

## Justice Committee

### Training the next generation of lawyers: professional legal education in Scotland

#### Response from the Law Society of Scotland

The Law Society of Scotland (the Society) is the professional body for almost 12,000 Scottish solicitors. We seek to influence the creation of a fairer and more just society and are strongly committed to our statutory duty to work in the public interest and to both protect and promote the rule of law.

The Scottish Parliament Justice Committee's (the Committee's) recent report '[Training the next generation of lawyers: professional legal education in Scotland](#)' made a number of recommendations to the Society regarding our ongoing work. We realise there are many demands on the Committee's time so we were grateful to the Committee for prioritising this as a subject for discussion. Widening access to the profession has been one of our key priorities for several years and we have devoted considerable resource to ensuring that talented individuals who have the dream and ability to become solicitors are able to do so, regardless of their financial circumstances and backgrounds. We have introduced several initiatives to help make that a reality and will continue to work to tackle barriers to entry.

The report raises a number of important issues for all concerned in the delivery of legal education and training. This involves the professional bodies – ourselves and the Faculty of Advocates – but it also includes schools; local authorities; universities which provide the LLB and the Diploma in Professional Legal Practice; entities which train solicitors; and Skills Development Scotland. There is also a fundamentally important role for the Scottish Government.

We understand the critical importance of widening access to legal education and the legal profession and welcome the discussion of how we can all, working together, ensure that all who have the skills, ability, and desire to qualify as a lawyer – be that a solicitor or as an advocate – can do so. We have to balance the critical importance of widening access with the paramount role of the route to qualification: to ensure that newly qualified lawyers are of the requisite standard (in terms of knowledge, skills, attitudes and values) to ensure that they can serve their clients to the highest professional standards and pose no risk to the profession, public, and their clients.

Our initial evidence to the Committee can be found [here](#) and our supplementary evidence can be found [here](#). Appendix A to this document outlines some background statistics to the route to qualification.

## Our Response

Within a few days of the Committee's report we responded with a brief overview of initial thoughts. We promised to revert to the Committee by the end of October with a fuller response looking at each of the recommendations in-depth. We would welcome the opportunity to discuss these matters with the Committee.

We would be very happy to meet with any member of the Justice Committee who was interested to learn more about our work in professional legal education.

### **1. The Law Society should take action, both itself and in conjunction with schools and universities, to further widen access to the LLB.**

We embrace our crucial role in assisting fair access to the legal profession. In 2013 we published a major research piece on [fair access](#) which formed the basis for much of our current activity. To this end we:

- offer a free, public legal education programme, [Street Law](#), which operates in over 40 Scottish state secondary schools annually. We have trained over 1,200 school pupils over the last four years and trained over 100 law students as Street Law trainers. Around 25% of an administrator's time and 10% of a manager's time are spent running this project;
- organise Scotland's [largest schools debating competition](#) attracting 128 teams. Around 25% of an administrator's time and 10% of a manager's time are spent running this project;
- organise four [legal studies and careers days](#) which allow school pupils to meet solicitors, law students and trainee solicitors to hear what the law is really like (over 150 attend over the course of a year), Around 15% of an administrator's time is spent running this project;
- established the [Lawscot Foundation](#), a Scottish Charitable Incorporated Organisation (SCIO), to provide financial support by means of an annual bursary and mentoring support from a trained solicitor mentor to students from less advantaged backgrounds in Scotland during their LLB and Diploma. Each student receives £2,500 per annum. By year 5, supporting a minimum of 8 additional students each year, the Foundation will spend £100k annually (and need to raise funds to cover that finance). The Foundation is currently funding eight second year law students and nine first year LLB students. The Society gifted the Foundation an initial sum of £260k and allocates staff time per annum to support the foundation (around 20% of an administrator's time).
- support the [Impressive People](#) programme financially (circa £5k annually);
- support the [Social Mobility Business Partnerships](#);
- organise many schools visits annually by law students, trainee solicitors, and solicitors;
- promote the [PRIME Commitment](#) to Scottish law firms;
- liaise with universities' widening participation programmes and often take part in their events; and
- in the recent past, have responded to the Scottish Government's Commission on Widening Access; hosted Widening Participation Fora; and hosted a week-long summer school which we hope to offer again next year. Whilst the 2019 Summer School is not yet finalised it may very well be possible to include a session on how law is made which could include insight from the Justice Committee and/or a visit to the Scottish Parliament.

We do a considerable amount of work to ensure access to the profession is as fair as possible. We acknowledge though there is always more that we can do or work that we can do differently within the budgetary and staffing constraints the Society operates within. We will liaise with schools, local authorities and universities going forward on this matter.

Whilst we do work with universities (both their admissions and widening access teams) we note that admissions policies and entrance criteria are ultimately a matter for each university. Moreover, whilst we support activity by numerous agencies to close the attainment gap in Scottish education we must acknowledge that the ongoing existence of the attainment gap necessarily impacts fair access to university more generally and, as a matter of interest to the Society, the LLB in particular.

To show our wider interest in Widening Access, we submitted evidence to the Commission on Widening Access. We believe that many of the ideas we raised in our response are still relevant today and would welcome the opportunity to discuss these more widely.

**2. Further consideration needs to be given to whether the costs and risks associated with the Diploma are significant barriers to widening access and, if so, how these barriers could be removed. This could include, for example, increasing student support to cover tuition fees, requiring firms to recruit trainees in advance of them undertaking the Diploma, and ensuring the availability of alternative modes of study including part-time study.**

We have already undertaken significant work regarding the cost and risks associated with the Diploma in Professional Legal Practice (DPLP) and will continue to do so.

Increasing student support to cover tuition fees: The Society – via the Lawscot Foundation – will, in time, fund a minimum of eight individuals annually through the DPLP. A change in the market in recent years has seen more of the larger firms finance their future trainees' DPLP fees. The Society though is not in a position to increase student support.

This is a difficult area of policy. The previous DPLP finance regime saw the top 300 academic performers receive a Scottish Government funded grant equating to around half of a DPLP fee. Those outside of the top 300 received no financial support. The current regime – which sees the government offer two loans totaling around £10k to anyone regardless of background – helps many more people afford the DPLP.

We have seen DPLP numbers rise since the change in finance. The obvious upside to this is that those who might not otherwise have been able to afford the DPLP can do so (and are doing so). More people are doing the course than previously so there is an argument to suggest that the risks of undertaking the course have lessened since that change.

The downside is that it increases the likelihood of individuals completing the DPLP and either not getting a traineeship or taking a considerable time to do so. Moreover, it adds to the debt burden of junior solicitors.

Requiring firms to recruit trainees in advance of them undertaking the DPLP: The realities of legal practice for many law firms – particularly on the high street and in the legal aid sector – will make it difficult to require them to hire in advance. In many situations their decision to hire a trainee will be relatively *ad hoc* due to an increase in business/workload. We can continue our work to promote the benefits of hiring a trainee and we think that our proposed changes to the Admission Regulations may assist employers in certain sectors hire more trainees.

Alternative modes of study: We support innovation in the delivery of legal education, including the DPLP. The most recent example of this is our accreditation of an Online DPLP (launching 2018/19). A number of DPLP providers already offer part-time study (and there is a part-time provider in each of the four largest cities). We would welcome further innovation in delivery of the DPLP and will monitor with interest whether or not other providers begin to offer an online DPLP.

It is also important to note the Society's engagement work with students throughout their time as students and our expectation management strategy. This is covered in our [original written submission](#) but more detailed information is available upon request. We will open discussions with providers of the DPLP re: the cost of the course.

### **3. The Law Society and Skills Development Scotland should, without delay, progress plans to introduce an apprenticeship route to qualification.**

Since our consultation last year, we have put together a group of medium to large sized law firms, some of the larger in-house legal teams and some university providers to begin to shape an apprenticeship. We have liaised with Skills Development Scotland on this matter and look forward to bringing forward a graduate apprenticeship (hopefully in time for the 2020/21 academic year). Skills Development Scotland are keen to operate in this area but it is our understanding they cannot act until there is funding set aside for the creation of graduate apprenticeships. It would be helpful if the Scottish Government could ensure that Skills Development Scotland places priority on this work and sets aside adequate funding and resource to complete this work in this financial year.

We are keen, willing and able to create such an apprenticeship route and have a profession ready to create such a route. We do though need Scottish Government support.

### **4. The Law Society should provide the Committee with more information as to why the option of piloting an integrated Diploma and traineeship was not progressed, and whether this option could be revisited. The Committee may take further evidence on this option at a future date.**

To answer the second point first: The Society's Education and Training (Standard Setting) Sub-Committee considered the Committee's report at its October meeting. They noted that they would be happy to consider approaches from universities and training units (and others) about the innovative provision of legal education including integration of the DPLP and the traineeship. They noted that there are potentially numerous ways to construct such an integrated programme and, for the avoidance of doubt, would be happy to consider any such approach not solely the one option which they have already considered. Examples of integration might include, but are not limited to:

- The idea raised by Ben McPherson MSP at the 26<sup>th</sup> June evidence session: thought a [three-year traineeship integrating PEAT 1 and PEAT 2 was worthy of consideration](#) (pg33).
- In different ways, the Northern Irish and Irish routes to qualification involve some level of integration of vocational and work-based learning. Such models could be considered.
- We are cognisant of the reforms to the route to qualification in England and Wales. We note, however, there were some innovative models of blended provision even within the largely similar sequential structure of LLB, Legal Practice Course and traineeship.
- There may well be other models from other professions such as day release and assessment/examination and, or, an approach which integrated PEAT 1 and 2 in a different way to that already proposed (e.g. an intensive block release at the beginning of a slightly extended training contract).

Under any such pilot programme, a number of matters would need to be managed closely:

- Ensuring that those on the pilot are supported appropriately and assessed fairly.
- Considering closely any fair access and well-being concerns noting that each of the above come with each of their own concerns.
- Considering whether or not the pilot could be scalable – if successful - across the profession to training units of all sizes and types and to all geographical locations.
- Most importantly: that any pilot route delivers newly qualified solicitors at the same standard as the current route to qualification and, therefore, offers reassurance of the quality of new lawyers to the profession, the public and the client

There would also be resource implications for the Society in terms of how the pilot would be managed, monitored, and reviewed. These would need to be considered.

The Justice Committee members may have knowledge of the route to qualification as a solicitor but may not be aware that there is also an alternative called the Non-PEAT1 Traineeship. This is a three-year traineeship which obviates the requirement of an individual to undertake the Diploma. This is utilised rarely and is only approved when a candidate can evidence to the Society that they have exceptional circumstances (e.g. they cannot access a DPLP because of their geographical location and they also have, for instance, caring responsibilities). Those on the Non-PEAT1 route have to undertake a greater level of work-based learning and, also, have to sit and pass a number of examinations.

The idea, therefore, of a route to qualification outwith the standard route is not a new idea to the Society. Indeed, we have built in such a provision to the Admission Regulations. As outlined elsewhere, the Education and Training (Standard Setting) Sub-Committee has – in recent months and years – approved examples of innovative provision of elements of the route to qualification (e.g. the Online Diploma; approval of the Clinical LLB etc). Moreover, Education and Training (Standard Setting) Sub-Committee is in the process of reforming the Admission Regulations more widely which we hope will drive innovation in a number of areas. More information on educational innovation was included in [our supplementary evidence](#).

In turning to the first question: the simple answer is that the Society did not choose not to progress the pilot. As Mr Marrs noted in his oral evidence to the Committee (column 33), the Education and Training (Standard Setting) Sub-Committee approved in principle that the pilot should progress subject to a number of questions being answered. One of the firms then dropped out of the pilot and the two remaining firms chose not to pursue the pilot. It was not the Society's decision.

It may be worthwhile explaining the process in significant depth. Three large, commercial firms came forward to the Society. At the start of that process they asked that we consider the matter as "commercial-in-confidence". As we have not had explicit approval from all three firms to breach this confidence we consider ourselves bound by that initial request but will give as much detail about the decision-making process as possible.

- In late 2014, members of the Society's executive were approached by representatives of three firms who sought to pilot an integrated training contract. To explain their proposal fully: the proposal would have allowed some (although not all) the trainees joining the firms to do so straight from the LLB. These pilot trainees would undertake a full-time PEAT 2 Training Contract and that, during this two-year training contract, they would undertake PEAT 1 (i.e.. the Diploma in Professional Legal Practice ) in the evenings. This proposal became known as Integrated PEAT or iPEAT.

- A formal proposal from the firms came to the Society in December 2014. The Society's executive analysed the proposal and the proposal, plus the analysis, was considered by the Society's Education and Training (Standard Setting) Sub-Committee (the Sub-Committee) at its January 2015 meeting. The Sub-Committee noted that:
  - o Other jurisdictions combine – in different ways – the vocational and work-based element. The Sub-Committee noted " *it was entirely possible that the proposal could work in principle and that there may well be sound pedagogical reasons for combining vocational and work-based learning. The Committee did note, however, that such reasoning had not been put forward by the three firms*". For the Committee's reference, the pedagogical underpinning of the current route can be found in Appendix B of the PEAT 1 Accreditation Guidelines.
  - o It was not immediately clear to the Sub-Committee as to whether, and how, the proposal would encourage fairer access. The Sub-Committee noted there were no plans to target the proposed pilot traineeships towards individuals from SIMD20 and SIMD40.
  - o The Sub-Committee noted the sentence in the proposal that: '*this may tend to make the iPEAT pilot scheme more suited to those with a track record of combining work and study or previous legal or professional experience*'. The Committee thought that this implied the group most likely to benefit would not necessarily be those who could not access or afford the DPLP but, rather, the people most capable of doing so.
  
- The Sub-Committee noted that further information was needed:
  1. An elucidation of how the proposed pilot would alleviate *Fair Access* issues particularly in light of the comment italicised above.
  2. An elucidation of the pedagogical basis for a move from the sequential system to a concurrent system including asking why the model proposed had been chosen over the Northern Irish or Irish models. The Sub-Committee also asked whether or not a slightly longer training contract had been considered (akin to the idea outlined by Mr. McPherson MSP at the evidence session).
  3. Noting two comments in the proposal, that "*running a trial within the existing PEAT 1 and PEAT 2 structures would minimise the risk involved*", the Sub-Committee noted that whilst the "*assessment structures are in place*" that the assessment structures are not based around concurrent learning. The Committee, therefore, asked for greater detail on assessment.
  4. The Sub-Committee did ask to what extent the current PEAT framework and, indeed, the Foundation Programme (LLB degree) was compatible with the proposal. The Committee asked for greater clarity on the position of advocacy, tax, professional ethics and standards, and conveyancing. (NB: all of these are currently taught and assessed on PEAT 1. The proposal would have meant trainee solicitors commencing traineeships without these fundamentally important subjects).
  5. Noting that the pilot was with three large firms: The Sub-Committee asked for greater consideration of how smaller entities would be able to take on and train a trainee without a DPLP.
  6. The Sub-Committee noted some concern about the welfare of trainees on an iPEAT model and asked to what extent the firms had considered this. The Committee sought reassurance about how the likely pressure of work and study could be mitigated.
  7. It was not clear from the proposal if the three firms actually had a Diploma provider in place. The Sub-Committee asked for further information.
  
- The Committee noted at its February 2015 meeting that a letter had been sent to the three firms including an appendix outlining the areas where further clarity was needed. To expedite matters, a small working party was formed to liaise directly with the firms including the then convenor of the Committee and the Director of the Education and Training Team. The Working Party comprised solicitor and lay members of the Sub-Committee. The Sub-Committee noted that it "*wanted to act, and be seen to act, in a way that was facilitative of innovation but that the firms had not proposed a timescale for progressing the work*". The Sub-Committee also noted that the firms had not replied to the concerns at that time.
  
- This Working Party met with the three firms in early February. At the subsequent March meeting of the Sub-Committee the output of this meeting was noted as was a paper provided by the firms. The Sub-Committee noted that in both the meeting and in the paper a number of their concerns had been assuaged. The Sub-Committee did note that some concerns had not been answered and that some of the answers had raised further concerns.

- The Sub-Committee did, however, agree in principle to a pilot going ahead subject to any outstanding concerns being met by the firms to the satisfaction of the Committee.
- The Sub-Committee noted that the firms now agreed that this proposal was not focused primarily on fair access although the firms hoped that if the pilot were to be a success and the model was rolled out more widely in due course then it may in the future address fair access concerns.
- The Sub-Committee noted that the integrated approach may raise fair access concerns (e.g. if the model were to be rolled out more widely it could not be easily accessed by someone with caring or childcare responsibilities; it may be difficult for someone outwith the four main cities to undertake; that establishing a second, parallel route to qualification may undermine the ability of some candidates to undertake the current standard route if demand for the DPLP lessened; that the firms themselves had noted in their original submission that those most likely to excel on such a route were those with previous professional careers). The Sub-Committee did note, however, that these were issues that ought to be considered more deeply post-pilot.
- The following matters still concerned the Sub-Committee in April 2015:
  1. The Sub-Committee noted the firms' point that the current system allowed people to work full-time and study a part-time DPLP. (NB: Research the Society conducted at the time suggested that of those DPLP students who did work they worked on average 20.4 hours per week. The total cohort average was lower for obvious reasons). Though the Sub-Committee noted this point, it thought there was a significant difference between a model that an individual chooses (e.g. working in a call centre or restaurant full-time and a part-time DPLP) and a model that is sanctioned and authorised by the regulator (and one whose proponents hope would become the "standard" route in due course).
  2. The Sub-Committee wondered to what extent the firms had considered the workload of trainee solicitors. The proposal seemed to be based around a 35-hour week but it was noted that in some private practice firms (including the three that had proposed the pilot) that the reality would be a longer working week. Moreover, trainees would be required to undertake a part-time DPLP, trainee CPD, and – as noted by the firms in their response – an intensive induction because of the acknowledgement that there would be a knowledge and skills gap having not undertaken the DPLP prior to the traineeship.
  3. The proposal seemed to be predicated around the idea that the DPLP is a series of classes individuals attend. Little consideration had been given to considerable amounts of non-contact time including reading, ongoing assignments, essays, examinations, assessments and at some universities group work. The Sub-Committee, therefore, asked for further information on how trainees would be supported.
  4. The Sub-Committee noted that it was vital it understand how much support the firms need to offer to Integrated trainees. The reason for this was if the pilot were successful and rolled the Society would need to provide guidance and support to other firms which would likely not have the support structures of the large firms i.e. HR teams, Learning & Development professionals, professional support lawyers, the ability to conduct intensive induction etc.
  5. The Sub-Committee noted that the firms had spoken to a number of universities. It was noted that there are obligations on PEAT providers such as policies on absence and the reporting of professional lapses. The Committee considered there may be a tension between these in an integrated structure and asked how such tensions could be managed.
  6. The proposal did not seem to involve any university actively in the process. The Sub-Committee was extremely disappointed with this. The Sub-Committee noted a preferable model would be to see clear evidence of a partnership between the firms and a university including a mapping exercise and the ability for universities and their staff to feed into the pilot. The Committee felt the input of the DPLP providers was of the utmost importance. For instance, amongst other things, the Sub-Committee thought it would be useful to know (for evaluation purposes):
    - a. Are Integrated PEAT trainees more or less likely to require resits?
    - b. Is it possible to teach two cohorts where a proportion of the class are 18 months into a training contract whilst the rest are mid-way through a DPLP? What challenges does this raise for providers?

- c. Is there a difference in the attainment of the two groups? If so, does that change over the course of the two years?

The Sub-Committee envisaged a situation where someone came to the end of the Integrated PEAT traineeship and the following occurring: an individual having not completed PEAT 1 (perhaps because a firm had not released them for certain elements) or having failed assessments whilst the supervising solicitors at the firm signed them off as meeting the Standard of the Qualifying Solicitor. It was not clear how such a situation would be managed.

7. Given the above, the Sub-Committee noted they would need a strong commitment from the firms that individuals would be able to leave legal practice to attend the DPLP; that this would be monitored as part of the evaluation by universities and would be monitored by the Society as part of its evaluation of the project.
8. The firms' response to the Sub-Committee noted that '*As a consequence of the different "Day 1" standard, integrated PEAT trainees may require significantly greater training input and supervision during the early parts of the traineeship. They will have a steeper learning curve than PEAT trainees*'.

The Sub-Committee agreed with this assessment but asked for further clarification and detail regarding the expected nature, extent and content of this '*significantly greater training input*'. It was noted that this detail was particularly important for evaluative purposes. If an Integrated PEAT trainee needed significant remedial support in the first months of a traineeship then, for evaluative purposes, it is crucial that the Society knows what is covered by such support and to what extent – otherwise how could it possibly make an assessment on whether or not to expand the model more widely?

Moreover, the Sub-Committee sought further consideration of the Core Outcomes and Mandatory Outcomes of PEAT 1 (including the pervasive elements such as tax and ethics) and an explanation of which of these would be taught to Integrated PEAT trainees at the start of their traineeship.

9. It was the Sub-Committee's view that certain seats could not reasonably be undertaken until certain topics had been covered on the DPLP (most obviously conveyancing).
10. Given the above the Sub-Committee would like the firms to undertake a mapping exercise demonstrating how they envisage the proposal working. This should include what on a month-by-month basis an Integrated PEAT trainee would be doing (both in the office and during the DPLP)
11. The Sub-Committee asked '*what if someone fails on the pilot?*'. The Sub-Committee viewed it as unlikely, given the commitment of the firms and with the close co-operation of the universities and Society, that someone on the pilot would fail. However, the Sub-Committee thought that some consideration needed to be given to this subject (i.e. whilst the firms had proposed a relatively limited involvement for the Society it would be a matter for the Society if, for whatever reason, someone on an approved pilot failed and it would be up to the Society how this could be managed).
12. The Sub-Committee acknowledged that the firms wanted both the pilot to be '*as wide as possible*' and also to be focused on '*6 to 8 firms*'. The Sub-Committee agreed that if the pilot was to go ahead it should be with the three firms that had been liaising with the Society.
13. The Sub-Committee asked what does success look like to the firms. The firms had explained how they intended to evaluate the project. As above, the Sub-Committee had thoughts on this evaluation.
14. The Committee agreed that the Society should have a hands-on role throughout the course of any pilot. This would involve regular meetings with representatives of the training firms, trainees on both the integrated PEAT traineeships and standard PEAT traineeships, trainers, and representatives of the universities.
15. The Committee remained unsure as to why the firms did not just design a PEAT 1 course; collaborate with a university to design a bespoke course for their trainees which ran between the end of the degree and September; or consider revamping the Non-PEAT 1 traineeship (i.e. offer an integrated model but over a longer period of time).

16. The Committee reserved the right to be the sole assessor of whether or not the pilot is a success and, if a success, whether or not it can be reasonably rolled out to the wider profession as a parallel route to qualification. Such assessment would involve consideration of the evaluation across the two years.

- At its July 2015 meeting the Sub-Committee received a letter from the three firms. The Sub-Committee was disappointed to note that the firms had chosen not to respond to any of the points raised outlined in points 1-16 above. Instead, the firms asked three questions of the Society. The Sub-Committee chose to answer those questions whilst also re-iterating its own questions were unanswered. The firms' questions are italicised and the Sub-Committee's answers are below each.

- o *Does the committee agree that the sequential PEAT structure is a significant barrier to fairer access? Does the committee agree that a more integrated approach to PEAT (which may well involve wider changes not possible within the limited scope of the pilot scheme) has the potential to remove or reduce those barriers?*

Sub-Committee's response: There is some anecdotal evidence that the sequential nature of the route to qualification is a barrier to access. As far as the Committee is aware, however, this is not backed up by any statistical evidence.

In 2014, we submitted FOISA requests to all LLB providers and all DPLP providers requesting their SIMD20 and SIMD40 statistics over the preceding five years. We acknowledge the limitations of SIMD as a measure but as this is the standard measure for such matters we will continue to use it. One university did not have the data for the first two years:

	2007/8	2008/9	2009/10	2010/11	2011/12	2012/13	2013/14
<i>LLB</i>							
<i>Percentage SIMD20</i>	7.31%	6.36%	7.93%	7.24%	8.35%	7.07%	9.11%
<i>Percentage SIMD40</i>	9.49%	9.71%	10.64%	11.73%	11.76%	11.09%	11.47
<i>DPLP</i>							
<i>Percentage SIMD20</i>	4.62%	5.39%	6.91%	4.66%	8.46%	7.62%	8.89%
<i>Percentage SIMD40</i>	10.99%	11.06%	10.65%	14.29%	9.92%	11.91%	11.31%

Below we compare the SIMD20 and SIMD40 cohort that started in x year and then compared it with x+5. This is not ideal - some candidates will do part-time courses, some will take time out, and some may be accelerated candidates – but it is useful.

	<i>SIMD20 LLB</i>	<i>SIMD20 DPLP</i>	<i>Difference</i>
<i>2008/8 and 2011/12</i>	7.31%	7.97%	+0.66%
<i>2008/9 and 2012/13</i>	6.36%	8.06%	+1.7%
<i>2009/10 and 2013/14</i>	7.93%	9.34%	+1.41%

- o *Does the committee agree that a pilot scheme would be useful in generating evidence to support wider reform? Does the committee accept that, for a pilot scheme, commercial considerations must be taken into account when striking a balance between ease of implementation and complexity of design.*

The Sub-Committee response: The Committee has provisionally agreed to support the proposed pilot scheme when it goes to the Regulatory Committee (for approval) subject to our outstanding concerns being met by the three firms.

Whilst the Committee agrees that such a pilot will generate evidence we do not think it appropriate to prejudice the pilot or pre-determine any policy discussions which may take place after the pilot has completed.

- *Is the committee willing to accept that suitable firms (or other traineeship providers) other than those currently involved could participate, subject to some approval mechanism? Will the committee be prepared to give more latitude to firms in the operational details of the scheme than appears to be envisaged by the committee's recent letter?*

The Sub-Committee response: The Committee also noted that – in general – individual firms are best placed to determine detailed issues such as the allocation of trainees to seats. However, the Committee noted that it needed to see how the pilot worked throughout the process and not just at the point of qualification.

- In late September 2015, The Working Party met with two of the firms (there was doubt that the third firm would continue the pilot). The Sub-Committee discussed the output of this meeting at its October 2015 meeting:
  - The meeting between the firms and the Working Party had given thought to risk management, project management and senior buy-in from the leaders of the firms. Moreover, the Working Party reported discussions about the mapping exercise (which the Sub-Committee had asked for and viewed as important as it would demonstrate how the firms intended to overcome various outstanding issues including seat arrangement dovetailing with PEAT 1 provision). The firm representatives had commented that mapping would be a huge exercise for their tightly resourced teams and stated they would not have the capacity to undertake a mapping exercise without an agreement in principle from the Committee. (NB: The Sub-Committee had agreed in principle at least twice and communicated as such to the firms. The Sub-Committee did have legitimate concerns that if a mapping exercise could not be undertaken by the firms in collaboration with a DPLP provider then it was unlikely that an integrated traineeship could be administered as the latter was – self-evidently – a far greater and more complex matter.)
  - The firm representatives had noted that with one firm potentially dropping out of the pilot they were concerned about having sufficient trainees engaged in the pilot. Both firms anticipated only offering the pilot model to two or three trainees in their firm (not the whole cohort). They considered that they needed a greater number of integrated trainees in total to be able to work with a university. The Working-Party agreed to take this back to the Sub-Committee for consideration. The Sub-Committee subsequently approved the pilot involving up to six firms.
  - The Working Party noted that the firms had acknowledged at the meeting that the project was more complex than they had initially envisaged.
  - The Sub-Committee noted they would like further detail from the firms on a number of matters including on the role the Law Society would play in terms of assessment; project management; and who would lead on reporting to the Society.
  - The Sub-Committee set a timescale for the firms to come back to assist the Sub-Committee in terms of workload and resource. To give the firms time to recruit other firms to the pilot it was agreed that they would need to report back no later than February 2016. The Sub-Committee also agreed that the firms be made aware that – at that stage – they would need a fully finalised proposal including a mapping exercise.
- The above was intimated to the three firms immediately after the Sub-Committee's October meeting.
- At its December 2015 meeting the Sub-Committee noted that with one firm pulling out the two remaining firms had intimated to the Society that they would not be pursuing the pilot any further.

## Appendix A: Background to the solicitor profession and route to qualification

### Background to the route to qualification

#### LLB

- The LLB is usually a four year Honours degree but can be accessed as a three year Ordinary degree.
- The LLB is part of the route to qualification as a solicitor but is also viewed as a high-quality liberal arts degree. We know a significant number of LLB graduates actively choose not to progress to the next stages of the route to qualification as a solicitor.
- 10 universities are accredited by the Society to offer the LLB.
  - Nine universities offer an accelerated LLB (This is a graduate entry programme which lasts two years)
  - Two universities offer a part-time LLB.
  - One university offers an Online LLB.
  - One university offers a Clinical LLB (This is a degree which is based around students spending significant time in the university law clinic advising clients).
- All programmes are accredited by the Society and monitored annually.

#### Diploma in Professional Legal Practice (DPLP)

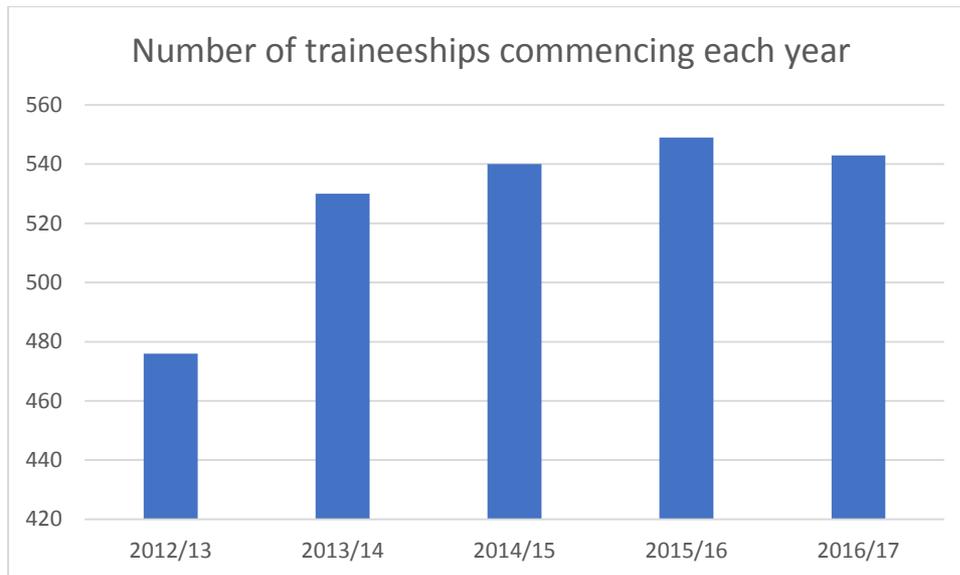
- The DPLP is a vocational course which usually takes place over one academic year. It is generally taught by current legal practitioners and is intrinsically linked to the traineeship. The Outcomes learnt in the simulated environment of the DPLP are built upon and honed in the traineeship.
- Six universities are accredited by the Society to offer the DPLP.
  - Five universities offer a part-time DPLP.
  - One university offers an Online DPLP (This is a new development for the 2018/19 academic year).
- We know that more people apply annually for the DPLP than commence the DPLP. Application numbers are generally 15% to 20% higher than those commencing.
- All programmes are accredited by the Law Society of Scotland and monitored annually.
- The DPLP varies in cost from university to university but generally costs circa £7k to £8k. Part-time costs are split over the course of two years which allows many students to earn and learn at the same time.
- Eligible Scottish domiciles are able to access up to £10k in loan funding comprising a £5,500 loan for tuition fees and £4,500 loan for living costs.



The above graph shows the numbers commencing the DPLP each year over the last six years. The significant increase between 2014/15 and 2015/16 is likely due to (i) a rise in the number of traineeships the year before and/or (ii) a more generous loan settlement for DPLP students. This shows the difficulty with the funding model as there is no causative effect between DPLP numbers one year and traineeships commencing the following year.

## Traineeships

- For some context: there are 11,807 Scottish solicitors at present. There are 1,179 law firms in Scotland.
- Over the last four years traineeship numbers have been relatively static: fluctuating between 530 roles per year and 550 roles per year. We do not have figures for 2017/18 at this point and will not do so until January 2019.



- Traineeships are not evenly spread across the profession. Roughly 30% of traineeships take place at law firms with 31+ partners and a further 11% take place at law firms with 21-20 partners. This means a relatively small number of firms train over 40% of trainees.
- Around 11% of traineeships take place at in-house legal teams (e.g. COPFS, the Scottish Government, local authorities, NHS and private sector organisations such as financial services industries and within the energy sector). Around 25% of the Society's membership is employed in-house.
- We regulate training contracts. We will not accept a training contract that purports to pay less than the Living Wage outside of London as set by the Living Wage Foundation.
- We intend to bring forward new Admission Regulations in early course. One of the main changes in the proposed regulations will be to allow – subject to safeguards – trainee solicitors to appear in court earlier than provided for in the current regulations. We believe that this will lead to an increase in the number of training contracts in certain sectors (most obviously criminal defence). Other changes include enabling traineeships with Scottish solicitors outwith Scotland and extending the validity period of the DPLP (from two and a half years to five years).