



## CPD Requirements and Guidance for Scottish Solicitors

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## Executive Summary of Key Changes

- The range of activities recognised for CPD has been extended, focussing on relevance, competence and enhancement of skills and compliance with the Society's conduct and service standards.

These additional activities include structured coaching (such as one-to-one coaching or mentoring) and online training.

- The requirement to undertake a minimum of 15 hours group study no longer applies. There are now no group study requirements. Solicitors may undertake as many hours of group CPD as they feel appropriate but there is no set minimum level.

Solicitors will require to undertake a minimum of 15 hours of verifiable CPD.

- The restriction on the amount of personal study allowed has been removed.

A maximum of five hours private study remains. However, the relaxation of the types of online and distance learning and the relaxation of the requirement to undertake 15 hours group study means that solicitors can undertake far more personal study if they so wish.

- The requirement to undertake annual management CPD has been removed.
- The option of carrying back CPD hours will no longer be permitted.
- The option of carrying forward CPD hours will no longer be permitted.
- The restrictions on the types of Distance Learning and Online Learning have been relaxed. Rather than be prescriptive about how such courses are undertaken, whether an online or distance learning course is relevant will be for an individual solicitor to decide using their professional judgement.
- Formal pro-rata concessions for part-time work, locum work, unemployment and sabbatical leave will no longer be permitted.
- All solicitors will be required to plan, record and evaluate their annual CPD. Solicitors are encouraged to log the plan and record on the Society's website via their solicitors' login.

Solicitors will be required to demonstrate that they have (i) identified their learning needs (ii) planned CPD activity to address those needs (iii) undertaken relevant CPD (iv) evaluated and justified the CPD activity, what was learnt, and how the lessons of the CPD activity can be put into practice.

## **1. Background**

### **1.1 What is Continuing Professional Development?**

Continuing Professional Development (CPD) is any training or learning activity which is designed to improve an individual's professional knowledge, understanding and skills. CPD supports the identification of individual development needs and improves professional practice.

### **1.2 Why is Continuing Professional Development essential?**

It is a fundamental part of being a professional to undertake CPD. Along with 'on the job learning', CPD helps to ensure competence over the course of a career.

Solicitors undertake formal education, vocational learning and on-the-job training on the route to qualification. They are well aware that legislation, regulatory requirements, working methods and technology all develop quickly.

It is imperative that solicitors are familiar with relevant Practice Rules, Accounts Rules, and guidelines as well as developments that affect their areas of practice.

Whilst it is acknowledged that a certain amount of learning can be achieved 'on the job', it is widely recognised that regular formal education and training is necessary to supplement and enhance such learning.

Further, the requirements of being a solicitor often include skills and knowledge that are not often formally taught in legal education and training e.g. personnel management, business development, management technique and client care skills, many of which become relevant to solicitors during their working lives

Undertaking CPD activities, combined with experiential learning, is an essential activity to help ensure that solicitors' all round skills and knowledge are up to date.

### 1.3 Why introduce planning, recording and justifying?

The Society's approach to CPD aims to ensure that learning and development remains relevant to individual members at all stages of their career. Development needs will change over the course of a solicitor's career.

Individual solicitors are responsible for identifying and planning their own CPD. There are no prescribed learning activities and nor is there a prescribed way to plan CPD.

The activities that solicitors choose must help maintain or develop such knowledge or skills as are relevant to their current careers or likely future careers.

The CPD requirements outlined below have been designed to achieve the following objectives:

- Help members identify areas of development which are relevant and support their careers.
- Prevent a culture of '*doing CPD for CPD's sake*' as the end of the CPD year looms. (This is not useful for the solicitor, their clients, the profession, the Society nor is it a worthwhile expenditure for firms.)
- Assure the public that solicitors are meeting high standards of development and approach their work in a responsible and ethical manner.
- Ensure a transparent and measurable approach to CPD.
- Provide members with a practical and flexible approach to professional development (e.g. planning is important but should not only be done at the beginning of the year. As development needs change or situations develop, it is absolutely competent to change your development plan).

Planning is a mandatory requirement of the new CPD requirements. Please also see section 2.4 below.

#### 1.4 Key benefits of Continuing Professional Development for solicitors

- Solicitors who take training seriously are more likely to attract more business. The overwhelming majority of solicitors already do more than the minimum 20 hours per annum.
- Those who take a planned approach to skills development tend to move up the career ladder more quickly and in a direction of their choosing. Planning CPD in advance means that it is more likely to be relevant to a solicitor's working life and area of practice.

A regular complaint about the previous CPD system was that solicitors would often undertake CPD for the sake of doing so whether or not such CPD was relevant: Mandating annual planning of CPD helps to ensure that solicitors will undertake relevant CPD.

- A record of CPD can provide evidence of competence – to draw upon for reviews, promotions, interviews and, when necessary, regulatory requirements.
- Holding a commitment to CPD is an important part of being a solicitor. CPD allows the Society and the profession to demonstrate that all members are competent, keeping their knowledge and skills up-to-date and are working in the public interest

CPD should provide solicitors with knowledge, skills, attitudes and values that they need to have to perform effectively and competently in their role and to meet the expectations placed on them by their employers, colleagues and clients.

CPD can add to the knowledge, skills, attitudes and values that solicitors already have. CPD in areas such as business management, business development or training can be hugely beneficial to a solicitor and their employer. There is always a need to learn and develop – age, seniority, expertise and unemployment are not barriers to undertaking CPD.

- The public is increasingly better informed about areas of law and consumer rights. One consequence of this trend is that they expect a more professional and knowledgeable approach from their solicitors.
- Data and information about legal matters is readily available in the public domain. Solicitors must retain their position of expertise by applying that data and information through their knowledge.

## **1.5 CPD, The Society and The Solicitors (Scotland) Act**

The Solicitors (Scotland) Act 1980 outlines the key roles of the Law Society of Scotland:

- 2) The object of the Society shall include the promotion of –
- (a) the interests of the solicitors' profession in Scotland; and
  - (b) the interests of the public in relation to that profession.

CPD has a fundamental role in both of these objectives. It is important that the public has faith in the solicitors' profession.

A robust CPD regime is a communication of high professional standards to the public.

## **2. The CPD requirements (from 1<sup>st</sup> November 2011)**

### **2.1 Hours, Requirements, Exemptions and Waivers**

2.1.1 The CPD year runs from 1<sup>st</sup> November to 31<sup>st</sup> October. All solicitors with a Practising Certificate and all Registered European Lawyers (REL) are required to undertake:

- A minimum of 20 hours of relevant CPD per year

2.1.2 As of 1<sup>st</sup> November 2011, CPD hours cannot be carried forward to the following CPD year.

2.1.3 As of 1<sup>st</sup> November 2011, CPD hours cannot be carried back to the previous CPD year.

2.1.4 There are no formal exemptions in the Regulations from the CPD requirements although solicitors can apply to the Registrar for waiver. Circumstances where a waiver might be considered include (but are not limited to) redundancy and retirement.

2.1.5 The following waivers do apply:

- Solicitors suffering long-term illness for ten weeks or more in respect of the same illness in any practice year may reduce their CPD requirement in proportion to the number of weeks worked during the practice year, rounded up to the nearest complete hour. To calculate the required number of hours divide the number of weeks worked by 2.6 and round up to the nearest whole number

e.g. solicitors who work between 37 and 39 weeks in a practice year will require to undertake 15 hours CPD that year.

- Solicitors on maternity/adoption leave may reduce their CPD requirement in proportion to the number of weeks worked in the practice year rounded up to the nearest complete hour in accordance to the formula above.
- Solicitors admitted during the practice year (1<sup>st</sup> November to 31<sup>st</sup> October) may reduce their requirement in proportion to the number of weeks working in the practice year rounded up to the nearest complete hour in accordance to the formula above.
- Trainees admitted during the practice year are not required to undertake CPD until the start of the practice year (1<sup>st</sup> November) following the date on which their training contract ends assuming that the solicitor has been admitted and holds a Practising Certificate.

2.1.6 The requirements are not reduced for solicitors/REL working part-time

2.1.7 Registered Foreign Lawyers (RFL) are not subject to the Society's CPD requirements. They should be aware that they are likely to be subject to CPD requirements in their home jurisdiction.

2.1.8 The Society will only permit the carrying forward and carrying back of CPD hours in exceptional circumstances. Those solicitors wishing to utilise this provision should contact the Registrar's Department of the Society.

## 2.2 **Make-up of minimum hours**

A minimum of 15 hours of CPD must be **verifiable**. By verifiable, the Society means that the CPD activity should meet the following criteria:

- (i) Have educational aims and objectives relevant to your development;
- (ii) Have clearly anticipated outcomes (e.g. what do you expect to learn from attending the course)
- (iii) Have quality controls (e.g. you should be given the opportunity to give feedback or ask questions).
- (iv) Be verifiable (e.g. able to be evidenced).

A maximum of five hours of private study can be claimed by solicitors towards their minimum 20 hours of Continuing Professional Development. (See section 2.4)

### 2.3 Verifiable CPD

Whether or not a CPD activity has quality controls or whether solicitors will receive documentary evidence of their participation in the activity are both matters of fact. Either there is an opportunity to give feedback or there is not. Either documentary evidence is provided, or it is not.

Whether the activity has educational aims and objectives relevant to a solicitor's development and whether the activity has clearly anticipated outcomes are matters which solicitors must satisfy themselves using their professional judgement.

#### *Recording Verifiable CPD*

Solicitors must obtain and keep documentary evidence proving that they participated in a CPD activity for it to count towards their minimum 15 hours of verifiable CPD. The evidence should come from the activity organiser and should show the number of hours that the activity entailed (NB: This must not include breaks).

Detailed information on what the Society means by quality controls and what constitutes verifiable CPD can be found in Figure 1 which spans pages 9, 10 and 11. Information on annual sampling and verifiable CPD can be found in section 4.



### Figure 1: Background information on Verifiable CPD

As outlined in Section 2.2, Verifiable CPD **must** meet four criteria (i) have educational aims and objectives relevant to your development (ii) have clearly anticipated outcomes (iii) have quality controls (iv) be verifiable.

Solicitors should use their own judgement as to whether or not CPD activity is relevant to their development and has clear outcomes. The table below gives some examples of how CPD can be verified and what constitutes as a quality control. It should be noted that the examples below are non-exhaustive.

Type of activity	Verification might include:	Quality controls might include:
Attending external courses, lectures, seminars or conferences (e.g. those run by professional bodies or commercial providers)	<ul style="list-style-type: none"> <li>- An attendance sheet</li> <li>- A certificate</li> </ul>	<ul style="list-style-type: none"> <li>- A feedback sheet or similar questionnaire</li> <li>- An opportunity to ask questions or give comments during or after the courses</li> <li>- Further relevant reading matter handed out on the day</li> </ul>
Internal briefings, seminars, lectures, courses or updates (e.g. those run within a firm)	<ul style="list-style-type: none"> <li>- An attendance sheet</li> <li>- A certificate</li> </ul>	<ul style="list-style-type: none"> <li>- A feedback sheet or similar questionnaire</li> <li>- An opportunity to ask questions or give comments during or after the courses</li> <li>- Further relevant reading matter handed out on the day</li> </ul>
Designing or writing a training session or presentation	<ul style="list-style-type: none"> <li>- A letter of confirmation from the provider of the presentation</li> <li>- A copy of the programme</li> <li>- A copy of the presentation</li> <li>- An attendance sheet including speakers' names</li> </ul>	<ul style="list-style-type: none"> <li>- Ensuring the opportunity for questions or feedback.</li> <li>- Handing out a feedback sheet to participants (and acting, where necessary, upon that feedback).</li> </ul>
Lecturing or tutoring at an academic institution	<ul style="list-style-type: none"> <li>- A letter of confirmation from the academic institution</li> <li>- A copy of the lecture notes</li> </ul>	<ul style="list-style-type: none"> <li>- Ensuring the opportunity for questions or feedback.</li> <li>- Handing out a feedback sheet to participants (and acting, where necessary, upon that</li> </ul>

		feedback).
Delivering a training session or presentation	<ul style="list-style-type: none"> <li>- A copy of the programme</li> <li>- An attendance sheet including speakers' names</li> </ul>	<ul style="list-style-type: none"> <li>- Ensuring the opportunity for questions or feedback.</li> <li>- Handing out a feedback sheet to participants (and acting, where necessary, upon that feedback).</li> </ul>
<p>One-to-one coaching sessions and/or mentoring.</p> <p><i>NB: Such CPD can only be claimed by the participant being coached/mentored</i></p>	<p>These sessions should have written aims and objectives. Such sessions should have a clear outcome and be documented.</p> <ul style="list-style-type: none"> <li>- The written aims and objectives of the coaching and mentoring.</li> <li>- Any follow-up work.</li> <li>- Any written analysis of the session(s) by the coach or participant.</li> </ul>	<p>These sessions should be built around feedback and interaction.</p>
Using e-learning or other online learning	<ul style="list-style-type: none"> <li>- A certificate</li> <li>- Documentary evidence that the course has been undertaken</li> <li>- Results from a multiple choice</li> </ul>	<ul style="list-style-type: none"> <li>- Multiple choice test at the end of the e-learning session</li> <li>- Virtual learning environments (VLE) where participants can discuss matters</li> </ul>
Distance Learning	<ul style="list-style-type: none"> <li>- A certificate</li> <li>- Documentary evidence that the course has been undertaken</li> <li>- Results from examinations of</li> </ul>	<ul style="list-style-type: none"> <li>- Examinations or coursework</li> <li>- Virtual learning environment (VLE) where participants can discuss matters.</li> </ul>

Studying for an academic, legal or professional qualification	<ul style="list-style-type: none"> <li>- A qualification (and certification thereof)</li> <li>- Documentary evidence of undertaking the course</li> </ul>	<ul style="list-style-type: none"> <li>- Examinations or coursework</li> <li>- Lectures which allow feedback/questions</li> <li>- Virtual learning environments</li> </ul>
Role Play Activities or participation in organised discussion forums	<ul style="list-style-type: none"> <li>- A certificate</li> <li>- An attendance sheet</li> </ul>	<ul style="list-style-type: none"> <li>- A feedback sheet or similar questionnaire</li> <li>- An opportunity to ask questions or give comments during or after the courses</li> <li>- Further relevant reading matter handed out on the day</li> </ul>

## 2.4 Private Study

All CPD must be relevant to an individual solicitor's development needs.

The Society recognises that some CPD activity might not meet the criteria for Verifiable CPD. Such CPD might include:

- Reading relevant reports, journals or legal papers
- General reading of professional magazines (e.g. The Journal or Scots Law Times)
- Non-structured coaching or mentoring sessions
- Writing on law e.g. law books, journals, publications for clients, clients own publication, newspapers and magazines<sup>1</sup>
- Research which relates to legal topics or has relevance to the practice/organisation which results in some form of written document, precedent, memorandum etc.

Up to 5 hours of Private Study may be claimed by solicitors towards their minimum 20 hours of Continuing Professional Development.

Private study should also be recorded and justified.

(NB: Although an upper limit of 5 hours of Private study may be claimed towards CPD hours, the Society strongly recommends that solicitors undertake as much relevant reading as they feel necessary to help ensure their competence):

## 2.5 Planning, Recording and Justifying

The Members' Area of The Law Society of Scotland website will have a secure section for each member which allows members to plan, record and justify their CPD activity.

However, they will be expected, upon demand, to be able to produce equivalent documentation.

Solicitors may wish to consider personal milestones when planning their CPD. See Section 5 for further information.

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<sup>1</sup> Topics might include: law; law practice; practice management; legal procedure; issues arising from transactions, clients and client-care, markets, and industries.

## **Planning**

- 2.5.1 Solicitors will be required to plan their annual Continuing Professional Development at the start of each CPD year.

Solicitors are encouraged to log their plan with the Society on the Society's website via their solicitors' login.

The Society is not prescriptive about how solicitors plan their CPD. For instance, The Society realises that it is possible to identify training needs at the beginning of a Practice Year but that it might not be possible to identify exact courses at that stage.

Planning should take into account the solicitors learning needs and the sorts of activities that he or she intends to undertake to meet those needs (e.g. Risk Management Training; Anti-Money Laundering Training; People Management Training; An update of legal knowledge, Skills training etc) rather than focus unduly on exact activities on specific dates.

- 2.5.2 Planning is not just an activity that takes place at the beginning of the Practice Year but something that should take place throughout the year as development needs arise or change.

For example, a change to legislation midway through the year may mean that a development need arises.

- 2.5.3 Any solicitor chosen within the annual sample will have their plan, record and justifications examined. They will also be asked to forward to the Society any documentary evidence of their CPD activity.

## **Recording and Justifying**

- 2.5.4 Solicitors are required to record the CPD that they undertake in a practice year. Solicitors are encouraged to record any CPD hours they undertake over the minimum 20 hours

- 2.5.5 Solicitors are expected to complete the record of CPD accurately.

- 2.5.6 The Members Area of the Society's website allows members to record and justify CPD activity that they have undertaken.

Solicitors are encouraged to use their solicitors' login to record their CPD activity.

## 2.6 Double Training Relief

Solicitors who require to undertake compulsory training other than by reason of the CPD regulations may count such training as part of the requirement for CPD in that particular practice year. The following are some examples (NB: This is not an exhaustive list):

- Practice Management Course: Solicitors who require to attend a Practice Management Course by virtue of the Solicitors (Scotland) (Practice Management Course) Practice Rules 2001
- Extended Rights of Audience: Solicitors who require to attend a Training Course in terms of the Solicitors (Scotland) (Admission as a Solicitor with Extended Rights (Scotland) Rules 1992
- If a solicitor undertakes CPD for another professional body (e.g. STEP or a dual-qualified solicitor) which is relevant to their work as a solicitor these CPD hours can be counted.

## 3. Regulations

3.1 Please note that Solicitors (Scotland) (Continuing Professional Development) Regulations 1993 states:

*Regulation 2.2: 'continuing professional development' means relevant education and study by a solicitor to develop his or her professional knowledge, skills and abilities'*

This means education, training and development in:

- i. Specific legal areas and topics
- ii. Management and organisation
- iii. Communication and client-care skills
- iv. Other areas relevant to the solicitor's practice
- v. Ethics, attitudes and values
- vi. Any area designed to improve an individual's ability to operate properly and effectively as a solicitor.

It is important that all solicitors can demonstrate why the CPD hours that they undertake is **relevant** to their professional development.

The planning of CPD at the beginning of (and throughout) the CPD year will help ensure that CPD undertaken is **relevant** to a solicitor's needs

Regulation 4: *‘Every solicitor shall keep a record of continuing professional development undertaken to comply with these Regulations in and produce that record to the Council on demand’.*

The Society wants solicitors to have as much control and responsibility as possible over their own development. The Society also understands that different people learn in different ways.

It is for these reasons that from 1<sup>st</sup> November 2011 there will no longer be any requirements to undertake a certain amount of management CPD nor is there any requirement to undertake a certain amount of CPD in a particular format.

#### **4. Monitoring, Enforcement and Non-Compliance**

4.1 The Society will study in detail an annual sample of solicitors’ CPD records per annum to check that the minimum number hours of CPD have been properly completed and that all other requirements, including planning, recording and justifying, have been met.

The sample size will be a minimum of 5%.

4.2 If selected in the sample, the Society will inspect a solicitor’s training plan, record and justifications. The Society will also ask for any documentary evidence of verifiable CPD activity to be sent to the Society.

4.3 Continual failure to comply with any of the CPD requirements may lead to a referral to the Practising Certificate Committee of the Society.

#### **5. Milestones**

5.1 At certain milestones in a solicitor’s career, the Society may from time-to-time mandate that certain CPD be undertaken.

5.2 Solicitors assuming partnership will be required to undertake the Practice Management Course.

5.3 Solicitors may wish to consider personal milestones when planning their CPD. For example:

- The first time you are responsible for support staff (secretaries, paralegals, trainees)
- The first time you are responsible for training (e.g. supervising solicitor for trainees)
- When (if) you become Client Relations Manager

- When (if) you become Cashroom Manager
- When (if) you become Risk Manager
- When (if) you become Money Laundering Reporting Officer
- When (if) you become Training Supervisor
- When (if) you become Compliance Manager
- When (if) you become ARTL Conveyancing Practice Manager
- When (if) you become Insurance Mediation Officer