

**JUSTICE COMMITTEE**  
**PROFESSIONAL LEGAL EDUCATION ROUNDTABLE**  
**SUBMISSION FROM TIM HADDOW, ADVOCATE**

**Background and experience**

In 2011-12, I was an LLB student at the University of Edinburgh. As Vice-President of the university's Law Student's Council (LSC), I was involved in the LSC's campaign on student support for DPLP students. In 2012-2013, as a Diploma in Professional Legal Practice (DPLP) student, I was coordinator of the Campaign for Fair Access to the Legal Profession (CFALP), a group supported by representatives of law students in each of Scotland's 10 LLB awarding universities.<sup>1</sup>

In 2014 and 2015, as a trainee solicitor, I was secretary of working group supported by three of Scotland's large law firms. This group developed a proposal in which those firms would pilot a combined DPLP and traineeship, one of the options for change identified by the Law Society of Scotland (LSS).

I qualified as a solicitor in 2015. I now practise as an advocate, having been admitted as a member of the Faculty of Advocates in 2016. My evidence is given in my personal capacity and not on behalf of the Faculty of Advocates.

**Legal education and training: development and funding**

The main route to entry into the Scottish legal profession is the three-stage process of LLB, DPLP and traineeship. The DPLP and traineeship are sometimes referred to as Stage 1 and State 2 of Professional Education and Training (PEAT1 and PEAT2).

The postgraduate course now known as the DPLP was introduced in 1980. It was felt that LLB graduates were not equipped for the practicalities of work in a legal office. The new stage of professional education also ensured all solicitors had acquired a minimum standard of competence across the core areas of legal practice prior to admission. Previously, wide variations in the quality, rigour and scope of firms' training programmes meant there was no verifiable minimum standard imposed.

With minor modifications, this three-stage process remains the route followed by all but a handful of those aspiring to enter the Scottish legal profession.

The cost of this new postgraduate stage of legal education was primarily borne by government. Course fees were paid and a maintenance grant provided in a similar manner to those then in place for undergraduate students. Subsequently, diminishing student support placed the burden of funding studies primarily on the students themselves. By 2012, most DPLP students relied primarily or substantially on family support, even where they accessed the fees loan.<sup>2</sup>

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<sup>1</sup> CFALP's blog archive remains available at <https://cfalp.wordpress.com/>.

<sup>2</sup> <https://cfalp.wordpress.com/2013/05/07/survey-results-2/>. In 2012, only £3,400 (now as a fees loan) was available towards overall costs of studying (fees of around £7,000 plus living costs).

Recent years have seen significant increases in student support. A loan of up to £10,000 (£5,500 for fees and £4,500 for living costs) is now available. However, despite this substantial improvement, there is still a significant shortfall which students must make up: the estimated costs of study are around £16,000.<sup>3</sup>

The DPLP (PEAT1) is not just a financial barrier. The sequential nature of DPLP and traineeship means many students face the risk of investing a year of their life (and, potentially, significant amounts of money) but then failing to obtain a place with a firm to complete their professional training. The LSS estimates around 20% of DPLP graduates do not go on to secure a traineeship.<sup>4</sup> This risk must be a significant negative factor for those coming from less financially secure backgrounds.

### **The route to qualification: reform**

There remains a strong argument for retaining elements of accredited professional education as part of the route to qualification into the Scottish legal profession. This is the case for all comparable professions. The question is how that education should be structured, delivered and funded.

In my view, the need to avoid creating structural barriers to fair access should be a primary consideration in designing the route to qualification. And whilst the route to qualification should be flexible, it is not enough to rely on 'exceptional' routes to qualification to enable access: the primary route to qualification should be equally open to all those with sufficient ability and motivation, regardless of socio-economic background.

There are a number of possible structures for the route to qualification:

- The current sequential LLB, DPLP, traineeship model, with improved or modified student support provided by government, individual firms or the profession; or with the DPLP element compressed.
- An extended undergraduate degree, bringing in those elements of professional education now taught in the DPLP. Similar, perhaps, to the five-year degrees traditionally undertaken by doctors or vets.
- A route where the educational and training elements are integrated into the traineeship stage. This model may be more similar to that used as the route to qualification as an accountant.

#### *The current sequential route*

The current structure relies primarily on government funding to enable wider access. Without it, many aspiring lawyers would be unable to qualify simply because they could not afford to undertake the DPLP. This funding has increased very substantially in the last six years yet would need to increase yet further to completely close the access gap. I do not think it is sufficient to rely on scholarship (or similar) schemes to close that access gap, as valuable as those schemes are to those who are supported by them.

<sup>3</sup> DPLP fees at the University of Edinburgh are £8,140 (including books and materials). The 2017 report "A new social contract for students", commissioned by the Scottish Government, identified £8,100 as the minimum student income for a full-time student.

<sup>4</sup> <https://www.lawscot.org.uk/news-and-events/news/the-diploma-your-questions-answered/>.

It is also legitimate to ask why there should be an (effective) public subsidy for the professional training of the legal profession, where there is not such a subsidy for other such professions. Whilst the legal profession performs an important public role in society and in upholding the rule of law and whilst there are a significant proportion of lawyers who work in publicly funded areas (whether for government, other public bodies or legal aid work), the majority of solicitors work in private practice in commercial areas of practice. And changes to any funding model cannot address the structural issue created by so many students having to undertake the DPLP without knowing they will secure a traineeship.

A number of individual firms do offer very generous funding support to prospective trainees. This can extend to covering the full cost of the fees of the DPLP and providing a maintenance grant. Even where firms do not provide financial support, some firms can help overcome barriers as they recruit a year in advance, so their prospective trainees have the assurance of studying the DPLP with the knowledge of a traineeship place at the end of it. However, these options can only be pursued by those firms of sufficient size, and with sufficient financial resources, to make such a significant investment in their future employees. This will mainly be the large commercial firms or government. It is highly unlikely that small firms or firms operating in areas funded primarily by legal aid (such as criminal law or immigration) could move to recruiting prospective trainees in advance and making very significant financial investment in their professional education before they are even eligible to commence work. It is unrealistic therefore to suggest that individual firms could take on the full burden of professional education under the current structure.

#### *Extended undergraduate degree*

No proposal for such reform has come from the Universities. I understand that it is not likely that there could be an extended undergraduate degree, even if government were willing to fund a fifth year of an LLB. The DPLP is practice-focussed and must be delivered in small group teaching and workshops. This requires a level of teaching resource that simply cannot be delivered under the same teaching and funding models which cover teaching on the current academically-focussed LLB, whether or not there was an additional year. The universities must also consider that many LLB undergraduates do not necessarily wish to pursue a career in the Scottish legal profession.

#### *Integrated approach*

I remain of the view that an integrated approach to the DPLP and traineeship (PEAT1 and PEAT2) parts of the route to qualification represents the best way forward.

This would see law firms recruit students directly from the LLB and then undertake a combined traineeship with professional education undertaken around work in a legal practice. This reform would eliminate the structure barrier posed by the separate DPLP. Those firms which support their prospective trainees' costs could continue to do so by assisting with fees. Where trainees were required to contribute to their own training costs, they would at least have an income from which to do so. I understand that this is the model which works for qualification into accountancy. Large firms have the resources to fund their trainees and push them through a fast-track route to qualification. Smaller, high-street firms will also employ trainee accountants but they may take longer to complete the necessary qualifications. Small firm trainees may also require to fund elements of their own qualifications but will nonetheless be both earning and contributing to their employing firm whilst they progress. Under this model, the route to qualification is independent of financial

resources and primarily dependent on the nature of traineeship that an individual graduate is able (or inclined) to secure.

It was a pilot scheme of an integrated approach that was proposed to the LSS by the three law firms with whom I worked in 2014-15. This would have involved the three firms recruiting a small number of trainees into a traineeship, which would be undertaken alongside a two-year part-time DPLP which was programmed outwith normal working hours. This would allow a realistic analysis of whether a wider integrated scheme could be achievable whilst still operating within the existing DPLP and traineeship structures.

The proposal of pilot was not taken forward by the LSS. In my view, this was due to the LSS's Education and Training Committee taking an overly risk-averse approach to the proposal and represents a missed opportunity to test a route to reform that the LSS itself had suggested.

Now that the position on student support has improved, the motivation for change has arguably reduced. Nonetheless, my view remains that an integrated PEAT1 and PEAT2 would represent the optimum way to remove barriers to access.