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## Literature Review

### 6. Requirements made of approved providers of legal education and training

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## Introduction

- 1 This chapter of the literature review is intended to compare and contrast the requirements made of approved providers of pre-qualification legal education and training across three key jurisdictions. Comparative analysis of the manner in which these requirements are framed, and how they are assessed adds to an understanding of current trends in the regulation of legal education providers. This chapter also aims to explore the way in which other professions set requirements for their pre-qualification education and training providers and, building on the work already carried out by the Legal Services Board (Sullivan, 2011a and b), provides insight into the emergent patterns of expressed requirements, the focus of these requirements and the manner in which the requirements are assessed.
- 2 For completeness, and bearing in mind that a number of professions do not accredit providers of CPD activity, we also set out the requirements made of CPD providers insofar as this is relevant.

## The Qualifying Law Degree and GDL/CPE (the ‘academic stage’ for solicitors and barristers)

- 3 Requirements made of providers of Legal Education and Training at the academic stage for solicitors and barristers are set by the Joint Academic Stage Board (“JASB”), which is the regulator responsible for the validation of Qualifying Law Degrees, the Graduate Diploma in Law and the Common Professional Examination (JASB, 2012).
- 4 Under the Courts and Legal Services Act 1990 (as amended), the Law Society and the Bar Council were responsible for setting qualification regulations in respect of those seeking to qualify as solicitors or barristers (JASB Handbook, 2011, p. 6). In 2006 these regulatory functions were taken over by the Bar Standards Board and the Solicitors Regulation Authority, who drew up a formal agreement between them to define the status of the JASB.
- 5 The document detailing the conditions that must be met in relation to the provision of the undergraduate degree courses that are regarded as satisfying the academic stage of training, is the Joint Statement, which was first issued in 1999 by the Law Society and the General Council of the Bar. It includes a supplement covering the CPE/GDL and Senior Status degrees. Guidance notes on its interpretation supplement the Joint Statement. However, in the case of any contradiction or confusion the provisions of the Joint Statement prevail (JASB Handbook, 2011, p. 6). In September 2011 the JASB compiled a handbook which contains all of the rules and guidance that have evolved since the issuing of the Joint Statement, with the stated aim of providing a ‘common reference point’ (JASB Handbook 2011, p. 6) and to improve clarity and transparency regarding the existing rules.
- 6 Additionally, higher educational institutions must comply with the infrastructure and content requirements of the Quality Assurance Agency (QAA, 2007). Additional requirements may be made for institutions in Wales (as, for example, facilitating study in the Welsh language).
- 7 The provisions contained within the Joint Statement relate to a number of areas that are summarised below at Figure 1..

**Figure 1: Requirements of approved providers for the academic stage**

Statutory	Content			Duration of course	Achievement standards	Resources
	Academic	Knowledge	Skills			
The provider must have been granted degree awarding powers by the Privy Council, which are conferred either by Royal Charter (for Universities inaugurated prior to 1992) or the Further and Higher Education Act 1992 (for Universities founded after 1992)	<p>Course must include the study of legal subjects referred to in the professional bodies qualifying regulations as the Foundations of Legal Knowledge<sup>1</sup> (“Foundation Subjects”)</p> <p>Legal subjects: “the study of law broadly interpreted” (JASB Handbook, 2011: Appendix B, 2)</p> <p>CPE/GDL providers are expected to provide an equivalent to the Foundation Subjects within 1 year. There are strict restrictions on course of study, mode of study, and assessment procedures.</p>	<p>An understanding of the fundamental doctrines and principles which underpin the law of England and Wales</p> <p>A basic knowledge of the sources of that law, and how it is made and developed and of the institutions within which that law is administered and the personnel who practice law.</p> <p>The ability to demonstrate knowledge and understanding of a wide range of legal concepts, values, principles and rules of English law and to explain the relationship between</p>	<p>To apply knowledge to complex situations</p> <p>To recognise potential alternative conclusions for particular situations, and provide supporting reasons for them;</p> <p>To select key relevant issues for research and to formulate them with clarity;</p> <p>To use standard paper and electronic resources to provide up to date information.</p> <p>To make a personal and reasoned judgement based on</p>	<p>Legal subjects must be studied for the equivalent of not less than two years out of a three or four year course of study, i.e. a student must not gain less than 240 credits in the study of legal subjects in a 360 or 480 credit degree programme.</p> <p>Within those two years, a minimum of one year and a half should be spent studying the Foundation Subjects (180 credits) with the remaining 60 credits gained from studying “Legal Subjects”</p> <p>For senior status</p>	<p>Standards of achievement must be set at or above the minimum level of performance as set out in the QAA Benchmark Standards for Law Degrees in England, Wales and Northern Ireland.<sup>2</sup></p> <p>Transcripts should record all pass marks and also attempts at assessment.</p> <p>Disciplinary matters should be recorded similarly.</p>	<p>Sufficient appropriately qualified members of teaching staff to deliver the programme.</p> <p>Adequate library and information technology provision</p> <p>Sufficient physical accommodation to enable students to achieve the outcomes of recognised law programmes.</p> <p>Able to meet</p>

<sup>1</sup> i) Public Law, including Constitutional Law, Administrative Law and Human Rights, ii) Law of the European Union, iii) Criminal Law, iv) Obligations including Contract, Tort and Restitution, v) Property Law, vi) Equity and the Law of Trusts. In addition students are expected to receive training in legal research.

<sup>2</sup> Students wishing to read for the Bar must achieve at least a lower second-class honours degree.

		<p>them in a number of particular areas.</p> <p>The intellectual and practical skills needed to research and analyse the law from primary resources on specific matters and to apply the findings of such work to the solution of legal problems and the ability to communicate these, both orally and in writing appropriately to the needs of a variety of audiences.</p>	<p>an informed understanding of standard arguments in the area of law in question;</p> <p>To use the English language and legal terminology with care and accuracy;</p> <p>To conduct efficient searches of websites to locate relevant information; to exchange documents by email and manage information exchanges by email;</p> <p>To produce word-processed text and present it in an appropriate form.</p>	<p>degrees (undergraduate and graduate degrees taken by individuals who already have a degree in another subject) the number of credits falls to 220 credits from legal subjects and the satisfaction of knowledge requirements.</p> <p>Minimum duration for the CPE/GDL course is 36 weeks if studied full time and 72 weeks if studied part time.</p>		<p>the standards set out in the QAA code of practice with respect to Student Support in such areas as course information, careers advice, academic support, quality assurance and student complaints procedure.</p>
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## The 'vocational stage' for solicitors and barristers

### Solicitors: Legal Practice Course

- 8 The SRA is the body that regulates the providers of education and training for solicitors in England and Wales. Requirements for the Legal Practice Course (and the LPC element of any exempting degree which incorporates it) are set out in *Information for Providers of Legal Practice Courses* (SRA, 2012b).

### Barristers: Bar Professional Training Course

- 9 The Bar Standards Board prescribes requirements for providers of both the BPTC and pupillage. The *BPTC Course Specification and Requirements* provides a detailed specification of the curriculum content, delivery and assessment framework, including the relative weightings of various elements. This document contextualises requirements made of providers in terms of the aims, objectives and ethos of the Bar Professional Training Course (2011a, p.10) but is more prescriptive than the SRA equivalent.
- 10 The summary table below at Figure 2 compares the requirements made for the vocational stage for solicitors and barristers in England and Wales.

**Figure 2: Requirements of approved providers for LPC and BPTC**

Course	Content		Duration of course	Achievement standards	Resources
	Knowledge	Skills			
LPC	<p>Stage 1: Core practice areas of: Business Law and Practice, Property Law and Practice and Litigation plus Professional Conduct and Regulation, Taxation and Wills &amp; Administration of Estates</p> <p>Stage 2: three vocational electives</p>	<p>Stage 1: Practical Legal Research; Writing; Drafting; Interviewing and Advising; Advocacy</p>	<p>All assessments must be passed in a 5-year period. Stages 1 and 2 may be separated. Stage 1 represents 1100 notional learning hours and stage 2, 300. 60% of stage 1 must be spent on the core practice areas. There is a minimum face-to-face requirement.</p>	<p>As set out in the LPC Outcomes with some prescription as to modes and duration of assessments. Pass mark of 50% . Whilst students are expected to be able to reflect on their learning and identify their learning needs, this is not explicitly assessed.</p>	<p>A number of requirements on authorisation of a provider : its structure core business and governance, equality and diversity approaches, academic good practice. There are separate requirements for validation of individual courses by an authorised provider. Students may be co-taught with other programmes provided there is clarity for non-LPC students.</p>
BPTC	<p>Professional ethics and conduct</p> <p>Knowledge areas of civil litigation, evidence and remedies; criminal litigation, evidence and sentencing, Resolution of disputes out of court and professional ethics. Optional subjects.</p>	<p>Advocacy; Opinion Writing, Drafting, Conferencing;</p>	<p>120 credits over a minimum of one academic year. Detailed requirements for each element.</p>	<p>A series of standards, level descriptors and competences. Pass mark of 60%. Minimum assessment requirements and percentages of total course prescribed for each element.</p>	<p>A number of principles of accreditation including e.g. involvement of practitioners, staffing, pro-bono opportunities, library holdings, equality and diversity and academic good practice. Students must not be co-taught with those on other programmes. Tutors are required to pass an advocacy assessment.</p>

## Periods of 'supervised practice' for solicitors and barristers

### Solicitors: training contract

- 11 The Training Provider Regulations 2011 (2012a) that replaced The Solicitors Training Regulations 2009 (see also SRA, 2008) are organised according to outcomes. For the purposes of the regulation of training providers, the SRA consider that providers should educate to 'the required level and quality of training, and deliver that training effectively'.
- 12 Beneath this outcome heading, the SRA sets out a number of regulations that providers must abide by if they wish to train solicitors. The regulations detail the steps that prospective providers must take if they wish to be authorised to provide training. These consist of procedural-based standards (for example, details that must be provided by firms wanting to be authorised as training providers) together with substantive standards (for example, evincing a commitment to operating in accordance with chapter 2 of the SRA Code of Conduct) that must be met. They also specify the qualities required of any trainer in charge of trainees.

### Barristers: pupillage

- 13 Requirements for pupillage are set out in the BSB *Pupillage Handbook* (2012) and under the Bar Training Regulations 2011 (BSB, 2011b). Pupillage must be undertaken both in an Approved Training Organisation and under the supervision of a registered pupil supervisor. Detailed criteria are provided for both and there is specific training for pupil-supervisors.
- 14 Additionally the Inns of Court and regional circuits have a role in supporting pupils by, for example, providing compulsory in-pupillage courses, by providing other resources and activities and by monitoring the overall standard of pupillage. Formal assessment at various stages throughout pupillage is encouraged.
- 15 The summary table below at Figure 3 compares the requirements made for the periods of supervised practice for solicitors and barristers in England and Wales.

**Figure 3: Comparative requirements set for providers of training contracts and pupillage for solicitors and barristers in England and Wales**

	<b>Duration of Training specified?</b>	<b>Curriculum specified?</b>	<b>Mode of delivery of training specified?</b>	<b>Standards set in relation to supervisors of trainees/pupils?</b>	<b>Discretion to amend training period?</b>	<b>Required to submit to inspection?</b>	<b>Minimum standards for salary of trainee/pupil?</b>
Solicitors	Yes, 2 years of training contract	Yes, Trainees must be provided with opportunities for: i.) Practical experience in at least three distinct areas of English law <sup>3</sup> ii.) Development of skills in both contentious and non-contentious work iii.) Development of skills needed in practice (Practice Skills Standards <sup>4</sup> iv.) Guiding and tutoring in professional conduct, ethics and client care v.) Gradual increase in level and complexity of work. vi.) Proper supervision	No, firms able to exercise discretion providing curriculum requirements met and training contract record kept by trainee. Possible supervisor to trainee ratio of 1:2. Compulsory Professional Skills Course must be completed by the end of the training contract.	Yes, supervisors; <sup>5</sup> i.) Must be qualified solicitors (with a practising certificate for the last five years) , experienced legal executives or barristers ii.) Must ensure that the amount and type of work given to the trainee over the period adequately covers each skill within the Practice Skills Set. iii.) Must ensure that the work given is of an appropriate level and complexity for the trainee iv.) Must regularly review and appraise the performance of the trainee and include feedback on his or her performance against the Practice Skills Standards.	Yes, in recognition of trainee’s previous experience (limited APL available from LPC)	Yes, if SRA are not satisfied that appropriate standards are being met during training contract	Yes (statutory minimum wage)

<sup>3</sup> Compare, however, the republic of Ireland, where the training contract must encompass: conveyancing, landlord and tenant and litigation and two of wills, probate and administration/commercial, corporate, insolvency/other specialisations including criminal or family law

<sup>4</sup> Although note the passivity of what is stated.

<sup>5</sup> Requirements are also set for “training principals” with a higher-level responsibility than supervisors.

	<b>Duration of Training specified?</b>	<b>Curriculum specified?</b>	<b>Mode of delivery of training specified?</b>	<b>Standards set in relation to supervisors of trainees/pupils?</b>	<b>Discretion to amend training period?</b>	<b>Required to submit to inspection?</b>	<b>Minimum standards for salary of trainee/pupil?</b>
Barristers	Yes; 12 months of pupillage	Yes, Pupils must achieve a stated minimum level of competence, with specific reference to advocacy. Core: <ul style="list-style-type: none"> <li>• Conduct and etiquette</li> <li>• Advocacy</li> <li>• Conferences and Negotiations</li> <li>• Drafting, paperwork and Legal Research</li> </ul> Specialist work is likely to form a fifth element.	Yes, some compulsory in-pupillage courses and a pupil to supervisor ratio of 1:1. Checklists tracking experience and progress must be submitted.	Pupillage supervisors must be registered with the Bar Standards Board, hold a current practising certificate, have practised for six out of the last eight years, and have regularly practised as a barrister over the past two years and been entitled to exercise a right of audience before every court in England and Wales in relation to all proceedings. There is training for supervisors through the Inns of Court and circuits.	Yes, in recognition of previous experience	Yes BSB monitors pupillage and makes sample and triggered visits to ATOs.	Yes



## CILEx

- 16 The Lawyer, Paralegal and Legal Secretary qualifications of the Chartered Institute of Legal Executives are offered in approximately 72 colleges across England and Wales. Distance learning options are also available through the ILEX Tutorial College, Cardiff College Online and Worcester College of Technology, making CILEx qualifications (CILEX, n.d. a,b) some of the most flexible and accessible on offer. They have also been embedded in a number of degrees and there are fast-track entry routes for LLB and LPC graduates. Because the period of supervised practice and the period of study operate in parallel more than is the case for solicitors and barristers, we deal with both aspects together.
- 17 CILEx is the body responsible for accrediting those centres that offer its qualifications. CILEx has revised its centre accreditation process in order to comply with Ofqual's General Conditions of Recognition, which were launched in May 2011 (Ofqual, 2012). Under the new conditions all accredited centres will be required to sign and comply with terms that represent a written enforceable agreement. These conditions build on the previous CILEx quality assurance standards for centres to more clearly define the requirements that an accredited centre must meet. They include explicit reference to examinations, Professional Skills, malpractice, centre withdrawal and the CILEx sanctions policy. One of the key changes introduced by the new terms and conditions for centre accreditation is an increase in accreditation period for centres from three to five years. The conditions which must be satisfied by centres wishing to deliver CILEx qualifications (CILEx, 2012b) are set out at Figure 4 below.

Figure 4: Requirements made of accredited centres

Condition in relation to	Guidance
<b>(1) CILEx policies and procedures</b>	Ensure centre staff are familiar with and adhere to a number of CILEx policy documents and guidance
<b>(2) CILEx programmes of learning</b>	Ensure CILEx programmes follow the syllabus as detailed in the relevant CILEx Unit Specification, are adequately resourced and adhere to the following: <ul style="list-style-type: none"> <li>• Structured into delivery sessions that cover relevant topics and subject matter, incorporate time for lost lectures and revision and the assessment of students' progress.</li> <li>• Comply with assessment requirements in accordance with the CILEx qualification(s) requirements.</li> <li>• Are reviewed at least annually.</li> </ul>
<b>(3) Learner registration</b>	Ensure adequate assessments of students' existing skills, knowledge and understanding is made prior to registration on CILEx programmes.  Work towards the full implementation of all the requirements associated with qualifications accredited to the Qualifications and Credit Framework (QCF). This includes arrangements for the acquisition of Unique Learner Numbers (ULNs) for students, and the development of systems and processes necessary to ensure that students' QCF achievements and their associated credit are both tracked and maximized.
<b>(4) Learner information and support</b>	Provide students with accurate and up to date information and guidance, including a Learner Handbook or similar information pack, at the start of a CILEx programme  Ensure students are familiar with a number of CILEx policy and guidance documents

	Gain feedback from students regarding the centre's CILEx programmes through satisfaction questionnaires and student representative groups.
<b>(5) Centre staff</b>	<p>Retain a workforce of appropriate size and competence to undertake the management and delivery of the qualification.</p> <p>Ensure CILEx tutors hold a recognized qualification in law, such as CILEx Fellow/Graduate, or a law degree and have obtained or are working towards an accredited teaching qualification.</p> <p>Provide CILEx tutors with appropriate inductions and continuing professional development, including attending CILEx training events, to ensure that they can maintain their expertise and competence to deliver the CILEx qualifications.</p>
<b>(6) Centre resources</b>	<p>Have adequate systems and resources in place, including staff, sufficient managerial resources, finances, equipment, materials and software, to support the delivery of the CILEx qualifications.</p> <p>Ensure all equipment and accommodation used for the purpose of qualification delivery and assessment complies with the requirements of Health and Safety regulations and current Equalities Law and any successor legislation. Required resource facilities include:</p> <ul style="list-style-type: none"> <li>• Lecture room(s)</li> <li>• Private study room(s)</li> <li>• Learning resources and IT facilities are relevant and current</li> <li>• Refreshment facilities</li> <li>• Examinations venue (with appropriate provision for invigilation and security)</li> <li>• Facilities to protect the security and confidentiality of assessment materials and records, including examination question papers, examination scripts and Professional Skills assessments before, during and after the assessment has taken place.</li> </ul>
<b>(7) Sub-contractors/satellite sites</b>	<p>Have an appropriate and effective system for the management of all sub-contracted services and that all policies and requirements referred to within the CILEx Accredited Centre Handbook will apply to all satellites affiliated to the centre, for example, remote assessment sites or delivery points.</p> <p>Have appropriate arrangements and agreements in place with any third parties or suppliers who provide goods or services to the centre that contributes to the delivery and/or assessment of the qualification.</p>
<b>(8) Retention of records</b>	<p>Keep complete and accurate records for at least three years from the end of the year to which they relate, for all CILEx qualifications and make these available to CILEx upon request. These include (but are not limited to):</p> <ul style="list-style-type: none"> <li>• Learner attendance</li> <li>• Learner performance</li> <li>• Learner assessments and related feedback</li> <li>• Learner feedback</li> </ul> <p>Have appropriate measures to ensure students' personal data is held in accordance with current Data Protection legislation.</p>
<b>(9) Examinations</b>	<p>Encourage students to register for their examinations in line with CILEx procedures and the Key Deadlines and Dates as published by CILEx.</p> <p>Provide suitable facilities for CILEx students to sit all examinations for all units taught at the centre. This includes suitable accommodation, desks and chairs.</p> <p>Ensure that the delivery of CILEx examinations conforms to the following documents:</p> <ul style="list-style-type: none"> <li>• <i>CILEx Examination Regulations</i></li> <li>• <i>CILEx Instructions to Examination Centres and Invigilators.</i></li> </ul>

	<p>Maintain the security and integrity of CILEx examinations.</p> <p>Make arrangements to put in place (as far as is reasonably practicable) CILEx approved reasonable adjustments for students as detailed in <i>Guidance for Candidates: Reasonable Adjustment and Special Consideration</i>.</p> <p>Confirm examination venue details on an annual basis and inform CILEx immediately of any changes to examination venues.</p>
<b>(10) Professional Skills Units</b>	<p>Encourage students to register to have their Professional Skills assessments submitted in line with CILEx procedures and the <i>Key Deadlines and Dates</i> as published by CILEx.</p> <p>Tutors adhere to the requirements relating to the delivery, registration and submission of the Professional Skills units as detailed in:</p> <ul style="list-style-type: none"> <li>• Qualifications Handbooks</li> <li>• Professional Skills Units: Tutor Guidance and Candidate Materials</li> <li>• Professional Skills Unit Specifications</li> <li>• Professional Skills Regulations</li> </ul> <p>Ensure internal quality assurance (internal verification) procedures are in place which quality assure and standardize assessment decisions across the centre before work is dispatched to CILEx for external moderation.</p> <p>Conduct the assessments for the Professional Skills Units in accordance with the <i>CILEx Professional Skills Regulations</i>.</p> <p>Report any incidence of potential Professional Skills malpractice by students and/or centre staff immediately to CILEx.</p> <p>Maintain the security and integrity of the Professional Skills Units and materials in accordance with the <i>Professional Skills Units: Tutor Guidance and Candidate Materials</i>.</p> <p>Make arrangements to put in place (as far as is reasonably practicable) CILEx approved reasonable adjustments for Learners as detailed in <i>Guidance for Candidates: Reasonable Adjustment and Special Consideration</i>.</p>
<b>(11) Equality and diversity</b>	<p>Undertake the delivery of the qualification in accordance with current Equalities Law and CILEx's reasonable adjustment policy.</p> <p>Ensure that there are no unnecessary barriers in the access to learning and that the special needs of individual students are met in relation to learning and assessment</p>
<b>(12) Malpractice and maladministration</b>	<p>Have in place robust procedures for preventing and investigating incidents of malpractice or maladministration.</p> <p>Take all reasonable steps to prevent incidents of malpractice or maladministration occurring including implementing actions or measures directed by CILEx after completion of a malpractice or maladministration investigation.</p> <p>Promptly notify CILEx of any incidents of malpractice or maladministration in line with the requirements of CILEx's policy and procedures.</p> <p>Provide access to documents, records, data, staff, third parties, students, satellite centres or any other resources required by CILEx during an investigation of malpractice or maladministration.</p>
<b>(13) Regulatory and legal obligations</b>	<p>Take all reasonable steps to ensure that CILEx is able to comply with the General Conditions of Recognition.</p> <p>Comply with all relevant law, regulatory criteria and codes of practice as</p>

	<p>updated and amended from time to time, including the General Conditions of Recognition.</p> <p>Provide CILEx and the regulatory authorities, on reasonable notice, with access to premises, people, information, documentation and records as required, and to fully cooperate with CILEx's monitoring activities, including but not limited to providing access to any premises used (including satellite sites).</p>
<b>(14) CILEx monitoring activities</b>	<p>Assist CILEx in carrying out any reasonable monitoring activities as part of the centre's on-going CILEx Accredited Centre status and comply with CILEx's risk monitoring procedures as detailed in the <i>CILEx Accredited Centre Handbook</i> and sanctions as set out in the <i>CILEx Centre Withdrawal Policy</i>.</p> <p>Contact CILEx immediately in the event of any risks identified relating to the delivery of the centre's CILEx programmes of learning.</p>
<b>(15) Withdrawal of approval and interests of learners</b>	<p>Cooperate fully with CILEx in cases where either the centre or CILEx decides it needs to withdraw the centre from its role in delivering the qualification irrespective of whether the withdrawal is voluntary or not.</p> <p>Take all reasonable steps to protect the interests of students in any withdrawal of the centre (whether voluntary or not) from its role in delivering a CILEx qualification in line with the CILEx Centre Withdrawal Policy.</p>
<b>(16) CILEx centre accreditation fees</b>	<p>Make payment of all valid invoices presented by CILEx within the stated terms and conditions</p>

18 In order to achieve chartered status, students must complete, as 'supervised practice', 5 years qualifying employment (CILEx, n.d.,c), to be reduced from 2013 to 3 years IPS, n.d.a). This must be work of a legal, as distinct from an administrative nature. Three of the five years at present and two of the three years in future may be concurrent with study. Employment has recently been redefined as employment by:

- an authorised person in private practice;
- an organisation where the employment is subject to supervision by an authorised person employed in duties of a legal nature by that firm, corporation, undertaking, department or office

provided that involvement in work that is 'wholly of a legal nature' is undertaken for at least 20 hours each week.

From 2013, following consultation and a pilot (IPS, 2011), the period of qualifying employment will be assessed by reference to a series of work-based learning competencies, evidenced by portfolio (IPS, n.d.b)

## Other legal professions, allied and related professions

19 It is a feature of the smaller professions that, by definition, their size may mean that they deliver their own qualifications, or have them delivered by a single institution. In the latter case, accreditation of the institution may have been a question of individual negotiation, rather than against publicly available criteria. We set out in Figure 5 such criteria as appear to be available, for both formal courses and qualification and for periods of supervised practice, in tabular format.

Figure 5: Requirements made of accredited centres and for periods of supervised practice

	<b>Courses and qualifications</b>	<b>Periods of supervised practice required as a precursor to qualification<sup>6</sup></b>
Legal services apprenticeships (Skills for Justice, n.d.; CILEx and others, 2012)	Formal education and activity and supervised practice are blended in accordance with the relevant apprenticeship framework.	
Licensed conveyancers (CLC, n.d.)	Centralised assessments. CLC literature suggests that Bradford College, the Manchester College and the Manchester College of Higher Education and Media Technology are currently accredited to provide at least some of the CLC courses.	<p>“As well as completing the CLC examinations, students are also required to complete at least 1200 chargeable hours based on 25 supervised hours a week for 48 weeks, e.g.. one year, current practical training before obtaining their first licence. Students in qualifying employment are required, in order to comply with the CLC Student Training Framework, to send practical training certificates to the CLC every year from their date of registration and continue to do so until the completion of all the CLC assignments and examinations. “Practical Training” means full or part-time employment assisting in the provision of conveyancing services, supervised by “qualified person” i.e., a licensed conveyancer, a solicitor or a FILEX who in either case is entitled to offer Conveyancing services directly to the public. For each period of training the trainee will be required to submit a statement to the Council, signed by the supervisor giving an account of the training received. If the supervisor is not “qualified” as above, the statement must be countersigned by a “qualified” person. Only after all the examinations have been successfully completed or been exempted and practical training certificates have been submitted to the CLC can a first licence is applied for.”(CLC, n.d.)</p> <p>A practical training checklist sets out a number of tasks to be performed during the period.</p>
Costs lawyers (CLSB, 2013)	3-year modular programme delivered by (at present) ACL Training Ltd authorised by the CLSB. Other providers may be authorised. Modules cover General & civil costs; Solicitors and client costs, specialist courts and tribunals; Public funding/legal aid. Following completion of the modules (65% pass mark) there is a final examination.	“In addition to successfully passing the modular course and final examination 3 years relevant work experience in costs law and practice are required before a Trainee Costs Lawyer can apply to become a Costs Lawyer. The 3 years can be acquired before, during or after the period of study and need not be continuous. ACL/CLSB may audit alleged relevant experience to ensure it was achieved and was indeed relevant.”

<sup>6</sup> Clearly many of the programmes assume that the individual is working in the relevant area, even if this is not a formal contributor to the qualification itself.

	<b>Courses and qualifications</b>	<b>Periods of supervised practice required as a precursor to qualification<sup>7</sup></b>
Notaries (Master of the Faculties, 1998)	<p><b>“8. Practical Qualifications</b></p> <p>8.1 Any person wishing to be admitted as a general notary under rule 5 shall have followed and attained a satisfactory standard in a course or courses of studies covering all of the subjects listed in schedule 2.</p> <p>8.2 Whether a particular course of studies satisfies the requirements of these rules and whether a person has obtained a satisfactory standard in that course shall be determined by the Master after seeking the advice of the Board.</p> <p>8.3 The Master after seeking the advice of the Board may by order direct that the award of a particular qualification meets the requirements of these rules as to some or all of the subjects listed in schedule 2.</p> <p>8.4 The Master may as a condition of making a direction under rule 8.3 require the body by which the qualification is awarded to issue those pursuing a course of studies leading to that qualification with such information about the notarial profession, these rules and other rules made by the Master and the Company as the Master may specify.</p> <p>8.5 The Master may by Order add any subjects to the list in schedule 2 or remove any subjects from that list or alter any of the provisions of that schedule but before doing so he shall consult the Board.”</p> <p>The UCL Notarial Practice course is, currently, accredited for this purpose.</p>	<p>There is a post-qualification period of supervised practice normally of two years under the supervision of a notary with at least 5 years experience. Notaries carrying out probate or conveyancing may have supervision from solicitors or licensed conveyancers with experience in the fields. Supervision involves visits and inspection of work and mandatory course attendance. The supervision then indicates whether the notary is fit to practise (Master of the Faculties, 2009)</p> <p>Scrivener notaries are required to undertake 2 years training with a scrivener notary involving inspection of work and the possibility of final assessment by viva (Society of Scriveners of the City of London, 1998).</p>

<sup>7</sup> Clearly many of the programmes assume that the individual is working in the relevant area, even if this is not a formal contributor to the qualification itself.

	<b>Courses and qualifications</b>	<b>Periods of supervised practice required as a precursor to qualification<sup>8</sup></b>
Patent Attorneys	The European Qualifying Examination is “organised and conducted by a Supervisory Board, an Examination Board, Examination Committees and an Examination Secretariat” (EPO, n.d.) of the European Patent Office. There is no required preliminary training but courses are offered by CEIPI and EPI and reference is made to HEI and other pre-existing courses in European patent law. The assessment itself is closely prescribed by an EPO regulation (EPO, 2011).	<p>“Candidates must have trained under the supervision of a professional representative or as an employee dealing with patent matters in an industrial company established in one of the contracting states[ for at least 3 years].</p> <p>The mandatory practical training is very important, since a great deal of the knowledge required by a European patent attorney is gained during this period. During this period the candidates must take part in a wide range of activities pertaining to patent applications or patents.</p> <p>Only periods of professional activity completed after the required qualifications were obtained are taken into account. The training period must be completed at the date of the examination.” (EPO, n.d.)</p>
	Domestic qualifications at foundation and final level are organised and assessed by the Joint Examination Board of CIPA and ITMA. The universities of Bournemouth, Brunel, Queen Mary and Manchester are accredited examination agencies for foundation level activity in the relevant regulations. (IPReg, 2009, 2011)	<p>“...not less than two years’ full-time practice in the field of intellectual property, including substantial experience of patent attorney work, under the supervision of:</p> <ul style="list-style-type: none"> <li>• a registered patent attorney, or</li> <li>• a barrister, solicitor or advocate who is engaged in or has substantial experience of patent attorney work in the United Kingdom,</li> </ul> <p>or else has satisfactorily completed not less than four years’ full-time practice in the field of intellectual property, including substantial experience of patent attorney work in the United Kingdom” (IPReg, 2009). Evidence of this experience (eg in a training diary) may be required on application for registration.</p>
Patent administrators (CIPA, 2012)	CIPA Certificate in Patent Administration delivered and administered by professional body	N/A

<sup>8</sup> Clearly many of the programmes assume that the individual is working in the relevant area, even if this is not a formal contributor to the qualification itself.

	<b>Courses and qualifications</b>	<b>Periods of supervised practice required as a precursor to qualification<sup>9</sup></b>
Registered trade mark attorneys (new model) (IPReg, 2009, 2011)	The universities of Bournemouth, Brunel, Queen Mary, and Manchester are accredited examination agencies for foundation level activity in the relevant regulations. Nottingham Trent University is an examination agency at both foundation and final level. In practice, the diet of courses is through the Queen Mary Certificate in Trade Mark Law and Practice followed by the NTU Professional Certificate in Trade Mark Law and Practice.	<p>“...not less than two years’ full-time practice in the field of intellectual property, including substantial experience of trade mark attorney work, under the supervision of:</p> <ul style="list-style-type: none"> <li>• a registered trade mark attorney, or</li> <li>• a barrister, solicitor or advocate who is engaged in or has substantial experience of trade mark attorney work in the United Kingdom,</li> </ul> <p>or else has satisfactorily completed not less than four years’ full-time practice in the field of intellectual property, including substantial experience of trade mark attorney work in the United Kingdom” (IPReg, 2009). Evidence of this experience (e.g. in a training diary) may be required on application for registration.</p>
Trade mark administrators (ITMA, 2012)	ITMA Trade Mark Administrators Course delivered and administered by professional body	N/A
Immigration advisors (OISC, n.d.)	Assessments are administered by OISC.	OISC audits of immigration advisor practice subsequently include an assessment of competence.
Legal finance and management (ILFM, n.d.)	Diploma and associate courses delivered and administered by professional body	N/A
Legal se (ILSPA, n.d.)	CILEx level 2 and level 3 courses delivered in conjunction with City and Guilds and QCA accredited. ILSPA Legal Secretaries Diploma delivered and administered by professional body.	N/A
Institute of Professional Willwriters (IPW, n.d.)	Delivered and administered by professional body	The qualified practitioner route is based on assessment of four examples of practice occurring during the minimum 5 years previous practice period.
Society of Trust and Estate Practitioners (STEP, n.d.)	Delivered and administered by professional body	The qualified practitioner route requires relevant experience as a condition of entry and then spaces three papers over a 4-year practice period accompanied by a reflective log. Graduates of a STEP diploma may become full members after completion of 2 years experience “at a specialist level” in the relevant field. Evidence by CV is required on application.

<sup>9</sup> Clearly many of the programmes assume that the individual is working in the relevant area, even if this is not a formal contributor to the qualification itself.

	<b>Courses and qualifications</b>	<b>Periods of supervised practice required as a precursor to qualification<sup>10</sup></b>
Society of Will Writers and Estate Planning Practitioners (SWW, n.d.)	Delivered and administered by professional body through the College of Will-writing.	N/A
Institute of Paralegals (IoP, n.d.,a, b)	<p>“The questions we ask are (a) will it help paralegals? and (b) will we be happy to have our name associated with it? We will want to know basic information like what level it will be pitched at (introductory, certificate, undergraduate, etc.); duration, content, how assessed (if it is), who will be teaching it, how it will be delivered etc.”</p> <p>Six available levels of accreditation:</p> <ul style="list-style-type: none"> <li>• CPD recognition on a course by course basis</li> <li>• Non CPD recognition</li> <li>• Accreditation (where the IoP makes an award on successful completion)</li> <li>• Approved course status linked to fast track progression into certified paralegal status.</li> <li>• Mandatory course status conferring qualified paralegal status</li> <li>• Assistance with obtaining accreditation by a national awarding body.</li> </ul>	Higher membership grades are contingent on legal practice experience. This is defined in terms of activity rather than through regulatory requirements imposed on the employer: “By "legal work" we mean advising or assisting with the law. This can be done as part of paid employment (e.g. trades mark manager or debt recovery officer for a company), full-time or part-time, or as a significant element of a non-legal job (e.g. HR consultant), or on a voluntary basis (e.g. Citizens Advice Bureau volunteer).” (IoP, n.d., b)
National Association of Licensed Paralegals (NALP, 2011)	<p>Recognition of centres is through a number of criteria including:</p> <ul style="list-style-type: none"> <li>• Single point of contact for NALP</li> <li>• Staff roles for invigilators and examination officers</li> <li>• Resources and systems to support assessment</li> <li>• Recognition of APL</li> <li>• Fair and equal access to assessment</li> <li>• A number of maters of infrastructure relating to student records and ability to track progress.</li> </ul> <p>There is then a process of monitoring that includes visits.</p> <p>NALP Centres are currently NALP Training together with Anglia Ruskin University, Stratford College, the London College UCK, University of East London, University of Sunderland, University of West London, Leeds City College and Newcastle College.</p>	N/A

<sup>10</sup> Clearly many of the programmes assume that the individual is working in the relevant area, even if this is not a formal contributor to the qualification itself.

## Other jurisdictions

### Scotland

- 19 In 2010 the Law Society of Scotland published its accreditation guidelines for the Foundation Programme, which is the Scottish equivalent of the English Qualifying Law Degree (LSS, 2010). It is structured around a set of compulsory outcomes dealing with knowledge, skills, values and attitudes and is designed to link with the Professional Education and Training stage, which is divided into two parts, referred to as PEAT 1 (a programme of professional study and performance (LSS, 2009)) and PEAT 2 a 24 month period of in-office training carried out under the supervision of a Scottish Solicitor (LSS, 2010, p.6; LSS, n.d.). Successful completion of PEAT 1 is required before individuals can progress to the PEAT 2 stage.
- 20 The new programmes, introduced in 2011, place obligations on providers in relation to course content, staff qualifications, staffing levels and load, resources and mode of delivery (see Figure 6 below). Unlike the English system, the Scottish system goes beyond prescription of content to offer detailed guidance on modes of study. There are also objectives in place regarding the integration of technology-enhanced learning into broader learning practices, as well as provisions regarding diversity.

### Australia

- 21 There exists a considerable literature on the standards required of legal education and training providers in Australia, not least because of the division of the country into different jurisdictions (see, e.g. LCA, n.d.a, b, c) and an on-going project on reform of the legal professions (Attorney-General, 2011). The Australian Government is currently developing a new Higher Education Quality and Regulatory Framework that includes the establishment of the Tertiary Education Quality and Standards Agency (TEQSA). TEQSA, as regulator, is tasked with monitoring the quality of tertiary education against agreed standards currently under review by the Higher Education Standards Panel. The Learning and Teaching Academic Standards Law Project published a statement in 2010 (Kift et al, 2011) that begins to address some of the issues relating to the standards required of providers of legal education and training, and some aspects of the literature that are relevant to legal education are dealt with in chapter 8 of this review.

### United States of America

- 22 The American Bar Association sets the standards for approval of Law Schools in the USA. These are set out in the document *2012-2013 ABA Standards and Rules of Procedure for Approval of Law Schools* (ABA, 2012; see also ABA, n.d.). There are fifty-seven standards divided into eight thematic chapters. In contrast to the Scottish system, which is outcome-oriented, the ABA sets out rule-based standards and offers alternative interpretations of these, interpretations that are, in themselves quite narrowly prescriptive. Figure 7 below is intended to illustrate the nature and extent of requirements made of providers of legal education in the USA.

Figure 6: Requirements for Scottish Providers of legal education

	<b>Curriculum</b>	<b>Resources</b>	<b>Trainers</b>	<b>Research Activity</b>	<b>Diversity</b>
Foundation Programme (LSS, 2010)	Core and Mandatory outcomes for learning.	Providers assessed on the quality of learning materials they provide, including ICT and library materials.  Students should also be given access to careers advice.	Standards set with regard to level of qualification of teaching staff. Maximum ratio of 30:1 staff to student; but dependent on mode of study.  Evidence of staff development programmes including in pedagogical techniques and student support.	Providers offering the degree should be research active, and able to demonstrate this.	Teaching accommodation should be made accessible.  Institutions should be able to provide information on their policies to improve diversity within the student body; and evidence that demonstrates pervasive tuition of issues relating to diversity across the curriculum.
PEAT 1 (LSS, 2009)	Core and Mandatory outcomes for learning are set; courses must provide a balance between these and elective subjects.	Must follow guidelines for good practice in relation to e learning, open learning and distance learning.  Assessed on quality of accommodation, library and ICT facilities.	Tuition must take place primarily in small group tutorials, practical and simulated learning.	-	-
PEAT 2 (LSS, n.d.)	Core and Mandatory outcomes are set. Specialist "Training CPD" learning must take place in addition to office commitments with a view to such learning assisting the achievement of PEAT2 outcomes.	Requirements to offer additional training that allows trainees the opportunity to gain practical experience and apply the law in real life situations.	The trainer must be a solicitor and be willing to provide informal feedback and supervision in addition to supervision of the trainee's Quarterly Performance Reviews.	-	-

Figure 7: ABA standards (2012-2013) for approval of law schools, requirements by thematic area

<b>Organisation and Administration</b>	<b>Program of Legal Education</b>	<b>The Faculty</b>	<b>Admissions and Student Services</b>	<b>Library and Information Resources</b>	<b>Facilities</b>
Resources for program	Objectives	Qualifications	Admissions policy	General Provision	General Requirements
Self Study	Curriculum	Size of Full-Time Faculty	Educational Requirements	Administration	Law Library
Strategic Planning and Assessment	Academic Standards and Achievement	Instructional Role of Faculty	Admission Test	Director of the Law Library	Research and Study Space
Governing Board of an Independent Law School	Course of Study and Academic Calendar	Responsibilities of Full Time Faculty	Character and Fitness	Personnel	Technological Capacities
Governing Board and Law School Authority	Study Outside the Classroom	Professional Environment	Previously Disqualified Applicant	Services	
Dean	Distance Education		Applicants from Law Schools not Approved by the ABA	Collection	
Allocation of Authority between Dean and Faculty	Participation in Studies or Activities in a Foreign Country		Applicants from Foreign Law Schools		
Involvement of Alumni, Students and Others	Degree Programs in Addition to JD		Enrolment of Non-Degree Candidates		
Non-University Affiliated Law Schools			Consumer Information		
Law School-University Relationship			Student Loan Programs		
Non-discrimination and Equality of Opportunity			Student Support Services		
Equal Opportunity and Diversity			Student complaints implicating compliance with the Standards		
Reasonable Accommodation for Qualified Individuals with Disabilities					

## Other Professions

### Medicine

23 The General Medical Council is in charge of setting requirements for undergraduate medical education in the UK. It is in charge of deciding which bodies or combinations

of bodies are entitled to award primary medical qualifications. *Tomorrow's Doctors* (2009) maps the outcomes and standards for undergraduate medical education, and is supplemented by the *GMC Medical Education Strategy, 2011-2013* (GMC, 2011; see also GMC, n.d.).

- 24 The approach taken is one of outcome assessment, with graduates being expected to meet outcomes as a scholar and scientist, as a practitioner and as a professional. The GMC sets standards for the delivery of teaching, learning and assessment across nine domains:
- i) Patient Safety
  - ii) Quality assurance, review and evaluation
  - iii) Equality, diversity and opportunity
  - iv) Student selection
  - v) Design and delivery of the curriculum, including assessment
  - vi) Support and development of students, teachers and the local faculty
  - vii) Management of teaching, learning and assessment
  - viii) Educational resources and capacity
  - ix) Outcomes
- 25 Under each domain there are listed:
- outcomes that doctors are required to meet
  - standards that must be upheld by medical schools in assessing these outcomes
  - criteria that the medical school must meet in helping students to achieve these standards
  - evidence that the medical school must provide in order to demonstrate that they meet their obligations.

Linking outcomes, standards, and requirements in this manner is an effective way of relating the requirements made of providers of medical education to quality assurance within the profession. Further discussion of the literature relating to medical education is included in chapter 8 of this review.

### Accountancy

- 26 Unlike Medicine and the Law, the accounting profession does not have a single domestic regulator for those entities who provide professional education. Whilst the Financial Reporting Council is the overall regulator for accounting and auditing standards, its remit does not currently extend to regulating providers of education and training. The International Accounting Education Standards Board, however, provides minimum standards and learning outcomes at international level for organisations which are members of IFAC (IFAC, n.d.) and audit is super-regulated by the Professional Oversight Board of the Financial Reporting Council (FRC, n.d.).
- 27 Some of the representative bodies for accountants in the UK are summarised at Figure 8 below. These were previously coordinated through the Consultative Committee of Accountancy Bodies (CCAB). The CCAB acted as an umbrella organisation with a role as a “forum in which matters affecting the profession as a whole can be discussed and co-ordinated” (Stokdyk, 2011). With each of the representative bodies as members the CCAB held considerable prestige as the umbrella organisation for those with chartered status, however, in 2011 CIMA,

chose to withdraw from CCAB citing the organisation's focus on audit at the expense of accountancy as a reason for doing so (Stokdyk, 2011).

Figure 8: Representative bodies and mode of education

<b>Representative Body</b>	<b>For</b>	<b>Mode of education</b>
Association of Accounting Technicians (AAT, n.d.)	Accounting Technicians (member or fellow)	Professional examinations at levels 2, 3 and 4 assessed online and studied flexibly.
Association of Chartered Certified Accountants (regulated under the LSA) (ACCA, n.d.)	Certified Chartered Accountants	Training for the Certified Accountancy Qualification is provided through employers
Association of International Accountants (ACIA, 2012)	International accountants	A range of certificates and diplomas (levels 5- 7) studied flexibly, plus 3 years qualifying employment.
Association Of Taxation Technicians (ATT, n.d.)	Taxation technicians	Professional examinations, study may be through an accredited college.
Chartered Institute Of Internal Auditors (CIIA, n.d.)	Chartered Internal Auditors	Study accredited by the Open University together with qualifying employment.
Chartered Institute of Management Accountants (CIMA, 2010)	Chartered Management Accountants	Through a number of providers via an employer.
Chartered Institute of Public Finance and Accountancy (CIPFA, n.d.)	Chartered Public Finance Accountants	Training through employers
Chartered Institute Of Taxation (CIT, n.d.)	Chartered Tax Advisers	Professional examinations, study may be through an accredited college.
Institute of Chartered Accountants in England and Wales (ICAEW, n.d.)	Chartered Accountants	Professional examination provided through employers
Institute of Chartered Accountants of Scotland (regulated under the LSA; ICAS, n.d.))	Chartered Accountants in Scotland	Through a number of providers via an employer
Institute and Faculty of Actuaries (The Actuarial Profession, n.d.)	Actuaries	Professional examinations supported through employers together with work-based learning assessment (3 years)

- 28 Unlike law and medicine, accountancy does not seem to be moving toward developing a single domestic regulator model for the setting and maintaining of requirements for education providers. This may be as a result of the internal divisions within the profession over the separate status of accountants from auditors, or because of the existence of an international standards-setter.

### Continuing professional development

- 29 As we set out in Chapter 5, not all legal professions accredit providers of CPD activity. Where a largely output focussed, personal approach is taken to CPD,

granting a higher status to a particular kind of activity may be contrary to the ethos of the scheme as a whole. Whilst accreditation may allow for quality control, evidence of participation and evidence of learning having taken place, it need not do so and learning may be verified and evidenced by other means. The BSB has rejected accreditation on the pragmatic ground that it is impossible to quality-assure the vast range of activities on offer; whilst the SRA maintains a requirement of a minimum 25% participation in accredited activities and detailed criteria for accreditation. For completeness, however, the table below sets out the position for the regulated legal professions.

Figure 9: Accreditation of CPD providers

Profession	Accreditation of providers?
Barristers (BSB, 2011c, d, e, f, 2013)	No (in proposed new scheme)
CILEx (2013)	Yes (current scheme). In-house providers automatically accredited. The new scheme from 2014 will not involve accreditation of providers.
Costs Lawyers (CLSB, 2013)	Yes, power to approve.
Licensed conveyancers (CLC, 2011b)	Yes
Notaries (Master of the Faculties, 2010)	Yes. Approval requires <ul style="list-style-type: none"> <li>• Written learning objectives</li> <li>• Assessment to evaluate achievement of objectives</li> </ul>
Patent attorneys and registered trade mark attorneys (IPReg, 2013)	Power to specify “the amount, nature, content and format of courses and other activities which may be undertaken”. There are additional requirements (IPReg, 2012, sched 1) to course providers of litigation and advocacy courses.
Solicitors (SRA, 2010a, b)	Separate approval criteria for in-house and external providers (SRA, 2010) which require details of: <ul style="list-style-type: none"> <li>• Aims and learning outcomes</li> <li>• Content</li> <li>• Presentation</li> <li>• Materials</li> <li>• Speakers</li> <li>• Venue and accommodation</li> <li>• Administration</li> <li>• Assessment (where relevant)</li> <li>• Evaluation</li> </ul> <p>Separate arrangements are made for, for example, PSC, Management Stage 1 and higher rights courses.</p>

## Themes arising from material assimilated

### The rise of the single regulator and outcomes focussed regulation of providers

30 One theme that emerges from an analysis of requirements made of education providers across jurisdictions and disciplines is the move towards a single regulator with responsibility for the setting and maintaining of these requirements. The compilation of the JASB Handbook and approach taken to reform of legal education in Scotland seem emblematic of this approach. Furthermore, the predominance of “outcomes focussed” requirements setting as a model for regulating providers of education is apparent, reflecting wider trends in regulation as a whole.

## Technology

- 31 All of the requirements of educators listed above now include regulations relating to adequate provision of technology as a learning resource. This perhaps reflects wider trends in higher education regarding future models of delivery, and is encouraging for proponents of web-based educational platforms. This also arguably augers well for those concerned with widening access to legal education, for technologies such as the internet can, given good educational design and infrastructure, improve the ability of providers to deliver courses facilitate distance learning.

## Periods of supervised practice.

- 32 One of the widest areas of difference between professions is in the regulation of experience in the workplace as a precursor to qualification (although much the same could be said for treatment of learning in the workplace by way of CPD). For some professions, such experience is a precursor to entry, or entry at a particular grade and may be largely self-certified. For others, it is a requirement, but with limited constraint – witness the willingness of some legal professions to accredit experience under the supervision of a member of another legal profession. For a third group, the period of supervised practice is highly formalised and constrained to a limited range of environments.

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