Foundation Degree Framework for the Legal Advice Sector

July 2006
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Background

A consortium of Not-for-Profit (NfP) advice networks, the Law Society, the Institute of Legal Executives (ILEX), the Local Government Association and the Legal Services Commission have worked strategically over the past three years to develop a set of commonly agreed National Occupational Standards (NOS) for the provision of publicly funded legal advice. More recently the NOS for Advice Project has worked with Skills for Justice to submit and disseminate the NOS for legal advice for accreditation and intend to join the Skills for Justice Sector Skills Council dependent on funding becoming available.

Alongside this work, the Project has produced a workforce development plan that provides labour market intelligence and a skills foresight analysis of the legal advice sector workforce.

This Foundation Degree Framework is a key element of the legal advice sector Project and has been developed in partnership with Foundation Degree Forward.

Key references

National Occupational Standards (NOS) for legal advice
www.ukstandards.co.uk

Workforce development plan and research reports
This documentation will be available from end of August 2006 on www.nos4advice.org.uk

Skills for Justice Sector Skills Council
www.skillsforjustice.com

Foundation Degree Forward
www.fdf.ac.uk

This Foundation degree framework has been produced in consultation with employers and other key stakeholders in the legal advice sector and is based on the workforce data produced for the project together with consultation undertaken by an independent consultant specifically addressing employers’ views on the content of a Foundation degree for legal advice.

Approximately 8,700 organisations provide publicly funded legal advice in the NfP, private and statutory sectors and employers of these organisations are the key stakeholders for involvement. Advice is delivered in a range of contexts resulting in a highly varied set of recruitment, skills and training needs. The majority of organisations in the sector are small with around four in 10 organisations employing six or fewer paid employees.
Foundation Degree Framework for the Legal Advice Sector

The framework is a guidance document that can be utilised by Foundation degree providers when designing Foundation degree programmes. The framework provides information about the distinctive features of Foundation degrees and their role within the legal advice sector. Most importantly, the framework communicates the defining features the legal advice sector wishes to see in a Foundation degree and the requirements the sector and employers have in terms of curriculum design and delivery to providers. The use of the framework in the design of a Foundation degree will ensure that the award meets the requirements of the sector and enhances the employability of Foundation degree graduates.

This framework guidance document consists of two sections:

Section A
Sets out generic information for providers on the nature of Foundation degrees, general design features and academic requirements.

Section B
Sets out sector specific information drawn from the workforce data and consultation that provides a national profile of the requirements of the legal advice sector. This should be used in conjunction with research carried out at a local level when designing a Foundation degree.
Section A: Generic information

1. Introduction

A Foundation degree is a vocationally focused higher education (HE) qualification that integrates academic and work-based learning (WBL) through close collaboration between employers and programme providers. It is designed with employer involvement and is intended to equip learners with the skills and knowledge relevant to their employment. It is located at intermediate level in the Framework for Higher Education Qualifications (FHEQ). A Foundation degree is a stand-alone qualification, but it provides opportunities for further (life-long) study, which could take a number of different forms, including progression to at least one articulated and appropriate honours degree programme.

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**Intermediate level qualifications**

Holders of qualifications at this level will have developed a sound understanding of the principles in their field of study and will have learned to apply those principles more widely. Through this, they will have learned to evaluate the appropriateness of different approaches to solving problems. Their studies may well have had a vocational orientation, enabling them to perform effectively in their chosen field.

They will have the qualities necessary for employment in situations requiring the exercise of personal responsibility and decision-making.
2. Tools and reference points

The QAA has produced a series of reference tools now commonly referred to as the Academic Infrastructure (AI). The components of the AI are a number of key reference documents that help institutions to set and maintain standards and quality. A list of AI components can be found below. The AI allows for diversity and innovation in the design and delivery of Foundation degrees since the documents are not designed to be used prescriptively.

Additionally, Foundation degree developers will need to access a number of other key documents including the National Occupational Standards developed by the legal advice sector (see below and annex I) and professional body requirements.

Components of the QAA Academic Infrastructure

Framework for Higher Education Qualifications (FHEQ)
The FHEQ identifies a series of levels within which HE institutions locate their awards. The associated qualification descriptors exemplify the outcomes of the main qualification at each of the five levels within the framework (certificate, intermediate, honours, masters and doctoral). The FHEQ is published by the Quality Assurance Agency for Higher Education (QAA).

www.qaa.ac.uk/academicinfrastructure/FHEQ/EWNI/default.asp

Foundation Degree Qualification Benchmark (FdQB)
The FdQB describes the distinctive features, general characteristics and generic outcomes of Fds, but does not include subject-level detail. It sets out the generic skills, knowledge and understanding that a successful graduate of an Fd should be able to demonstrate, as well as giving guidance on approaches to teaching and learning strategies and assessment of the qualification. The FdQB is published by QAA.

www.qaa.ac.uk/reviews/foundationDegree/benchmark/FdQB.asp

Subject benchmark statements
Subject benchmark statements are written by specialists within academic communities; they describe the general characteristics, attributes, capabilities and standards associated with specific levels of award in a particular subject area. Subject benchmark statements are not available specifically for Fds. However, designers of Fd programmes may wish to consult these documents as a useful reference tool. These documents are published by QAA.

www.qaa.ac.uk/academicinfrastructure/benchmark/default.asp

The subject benchmark statement for Law is published at

www.qaa.ac.uk/academicinfrastructure/benchmark/honours/law.asp
Programme specifications
Programme specifications are concise descriptions of the intended learning outcomes of a higher education programme. Each specification clarifies the knowledge, understanding, skills and other attributes a student will have developed on successful completion of that programme. It also provides details of teaching and learning methods, assessment and how the programme relates to the NQF. QAA publish guidelines on preparing programme specifications.

www.qaa.ac.uk/academicinfrastructure/programSpec/default.asp

The Code of Practice for the Assurance of Academic Quality and Standards in Higher Education (the Code)
The Code sets out guidelines on good practice relating to the management of academic standards and quality. The sections of the Code include precepts (principles) and explanatory text that an institution should consider within its quality assurance processes.

www.qaa.ac.uk/academicinfrastructure/codeOfPractice/default.asp

Key references

National Occupational Standards (NOS)
NOS are developed by employers, academics and other sector experts. They describe the skills, knowledge and understanding needed to undertake a particular task or job to a nationally recognised level of competence. A directory of NOS including the NOS for legal advice is produced by Skills for Business.

www.ukstandards.co.uk/

Guide to getting started with Foundation degrees
This guide is available on the FdF website at:

www.fdf.ac.uk/page12.html
3. Partnership

Partnership in developing Foundation degrees involves Foundation degree providers working in partnership with employers and employer bodies. All parties should be considered equal in terms of their input and influence over the design, delivery and review of programmes, although the final authority for validation rests with the awarding higher education institution.

Partnerships between employers, Foundation degree providers, Sector Skills Councils and professional bodies are central to the concept of Foundation degrees and are vital in providing programmes that are relevant, valid and responsive to the needs of learners and employers. Effective partnerships, which are strategic and sustainable, foster broad acceptance of the Foundation degree, reinforce ownership of the qualification among all stakeholders and establish the currency of the award. It is important that partnership agreements clearly identify the needs and expectations of all parties.

Higher Education Institutions and Further Education College Partnership

Foundation degrees are validated and awarded by a Higher Education Institute (HEI) or other body (such as the Open University Validation Service) with legally defined degree-awarding powers. The validating institution is accountable for the standards of the award and also for ensuring that the quality of the learning opportunities leading to its awards are managed effectively, even when delivery is delegated to a partner. It is important that all involved recognise the primary responsibilities of the awarding HEI for the standards and quality of the degree programmes offered under its powers.

Employer partnership

Foundation degrees integrate academic and work-based learning through close collaboration between employers and programme providers. It is a defining characteristic of Foundation degrees that programmes are designed to satisfy the needs of both employers and learners. Employer involvement in design of programmes ensures that the content of the award meets the needs of the industry and that there is an appropriate balance between work-related specialist skills and academic learning.

Experience from a range of sectors also indicates that where employers have been involved from the outset they are most likely to fund or support employees through a Foundation degree. The employers from the NOS for legal advice project have been closely involved in the development of this framework and are keen to be involved from the start of the design phase of a Foundation degree. Highlighting the clear business benefits of Foundation degrees will help to engage these organisations and other sector employers and ensure their continued commitment. Employers will wish to be provided with appropriate information about the Foundation degree and institutions may wish to consider the production of an employer handbook for this purpose.

Following the development phase of a Foundation degree, the close collaboration between providers and employers continues in the delivery and review of the programme. One of the design features of Foundation degrees is that where
possible, employers play an active part in delivery. This may take many forms, including participating in the delivery of work-based modules, the provision of student placements, provision of guest speakers, allocation of work-based mentors/supervisors and the assessment of learners within the workplace environment.

It is important that partnership agreements clearly identify the needs and expectations of all parties. Additional information on aspects of such partnerships is available through HEFCE, eg *Indirectly funded partnerships: codes of practice for franchise and consortia arrangements HEFCE 00/54* and the Agency (eg the section of the Code on Collaborative provision).

**Key references**

**The Code of Practice for the Assurance of Academic Quality and Standards in Higher Education (QAA)**
Section 2: Collaborative provision and flexible and distributed learning (including e-learning)
[www.qaa.ac.uk/academicinfrastructure/codeOfPractice/default.asp](http://www.qaa.ac.uk/academicinfrastructure/codeOfPractice/default.asp)

**HE in FE colleges: Indirectly funded partnerships: codes of practice for franchise and consortia arrangements**
HEFCE publication (00/54)

**HE and FE Partnerships**
A briefing for learning providers published by Foundation Degree Forward
[www.fdf.ac.uk/page12.html](http://www.fdf.ac.uk/page12.html)

**Employer Engagement**
A briefing for learning providers published by Foundation Degree Forward
[www.fdf.ac.uk/page12.html](http://www.fdf.ac.uk/page12.html)

**Key employer bodies in the legal advice sector**
Providers and employers at the local level are encouraged to consult with relevant national organisations, in particular the following who were members of the steering group for the National Occupational Standard Project.

Advice Services Alliance [www.asauk.org.uk](http://www.asauk.org.uk)
Advice UK [www.adviceuk.org.uk](http://www.adviceuk.org.uk)
Age Concern [www.ageconcern.org.uk](http://www.ageconcern.org.uk)
Citizens Advice [www.citizensadvice.org.uk](http://www.citizensadvice.org.uk)
DIAL UK [www.dialuk.org.uk](http://www.dialuk.org.uk)
Institute of Legal Executives [www.ilex.org.uk](http://www.ilex.org.uk)
Law Centres Federation [www.lawcentres.org.uk](http://www.lawcentres.org.uk)
Legal Services Commission [www.legalservices.gov.uk](http://www.legalservices.gov.uk)
Office of the Immigration Services Commissioner [www.oisc.gov.uk](http://www.oisc.gov.uk)
Refugee Council [www.refugeecouncil.org.uk](http://www.refugeecouncil.org.uk)
Shelter [www.shelter.org.uk](http://www.shelter.org.uk)
Shelter Cymru [www.sheltercymru.org.uk](http://www.sheltercymru.org.uk)
The Law Society [www.lawsociety.org.uk](http://www.lawsociety.org.uk)
Youth Access [www.youthaccess.org.uk](http://www.youthaccess.org.uk)
4. Flexibility

Foundation degrees are designed to reach people in a range of learning and work settings. They should therefore be delivered and assessed in such a way that learners can access appropriate learning and support according to their needs. This implies that delivery modes should make use of premises close to the learners themselves, and offer provision through evening, day, weekend and block attendance and e learning in combinations that allow maximum access.

Foundation degrees have the potential to drive innovation in delivery methods. Successful programmes are delivered through a variety of means appropriate to the learning outcomes of the programme and take account of the needs of the learner. Programme providers need to be conscious of the fact that learners who join the programme are likely to come from a variety of educational backgrounds so the early stages of programme delivery may place greater emphasis on tutor support and traditional teaching and learning methods.

Flexible delivery modes are crucial to the appeal of Foundation degrees to both learners and employers in the legal advice sector. Programme providers must consider the work patterns of the sector in order to develop and sustain marketability.

The legal advice sector workforce is predominantly female and while 64% of the workforce are permanent employees, 6% are on fixed-term contracts, and 23% are volunteers. Part-time working is common with 28% of paid workers doing less than 30 hours a week and 70% of volunteers working less than 10 hours per week. Considerable flexibility in provision will be necessary to meet the variety of needs of potential learners and their availability, and the variety of work patterns within the sector.

There are a number of modes of delivery which may be considered including:

- Full-time study
- Part-time study
- A combination of full-time and part-time study
- Day/block release
- Evening/weekend only
- Distance or off-site learning with tutor/mentor support
- Work place delivery
- E-learning
- Blended learning, ie a mix of the above.
It is likely that a variety of modes of learning will be used in the delivery of Foundation degrees. In determining the most appropriate for specific awards providers need to consider which modes are compatible with the delivery methods, as well as the characteristics of the learners. Recognition should be given to different learning styles and preferences.

Learners should have the opportunity to experience a range of modes of learning to facilitate the development of a wider range of knowledge and transferable skills. These may include:

- Work-based learning
- Traditional lecture/seminar based activities
- Tutorials and workshops
- Project and group work
- Self directed or distance learning with tutor support
- E-learning (VLE and Intranet)
- Blended learning, ie a mix of the above.

It is suggested that formal learning agreements are drawn up to clarify the range of learning modes involved in a programme prior to commencement. Where there is more than one mode of delivery or learning available, for example, full-time and part-time delivery, for a given programme it is also crucial to consider parity of experience for all learners.

Foundation degrees are intended to increase access to and widen participation in, higher education with programmes of study that are designed with work-based learning as an integral part of their programmes. Foundation degrees are an important addition to the curriculum offered for the sector and they will ensure those who choose to pursue a legal career are not denied the opportunity to develop academic skills should they opt to do so.

Foundation degrees should be an extension to this model, opening up learning to continue to a higher level. However, providers must recognise that accessibility will have direct correlation with the attendance mode offered for Foundation degree programmes.
5. Work-based learning

Work-based learning is a key characteristic of Foundation degrees. It may involve learners going on placements or engaging in consultancy or project work for employers, or it may use the learner’s own workplace as a source of learning. It should be fully integrated into the whole programme, with defined and assessable learning outcomes, and should not be seen as a ‘bolt-on’ to academic study. Employers are expected to support learners as they learn in the workplace and sign up to a tripartite learning agreement between themselves, the learner and the university or college which outlines the work that will be undertaken and the learning outcomes that will be assessed.

Work-based learning must be fully integrated into the design, delivery and assessment of all programmes.

There are two types of work-based learning:

- Work-based learning is integrated into a programme which is essentially college or university based, where learners spend a period of time at work carrying out specific tasks for an employer
- The learner is already in work and is using his or her workplace to frame and apply the knowledge and skills learned during the programme.

Whichever is the case, the work-based learning element of the programme must be of sufficient duration and suitably structured to enable the learner to demonstrate all the agreed work-based learning outcomes.

Those involved in the design and development of a Foundation degree will need to ensure that, along with the other elements of the programme, the work-based learning aims and learning outcomes are set at the intermediate level on the Framework for Higher Education qualifications (FHEQ). Learning outcomes for work-based learning should relate to technical skills, vocationally relevant knowledge, personal and interpersonal skills. Tutor-led, work-related modules delivered within the FEC/HEI may also enhance the learning experience of Foundation degree learners, but will not generally be considered a substitute for learning in a live work setting.

Work-based learning should be designed so that it contributes to the business objectives of the employer. The process involves the development of higher-level learning within both the providing institution and the workplace. It should be a two-way process, where learning in one environment is applied in the other. Work-based learning requires the identification and achievement of defined and related learning outcomes. Experience at work is not in itself sufficient to qualify for credit within a Foundation degree. It is the learning that derives from work that will be assessed as part of the Foundation degree programme.

In order to support learning in the workplace, employers may need:

- Information on how the Foundation degree can support business objectives
- Induction into the provision and management of workplace learning or mentoring
- Mentor/supervisor training
Help in managing learning activity in the workplace
Assistance in understanding assessment procedures
Agreement with the education institutions on the breadth and timescales of their involvement in work-based learning and mentoring.

These needs should be taken into account during the design phase of the Foundation degree.

Employers should be invited to participate in the regular review of Foundation degree programmes. Review procedures should ensure that evaluation of the provision of all work-based learning is undertaken as part of the review, and involves feedback from all work-based learning providers. Learners also need opportunities to comment on their work-based learning experiences, and feedback should be part of the annual monitoring processes.

Learners should be heavily involved in the design and location of work-based learning and this will form an essential part of their personal development plan. Work-based learning should enable learners to take on appropriate roles within the workplace, giving them an opportunity to learn and apply the skills and knowledge they acquire as an integrated element of the programme.

Key references

The Code of Practice for the Assurance of Academic Quality and Standards in Higher Education (QAA)
Section 9: Placement learning
It is strongly recommended that programme designers and delivers consult this document in respect to the assurance of quality and standards of provision of placement learning.

www.qaa.ac.uk/academicinfrastructure/codeOfPractice/default.asp

National Standards for Work Experience
The National Council for Work Experience website provides information on national standards for work experience

www.work-experience.org

Work-based Learning
A briefing for learning providers published by Foundation Degree Forward

www.fdf.ac.uk/page12.html

Learn direct – Learning through Work

www.learndirect-ltw.co.uk/ep/web/home/ltwhome/homepage/
Learning agreements

Learning agreements for use within Foundation degrees are tripartite agreements between the Foundation degree provider, the employer and the learner. These are not required to be long or detailed documents; however they will highlight how the proposed activities and projects to be undertaken by the learner meet the business objectives of the employer and the learning outcomes of the Foundation degree.

Learning agreements outline the roles and responsibilities of individual learners, providers and employers, in the provision of learning, support and assessment. This is seen as particularly important to the management of the work-based element of a programme and where distance learning is a key feature of the delivery mode.

Within the context of work-based learning the learner, employer and provider have clear roles and responsibilities. A learning agreement should be developed prior to undertaking each work-based learning activity. Well-planned activities and work-based projects will provide positive outcomes for both the learner and the employer.

Typical areas of content in a learning agreement could include:

**The employer’s responsibilities:**
- to take the overall responsibility for learners undertaking employment or work-based learning on their premises, under their own ‘Terms and Conditions of Service’ for the duration of the training contract
- to provide/arrange for, in accordance with the Health and Safety at Work Act, a safe and healthy working environment
- to ensure that equal opportunities legislation and requirements are adhered to
- to provide the experience, facilities and training necessary to achieve the work-based learning outcomes specified by the learning agreement
- to provide the necessary orientation, training, and precautionary safety instruction in the performance of position duties and responsibilities
- to provide the learner with regular feedback and appraisal of performance
- to notify the work-based learning co-ordinator of any problems relating to the learner’s performance and the employer’s intent to terminate a learner’s employment/placement

**Foundation degree provider’s responsibilities:**
- to ensure that the employer provides a safe working environment for the learner as part of its operating agreement
- to ensure equal opportunities regulations are adhered to
- to maintain regular contact with the employer and learner undertaking work-based learning
- to provide support and training as appropriate for employers in areas of induction, mentoring and assessment of learners
- assess the learner to ensure standards are met
The learner’s responsibilities:

• to comply with the rules, regulations, and normal requirements of the employer’s organisation, including timekeeping, codes of behaviour, confidentiality and dress
• to perform those tasks assigned by the work-based learning supervisor/mentor which are related to the learning objectives identified in the learning agreement
• to seek regular feedback on performance within the workplace and reflect on their placement learning experience
• to notify the college or university work-based learning co-ordinator of any changes needed to the learning agreement or of any problems that may develop during the placement
• reflect on their learning through the production of a professional development plan

This agreement should be signed and dated by all parties and regularly reviewed.

Additional potential considerations for a work-based learning agreement in legal advice (these are indicative but others may be drawn up1).

Employer:

• to permit use for learning and assessment of confidential client information
• to make necessary insurance arrangements to cover the learner and staff in the event of negligent advice
• to indemnify learners in respect of personal liability
• to define precisely the circumstances in which advice may be given by the learner to a client without supervision
• to undertake to provide supervision and mechanisms for checking advice and proposed advice given by the learner in order to safeguard the learner and client
• to provide opportunities for defined amounts and quality of experience or legal advice activities to be gained and where appropriate observed

Learner:

• only to give advice to clients after obtaining any required supervision and/or checking arrangements are met
• to describe status and supervision arrangements accurately to clients
• to comply with protocols, management requirements, and instructions of the employer
• to comply strictly with confidentiality requirements
• not to remove or copy written or other materials unless in accordance with guidelines or specifically agreed
• never to advise beyond the limits of their competence
• to meet organisational and client expectations for punctuality and attendance

Provider

• to visit the learner in the workplace
• to offer legal analysis of problems to learners and the employer if requested

1 Reference to model standards for clinical legal education programmes may be useful. See www.ukcle.ac.uk/resources/clinic/standards.html
• to comply strictly and to require examiners to comply with confidentiality including minimising circulation of anonymised materials
• to take opportunities to familiarise teaching staff with legal advice work of the employer

**Work-based mentors**

Learners require adequate support for work-based learning. Work-based mentors or supervisors fulfil this role in the workplace. Mentors/supervisors have an important part to play in facilitating the delivery of Foundation degree programmes, with good support increasing the chance of a successful learning experience for the learner.

The arrangements for providing work-place support to learners may differ between sectors and individual employers. In some workplaces learners may be supported by a number of individuals who have responsibility for different aspects of the support. In other organisations support may be provided by a single individual. Mentors/supervisors will be members of the organisation who are equipped with the skills and experience to facilitate learning and development and the support they provide will potentially include:

• Acting as the main point of contact between the learner and the provider institution during periods of work-based learning
• Playing a key role in providing both academic and pastoral support
• Responsibility for assessing some elements of the work-based learning, particularly engagement in formative assessment processes that can facilitate the link between work-based learning and the application of academic knowledge and understanding.

As mentors/supervisors will be expected to work alongside the tutor in supporting the learner in the work place it is important that programme providers consider the development and training needs of this role in order to underpin quality and consistency of provision.

Legal advice sector specific information on work-based mentors is in section B.8.

**Key references**

**Supporting Learning by Mentoring in the Workplace**
A unit from the Learning and Development NOS

www.ukstandards.co.uk
6. Progression and articulation

All Foundation degrees are validated in the context of an identified progression route for learners who wish to continue their academic study. This is usually a BA(Hons) or BSc(Hons) and the awarding institution should make clear where automatic progression routes lie. However, remaining in HE is only one form of progression. Learners may use their success on a Foundation degree to seek professional or vocational qualifications, to move to a new job, to seek promotion within their place of work, or to stay in their current post in the knowledge that they are better equipped to do their job well. Progression should therefore be seen as a matter of personal choice, and not pinned to a notion of moving through the hierarchy of higher education qualifications.

Progression onto and within a Foundation degree

Foundation degrees are intended to make a valuable contribution to life-long learning by providing access to higher education for learners from different starting points and with different entry qualifications, for example, apprenticeships, Access programmes, and NVQs.

It is important that recognition is given to the knowledge, skills and understanding that an applicant for a Foundation degree has already developed. Such knowledge, skills and understanding can include certificated, non-certificated and experiential learning. Foundation degrees should operate with flexible admissions procedures which cater for all these types of learning. Admissions policies and regulations should not be limited to traditional entry qualifications, but designed to be applicable and attractive to learners from different backgrounds, with diverse experiences and qualifications, including vocational and occupational qualifications.

Foundation degree providers should have transparent, rigorous, fair and flexible systems in place to allow for the accreditation of prior experiential learning (APEL). This will apply both to the entry requirements of the programme and for the partial or total exemption of certain parts of the programme.

Accreditation of prior experiential learning (APEL)

Learners entering Foundation degrees with skills and knowledge acquired before embarking on the programme may seek to have these acknowledged through the award of credit. Their learning may have been gained through formal programmes of study (APL), or through experience in a range of contexts (APEL). Claims for APEL will have to be assessed by the providing institution in order to judge whether it merits credit and, if awarded, the credit may be used to exempt the learner from part of the programme, or as a substitute for modules or parts of modules.

Progression from a Foundation degree

A Foundation degree is a stand-alone qualification. However, Foundation degree graduates may wish to progress to higher qualifications. The FdQB states 'it is important that a clearly articulated progression route exists between the Fd (Foundation degree) and other qualifications, both those validated by higher education institutions as well as by professional and other educational bodies'.
Such routes should be established when Foundation degrees are validated. The arrangements for progression are determined by the awarding bodies through their admissions policies and procedures, and should be implemented consistently and fairly. The identification of explicit progression arrangements should be available to learners on Foundation degree programmes through course handbooks and prospectuses.

A learner may be able to gain additional professional accreditations and/or qualifications in the course of studying for an Foundation degree. In such cases, institutions will include the requirements of professional and vocational bodies as part of the validation process.

Graduates of the Foundation degree in legal advice seeking to qualify as a solicitor or barrister can gain exemption, at present, from only the certificate level of the Qualifying Law Degree. Foundation degree providers who wish to take advantage of this opportunity will need to design the Foundation degree to meet the current requirements of the Joint Academic Stage Board, set out in Appendix D, Bar Council’s Academic Stage Handbook 2005-2006, which can be found at www.legaleducation.org.uk/downloads/appendixdacstage.doc

Graduates who then complete an honours degree (any subject) are eligible to undertake the Graduate Diploma in Law, a one year course which permits the student to go on to a Legal Practice Course or Bar Vocational Course. This opportunity has no design implications for the Foundation degree in Legal Advice.

Learners who have completed the Legal Practice Course who wish to qualify as a solicitor must undertake a training contract lasting two years. Exemptions of up to six months can be granted for equivalent legal practice experience, which could
include legal advice work while undertaking the Foundation degree in legal advice. See Law Society Training Regulations 1990 reg 21


The Institute of Legal Executives (ILEX) grants exemptions from their Level 3 Law and Practice Diploma for holders of Foundation Degrees from two universities. Work based learning elements and their assessment may enable the grant of waivers from some of the qualifying employment requirements.

Credit Accumulation and Transfer

On successful completion of a Foundation degree, learners will normally be awarded 240 credits. These must be a combination of level C (Certificate) and level I (Intermediate) modules, with a minimum of 120 at Intermediate level. Credit awarded for work-based learning components of a programme should be subsumed in the 240 credit total and not additional to it.

Key references

QAA guidelines on the accreditation of prior learning
The guidelines on the accreditation of prior learning set out a series of principles that HEIs can consider in their admissions process of Learners who seek admission onto a programme from a range of backgrounds and experiences.

www.qaa.ac.uk/academicinfrastructure/apl/default.asp

Accreditation of Prior Experiential Learning (APEL)
A briefing for learning providers published by Foundation Degree Forward

www.fdf.ac.uk/page12.html

Learner Progression
A briefing for learning providers published by Foundation Degree Forward

www.fdf.ac.uk/page12.html
7. Assessment

The purpose of assessment is to determine learners’ performance in relation to the learning outcomes of the award, level and modules. Assessment criteria should be clearly defined and relate to the learning outcomes for the Foundation degree with balance between academic and vocational skills. The awarding institution is responsible for ensuring that assessment is consistent and appropriate to the level of the award. Cross-moderation processes involving the awarding body and all delivery partners are crucial in ensuring consistent assessment practices across all sites of delivery. Institutions must also provide clear guidance to external examiners about the distinctive characteristics of Foundation degrees.

Assessment methods, including those pertaining to work-based learning should be specified at the time of validation. These methods can embrace a variety of formal and informal, summative and formative techniques provided that they are rigorous and can withstand independent verification. It is important that learners are exposed to different assessment methods and a wide range of assessment techniques can be utilised to measure achievement of learning outcomes. The programme of assessment should be varied and ‘fit for purpose’ providing a good mix of competency based assessments, assignments and employer feedback that may include:

- Case studies
- Presentations
- Project work
- Examinations
- Reports
- Practicals or simulations
- Observations and viva examinations
- Peer and self assessment
- Personal development plans
- Portfolios.

The engagement of employers in the assessment process should be considered at the design stage of a Foundation degree. It may be necessary to phase in the employer contribution to assessment, possibly through the use of structured feedback.

Learners are encouraged to understand the relationship between learning outcomes and assessment. A procedure for providing feedback to learners that clearly relates to assessment criteria and learning outcomes is essential. Developing learners’ confidence in tackling different forms of assessment will support learners in the progression to further professional qualifications and to honours level study.

Regular evaluation and review of Foundation degrees programmes is necessary to ensure that the programme remains current and valid and that learners are achieving at the intermediate level. This evaluation will involve both the employers and the learners and include the evaluation of work-based learning.

In the legal advice sector the role of the work-based mentor in assessment needs to be clearly defined and integral to the quality assurance processes of the validating institution. A distinction may be necessary between mentors who have
a formal role in assessment, and work place staff who support the student on a
day-to-day basis. The latter may provide evidence upon which assessors base
judgement for assessment purposes but not be the assessor.

Some employers in this sector have expressed reservations about a potential
conflict of interest arising from employers also acting as examiners of learners
from their own agency. This issue is not unique to the legal advice sector.

**Key references**

**The Code of Practice for the Assurance of Academic Quality and
Standards in Higher Education (QAA)**
Section 6: Assessment of Learners

[www.qaa.ac.uk/academicinfrastructure/codeOfPractice/default.asp](http://www.qaa.ac.uk/academicinfrastructure/codeOfPractice/default.asp)

**The Code of Practice for the Assurance of Academic Quality and
Standards in Higher Education (QAA)**
Section 7: Programme approval, monitoring and review

[www.qaa.ac.uk/academicinfrastructure/codeOfPractice/default.asp](http://www.qaa.ac.uk/academicinfrastructure/codeOfPractice/default.asp)
Section B - Sector-specific information for the legal advice sector

1. Introduction

This framework relates to the training of advisers who provide publicly funded legal advice in England within the Not-for-Profit (NfP), statutory or private practice sub-sectors of the legal advice sector.

The workforce development research provides comprehensive data on the workforce, including a demographic profile and training and educational backgrounds and skills foresight analysis. This research is referred to throughout this section. This is the main point of reference for the sector profile and providers should review the published reports. The responses from consultation carried out specifically on the Foundation degree framework also form the basis for information and guidance in this sector.

The workforce research identifies that the advice sector faces issues relating to recruitment, retention, and career progression. The Foundation degree development offers an opportunity to the sector to widen access to formal and academic routes into qualifications.

The implication for providers is that they will need to be aware of the challenging requirement for the development of Foundation degrees that are flexible, in terms of delivery, attendance and learner support.

This framework describes the legal advice sector requirements and recommendations for the design, delivery and implementation of Foundation degrees in legal advice. It provides information about the characteristics of the sector and its employees, as well as the expectations of employers in terms of their requirements for skilled and efficient workers.
2. Legal advice sector context

This framework relates to the training of advisers who provide publicly funded legal advice in England\(^2\) within the Not-for-Profit (NfP), statutory, or private practice sub-sectors. This framework is targeted at advice workers across each of those sub-sectors who do not have an advice related qualification and may want to pursue a vocationally focused qualification. It also relates to employers needs for new entrants to the legal advice sector.

**Sector composition**

The sector comprises approximately 8,700 organisations across England and Wales distributed across three distinct sub-sectors, namely, private practice firms, NfP organisations and advice teams in the statutory sector.

Private practice firms are largely mixed in nature, combining publicly funded work with a private paying client base. Workers in such firms also frequently have a mixed work portfolio covering both publicly funded and private paying clients.

The NfP sub-sector encompasses a broad spectrum from large national voluntary organisations to local community groups. Some of the NfP bodies are members of, or are affiliated to, large national networks but there is a range of smaller organisations, often staffed entirely by volunteers, with no network membership or affiliation.

The statutory sector includes teams based in local authorities, providing advice in a range of areas, including housing, consumer and welfare rights. For many such teams, the provision of advice is not their principal function but is additional to other activities.

There are regional variations in the numbers and proportions of agencies and workers from each sub-sector. Regional variation is generated in part by local government, both in its capacity as a direct employer of advice workers but also through its funding of NfP bodies and the differing priority authorities place on the extent of legal advice provision.

In England and Wales there are currently:

- 4537 private practice firms providing publicly funded services
- 3226 Not-for-Profit organisations
- 938 teams in local authorities.

**Sector profile**

- 39% of organisations have six or fewer paid employees
- 75% of organisations have 15 or fewer paid employees
- 40% of Not-for-Profit organisations have 21 or more volunteers
- 60% of Not-for-Profit organisations have 11 or more volunteers.

\(^2\) Foundation Degree Forward and the European Social Fund funded the development of this Framework, which have a remit in relation to England and not Wales. The remit of other funders including the Legal Services Commission extends to Wales, and Welsh agencies, and providers may wish to refer to this Framework.
While in terms of numbers of organisations, the private practice sub-sector is the largest constituent part of the legal advice sector, in terms of employment the NfP sub-sector is the single largest employer of staff, both paid and unpaid. National data shows that the sector workforce is distributed in the following proportions:

- 29% are in private practice
- 39% are in paid Not-for-Profit posts
- 23% work as volunteers in the Not-for-Profit sector
- 9% are in the statutory sector.

**Business Environment**

Organisations provide services in a changing environment, with adjustments made in types of services offered, clients served, geographic and subject coverage.

Demand for services has been growing in the sector with skills foresight research indicating that one in five organisations have found that demand for services has ‘increased a lot’ in the last year. A further 37% report that demand has increased ‘a bit’. This has been matched by increases in employee numbers with 30% of organisations reporting their paid workforce has increased ‘a lot’ or ‘a bit’ in the last year.

Skills foresight research also suggests high turnover and vacancy rates in the sector. Overall, 10% of organisations have turnover rates for paid employees greater than 30%, while 21% have turnover rates between 10% and 30%. Volunteer turnover rates are even higher with 23% of organisations reporting turnover rates greater than 30%.

Recruitment activity in the sector is generally high with six in 10 organisations reporting that they have tried to recruit in the last year. Of these, 20% have experienced ‘significant difficulties’ in recruiting and 26% have experienced ‘some difficulties’. Recruitment problems are attributed to a general problem with a lack of applicants, and applicants lacking qualifications, experience, and especially skills. Recruitment problems are also commonly experienced in respect of unpaid staff with more than half of organisations experiencing some level of difficulty.

**Range of legal advice work**

Within each sub-sector there are emphases on different areas of advice. In the private practice sub-sector, over 62% of solicitor firms are engaged in family work, and 57% in crime. By contrast for the NfP sub-sector the largest areas of work are in welfare benefits (69% of agencies), housing (59%), debt (47%) and employment (47%). In the statutory sub-sector the main areas of work are housing (60%) and welfare benefits (45%).

There is also variation in the types of services that organisations offer. The vast majority of organisations provide advice with 93% of organisations nationally reporting this as an activity. However, there are big differences among organisations in respect of casework, representation at court or tribunal, second tier support and social policy work. Around 90% of private practice firms offer representation services but this is true for only 45% of NfP organisations and 39% of statutory teams. In contrast, a much larger share of NfP organisations
carry out social policy work and provide network support than organisations in private practice or the statutory sector.

Patterns of problems for which legal advice may be needed vary according to local economic, cultural, social and demographic factors. Therefore there is variation in need and provision within and between localities and regions.

Environmental analysis

The sector has recently conducted an environmental analysis that indicates the following drivers for future demands for advice and implications for the operational capacity of the sector relevant to this framework:

- Impending change for providers potentially leading to larger structures, mergers and restructuring and potential need for capacity building
- Legislative, political and economic changes affecting demand for services
- Limited funding to support new entrants
- Funding climate precarious and not encouraging growth
- Methods of delivery developing, eg email and text requiring expansion of workforce and training
- Changes in delivery of specific areas of law leading to potential gap.

Workforce profile

Data from the NOS workforce survey follows to present an overview of the sector.

Age

In the sector as a whole, 4% of the workforce is under the age of 25, 21% is between the ages of 25-34 and as many as 7.5% are past the general retirement age of 65. Of general concern is the 40% share of workers who are over the age of 45 and will soon be nearing retirement.

Gender

The legal advice sector is heavily female, especially in the NfP and statutory sub-sectors where women make up 71% and 82% of the workforce respectively. Overall, women make up 67% of the sector workforce. Nevertheless, there are some subtle variations in gender balance across the regions with a greater share of men in paid NfP posts in the London region, for example.

Ethnicity

The sector’s workforce comes from a cross section of backgrounds although 87% of the workforce is white. The next largest group is Asian with 6% and then Black with 3%. There are marked differences among organisations of different types and variations in regional patterns. Black workers are predominantly employed in the paid NfP sector and in the London region, for example. Non-white workers are under-represented in Merseyside and the North East.
Disability

Overall, 9% of the workforce has a long-term limiting illness, disability or impairment. Most disabled workers are employed within the NfP sub-sector, both in paid and voluntary roles.

Permanent/fixed contract mix

In the sector as a whole, 64% of the workforce is on a permanent contract, 6% on a fixed term contract, 1.3% are self-employed, 23% are volunteers, 5% are partners in private practice firms and 1% are locums or other.

Educational Attainment

Three-quarters of workers in the advice sector have been educated to A-level or equivalent although 9% of workers have no formal academic qualifications. Approximately 70% of private practice workers have a law degree, as do nearly 10% of NfP workers and 11% of statutory sector workers.

Volunteers

Volunteers are overwhelmingly based in Citizens Advice Bureaux (CABx) although most NfP bodies rely on volunteers to some extent with 40% of all Not-for-Profit organisations having between 1 and 10 volunteers. Around 14% of organisations have 50 or more volunteer workers.

Evaluation of sector profile

The issues this profile highlights for the sector in relation to the provision of Foundation degrees are:

- Measures to attract new entrants, in light of skill shortages identified below, would benefit the sector, with a particular focus on younger entrants
- The NfP and statutory sectors are the key target employers when developing Foundation degrees
- Access to learning for both volunteers and paid workers is needed to meet development needs. This highlights the need for financial support for learners
- Given organisational size, resources are also needed to meet the cost of supporting learners
- The need to engage with specific groups who may be under-represented in particular sub-sectors and geographies
- Unevenness in the pattern of educational engagement among men and women needs to be taken into account in Foundation degree planning and delivery
- The opportunity to attract new advice workers and retain existing expertise was considered by consultees to be a significant potential benefit of a Foundation degree, especially in view of current recruitment and turnover difficulties.
Foundation Degree Framework for the Legal Advice Sector

3. Education, skills and training context

Skills and qualifications held by current workforce

Workers in the sector possess a range of skills and experience and accord alternative pathways to developing role skills with differing levels of importance. Experience gained in the worker’s present role is rated most highly in terms of development of the skills needed in the current job. Training gained in the worker’s present role is also regarded as significant for skills development by individual workers.

Advice workers require a wide range of skills and as well as legal knowledge include communication skills, giving advice and counselling skills, using computers and other information technology, knowledge of working with specific client groups, staff management and supervision skills. The relative importance of such skills does however vary across the three sub-sectors of the legal advice sector.

The types of legal advice and other advice qualifications held by advice workers are set out below.

Legal advice-related qualifications held:

- **Professional qualifications (Legal Practice Course (LPC) or its predecessor, Bar course (BVC), or ILEX):** A substantial share of workers in private practice hold professional qualifications with 61% having completed a qualification and 7% working towards one. Of those who have completed a qualification, 82% have an LPC, 3% the BVC, and 9% an ILEX. Additionally 6% of NfP advice workers and 5% of local government advice workers have an LPC, Bar, or ILEX qualification.

3 LPC and bar courses are generally undertaken by learners wishing to become solicitors or barristers and not as transferable qualifications. These relatively large numbers suggest the choice of NfP and local government advice work was a change of career choice necessitated by shortage of pupillage or training contract.

4 CAB training can be seen to play a significant part in supplying trained workers to the advice sector generally. 29% of advice workers have undertaken this training, rising to 51% of NfP sector workers.

- **NVQ in advice and guidance:** Advice UK London region is the only advice sector based Advice & Guidance NVQ assessment centre approved by City & Guilds and over 300 candidates have gained NVQs at level 3 and 4 in advice and guidance.

- **CAB certificate:** A Citizens Advice Bureaux advice worker, whatever their other qualifications, must successfully complete the CAB in-house certificate before being able to become an adviser. Once achieved this is recognised by other Citizens Advice Bureaux. The achievement can, but need not, be accredited at level 2 or 3 of the National Qualifications Framework by the Open College Network; accreditation is not pursued by the majority of CAB workers.

The legal advice qualifications held by advice workers comprise the following:

3 LPO and bar courses are generally undertaken by learners wishing to become solicitors or barristers and not as transferable qualifications. These relatively large numbers suggest the choice of NfP and local government advice work was a change of career choice necessitated by shortage of pupillage or training contract.

4 CAB training can be seen to play a significant part in supplying trained workers to the advice sector generally. 29% of advice workers have undertaken this training, rising to 51% of NfP sector workers.
Taking all types of legal advice qualification together, 36% of the sector holds an accredited qualification and a further 5% are working towards such a qualification. This is broken down as follows:

Amongst NfP volunteers, 27% hold such a qualification, with 3% working towards one. For NfP paid advice workers the figure is only slightly higher, at 30% with 5% working towards such a qualification. Amongst local government advice workers, only 16% hold such a qualification with 9% working towards one. In both of these sub-sectors the large majority of the workforce in the short or medium term will lack a legal advice work qualification.

For private practice the percentages are 61% holding such a qualification, and a further 7% working towards one. Even in this sub-sector over 30% of advice workers are unlikely to have an accredited legal advice qualification in the short or medium term. This figure will rise if predictions of solicitors engaging greater numbers of non-solicitor staff are accurate.

These figures indicate that within the NfP and statutory sub-sectors a majority of advice workers do not hold a qualification in legal advice work. Even amongst private practice advice workers, 32% neither hold nor are working towards a qualification.

**Generic advice qualifications held**

These qualifications accredit generic advice skills rather than legal advice skills and are located at levels 2 or 3 of the NQF.

12% of workers in the local government sector hold Open College Network (OCN) qualifications or NVQs, as do 6% of NfP workers. In private practice the number holding such qualifications is below 2%.

A map of routes into qualified or unqualified status in advice work can be viewed at [www.nos4advice.org.uk/uploads/documents/Theadiveworkertrainingroutes.doc](http://www.nos4advice.org.uk/uploads/documents/Theadiveworkertrainingroutes.doc)

**Unaccredited training of advice workers**

The information above suggests that, even where they hold educational or vocational qualifications, most advice workers acquire the essential skills and knowledge after they have been recruited to advice work, not through prior training.

In addition to in-house training through induction, mentoring, reflection, self-directed learning, and observation of practice, this is evidenced by an extensive range of training courses available in specialist areas of advice work and in general advice work skills. National organisations and umbrella bodies provide a wide range of programmes covering skills and knowledge at the general and specialist level. This is supplemented by local training often laid on by agencies themselves, by Legal Services Commission Specialist Support training programmes⁵, and commercial or education sector provision. Uptake is limited by cost, including staff time and travel, and accessibility.

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⁵ In March 2006 proposals to withdraw this service were shelved pending consultation.
Consultees welcome the publication of National Occupational Standards (NOS) in legal advice which offer opportunities to improve current training arrangements so that skills of agencies and their advice workers can be mapped and developed with reference to the skills, knowledge and competences required for all legal advice workers.

**Evaluation of training arrangements**

Analysis of the above mapping indicates:

- The workforce has a good range of educational achievements with many advice workers qualified at degree level. There are a substantial share of workers without a professional or vocational legal advice qualification, especially in the NfP and local government sub-sectors.

- Sector partners will need to be convinced that any proposed Foundation degree provision is capable of at least matching standards of current training arrangements for their advice workers.

- There is considerable diversity in training processes between agencies. Training can be on-the-job and learning from an experienced supervisor or colleague is considered highly effective. Apart from those becoming solicitors or ILEX members and the CAB requirement for general advice training, the sector lacks systematic training processes.

- Responsibility for learning and development tends to be with each individual advice worker and moving to employer support is a change management challenge.

- Ensuring Foundation degree development takes account of the implementation of NOS and legal advice sector qualifications strategy will match sector development.
4. The business case for a Foundation degree in legal advice

Potential contribution to addressing sector issues

The challenges for the sector are clearly and consistently defined as being that the legal advice sector and employers need to:

- Improve entry routes into the sector
- Prioritise retention and career development opportunities
- Achieve coherent and systematic training routes
- Raise the profile of the skills and learning that exists within the sector.

The following section details these issues and how Foundation degree programmes might contribute to addressing these concerns.

Improving entry routes

Once in the sector current training provides few clear pathways for career progression. This is confirmed by research that shows that 29% of all workers in the sector express some degree of dissatisfaction with the opportunity for promotion or career development. The learning that occurs is generally not assessed for credit and cannot be easily evidenced. Experience and training as an advice worker does not enable an applicant to by-pass any accredited parts of the training requirements for solicitors or barristers. It does not provide credits towards an HE qualification. In the job market the trained advice worker is dependent on reputation and experience.

Research suggests that 31% of statutory workers and 25% of paid NfP workers have previous experience as volunteers in the sector. The NfP sub-sector appears to train not only its own new advice workers but to meet much of the initial training needs of the other two sub-sectors.

If a Foundation degree helps address recruitment and training needs of the NfP sub-sector the whole sector will gain. However, NfP consultees were aware that investment in Foundation degree training of their volunteers and staff for the benefit of other sub-sectors could result unless all sub-sectors become involved.

Career development opportunities

The lack of a coherent and systematic recruitment and training route for advice workers and the gap in qualifications in legal advice work at HE level above level 3 in the NQF and below professional qualifications at LPC level or equivalent is believed by many to contribute, alongside more significant factors such as funding insecurity and relatively low pay, to a shortage of specialist advice workers. This is corroborated by the evidence of relatively high turnover rates and numbers of unfilled posts within the sector.

A lack of formal credit may disadvantage advice workers seeking career progression as opposed to transfer to another position. In particular to become a solicitor, except for ILEX members, requires graduate status, yet the training of advice workers at present attracts no higher education credit. Some consultees would welcome the opportunity to begin to progress into HE.
Coherent and systematic training

Although there are excellent courses available for advice workers the design of a training event or process will often be undertaken without careful planning of the progression of an identifiable cohort of advice workers in a way that allows the systematic building of skills, the monitoring of learning and identification of individual problems.

A Foundation degree can play a part in addressing the shortage of skilled advice workers by attracting more recruits to advice work. However it is stressed that raising the profile of accredited training as a route into or an incentive for engagement in advice work should not be at the expense of recruitment of volunteers who do not show an interest in obtaining credit, since this would inhibit diversity in recruitment and limit opportunity. The availability of credit for such workers interested in remaining within the sector may, nevertheless, assist with retention.

Provide recognition of learning already achieved

Accreditation of prior learning (APL) and accreditation of prior experiential learning (APEL) are explained more fully below (Page 51). APEL can reduce the time and cost for both the student and the employer by avoiding a need to study where outcomes have already been achieved.

The perceived cost of Foundation degree provision is a disincentive to potential learners and to employers. Raising employer and learner awareness that where a student has already achieved programme outcomes, and appropriate evidence is available to demonstrate this, there is no need for a student to repeat the learning will encourage take up.

The sector is aware of the potential benefits and costs. Through consultation it has expressed cautious support for the case a Foundation degree in legal advice could deliver:
Resource concerns

The case for the development of the Foundation degree in legal advice is balanced with recognition of resourcing concerns within the sector. Advice agencies, in particular in the NfP sub-sector, suffer from a shortage and insecurity of funding. Funders typically pay for acts of advice and not for capacity building and agencies must account to their funders by meeting those targets. Training budgets are generally small and support for an individual undertaking a Foundation degree might be at the expense of training opportunities for other advice workers. Employers indicate that they cannot contribute additional resource.

Foundation degree providers have a role to play when working with legal advice employers to highlight:

- There is a range of support mechanisms available to individual learners, which take account, for example, of low household income and of child care responsibilities
- Funding to providers for Foundation degree learners is more favourable than for equivalent honours courses. Provision of credit for learning already achieved or planned training
- Prior learning, which does not attract APL, can nevertheless be used to fast track experienced learners
- Learning in the workplace, while requiring significant resources, reduces cost of providing learning opportunities through other means, such as classroom activities.

National Occupational Standards relevant to the sector

The sector has dedicated considerable time and resources to developing a suite of National Occupational Standards (NOS) that cover legal advice through extensive consultation with key agencies in the sector. The NOS for legal advice were published in June 2006 and can be viewed at www.ukstandards.co.uk.

The generic standards comprise 30 Units, and are designed to cover all the generic activities carried out by advisers across the three sub-sectors. The knowledge elements cover the generic knowledge required of advisers in carrying out their work, eg how to make clients welcome, what to do when referring clients to another agency etc.

Knowledge units have also been developed identifying the specific knowledge requirements for different advice strands including:

- Immigration/Asylum
- Consumer
- Disability
- Discrimination

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6 While the Legal Services Commission (LSC) essentially funds acts of advice and assistance, it can respond to capacity-building problems. In particular it subsidises course fees, living costs and trainee solicitor salaries for a number of trainee solicitors in legal aid firms each year. A matching scheme for training advice workers would not at present be possible while there is no appropriate qualification. The LSC has also provided funding towards development of training of legal aid solicitors on the Legal Practice Course at the College of Law. Additionally it has in the past held bidding rounds for its Partnership Initiative Budget, which is used to part fund innovative ways to meet need for legal advice and some projects have included training costs.
The knowledge units differentiate the knowledge requirements of advisers with different levels of responsibility for advice giving; for example, first line advisers who need a broad understanding of the law across a range of advice areas, or more specialist advisers who may be involved in preparing clients for representation or presenting cases and who will need a more detailed knowledge in a specific area of law.

The NOS for legal advice make explicit a range of competences that advice workers need. Some will be viewed by employers as essential for advice work, in which case they must either form part of the assessed curriculum or be part of the programme admission criteria. Most of the generic standards fall into this category. This means that, in a proposal for a foundation degree, it would be good practice to include a statement showing how a graduate will have acquired and demonstrated relevant NOS competences which are essential to competence provision of legal advice either before entry to the course or as assessed outcomes.

The knowledge units form a basis for designing outcomes, curriculum and assessment on the Foundation degree. The precise units used and the extent of incorporation of the elements will depend on the aims and objectives of the particular provision. Where the Foundation degree is intended to develop competencies covered by the knowledge units, for example in a module designed to develop skills in advice relating to welfare benefits, these units can be seen as the starting point and a basis for specifying learning outcomes.

A list of NOS for advice units is at Annex I.

Links to relevant professional and statutory bodies

It is predicted that some legal advice workers with a Foundation degree or planning to take a Foundation degree will be interested in the option of obtaining a professional legal qualification at some stage, particularly as a solicitor, but potentially as a member or Fellow of ILEX or as a barrister, or in another field requiring legal knowledge or skill. The sector would encourage providers to maximise opportunities to articulate with the following professional training requirements:
Law Society and Bar Council

Foundation degree graduates may seek professional legal qualifications as a solicitor or barrister and many learners will wish to secure credit towards possible progression to the qualifying law degree (QLD). The requirements of the QLD\(^7\) are specified by the Joint Academic Stage Board (JASB)\(^8\). The JASB also determines the requirements for recognition of the Foundation degree towards a QLD.

The following are the key principles for recognition:

- Despite the Foundation degree being a qualification at intermediate level in the HE qualifications framework, the JASB will recognise a Foundation degree in legal advice for up to, but no more than, exemption from certificate level of the qualifying law degree.
- A student wishing to benefit from Foundation degree credits received will need to apply to the QLD-awarding institution for APL against the outcomes in the QLD programme specifications.
- Approval of the JASB will be required only for those elements in the QLD which are foundations of legal knowledge credits or which are awarded as part of the 240 credits required for law-related subjects. The JASB will not only compare outcomes but will also seek evidence that resources and standards of assessments on the exempted subjects are equivalent to those required for the QLD. Probable areas of concern will be staff qualifications and library resources.
- The JASB would not need to approve APL for the non-law elements. A law degree can include up to 120 such credits, some of which may be at intermediate level. Such credits could therefore be used for APL at intermediate level, leaving only the law elements of the QLD to be studied at intermediate level.
- Credits awarded for work-base learning are excluded from recognition as Law or Foundations of Legal Knowledge subjects\(^9\).

Providers intending to provide opportunities for progression should not publicise exemption from elements of a QLD without first consulting with the JASB to obtain confirmation that it is satisfied in relation to standards and resources.

The Institute of Legal Executives

The Institute of Legal Executives (ILEX) has indicated a desire to work with Foundation degree providers at the design stage in order to provide opportunity for elements of the degree to be accredited towards its programmes. Exemptions

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\(^7\) To be recognised as holding a QLD a student must achieve 360 credits, of which 180 are in the Foundations of Legal Knowledge subjects and 240 are in Law subjects. QAA Law Benchmark standards must also be met. There is no requirement for particular forms of assessment to be used.

\(^8\) The Joint Academic Stage Board (JASB) on behalf of the Bar and Law Society and law schools has published the requirements for moving from an Foundation degree to a qualifying law degree (QLD); see Appendix D, Bar Council’s Academic Stage Handbook 2005-2006, which can be found at www.legaleducation.org.uk/downloads/appendixdacstage.doc.

\(^9\) This may be based on a misapprehension that credit is awarded for work experience. In fact WBL only involves credit being awarded for learning, and there is no obvious reason why the manner in which the learning is achieved should be a bar to recognition if the outcome are achieved and match those of the QLD.
could cover examinations for aspects of both the ILEX level 3 Professional Diploma in Law and Level 6 Professional Higher Diploma in Law.

A number of other qualifications from authorised bodies, ie those whose members are authorised to provide reserved legal services could be relevant. The Chartered Institute of Patent Agents have indicated that they would in principle grant exemptions from the Basic English Law paper. The Council for Licensed Conveyancers, the Institute of Trade Mark Attorneys and the Association of Law Costs Draftsmen have not yet indicated whether exemptions would be considered.

Providers wishing to maximise possible exemptions will need to approach professional bodies directly. Providers and professional bodies will be aware of legal developments, national guidance and other publications urging professions to remove unnecessary obstacles to professional qualification.

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11 The Gateway to the Professions Report, Sir Alan Langland, DfES July 2005
12 In particular Increasing Diversity in the Legal Profession: A Report on Government Proposals, DCA Nov 2005
5. The learner profile

Indicative learner profiles

Quantitative and qualitative data cited indicates a role for the Foundation degree in helping to address recruitment and skills shortages issues faced by the sector.

A Foundation degree could provide a mechanism to bring young workers in to the sector to address the issues of an ageing workforce and to plug skills and qualifications gaps identified among the existing workforce. It could also form a means of attracting new entrants to a career in legal advice.

Research suggests that interest in the Foundation degree is predicted to be strongest in the NfP sub-sector. This sub-sector is distinguished from private practice, as it traditionally has no recognised qualification route or clearly defined career pathway. This impacts on the ability to promote the NfP sector and advice work as a career choice and strategically target and attract school and college leavers.

School and college leavers

Research indicates that a decision to study law can lead to many graduates becoming advice workers. The Foundation degree offers an opportunity to offer these learners an alternative route.

The Foundation degree route to graduate status offers potential advantages to a learner interested in entering HE. Advantages may include:

- Focussing on legal advice skills developed in a work context
- Only two years of HE loans before entry into workforce
- The option of converting Foundation degree to honours degree, including the Qualifying Law Degree
- Possible exemptions from training requirements for other legal professions including the possible reduction in solicitor training contract requirements
- Attraction to legal advice work as a career.

This prediction of potential interest is supported by evidence from other sectors. Nationally, in 2003, 58% of Foundation degree enrolments were from under 21 year olds and 70% were under 24. Only 15% of new learners on Foundation degrees were age 30 or above. Advice workers under the age of thirty may therefore be a key target and could play a part in increasing recruitment within the legal advice sector.

Data is not currently available to assess the actual level of potential interest from school and college leavers.

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13 Approximately 50% of law graduates go on to become solicitors or barristers and many of the other 50% of law graduates in fact seek work in the legal advice sector. As with those in the sector who have taken the LPC or bar exams at least some of the 9% of NfP advice workers and 11% of statutory sub-sector workers holding law degrees are likely to have pursued this career having at some stage intended to qualify as a solicitor or barrister.

14 UCAS data – see http://www.ucas.ac.uk/figures/reports/tables.html#3
NfP workers – existing paid, unpaid and new entrants

This sub-sector expressed the greatest interest due to the numbers of existing workers without accredited training in legal advice work. In particular, new entrants and paid workers in the early stages of their career see the Foundation degree as an opportunity for development and progression. Among unpaid workers, younger volunteers and those volunteering as a means of gaining experience to return to work also expressed interest.

Providers will need to consider the implications below when designing Foundation degrees for these learners:

Implications

- Targeting of younger workers for the Foundation degree would be a means to enhance retention and possibly to attract new recruits

- The level of involvement of volunteers in the NfP sub-sector means the sector as a whole is interested in volunteer training and Foundation degree development may be of interest for new and existing volunteers

- Providers and employers will need to determine whether learners who cease volunteering to take up employment elsewhere can still be supported to complete the course, for example a student who has achieved all of the level 4 outcomes but cannot undertake the remaining work-based learning at level 5 because he or she cannot continue as a volunteer might be secured a placement in a different workplace

- Providers may wish to make the design of an initial training scheme within the Foundation degree compatible with the outcomes and training already delivered by their partners. However, providers should be aware that merely providing accreditation for the initial training is unlikely to meet HE outcomes set at levels 4 and 5 and additional learning is required

- A Foundation degree that serves the initial training needs of more than one agency will potentially offer new recruits increased opportunities to transfer within the sector. If this is a two way process, with no single organisation bearing a disproportionate share of the training, the sector as a whole will benefit.

It should be noted that consultees clearly indicated they do not wish the Foundation degree to become compulsory. Linking the Foundation degree to the training of volunteers should not prevent volunteers from electing not to pursue Foundation degree accreditation. This is also important because for some new volunteers, learning which is mapped against HE level outcomes is not yet appropriate and if the training is accredited at all it is more likely to be at levels 2 and 3 of the NQF.

The preponderance of female advice workers in the sector overall is likely to lead to the number of female learners outnumbering male learners. Providers should develop Foundation degrees that meet the needs of women learners and those with caring responsibilities but should also target currently untapped pools of potential learners in the male population. Similarly, the Foundation degree may provide an attractive entry route for disadvantaged groups, such as learners from...
BME communities, who may experience barriers to accessing traditional routes to higher education.

- Providers will need to undertake consultation with potential partners and advice workers but it is likely that learners will be attracted by flexible arrangements for attendance and off-site learning which are compatible with caring responsibilities.

- Difficulties have been identified in recruiting specialist advice workers able to provide advice using minority languages and from workers with relevant cultural understanding. The need to find and train workers able to work with minority communities indicates a particular opportunity in terms of curriculum design to include skills and knowledge relevant to addressing advice needs in different communities.

- Providers will be aware of the need to comply with the Disability Discrimination Act in ensuring full access to learning opportunities both in the provider institution and for work-based learning. Providers will need to inform potential disabled applicants of the availability of additional funding and support to assist study.

- Learners without previous educational qualifications are predicted to be disproportionately attracted to a qualification that is derived from their training and workplace learning. Consultees indicated that learners should be provided with necessary support to address any study skills deficit and to demonstrate achievement of entry standards.
6. Employer engagement

Engaging with legal advice sector agencies

Providers interested in exploring a Foundation degree will need to identify employers for the required partnership. The legal advice sector strongly endorses the principle for all Foundation degrees that the provider must work closely with the employer in designing all aspects of the Foundation degree. In the legal advice sector, employers would not wish the design process to start in advance of such engagement.

A key opportunity to engage with employers in the sector at a national level is to work with the Sector Standards Group (SSG) for the legal advice project. This group consists of the major advice networks across each of the sub-sectors. SSG has worked collaboratively for more than three years on a range of workforce development initiatives and have been closely involved in the development of the Foundation degree framework.

This research has demonstrated that partner organisations at a regional and local level are likely to be:

- NfP organisations
- Local authorities where there is a strong existing commitment to advice provision
- Private practice solicitors firms where firms can be persuaded of the merits of training.

Providers intending to offer the Foundation degree with a regional or a sub-regional focus will benefit from developing a good knowledge of the legal advice sector in the target area.

At the point at which probable partner agencies have been identified, providers will need a clear picture of at least the following:

- Objects of the agency
- Legal status
- Management structures
- Current and projected staffing structures and levels, including recruitment and wastage patterns
- Current and planned funding sources
- Patterns of client demand
- Numbers and types of client problems addressed
- Methods of operation and referral
- Current training arrangements
- Involvement with local, regional and national networks.

Proposals to develop a Foundation degree will need the approval of the relevant organisation. Typically this will be the manager of the NfP agency who will usually need formal approval of a management committee. Most NfP agencies are independent in legal status and management and do not require authorisation from national bodies. Where an agency operates within a national network and particularly where it uses the title of that national network, eg a Law Centre®, a CAB, or an Age Concern centre it is important
that contact also be established with the national organisation at an early date and proposals discussed fully. If formal partnership is envisaged with the statutory or private practice sub-sectors the name of the person with authority to approve the collaboration will need to be identified.

Agencies involved in providing legal advice need not belong to these networks. Providers wishing to explore links with non-networked organisations will need to conduct research into their existence and scope, for example via advice partnerships. These can be identified through the local authority, either as an independent forum or as part of a Local Strategic Partnership.

Employers will find it useful to have a document from the provider explaining the processes involved in designing, validating, delivering and maintaining quality programmes in the provider’s institution and providing contact and background information.

Employers are likely to be able to offer opportunities to providers to gain familiarity with the work of potential partners. Teaching staff who volunteer to train as advisers can gain in-depth understanding of an agency, which can lead to invitations to join management committees. Teaching staff may wish to spend time observing, talking to staff, volunteers, members of management committees and with appropriate consent, clients about operational matters, client needs and demand, funding etc. This will contribute to a working relationship in which cultural as well as training issues are understood. It will enable academic staff to offer constructive comment on issues raised by employers.

The converse of this recommendation is that employers would wish advice work staff and managers to be integrated into course design, management, quality assurance and delivery and should be welcomed as observers or participants in classroom and other learning environments.

**Delivering the course as partners**

Employers believe that where vocational skills are taught or assessed the teaching staff will need to have recent personal experience of the use of that skill. It is recognised that there will be difficulties in finding such teaching staff with recent legal advice experience. A number of law teachers are themselves trained as voluntary legal advisers and in many law schools run in-house ‘clinical’ legal advice and representation programmes, which enables teaching staff to demonstrate up to date experience of legal advice work. Additionally the sector would welcome providers taking steps for teaching staff to become personally familiar with advice work.

Employers believe that many legal advice workers themselves have the skills and training experience to teach. They will need training in relation to academic processes, including curriculum design and outcome assessment, and will require mentoring support. The sector also recognises that teaching staff who hold professional qualifications as solicitors or barristers and may in fact teach on vocational courses will have many of the skills required, but would wish to ensure in addition that they have experience of the legal advice sector.
7. Content

As previously indicated the legal advice sector has developed a comprehensive suite of NOS that cover both generic and knowledge units required of an adviser in carrying out this work. Members of SSG want the NOS to form the basis of the content of the Foundation degree framework.

Advice-specific skills and understanding

Consultation with the legal advice sector identified the following as core to effective training in legal advice that confirmed the relevance of the NOS:

- Interview and advise the client
- Identify a client problem and potential solutions
- Negotiate on behalf of the client
- Refer clients
- Record case information
- Draft a range of documents
- Identify, research and apply law
- Explain law clearly orally and in writing
- Represent and assist the client
- Solve legal problems
- Understand and apply sector’s and employer’s professional standards, including commitments to impartiality and confidentiality.

Additionally consultation indicated the sector would wish to see the Foundation degree used for the achievement of some or all of the following characteristics based on an ability to:

- Understand and provide support for the real client
- Solve problems which are not purely legal or advice related
- Demonstrate time management skills
- Work under supervision
- Provide supervision at an appropriate level
- Work with diverse groups and individuals
- Manage resources and people
- Demonstrate competence in a range of IT applications
- Write and speak using accurate clear English
- Analyse information and demonstrate a critical as well as accurate understanding
- Argue for and promote change
- Demonstrate understanding of organisational behaviour with reference to the legal advice sector
- Conduct research into non-legal source materials and to use data to support analysis and argument.

The NOS for legal advice development process identified the functions outlined above as being core to the delivery of advice and the NOS comprehensively covers these functions.
Legal knowledge and legal skill

The consultation process indicated that the Foundation degree should develop knowledge and understanding. The areas of legal knowledge and understanding seen as important by the sector are:

- The structure and processes of the English and Welsh legal system in its European and international context
- The structure of the publicly funded legal advice sector, including its statutory context and funding
- The mechanisms by which disputes arise and are resolved in tribunals and courts
- Legal aid funding and quality assurance
- Structure and processes of central and local government agencies which impact on client groups
- Factors affecting clients’ needs for legal advice services, including economic, social, political and historical causes of social exclusion and poverty
- Basic principles and source materials of law including contract, tort, crime and public law
- Law relating to equal opportunities and human rights
- Principles of law relating to welfare benefits, debt, housing, employment, family, immigration, and asylum
- Ability to understand and use complex legal material including primary sources of law
- Ability to conduct legal research using paper based and electronic sources.

Where a provider wishes to achieve maximum articulation with the requirements of the Qualifying Law Degree additional knowledge elements will need to be considered, for example study of additional areas of law such as land law. These additional topics would need to articulate with the aims and objectives for the Foundation degree rather than appear as freestanding modules that achieve only the objective of equipping the learner for exemptions, for example a decision to teach land law could be related to advice work objectives in relation to understanding aspects of housing law.

Values

Consultations within the legal advice sector indicate that the curriculum should be designed in a way that develops the learner’s appreciation for the values of the sector. In particular a commitment to:

- Confidentiality of client information
- Impartiality and non-judgmental approach to clients
- Equal opportunities both for clients and workers
- Development of personal skill and knowledge for benefit of the client
- A holistic understanding of client needs which embraces the full range of legal problems and, as appropriate, non-legal problems

15 After the foundation degree consultation was completed, the Legal Services Commission published its CLS strategy for 2006-2011 (Making Legal Rights a Reality, Legal Services Commission March 2006). It will contract with suppliers to provide a ‘welfare law bundle’ comprising community care, debt, employment, housing and welfare benefits. Of these the workforce data indicates highest level of demand within the NfP and statutory sub-sectors is for welfare benefits, housing, employment and debt.
The NOS for advice incorporate this ethical and value base.

**Specialist pathways**

A curriculum to enable demonstration of the above outcomes and competences is compatible with development of specialist competences required by employers. The learning experiences and outcomes can also be designed in terms of articulating with accreditation requirements of external bodies including:

- Competences required for non-solicitors to provide accredited police station advice
- Competences required for authorisation as an accredited immigration practitioner

Outcomes and learning experiences should be adapted to meet an agency’s in-house requirements. For example an advice service which specialises in housing advice would benefit from curriculum and outcomes relating, for example to legal knowledge, legal research, use of legal materials, and development of advice skills, in the context of provision of advice in relation to housing law.

Providers working with actual or potential partners from a range of advice agencies may wish to consider allocating shell modules or units within the curriculum to specialist areas. These will specify specialist skill and knowledge outcomes, but will permit these to be demonstrated by a learner in the context of one of a number of areas of legal advice.

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16 Details on outcomes and assessment requirements for this purpose are specified by the Law Society
17 Requirements are specified by the Office of the Immigration Services Commissioner (or in the case of solicitors, by the Law Society)
8. Delivery

Models for delivery modes

There is no assumption within the legal advice sector that one delivery method is superior to another apart from the requirement for a substantial element of learning to be within the context of the workplace and the requirement that the modes selected have been the subject of consultation with employers and potential learners.

The sector would wish to be sure that the needs of all potential learners are taken into account, particularly considering issues of travel, taking time out of work, and the range of work and family commitments which many will experience. Some potential learners will have no experience of and cautious attitudes to engagement in HE and modes of delivery would need to be designed having identified such concerns. This will require learners to be individually supported using face-to-face, telephone and electronic means.

The sector has expressed some caution about over reliance on distance learning and electronic delivery. For the purposes of skill development and learner support employers would wish to see significant elements of the curriculum and learner support take place in real time and where appropriate using face-to-face methods. Much of this could be achieved within the workplace.

Use of case studies

In order to place the skill of providing advice to the client at the core of the learner's experience, case studies will be an important part of the teaching materials. Factual scenarios should be scrutinised by both providers and employers to check for inadvertent stereotyping, accidental breaches of confidence whereby real clients might be identified, and internal consistency.

Employers will be best placed to assist if they are informed well in advance of the outcomes and learning opportunities that will be developed so that appropriate case studies can be identified and developed. In principle adapted real life cases or wholly fictitious case studies are both valid. Consideration should be given to using case studies across the curriculum, so that learners will appreciate the interrelationship between skills and knowledge as they apply to the same subject matter.

Use of IT

In addition to any educational software used, access to legal and advice service databases should be available on and off campus, and used across the curriculum. Where it is intended that the curriculum will enable learners to gain exemption from certificate level of the qualifying law degree, the Law Society and Bar will need to confirm that these resources meet their requirements.
Assessment issues

The following have been identified as issues for the sector:

- Assessment of advice work carried out with real clients requires careful planning.

- There is scope particularly in relation to assessments based on learning achieved in the workplace, for individualised approaches, even to the extent of negotiating with a learner how the evidence of a particular range of outcomes will be evidenced.

- Available assessment techniques include, for example presentations, simulations, reports based on portfolios of evidence, research exercises, drafting and writing exercises, on-line assessments (such as multiple choice tests) and group assignments (following best practice guidelines to ensure individual achievement is rewarded).

- The providers approach should permit flexibility in relation to assessing prior achievement or assessing outcomes derived from learning which is not incorporated into the curriculum from the beginning, for example Continuing Professional Development (CPD) undertaken independently.

- Providers are encouraged to design units of learning which can be offered for CPD purposes to advice workers not enrolled on the programme. Opportunities to be assessed on achievement of the outcomes could enable such CPD to be used for future APEL exemptions.
9. Work-based learning

Introduction

Delivering significant portions of the curriculum through work-based learning will represent a departure from traditional practice in law schools, particularly those with no prior experience of clinical legal education.

However work-based learning is already the basis for development of legal advice skills and the sector welcomes opportunities to explore ways of achieving this with its provider partners within an accredited HE context. The sector believes that experience of working in an advice agency provides one of the most important resources upon which to build learning and teaching strategies.

The features of work-based learning the legal advice sector wish to see include:

- A defined quantity and quality of experience in a legal advice context
- A planned programme of learning activities
- Resources for both learners and employers to implement effective WBL.

The workplace experience necessarily takes place within the scope of the advice agency. The learning activities may take place in that context, but may also be delivered on campus, through IT, through private study, through group or individual reflection, through preparation of assessment etc. Employers would wish to see integration so that the learner does not experience all work-based learning in the workplace and none elsewhere.

Resourcing work-based learning

Organisations will need to identify a mentor, who will necessarily be an experienced and skilled advice worker trained to carry out mentoring, will need to spend periods of time, in the context of a set of learning objectives, talking with the learner about experience of, say, observing and in due course conducting an interview, drafting advice, conducting research, problem-solving etc.

Mentoring necessarily takes place within the workplace, and involves someone closely associated with the experience the student has obtained. This has implications for smaller less resourced NfP organisations.

External mentors may be required to support activities such as tribunal representation.

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18 The legal advice sector is aware that the Law Society, in its Training Framework Review of 2003-2006, received feedback from the legal profession and law schools indicating significant concerns in relation to proposals for work-based learning requirements for training solicitors.
The place of work-based learning in the curriculum

For the legal advice sector work-based learning would be expected to occur at both levels of the degree, 4 (certificate) and 5 (intermediate). Where specialist areas of legal advice are developed in the curriculum the student will benefit from work-based learning within that specialism.

It is possible for 100% of learning to be work-based learning. However the legal advice sector has identified knowledge of law and context as important outcomes and does not require that part of the curriculum to depend on work-based learning. As a guideline the sector would expect that 25% of the credits and therefore learning is based on work-based learning. This would equate to 600 learning hours spread over levels 4 and 5. This figure includes the time in the workplace, the teaching and mentoring which ensures that learning is structured, private study and assessment.

Some employers have indicated a preference for work-based learning to start at the earliest opportunity. Others consider that development of basic knowledge and skill will usefully precede the commencement of the work-based learning. Others prefer the work-based learning to take place throughout the period of learning. This is a matter for the provider and employer to determine, subject to two requirements: Work-based learning will be expected to take place at both levels and to contribute to achievement of knowledge as well as skill outcomes.

Past experience can provide the necessary experience for work-based learning activities such as the reflection, analysis, discussion and research. In permitting a reduction in the hours for learners with past legal advice experience it must be possible for the combination of past work experience and structured work experience within the Foundation degree to enable the learning activities to be achieved.

For learners working in the legal advice sector, as compared to placement learners, course designers will need to consider carefully whether there is scope for a greater, perhaps significantly greater, proportion of credits being derived from work-based learning.

Settings for work-based learning

Simulation of legal advice tasks, while being a valuable learning tool, is not workplace experience. Work-based learning in legal advice work requires the student to have engaged in the real workplace in real tasks associated with advice provision to clients.

Before a learner is enrolled onto the Foundation degree the availability of suitable work-based learning opportunities will need to be identified. Suitability will be assessed with reference to opportunities to achieve learning outcomes associated with the work-based learning parts of the curriculum. The employer will need to ensure that the student can undertake a minimum number of specified activities. The learner must have access to a mentor who has received any required training and whose time has been allocated for these purposes.
Assessments may depend on the learner referring to particular experience and to documents generated or supplied as part of the learner’s workplace experience. This will need to be clear to the employer in advance.

The mentor who is responsible for that part of the work-based learning which occurs within the workplace itself may, but need not, be the same person who is responsible for work supervision. A workplace mentor is a part of the teaching team, but the supervisor need not be.

Where an agency is not capable of providing the entire range of workplace experiences for the learner upon which the learning experience depends secondments or split placements could be considered.

**Work-based learning for learners requiring placements**

Learners who enrol onto the Foundation degree who are not already advice workers will require placements in order for work-based learning to be possible. Providers are referred to the *Code of practice for the assurance of academic quality and standards in higher education*; see http://www.qaa.ac.uk/academicinfrastructure/codeOfPractice/section9/default.asp

Because of the cost of providing suitable placements to the host agency it is possible that providers will need to base a smaller proportion of the curriculum on work-based learning than for learners who have access to appropriate experience is part of their work. Learning outcomes should not be altered for placement learners. In order for learning outcomes to be met the proportion of the curriculum delivered through work-based learning must not be below an acceptable minimum.

Responsibility for the cost of placements must be agreed. Agencies may justify absorbing all or part of this cost to their management committees, for example because placements are likely to lead to recruitment of good placement learners. Most agencies, however, are likely to require this cost to be met.

An alternative approach to funding placement and mentoring costs would include the provider making available free or below-cost training to the work-based learning host. Such training could include certificated training as a teacher or mentor. Inducements could also include fee waivers or reductions for other staff from the host agency for other programmes of learning offered by the provider or for the Foundation degree itself.

**Support for employers**

Work-based learning requires a partnership of learner, employer and provider. Each must be clear of the expectations. At the design stage the expected experience which a learner requires for the purpose of work-based learning will be identified. All three parties should have a means of recording and monitoring experience to ensure that these requirements are met.

Employers in general and mentors in particular will be entitled to effective channels of communication with relevant staff in the provider institutions and to be represented in both formal and informal discussions relevant to
course management and quality assurance. Lecturing staff should visit the learner in the workplace at identified intervals and an agenda for the visit and discussions with learner and mentor prepared. It is recommended that such an agenda comprise both standard items of monitoring of the experience, and specific items raised in advance by any or all parties. The focus of such visits is to ensure the individual learner is experiencing appropriate learning opportunities.

**Recruitment and training of work-based learning mentors**

Mentors will be existing specialist and experienced advice workers. They will already possess supervisory skills but will in the early phases of development require training in work-based learning skills. Consultations indicate a willingness within the sector to undertake necessary training and a belief that the capacity exists for identifying suitable work-based learning mentors.

Training will be required for mentors and lecturing staff on the use within the workplace and outside of reflective journals or reports and factual logs, use of confidential agency information for learning purposes and expected standards for recording information and writing reports, in particular citation and acknowledgement of sources of information. All parties will require training and clear written guidance on handling confidential material, including where discussion of work experiences takes place electronically. Where material is discussed on-line training will be required into the platform used by the provider, to enable the mentor to participate.

**Assessment of Work based learning**

The issues which must be addressed include:

- Access by assessors and external examiners to evidence of what the learner has achieved, which may not be recorded within the advice agency in an assessable format
- The learner’s own contribution to the work may not be readily distinguished from other inputs, or
- Waivers of confidentiality will be required or anonymisation of assessment information.

Assessment of ongoing work on behalf of clients can also be problematic if the risk, or perception of, conflict of interest between the obligation to provide a level of service to the client and to achieve an outcome for assessment. Employers would not wish the need to obtain evidence for assessment to result in adverse changes to quality in advice provision.

These issues can be resolved, but assessments and assessment strategies will need to be designed so that it is clear that methods of assessment will be reliable and valid.¹⁹

¹⁹ Providers from a Law background may be unfamiliar with work-based assessment in other disciplines, but extensive work has been undertaken in disciplines such as medicine and education. Within Law some work has been undertaken by members of the Clinical Legal Education Organisation – see www.ukcle.ac.uk/resources/clinic/index.html
10. Progression

Progression onto the Foundation degree

Given the range of educational backgrounds of advice workers, flexible entry criteria are encouraged which look not just for prior accredited achievement but at demonstrated potential. For those who cannot yet demonstrate that they are ready for enrolment onto the Foundation degree access-type courses are routinely offered by many providers to assist potential applicants.

For learners without accredited achievement at Level 3 or equivalent it is important that aptitude for study be demonstrated by other means. Formal APEL processes can be used to assess learning against Level 3 outcomes in the NQF. Many institutions prefer, however, to offer a combination of written test and interview to make their assessment of whether the applicant is capable of benefiting from study at Certificate Level (NQF Level 4).

Progression following graduation

Graduates are entitled to progress to honours level but the provision need not be and is not currently available, in legal advice. The legal advice sector has no particular preference as to suitable routes at this point in time, although individual employers may recommend suitable areas for specialisation for learners linked to employment and skills needs. In general, programmes which deepen understanding and skills in areas of law or social justice may be attractive to learners in this sector.

In section 4 the opportunity to articulate Foundation degree design with the qualifications frameworks of other legal professions, in particular ILEX, has been identified. The legal advice sector would wish its workers to benefit from such opportunities for progression.

Progression within the Foundation degree using prior learning

The needs of the advice sector for prior learning to be accredited into a foundation degree are similar to those that apply to other sectors and to that extent this guidance is generic. However, it is informed by consultations within the advice sector, both with advisers and managers, in which a clear view has been expressed that institutions offering a Foundation degree in legal advice work should, together with their partners, identify as clearly as possible opportunities for learners to gain advanced standing, ie to be exempted from units of assessment or entire modules within the Foundation degree.

The term APL (Accreditation of Prior Learning) in fact covers learning for which credit has been awarded and accreditation of prior experiential learning (APEL). The former is relatively easy to apply, since outcomes, if they match those of the Foundation degree in content and level, have already been assessed. Learners will need evidence of accredited learning matching Foundation degree programme outcomes at levels 4 (certificate) and 5 (intermediate) or above within the NQF and the HE framework. This could be available if credit has been obtained on a degree in law or where law is an accredited element, through LPC, ILEX or Bar courses, graduate law conversion courses, of through elements of legal advice degrees, of which there are currently two. However where the knowledge is
required on the Foundation degree to be demonstrated within an advice context it will still be necessary for the learner to demonstrate knowledge of law within that context.

The limited opportunities to obtain credit at HE level for practical legal advice work means that prior accredited learning is unlikely to be available for these outcomes.

Credit awarded for skills demonstrated in a simulated environment would not equate to skills on the Foundation degree if the Foundation degree outcomes specify the skill be demonstrated in a real work environment.

Other options include:

- Where credit is sought not for accredited prior learning but for experiential learning, a mapping of the outcomes is required. This can be for example by way of existing file material, freestanding analysis of the facts and legal issues, and this may involve an iterative process before satisfactory evidence of competence is available.

- An alternative approach to exemption is to design parts of the curriculum and of the assessment process in a manner that permits learners enrolled on that part of the course to use prior knowledge and skill to complete the assessments with less involvement in formal learning. The learner remains enrolled on that unit of study, but can focus, with the guidance of the provider, on demonstrating rather than acquiring competence. This offers some advantages, compared with APL, since the learner is enrolled onto that part of the programme and this counts towards the status of the student as full time or part time.

18th July 2006

Acknowledgements:

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Providers interested in developing a Foundation degree in Legal Advice may contact the sector stakeholders through:

NOS for Advice Project Facilitation Team
Email: pft@nos4advice.org.uk

Foundation Degree Forward
Website: www.fdf.ac.uk

Telephone: 01543 301150
Annex I: Legal advice NOS units available

**Generic units**

<table>
<thead>
<tr>
<th>Unit No.</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>LA1</td>
<td>Establish communication with clients</td>
</tr>
<tr>
<td>LA2</td>
<td>Support clients to make use of the service</td>
</tr>
<tr>
<td>LA3</td>
<td>Develop and manage interviews with clients</td>
</tr>
<tr>
<td>LA4</td>
<td>Provide information and advice using the telephone</td>
</tr>
<tr>
<td>LA5</td>
<td>Provide information to clients</td>
</tr>
<tr>
<td>LA6</td>
<td>Support clients to plan, implement and review action</td>
</tr>
<tr>
<td>LA7</td>
<td>Provide continuing support to clients</td>
</tr>
<tr>
<td>LA8</td>
<td>Enable clients to act on their own behalf</td>
</tr>
<tr>
<td>LA9</td>
<td>Assist clients to gain access to other services</td>
</tr>
<tr>
<td>LA10</td>
<td>Provide and receive referrals on behalf of clients</td>
</tr>
<tr>
<td>LA11</td>
<td>Provide legal advice to clients</td>
</tr>
<tr>
<td>LA12</td>
<td>Manage legal advice cases</td>
</tr>
<tr>
<td>LA13</td>
<td>Act on behalf of clients in informal proceedings</td>
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<tr>
<td>LA14</td>
<td>Prepare cases for representation in formal proceedings</td>
</tr>
<tr>
<td>LA15</td>
<td>Represent clients in formal proceedings</td>
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<tr>
<td>LA16</td>
<td>Negotiate on behalf of clients</td>
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<tr>
<td>LA17</td>
<td>Design information materials for use in the service</td>
</tr>
<tr>
<td>LA18</td>
<td>Obtain and provide legal information materials</td>
</tr>
<tr>
<td>LA19</td>
<td>Manage personal caseload</td>
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<tr>
<td>LA20</td>
<td>Evaluate and develop own practice</td>
</tr>
<tr>
<td>LA21</td>
<td>Evaluate the quality of client service</td>
</tr>
<tr>
<td>LA22</td>
<td>Liaise with other services</td>
</tr>
<tr>
<td>LA23</td>
<td>Operate within networks</td>
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<tr>
<td>LA24</td>
<td>Influence changes to legislation, policy or practice</td>
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<tr>
<td>LA25</td>
<td>Provide second-tier support to others</td>
</tr>
<tr>
<td>LA26</td>
<td>Set up and maintain client-referral systems</td>
</tr>
<tr>
<td>LA27</td>
<td>Develop the capacity of the organisation to meet the needs of clients</td>
</tr>
<tr>
<td>LA28</td>
<td>Provide support for other practitioners</td>
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<tr>
<td>LA29</td>
<td>Provide legal advice using electronic media</td>
</tr>
<tr>
<td>LA30</td>
<td>Facilitate communication using an interpreter</td>
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Knowledge units

The knowledge units also cover the specialist areas of practice and particular client groups with which legal advice staff work.

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