



## Higher National Unit specification

### General information for centres

**Unit title:** Legal and Ethical Issues

**Unit code:** F50D 35

**Unit purpose:** This Unit is designed to provide candidates with an understanding of the sources, composition and the procedures involved in the Scottish Legal System. It also provides an understanding of the role of the Law Society and of the money laundering regulations.

On completion of the Unit the candidate should be able to:

- 1 Explain the main sources of Scots Law.
- 2 Apply the composition, jurisdiction and powers of the civil and criminal courts in Scotland.
- 3 Explain how the public is protected by rules laid down and governed by the Law Society of Scotland and any other statutory bodies.
- 4 Describe the main provisions of the Solicitors (Scotland) Accounts Rules and the Money Laundering Regulations.

**Credit points and level:** 1 HN credit at SCQF level 8: (8 SCQF credit points at SCQF level 8\*)

*\*SCQF credit points are used to allocate credit to qualifications in the Scottish Credit and Qualifications Framework (SCQF). Each qualification in the Framework is allocated a number of SCQF credit points at an SCQF level. There are 12 SCQF levels, ranging from Access 1 to Doctorates.*

**Recommended prior knowledge and skills:** Access to this Unit is at the discretion of the centre. However, candidates would normally be expected to have competence in *Communication* at SCQF level 6. Although no prior knowledge is assumed, prior achievement of D32B 12 *Scottish Legal Framework* and F1A7 34, *Scottish Legal System*, would be advantageous.

**Core Skills:** There are opportunities to develop the Core Skills of *Communication* and *Information Technology* at SCQF level 6 in this Unit, although there is no automatic certification of Core Skills or Core Skills components.

**Context for delivery:** If this Unit is delivered as part of a Group Award, it is recommended that it should be taught and assessed within the subject area of the Group Award to which it contributes.

## **General information for centres (cont)**

**Assessment:** This Unit could be assessed with 3 assessment events. The first assessment event may cover Outcome 1. This assessment could consist of 3 structured questions under supervised conditions. Candidates may be permitted to bring one side of A4 notes to the assessment event.

Outcome 2 may be assessed using a case study or mini case studies. The questions set will ask candidates to apply their knowledge of the legal system. Candidates may bring one side of A4 notes to the assessment event. The assessment should be carried out under supervision.

In respect of Outcomes 3 and 4, the assessment may take the form of one assessment consisting of written and/or oral responses to either a set of restricted response questions or multiple choice questions which will sample the knowledge and skills required in Outcomes 3 and 4. The sampling of knowledge could be achieved by including sampling questions covering any three of the seven items in Knowledge and/or Skills for Outcome 3, and 2 of the four items in Knowledge and/or Skills for Outcome 4. Candidates should not know in advance the items on which they will be assessed and different items should be sampled on each assessment occasion. The assessment should be carried out under supervision and may be open book.

**Centres will have discretion in designing assessments so that they can assess outcomes individually or combine outcomes where they consider it appropriate.**

## Higher National Unit specification: statement of standards

**Unit title:** Legal and Ethical Issues

**Unit code:** F50D 35

The sections of the Unit stating the Outcomes, Knowledge and/or Skills, and Evidence Requirements are mandatory.

Where evidence for Outcomes is assessed on a sample basis, the whole of the content listed in the Knowledge and/or Skills section must be taught and available for assessment. Candidates should not know in advance the items on which they will be assessed and different items should be sampled on each assessment occasion.

### Outcome 1

Explain the main sources of Scots Law

#### Knowledge and/or Skills

- ◆ Statute Law
- ◆ Delegated legislation
- ◆ Common Law
- ◆ Judicial precedent
- ◆ European Union law

#### Evidence Requirements

Evidence for the knowledge and/or skills in this Outcome will be generated through sampling. Candidates will need to provide evidence to demonstrate their Knowledge and/or Skills by showing that they can explain:

- ◆ the role of the Westminster Parliament and the Scottish Parliament in the making of law in Scotland
- ◆ two forms of delegated legislation as sources of Scots law
- ◆ the impact of common law as a source of law
- ◆ judicial precedent
- ◆ the impact of regulations and directives as sources of Scots law

Three of the knowledge and/or skills items above should be sampled. To ensure that candidates will not be able to foresee on which items they will be assessed, a different sample of three of the five Knowledge and/or Skills items is required each time the Outcome is assessed. Candidates must provide a satisfactory response to all three items.

#### Assessment Guidelines

This Outcome could have a separate assessment which could consist of structured questions covering three of the knowledge and skills elements in Outcome 1 and should last for one hour and be conducted under supervised conditions. Candidates may bring one side of A4 notes to the assessment event and the candidate's notes may be gathered in with their response to the assessment.

## **Higher National Unit specification: statement of standards (cont)**

**Unit title:** Legal and Ethical Issues

### **Outcome 2**

Apply the composition, jurisdiction and powers of the civil and criminal courts in Scotland

#### **Knowledge and/or Skills**

- ◆ Role of the civil courts
- ◆ Role of the criminal courts
- ◆ Composition and jurisdiction of civil courts
- ◆ Composition and jurisdiction of criminal courts
- ◆ System of appeals in the civil and criminal courts

#### **Evidence Requirements**

Evidence in this Outcome will be generated by sampling. Candidates will need to provide evidence to demonstrate their Knowledge and/or Skills by showing that they can:

- ◆ apply the role of a court system
- ◆ explain the composition and jurisdiction of a court system
- ◆ apply the system of appeal in a court system

In generating evidence for the three Evidence Requirements, above, candidates should focus on the role, composition, jurisdiction and appeal system of civil **or** criminal courts.

To ensure that candidates will not be able to foresee on which items they will be assessed, a different sample is required each time the Outcome is assessed.

#### **Assessment Guidelines**

This Outcome could be assessed as a separate assessment event using a case study or mini case studies. The questions set may ask the candidate to apply their knowledge of the legal system to the case study or mini case studies. The assessment should be conducted under supervised conditions. Candidates may bring one side of A4 notes to the assessment event. The candidate's notes may be gathered in with their response to the case study or mini case studies. The assessment event may last for 1 hour.

## **Higher National Unit specification: statement of standards (cont)**

**Unit title:** Legal and Ethical Issues

### **Outcome 3**

Explain how the public is protected by rules laid down and governed by the Law Society of Scotland and any other statutory bodies

#### **Knowledge and/or Skills**

- ◆ Standards of Conduct
- ◆ Control over solicitors by the Law Society and/or any other statutory bodies
- ◆ How those guilty of professional misconduct are punished
- ◆ Function of the Scottish Solicitors' Guarantee Fund in relation to protecting the public in their dealings with solicitors
- ◆ The difference between professional misconduct and negligence in relation to professional services
- ◆ Client confidentiality and conflict of interest
- ◆ The procedure for securing compensation for professional negligence
- ◆ The purpose of the Solicitors (Scotland) Account Rules

### **Outcome 4**

Describe the main provisions of the Solicitors (Scotland) Account Rules and the Money Laundering Regulations

#### **Knowledge and/or Skills**

- ◆ The main requirements of the Account Rules
- ◆ The methods of monitoring compliance with the rules
- ◆ The need for the Money Laundering Regulations
- ◆ The basic steps necessary to comply with the Money Laundering Regulations

#### **Evidence Requirements for Outcomes 3 and 4**

In respect of Outcomes 3 and 4, the candidate will be required to demonstrate his/her knowledge of the provisions designed to protect the public relating to cash handling by showing they can produce evidence from a sample of three of the seven items in Knowledge and/or Skills for Outcome 3, and two of the four items in Knowledge and/or Skills for Outcome 4.

#### **Assessment Guidelines for Outcomes 3 and 4**

The assessment may take the form of one assessment consisting of written and/or oral responses to either a set of restricted response questions or multiple choice questions which will sample the knowledge and skills required in Outcomes 3 and 4. The sampling of knowledge for Outcomes 3 and 4 could be achieved by including sampling questions covering any three of the seven items in Knowledge and/or Skills for Outcome 3, and two of the four items in Knowledge and/or Skills for Outcome 4.

Candidates should not know in advance the items on which they will be assessed and different items should be sampled on each assessment occasion. The assessment should be carried out under supervision, may be open-book and should be approximately 500 words in length.

## Administrative Information

<b>Unit code:</b>	F50D 35
<b>Unit title:</b>	Legal and Ethical Issues
<b>Superclass category:</b>	EC
<b>Original date of publication:</b>	August 2008
<b>Version:</b>	02 (September 2009)

### History of Changes:

Version	Description of change	Date
02	Assessment guidelines amended to allow centres greater flexibility in designing assessments.	26/08/09
	Wording revised relating to guidance for candidates with additional support needs.	

**Source:** SQA

© Scottish Qualifications Authority 2008, 2009

This publication may be reproduced in whole or in part for educational purposes provided that no profit is derived from reproduction and that, if reproduced in part, the source is acknowledged.

SQA acknowledges the valuable contribution that Scotland's colleges have made to the development of Higher National qualifications.

Additional copies of this Unit specification can be purchased from the Scottish Qualifications

Authority. Please contact the Customer Contact Centre for further details, telephone 0845 279 1000.

## Higher National Unit specification: support notes

### Unit title: Legal and Ethical Issues

This part of the Unit specification is offered as guidance. The support notes are not mandatory.

While the exact time allocated to this Unit is at the discretion of the centre, the notional design length is 40 hours.

### Guidance on the content and context for this Unit

The purpose of the Unit is firstly to provide candidates with knowledge of the legal system in Scotland. The Unit will be of benefit not only to law students, but also to students studying other subjects such as accounting, business studies and media.

To the ordinary person in the street, concepts such as the common law and statute law might be confusing; the differences between the civil and criminal courts are likely to be unknown.

Secondly, increasingly complex and comprehensive regulations are being imposed on solicitors and it is important that candidates appreciate that these regulations are part of the Society's attempts to fulfil their statutory duty in terms of S1 of the Solicitors (Scotland) Act 1980 to promote the interests of the public in relation to the solicitors' profession. The Law Society Standards of Conduct should be researched and discussed in relation to the legal, moral and professional obligations of the solicitor to:

- 1 the clients
- 2 the courts and other authorities before whom a lawyer pleads his client's cause or acts on his behalf
- 3 the public
- 4 the legal profession in general and each fellow member of it in particular

The Law Society also:

- ◆ regulates who can be admitted as a solicitor
- ◆ operates the Solicitors' Guarantee Fund which can pay grants to anyone who loses money as a result of a solicitor's dishonesty
- ◆ refuses to grant a practising certificate to any solicitor who is not adequately insured against professional negligence

Additionally, an independent tribunal, whose members are appointed by the Lord President and the Scottish ministers, can have a solicitor struck off for professional misconduct. Candidates should be aware of the difference between professional misconduct, where a claim may be made to the Society for compensation, and negligence, where the client must raise court proceedings against the solicitor involved, and not the Law Society. Law Society leaflets may be helpful here.

Candidates working in legal offices must particularly know about the main provisions of the Solicitors' Account Rules and the Money Laundering Regulations. It is recommended that centres include in their courses at least the following points:

- ◆ all clients' money should be paid into a separate account known as the Clients' Account which cannot be attached by the solicitor's creditors should he go bankrupt
- ◆ the credit balance in the Clients' Account must always be sufficient to meet the sum of the credit balances on all individual client's accounts within the Client's Ledger
- ◆ if a payment is made on behalf of a client who has no funds, then the payment must be made using the solicitor's own funds

## Higher National Unit specification: support notes (cont)

### Unit title: Legal and Ethical Issues

- ◆ it is not permitted to use one client's money to make a payment for another client.
- ◆ proper books of account must be kept, so they disclose all transactions the solicitor has made with clients' money.
- ◆ the Clients' Ledger must be balanced monthly to ensure the Clients' bank account contains sufficient funds. This needs to be reconciled with the bank statement each month.
- ◆ if a solicitor holds funds for a client for any length of time he has a duty to place it on deposit receipt, and credit the client with the interest earned.
- ◆ the need to obtain identification from new clients before any transactions involving money are made.

Mention should also be made of the Society's right to audit any firm's books (currently approximately every 2/3 years) and of the requirement of the Solicitors (Scotland) Accounts Rules to submit certificates every six months to confirm that the requirements of the Accounts Rules have been met.

The Law Society of Scotland will provide copies of the Account Rules and Money Laundering Regulations and any other current regulations which apply. A charge may be made for this. The Society also regularly hold seminars on these topics, and the course papers may be obtained from the Society for a modest fee.

### Guidance on the delivery and assessment of this Unit

This is a new Unit which is a core Unit in the legal Professional Development Awards structure and is an optional Unit in the HNC/HND Legal Services course. It is intended that this particular Unit need not be taught and assessed on its own. It is anticipated that any candidate who has enrolled for a PDA can infill into the full time classes for both F1A7 34 *Scottish Legal Systems* and F19N 35 *Ethics and Cash Handling*, only for the necessary Outcomes. The candidates can sit the assessments for the relevant Outcomes at the same time as the full time students. There is therefore no necessity for extra tuition for the PDA candidates if assessed in this manner.

Delivery of this Unit would be greatly enhanced if candidates could be made aware of the relevance of studying law eg most newspapers and news programmes will inevitably make reference to the work of our Parliament, our courts, and of the personnel of the law, and so an understanding as to how the legal system works will help candidates make more sense of current affairs.

Where possible, use could also be made of copies of Acts of Parliament, byelaws and statutory instruments. Outcome 2 could be enhanced by a visit to the local courts.

In the teaching and learning associated with this Unit every opportunity should be taken to enhance research skills which are important in the study of law. This could be achieved by giving candidates details not only of appropriate text books but also of relevant website addresses, such as the Scottish Courts Administration, the Crown Office, the Law Society of Scotland and the Faculty of Advocates, and the Office of Public Sector Information.

By such means candidates will be encouraged to work independent of the classroom environment. This should be to their benefit when preparing for and completing assessments, all of which it will be noted are under controlled open-book conditions.

## **Higher National Unit specification: support notes (cont)**

### **Unit title:** Legal and Ethical Issues

In relation to Outcomes 3 and 4, wherever possible, links should be drawn which will enable candidates to understand the connection between knowledge and its application in the context of familiar situations relating to ethics and conduct in the legal office environment. Actual cases reported in the press can be used to demonstrate how the Law Society implements its statutory duty.

It is suggested that all assessments are conducted under supervised conditions.

Candidates will be familiar with effective and responsible use of ICT equipment and should be supported in the development of efficient systems for collating, coding and storing notes for ease of reference. Candidates should be advised on the need to present accurate written responses which are coherent, concise and use correct terminology.

In common with lawyers in most parts of the world, solicitors in Scotland have always been expected, by the general public and by their professional colleagues and others, to observe certain standards of professional conduct. The standards are required in order to establish the essential relationship of trust between lawyer and client, between lawyer and court, and between lawyer and other members of the legal profession.

All solicitors in Scotland require to be members of the Law Society of Scotland and are bound by their rules. Some of these rules have been included in Acts of Parliament and are binding upon solicitors. They stem from and have the force of statutory authority.

The Law of Scotland is founded upon principles which have the same validity and authority as Acts of Parliament. In the same way, in addition to the written rules governing solicitors in Scotland, there are other commonly accepted standards of conduct which solicitors are expected to meet.

## Higher National Unit specification: support notes (cont)

### Unit title: Legal and Ethical Issues

All the standards of professional conduct, whether contained in Acts of Parliament or in practice rules (written or unwritten) which are binding upon solicitors in Scotland are based upon certain values and principles which form the foundation of the profession and reflect the legal, moral and professional obligations of the solicitor to:

- ◆ the clients
- ◆ the courts and other authorities before whom a lawyer pleads his client's cause or acts on his behalf
- ◆ the public
- ◆ the legal profession in general and each fellow member of it in particular

Should any solicitor break any of these rules, then such this may give rise to disciplinary proceedings and amount to professional misconduct or some lesser finding.

Rules of professional conduct are designed to ensure the proper performance by the lawyer of a function which is recognised as essential in all civilised societies. The failure of the lawyer to observe these rules must in the last resort result in a disciplinary sanction. The willing acceptance of those rules and of the need for disciplinary sanction ensures the highest possible standards.

Solicitors are under a professional obligation to provide adequate professional services to their clients. An adequate professional service requires the legal knowledge, skill, thoroughness and preparation necessary to the matter in hand. Solicitors should not accept instructions unless they can adequately discharge these. This means that as well as being liable for damages assessable by a court of law for any act of negligence in dealing with a client's affairs, a solicitor may face sanctions by the Law Society or the Scottish Legal Complaints Commission which is a body that has been set up by the Scottish Executive in conjunction with the Law Society in respect of a service to a client which is held to be an inadequate professional service.

Solicitors' actions and personal behaviour must be consistent with the need for mutual trust and confidence among clients, the courts, the public and fellow lawyers. For example, solicitors must observe the Accounts Rules which govern the manner in which clients' funds may be held by solicitors and which are designed to ensure that clients' monies are safeguarded. Solicitors who are dishonest in a matter not directly affecting their clients are nonetheless guilty of professional misconduct.

This Unit is designed to make you aware of all the above regulations imposed by the Law Society of Scotland, to be able to understand the account rules and money laundering regulations.

### ***Opportunities for developing Core Skills***

Skills in accessing, analysing, evaluating and summarising current and complex legal information will be developed as candidates research a range of legal reference documents and websites when preparing for and completing assessments.

Although skills in Written Communication are not formally assessed candidates will be expected to present responses to a standard acceptable in the vocational area. Candidates would, therefore, be expected to have skills in summarising complex key ideas and information accurately and concisely, in using appropriate terminology and accurate spelling and punctuation for accuracy.

## **Higher National Unit specification: support notes (cont)**

### **Unit title:** Legal and Ethical Issues

Discussion during formative work of legal and ethical issues centred on case studies will provide opportunities to enhance skills in talking and listening in a vocational context.

### **Open learning**

This Unit could be delivered by distance learning, however it would require a considerable degree of planning by the centre to ensure the sufficiency and authenticity of candidate evidence. Arrangements would have to be made to ensure that where necessary, the assessments for are delivered in a supervised environment.

### **Disabled Candidates and/or those with additional support needs**

The additional support needs of individual candidates should be taken into account when planning learning experiences, selecting assessment instruments, or considering whether any reasonable adjustments may be required. Further advice can be found on our website [www.sqa.org.uk/assessmentarrangements](http://www.sqa.org.uk/assessmentarrangements)

## **General information for candidates**

### **Unit title:** Legal and Ethical Issues

The purpose of this Unit is to provide you with an understanding of the institutions, individuals and the procedures involved in the Scottish Legal System and control imposed by the Law Society over solicitors together with money laundering regulations.

Outcomes 1 and 2 deal with the court systems, types of crimes and punishment etc. Outcomes 3 and 4 deals with regulation of solicitors by the Law Society's Code of Conduct and the rules laid down to control and defeat money laundering.

This Unit may be assessed with three assessment events. The first assessment event may cover Outcome 1. This assessment may consist of three structured questions under supervised conditions. You may be permitted to bring two sides of A4 notes to the assessment event.

Outcome 2 may be assessed using a case study or mini case studies. The questions set will ask you to apply your knowledge of the legal system. You may bring one side of A4 notes to the assessment event. The assessment must be carried out under supervision.

In respect of Outcomes 3 and 4, the assessment may take the form of one assessment consisting of written and/or oral responses to either a set of restricted response questions or multiple choice questions which will sample the knowledge and skills required in Outcomes 3 and 4. The sampling of knowledge for Outcomes 3 and 4 could be achieved by including sampling questions covering any three of the seven items in Knowledge and/or Skills for Outcome 3, and 2 of the four items in Knowledge and/or Skills for Outcome 4.

In order to successfully complete the Unit, you will be required to demonstrate that you have obtained the Knowledge and/or Skills required for each Outcome. Assessments are completed under controlled conditions.