

PEAT 1 Outcomes – Professional Ethics and Standards

Notes:

1. Positive Indicators are not exhaustive, and are indicators of student achievement.
2. The Society reserves the right to update the Mandatory and Core Outcomes should that be necessary, and will give sufficient notice of this.

PROFESSIONAL ETHICS AND STANDARDS

The Society's Standards of Conduct and Service –http://www.lawscot.org.uk/Members_Information/Standards - apply to all qualified solicitors. The statements contained in this document have been drafted in line with those statements. From time to time these Outcomes and this document may be amended, in line with the evolution of the Society's Standards work.

By the end of the PEAT 1 programme a student will have performed effectively in a simulated environment to:

REGULATORY FRAMEWORK AND PROFESSIONAL STANDARDS:

Understand the role of the Law Society of Scotland generally and the role it and other regulatory bodies have in relation to the Profession. Maintains an awareness of the various functions of the Law Society of Scotland including representation and regulation

Positive Indicators:

- Knows the history and developing culture of both the Law Society and regulation of legal services, both within Scotland and internationally.
- Displays an awareness of the regulations applying to the provision of legal services to the client.
- Appreciates the difference between conduct and service issues and negligence.
- Understands the extent of the non-regulatory role of the Society.

Demonstrate knowledge of appropriate standards of compliance with the Accounts Rules and the Standards of Conduct and Service for Scottish solicitors laid down by the Law Society of Scotland from time to time.

Positive Indicators:

- Awareness of the Master Policy and other types of insurance required of solicitors in Scotland.
- Displays knowledge of the Accounts Rules as they relate to various areas of practice.
- Displays an awareness of the role of the Guarantee Fund.
- Knows the details of the Standards of Conduct and Service for Scottish Solicitors.

Analyse the concept of independence of the legal profession

Positive Indicators:

- Can analyse the value of independence of the profession within society.
- Can demonstrate its mechanisms, drivers, blockers.
- Displays knowledge of how independence affects different sectors of the legal profession culturally, economically, socially.

DUTIES TO THE COURT:

Understand the professional obligations of a solicitor to the Court

Positive Indicators:

- Is aware of and acts within the bounds of the relevant practice rules.
- Maintains a constant awareness of the duty to the Court.
- Identifies a potential breach of the practice rules and is able to act to prevent the breach from arising.
- Is aware of and acts in accordance with the differing obligations arising when appearing and instructing.

Resolve a breach of the duty to the Court

Positive Indicators:

- Understands the options available where the duty has been breached.
- Correctly identifies an appropriate solution to the breach.
- Selects an appropriate method of communicating with the client or the Court (as appropriate).

DUTIES TO THE PROFESSION

Understand the professional obligations of a practitioner to other members of the profession

Positive Indicators:

- Demonstrates awareness of the duty to other members of the profession.
- Acts honestly, civilly and with integrity.
- Respects the opinions and views of others.

THE CLIENT-SOLICITOR RELATIONSHIP

Identify client and client context

Positive Indicators:

- Is sensitive to how the situation of clients affects client care.
- Is aware of statutory requirements, eg Money Laundering Regulations and their impact on the client relationship.
- Demonstrates an awareness of diversity and equality issues in relation to clients and their affairs.

Act in the best interests of your clients

Positive Indicators:

- Can identify the best interests of a client in a matter.
- Can plan action in order to act in these interests.
- Acts in those best interests.

Take proper instructions

Positive Indicators:

- Clearly identifies the client.
- Can separate client from other interested parties.
- Can listen for and summarise instructions.
- Can distinguish basic difference between giving advice and seeking instruction.
- Can identify when instructions require clarified.
- Can identify basic conflicts in forms of instruction.

Identify and plan to achieve client goals and objectives/Understands and practises good client care principles

Positive Indicators:

- Can carry out effective fact analysis, take account of commercial considerations where appropriate, advise on options, consequences and potential costs of actions.
- Is aware of and acts according to professional rules that apply in a given situation, eg Standards of Conduct and Service, retainer letter, terms & conditions, etc.
- Gives objective advice to a client. Shows a basic ability to act professionally towards the client and to third-party professionals.

Carry out duties with competence , diligence, and appropriate skills

Positive Indicators:

- Is aware of standards of competent actings.
- Can implement such standards with diligence and regard for client best interests.

Implement duties on withdrawal from acting

Positive Indicators:

- Knows why withdrawal is required.
- Knows how to put into effect an acceptable plan of action to withdraw from acting.

Appraise and analyse their own developing practice in the context of the ethical framework of the practice of law in Scotland

Positive Indicators:

- Modifies own knowledge and practice in the context of feedback from tutors and peers.
- Demonstrates improvement in and knowledge of, ethical practice throughout the span of the programme.

CONFLICT OF INTEREST:

Understand the professional obligations of a solicitor to avoid conflicts of interest

Positive Indicators:

- Is aware of and remains within the boundaries set by practice rules.
- Demonstrates an awareness of the impact of a conflict of interest to a client and to the solicitor.

Identify instances of conflicts of interest

Positive Indicators:

- Identifies conflict scenarios (both actual and which might reasonably arise).
- Is able to apply the practice rules correctly.
- Is aware of the possibility of a conflict of interest arising.

Prevent a potential conflict from arising

Positive Indicators:

- Is aware of methods of preventing conflicts of interest from arising.
- Understands the importance of conflict checks before instructions are accepted.
- Understands that it is important to review progress of a transaction to ensure no conflict has subsequently arisen or might reasonably arise.

Resolve a conflict of interest

Positive Indicators:

- Understands the options available in a conflict situation.
- Correctly identifies an appropriate solution to the conflict.
- Selects an appropriate method of communicating with the client.

Disclosure of personal interest

Positive Indicators:

- Understands the importance of disclosing any personal interest in the course of a case/file/transaction.

CONFIDENTIALITY:

Understand the professional obligations of client confidentiality

Positive Indicators:

- Appreciates the limits imposed on a practitioner by the relevant practice rules.
- Understands the duty of confidentiality to a client and is aware of the differing nature of duties to different clients.
- Acts at all times in accordance with the duty of confidentiality.

Determine an appropriate course of action where conflict between a solicitor's duty of confidentiality and other professional duties is identified

Positive Indicators:

- Proposes an appropriate course of action where a conflict arises.
- Communicates an actual or potential breach of confidentiality to clients appropriately.
- Demonstrates awareness of the consequences of breaching the duty of confidentiality.