

# 'REGISTERED PARALEGALS'



*Summary paper: Creating a new professional status for Paralegals in Scotland*

## A. INTRODUCTION

1. **The Law Society of Scotland intends to work in partnership with the Scottish Paralegal Association (SPA) to establish a 'Law Society of Scotland Registered Paralegal' status.**
2. **This is a summary** of the main discussion paper issued by the Law Society of Scotland to prompt discussion with key stakeholders, solicitors, paralegals, and clients. **The Society would be grateful for your views, and those of your colleagues.**
3. The main document (available on our website) has detailed questions on which we are requesting feedback. However, the fastest way to share your views and assist us in shaping this policy is by using the online '**rapid response**' form, which should take about five minutes to complete: <http://www.lawscot.org.uk/paralegals>
4. **REPONSES SHOULD BE SUBMITTED NO LATER THAN 12:00 NOON ON FRIDAY 18<sup>th</sup> July 2008.**

## B. BACKGROUND

5. **THE SCOTTISH PARALEGAL ASSOCIATION (SPA)**  
The Scottish Paralegal Association was formed in 1993 and recognised by The Law Society of Scotland as the professional body representing Paralegals in Scotland in 1997. It is managed by an elected Committee of eight Paralegals who in turn elect their Office Bearers from among their number. The SPA has campaigned for several years for regulation of Paralegals.
6. **WHAT IS A PARALEGAL?**  
There is currently no fixed definition of a 'paralegal' in either Scotland or England and Wales. Those using the title do not require any particular qualifications, experience or to be registered with any professional or regulatory body. This causes a variety of challenges for the legal profession and for clients, which are covered more fully in the main document.
7. **WHAT QUALIFICATIONS DO THEY HOLD?**  
As already indicated, there is no required qualification, but, many paralegals have formally taught and assessed qualifications. The main provider of specific paralegal courses within Scotland has traditionally been Strathclyde University/Central Law Training (CLT). Other providers include Rewards Training, who work in association with Glasgow Caledonian University, colleges providing an HNC or HND (Higher National Certificate / Diploma) in Legal Studies, and universities providing law degrees (with some paralegals holding LL.B. degrees that are accredited by the Society, and others holding law degrees which are not

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currently part of the route to qualifying as a solicitor, for example, a BA in Law and Management). The Society is currently working with the Scottish Qualifications Authority (SQA), who are establishing a range of new paralegals qualifications within a national framework.

### **C. WHY INTRODUCE A 'REGISTERED PARALEGAL' STATUS?**

8. There are various key issues that have been considered by the Society as it developed its proposals in this area. These included the Society's own strategy, the view of the SPA and others on the need for 'registration' or 'accreditation of some sort, developments around Alternative Business Structures and the creation of a new Scottish Legal Complaints Commission, and various issues in relation to training and education in law more generally. More details on these, and other, issues can be found in the main document.
9. The Society's primary responsibility is to promote the interests of the public and of the profession. The scheme brings a numbers of benefits to solicitors, paralegals and clients:
  - Certainty as to the level of skills possessed by the paralegals
  - Reassurance that staff/paralegals have the level of skill required by the professional bodies
  - Clear outcomes for those wishing to train paralegals in-house/education providers
  - Reassurance that the Society is taking responsibility in this field
  - Competitive advantage
  - Cost-effectiveness
  - Tackling perceptions
  - The opportunity for employers, paralegals and clients to assist the development of a nationally accredited qualifications (by the SQA).
10. The Society considered various alternatives prior to finalising its draft policy in this field, but identified the proposed scheme as the most appropriate way forward. Again, further details are available in the main paper.

### **D. WHAT IS BEING PROPOSED BY THE SOCIETY?**

11. It is proposed that the Law Society of Scotland and the Scottish Paralegal Association will agree a 'memorandum of understanding'. This document will outline the roles and responsibilities of the Society, the SPA, and a new Standing Committee (see below).
12. It is proposed that a Standing Committee be established to oversee the scheme and its operations. This Committee would comprise 12 members, including Society and SPA representatives as well as 'public interest' members.

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13. This Committee shall appoint 'Panels' of three members, as and when required, to deal initially with individual entrance or disciplinary decisions.
14. Those meeting the entrance criteria (discussed below) would be eligible for entry as a '*Law Society of Scotland Registered Paralegal*'. Becoming 'Registered' would be voluntary, but only those registering would be entitled to use the title and receive the benefits of membership of the new professional status (including access to the Society's services).
15. Those wishing to achieve this status would also be required to annually commit to compliance with a Code of Conduct (covering personal and business standards), a CPD requirement and, the requirement to notify the Standing Committee with any material changes to circumstances
16. A fee will be charged. It is currently envisaged this will be around £100 per annum for fully registered members, with this fee split between the Society and the SPA in recognition that this is a joint scheme.
17. In examining the arrangement made by other similar professional associations and paralegal bodies within other jurisdictions it is proposed that more than one 'grade' of membership be offered. It is suggested that by the date of the launch of the Scheme that two grades be defined ('trainee' and 'registered paralegal'), with further grades to be considered in the future.
18. Those on the 'Register' will be licensed to the use title 'Law Society of Scotland Registered Paralegal' (and the appropriate grade: paralegal trainee, member, or senior paralegal, etc.) after their names, including on notepaper, websites, and promotional material.

## **E. ENTRANCE ARRANGEMENTS?**

19. All applications, apart from the two exceptions noted directly below, will be dealt with in the same consistent manner set out in paras 22 to 36.
20. **Exception 1:** In 'appropriate circumstances' a 'Panel' of Standing Committee members will have the authority to admit to the Register anyone it considers to have met a directly equivalent standard, but who does not, for some reason, meet the exact requirements set out.
21. **Exception 2: Transition arrangements**, to operate for the first year of the scheme for existing members of the Scottish Paralegal Association and certain other registered professionals. These are discussed later in a separate section (starting para. 37).

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22. **For all others:** A draft '**generic knowledge and skills framework**' (applicable to all paralegals) has been agreed. **These generic skills will need to be demonstrated in a particular area of law.** Drafts have currently been completed for several 'legal areas' including civil litigation, criminal litigation, wills and executives, conveyancing, debt recovery and licensing – the most common areas of practice. More will be developed after the initial launch, in association with interested parties.
23. The drafts were developed from a desk based assessment of current UK statements of competence for paralegals / legal executives, and of other articulations of competence within the legal sector. This was then followed by informal consultation with key stakeholders including current providers, employers, and paralegals.
24. **ENTRANCE CRITERIA – FUTURE APPLICANTS**  
All applicants must demonstrate:
- That they hold a **formally recognised and assessed qualification**
  - That they have **an appropriate amount of in-office experience**
25. A **formally recognised and assessed qualification** will be one awarded by:
- a Scottish University or College; or,
  - a University or College in another jurisdiction which has similar requirements in relation to teaching, quality assurance and assessment as a Scottish University or College; or,
  - a training organisation which has similar requirements in relation to teaching, quality assurance and assessment as a Scottish University or College.
26. Those who have a recognised qualification, have a job supervised by a Scottish solicitor, and are carrying out appropriate work to allow them to meet the competence requirements will be granted 'Trainee Registered Paralegal' status.
27. **ENTRANCE CRITERIA – IN-OFFICE EXPERIENCE**  
Throughout our discussion with stakeholders it has been the consistent view that, because the work is highly practical, a vital part of qualifying as a 'Registered Paralegal' must be a period of in-office experience, under the supervision of a Scottish solicitor holding a current Practising Certificate from the Law Society of Scotland.
28. **It is proposed that a period practice equivalent to one year's supervised practice should be required prior to registration as a full member** (for example, two years of working two and a half days per week).

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29. Those wishing to become ‘Registered Paralegals’ will be required to register as a *paralegal trainee*, and will then be authorised to use the title ‘Registered Paralegal – Trainee’.
30. During the training period it is likely that the *paralegal* will be required to maintain a simple log (or portfolio) or their work, mapping experience (from their qualification and from their in-office work) against the ‘competency map’. The solicitor will meet quarterly with the paralegals, assess progress, and sign this off.
31. The Society is still exploring whether some form of external assessment is required at this stage, although noting that the ‘route’ to qualification does require formal external assessment as all paralegals registering will require a formal qualification.
32. ***It should be noted that, where a paralegal has significant levels of in-office experience prior to registering with the scheme, this will be taken into account (where it can be confirmed by an employing solicitor), and a ‘traineeship’ phase may well not need to be served.*** However, the approach above sets up an appropriate system for those wishing to work towards qualifying as a paralegal.
33. **ENTRANCE CRITERIA – CHARACTER AND SUITABILITY**  
Many professional associations and regulatory bodies also perform ‘character and suitability’ or ‘fit and proper’ tests on applicants. These may range from requiring ‘Enhanced’ (teaching) or ‘Standard’ (solicitors) ‘Disclosures’, or by other means such as self-declaration and reference checks.
34. The following approach is proposed for paralegals:
  - A self-declaration of criminal convictions, bankruptcy, or discipline by another regulator
  - A process, overseen by a ‘Panel’ if there is an issue
  - A duty to report any change in circumstance
  - The possibility of a structured character reference being requested for new applicants.
35. The Society believes it may be necessary to revisit this issue, for new members, as the scheme develops and if it becomes more formalised.
36. **TRANSITION ARRANGEMENTS**  
In establishing a new scheme such as this, it is often necessary to identify a cohort of individuals who already meet the standards. These people can be ‘transferred’ from existing arrangements into a new scheme to assist with its establishment and development.
37. The detail paper sets out arrangements that would allow members of the SPA, who meet certain criteria consistent with the required entrance standard, to transfer directly in. This may also be possible for other groups, and the Society of Specialist Paralegals has already

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noted interest. Any group wishing to be considered under transition arrangements would need to provide evidence to the Standing Committee that members meet the same, or substantially similar, standards as those set out below.

38. It is proposed that all existing members of the Scottish Paralegal Association who meet the following criteria be automatically eligible for entry into the ‘Registered Status’:
- That they hold a **formally recognised and assessed qualification**
  - That they have **more than two years work experience**
  - That they have been **registered** with the Scottish Paralegal Association (or similar profession association), at Grade 1 of the SPA grades scale (or equivalent, signed off by their employer), for a period of two years or more at the date of application.
  - That they have **not been subject of any complaints** to the SPA for breaching the SPA Code of Conduct AND **have met the CPD requirements** in each year they have been registered (or equivalent).
39. Other SPA members and non-members will, of course, be eligible for entry to the scheme, but will have to follow the full application process alongside other applicants.
40. **COMPLAINTS IN RELATION TO CONDUCT**
- It is anticipated that very few complaints against paralegals will be received. If a client is dissatisfied with the service they have received, then they will be directed to make their complaint firstly to the employing firm and, if a satisfactory outcome is not achieved, to the new Scottish Legal Complaints Commission. This is because currently work carried out by a paralegal is still the responsibility of the employing solicitor.
41. Complaints may be received from an employing firm, if they have had to discipline a paralegal and believe they should no longer be on the register, or from a third party. The main document sets out how such complaints would be managed, with ‘panels’ of the Standing Committee dealing with initial complaints and the full Standing Committee dealing with appeals.

## 42. **CONTACT INFORMATION**

Please send your responses, or direct any questions, to:

- **Neil Alan Stevenson – Head of Strategic Change**
- [registeredparalegals@lawscot.org.uk](mailto:registeredparalegals@lawscot.org.uk), T. 0131 476 8360, Minicom 0131 476 8359

Any parties interested in registering interest themselves, or for their staff, as members of any future scheme can register (by any of the above means) to be contacted as further information becomes available.

If your enquiry is about the Scottish Paralegal Association, you may wish to contact their President:

- **Christine Lambie**
- [Christine.Lambie@wgrant.com](mailto:Christine.Lambie@wgrant.com), <http://www.scottish-paralegal.org.uk>