

A competence statement for solicitors

Emerging issues

Background

Objectives of T4T

Training for Tomorrow is about

- ensuring that those entering the profession are competent to perform the work of a solicitor
- encouraging flexibility, diversity, efficiency and innovation in qualification
- ensuring that those delivering legal services continue to be competent

The competence statement as a regulatory tool



- To define, communicate and assure competence
- To remove artificial barriers to access

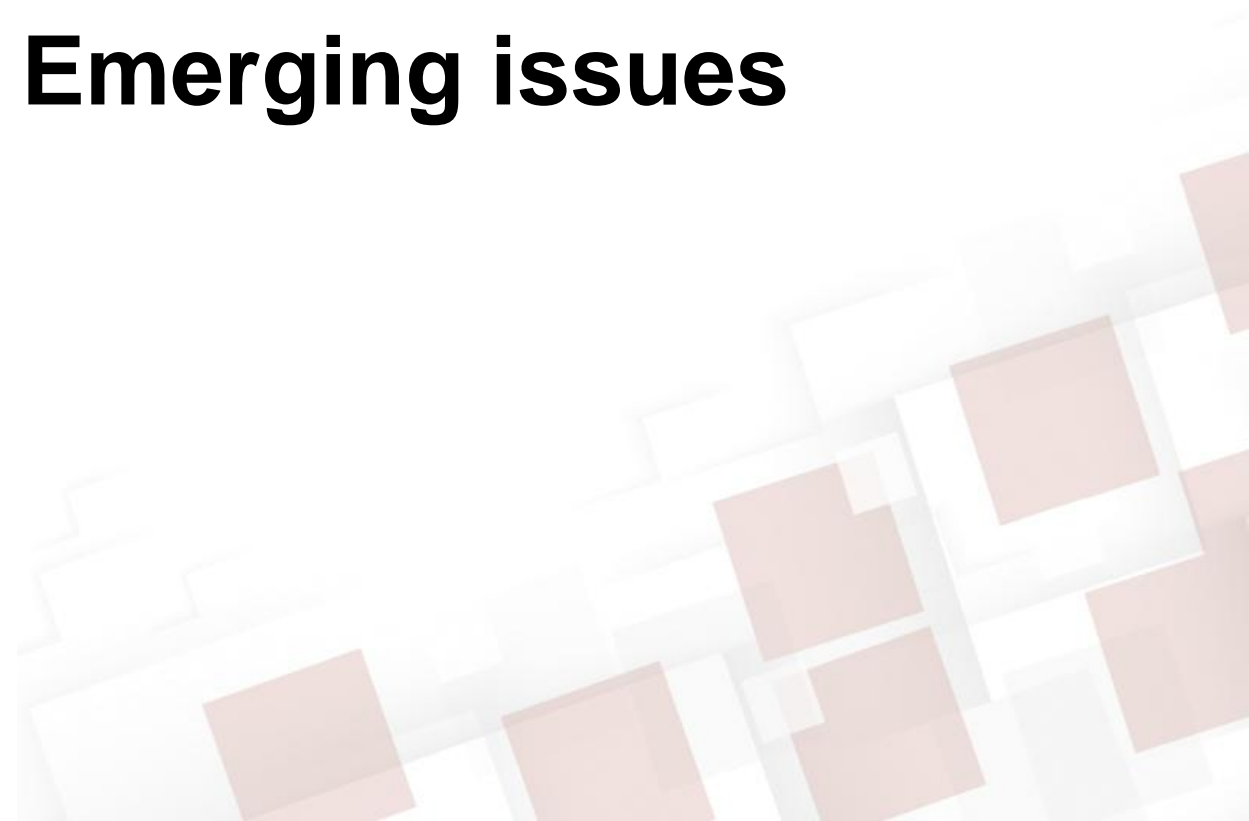
Functions

- Tells stakeholders, and in particular consumers, what they can expect from any solicitor and indicates the core level of competence which a consumer (individual or business) can expect of any solicitor
- Tells training providers what outcomes they need to enable students to meet, and to what level, and which can therefore inform the design and content of their courses
- Tells aspiring entrants to the profession, what outcomes they need to meet
- An assessment tool for the point of qualification
- States what the regulator expects from practising solicitors, and which therefore provides a framework for practising solicitors against which to check their continuing competence
- An audit tool for Compliance Officers for Legal Practice and regulators

Process

- Jan – March 2014
- Workshops of stakeholders to produce first draft
- Qualitative research among consumers of legal services
- April – May 2014
- Quantitative testing of draft competence statement
- June July 2014
- Workshops of stakeholders to revise and polish draft
- September 2014
- Formal consultation
- 2015
- Consideration of wider issues – e.g. pathways to qualification

Emerging issues



Internal -v- external models

- Internal competence (competency): describes the properties of the person, e.g. knowledge, skills, behaviours, attributes and attitudes.
 - Good for supporting development; less good for defining ability to practise effectively
 - Difficult to assess outside a training environment
 - Can be more about the ideal person than what the person should be able to do
- External competence: describes what the person can do in practice
 - Better geared to describing practice, but less good for development
 - Need to be constructed carefully to capture practice holistically and to avoid tick-box approach to assessment

Information gathering

- Generic legal knowledge
- Generic legal areas of work (*not* practice)
 - Key activities
 - Critical factors
- Specialist areas of practice
 - Any additional knowledge?
 - Any additional activities?

Generalist –v- specialist

Common core

Broad base of legal knowledge

This is the knowledge needed by all lawyers at the point of sign-off. It needs to be at an appropriate level of detail, so not in-depth knowledge of specific areas of practice.

Generic aspects of practice

These are the areas of competence needed by all lawyers regardless of specialism.

The core could be slightly different for barristers and for solicitors.

Generalist -v- specialist

Fields of practice

Specialist aspects of practice

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These areas of competence are those needed by different specialisms (in addition to the generic aspects).

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Specialist knowledge

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This is the knowledge required, in addition to general legal knowledge, in each specialism in order to practise effectively.

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Legal knowledge

- In principle, knowledge should be specified in terms of what practitioner needs to be able to do with it
- But, if statement is to be used to aid learning or course design, pointers to key areas of knowledge are necessary
- We need to be clear why knowledge is being included
 - Needs to be what practitioner needs to know in order to practise effectively, not what is in a syllabus
- Need to avoid detail
- May need to have additional document to aid course design and assessment

Suggested areas and feedback from workshop 1



- Legal institutions and professions
- Constitutional law and judicial review processes
- Rules of professional conduct
- Regulatory and fiscal frameworks
- Contract
- Tort
- Crime
- Property
- Equity
- Human rights
- Business structures

Generic areas of legal work



- Professional ethics
- Professional development
 - Maintaining competence and reflecting on and learning from work
- Legal and business practice
 - E.g. Research, drafting, advocacy, negotiation, progress legal matters
- Analysis, evaluation and solutions
- Managing work and working with others
- Communication and client relations

Levels and thresholds

- Competence statement which is being used to assess entry to profession needs to articulate an appropriate level of practice
- This will articulate what a practitioner should be capable of on qualification
- Competence statement should also contain a threshold at which practice is considered adequate
- Risk: statements become too complex, or rely on adverbs (appropriately, adequately) which are subjective and difficult to define; criteria can be over-precise
- Solutions
 - Guidance
 - Statement to be written at, say, three different levels of proficiency, with the middle one representing the pass standard

Day one or continuing?



- Originally talked in terms of day one
- Then thought should be minimum competence for all practising solicitors
- Can we use it both for regulating admission and to assure continuing competence?

