

# KNOW HOW

## COMPETENCY-BASED CPD TRAINING

### A solution

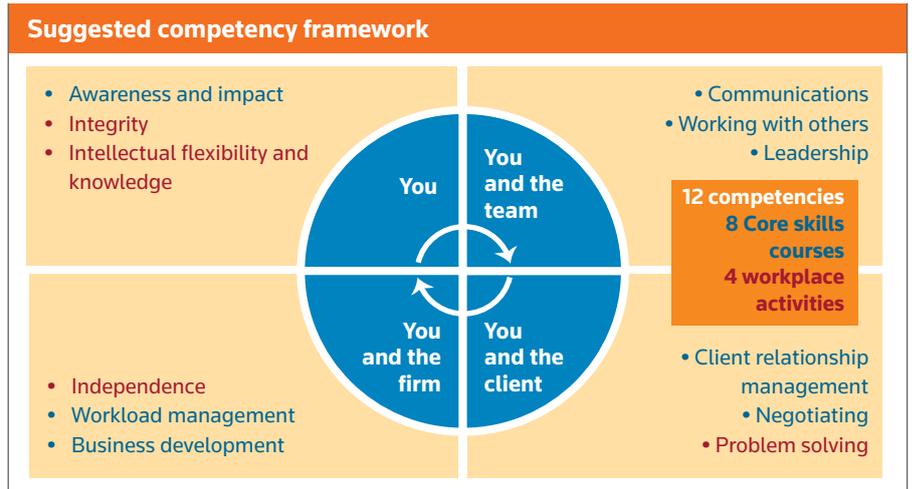
**Mac Mackay of Daw Ltd** discusses competency frameworks as an alternative to the current continuing professional development system.

On 21 May 2014, the Solicitors Regulation Authority (SRA) announced a new system for continuing professional development (CPD) for solicitors in England and Wales, which would remove the requirement to complete a minimum of 16 hours' CPD training a year (see *News brief "New CPD system: flexibility but at what cost?"*, [www.practicallaw.com/0-575-0675](http://www.practicallaw.com/0-575-0675)). However, various responses to the SRA's earlier consultation on the new system (the consultation) raised a number of concerns about a less prescribed approach to CPD ([www.sra.org.uk/sra/consultations/t4t-continuing-competence.page](http://www.sra.org.uk/sra/consultations/t4t-continuing-competence.page)).

#### Law Society response

In its response to the consultation, the Law Society identified a number of aspects that it considered to be the best approach to CPD, including that:

- CPD should be recognised as a key aspect of individual development and as part of a solicitor's annual performance review.
- Clear objectives should be set at the beginning of the CPD year.
- At the end of each year, a solicitor should report back on his CPD activities, reflect on what he has learnt and look at how the next year's objectives should be met.
- The focus should be on the outcome of an activity, not the input; that is, the learning achieved rather than the hours put in.
- The CPD scheme should be flexible and non-prescriptive, allowing each solicitor, in agreement with his supervisor or employer, to determine what activities would be most beneficial to him ([www.lawsociety.org.uk/](http://www.lawsociety.org.uk/)



*representation/policy-discussion/training-for-tomorrow-continuing-competence/*.

In addition to recognising the potential bureaucratic burden of CPD requirements, the Law Society went on to stress that the key issue is what regulatory arrangements are most likely to incentivise the profession to continue to invest appropriately in solicitors' professional development, while focusing on their professional needs and being cost-effective.

#### The problem of prescription

One view is that if a solicitor's whole working life is about ensuring compliance to the law and other regulations, then surely a prescribed approach to CPD would be best to ensure compliance with professional conduct standards.

However, in his foreword to the SRA's proposals for the new system, Martin Coleman, chair of the SRA Education and Training Committee, identified three problems to a more prescribed approach:

- Once a solicitor has qualified, the work type, the nature of the organisation and the role that he plays will be so varied that prescriptive CPD content "would be doomed to failure".

- The amount of time to be spent on, and the nature of, CPD will vary over time even for solicitors holding similar roles.

- The responsibility for professional development lies with the solicitor's employer, which may have a performance appraisal process and provide training to individuals at different stages of their career.

Larger firms, with HR resources and expertise, will have developed a competency framework for their solicitors over the various stages of their career, have in place performance appraisal processes, and have defined training to meet the needs of their employees. But will more modest firms, with less resources of time, people, and money, justify investment in training without a compliance obligation driving their action?

Our view is that training solicitors should not be a matter of compliance but of competitive differential, if not survival. In a rapidly changing political, legislative, economic, social and technological landscape, the firms that survive, let alone prosper, will be those that develop the only sustainable competitive advantage: learning faster than the competition.

## Competency frameworks

Today's modern legal practice is learning how to cope after the longest recession in living memory, massive social change and new technologies beyond our youthful dreams. It should go without saying that every lawyer should keep abreast of relevant black-letter law; anything less is professional negligence. But what are the other know-how requirements and skills of successful lawyers, and how do they develop over time?

While individual firms will vary, there are a series of 12 generic competencies that make for a rounded solicitor and, once attained, represent a comprehensive and significant milestone of personal achievement. These are defined and grouped around four key aspects of an individual professional's work (see box "Suggested competency framework").

Four sets of workplace competencies relate to the legal activities of a solicitor developed through internal consultation with his superiors and through reflective review of case files. In its response to the consultation, the Law Society said the time that solicitors take to reflect on case preparation and how it could be improved, and to identify future action points, should constitute CPD as long as it is done in a formalised way.

The eight further competencies are core skill sets that, by their very nature, lend themselves to conventional CPD training activities. But, as Coleman noted, the CPD needs for an individual will change over time. To address this, we have devised a career path document outlining how the competencies might change from a trainee, through post-qualification, to an equity partner. If we take communication as an example and consider one element of that; internal communications within the firm, one could envisage five levels of activity:

- As a trainee, building constructive working relationships with other members of the firm at all levels.
- As a junior associate, becoming an integral part of the firm, establishing and maintaining good communication throughout the firm.

## Communicating in an effective manner using a variety of media

Behaviour: associate solicitor	Never	Sometimes	Often	Nearly always	Always
Name:					
Date: / /					
• I actively listen to other people's views					
• I ask questions to check my own understanding					
• I consistently prepare clear and logical documentation					
• I convey information in a manner appropriate to the recipient					
• I give clear and relevant instructions to colleagues					
• I use electronic communication methods in an appropriate and professional manner					
<b>Total:</b> sum the number of your responses in each column					
<b>Rating:</b> multiply your column total above by this rating	0	1	2	3	4
<b>Score:</b> write down your score for each column					
<b>Sum your five scores:</b> your total across all five columns					/24

- As a senior associate, building constructive relationships with other staff, and showing increasing potential for developing effective team leadership qualities.
- As a salaried partner, actively assisting with the leadership and motivation of the department and client teams, actively promoting the firm's ethos and values, and developing "cabinet" responsibility and supporting decisions for the good of the firm.
- As an equity partner, adopting "cabinet" responsibility for, contributing to, and actively supporting, the partnership's decisions.

The next step is for a solicitor to evaluate his varied competencies and decide which CPD activity will take him onto the next stage. In order to do so without burdensome bureaucracy, we have developed a straightforward template for each competency. Again, looking at communication, and broadening the range of competencies across the subject, the template helps structure conversations, such as annual appraisals, between a solicitor and his manager (see box "Communicating in an effective manner using a variety of media").

If a solicitor's personal score is at some variance to his manager's, this will warrant further investigation. However, if the mean score is less than, for example, 75% attainment, it suggests that the solicitor may benefit from some form of CPD. This may be an internal training course (run by a member of staff or using an external tutor), a public event from a CPD provider, or some other activity. This simple process meets that best practice CPD, as suggested by the Law Society, and the same approach can be used across each of the eight skill sets. When a solicitor has achieved the required standard he can be rewarded with a professional competency course certificate.

When the whole team reaches this standard, the pay-back in better client relationships, new business growth, lessened risk by the firm and commensurate reductions in indemnity insurance may all go a long way to recoup the investment in training. It should be remembered that the whole team learning faster than the competition is its only sustainable competitive advantage. If you thought training was expensive, try ignorance!

Mac Mackay is managing director of Daw Ltd.