

# **ILEX PROFESSIONAL STANDARDS LTD**

## **Analysis of and responses to Work Based Learning Consultation Responses**

**November 2011**

### **Introduction**

1. The purpose of this report is to analyse the responses received to the second consultation, issued by ILEX Professional Standards, in relation to the proposed introduction of the Work Based Learning (WBL) scheme for Fellowship qualification and to provide the IPS responses to the issues arising from this consultation.
2. The consultation was issued in August and closed on 4 November 2011.
3. 22 consultation responses were received from a number of sources and these include responses from the Law Society, the Solicitors Regulation Authority, the Criminal Bar Association and CILEx members.
4. In addition, meetings were attended with both the Law Society and the Solicitors Regulation Authority. Notes made at these meetings have been incorporated below.
5. The remainder of this report will consider the responses to each of the 6 questions upon which the consultation sought views and will provide the IPS response to the issues raised.

### **Question 1: provide your comments on the new definition of 'work of a legal nature'**

6. The first consultation on WBL suggested that the definition of work of a legal nature should be refined and as a result IPS amended the definition to:

'Work of a legal nature is where you undertake an activity for a client or service user that involves the application of the law or legal practice or procedure in areas such as:

- Taking instructions
- Advising and making recommendations
- Drafting documents, agreements and other legal instruments
- Undertaking legal research
- Corresponding with the parties to an action or transaction
- Making decisions in a legal matter based on legal principles or rule of law

- Representing in negotiations and submissions'
7. In order for an applicant to qualify as a Fellow using the above definition the current rules indicate that they should be 'wholly or principally' in work of a legal nature as defined above.
  8. The majority of respondents agreed that the definition of work of a legal nature was both fair and captured the work undertaken by a Fellow. Some stressed the need to ensure all possible pathways to solicitor qualification are sufficiently robust and to ensure that only those with acceptable levels of competence should be admitted for Fellowship.
  9. A general comment was made that the work of Notaries should be added to the list.
  10. One respondent believed that the definition lacked the flexibility to recognise those in non traditional roles and that there should be discretion to admit those not in a fee earning role – others disagreed, believing the definition had become sufficiently wide to ensure non traditional roles could be recognised for Fellowship.
  11. Another respondent believed that the definition set the bar too high for new trainees and may not be able to be satisfied under new process roles which may become the norm under the new ABS structure.
  12. In relation to the 'wholly or principally' element of the definition, a consultation response was received which needs further consideration.
  13. The consultation response highlights the potential disparity in the use of the term 'wholly or principally'. Situations could arise which are discriminatory to individuals in certain types of employment, so that where one employed in a part time position carrying out 20 hours work each week which qualifies under the above definition could qualify as a Fellow. Likewise, another person who has a similar position, but works for a separate firm for another 20 hours per week would qualify, yet a third person who works full time, of which 20 hours are spent in work of a legal nature, would not qualify. This would subject one in a mixed role to discrimination in the application of the rules.
  14. CILEx had commented on the use of the terms 'work' and 'duties' within the consultation documents and definition of work of a legal nature.

### **IPS Response**

15. Whilst there was not a substantive difference between 'work' and 'duties' it was agreed that the documentation and the definition should only use one of those terms to avoid confusion. It agreed that the term 'work' would be used.

16. One respondent believed the proposed definition set the bar too high for new trainees and qualifying employment may not be achievable in process driven roles that may become more common place with the introduction of Alternative Business Structures (ABS). IPS agrees that new trainees or those working in process driven roles were unlikely to be undertaking an appropriate degree of legal work and therefore would not meet the qualifying employment criteria. It agreed that the definition should not be amended in light of this response.
17. One respondent believed the words 'wholly or principally' should be removed from the definition. That would avoid discriminating against members who undertake the same number of hours of legal work as a member working part-time but are not eligible for Fellowship as the number of hours does not equate to 50% of their total working hours.
18. Setting a minimum number of hours was considered a more suitable approach. It was agreed that a minimum number of hours was necessary to ensure standards were maintained and consistency of approach. The existing bye laws contained provisions whereby members working part time, between 20 and 30 hours per week, could be required to undertake a further year of qualifying employment. Under current bye laws, members working for less than 20 hours per week were unlikely to succeed but the Committee did have a discretion to accept that work.
19. IPS agreed it was appropriate to require members to complete a minimum of 20 hours per week. Those 20 hours should be 'wholly of a legal nature'. It further agreed that members should be required to confirm how many hours per week they are engaged in work that is wholly of a legal nature when registering at the beginning of their qualifying employment period.

## **Question 2: Provide your comments on the WBL outcomes**

20. The outcomes developed by IPS are based on those activities considered essential for Fellowship and cover all areas of legal practice.
21. They have been divided into 8 key areas and have been designed to develop a common threshold of skills and behaviour which can be assessed in an objective and robust way.
22. Assessment of skills now includes business awareness and a review of the skills relating to communication was undertaken in response to the first consultation. In addition, the number of outcomes was reduced to make them concise but comprehensive and they are considered suitable to capture the development which must take place during the period of qualifying employment in order to demonstrate Fellowship level skills.

23. Generally speaking the responses to the revised and reduced learning outcomes were positive.
24. Consideration should be given to whether the learning outcome 2.2 should be split and the requirement for demonstrating sensitivity to diversity, vulnerability and disadvantage issues be made a separate outcome.
25. Concerns were expressed that some employers would not sign off the form to delay promotion and that the completion of the logbook/portfolio was too onerous given the recession.
26. There is a suggestion that the outcomes should be targeted more specifically to practice areas.
27. The Law Society has advised that the SRA were concerned that the outcomes do not reflect those of a Day One solicitor and that the SRA are currently in the process of mapping the outcomes against those of the Day One Solicitor to determine whether they are close enough to retain the training contract exemption. It is not clear whether this mapping will be shared.
28. Another response suggested that a further reduction in the number of outcomes would be helpful and that re-articulation against the NOS or similar would be useful. Suggestions are made for particular work to be considered against:
  - 1.4 'undertaking legal research' which should include some notion that they research undertaken was relevant and up to date
  - 2.6 'represent through use of skills' – to clearly indicate whether this is skilful representation or representation through a defined list of skills. Another response also thought this outcome was very similar to 2.5 'adequately represent the interests of client/service user'.
  - 3.5 'manage a client's/service user's expectations' the addition of 'take all reasonable steps to...' may assist as some clients will never be satisfied. There is a suggestion that the outcomes in part 3 are reordered to make more sense in terms of the order in which events take place in the office.
  - 7.1 and 7.2 appear under a heading which includes 'development' but there is no requirement to develop or even retain a static level of competence – the introduction of minimum competence levels should be considered as appropriate for a regulator.

29. Another response from the consultation indicated that any development of minimum standards may assist in dealing with any future complaints/appeals in relation to the process because it will provide a clear set of criteria against which appeals can be determined. It also added that the setting of these minimum standards is critical as this indicates whether the performance level is intended to be equivalent to, higher or lower than other competence frameworks such as the SRA's Day One solicitor outcomes, NOS re legal advice and the Institute of Paralegals competence framework.
30. It was suggested that reference to service level agreements would be beneficial as would the need to be able to negotiate, resolve disputes and manage meetings.
31. The use of the term 'listening skills' can prejudice deaf people and given that much interaction with the client takes place via email this may be better stated as 'interaction skills'.
32. Concern has been expressed that the introduction of the WBL scheme may result in the loss of the training contract exemption. This matter is considered at the end of this document.
33. Another respondent feels that the introduction of the WBL scheme is an unnecessary change and without foundation. Concern was expressed that despite the introduction of skills modules within the qualification, these are being reassessed for Fellowship. As part of a recognition to retain and develop skills.
34. One respondent believed that following the introduction of the Quality Assurance for Advocacy Scheme, there was the potential for CILEx Advocates to qualify without experience evidenced in the Work Based Learning outcomes, and thus fall foul of the QASA scheme.
35. CILEx had questioned whether the business awareness outcomes 5.1 and 5.2 were necessary. It was suggested that the second part of the guidance to outcome 5.1 did not add anything and that outcome 5.2 could be incorporated into the 'client relations' section of the outcomes.
36. CILEx had commented that outcome 2.1 would be clarified by the removal of the words 'legal issues.' Outcome 2.2 could then be amended to incorporate legal issues.
37. CILEx had commented that the use of the word 'adequately' in the guidance notes to outcomes 2.5 and 2.6 was not clear.

## **IPS Response**

38. IPS had previously discussed whether outcome 6 should be amended to include a requirement for members to demonstrate sensitivity to diversity, vulnerability and disadvantage issues rather than this appearing in the guidance notes to outcome 2.2. It agreed that this would not be necessary if equality and diversity issues were to be linked to the proposed day one outcomes.
39. It was agreed that the guidance notes to outcome 1.4 be amended to include a requirement that the research undertaken was relevant and up to date.
40. It was noted that other respondents had responded positively to the addition of outcomes 5.1 and 5.2. It agreed that outcome 5.1 would remain as drafted and that outcome 5.2 could appear in both the business awareness section and the client relations section, although they would need to be expressed differently in each section.
41. IPS noted that the words 'legal issues' had been added to outcome 2.1 as the result of the responses received to the first consultation. It discussed the comments received and agreed that outcome 2.1 related to the means of communication, for example, whether a letter or a meeting was appropriate, whereas outcome 2.2 related to the appropriateness of the style of language used by the member. It agreed that outcomes 2.1 and 2.2 should not be amended.
42. It was noted that CILEx had commented that the use of the word 'adequately' in the guidance notes to outcomes 2.5 and 2.6 was not clear. IPS agreed that 'adequately' should be replaced with 'appropriately.'
43. One respondent to the consultation believed outcomes 2.5 and 2.6 were very similar and could be combined. IPS agreed that the outcomes be combined.
44. One respondent felt the words 'take all reasonable steps to...' should be added to outcome 3.5 as some clients may never be satisfied with the service they received. It was discussed whether this was necessary as the need for a member to do all they reasonably can was embedded in the outcomes. It agreed that the wording should be added to the guidance notes to outcome 3.5 but the outcome itself should not be amended.
45. One respondent believed the outcomes in the client relations section should be reordered to reflect the order in which tasks are generally undertaken in practice. Whilst this was not considered critical and that the outcomes could be met in any order, it agreed the outcomes be reordered as follows:

Outcome 3.3  
Outcome 3.1  
Outcome 3.4  
Outcome 3.2  
Outcome 3.5

46. It was noted that one respondent felt outcomes 7.1 and 7.2 should be amended to include a requirement to demonstrate development as suggested in the heading of section 7. References to development had previously been removed from the outcomes as that may prevent some members attaining Fellowship. It noted that the purpose of the outcomes was to demonstrate appropriate planning skills by identifying gaps in knowledge and addressing them. Whilst adding the words 'take active steps' to the outcomes to indicate a need to be proactive, it agreed that outcomes 7.1 and 7.2 should remain as drafted.
47. One respondent felt the outcomes should include reference to service level agreements, negotiation, resolving disputes and managing meetings. Consideration was given as to whether the inclusion of such references would prevent some members from attaining Fellowship. It was agreed that the references could be added to the guidance notes to more than one outcome but that it was for members to indicate which outcome was met by the use of those skills.
48. One respondent commented that the use of the words 'listening techniques' in the guidance notes to outcome 2.4 may discriminate against the deaf. It was suggested that the expression 'interaction skills' be used instead. It was considered whether 'listening' encompassed lip reading and sign language. It was concluded that such methods were different forms of listening but nevertheless were 'listening techniques'. It was agreed that the guidance notes to outcome 2.4 remain as drafted.
49. IPS considered whether the layout of the outcomes had led to some confusion as to what was an outcome and what was guidance. It suggested that the layout of the outcomes be amended to avoid such confusion and suggested that the guidance notes could appear below the outcome in italics or the word 'guidance' could appear as a watermark beneath the guidance notes.
50. IPS noted that one respondent felt the work based learning scheme was without foundation and unnecessary. IPS considered that the proposed scheme was necessary to ensure the maintenance of standards and to provide a more robust mechanism for recording and assessing achievement of qualifying employment.

51. IPS noted that one respondent had failed to appreciate the process by which Legal Executive Advocates qualify. It was assumed that all Fellows were Legal Executive Advocates. IPS provided feedback to the respondent to clarify the application process. It considered that this was necessary to ensure that other professional bodies and the public were aware that in order to gain additional rights Fellows must follow a robust process. This was particularly important in light of the forthcoming Quality Assurance Scheme for Advocates (QASA) and CILEx's practice rights applications.

### **Question 3: Provide your views on the explanatory notes to the outcomes**

52. These were generally well received.
53. It was suggested that examples should be provided from non traditional roles, to ensure the widest range of possible applicants could benefit.
54. Concern was expressed that the need to evidence legal research when a skills qualification already exists to cover this skill elsewhere was unnecessary and may undermine the perceived value of the qualification. The point was also made that legal research was increasingly being outsourced.
55. Concern was also expressed that some of the outcomes may be difficult to evidence from case files.
56. It was suggested that more may be required in the explanatory notes to ensure that they match the outcome and that the performance suggested is envisaged by the outcome, the following are examples of where this may be appropriate:
  - a. In 2.1 there should be 'communication of legal issues using appropriate methods' however the explanation only requires identification (rather than use) of the most appropriate method.
  - b. Planning to address areas for improvement is not the same as evaluation of professional skills and knowledge and 'acting appropriately' is not the same as understanding the limits of professional skills and knowledge.
  - c. Additionally in some areas further clarification may be required so that 'limitations of law' (8.2) should be defined and in 6.1 'identify... the CILEx Code of Conduct' should require more than ensure the individual can recognise the leaflet as the Code of Conduct.

### **IPS Response**

57. IPS noted that one respondent suggested examples be provided for non-traditional roles to ensure the widest possible range of applicants could benefit. It was agreed that examples should be provided in the form of example log books. IPS noted that some real life examples may become available from the pilot scheme and confirmed that consent would be required if examples were to be used.
58. IPS noted that one respondent expressed concern that some outcomes may be difficult to evidence. It was agreed that evidence other than evidence taken from case files could be used, for example personal statements or third party statements where appropriate. Examples of alternative evidence should be provided in the example log books.
59. IPS noted that one respondent had expressed concern that there was a need to evidence legal research at outcome 1.4. It was felt that this undermined the research element of the CILEx academic qualification. The respondent also indicated that much legal research was outsourced. IPS decided that there was a need to retain outcome 1.4, as legal research is an on-going skill. It also noted that even where legal research was outsourced there would be a requirement to identify when research was necessary and evaluate the results of the research undertaken. Furthermore, research took many forms such as referring to legislation or liaising with colleagues.
60. IPS noted that one respondent felt the guidance notes should more accurately reflect the outcomes. Having considered the examples provided IPS did not consider it necessary to amend the guidance notes.

### **Question 4: Provide comments on IPS' proposal that members must complete a total of 3 years qualifying employment within which they meet the outcomes in a 2 year period, which includes at least one year after Graduate membership.**

61. Again the change was well received, however some respondents had reservations, these are listed below.
62. A suggestion was made that only evidencing competencies 3 times may not be sufficient to prove one competent and as such the requirement should be 'sufficient evidence' to prove competence.
63. 1 year in post graduate membership may be insufficient to evidence the outcomes.
64. There is no mention of the arrangements for a career break

65. There is no mention of how the requirements sit for part time applicants.
66. Sitting an examination should be an alternative route to Fellowship.
67. The waiver abolition is unfair to some applicants who have been working in the legal profession for many years – there should be a process to allow for backdated applications.
68. Concern is expressed regarding the potential loss of the training contract exemption and that a switch to WBL may reduce the value of Fellowship.
69. There was some expression that 5 years was better than the 3 years suggested.
70. There is no recognition under WBL of the skills modules introduced into the CILEx qualification.
71. It was also suggested that some system should be introduced to ensure that the skills recognition and evidence through the outcomes is a sustained effort and cannot deteriorate or be achieved through isolated incidences of competence.
72. Where there is a change in supervision there is the potential for different evaluations of the same skill, it was asked whether it was possible for a new supervisor to revisit outcomes already signed off and whether there is a process to prevent this.

### **IPS Response**

73. IPS noted that one respondent felt meeting the outcomes on three occasions may not be sufficient to evidence competence. IPS noted that part of the process is to require the member's employer to sign off the log book. It is reasonable to rely on the employer sign off as in most cases the employer would be a legally qualified person and IPS then relies on the employer corroboration and certification of the applicant having met the outcomes through work carried out for the employer.
74. IPS noted that one respondent did not feel one year in the Graduate membership grade was sufficient to evidence achievement of the outcomes. It was noted that whilst members may be able to evidence achievement of the outcomes within their final year of qualifying employment, others may take longer. It was also noted that members would be able to begin evidencing the outcomes up to one year before attaining Graduate membership status. Therefore IPS determined that one year was sufficient.
75. IPS noted that one respondent commented on the lack of reference to career breaks within the consultation documents. There had been

previous agreement that a career break of up to one year for any reason would not break a member's continuity of employment and that this should be included in the rules.

76. One respondent commented on the lack of reference to part time employment within the consultation documents. Changes to the scheme have been made to better accommodate part-time applicants.
77. One respondent felt examinations should be offered as an alternative route to Fellowship. IPS considered that the CILEx qualification should retain elements of both academic study and practical experience and an academic qualification is not a substitute for practical skills.
78. IPS noted that several respondents had commented that the abolition of waivers to the requirement to complete a set number of years in the Graduate membership grade was unfair and removed flexibility from the scheme. IPS considered that it was necessary to remove the availability of waivers to ensure the maintenance of standards. It was further agreed that it was not excessive to ask members to complete one year in the Graduate membership grade.
79. One respondent felt it would be more appropriate to retain the requirement to complete five years' qualifying employment. IPS considered that three years was sufficient when taken in conjunction with achievement of the outcomes compared to the existing process.
80. One respondent commented on the lack of recognition of the skills modules within the CILEx qualification. IPS considered that this was not necessary because the skills modules formed part of the academic programme rather than the practical element of the CILEx qualification. The WBL process tests the practical application of the skills during the academic phase of the qualification process.
81. One respondent felt the scheme should ensure the outcomes could not be met through isolated incidents. IPS considered that this was suitably safeguarded against by the requirement that employers sign off the log book and the fact that IPS asks for the applicant's employment history to help assess their continuity of practice which is necessary to develop their skills.
82. One respondent commented on the potential difficulties members would face if changing employment whilst meeting the outcomes. It agreed that when members changed employment during the outcomes period they would be required to submit their signed log book. This would be a compulsory requirement and would also assist in tracking the member's progress.

### **Question 5: Provide comments on IPS redeveloped logbook, outcomes checklist and employer sign off form**

83. In order to record achievement of the outcomes a log book and diary system has been developed. This is to allow for recording of meeting the outcomes and reflection for further development. In addition an evidence portfolio will be compiled and kept by the applicant; this may be requested for sampling by IPS. A summary of outcomes achieved is also to be kept by the applicant and will be submitted with the log book.
84. In addition, the employer must sign off the log, checking the documentary evidence in support at the end of the qualifying employment period. The employer is encouraged to reflect on the outcomes and put in place a work plan and supervision arrangements to facilitate progress towards the outcomes.
85. There are a number of concerns which have been expressed in relation to the completion of the log book and maintenance of supporting portfolio.
86. There is some concern that employers will not co-operate with completion of the forms or may delay the process as they do not want the applicant to progress.
87. The scheme may be more complicated where the applicant has changed jobs through the qualifying period.
88. The fact that credit cannot be received for historical fee earning work is unfair and the completion of the forms appears to be time consuming.
89. The lack of control over the quality of training given by the employer is a problem. Whilst it is suggested that this may be addressed through sampling, concern was expressed that the sample size may be too small and that there may be issues around providing sufficient evidence when balanced against the need to maintain client confidentiality.
90. Concern was expressed that the person signing off the form should be legally qualified to safeguard the public and maintain confidence in Fellows. It was stated that the staff conducting the sampling should be sufficiently qualified and experienced
91. How the costs of maintenance of sufficient quality assurance in the scheme were to be met was questioned.
92. It was suggested that the log book should contain additional columns which referenced the achievement of the outcome to evidence within the portfolio and a space for stating how the identified area for improvement would be rectified

93. A comment was made that sometimes observation by the supervisor alone is insufficient to evidence the outcomes and other methods of assessment may be required in some situations.
94. One commentator described the documentation as 'arbitrary and unhelpful'.

### **IPS Response**

95. One respondent expressed concern that employers may delay the process because they do not want the applicant to progress. It noted however that other respondents had expressed concern that employers may be too lenient in signing off the logbooks. IPS decided to monitor employer engagement during the pilot scheme by the use of questionnaires for both the applicant and the employer.
96. One respondent felt credit should be available for historical legal work and that completion of the forms seemed time consuming. IPS believes that historical legal work should not be taken into account as that would result in the availability of a waiver to the requirements of the scheme. In addition, the nature of the documents necessitates contemporaneous entries.
97. One respondent considered sampling to provide an insufficient control over the quality of training given by the employer. IPS agreed that this issue would be monitored during the pilot scheme, that initial registration be implemented and that a Minimum Expectations of Employers document be drafted.
98. One respondent had indicated the person signing off the log book should be legally qualified to provide an appropriate safeguard. IPS noted that under current procedures the signatory was required to be legally qualified, although the Admissions and Licensing Committee had a discretion to accept an alternative signatory. IPS considered whether the category of signatories should be expanded in light of the introduction of ABS or whether it was preferable for the signatory to be a person who was bound by a Professional Code of Conduct. It agreed that a discretion be maintained and the qualification of the signatory be agreed at registration stage.
99. IPS noted that one respondent suggested an additional column be added to the log book so that the member could confirm which piece of evidence within the portfolio of evidence related to the achievement of the outcome. It was also suggested that a further column be added where the member could confirm how any identified areas of development would be addressed. IPS noted that this would also assist the person assessing the log book and agreed that the additional columns be added.

100. IPS noted that one respondent commented that observation by an employer would not always be sufficient to evidence the achievement of the outcomes and that other methods of assessment may be required. It agreed to monitor the effectiveness of employer's sign off during the pilot scheme.

**Question 6: What are your views on the transitional timescales? Are they fair and practical?**

101. The consultation announced that the present waiver system was to be abolished.

102. It also states that IPS aims to introduce WBL in 2012. To allow for those in the process of qualifying employment, transitional arrangements will be incorporated into the scheme to prevent any disadvantage.

103. If a Graduate Member has to complete at least 2 years of qualifying employment he/she must move to the WBL scheme. A member in another grade who has at least one year to complete prior to CILEx graduation must also qualify under the WBL scheme

104. A number of responses indicated that the removal of the waiver was unfair to those who had extensive legal experience. There was also concern expressed as to the likely impact to the training contract exemption of the scheme. This is addressed separately at the end of the document

105. Some found the transitional arrangements hard to understand.

108. IPS noted that some respondents found the transitional arrangements difficult to understand. IPS considered that a table reflecting the transitional arrangements would assist in making the arrangements clearer, as follow.

<b>Description of member type</b>	<b>Qualification Method</b>	<b>Date qualified (old scheme)</b>	<b>Date qualified (new scheme)</b>
Graduate Member with at least 3 years Qualifying Employment (QE)	Qualify using old method	2014	-
Graduate Member with less than 3 years QE	Qualify using WBL	2015	2014

Member (other grade) with less than 3 years QE and/or 1 year from graduate membership	Qualify using WBL	2015	2014
Member (other grade) with more than 3 years QE and/or 1 year from graduate membership	Qualify using WBL (provided Graduate member by 2013)	2015	2014
	If at least 2 years from graduate membership – the earliest date of qualification would be:	2016	2015

106. The SRA stated that the training contract exemption will remain in place for those qualifying under the 5 year arrangements, but cannot comment yet on how the change will affect the exemption.

## **Issues for concern arising from Meetings with the Law Society and the Solicitors Regulation Authority**

### **The Training Contract exemption**

107. Both the SRA and the Law Society acknowledge the importance of a route to solicitor qualification from CILEx Fellowship, as this impacts on diversity issues – however it is also essential that common standards are maintained. Where Day One outcomes for Fellows and Solicitors are the same then the exemption could be maintained.

108. Threats to the exemption following introduction of WBL include:

- The possibility of a gap between standards for Day One solicitor and Day One Fellow  
The SRA is not convinced that WBL is a valid method of assessment (lack of quality assurance in the assessment process). It continues to undertake research in this area.
- The lack of control that IPS has over the training offered in solicitors firms to CILEx trainees. (i.e. lack of Quality assurance over the assessor)

- The reduction in 'post graduate' CILEx qualification from 2 years to 1 year. And the reduction of the overall requirement from 5 years to 3 years.
  - The possibility that through the CILEx route there could be qualification as a solicitor in 3 years. However, by the time a Fellow has completed the GDL and LPC they are most likely to have 5 years QE in any event.
109. It was recognised that the CILEx trainee may have significantly more experience than a trainee solicitor, but that 1 year was probably insufficient post graduate training. It was also acknowledged that theoretically the use of time served is irrelevant in an outcomes focused qualification, but that the public interest is best served by some time in situ.
110. It was stated that the introduction of WBL and minimum standards of competence were a step up from the current process, these should be evidenced 3 times, would be sampled and supported by an employer declaration. A pilot scheme will be run to ensure that the scheme works – it is currently at 'concept' stage.
111. The discussion of the introduction of registration, interim sign off and sampling was introduced, the question was asked, what will happen when the sampling indicates a problem? This has highlighted the need to consider sampling which is undertaken prior to the issue of Fellowship, rather than afterwards, as there is the potential for a Fellow to have been awarded Fellowship only to discover that the work does not meet the criteria. This can be partly addressed through engagement with the member and further consideration made during the pilot project.
112. The suggestion was mooted that a joint IPS and SRA document would be drafted and issued which laid out the routes to qualification.

### **IPS Response**

113. The Solicitors Regulation Authority (SRA) had stated the training contract exemption would remain in place for those Fellows qualifying under current arrangements but could not comment as to whether the proposed changes would affect the availability of the exemption.
114. IPS considered that it was primarily concerned with the route to Fellowship whereas the SRA was concerned with the length of the qualifying employment period. It was noted that should the SRA require a Fellow to evidence that they have completed five years' qualifying employment, that would simply mean the Fellow would not be able to benefit from the exemption immediately upon qualifying as a Fellow. The time period would not disadvantage the Fellow as they would be required to complete a total of five years' qualifying employment under

current arrangements. The only difference would therefore be that the Fellow would qualify as a Fellow sooner under the new procedures.

115. IPS noted that it was not clear what form the route to qualification as a solicitor would take in the future. It also noted that the SRA would benefit from the retention of the exemption as the availability of the exemption impacted on diversity issues. It was further noted that as the legal field opened up the incentive for CILEx Fellows to qualify as a solicitor may decrease. The SRA may not therefore wish to limit routes to qualification as a solicitor by removing the availability of the exemption.
116. IPS noted that it would be necessary to monitor the effectiveness of work based learning as a valid method of assessment during the pilot scheme.