

**JUSTICE COMMITTEE**  
**PROFESSIONAL LEGAL EDUCATION ROUNDTABLE**  
**SUBMISSION FROM THE LAW SOCIETY OF SCOTLAND**

We are grateful for the attention of the Justice Committee regarding professional legal education. We note the specificity of the focus but note that access to the profession is a far wider concept than simply to the professional elements of the route to qualification.

In early 2014, we published the *Fair Access to the Legal Profession* review. This report examined each stage of the route to qualification and identified that the biggest single barrier to studying law (and therefore becoming a solicitor or advocate in due course) was initial access to the LLB. Pupils from SIMD20 and SIMD40 datazones were disproportionately less likely to start the LLB than their more advantaged counterparts. We support and work closely with LLB-providing universities in terms of widening participation.

We are inheritors of inequality and whilst the Society is putting significant effort and resource into making the profession accessible to all we must note that some matters are outwith the control of the Society (most obviously the attainment gap in Scottish schools). We did respond to the Scottish Government's Commission on Widening Access a number of years ago and outlined thoughts about how widening access to universities (including to law schools) could be improved.

Since we launched the *Fair Access to the Legal Profession* report we have undertaken a number of activities. These include:

- Launching the LawScot Foundation Scottish Charitable Incorporated Organisation (SCIO). This now funds at least 8 students from disadvantaged backgrounds per annum. In due course, this will fund 40 students at any one time. Moreover, each student will be mentored throughout their legal studies.

Of the initial 8 students: seven received free school meals; all eight received an Educational Maintenance Allowance; two had spent time in care and/or a homeless shelter; three act as young carers; all eight are the first in their family to go to university; four are from the 20% most deprived area postcodes in Scotland; and six attended 'low progression' schools (below national performance averages).

- Producing recruitment guidance for legal organisations which amongst other matters included guidance to disregard school performance in traineeship applications.
- Producing guidance on the payment of interns as we recognise the importance of internships in the future traineeship job market.
- Moved our position regarding trainee salaries. We will not accept a training contract that purports to pay less than the living wage as set by the Living Wage Foundation (outside of London). We also retain a recommended rate of remuneration for trainee solicitors over and above the minimum acceptable rate. This is in marked contrast to the position in England & Wales where – since removing the recommended rate – average trainee salaries have fallen in real terms.

- Hosting numerous Widening Participation Fora bringing together employers, the Faculty of Advocates and universities.
- Hosting a week-long summer school for 20 pupils from low progression schools in 2017.
- Responding to the Scottish Government's Commission on Widening Access. Our response to this consultation is available upon request. We believe many of the ideas in this document continue to be relevant to the discussion.
- Launched a major nationwide public legal education initiative called Street Law that works in over 40 schools per annum. In the last four years we have worked with well over 1,000 Scottish school pupils in schools across Scotland. Street Law sees us train law students in an interactive style of teaching law. These law students offer six lessons to school pupils (often as part of the curriculum). We have trained over 100 law students to become Street Lawyers.
- Consulting with our members on alternative routes to qualification. The feedback from this consultation was that an apprenticeship route to qualification – alongside the LLB, DPLP, traineeship route – would be a useful addition. We are keen to progress this work. We have a high-value profession willing to offer apprenticeships but we are finding it extremely difficult to gain traction with Skills Development Scotland regarding the development of either a Modern Apprenticeship or a Graduate Apprenticeship in law. We would appreciate and welcome support from all sectors in creating this route.
- Initiating a redrafting of the Admission Regulations. It is hoped that the most significant reform will be allowing trainees to be admitted earlier during the traineeship which we hope will encourage firms practising criminal defence work to hire trainee solicitors. At present, it is not economically viable for many organisations to hire a trainee solicitor particularly those undertaking large elements of legal aid work. The new Regulations will also make the transfer of lawyers from other jurisdictions simpler.

We understand that the focus of the roundtable is access to professional legal education. We therefore understand that even though there are significant access issues earlier in the route to qualification the focus will be on the two stages of Professional Education and Training (PEAT 1 and PEAT 2) (more commonly known as the Diploma in Professional Legal Practice (DPLP) and the traineeship).

The DPLP is a mandatory part of the route to qualification as a solicitor (and also as an advocate). We believe that this is a fundamentally important part of the route to qualification as a solicitor.

All those who complete either the LLB or the Pre-PEAT training contract (an alternative to the LLB) must undertake the DPLP. The DPLP is a vocational course taught over the course of an academic year though it generally lasts around 30 weeks. Six institutions are accredited by the Society to offer the course. Prices vary between providers but are roughly between £6.5k p/a and £8k p/a. It should be noted that the DPLP at present is taught in small group classes almost exclusively by practising legal professionals.

There has been much discussion about the cost of the DPLP discouraging people from undertaking the DPLP and that, in particular, this would be the case for those from SIMD20 and SIMD40 datazones. The data we have seen suggests that, despite many assumptions to the contrary, those from the lowest income backgrounds are just as likely to start the DPLP as those from more advantaged backgrounds. We do not have any evidence – other than anecdotal – to support the assertion that people from such backgrounds are less likely to gain traineeships than their more advantaged peers.

Since DPLP finance changed a number of years ago, the number of people studying the DPLP has been consistently higher than prior to the change and we have seen no significant drop-off of students from SIMD20 or SIMD40 datazones. We established this by tracking percentages of those starting the LLB and then comparing these percentages to those commencing the DPLP five years later. This is not a perfect measure for various reasons but it is a strong indicator.

Prior to 2014/15, there had been a steady decline year on year from a high of 774 DPLP students to a low of 541 in 2014/15.

The following academic year saw DPLP numbers rise significantly. There are likely a number of reasons for this but the two major ones were a rise in traineeship numbers the previous year (meaning many final year LLB students would have been more optimistic about pursuing the next stage) and also the presence of significantly more generous loan funding led to more people being able to undertake the DPLP. As this loan funding change had been known in advance it is also likely that the number of DPLP students 2014/15 was lower than would normally be expected as some students deferred the DPLP to access a greater level of finance.

There is no causal relationship though between the number of traineeship roles and the number undertaking the DPLP. On balance, we believe the current system is better than the system which previously operated which saw grant finance available only for the top 300 students academically with no finance available for those students outside the top 300 (and with no regard for financial circumstances whatsoever). Clearly, a student from a disadvantaged background who had performed strongly academically is worse off now (as they previously would have received grant funding). Equally clearly, a student from a disadvantaged who was outside the top 300 performers is better off now. Ultimately, the nature and extent of financial support to those of the DPLP is a policy decision for the Scottish Government.

It should be noted that given the recent cross-border mergers with English practices there are now many more DPLP students who are receiving financial assistance from their future employers. Some Scottish practice units have chosen to follow suit. It is unknown how the reforms in England and Wales will affect this financial relationship going forward.

Destination of DPLP graduates is important. How many DPLP graduates find a training contract? Over the last four years, the trainee numbers in Scotland have been relatively static (somewhere between 530-550 training contracts commencing p/a).

The number of people commencing the DPLP each year fluctuates (and not all who commence will complete or pass the DPLP):

- 2014/15: 541 DPLP students
- 2015/16: 691 DPLP students

- 2016/17: 675 DPLP students
- 2017/18: 612 DPLP students

The figures we have are that somewhere around 80% of DPLP graduates do get a training contract at some stage although some will take two to three years to do so after they complete the DPLP.

There is also the relationship between those completing the training contract and those who continue to work in the profession as a solicitor. The figures we have suggest that – whilst the number fluctuates a little annually – normally somewhere between 90%-95% of those who discharge a training contract in year x are working as a solicitor with an unrestricted practising certificate in year x+1.

It is important to understand the extent of our expectation management strategy regarding law students. We work with students throughout their studies to let them know as often and early as possible the state of the job market. We visit all LLB providers in the first year of the degree, we visit all LLB providers in third year to give a careers talk, and we visit each LLB provider in fourth year to explain the processes for the DPLP. At each of these the Society explains the trainee job market and the finances of the DPLP. We attend every law fair in Scotland. We launched – in 2016 – a free of charge Student Associate scheme where we communicate directly with students who choose to join.

We publish guidance at point of application to the DPLP (DPLP figures and traineeship numbers over the years are literally attached to the application form). Each year, we publish trainee statistics and include context around those figures. We know that our work is supplemented at each university via the law school and the careers service.

We raise the above because it is important to understand the context of those who make the choice to study the DPLP or not and the information that they have. There is a huge amount of information in the public domain and promoted to students to help them understand the financial implications of their decision, the legal market and the cost of undertaking the DPLP.

The following papers may be of interest.

The Fair Access to the Profession Review:

<https://www.lawscot.org.uk/media/6187/fair-access-for-publication-300114.pdf>

The following papers are available upon request:

The Law Society of Scotland's response to the Commission on Widening Access

The Law Society of Scotland's responses to the Solicitors Regulation Authority's reforms to legal education in England and Wales.