

Management Skills Training — New Urgent Requirements



A Solicitor Sole Practitioners Group Guidance Document

All Sole Principals, and others, must be “qualified to supervise”. To meet that requirement it has become urgent for anyone supervising an office to have 12 hours Management Skills Training, probably by the end of 2005.

CONTENTS

Click any subject in the table of contents to jump to that page

What do I have to do to be “qualified to supervise”?	2
Can I just do “any” course(s) or programme(s) of learning?	2
How soon do I need Management Skills Training?	2
What counts as Management Skills Training?	2
Can you give me specific examples of Management Skills Training?	3
Can legal topics count as Management Skills Training?	3
Would any less obvious subjects count?	4
Who can I ask for advice whether a specific course or development programme counts as Management Skills Training?	4
The Details :	5
Why is it urgent now to have Management Skills Training?	5
Is the deadline really only until the end of 2005 to obtain 12 hours Management Skills Training? Will that time be extended?	5
Who must be “qualified to supervise”?	6
My circumstances are exceptional, can I as an individual have more time to obtain 12 hours Management Skills Training?	6
Is Management Skills Training a type of CPD?	6
What standard is required for Management Skills Training?	6
How do I know if my Management Skills Training meets the standard that would be required for CPD?	7
Can distance learning be Management Skills Training?	7
Can reading count as Management Skills Training?	7
Have I already obtained any Management Skills Training?	7
What records do I need to keep of my Management Skills Training?	8
Does Management Skills Training have to be accredited?	8
Does the Management Skills Training requirement count towards the CPD requirement?	8
Appendix	9

What do I have to do to be “qualified to supervise”?

[Return to Table of Contents](#)

- (a) You must have completed attendance at or participation in any course(s) or programme(s) of learning on management skills for at least 12 hours (*i.e. you must have 12 hours of what you might call Management Skills Training*); and
- (b) You must have been entitled to practise as a lawyer for at least 36 months within the last ten years; and must be able to demonstrate this if asked by the Law Society.

From the proposed new Rule 5.02(2) and the associated guidance paragraph 43.

Can I just do “any” course(s) or programme(s) of learning?

[Return to Table of Contents](#)

To be confident of satisfying the new rule, the training should be of a good standard, sufficient to satisfy The Law Society’s likely interpretation of the rule.

How soon do I need Management Skills Training?

[Return to Table of Contents](#)

You need to have 12 hours Management Skills Training by towards the end of 2005 to satisfy the proposed new Code of Conduct, Rule 5. See under “[The Details](#)” later in this guidance.

What counts as Management Skills Training?

[Return to Table of Contents](#)

The Law Society have left the definition non-prescriptive so you can obtain training and development which you feel will help you in running your practice. The associated guidance paragraph 43 to the proposed new Rule 5 specifies that :

It is not normally necessary to check with the Law Society before undertaking a course or programme unless the course is unusual and outside the mainstream of management training. Advice may be sought from Professional Ethics.

This is a continuation of the approach under the existing Rule 13 under which “*the nature of the training that would satisfy the requirements of the rule is deliberately non-prescriptive in order to encourage solicitors to undertake training and development which they feel will help them in running their practice*”. (From The Law Society’s Guidance Note On The Training Requirement Of Practice Rule 13.)

As a result of that non-prescriptive approach, it would be hoped that if a solicitor, in good faith, undertakes a management development programme or attends a course which he/she believes is relevant to him/her professionally, that would be taken in to account if the solicitor’s qualification to supervise were reviewed by the Consumer Complaints Service or by the Practice Standards Unit. However no guarantee can be given. That is probably partly because it is hard or impossible to prove that anything has been done in good faith. Understandably some solicitors will feel uneasy as to what is acceptable as Management Skills Training.

Can you give me specific examples of Management Skills Training?

[Return to Table of Contents](#)

Some subjects are obviously Management Skills Training. For example mainstream Management Skills must include the supervision and management responsibilities specified in the proposed new Rule 5 at 5.01, namely :

- (a) compliance with the duties of a principal, in law and conduct, to exercise appropriate supervision over all staff, and ensure adequate supervision and direction of clients' matters;
- (b) compliance with the Money Laundering Regulations, where applicable;
- (c) compliance with Law Society regulatory obligations;
- (d) the identification of conflicts of interest;
- (e) compliance with the requirements of rule 2 on client care, costs information and complaints handling;
- (f) control of undertakings;
- (g) the safekeeping of documents and assets entrusted to the firm;
- (h) compliance with rule 6 on avoiding discrimination;
- (i) the training of individuals working in the firm to maintain a level of competence appropriate to their work and level of responsibility;
- (j) financial control of budgets, expenditure and cashflow;
- (k) the continuation of the practice of the firm in the event of temporary absences and emergencies, with the minimum interruption to clients' business; and
- (l) the management of risk.

Professional Ethics have pointed out that “*the training of individuals working in the firm to maintain a level of competence appropriate to their work and level of responsibility, would not include training on the substantive areas of law in which those individuals are working.*” Management Skills Training is NOT legal training.

Can legal topics count as Management Skills Training?

[Return to Table of Contents](#)

Courses which cover substantive areas of law, for example conveyancing, family law, or wills and probate, would not count. The requirement of the proposed new Rule is for Management Skills Training.

We are advised however that a course for non-specialist lawyers on say employment law or data protection, for the purpose of managing your practice, could count as Management Skills Training.

Would any less obvious subjects count?

[Return to Table of Contents](#)

The Solicitor Sole Practitioners Group has obtained some informal specific guidance from an officer at The Law Society about other training and development which may help you in running your practice. We are advised for example that :

- Courses relating to professional indemnity insurance would count.
- Courses relating to marketing, which help the delegate to understand the competitive nature of the market-place and where the range of skills necessary to win and keep clients is practised would count.
- On a similar basis, courses relating to public relations would count.
- However presentations selling professional indemnity insurance, or selling marketing or public relations services, would not count.

We are also advised for example that :

- Courses on Health and Safety would count as Management Skills Training.
- Health and Safety could include for example personal safety, in case of anyone being aggressive in the course of your practice. That training such as precautions to take to avoid dangerous situations arising and techniques to de-fuse such situations, would be for the safety of clients and staff and of yourself and family *et cetera*.
- However courses on first aid would not count.

It is suggested that for subjects that may not appear to obviously qualify as Management Skills Training, it would be wise obtain training accredited for CPD if a suitable accredited course or programme of study is available.

Who can I ask for advice whether a specific course or development programme counts as Management Skills Training?

[Return to Table of Contents](#)

If you are still in doubt about a specific course or development programme, the proposed new Rule 5 states that advice may be sought from Professional Ethics — 0870 606 2577. If they do not have the answer immediately, they should be able to refer the question and revert to you with an answer.

SSPG are willing to assist with any queries, Please contact the SSPG's support worker at The Law Society — 020 7320 5801.

The Details :

[Return to page 2](#)

Why is it urgent now to have Management Skills Training?

[Return to Table of Contents](#)

A new Code of Conduct is on The Law Society's website at <http://tinyurl.com/9uv3r> and that new Code is to replace The Guide to the Professional Conduct of Solicitors. This is the explanation at that link on The Law Society's website :

Law Society's Code of Conduct [2004]

Wednesday 24 November 2004

The Law Society is in the course of bringing in a new Code of Conduct which will replace The Guide to the Professional Conduct of Solicitors. **Please note that this new Code of Conduct is not yet in force.**

The new Law Society's Code of Conduct, and the related Recognised Bodies Regulations, were made by the Council in September 2004. They are currently undergoing the process of review by government and the judiciary under Schedule 4 to the Courts and Legal Services Act 1990. **They are expected to come into force towards the end of 2005.** Please check the website for updates on this position.

The text of the proposed new Rule 5, which replaces the current Rule 13 dealing with supervision, is at <http://tinyurl.com/dqfff>.

For your convenience the proposed new [Rule 5](#) is also appended to the end of this SSPG Guidance Document.

There will no longer be any transitional provisions to obtain 12 hours Management Skills Training to be "qualified to supervise". So the deadline to obtain that Management Skills Training is proposed to be brought forward from December 2009. The deadline for that Training is likely to be towards the end of 2005.

Is the deadline really only until the end of 2005 to obtain 12 hours Management Skills Training? Will that time be extended?

[Return to Table of Contents](#)

The new Conduct Rules are currently undergoing the process of review by government and the judiciary. SSPG are making enquiries during that review period in case an extension of time may be obtained. However it is important to obtain the required Management Skills Training now, because the new earlier requirement is very likely to come in to force towards the end of 2005.

Who must be “qualified to supervise”?

[Return to Table of Contents](#)

- (a) a sole principal;
- (b) one of the partners of a partnership;
- (c) one of the members of a recognised body which is an LLP;
- (d) one of the directors of a recognised body which is a company;
- (e) one of the solicitors or RELs employed by a law centre; or
- (f) one in-house solicitor or in-house REL in any department where solicitors and/or RELs, as part of that employment:
 - (i) do publicly funded work; or
 - (ii) exercise or supervise the exercise of any right of audience or right to conduct litigation when advising or acting for members of the public.

From the proposed new Rule 5.02(1)

My circumstances are exceptional, can I as an individual have more time to obtain 12 hours Management Skills Training?

[Return to Table of Contents](#)

You could ask for more time, and perhaps you could be granted a time limited waiver to achieve that? Waivers may be granted in individual cases. However your circumstances would have to be sufficiently exceptional to justify a departure from the requirements of the proposed new Rule 5.02, bearing in mind its purpose. So it appears unlikely that any or many waivers will be granted.

See the proposed new Rule 5’s associated [guidance paragraph 42](#).

Is Management Skills Training a type of CPD?

[Return to Table of Contents](#)

Management Skills Training is not a CPD requirement. Management Skills Training is specified for the purpose of the proposed new Rule 5, it is not part of the CPD scheme. Management Skills Training can count towards the CPD requirement if it meets the CPD criteria, as explained below.

What standard is required for Management Skills Training?

[Return to Table of Contents](#)

There is no published standard for the Management Skills Training. To be confident of satisfying the new rule, the training should be either accredited CPD, or to the standard to be acceptable as non-accredited CPD.

If you undertake training that is not of the nature or standard that would count as either accredited or non-accredited CPD, it would be wise to keep the best possible records, and you would need to consider carefully whether that training is sufficient as Management Skills Training.

How do I know if my Management Skills Training meets the standard that would be required for CPD?

[Return to Table of Contents](#)

If you choose to do CPD-accredited study for your Management Skills Training, then as it is accredited that study should obviously be up to the CPD standard.

If you choose to do non-CPD-accredited study for your Management Skills Training, then you need to make sure the study is of the nature and standard required for non-accredited CPD. Reading on its own cannot be counted as Management Skills Training or as non-accredited CPD.

Information about the requirements for CPD, including non-accredited CPD, can be found in the Law Society's Summary of CPD requirements at <http://tinyurl.com/bzclm>. That includes a very helpful chart setting out what types of activity will count as non-accredited CPD. For your convenience the [Summary of CPD Requirements](#) is also appended to the end of this SSPG Guidance Document.

It would be wise to keep particularly specific and comprehensive records of all your Management Skills Training that is not CPD-accredited.

Can distance learning be Management Skills Training?

[Return to Table of Contents](#)

Yes. The requirement is for attendance at or participation in any course(s) or programme(s) of learning.

Can reading count as Management Skills Training?

[Return to Table of Contents](#)

All study is likely to depend on some reading. However Management Skills Training has to be “*attendance at or participation in any course(s) or programme(s) of learning*”, so reading by itself would not count as Management Skills Training.

Likewise, reading by itself does not count as non-accredited-CPD, see the Summary of CPD requirements referred to above.

Have I already obtained any Management Skills Training?

[Return to Table of Contents](#)

There is no start date for obtaining the Management Skills Training, so it is possible that you have already gained some or all of the necessary hours.

Please check your training record, you may well already have obtained some CPD that would count as Management Skills Training.

Also remember that the requirement to have completed management training for the purposes of rule 13 and the proposed new Rule 5 is not a CPD requirement, so training completed prior to qualification as a solicitor or REL or RFL could satisfy the requirement.

What records do I need to keep of my Management Skills Training?

[Return to Table of Contents](#)

You would be wise to keep a Management Skills Training record to be able to prove you have that training. It would be a wise precaution to note why any particular study activity is Management Skills Training, especially if the course or programme is not CPD-accredited, and/or is unusual and outside the mainstream of management training. You may find it helpful to keep a file of all your Management Skills Training course material, including whatever notes you make.

Does Management Skills Training have to be accredited?

[Return to Table of Contents](#)

Management Skills Training is not a CPD requirement. The guidance paragraph 43 to the proposed new Rule 5 specifies that the courses or programmes of Management Skills Training do not have to be accredited with CPD hours in order to satisfy the requirement.

Does the Management Skills Training requirement count towards the CPD requirement?

[Return to Table of Contents](#)

If your Management Skills Training meets the requirements to be CPD, then it will count towards your CPD requirement. That is an additional advantage of doing CPD study for your Management Skills Training.

Remember that at least 25 per cent of all your CPD requirement must be met by accredited CPD. The remaining 75% can be met by either accredited or non-accredited CPD.

© Solicitor Sole Practitioners Group — June and July 2005 (Changes in July affected presentation only.)

SSPG are willing to assist with any queries, Please contact the SSPG's support worker at The Law Society — 020 7320 5801

SSPG acknowledges the guidance of The Law Society's Education and Training Unit and Professional Ethics Department.

Please check the up to date position before relying on this guidance.

Internet links quoted may be subject to change, and may not function correctly as hyperlinks in some versions of Acrobat Reader.

Appendix

[Return to Table of Contents](#)

For your convenience copies of :

[The proposed new Rule 5](#) and

[The Law Society's Summary of CPD Requirements](#)

are included on the following pages.

Rule 5 – Business management in England and Wales

Introduction

1. Rule 5 deals with the supervision and management of a firm or in-house practice, the maintenance of competence, and the internal business arrangements essential to the proper delivery of services to clients. "Supervision" and "management" refer, respectively, to the professional overseeing of staff and clients' matters; and to the overall direction and development of the firm or in-house practice and its day-to-day administration. The rule does not apply to your overseas practice but you must comply with 15.05.
2. Rule 5 relates to two core duties:
 - (a) 1.09 – supervision and management: "You must operate appropriate supervision and management arrangements to meet your duties to clients"; and
 - (b) 1.06 – competence: "You must act only when you are able to provide a competent service."
3. Broadly, the rule aims to set out:
 - (a) responsibility for the overall supervision and management framework of your firm or in-house practice;
 - (b) the minimum requirements to be met in order to be "qualified to supervise";
 - (c) the minimum standards applying to supervision of clients' matters; and
 - (d) the minimum requirements in relation to those business arrangements considered to be essential to good practice and integral to compliance with supervision and other duties to clients.

Rule 5 – Business management in England and Wales

5.01 Supervision and management responsibilities

- (1) If you are a principal in a firm, a director of a recognised body which is a company, or a member of a recognised body which is an LLP, you must make arrangements for the effective management of the firm as whole, and in particular provide for:
 - (a) compliance with the duties of a principal, in law and conduct, to exercise appropriate supervision over all staff, and ensure adequate supervision and direction of clients' matters;
 - (b) compliance with the Money Laundering Regulations, where applicable;
 - (c) compliance with Law Society regulatory obligations;

- (d) the identification of conflicts of interest;
 - (e) compliance with the requirements of rule 2 on client care, costs information and complaints handling;
 - (f) control of undertakings;
 - (g) the safekeeping of documents and assets entrusted to the firm;
 - (h) compliance with rule 6 on avoiding discrimination;
 - (i) the training of individuals working in the firm to maintain a level of competence appropriate to their work and level of responsibility;
 - (j) financial control of budgets, expenditure and cashflow;
 - (k) the continuation of the practice of the firm in the event of temporary absences and emergencies, with the minimum interruption to clients' business; and
 - (l) the management of risk.
- (2) If you are a solicitor or REL employed as the head of an in-house legal department, you must effect supervision and management arrangements within your department to provide for:
- (a) adequate supervision and direction of those assisting in your in-house practice;
 - (b) control of undertakings; and
 - (c) identification of conflicts of interests.

5.02 Persons who must be "qualified to supervise"

- (1) The following persons must be "qualified to supervise":
- (a) a sole principal;
 - (b) one of the partners of a partnership;
 - (c) one of the members of a recognised body which is an LLP;
 - (d) one of the directors of a recognised body which is a company;
 - (e) one of the solicitors or RELs employed by a law centre; or
 - (f) one in-house solicitor or in-house REL in any department where solicitors and/or RELs, as part of that employment:
 - (i) do publicly funded work; or

- (ii) exercise or supervise the exercise of any right of audience or right to conduct litigation when advising or acting for members of the public.
- (2) To be "qualified to supervise" under this paragraph a person:
 - (a) must have completed the training specified from time to time by the Law Society for this purpose; and
 - (b) must have been entitled to practise as a lawyer for at least 36 months within the last ten years; and must be able to demonstrate this if asked by the Law Society.

5.03 Supervision of work for clients and members of the public

- (1) If you are a principal in a firm, you must ensure that your firm has in place a system for supervising clients' matters.
- (2) If you are an in-house solicitor or in-house REL and you are required to be "qualified to supervise" under 5.02(1)(e) or (f), you must ensure that your law centre or in-house legal department has in place a system for supervising work undertaken for members of the public.
- (3) The system for supervision under 5.03(1) and (2) must include appropriate and effective procedures under which the quality of work undertaken for clients and members of the public is checked with reasonable regularity by suitably experienced and competent persons within the firm, law centre or in-house legal department.

Guidance to rule 5 – Business management in England and Wales

Geographical scope of the rule

- 1. Rule 5 applies only to practice from an office in England and Wales; but if you are a solicitor practising from an office outside England and Wales or an REL practising from an office in Scotland or Northern Ireland, you will need to comply with 15.05 in relation to that practice.

Guidance on 5.01 generally

- 2. The term "arrangements" is used broadly in 5.01 to encompass all systems, procedures, processes and methods of organisation put in place to achieve the required outcome. There is no requirement that these take a particular form: the method of delivery is a matter for the firm. Evidence that appropriate arrangements are actually in place and are operating will be required to demonstrate compliance. It is anticipated that most well run firms will already be complying.
- 3. Factors to be taken into account in determining the appropriateness of a set of arrangements will include the size and complexity of the firm; the number, experience and qualifications of staff; and the nature of the work undertaken. Arrangements are unlikely to be considered appropriate unless they include a mechanism for periodic review of their effectiveness.

4. The overarching responsibility for the management of the firm in the broadest sense – including, for example, practice development and business efficiency – rests with the principals, members of a recognised body which is an LLP and directors of a recognised body which is a company.
5. Firms will be expected to be able to produce evidence of a systematic and effective approach to management, and this may include the implementation by the firm of one or more of the following:
 - (a) guidance issued from time to time by the Law Society on the supervision and execution of particular types of work, including guidance on solicitors' responsibilities for the supervision of clerks exercising rights of audience under section 27(2)(e) of the Courts and Legal Services Act 1990;
 - (b) the firm's own properly documented standards and procedures;
 - (c) practice management standards promoted from time to time by the Law Society;
 - (d) accounting standards and procedures promoted from time to time by the Law Society;
 - (e) external quality standards such as BS EN ISO 9000, Investors in People, or quality standards required by the Legal Services Commission in connection with undertaking publicly funded work, or the LEXCEL standard; and
 - (f) in the case of an in-house solicitor or in-house REL employed by a law centre, charitable or similar non-commercial advice service, management standards or procedures laid down by its management committee, the Law Centres Federation or equivalent 'umbrella' organisation.
6. The day-to-day management of a firm can be delegated to an employee who is suitably experienced and competent, and a fit and proper person to perform the role. Firms must be able to demonstrate this if required.
7. Sections 41 – 44 of the Solicitors Act 1974 impose restrictions on the employment or remuneration of certain persons by a solicitor or REL.
 - (a) Under section 41, permission must be obtained from the Law Society by a solicitor or REL if he or she wishes to employ or remunerate any struck-off or suspended solicitor or REL. You can check with the Law Society whether a solicitor has been struck off or suspended.
 - (b) Under section 43, the Solicitors Disciplinary Tribunal can order that a former employee of a solicitor or REL may not be employed in future by any solicitor or REL without permission from the Law Society. You can check with the Law Society whether such an order exists.

Compliance with duties in law and conduct etc – 5.01(1)(a)

8. Principals are responsible in law and in conduct for their firms, including exercising proper control over their staff. For example, certain work may only be done by unqualified staff under the supervision and/or at the direction of persons who are allowed by law to do that work themselves. (See sections

22(2A) and 23(3) of the Solicitors Act 1974, section 9(4) of the Administration of Justice Act 1985, and section 84(2) of the Immigration and Asylum Act 1999.) Principals must therefore ensure that arrangements are in place to satisfy these statutory requirements, and this would mean that neither conveyancing nor probate work could be supervised by:

- (a) an RFL partner in an MNP; or
 - (b) an REL who is not qualified to do the work under regulation 12 or 13 of the European Communities (Lawyer's Practice) Regulations 2000.
9. In conduct, principals are responsible for the acts and omissions of all staff, admitted and unadmitted alike. The duty to supervise staff covers not only employees but also independent contractors engaged to carry out work on behalf of the firm, e.g. consultants, locums, and outdoor clerks. You cannot avoid responsibility for work carried out by the firm by leaving it entirely to staff, however well qualified.
 10. Responsibility for the overall supervision framework rests with principals, members of a recognised body which is an LLP, and directors of a recognised body which is a company. This includes, for example, matching staff expertise with relevant work so that work is supervised by the most appropriate individuals. More detailed requirements for the day to day supervision of work for clients and members of the public are set out in 5.03.
 11. Operationally, supervision can be delegated within an established framework of reporting and accountability. However, careful consideration should be given to the issues set out below.
 12. If a firm has more than one office, its principals, directors or members must be able to demonstrate the adequacy of their arrangements throughout the firm. This includes supervision and management of staff not working from a conventional office – for example, homeworkers, teleworkers, those visiting clients, attending court, at a police station, at a consulting room open only for a few hours a week, or staffing a stand at an exhibition.
 13. As a general guide, the lower the ratio of principals to offices and staff, the greater will be the onus on principals to demonstrate the adequacy of their supervision arrangements. For example, the more staff a sole principal employs, the higher the degree of personal involvement the sole principal may be expected to take in the supervision process, especially if those staff are inexperienced and/or unqualified.

Money laundering – 5.01(1)(b)

14. See the Proceeds of Crime Act 2002, other relevant law and directives, and guidance issued by the Law Society on money laundering for assistance in identifying the sort of issues your arrangements will need to address.

Compliance with Law Society regulatory obligations – 5.01(1)(c)

15. The purpose of 5.01(1)(c) is to foster collective responsibility for the governance of the firm by requiring you to establish arrangements which provide for compliance with key regulatory obligations. These include arrangements to ensure that:

- (a) every solicitor in the firm holds a practising certificate, and that the practising certificate is renewed promptly when required;
 - (b) every lawyer in the firm who is required to be registered in the UK under the Establishment Directive and is not registered with another UK regulatory body for lawyers, is registered as an REL and that registration is renewed promptly when required;
 - (c) every lawyer in the firm who is required under these rules to be an RFL (as a partner, member or director of the firm) is registered as an RFL and that the registration is renewed promptly when required;
 - (d) if the firm is a body corporate (or owns a body corporate which is required under these rules to be a recognised body), the body corporate has obtained recognition as a recognised body, its recognition is renewed promptly every three years when required, and it complies with the requirements of rule 14 (incorporated practice);
 - (e) the firm complies with the Solicitors' Indemnity Insurance Rules;
 - (f) an accountant's report is delivered in accordance with the Solicitors' Accounts Rules; and
 - (g) the firm notifies the Law Society of any change in the place or places of business of the solicitors, RELs and RFLs in the firm (a solicitor has a legal obligation to do this, under section 84 of the Solicitors Act 1974).
16. Some of these obligations mirror personal obligations of each solicitor, REL, RFL or recognised body (such as to renew a practising certificate or renew registration). The fact that 5.01(1)(c) is aimed at principals, members and directors will not relieve an individual solicitor, REL, RFL, or recognised body, of responsibility in this regard. The precise nature of the arrangements required are for the firm to decide. See 20.01.
17. If you are a partner in a partnership, a member of a recognised body which is an LLP, or a director of a recognised body which is a company, you are personally responsible for complying with the rules relating to solicitors' accounts and the delivery of an annual accountant's report. You will be liable to disciplinary action if there is a failure to comply with those rules, even if you have delegated book-keeping to someone else in the firm. The nature of the disciplinary action will depend on the seriousness of the breach and the extent to which you knew or should have known of the breach.
18. If you are an in-house solicitor or in-house REL and you receive or hold clients' money you must comply with the Solicitors' Accounts Rules and must submit an accountant's report.

Identification of conflicts – 5.01(1)(d)

19. Firms must adopt a systematic approach to identifying and avoiding conflicts of interests and maintaining client confidentiality. See also the guidance to rule 3 (conflict of interests) and to rule 4 (confidentiality and disclosure) for assistance in identifying the sort of issues your arrangements will need to address.

Compliance with the requirements of rule 2 on client care, costs information and complaints handling – 5.01(1)(e)

20. This provision is designed to ensure that compliance with 2.02, 2.03 and 2.04 is addressed at the level of the firm's systems and procedures. If you have appropriate arrangements for compliance but a member of staff fails to follow established procedures in a one-off case, you will nevertheless have satisfied 5.01(1)(e). However, a serious breach or repeated 'minor' breaches of 2.02, 2.03 or 2.04 might indicate a failure to put in place effective arrangements, as required under 5.01(1)(e).

Control of undertakings – 5.01(1)(f)

21. See 10.05 and the guidance to it, and the Law Society's 'warning card' on undertakings (available from Professional Ethics) for assistance in identifying the sort of issues your arrangements will need to address.

Safekeeping of documents and assets – 5.01(1)(g)

22. The terms "documents" and "assets" should be interpreted in a non-technical way to include, for example, client money, wills, deeds, investments and other property entrusted to the firm by clients and others.
23. The detail of the firm's arrangements will be a matter for you to decide in all the circumstances if you are a principal (or if your firm is a recognised body, if you are a company director or LLP member). However, as a minimum requirement you must be able to identify to whom documents and assets belong, and in connection with which matter.

Avoiding discrimination – 5.01(1)(h)

24. For guidance on avoiding discrimination, see the guidance to rule 6 (avoiding discrimination).

The training of individuals working in the firm to maintain a level of competence appropriate to their work and level of responsibility – 5.01(1)(i)

25. "Competence" is the ability to perform a task or role to a required standard by the application of essential knowledge, skill and understanding. The purpose of 5.01(1)(i) is to ensure that the competence of everyone in the firm involved in the provision of legal services is addressed systematically, at management level. Consequently, 5.01(1)(i) focuses on effecting arrangements to "provide for" competence levels to be maintained, and leaves it to the firm to determine the best method of doing this. It is anticipated that most firms will already have such arrangements in place.
26. The nature of the arrangements will vary significantly depending on the work and level of responsibility of each individual. However, if a breach of 5.01(1)(i) is alleged, evidence may be required to demonstrate that issues of competence are addressed in the firm's procedures in relation to for example, recruitment, appraisal, and training.
27. Training is an integral element of maintaining competence. 5.01(1)(i) assumes that arrangements will include provision for training, but does not lay down any specific requirements. Training can be of any kind relevant to the work or

responsibilities of the individual, and can be delivered by any appropriate method. For example, it could include on-the-job learning, mentoring schemes, in-house training, individual study, etc. It need not be accredited under the compulsory continuing professional development scheme (CPD) or involve attendance at courses.

28. 5.01(1)(i) does not relieve an individual of the duty to decline to act when unable to provide a competent service, or allow an individual to escape obligations under the CPD scheme.
29. 5.01(1)(i) is limited to effecting suitable arrangements. Therefore, an isolated case of incompetence would not normally indicate a breach. However, if you do not address issues of competence systematically, at management level, in your firm's arrangements for recruitment, appraisal and training, you would breach 5.01(1)(i).
30. It should be noted that training for the purpose of becoming "qualified to supervise" under 5.02 must be of a kind specified by the Law Society from time to time (see paragraph 41).

Financial control of budgets, expenditure and cashflow – 5.01(1)(j)

31. Clients' money is more likely to be at risk in a firm whose principals do not exercise adequate oversight of the firms' own financial arrangements. The purpose of 5.01(1)(j) is to ensure this is addressed in the overall management framework — not to prescribe particular financial systems or to prevent principals from delegating day-to-day financial operations to suitable staff. It may also help firms to ensure that they are looking forward when undertaking their financial management, so that they will know they will be able to cover their commitments and plan their resources properly. It should be noted, however, that some accounting and management information systems do not assist in this regard, as they tend to deal only with historic information.

Continuation of the practice of the firm in the event of temporary absences and emergencies etc – 5.01(1)(k)

32. There is a continuing duty to ensure that the practice of your firm will be carried on with the minimum interruption to clients' business even if you are absent. Your supervision and management arrangements must therefore provide for the running of the firm during any period of absence, particularly if you are a sole principal, sole director or sole member.
33. Rule 23 of the Solicitors' Accounts Rules 1998 requires that a withdrawal from a client account cannot be made without a specific authority. This rule cannot be complied with if a principal, director or member leaves blank cheques for completion by staff at a later date, as signing a blank cheque is not giving a specific authority.
34. If you have not made adequate arrangements in advance to meet unforeseen circumstances, difficulties may arise in the conduct of clients' affairs and in the administration of your own business. For example, an accountant's report must be submitted, a practising certificate must be applied for, and indemnity cover must be obtained notwithstanding your absence. Consequently, if you are a sole principal or the sole member of a recognised body which is an LLP, or sole director of a recognised body which is a company, you should have an

arrangement with another solicitor or REL (sufficiently experienced and entitled to practise) to supervise your firm until you return. You should notify your bank of these arrangements in advance, so that the solicitor or REL covering your absence can operate your client and office accounts.

35. If you are a sole principal and your absence lasts beyond the period covered by your practising certificate, you may be able to obtain permission, through the Law Society, for another solicitor to complete the application for a practising certificate. Your name can only remain on your professional stationery as principal if you continue to hold a practising certificate.
36. If you are a sole principal and you are struck off or suspended, any solicitor or REL with whom you have an arrangement to look after your firm in your absence will be left with full responsibility for the firm, as principal (but see the guidance to rule 12 for restrictions on the work an REL can do or supervise). They must inform clients of the firm, your bank, insurers, and the Law Society. Note that this will not apply if you are the sole director and owner of a recognised body because the recognised body would have become liable to revocation of its recognition – see rule 14 and the guidance to it.
37. If you are a sole principal and you decide to stop practising, you must inform clients of the fact so that they may instruct another firm. Failure to inform clients could amount not only to negligence but also to misconduct. If you are considering retirement, guidance can be obtained from Professional Ethics.

Management of risk – 5.01(1)(l)

38. Firms should have arrangements in place for assessing the risks attaching to each area of their operation. The rule is aimed at ensuring risk is addressed in the firm's overall management framework. If a particular risk materialises which had not been foreseen in the firm's systems, this would not necessarily constitute a breach of 5.01(1)(l). Risk management arrangements are unlikely to be considered adequate unless they include periodic reviews of the firm's risk profile.
39. Ideally the scope of the arrangements should not be confined to risks arising from professional negligence, but should extend to client-related and business –related risks of all sorts. A non-exhaustive list might include complaints (including a complaints log); client-related credit risks and exposure; claims under legislation relating to such matters as data protection; IT failures and abuses; and damage to offices.

In-house practice – 5.01(2)

40. As the head of an in-house legal department you do not have to institute all the arrangements required under 5.01(1). However, you must under 5.01(2) institute arrangements to ensure that:
 - (a) work done for members of the public is adequately supervised, and if unqualified staff within the department undertake work reserved to solicitors, they are supervised by a person qualified to do that work, and the work is done in the name of that qualified person;
 - (b) undertakings given by members of the department, whether or not they are solicitors or RELs, are given appropriately and can be fulfilled (you

will be primarily responsible in conduct for fulfilling such undertakings);
and

- (c) conflicts of interests are identified.

Qualified to supervise – 5.02

- 41. The purpose of 5.02 is to protect the public by ensuring that there is at least one person responsible for running the firm (or law centre or in-house legal practice falling within 5.02(1)(e) or (f)) who has the right kind of experience. The responsibilities involved relate to the management of the firm rather than the supervision of particular work, so the person "qualified to supervise" under 5.02 does not have to be personally entitled by law to supervise all work undertaken by the firm. However, an important part of that person's responsibilities would be to ensure that unqualified persons did not undertake reserved work except under the supervision of a suitably qualified person - see note 8 above.

[Return to page 6 of the SSPG Guidance Document](#)

- 42. Waivers may be granted in individual cases. An applicant must satisfy the Council of the Law Society that his or her circumstances are sufficiently exceptional to justify a departure from the requirements of 5.02, bearing in mind its purpose. Applications should be made to the Waivers Executive, Professional Ethics.
- 43. The training presently specified by the Law Society is attendance at or participation in any course(s) or programme(s) of learning on management skills, for a minimum of 12 hours. The courses or programmes do not have to be accredited with CPD hours in order to satisfy the requirement. It is not normally necessary to check with the Law Society before undertaking a course or programme unless the course is unusual and outside the mainstream of management training. Advice may be sought from Professional Ethics.

Supervision of work for clients and members of the public – 5.03

- 44. 5.03 is mainly aimed at principals in firms. However, it also applies to you if you are an in-house solicitor or in-house REL who acts for members of the public and fulfils the role of the person "qualified to supervise" under 5.02(1)(e) or (f).
- 45. A suitably experienced and competent person must undertake the supervision required by 5.03. This person need not hold a particular qualification or have been in legal practice for a particular time; but in certain circumstances (for example, where a sole principal has more than one office) these may be relevant factors in determining compliance with 5.03.
- 46. In supervising staff you would need to have sufficient legal knowledge and experience to be able to identify problems with the quality or conduct of the work; but you might not need to be an expert in the area of work you are supervising. The training and experience of the member of staff you are supervising will be relevant.
- 47. 5.03 requires that work for clients and members of the public is supervised wherever staff happen to be working, including at home or from 'virtual' offices.

48. Supervision is an inherently internal function. The phrase "within the firm, law centre or in-house legal department" is included to ensure that supervision is not delegated outside your control but undertaken by someone who is genuinely part of the practice.
49. If a complaint is made, you will have to demonstrate that the work-checking procedures are "appropriate", "effective", and undertaken with "reasonable regularity". Relevant factors will include the size and complexity of the firm, law centre or in-house department; the nature of the work; the experience of the individuals undertaking the work, and their level of responsibility.
50. 5.03 does not apply to the business development and practice management work of principals, directors or members.
51. Supervising "work for clients and members of the public" embraces all aspects of the work, including the handling of client money and compliance with rule 2 (client relations).
52. For guidance on the supervision of immigration work, see The Law Society's Gazette, 99/40, 17 October 2002.



The Law Society

[Return to page 7 of the SSPG Guidance Document](#)

[Return to Table of Contents of the SSPG Guidance Document](#)

Continuing professional development Law Society requirements

Education and Training Unit
March 2004
© The Law Society 2004

All solicitors and [registered European lawyers](#) (REs) in practice in England and Wales are required to undertake continuing professional development (CPD) activities. The CPD year runs from 1 November to 31 October, and the requirements are as follows.

- [Requirements in hours](#)
- [Gaining CPD credit through personal development](#)
 - [Attendance at accredited courses](#)
 - [Other activities](#)

Requirements in hours

[Return to the index of this Law Society Document](#)

<p>Newly qualified solicitors and registered European lawyers</p>	<ul style="list-style-type: none"> - 1 hour for each complete month worked from the date of admission/ registration to 31 October - those admitted/registered on 1 November will go straight into their first CPD year*
<p>All solicitors and registered European lawyers in their first CPD year and in each subsequent year</p>	<ul style="list-style-type: none"> - 16 hours**

All solicitors must undertake the [Law Society Management Course Stage 1](#) between the date of admission and the end of the third CPD year. The seven hours that the course attracts will count towards the CPD requirement.

* Solicitors who work part time should refer to [Continuing professional development: Information for solicitors working part time](#).

** Solicitors who qualified by undertaking the Law Society Finals Examination (LSF), which was phased out in 1994, or the [Qualified Lawyers Transfer Test](#) (QLTT) have a requirement to attend the Financial and Business Skills (not the exam) and the Client Care and Professional Standards modules of the [Professional Skills Course](#) (PSC) during their first CPD year. The hours gained from attending these modules will count towards a solicitor's first-year CPD requirement. No hours can be claimed for undertaking the modules prior to admission. The following are exempt from the requirement to attend the two PSC modules:

- solicitors who undertook the [Legal Practice Course](#) and PSC prior to admission
- solicitors who sat the Professional Conduct & Accounts heads of QLTT
- solicitors transferring from Scotland via QLTT

Gaining CPD credit through personal development

[Return to the index of this Law Society Document](#)

Attendance at accredited courses

At least 25 per cent of the requirement must be met by participating in courses offered by providers authorised by the Law Society and which require attendance for one hour or more.

"Participation" includes preparing, delivering and/or attending accredited courses.

"Attendance" means attendance at the complete course. Part attendance does not count at all.

"Course" includes

- face-to-face sessions forming part of a course, including those delivered by an authorised distance-learning provider
- a course wholly provided by distance learning that involves assessment by dissertation and written examination
- structured coaching sessions, delivered face to face, of one hour or more, which have written aims and objectives, are documented showing an outcome, and are accredited under an authorisation agreement
- structured mentoring sessions involving professional development, of one hour or more, delivered face to face, which have written aims and objectives, are documented showing an outcome, and are accredited under an authorisation agreement

Other activities

The remaining 75 per cent of the CPD requirement may be met by participating in the activities as described above. However, this 75 per cent may also be met by undertaking a wide range of other activities.

Activity	Explanation / comments
Participation in accredited courses	Preparing, delivering, and/or attending complete courses of more than 30 minutes but less than 60 minutes in length Actual time may be claimed.
Participation in non-accredited courses	Preparing, delivering, and/or attending courses that are of particular relevance and benefit to an individual's area of work, and are of more than 30 minutes in length Actual time may be claimed.
Coaching and mentoring sessions of less than one hour	Structured coaching sessions and structured mentoring sessions involving professional development, delivered face to face, of between 30 minutes and 60 minutes in length, and which have written aims and objectives, are documented showing an outcome, and are accredited under an authorisation agreement Actual time may be claimed.
Coaching and mentoring sessions delivered from a distance	Structured coaching sessions and structured mentoring sessions involving professional development, delivered from a distance (eg by telephone, email or fax), of 30 minutes or more in length, and which have written aims and objectives, are documented showing an outcome, and are accredited under an authorisation agreement Actual time may be claimed.
Writing on law or practice	For example, law books, journals, publications for clients, clients' own publications, newspapers and magazines (whether legal publications or not), on the internet Topics may include, for example, law practice, issues arising from transactions, clients, markets, industries, products. Actual time may be claimed.
Research	Research that relates to legal topics or has relevance to the practice/organisation and which results in some form of written document, precedent, memorandum, questionnaire/survey, etc Actual time may be claimed.
Production of a dissertation	Study for or production of a dissertation counting towards a qualification recognised by the Law Society. Actual time may be claimed.
Watching videotapes and/or listening to audio cassettes offered by authorised providers	Actual time may be claimed.

Activity	Explanation / comments
Distance-learning courses where there is provision for the answering of enquiries or for discussion	Distance-learning courses may be delivered by correspondence, video and audio cassettes, television or radio broadcasts and computer-based learning programmes. Actual time may be claimed.
Preparation and delivery of training courses forming part of the process of qualification or post-admission training	Actual time may be claimed.
Work towards the Training and Development lead body Units D32, D33 and D34 relating to assessing and verifying the achievement of National Vocational Qualifications (NVQs)	Actual time spent building a portfolio of evidence and/or attending lectures, workshops etc may be claimed.
Participating in the development of specialist areas of law and practice by attending meetings of specialist committees and/or working parties of relevant professional or other competent bodies charged with such work	Actual time spent at meetings may be claimed.
Work towards the achievement of an NVQ in any business-related area and at any level	Actual time spent building a portfolio of evidence and/or attending lectures, workshops etc may be claimed.
Study towards professional qualifications	Examination must be taken to claim time for study and examination itself. Actual time spent in study and examination may be claimed.

Note

To count towards meeting CPD requirements, the activity should be at an appropriate level and contribute to a solicitor's general professional skill and knowledge, and not merely advance a particular fee-earning matter.