
Briefing paper 1/2012: Knowledge, skills and attitudes required for practice at present: initial analysis

Executive Summary

- 1 The first two research questions identified for the project are:
 1. What are the skills/knowledge/experience currently required by the legal services sector?
 2. What skills/knowledge/experience will be required by the legal services sector in 2020?

- 2 As a precursor to fieldwork, this paper provides an initial analysis of possible generic taxonomies of skills for:
 1. Paralegal practice
 2. Point of qualification/exposure to the public; and
 3. Post-qualification/senior practice

- 3 In doing so it draws initially on previous studies, literature from the consumer perspective and on deficiencies perceived by clients. In the second place it draws on standards and competence frameworks used by a range of regulators, professional bodies and employers in the field.

- 4 The resulting synthesis produces a baseline of areas of skills, knowledge and behaviours which might be considered to be:
 1. Essential for any form of legal practice;
 2. Contentious or arguably relevant to only certain kinds of or levels of legal practice (e.g. advocacy, negotiation);
 3. Desirable but “missing” from regulated legal education;
 4. Possible candidates for regulatory consideration, particularly at the post-qualification stage.

and which can be further explored during the fieldwork in phase 3 of the project.

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1 Introduction

LETR Briefing Papers are designed to provide information on key issues or concepts within the remit of the Review and to offer insight into the research work as it progresses.

This paper reports on ‘desk research’ which addresses the groundwork for that part of the research which seeks to identify the skills, knowledge and experience (to which we add behaviours/attitudes) required for practice at present. This requires some initial definition of terms and parameters.

1.1 Pre- and post-qualification

We have broadly divided our work into pre and post qualification phases. This replicates the current approach of the regulated professions where there is at present a common and often highly prescribed pre-qualification route, contrasted with the post-qualification phase which may be characterised by individual specialist qualifications or requirements for activities (such as litigation and advocacy) or roles (such as pupil supervisor) and where requirements for individuals may overlap with conduct of business requirements to provide a competent standard of service. For many individuals, however, including clients and consumers, this is an artificial division as interaction with clients and delivery of legal services may be conducted by those who have not yet reached the point of qualification (trainee solicitors and trainee legal executives; pupil barristers etc.) or who do not necessarily have an identifiable point of “qualification” at all. This paper focuses on point of qualification/post-qualification competences. Use of the point of qualification, whilst pragmatic for current purposes, does beg a number of questions, for example whether the point at which an individual might interact with clients – a much more diffuse benchmark, which could differ between organisations or even departments – is a more useful measure. Similarly, particularly where there is comparison with entry level competence frameworks from other jurisdictions where there is a different, or no, requirement for a period of pre-qualification workplace experience before the point of “qualification”, there may be a differential between the expectations of different “qualification” frameworks insofar as skills which might be assumed to emerge only from the workplace (in legal services work or elsewhere) are accommodated.¹

1.2 Scope and quality

We make a distinction between scope of competence and quality of performance (Eraut, 1994). The first refers to the range of knowledge, skills or tasks performed or which the individual is in principle licensed to perform. In individual cases this may be very broad (as for a generalist solicitor, barrister or advice worker) or much narrower (as for a licensed conveyancer or trade mark attorney). The role of specialisation is itself contentious (Moorhead, 2010) and Susskind (2008) has, of course, suggested a conceptual shift in the kind of lawyers that will be required in the future, and the scope of their activities.

Assessment of a required level of quality of performance, outside the National Qualification Framework, is much more difficult to identify in objective terms. Although the full extent of the literature on expertise (see, for example, Blasi, 1995; Hamilton & Monson, 2011) is outside the terms of this report,² one might expect a more senior status lawyer to perform more efficiently, more

¹ In Australia, for example, the requirement for articles has been replaced by a short vocational course. There is evidence in the USA, however, of law firms now reverse-engineering an apprenticeship system into the early careers of their associate attorneys (Furlong, 2010; Westfahl, 2010).

² As is that of practice theory (see Schatski, Cetina & von Savigny, 2001).

intuitively, acknowledging a wider range of variables and possible consequences or solutions and in more complex cases than a more junior lawyer. A convention in the expertise literature is to assume that it requires 8-10 years of work in practice to develop expertise in a field. A senior status lawyer might also have extended or changed his or her range of activity: for example from operations into strategy or from strategy into policy:

[o]ne of the most challenging issues a senior lawyer faces today is assessing when to move from being a fee-earner to a position of managing partner or practice leader, where responsibilities extend into overseeing activities such as marketing, recruitment, human resources or even finance.
Marshall, (2011, p 34).

It is, of course, possible to be an expert in one or more aspects of one's practice, and simultaneously a novice in others.

1.3 The place of "experience"

Desirable skills, knowledge, behaviours and attitudes are also to be distinguished from "experience". In a suitably supportive environment, quantitative experience may correlate positively with acquisition of certain skills, knowledge, behaviours and attitudes. Regulatory provision for periods of apprenticeship (training contract, pupillage, qualifying employment) will usually require some element of dedicated learning support before qualification; as may internal structures of employing organisations. Post-qualification, regulatory provision is much less likely to do so, although internal structures may. However, at its most basic, experience may refer only to an individual's exposure to certain tasks or areas of activity over a period of time and cannot necessarily therefore be equated with an increase in either scope or quality of performance. We note, however, that professional accreditation schemes and qualification to undertake certain roles may be regulated by an experience – rather than a competence or suitability - threshold.

1.4 Meta-competence and expertise

This analysis, necessarily, seeks to identify a taxonomy of separate skills, knowledge, behaviours and attitudes. This activity should not detract from more overarching or meta- concepts of competence as a whole which, particularly at the expert stage, may combine aspects such as theoretical and tacit knowledge, knowing in action and understanding of work into a more coherent "way of being" (Maister, Green & Galford, 2000; Sandberg and Pinnington, 2009). For the purposes of this analysis we do not explore the literature on this topic.

2 What evidence is there for the skills, knowledge, behaviours and attitudes to be shown at the point of qualification, in terms of their scope?

This part of the analysis has examined three categories of material:

- 1 Available learning outcomes and competence frameworks for the point of qualification;
- 2 Literature on consumer response;
- 3 Reports on complaints (i.e. competence deficiency).

For currency, we have focused on literature and reports from the last 10 years. This is not to discount, however, what is probably the first substantive analysis in this area (Rutter, 1961). Rutter distinguishes between underlying generic "skills" and individual, task-based "operations" (such as cross-examination or drafting of a particular species of document) and suggests, as a starting point a two major aspects of such skills, employed by him in courses in appellate advocacy, facts and legal drafting:

1. Fact management (incorporating linguistic analysis which itself involves components of composition and grammar, avoidance of inappropriate legalese and appropriate communication with non-lawyers); and
2. Application of doctrine (involving issues relating to decompartmentalisation of legal topics; the context in which doctrine is to be applied and ability to acquire, at short notice and under pressure, sufficient understanding of a new field of law; differences in approach in contentious and non-contentious work; legal ethics).

2.1 Available learning outcomes and competence frameworks for the point of qualification

A comparison of exemplars of competence frameworks for the legal services sector was carried out with a view to identification of common desiderata. Whilst the selection was essentially a convenience sample, it contained the frameworks of the regulators and professional bodies, the CPS, examples from the paralegal sector and the National Occupational Standards for Legal Advice and international comparators from APLEC, the Council of Bars and Law Societies of the European Union and the American Association for Paralegal Education. The focus was on frameworks used to define practice rather than, for example, learning outcomes for academic or vocational formal education or lists of institutional graduate attributes although of course much work has been carried out in developing such frameworks, perhaps most recently in the development of the Professional Education and Training Programme in Scotland. In addition, a number of law firm frameworks were available either publicly or confidentially. Such frameworks will tend to represent the larger firms with more sophisticated infrastructures and it will be necessary at the empirical stage to explore the differing requirements of smaller providers and of the self-employed sector.

For the purposes of the later empirical stages, it is important to note that, in this exercise, the frameworks were taken at face value and treated quantitatively. Information was not sought about the way in which they had been constructed. In some cases, the legal services framework may have been a sub-set of a wider organisational or civil service policy or designed to meet external requirements such as Lexcel, BARMARK or Investors in People accreditation.³ Frameworks may have been imposed on a top-down basis, by senior personnel or by external consultants (see, for the ubiquity of such frameworks in US practice, Bock and Ruyak, 2007; NALP, 2009) or by internal consultation and analysis of client feedback. Information on the extent of equality impact assessment, testing (including testing with clients) or iteration of the frameworks used was, similarly, not sought at this stage. The views of junior lawyers and equality and diversity groups will, then, be critical in the empirical stage.

The approach taken in the comparison was to provide an overview. It was not intended to create a generic competence framework for legal services or for professional practice (for examples of the latter, see Cheetham and Chivers, 1996; Winter, 1997). Not all frameworks used the same degree of detail, the same terminology or the same delineation of topics. It was not always apparent, particularly with the paralegal examples, which of a number of levels might be treated as being that appropriate for “qualification”. Consequently a degree of evaluation took place during the mapping and the synthesis reported here to produce something sufficiently detailed to be useful but not so detailed as to be unwieldy for the purposes of the empirical stage. The analysis here is intended as a benchmark and precursor to the empirical work in stage 3 rather than a replacement for it and it is recognised that its generality will tend to produce a homogenising and flattening effect.

³ Competence can also, of course, be determined, for management purposes, at an organisational, rather than individual, level (Mayson, 1997, p.73).

The lists which emerged from this part of the exercise (for paralegals and for “point of qualification”) are set out in appendices 1 and 2, drawing on Carter (1985) for their initial division into knowledge, skills and personal qualities. Clearly there is scope for these skills to be seen on a spectrum of desirability.⁴ An ability to deal with detail is, on one level, highly desirable, but not, we suggest, if it impedes achievement of an effective result or precludes some understanding of implications and the big picture. Similarly an understanding of and empathy with client’s needs is desirable, but too great an alignment with the client may prejudice professional independence and integrity (see Moorhead, Sherr & Paterson, 2003). The relative importance of different elements of the taxonomy may be subject to change for discrete portions of the sector (for example, the Bar) or in the future (an increased focus on written electronic communication in place of face to face interaction, for example).

It is appropriate to include one further caveat at this stage. There is a danger, in analysing lists of discrete skills, that approaches become reductivist and atomistic, detracting from fundamental overarching concepts of professionalism or public accountability. The concept of professionalism, which underpinned the thinking behind the Professional Education and Training Programme in Scotland is a topic for discussion in its own right s a positive (see for example, Larson, 1977; Burrage, 1996; Evetts, 2006; Faulconbridge & Muzio, 2008; as a pejorative means of control (Fournier, 1999) or as a question of habitus and identity (see, for example, Sommerlad, 2007, 2008)..

2.2 Literature on consumer response

The consumer response to the provision of legal services is a valuable one in the sense that it proceeds from actual experience of delivery in real cases. Whilst the information asymmetry inherent in provision of legal services (their “opaque quality”: Zaardkoohi, Bierman, Panina, Chakrabarty, & von Nordenflycht, 2011) means that client response data may be treated with some reservations,⁵ this information can nevertheless inform debate about style of interaction with clients (Sommerlad, 1999-2000) and about the extent to which an ability to assess clients’ goals and manage their expectations is a desirable attribute: “a lawyer who has not taken account of the client’s needs in responding to the client’s problem is not competent” (Moorhead, et al, 2003, p.9).⁶

2.2.1 Vulnerable clients/legal advice sector

Where clients are vulnerable, and therefore in the legal advice, immigration,⁷ welfare, housing and legal aid sector – which extends beyond the regulated professions - discrete skills may be necessary. The Social Justice Survey (Pleasence, Balmer, Patel & Denvir, 2010) refers to advisors (who may or may not be solicitors, FILEX or barristers) being able to counsel clients in their own language; recognising the consequences of a problem for a client (for example, stress or health impacts) and to the need for advisors to be able to refer clients effectively between advice agencies. Buck, Smith, Sidawa, & Scanlan (2010), conducting client interviews and observations, similarly refer to advisors’ strategies for addressing barriers such as gender, mental health, learning difficulty, age, language and literacy (and their skills in assessing these issues) as well as abilities to manage challenging and aggressive clients; to be “emotionally accessible” but also non-judgmental; keeping promises (to, for

⁴ The place of negotiation skills is particularly challenging for solicitors in comparison with some of the other professions. Removed from the LPC as a distinct assessed skill category, negotiation skills do not appear in the draft WBL outcomes or, except possibly by implication (“Ability to seek resolution of civil and criminal matters”) in the QLTS day one outcomes.

⁵ So, for example, (SRA, 2011, p. 6) “consumers value good customer service and a reasonable price”.

⁶ This investigation (2003, p.19) provided a list of aspects which it was felt that clients were competent to assess.

⁷ See also Refugee and Migrant Justice (2010).

example, report on progress) and allowing clients to tell their story.⁸ Perhaps most critical in this context is an ability of advisors to tease out the complete extent of the client's multiple or interlinked problems and to be able to advise on or effectively refer in relation to these problems. Smith & Tam (2007, also cited in Frontier Economics, 2011, p. 189) add fundraising as a skill peculiar to the not for profit sector but also usefully identify skills gaps in the legal advice workforce (both not for profit and private sector and statutory bodies) taken from recruitment data (p. 48):

- a) Subject specific legal training
- b) Legal knowledge
- c) Giving advice/counselling skills
- d) Supervision skills
- e) Communication skills
- f) Finance
- g) Using computers and other information technology
- h) Leadership
- i) Fundraising (not for profit only)
- j) Experience (private practice only)

2.2.2 Business clients

Information on the views of business clients of their lawyers (the available data does not distinguish between solicitors, FILEX, barristers employed in law firms and paralegals) is rarer in comparison. Such clients may be assumed to be capable of articulating what they want and of effectively shopping around to acquire it. Their status as repeat clients (Charles River Associates, 2011, p.62) will provide some leverage as to quality of service although the complexity (see Gleason & Stiff, 1985) of the relationships between differing quality aspects, particularly the role of price, and the need for the client to establish and maintain trust in the lawyer, renders evaluation difficult (but see the comprehensive review by Stewart, Hope & Muhlemann, 2000). In a study of what made corporate clients stay with their law firms, "[p]rofessional and technical skills, quality of legal advice, client solicitor relationships, results obtained in the past and speed of response" were identified (Paliwadana & Barnes, 2004, p.:107) as loyalty factors, with the highest client care factors being rated as "the lawyer's ability to understand his or her client's needsthe ability of the solicitor to clearly explain the client's options ...and the use of plain language" (p. 109).

Although it focusses on the attributes of law firms rather than on those of individual lawyers, Financial Times/Managing Partners' Forum (2011) identifies discrepancies between what law firms believe desirable attributes to be and what corporate clients value. We have selected those attributes valued by clients which can be described as personal (rather than organisational):

- a) Specialist legal expertise (but to a considerably lesser extent than believed to be the case by law firm partners);
- b) Understanding of the client's industry (again to a lesser extent than estimated by the lawyers);
- c) Cutting-edge thinking (extent under-estimated by partners);⁹
- d) Ability to address immediate needs.

The attributes valued by clients in the lawyer-client relationship were (again selected for personal rather than organisational factors):

⁸ Similar issues, including "having enough time for clients" and "really stood up for client's rights" were reported earlier by Moorhead, et al (2003, p 15).

⁹ The importance of these three attributes was, however, underestimated by the lawyers when it came to routine or commoditised work, in which an "international focus" also became relevant.

- a) The ability to solve problems quickly (considerably underestimated by the lawyers);
- b) Knowledge and understanding of the client’s business needs;
- c) Trust;
- d) Frequent communication (overestimated by the lawyers);
- e) Transparency and openness;
- f) Consistency in meeting the client’s expectations (overestimated by the lawyers);
- g) The ability to anticipate the client’s needs (overestimated by the lawyers);
- h) Willingness to become embedded in the client’s business (overestimated by the lawyers);
- i) Long-term focus.

In addition, Charles River Associates identify that

“measures of quality that may be relevant in other parts of the legal services market such as the length of a case or the duration of time elapsed between opening and closing a file are not relevant for city law firms”

whilst also acknowledging these clients’ expectations about sophisticated use of technology and availability of lawyers.

2.2.3 Barristers

Most professionals presume that professional competence is the only element in gaining client satisfaction.¹⁰ In a profession so heavily reliant on its expertise, this is understandable. However, all the available research supports the view that today’s consumer expects expertise as of right; it is the level of service over and above expertise that is the means by which client satisfaction is truly to be judged. Bar Council (200, pp. 3-4)

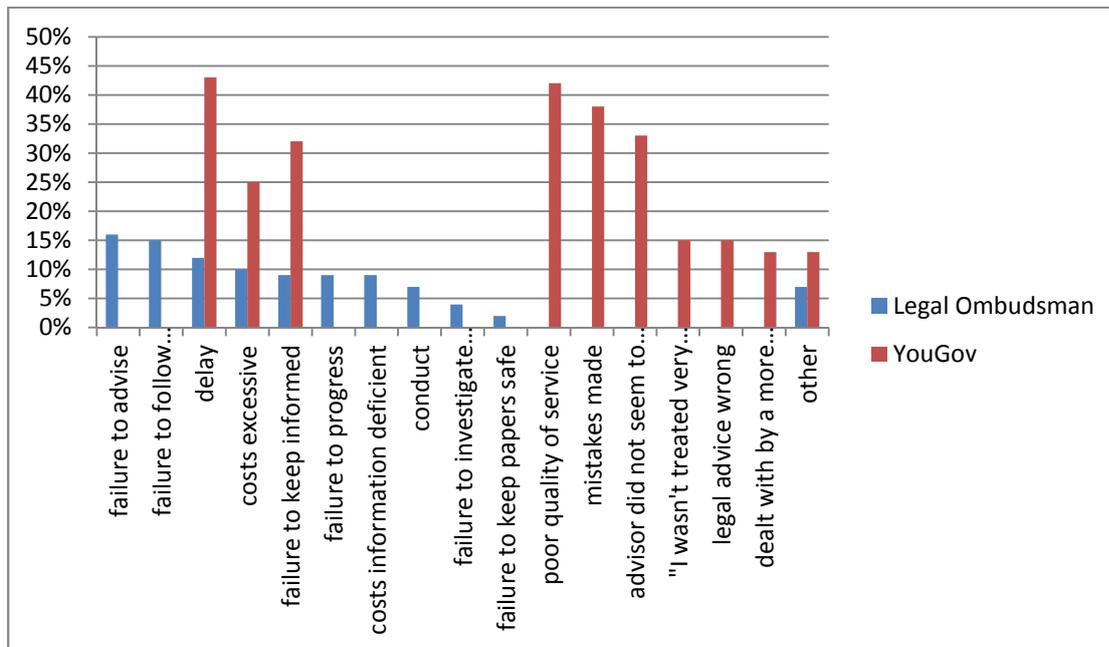
An unusual comparison of relative skills, in circumstances where the lay client information asymmetry is less apparent, is provided in a BSB study of perceptions of barristers (2007). This was particularly acute where the comparison was between in-house solicitors and in-house barristers. Although the sample size was small, 38% of the in-house solicitors no longer considered there to be any skills differential between themselves and their barrister colleagues (p. 44). Differentials were identified in members of the Bar having superior advocacy skills; being more analytical and having specialist legal knowledge. Interviewees perceived, on the other hand, that solicitors were better placed to understand client needs and provide client care. Advocacy, general legal knowledge and advice and, to a slightly smaller extent, negotiation skills were identified as important when employing an in-house barrister. In the self-employed part of the survey, client care, reporting on outcomes, people skills/“human touch” and time spent with clients/substitution of barristers were identified as areas in which barristers could improve their performance (p. 18). It is fair to say that barristers interviewed (p. 20) rated themselves more highly in terms of client care and approachableness.

2.3 Reports on complaints (i.e. alleged competence deficiency)

Patterns of complaints will, of course, correlate quantitatively with the largest areas of activity (that of solicitors, FILEX and paralegals in private practice) and with the most widespread fields of

¹⁰ Note however a recent finding that professional service firms *should* focus on competence: Sweeney, Soutar & McColl-Kennedy (2011).

practice.¹¹ It is difficult to obtain a complete picture of patterns of complaints for the sector as a whole at present, as, for example, lack of competence in the in-house sector may be dealt with privately and, as a recent study has identified (Centre for Consumers and Essential Services, 2011), records of complaint and redress in some areas may be incomplete (because the redress system is too confusing for complainants to instigate, or because the complaints systems¹² are too various or complex to provide a coherent picture). However, in its first *Annual Report* (2011, p. 13), the Legal Ombudsman identified a variety categories of complaints made.¹³ The YouGov report into first tier complaints handling (2011, p.36) reveals a similar picture.



The YouGov report added (p. 40) a number of other factors identified in qualitative investigation:

- a) lack of understanding of the case
- b) lack of communication
- c) lack of transparency
- d) not achieving the initial objective
- e) not being treated as a human being/fairly/with respect
- f) a build up of small mistakes
- g) legal professionals' superiority complex

Data on disciplinary findings by regulatory bodies, which may also shed light on this area, has not yet been explored. The consumer response and complaints data, however, suggests that skills in communication and in respect/empathy with clients might rank highly in any generic framework for the skills which should be demonstrated by any lawyer, whatever their level or field, provided, at least, that what is communicated is sound and effective legal advice.

¹¹ So the YouGov report (2011, p.7) found 23% of complaints to be about conveyancing, followed by probate and family law. The same trio heads the Legal Ombudsman data (2011).

¹² Where they exist, and in the unregulated sector they may not.

¹³ The report does not correlate these figures with the percentage of complaints of each category which were substantiated.

3 What evidence is there for the desired quality of performance at the point of qualification?

All approaches to measuring the competence of legal practitioners have their difficulties.

Sherr & Paterson (2008)

A difficulty here is to assess the level of performance both objectively and, if desirable, generically. Clearly the National Occupational Standards for Legal Advice are intended to be assessable within the NVQ context. Despite an early attempt to tie the SRA's draft work-based learning outcomes¹⁴ to "straightforward or typical" work (SRA, 2007, see also Institute for Work-Based Learning, 2010) as a measure of desired complexity, neither they nor the ILEX equivalent currently under consultation, (IPS, 2011) address this issue head-on.¹⁵ Academics have also had difficulty. Although the LLB, GDL, ILEX qualifications, the LPC and the BPTC are accommodated within the gradations of the National Qualifications Framework, Johnson and Bone, (2004, p. 4) endeavouring as part of the Training Framework Review to set assessment criteria for the SRA's "day one outcomes" intended¹⁶ for the point of qualification for solicitors, commented that:

...as at day one the solicitor appears to stride two levels – he or she has the graduate level (and on occasion master's level) of knowledge and understanding but his or her skills are not yet high enough to warrant the label of "manager" for which the NQF level 7 is primarily designed.

Two prominent schemes of assessment based on a competence framework intended to replicate the point of qualification (other than the SRA work-based learning pilot) merit consideration. One is the SRA's Qualified Lawyers Transfer Scheme, where considerable effort has gone into the design and, significant in this context, the calibration of assessment (Maharg, Gill & Rawstorne, 2011). The other is the Institute of Paralegals' series of certificates based on competency standards and awarded to those who "meet 95+% of the relevant Competency Standards" (IoP, 2010) whether working in the regulated or unregulated sectors.¹⁷

Whilst senior lawyers will no doubt be able to detect competent levels of performance; attempts to state this objectively risk circularity (you are expected to be able to perform at the level to be

¹⁴ The work based learning outcomes – intended to represent the "training contract" phase only (and not the preceding academic and vocational stages) - which are largely focussed on generic skills and behaviours are not identical to the "day one outcomes" marking the point of qualification which are focused around performance of specific tasks in defined areas of practice and intended to test the results of the academic and vocational stages. Nor are the two frameworks, at present, entirely consistent with each other.

¹⁵ Although individual external assessors in the higher education community involved in the pilot at Oxford Institute of Legal Practice, Northumbria University and Nottingham Law School may well have sought to tie their assessment to a existing higher education assessment standard, particularly where, as with the Northumbria exempting law degree, a university award is the result. Other academic qualifications may be pegged to the NQF framework, as with the ILEX and National Association of Licensed Paralegals qualifications; NVQs linked to the National Occupational Standards for Legal Advice; the CLT BTEC Advanced Diploma up to London Metropolitan University's Advice and Paralegal Work MA and other paralegal courses at postgraduate diploma level. We have not investigated whether any of these programmes employs a competence framework or skills taxonomy.

¹⁶ At present the only formal assessment of these outcomes is within the Qualified Lawyers Transfer Scheme. Domestic trainee solicitors are not yet tested on them.

¹⁷ It is understood from the IoP that the frameworks are envisaged as representing the start of one's paralegal career; a position of being established but not senior (loosely equivalent to trainee solicitor) and advanced (loosely equivalent to that of solicitor). We have treated the intermediate standard as the "point of qualification" level for the purposes of this exercise. Indeed, insofar as they include advocacy in its formal sense and negotiation and at the advanced level, management, they exceed the SRA work-based learning outcomes, at least in scope.

expected of someone at your level); lack of clarity (as to, for example, the appropriate use of the word “expertise” in relation to early career lawyers) or subjectivity (to a level expected by your supervisor/employer). Otherwise the drafters of such frameworks tend to satisfy themselves with statements such as “basic” or “at a high level”. Consequently, whether it is possible (or desirable) to articulate in any meaningful way, for the sector as a whole, or for individual professions or activities, what amounts to a “safe” quality of early career performance, remains uncertain. There may be further differences of opinion between organisations about whether, for example, an employing firm wishes newly qualified lawyers to attempt to “resolve ethical dilemmas” individually in the words of the QLTS day one outcomes, or to pass them on to the relevant officer. Where there are cumulative frameworks, however, a level of implicit progression in quality of performance can, perhaps, be inferred from the differential in scope and in apparent quality.

4 What kinds of post-qualification activities or roles are currently identified as requiring particular skills, knowledge, behaviours or attitudes by regulators or employers?

4.1 Specialist accreditations and rights

A review of post-qualification regulatory accreditations Retrieved from present reveals the range set out below.¹⁸ The regulatory criteria are, however, a mixture of competence frameworks; participation in formal education activity (“CPD” or “training”) and experience and good character thresholds (such as having held a clean practising certificate for a prescribed period). At least where the formal educational activity does not involve assessment, none of the latter three thresholds can necessarily be assumed to be linked to possession of the skills required to perform in the specialist role.

Examples of such activities and roles at present include:

- Rights to conduct litigation (costs lawyers, barristers, trade mark attorneys, patent attorneys)¹⁹
- Advocacy rights (solicitors, legal executives, costs lawyers, trade mark attorneys, patent attorneys)²⁰
- Queen’s Counsel²¹
- Public access to lay clients (barristers)
- Police station representatives (solicitors, legal executives, paralegals)²²
- Pupil supervisor (barrister)
- Training principal²³ (solicitor)

¹⁸ This is in addition to qualifications that may be available to a wider range of professionals, as, for example, in insolvency, financial services, mediation and arbitration; or accreditations by other groupings such as the Association of Personal Injury Lawyers.

¹⁹ For the Bar, for example, the threshold under para 202 of the Code of Conduct involves status and training requirements.

²⁰ The QASA project may place some additional regulatory requirements on all advocates (including barristers) in the field of criminal advocacy in any event. There is a prescribed CPD requirement on solicitor advocates (SRA Handbook, p. 462) and on legal executive advocates. Advocacy is unusual in having attracted a large number of dedicated competence frameworks (BSB, 2011; Queen’s Counsel Secretariat, 2011; CPS, (n.d.); SRA, 2011, Joint Advocacy Group, 2011 as well as the QASA standards adopted by the Joint Advocacy Group representing the Bar, legal executives and solicitors).

²¹ Supported by a competence framework (Queen’s Counsel Secretariat, 2011, p.35).

²² Supported by a competence framework.

²³ Largely an experience threshold (SRA Handbook, 2011, p.395) although the option is retained for the regulator to require such a person to have “undertaken such training as we may prescribe”, including as a sanction (p. 366) for inadequate performance in that role. Supervisors of trainees are initially defined by status rather than competence (p. 398) but must

- Qualification to supervise (solicitor)²⁴
- Property selling services (solicitor)²⁵
- Law Society accreditation schemes (generally available to both solicitors and legal executives). These may involve different levels of membership, assessments, competence frameworks and requirements for re-accreditation.

4.2 Increased scope and quality in generic performance

A second level of enquiry, related to the entry level criteria which might be expected to indicate a series of attributes for legal practice as a generic concept at a minimum acceptable level of competence, is whether the quality or scope of performance in those attributes is expected to increase after qualification even if that increase is not a passport to any particular external accreditation. Perhaps because it may be linked to internal career and salary progression, law firms who use competence frameworks will frequently extend them into one or more post-qualification stages up to and including partner/director level. Expertise, however, which may be, by definition, individual or tacit, is inherently difficult to quantify in a meaningful sense. It may even be seen as undesirable, limiting or inappropriate to do so (see Sanderson & Sommerlad, 2002). This is, however, a different issue from that which has already arisen in other professions, notably in medicine, whether individuals should be required to demonstrate their baseline professional competence once, at the point of formal qualification, or be re-accredited at stated intervals throughout their professional lives. The three-profession QASA scheme for criminal advocacy, for example, already incorporates a system for periodic re-accreditation.

The analysis of a number of competence frameworks (in Appendix 3), although representing in principle the complete gamut from shortly after qualification to a considerable degree of seniority, demonstrates not only an assumption of greater autonomy, but also of desires that more senior lawyers should move into leadership and management roles; taking responsibility for marketing and the financial success of the business (in the private sector); involving themselves in marketing; policy; strategy; know-how and a proactive stance on diversity and difference. A greater range is expected in responsibility, creativity, risk-taking and innovation in problem solving. Individuals are expected to have a greater external presence, either as experts, or as positive role models and representatives of their organisations or actively engaging with the media and government.

4.3 Management and conduct of business

The role of management skills and management skills training occupies an ambivalent position in legal practice. Mandatory programmes on aspects of management are required for most new solicitors within their first three years of qualification (SRA Handbook, p. 421). Some of the entry-level competence frameworks involve some level of leadership, mentoring or at least awareness of the structure and policies of the organisation. Heads of Chambers or partners of law firms (solicitors or legal executives) will not routinely possess formal management qualifications such as MBA or DBA (although specialist MBAs for legal practice do exist). The model by which the identity of the managing partner periodically rotates is by no means obsolete. As ABSs and non-lawyer ownership in legal practice increases, involving professional managers from other disciplines, expectations of

be selected as “hav[ing] the skills to supervise effectively; be[ing] enthusiastic and mak[ing] time for the *trainees* they are supervising”. It is the responsibility of the training principal to ensure that supervisors have “the appropriate legal knowledge and supervisory experience or training to perform the role effectively” (p. 411). Both “experience” and “training” are, here, assumed to confer competence.

²⁴ This is a combination of an experience threshold (36 months) and a required minimum of 12 hours CPD activity on “management skills” (SRA Handbook, p. 228).

²⁵ “meet any standards of competence set by the Secretary of State under section 22 of the Estate Agents Act 1979” (SRA Handbook, p. 624).

the skills and qualifications of legal service managers may change. Similarly, roles such as compliance and risk managers²⁶ may be emerging to supplement the existing non-fee-earning roles, such as the professional support lawyer, in law firms, ABSs and similar organisations as well as structures for those who do not wish to participate in the formal ownership of the business (see Malhotra, Morris & Smets, 2010).

Where good management of legal practice is concerned clearly there is an overlap with conduct of business regulations. The move to outcomes focused regulation for the solicitor's profession in particular has shifted the emphasis from requirements to participate in training or meet length of experience thresholds (although these are retained for the defined roles listed above) creating, we suggest, some potential for confusion between the regulatory control of inputs (training, experience) and that of outputs (competence, performance). Regulation may place an obligation of competence on the individual (whatever their degree of expertise):

You should, e.g., 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
(SRA Handbook, p.: 7).

you maintain competence through relevant ongoing training
(SRA Handbook, p.:416)

Act within your competence
(IPS Code of Conduct, p. 2)

5.4 A barrister must in all his professional activities act promptly, conscientiously, diligently and with reasonable competence and must take all reasonable and practicable steps to ensure that professional engagements are fulfilled. He must not undertake any task which:

(a) he knows or ought to know he is not competent to handle;
(BSB, Written Standards for the conduct of professional work: para 5.4, repeated in Code of Conduct, 701)

as well as on the more senior partner, head of chambers, director or employer:

you train individuals working in the *firm* to maintain a level of competence appropriate to their work and level of responsibility
(SRA Handbook, p. 13)

Competence to accept instructions is a difficult issue to 'police' within chambers, and will often be a matter to be discussed between the Head of Chambers and the Senior Clerk.
(Bar Council, 2006, pp. 6-12)

²⁶ The compliance officers (COLPs and COFAs) of the SRA's outcomes-focussed scheme are similarly defined by status, experience ("of sufficient seniority and in a position of sufficient responsibility to fulfil the role", SRA Handbook, pp.: 257, 258) and character ("the individual is a suitable person to carry out his or her duties", p. 258).

5 What evidence is there for the desired quality of performance in these activities or roles?

Clearly where there are no regulatory requirements, no external statement of desired quality is available. Where regulatory requirements depend on an experience threshold, an increased quality in performance in practice (but not in the, by definition, new role) is inferred rather than proved. Where they depend on participation in CPD activity, again, a weak inference appears to be made that the participation leads to improved performance. The competence frameworks show a trend away from formal skills such as legal research, into more tactical, strategic activities where technical expertise, risk taking and responsibility are demanded.

5.1 The role of CPD and regulatory accreditation

We have at this stage discounted the role of CPD in maintaining, enhancing or measuring quality in post-qualification performance because, as currently constituted, the CPD frameworks cannot demonstrate any necessary causal connection between the “input” of compliance and the “output” of maintained or enhanced competence.²⁷ The fact that the proposed QASA system for the accreditation of criminal advocates involves mandatory CPD and re-accreditation may suggest that this is changing. And of course individual organisations may require the link to be shown for the purposes of internal appraisal or promotions structures or, indeed, for funding.

Participation in CPD activity could, in principle, be tracked as an indicator of those areas where individuals, employers or regulators with the power to mandate participation as a sanction for failures in performance, anticipate that performance requires attention. Unless the regulators or professional bodies possess this data, the fact that much CPD activity takes place in-house or through a wide range of separate commercial and higher education providers suggests that it would not be possible, at this stage and within the constraints of this project, to conduct such an analysis. An informal survey of the available CPD provision in the marketplace, aside from programmes leading to higher degrees or linked to specialist accreditation schemes, would, however, suggest that it is (almost exclusively) knowledge and understanding of law and procedure which taxes the professions in this respect. This kind of education being simpler, and therefore cheaper, to provide than other forms of more intensive activity, there is, of course a question about who controls the market in legal CPD in any event. We suggest that, aside from reviews of regulatory sanction intended to remedy poor performance, a review of the CPD market data is not helpful to this part of our analysis.

5.2 Periodic re-accreditation of general or specialist competence/stratification of membership post qualification

It is, of course, well-known that the regulators of some professions mark increased specialisation or competence by accrediting incremental status markers (e.g. student, associate, member, chartered, fellow, senior fellow). This is a practice which, although used in some sectors (QC, FILEX, Institute of Paralegals) is limited in the regulated legal services sector, where a status marker (associate, partner, director) may be granted, if at all, on the basis of criteria internal to the employing organisation. Terminology in the unregulated sector serves, we suggest, only to confuse the issue, as may terminology, yet to be developed, in the ABS sector. For example, “lawyer” may be used to describe a claims manager or “legal consultant” conducting unreserved business. “Law firm” may

²⁷ That there is a positive link is, however, often assumed: “continuing professional development, namely, the training requirement(s) set by us to ensure *solicitors* and *REs* maintain competence” (SRA Handbook, pp. 417, 457). The sanction for non-compliance is generally by way of disciplinary procedure of some kind.

describe will writers; and in the in-house sector, a “director” or “manager” responsible for unreserved activities may not be qualified as a member of any of the regulated legal professions.

In addition, some other professions, most notoriously in medicine, demand periodic reaccreditation of all members of maintained levels of basic competence. This is beginning to be seen in the legal services sector, in, for example, the QASA scheme and some of the Law Society accreditation schemes but is not (yet) widespread. Clearly the utility of either approach for the regulators depends on the integrity and consistency of the assessment strategy attached to any such processes.

6 Are skills, behaviours and attitudes marked for gender, class or similar factors?

This is clearly a controversial area, and one in which there will be considerable discussion in the wider educational and psychological literature. It should not be assumed that differentials are necessarily negative, but they may be context-dependent.

The example of language skills is instructive. Skill in Japanese or Arabic, which might be acquired through upbringing (which may or may not be marked for socio-economic class); or through earlier study (which may be marked at least for income: the opportunity to fund study of Japanese or Arabic at degree or high vocational level) might be identified as attractive to certain forms of City, in-house and commercial practice but is, we suggest, unlikely to be perceived as limiting in other forms of practice. Skill in, for example, Gujarati, might be attractive in social justice, publicly funded, local government and immigration practice. On the other hand, some language skills, if made explicit in job applications, might be perceived as limiting the individual to a certain kind of practice. Women lawyers, for example, were once advised never to admit if they could type.

Some attributes, positively or negatively, might be perceived as inherently or at least actually gendered (multi-tasking, empathy, ability to focus on detail, drive or confidence). Others may demonstrate differently (which may include *more* effectively than for the neurotypical) for practitioners who, for example, have dyslexia or are on the autistic spectrum.²⁸ Some may emerge from social or educational background, as, for example, social confidence; breadth of vocabulary; drive; financial understanding or understanding of a particular social group. The strength of commitment to a proactive approach to equality and diversity issues demonstrated in some of the post-qualification competence frameworks suggests, rather than a desire (perhaps above an agreed minimum standard) for imposed and regulated homogeneity; a determination to celebrate and accommodate difference.

It will be critical, therefore, in the equality impact assessment of our recommendations in this context, to explore possible differentials. This may include the difficult question whether a particular skill, behaviour or attribute which may appear to be gendered, classed or raced is, nevertheless, useful to or essential for, legal practice. To a large extent this is a difficult question for the legal professions, simply because legal practice, particularly for solicitors, has long been perceived to be inappropriately gendered and classed.

²⁸ On the other hand, there is a strong tradition of blind lawyers. Nevertheless, care should be taken at the level of individual competence about imposing mandatory requirements to demonstrate, for example, “listening” or “making eye contact” without allowing for reasonable adjustment.

7 “Missing” skills, knowledge, behaviours and attitudes

This initial evaluation and consideration of the literature also suggests generic skills that may be absent from the existing frameworks and regulatory structure, insofar as they provide an indicator of the skills required or valued by the professions. The reasons for this may lie along a spectrum from their being treated as a given, to their perceived inutility by the professions.

- The emotional dimension figures strongly in the legal advice/NFP literature and may be behind some of the reports of professional inhumanity in other sectors. There is some limited literature on “comforting” and “caring” skills in legal practice, with contradictory results (Dryden Henningsen & Cionea, 2007; Bartlett & Aitken, 2009). This has extended to a suggestion that law students should receive education in the psychology of human behaviour (Blaustone, 2010-2011).
- Management,²⁹ project management (see Cruickshank, 2011; Henderson, 2011) and leadership skills are discussed in the post-qualification context. However, networking, marketing, dealing with change and some element of management (as, for example a trainee or junior solicitor managing a team of paralegals on a project) may be relevant at an earlier stage in current or future practice.
- Ability to deal on an international level/with globalised practice.
- Entrepreneurship (for an example, see Oosterbeek, van Praag, & Ijsselstein, 2009 and the LLM in Law and Entrepreneurship offered by Duke University).
- Policy setting and cause lawyering, sustainability.
- People and change management.
- Knowledge (and increased information) management.
- Increased skills in IT and alternative communication media.
- Financial management/economics/business (see Rhee, 2010).
- Commitment to teaching others (see GMC, 2006³⁰).
- Multidisciplinarity.
- Work/life and other balances, a sense of proportion (see Tupman, 2000; Cooper & Dwyer, 2011, Vines, 2011 and the Resilience@Law Project in Sydney).
- Creating and negotiating new legal roles and work sectors.

8 Further issues for consideration

1. To what extent is there an obligation on regulators to ensure that available legal services provision matches client need either for particularly challenging work types or demographics (see Sullivan, 2011) or by geography (see Davies & Mainwaring, 2007)?
2. Could or should data on disciplinary sanction be categorised and analysed by skill area and/or deficiency?
3. This paper may be perceived as being light on discussion of FILEX and the smaller regulated professions (licensed conveyancers, notaries, patent attorneys, trade mark attorneys). Work will be undertaken with the regulatory bodies to identify what additional data are available.

²⁹ There are now joint JD/MBA programmes available in North America: see Bradshaw, 2011.

³⁰ At p. 14: “15 Teaching, training, appraising and assessing doctors and students are important for the care of patients now and in the future. You should be willing to contribute to these activities. 16 If you are involved in teaching you must develop the skills, attitudes and practices of a competent teacher.”

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Appendix 1 Synthesis of competence frameworks for paralegal practice

Sources:

- American Association for Paralegal Education
- IoP Introductory standards
- NOS for Legal Advice
- OISC levels 1-2

Topic	Sub-skills	Comments
<i>Knowledge</i>	Specialist knowledge and procedures	The paralegal frameworks are more likely to frame required knowledge in a specialist rather than broad sense
	Conduct rules	
	Of own organisation	
	Of client's organisations	
	Own profession	Confined to the AAFPE example which envisages a distinct "paralegal" consciousness and ethic
	Administrative processes	
	Complaints/client handling protocols	
	IT	AAfPE has a very detailed list of IT competences
<i>Skills</i>		
Problem solving skills	Analyse, assess merits, evaluate, apply law/policy, identify/evaluate alternatives, identify omissions/inconsistencies, identify interrelationships	
Dealing with ethical issues	Many references, including "identify and resolve ethical dilemmas"	
Legal Research		Identified in all frameworks examined

Topic	Sub-skills	Comments
Case management/progress files		Usually framed in terms of following internal procedures
Interviewing/conference	Develop/plan/manage, identify caveats, ³¹ interview/question effectively, identify all relevant issues, focus on important issues, listen effectively, be respectful, record in accordance with procedure/guidelines	
Advocacy	Make lists of issues, prepare/assist in preparation, construct logical arguments, make clear/cogent/pertinent submission, identify salient points and respond, awareness of advocacy skills/trial procedure	As not all paralegals will have rights of audience, ³² this category also encompassed informal advocacy.
Negotiation		Only one framework (NOS) included negotiation
Writing and Drafting	Specific documents: research memo, client letters, legal documents, to (OISC) statement and grounds of appeal.	
	Identify need/purpose of communication, style appropriate to circumstances etc, convey legal theory in a clear and concise manner, clear, detailed, structured and effective, be able to use/modify precedents, in correct and grammatical English, know and perform formalities ³³	
Communicating	In person, by telephone and in writing, identify desired outcomes, tailor to context/recipient, clear, logical succinct/in house style	
Client relationships	Plan//implement review/identify aims, obtain instructions, engender trust, give clear legal advice, demonstrate sensitivity to vulnerability/trauma/diversity/young people, liaise with other services/experts, provide and receive referrals, update client on progress, prevent inappropriate behaviour, keep records, be receptive to/evaluate client feedback	

³¹ E.g “without prejudice”.

³² NOS and OISC do, however, envisage formal advocacy.

³³ Such as stamping, registration.

Topic	Sub-skills	Comments
Personal organisation	Sort/manage information, plan/prioritise/utilise own time effectively, meet deadlines or warn of difficulties, set deadlines for third parties and monitor compliance, multi-task/manage personal caseload, liaise re workload and availability/know workload you can safely handle, record for compliance/billing/file management.	Only AAFPE refers to “work independently/minimum supervision”
Working with others	Discuss law/legal implications with line manager, identify/understand team roles, work as team member/promote good team relations, support/co-operate with colleagues, treat with respect, read staff communications, operate within networks.	
Teaching and Learning	Evaluate own strengths and weaknesses, contribute positively to appraisal, develop knowledge, seek feedback, be aware of policy/internal changes, record participation, be aware of limits, reflect/evaluate/develop own practice	Only AAFPE refers specifically to CLE (CPD).
<i>Personal qualities</i>	Resilience, tact/diplomacy/respect, assertiveness, know workload you can safely handle, integrity/ethics, commitment to job/organisation, ³⁴ adapt to situations as they arise, know own limits/when to refer, support new initiatives	
<i>Miscellaneous</i>	Identify opportunities to cross-sell/grow organisation, influence changes to legislation/policy/practice, design/review information materials, understand how organisation is funded, provide a good standard of work, exercising competence, skill and diligence	

³⁴ Including “always project a positive image of your organisation”.

Appendix 2 Synthesis of competence frameworks for point of qualification

Sources

- Addleshaw Goddard Associate level 1
- APLEC
- CCBE
- CPS standard 1
- ILEX/IPS WBL outcomes
- IoP intermediate standards
- OISC level 3
- BSB Pupillage outcomes
- SRA QLTS day one outcomes
- Reed Smith
- SRA WBL outcomes
- Firms' competence frameworks (provided anonymously)

Topic	Sub-skills	Comments
<i>Knowledge</i>	General knowledge and procedure	APLEC and QLTS provide competences for a wide range of fields of practice. CCBE demands a knowledge of EU law and reference to relevant overseas law also appears.
	Specialist knowledge and procedures	
	Conduct rules/discipline rules/liability/insurance	
	Of own organisation	This may include awareness of its structure, its business environment, culture/values/strategy,, funding/financial structure or (CCBE) its legal form
	Of client's organisations	Generally framed as a basic or emerging/developing understanding
	Legal Services sector	CCBE refers to understanding of the roles of Bars and Law Societies
	Own profession	CCBE refers to understanding of the "collegiality" between legal

		professions. Otherwise this category tends to focus on own role/professional etiquette
	Administrative processes	Records, files, how organisation charges, billing processes
	Advertising/publicity rules	
	Complaints/client handling protocols	
	IT	
	Diversity policy/issues	

Topic	Sub-skills	Comments
<i>Skills</i>		
Problem solving skills	Identify relevant issues, synthesis, analyse; discriminate between important and less important factors; critically assess merits; make comparative assessments; apply law to facts; distinguish law from evidence; identify gaps/collect facts; appreciate consequences/interests of opponent/wider implications/overview; see relationships between sub-aspects; support decision with facts; draw on past experience to solve problems; deal with changes which subsequently affect advice; evaluate risk; cost/benefit of alternatives.	Stated standard of performance, where there is one, may vary from the basic to the “non-routine” (BSB)
Dealing with ethical issues		Are frequently dealt with in some detail, usually in terms of relevant conduct rules, up to and including “recognise and resolve ethical dilemmas (QLTS)
Legal Research		Is a given at this stage, often in some detail.
Case management/progress files		Generally stated in terms of procedure: filing, billing, accurate record keeping, updating others on progress, file maintenance
Interviewing/conference	Prepare, appropriate communication techniques; ask relevant questions; obtain information in a timely and effective way; take instructions; explain clearly to client; ensure common understanding of instructions; identify	Note that there are constraints on the extent to which it is proper for barristers to interview/take statements from, witnesses. In larger organisations, newly qualified lawyers may take their instructions from their more senior colleagues who have met

	and expand on important issues; conduct a telephone conference; identify and agree any caveats (e.g. without prejudice); give clear advice including future steps; take action to deal with instructions; follow up in a timely manner; record; treat interviewee with respect.; conclude interview appropriately.	clients directly. It should not be assumed in modern practice that “interviews” are face to face; oral; in real time or unseen, or that “advice” will be given orally or on the same occasion. Across all frameworks considered, this category appeared most frequently only in terms of asking relevant questions rather than in terms of taking responsibility for entire client/witness interviews. Contrast the paralegal sector and the IoP intermediate standards.
Advocacy		A violent discrepancy was shown here between the different frameworks. The BSB pupillage framework, necessarily, focuses on advocacy in a great deal of detail not reproduced here and ILEX, where rights to conduct advocacy are acquired after qualification, equally understandably, does not. APLEC, CCBE and IoP in particular all assume some degree of formal advocacy activity, as does QLTS which refers specifically to the ability to exercise solicitors’ rights of audience. SRA WBL has extended its advocacy requirement beyond formal advocacy into client presentations and training. In some other frameworks, references might be made to, for example, assisting with preparation for trial, creating bundles or having an awareness of court procedure, advocacy techniques and etiquette gained through observation.
Negotiation		APLEC and CCBE both refer specifically to ADR. APLEC, CCBE, IoP, OISC include ability to conduct negotiation as a desired skill. In many other frameworks negotiation is not mentioned explicitly.
Writing and Drafting	Know drafting techniques; identify/understand purpose; use/modify precedents; use effective form and structure; draft straightforward documents; consider if document needs to be settled by counsel; draft effectively/so recipient understands it; deal with formalities (execution, stamping, registration); record accurately;	Specific documents mentioned ranged from research memoranda, letters and minutes of meetings (most frequent) to contracts, witness statements, orders and pleadings.

	explain clearly/concisely; plain/correct English; set out law/facts clearly.	
Communicating	Plan; reduce issues into lay language; effective verbal/nonverbal and cross cultural communication; tailor to person/circumstances/forum; follow up/record; give clear and sound advice; clear/concise/confident/assertive; know what information to transmit to/obtain from clients and third parties and when; appropriate and effective use of email/telephone; takes clear and accurate messages; address all issues; suitable language; suitable methods of communication; communicate detailed concepts; use imagination, originality or flair; take responsibility for reliability of communications, highlighting caveats and reservations.	
Client relationships	Develop and maintain personal relationships; professional and respectful; accessible/responsive; take client's background into account; analyse and offer solutions; take accurate instructions; manage expectations; provide clear advice; organised, focused and professional; structured communication within timescales; respond to feedback/complaints; support client service development activity; deal with clients from a range of backgrounds/difficult clients.	
Personal organisation	Organise own time; prioritise; multi-task; manage others' expectations about timescale; manage conflicts (of priority); work efficiently alone; take on a realistic amount of work; warn others if problems; doesn't procrastinate; is neat, tidy and logical; meets targets/deadlines; progresses matters expeditiously;	

	checks understanding of tasks; records; set realistic timescales.	
Working with others	Provide instructions/feedback to support staff; work effectively with support staff; takes instructions from colleagues; develop effective working relationship; sensitive to needs/feelings/emotions of others; participates in group meetings; challenges/questions instructions appropriately; understands status of colleagues; able to fill in for others/help out/take on more responsibility; set example; acknowledge others' contribution; motivate others; share; read staff communications and support new initiatives; challenge own values/beliefs; fosters morale/team spirit; supports/collaborates/shares with others; open/visible/honest; work with people from a range of backgrounds; aware of impact of own actions; respect; awareness of external members of team/networks; be able to chair meetings.	
Teaching and Learning	Update technical knowledge; seek feedback from supervisor; use all available training opportunities; aware of own limits and seek support/refer; self-awareness/reflection; evaluate strengths and weaknesses/assess own competence/review own work; develop non-legal knowledge; draw on others' experience; attend internal/external courses; responds to appraisal; overcomes weakness; learn from experience; assimilate new areas quickly; take responsibility for own learning; extend and integrate strengths; strive to improve; learn new skills and seek out new experiences.	Almost all frameworks contain a reference to knowing one's own limits (refraining from acting outside one's competence)

Practice Management	Follows internal procedures/financial procedures; ensures practice competently administered; make a reasoned decision as to choice of form/governance for the legal practice.	The wide variation here represents a division between self-employed and employed practice.
Risk Management	Minimise risk from missed deadlines/negligence/non compliance; aware of risk and refer; evaluate risks, costs benefits of alternative courses of action; take calculated risks; manage risks.	
Personal qualities	Awareness of danger of "mismanagement of living and work practices" (APLEC); resilience/perseverance/ability to deal with difficult issues; cope under pressure/with emotional issues; courtesy; fosters team morale and spirit; objectivity; sense of proportion/pragmatism/common sense; values/ethics/honesty/professionalism; integrity; independence/objectivity; acts on own initiative/self-starting/proactive; ability to see bigger picture; attention to detail; energy/focus/enthusiasm; works outside own comfort zone; deals flexibly with interruptions; takes ownership/responsibility/reliability; adapts to change/new practices/new law/improvements in technology; commerciality/public service standards; initiate and progress tasks/see project through; well-groomed/presented; recognises reputational risk and behaves accordingly; take responsibility; take resources into account; avoid waste.	
Miscellaneous	Supports corporate messages/provides positive image of organisation, identifies improved practices and puts forward suggestions for change, some involvement in growing the business, maintain quality standards,	

	participate in internal structures/pro bono and outreach work, some numeracy/financial skills; referral and cross-selling; update client database	
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Appendix 3 Synthesis of competence frameworks for generic post qualification activity

Sources

- Addleshaw Goddard Associate levels 2+
- CPS standards 2+
- IoP advanced standards
- BSB written standards
- QC competence framework
- Firms' competence frameworks (provided anonymously)

This analysis is more thematic than the others, as competence frameworks in this area might extend from shortly post-qualification up to the most senior levels in the organisation. It considers, in particular, attributes not present in the point of qualification frameworks.

Topic	Sub-skills	
<i>Knowledge</i>	General knowledge and procedure	
	Specialist knowledge and procedures	Tends to be distinctly stated in terms of“expertise”; reputation for technical ability/leadership; regularly updates expertise
	Conduct rules/discipline rules/liability/insurance	Tends to be included
	Of own organisation	Emphasis tends to be on strategy and change, current issues; representing own organisation positively to outside agencies/public; enhances organisation’s reputation with the client
	Of client’s organisations	Frequently stated at very high level
	Legal Services sector	Actively influences the CPS and central government. Some references to reputation of the profession/outreach/pro bono
	Own profession	Maintains high reputation of own profession

	Administrative processes	Less likely to appear in detail
	Advertising/publicity rules	Deals effectively with the media. Involvement in marketing/selling/external relations appears often.
	Complaints/client handling protocols	Responds appropriately to complaints
	IT	Promotes new working practices and improvements in IT
	Diversity policy/issues	Some emphasis on this for self and for others, including a proactive stance in relation to colleagues and clients. Knowledge of wider issues such as understanding of impact of different lifestyles in the working environment; challenges traditional approaches; considers impact on different groups

Topic	
<i>Skills</i>	
Problem solving skills	Rapid, incisive overview of complex/voluminous material; accuracy; dealing with sensitive/difficult issues; taking key decisions/independent decision-making; balancing needs of a wide range of stakeholders; overcomes lack of response; creativity; curiosity; thinks strategically; examines from different perspectives; deals with unexpected; refers to specialists outside own field; questions assumptions. [Frameworks differ to some degree in the point pre or post qualification where client centred problem solving is distinguished from background legal research.]
Dealing with ethical issues	An ability to deal with complex and difficult ethical issues appears explicitly in some frameworks.
Legal Research	Advise/teach junior colleagues how to research in own practice area. Own research either diminishes or is linked more explicitly to problem-solving.
Case management/progress files	Setting criteria for success; keep informed of progress [see also project management themes below]
Interviewing/conference	Less likely to be mentioned separately. Might translate into chairing meetings but is related to point at which

	direct client contact is assumed.
Advocacy	[where advocacy is covered the range is wide from “conduct a hearing” in the IoP to the QC framework] persuasively, rapidly assimilates implications of new evidence and argument; adapts oral presentation views/knowledge level of audience
Negotiation	[where negotiation is covered] tactics and successful strategy; gives priority to non-court resolution; persuades and influences others; highly persuasive in situations of strong opposition/conflict; be able to exploit strengths and weaknesses of others
Writing and Drafting	Accuracy, coherence; balance between sufficient detail and over-complexity;= accessible, increased complexity; speed. Reports. Synthesis of a variety of ideas/information into a single document; uses range of styles; drafting of a range of interlinked documents. Supervise/review others’ drafts.
Communicating	Say what needs to be said, tactfully/candidly; Able to talk to groups as well as individuals; makes complex issues understandable; monitor/coach members of team; openness; honesty; at forefront of effective communication
Client relationships	Candid with the client; resists inappropriate pressure from client; respond to client feedback; takes on client management responsibilities; takes opportunities to the client/anticipates client’s needs; puts clients/witnesses at ease; develops positive relationship with clients. [Frameworks differ to some degree in the point pre or post qualification where direct client contact/relationship is assumed.]
Personal organisation	Manages resources so as to achieve priorities, delegates; adjusts priorities; introduces and monitors systems; sets milestones; manage resources; controls and monitors a number of simultaneous projects; identify ways to work so that costs minimised/income maximised; minimal supervision. Accountable and responsible.
Project management	Effective project management skills (with milestones, deadlines, success criteria); takes lead in managing a project
Working with others	Delivers and maintains characteristics of a high performing team; awareness of impact on others; advise junior colleagues on acceptable behaviour and team working; motivational; delegates effectively; resolves difficult interpersonal issues
Managing others/leadership/change management	Leads/manages teams; puts in place mechanisms for discussing and suggesting change; Engages/motivates team; holds team meetings; sets objectives/targets for team; inclusive working style; monitors staff performance; manages change successfully; advises and guides other specialists; develops new approaches; review and manage colleagues’ workloads; supervises trainees and NQ; builds/encourages cross-disciplinary relationships; recognises and uses differing skills of team members; advocates/initiates change; positive role

	model/leader
Teaching and Learning	Complies with professional CPD requirements; becomes familiar with new areas quickly/reliably; sets objectives for others/evaluates others' strengths and weaknesses; shares knowledge and experience; learning not just for current role but for career development; ensure team is trained appropriately; learning based on wider understanding of broad principles and new and innovative approaches to the job; plan and effect improvements; takes responsibility for obtain stretching work so as to develop; provides constructive feedback; self-awareness; responsibility for learning of others.
Practice Management/Strategy/Policy	Wider commitment to maintaining and improving quality of service; Understands and promotes strategic aims of organisation and secures commitment to them; promotes a clear vision; devises strategy; plans over longer term; identifies and sensitive to key operational policy; operationalizes plans and policy; embraces and supports business driven change; avoids unnecessary waste of court's time; ensure practice properly and efficiently administered
Risk Management	Anticipates future developments; anticipates difficulties and develops contingencies; challenges status quo and takes considered risks and learns from them; considers risks on a long term basis
Financial/numeracy	Uses management information and acts on it; negotiates for resources/justifies expenditure; finds new ways of deploying resources; monitors budget; uses performance data; sound commercial judgment; role models disciplined financial management; recovers fully where possible; maximises revenue; full and proper details and justification for fees; responsible for budgets and billing
Knowledge management	add to organisation's precedent bank; actively involved in precedent work/know how
Marketing	Development of new relationships; business development events; develops networks and relationships with clients; participates in activities outside immediate remit; lead involvement in pitch documentations; regularly cross-sells/gains new business
Personal qualities	meets challenges and usually succeeds; meets commitments; integrity; supports initiative in others; responds quickly/thinks on feet; driven to find innovative solutions and determined to succeed; operates outside own comfort zone; promote and protect fearlessly client's best interests. Frequent reference to characteristics as a leader and role model.