

## **Family Law Legal Domain**

The paralegal should be able to progress the various stages of a simple undefended case from taking instructions through to obtaining decree. In defended actions the paralegal should be able to assist the principal solicitor in progressing actions through their various stages to a proof, including gathering information, preparing motions, and paperwork for child welfare hearings.

Specifically, the paralegal should be competent to:

- Draft simple Separation agreements following a meeting between client, solicitor and paralegal
- Prepare List of Assets and Liabilities
- Prepare initial Writs for solicitors to revise and sign off
- Complete simplified divorce forms for signature and draft simple undefended divorce actions
- Prepare inventories, schedule of matrimonial property, affidavits, service of documents (all for revisal by the solicitor)
- Interview distressed clients
- Take precognitions/statements from clients and/or witnesses
- Advise clients about the legal grounds, and general procedures, for divorce
- Arrange practical issues in relation to contact
- Arrange mechanisms regarding payment of aliment, spousal aliment and periodical allowance

## KNOWLEDGE

*By the end of the one year period as a 'Trainee Registered Paralegal', a paralegal eligible to qualify for Registered Paralegal status in relation to Family Law should be able to:*

- demonstrate knowledge, understanding familiarity and awareness of the relevant law and procedure/s relevant to the particular Legal Domain for the work he/she is undertaking on behalf of the Supervising Solicitor
- apply his/her knowledge and understanding of the law and procedure/s to a particular matter effectively, and carry out procedures appropriately and efficiently so as to meet the needs of the (i) Supervising Solicitor, and ultimately (ii) the client's needs, objectives and priorities, based on a clear understanding of the client's instructions.

Demonstrate knowledge and understanding of:

- the different procedures for divorce
- the rights and obligations of the client as either pursuer or defender
- the steps involved in simplified divorces and undefended divorces including grounds for divorce and awareness of parental rights and responsibilities.
- divorce paperwork
- civil partnerships
- drafting productions, affidavits and inventories
- the procedures for Child Welfare Hearings
- drafting initial writs
- understands how Family law interacts with other areas of law and practice and knows when to refer matters (e.g. Wills, Trust and Executries; Domestic Conveyancing; and tax)

Demonstrate knowledge of and familiarity with:

- The Divorce (Scotland) Act 1976
- The Matrimonial Homes (Family Protection) (Scotland) Act 1981
- Family Law (Scotland) Act 1985
- The Children (Scotland) Act 1995
- The Family Law (Scotland) Act 2006
- The Civil Partnership (Scotland) Act 2007
- Money Laundering Regulations 2007
- Sheriff Court Practice Rules
- Ordinary Cause Rules

Demonstrate understanding of:

- the court rules in relation to procedures, deadlines and timescales for specific actions
- the timing of cohabite claims
- motions in an undefended claim

Demonstrate an awareness of:

- knowledge of alternative methods of dispute resolution (e.g. mediation, arbitration, collaborative law etc)
- Legal Aid procedures and requirements including the procedure for emergency legal aid in competent actions
- Parental rights and responsibilities
- Code of Conduct for Civil and Family Law Solicitors

### SKILLS

*By the end of the one year period as a 'Trainee Registered Paralegal', a paralegal eligible to qualify for Registered Paralegal status in relation to Family Law should be able to:*

<b>Technical skills</b>	<b>Accuracy, literacy and numeracy</b>	<ul style="list-style-type: none"> <li>• an understanding of the importance of correct detail and the consequences/risks of carelessness.</li> <li>• attention to detail in his/her work.</li> <li>• that he/she is able to produce accurate work in terms of spelling, presentation and layout, as well as content.</li> <li>• that he/she is able to deal with figures and carry out computations accurately and proficiently, as required.</li> <li>• undertake CSA Calculations</li> <li>• understand RPI and inflation</li> </ul>
	<b>Information Technology</b>	<ul style="list-style-type: none"> <li>• that he/she is able to use available technology effectively and efficiently</li> <li>• that he/she is able to use computers and word processors appropriately for carrying out and producing his/her work</li> <li>• that he/she is able to use case management systems and maintain electronic files, where</li> </ul>

		<p>appropriate</p> <ul style="list-style-type: none"> <li>• where necessary, that he/she is able to use the Scottish Legal Aid Board on-line system</li> </ul>
	<b>Office equipment</b>	<ul style="list-style-type: none"> <li>• that he/she is able to use office equipment such as voicemail, photocopier, fax competently and effectively.</li> <li>• that he/she is able to use the telephone effectively to communicate with clients and others, and to carry out legal business on the telephone efficiently.</li> </ul>
	<b>Office systems and procedures</b>	<ul style="list-style-type: none"> <li>• that he/she is able to use office business systems and resources appropriately and effectively, whether paper-based or computerised, including employing organisation's forms and precedents.</li> <li>• compliance with office procedures, including time recording.</li> <li>• compliance with all quality standards, and other policies and processes of employer organisation.</li> </ul>
<b>Organisational Skills:</b>	<b>Personal management</b>	<ul style="list-style-type: none"> <li>• an understanding of the importance of time-limits and of the risks of breaching time-limits.</li> <li>• that he/she is able to exercise effective judgement in respect of realistic timescales for completion of tasks and delivery of objectives, and manage his/her own time effectively.</li> <li>• that he/she is able to manage his/her personal workload, including managing a number of concurrent matters effectively so as to meet all objectives, priorities and deadlines in each matter.</li> <li>• that he/she is able to use paper-based and/or electronic diaries and electronic task management systems to plan time and work effectively.</li> <li>• that he/she only accepts work which he/she feels competent to undertake.</li> <li>• that he/she is clear as to the work and responsibilities delegated to him/her by the Supervising Solicitor, and understands the limits in relation to that role</li> <li>• that he/she recognises the requirement to keep his/her Supervising Solicitor fully informed on a regular basis, the Supervising Solicitor having a responsibility to supervise matters, and that he/she does so.</li> <li>• that he/she recognises that it is paramount to raise concerns/issues relating to completion of tasks and meeting of deadlines with his/her Supervising Solicitor at the earliest opportunity, and that he/she does so.</li> <li>• that he/she recognises when it is necessary to seek support and/or advice from his/her</li> </ul>

		<p>Supervising Solicitor, when it is necessary or required to refer an issue in its entirety to the Supervising Solicitor, and that he/she does so.</p> <ul style="list-style-type: none"> <li>• that he/she recognises where a transaction is non-standard or includes non standard elements, and refers this to his/her supervising solicitor</li> <li>• that he/she passes on messages promptly and undertakes communications/ action arising from telephone calls, meetings or client interviews.</li> </ul>
	<b>File management</b>	<ul style="list-style-type: none"> <li>• good file management practices in terms of: <ul style="list-style-type: none"> <li>- opening new files</li> <li>- filing documents and correspondence as appropriate</li> <li>- keeping filing up to date</li> <li>- taking and filing accurate notes of telephone calls and meetings</li> <li>- closing file when completed or instructed to close file</li> </ul> </li> <li>• that he/she is able to lodge documents or applications in the correct form, at the correct place and at the correct time</li> </ul>
<b>Communication Skills</b>	<b>Generally</b>	<ul style="list-style-type: none"> <li>• that he/she is able to communicate effectively with those with whom he/she needs to work, particularly the Supervising Solicitor, and with clients, the other side, relevant bodies and authorities, as appropriate, including: <ul style="list-style-type: none"> <li>- identifying different communication options and selecting the communication form which is appropriate to the particular situation and/or client.</li> <li>- producing communications which meet client or Supervising Solicitor instructions, and which are fit for purpose.</li> </ul> </li> <li>• confidence and assurance in his/her dealings with people, whether in person or over the telephone.</li> <li>• That he/she is able to: <ul style="list-style-type: none"> <li>- Instruct Counsel if and when appropriate</li> <li>- Instruct expert witnesses if and when appropriate</li> <li>- Communicate with children</li> </ul> </li> </ul>

	<p><b>Face to face communication</b></p>	<ul style="list-style-type: none"> <li>• that he/she is able to communicate effectively in face-to-face situations, can listen and check understanding.</li> <li>• that he/she is able to communicate effectively by telephone, including: <ul style="list-style-type: none"> <li>- using appropriate telephone answering and handling techniques</li> <li>- using a good telephone manner which is efficient and polite</li> <li>- being able to establish the content and nature of telephone calls from the caller, whether or not a client</li> </ul> </li> </ul>
	<p><b>Written communication</b></p>	<ul style="list-style-type: none"> <li>• that he/she is able to communicate effectively in writing: <ul style="list-style-type: none"> <li>- using clear language, correct spelling and appropriate grammar, syntax and punctuation</li> <li>- demonstrating attention to detail</li> <li>- adopting a style appropriate to the recipient</li> </ul> </li> </ul>
	<p><b>Electronic communication</b></p>	<ul style="list-style-type: none"> <li>• that he/she is able to use electronic communications effectively and appropriately, including: <ul style="list-style-type: none"> <li>- understanding and using proper business and professional etiquette within an electronic environment</li> <li>- understanding the difference between letters and e-mails and when the latter are appropriate</li> <li>- properly managing e-communications to avoid risk, including archiving e-mails safely and accurately.</li> </ul> </li> </ul>
<p><b>Inter-personal Skills</b></p>		<ul style="list-style-type: none"> <li>• that he/she is able to develop and maintain effective working relationships with clients, colleagues (in particular the Supervising Solicitor) and others to achieve goals and to identify and resolve problems.</li> <li>• that he/she is able to work effectively as part of a team including: <ul style="list-style-type: none"> <li>- working co-operatively and willingly with others in own and other's teams</li> <li>- communicating effectively with those with whom the paralegal needs to work</li> <li>- knowing when to ask for support from, or to offer support to, other team members</li> <li>- knowing when to refer issues or ask for guidance from Supervising Solicitor</li> </ul> </li> <li>• that he/she understands the importance of not becoming emotionally involved with Family Law cases.</li> </ul>

<p><b>Practice Skills</b></p>	<p><b>Research</b></p>	<ul style="list-style-type: none"> <li>• that he/she knows where to look for and find information required to carry out his/her work.</li> <li>• that he/she is able to use key primary (eg Acts, Regulations etc) and secondary (eg key text and reference books) sources</li> <li>• that he/she is able to: <ul style="list-style-type: none"> <li>- research a locality (e.g. local schools, nurseries, and other such amenities)</li> </ul> </li> </ul>
	<p><b>Interviewing</b></p>	<ul style="list-style-type: none"> <li>• that he/she is able to conduct a client-centred interview effectively, including: <ul style="list-style-type: none"> <li>- preparing for the interview appropriately</li> <li>- listening and eliciting required legal, personal and factual information, and full instructions from client</li> <li>- recording all relevant factual, legal, procedural and evidential matters arising in relation to the client's matter in a file note for future reference</li> </ul> </li> <li>• that he/she is able to: <ul style="list-style-type: none"> <li>- interview children if appropriate</li> <li>- deal with distressed or angry people</li> </ul> </li> <li>• that he/she has good listening skills and can identify when a client is not forthcoming with all necessary information.</li> </ul>
	<p><b>Writing and drafting</b></p>	<ul style="list-style-type: none"> <li>• that he/she is able to write letters or reports appropriate for the recipient or audience and which achieve their purpose, including: <ul style="list-style-type: none"> <li>- communicating clearly, concisely and unambiguously and appropriately with clients, solicitors, non-solicitors and others</li> <li>- tailoring style of communication to suit the purpose of the communication and the needs of different clients and other recipients</li> <li>- producing communications which meet client or Supervising Solicitor instructions following internal protocols, conventions and using required styles and/or precedents.</li> </ul> </li> <li>• that he/she is able to draft documents which are: <ul style="list-style-type: none"> <li>- well-organised</li> </ul> </li> </ul>

- valid in terms of content and form
- use correct legal terminology
- address relevant legal and factual issues accurately
- ensuring documents are validly executed and registered in relevant registers, where necessary
- that he/she is able to use precedent documents and styles by:
  - identifying the appropriate precedent document or style required
  - adapting the precedent document or style to the particular context
  - understanding when non-standard variations may be needed and referring to Supervising Solicitor.
- that he/she is able to complete prescribed forms accurately
- that he/she is able to produce or prepare other required documentation which is:
  - accurate
  - well-organised
  - appropriate.
- that he/she is able to write and draft:
  - Court Forms
  - Writs
  - F Forms (F26, F15, F23, F20)
  - Prepare and lodge Inventory of Productions
  - Motions and Oppositions thereto
  - Taking Precognitions/Statements from clients and witnesses in support of court action
- that he/she is able to use pre-designed styles
- that he/she is aware of
  - the importance of tone in writing particularly in relation to an unrepresented spouse.

<p><b>(if required for the specific Legal Domain)</b></p>	<p><b>Negotiation</b></p>	<ul style="list-style-type: none"> <li>• that he/she is able to take part in a negotiation effectively, including: <ul style="list-style-type: none"> <li>- preparing appropriately for the negotiation</li> <li>- negotiating</li> <li>- within the agreed instruction and remit</li> <li>- negotiating according to the practice and conventions of Family Law cases</li> </ul> </li> </ul>
<p><b>(if required for the specific Legal Domain)</b></p>	<p><b>Advocacy</b></p>	<ul style="list-style-type: none"> <li>• that he/she is able to advocate a case on behalf of a client effectively in accordance with relevant rules and procedure, in cases where a Registered Paralegal has jurisdiction and authority to appear, or where preparing on behalf of the Supervising Solicitor where the Supervising Solicitor will appear, including: <ul style="list-style-type: none"> <li>- preparing appropriately for the submission</li> <li>- using legal authorities, relevant facts and documentation in preparation for, and during, a submission</li> <li>- using effective speaking skills</li> <li>- demonstrating an understanding of the relevant rules, ethics and conventions governing advocacy</li> </ul> </li> </ul>

## VALUES AND ATTITUDES

*By the end of the one year period as a 'Trainee Registered Paralegal', a paralegal eligible to qualify for Registered Paralegal status in relation to Family Law should be able to:*

<p><b>Legal and ethical values</b></p>		<ul style="list-style-type: none"> <li>• understands and complies with the Standards, and refers to the Standards of Conduct and Service for Scottish Solicitors</li> <li>• adheres to rules issued by the Society in respect of completion of ten hours of Registered Paralegal CPD per annum by way of qualifying activities recognised for solicitors' CPD.</li> </ul>
<p><b>Attitude/s</b></p>		<ul style="list-style-type: none"> <li>• understands that responsibility for legal work undertaken rests with the Supervising Solicitor, including in relation to execution and signing of documentation</li> <li>• only accepts work which they feel competent to undertake.</li> <li>• is clear as to the work and responsibilities delegated to them by the Supervising Solicitor, and understands the limits in relation to that role.</li> <li>• recognises the requirement to keep his/her Supervising Solicitor fully informed on a regular basis, the Supervising Solicitor having a responsibility to supervise matters, and does so.</li> <li>• recognises it is paramount to raise concerns/issues relating to completion of tasks and meeting of deadlines with his/her Supervising Solicitor at the earliest opportunity, and does so.</li> <li>• recognises when it is necessary to seek support and/or advice from Supervising Solicitor when required or refers an issue in its entirety to the Supervising Solicitor, and does so.</li> <li>• recognises where a transaction is non-standard or includes non standard elements and refers to Supervising Solicitor.</li> <li>• updates Supervising Solicitor, client, court or others as appropriate, by conveying the appropriate information to the appropriate person.</li> <li>• engages with continuing professional and personal development, including:             <ul style="list-style-type: none"> <li>- being aware of the importance to self-assess, reflect and develop personally and professionally</li> </ul> </li> </ul>

		<ul style="list-style-type: none"> <li>- assessing/identifying where development is required</li> <li>- evaluating strengths and weaknesses of own skills and knowledge, and working with Supervising Solicitor to set learning targets</li> </ul>
<b>Focus</b>	<b>Professional</b>	<ul style="list-style-type: none"> <li>• understands and adheres to good practice in carrying out the work he/she is instructed to do.</li> </ul>
	<b>Client</b>	<ul style="list-style-type: none"> <li>• works in a client-centred way and manages client service well, including: <ul style="list-style-type: none"> <li>- being aware of the differences in acting for different types of client</li> <li>- communicating effectively with clients, following the terms of engagement that have been agreed with the client keeps client informed of progress on a regular basis</li> <li>- informs Supervising Solicitor of any client complaint immediately that it arises</li> <li>- regularly updating Supervising Solicitor on work being done for clients</li> </ul> </li> <li>• manages client expectations</li> <li>• is able to advise the client on the legal consequences of the client's instructions</li> <li>• that he/she is understands: <ul style="list-style-type: none"> <li>- that many matters in Family Law will be highly emotional and, therefore, realises the importance of not being judgmental.</li> <li>- that such matters require sympathetic treatment</li> </ul> </li> <li>• that he/she is aware of: <ul style="list-style-type: none"> <li>- jurisdictional differences and the impact such differences may have on matters</li> <li>- tax issues that arise from Family Law matters</li> </ul> </li> <li>• that he/she is able to: <ul style="list-style-type: none"> <li>- explain to the client the likely cost of defending or pursuing a court action is worthwhile balanced against the likely benefits of exercising such remedy.</li> </ul> </li> </ul>

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