the new work-based learning scheme around February 2011. It will become compulsory after July 2012. Between February 2011 and July 2012 we intend to run the current arrangements alongside the new proposals. Dual running should allow members looking to complete the old scheme either time to complete or time to adjust their focus towards the new scheme.

25. During the transitional period (February 2011 to July 2012) it will be open to members to begin completion of the work-based diary. However, the scheme will not be mandatory.

26. From August 2012 all members will need to start the work-based learning outcomes scheme. After this time, no member will be permitted to start the current scheme of qualifying employment. Hence, it will be important for

members who have not yet completed the academic qualification to have properly evaluated their likely time frame for the completion of the academic qualification before they go into the transitional period, and to have worked out the scheme most appropriate for them to complete their work-based learning with ILEX.

27. Similarly members may not obtain waivers from the present scheme after July 2012.

Q 19 What are your views on the transitional timescales? Do they work or not?

Q 20 Do you have any other views on the proposed implementation arrangements?

CONSULTATION QUESTIONS

The questions are listed below. Please provide your responses on the attached response form providing reasons for your answers.

- Q 1** Provide your comments on the new definition of 'work of a legal nature'.
- Q 2** Do you agree that qualifying employment should be defined by reference to work-based learning outcomes? If not, please say why and indicate how you think qualifying employment should be defined.
- Q 3** Do you agree with the seven categories of activities that we have included in the work-based learning outcomes? Please give reasons for your responses.
- Q 4** What are your views on the activities set out under each of the main activities in the outcomes.
- Q 5** What are your views on the explanatory notes to the outcomes?
- Q 6** Are there any other outcomes that would benefit from explanation? Please explain which ones.
- Q 7** Do you have any other comments on the outcomes? If so, please provide them.
- Q 8** Do you agree that members should work towards the work-based learning outcomes for a period of 3 years? Please give reasons for your responses.
- Q 9** Which of the three options at paragraph 11 should we adopt. Please give reasons for your responses.
- Q 10** What are your views on the guidance notes to the diary?
- Q 11** Do you agree that we should include guidance for employers and members? Please give reasons for your responses.
- Q 12** What are your views on the level of input we expect from employers?
- Q 13** We intend that employers judge the quality and standard of the member's work based upon their own view of what is competent, professional and business-like? Should we rely on this 'measure' or be looking to implement a more formal, objective standard?

- Q 14** What are your views on the headings for the diary?
- Q 15** Do you agree that members should meet each outcome on at least three occasions and through a variety of activities wherever possible? Please give reasons for your responses.
- Q 16** What is your view of the purpose and design of the outcomes checklist grid?
- Q 17** Do you agree that a member should be able to seek a waiver from the requirement to complete two years work-based learning outcomes after completion of the academic qualification? Please give reasons for your responses.
- Q 18** Do you have any other comments on the waiver proposals?
- Q 19** What are your views on the transitional timescales? Do they work or not?
- Q 20** Do you have any other views on the proposed implementation arrangements?

HOW TO RESPOND

A response form has been produced for completion. Please send the response form to IPS through one of the following methods:

- Email to bbasra@ilexstandards.org.uk
- By post to ILEX Professional Standards Ltd, Kempston Manor, Kempston, Bedford MK42 7AB
- By DX to ILEX Professional Standards Ltd, DX 124780 Kempston 2

SUBMISSION DEADLINE

The deadline for the submission of responses is **15 October 2010**.