

# Coursecorrection

Solicitors can now choose to ditch the hours-based approach to CPD – and from November 2016 it will be scrapped altogether. Nick Hilborne looks at what this means for law firms and training providers alike



An end to the tyranny of hours-based CPD

The traditional approach to continuing professional development (CPD) for solicitors is going through something of a revolution. The first big change happened at the end of last year, when the Solicitors Regulation Authority (SRA) stopped accrediting courses.

Solicitors can now, from 1 April 2015, opt in to a new regime, where they no longer need to clock up 16 hours CPD a year. Instead they must comply with an outcome on appropriate training, measure their progress against a competence statement and make a declaration on their practising certificates. The hours-based approach will end for everyone on 1 November 2016.

"In the olden days, in late September you would go on any course you could, just to get CPD points," recalls Charles Peter, managing director of Datalaw and a solicitor. "The new scheme will take away the ability to do inappropriate courses at the last minute."

Mr Peter says it was always obvious when the deadline had arrived for completion of the 16 CPD hours because solicitors vanished from their offices. "As a solicitor, I always thought going to three courses once a year was a very artificial way of learning. In March or April the providers would run an update course and then there would be no news for another six months. That is artificial, because the law does not develop in handy six-month intervals.

"We will provide lawyers with short webinars updating them regularly as the year goes by. The change will allow people to learn in a natural way and use technology that previously did not exist."

Mr Peter says the length of the webinars will range between 10 minutes and an hour, but probably not any longer. A short webinar is all people need when it comes to a small change.

"The problem with updates every six months is that as soon as you get there, they're out of date. Learning as you go along is much more suitable for solicitors, and I certainly prefer it... This has been a long time coming. Allowing solicitors the freedom to choose how they learn is wonderful. My experience of lectures is that solicitors would take notes and go home. Training will now be available which is compatible with the internet and modern life."

## Culture change

But clearly a culture change is needed. Noting that providers can carry on "as if nothing has happened" for the next 18 months, if they like, Nick Holmes, managing director of Infolaw, says: "The new regime means self-regulation for solicitors. They can reflect on what they've done and say they've done it. For providers, the hours-based system was nice. Now they will have to say to solicitors 'you need to maintain your competence' but there is not the same incentive on them to buy courses.

"Other than changing the language, I don't think many providers have changed their courses very much. They will have to start selling packages on their merits rather than because they provide three hours CPD. They will have to think much more carefully about what business they're in and adapt accordingly. The hours-based system focussed minds and sold courses."

Jane Rae, head of events at Practical Law Company, says the changes to CPD will affect all parts of the profession "in different ways", allowing solicitors in smaller firms to do more of their training online rather than at conferences. "We're confident that what we're offering is valuable,

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Confusion around money laundering training

whether it is hours-based or not. The general counsels tell us what they think is critical, and we respond to that."

Describing the system of minimum hours as a "helpful tool to encourage people to keep up-to-date", Ms Rae says she believes law firms, rather than individuals, should have some responsibility for keeping training records up-to-date, "but this will only be checked by the SRA if there has been malpractice".

Ms Rae says she is encouraged by the SRA's recognition of the role of research and discussion groups in training, rather than simply black-letter law. "The role of the lawyer, with all the developments in technology, is changing and this needs to be recognised. The old, hours-based system didn't really enable lawyers to stay competent and we hope the new statement will be more helpful."

Ms Rae says the changes to the way CPD is accredited has allowed Practical Law to introduce new courses. These include commercial skills training, which would not normally have been accredited, and a course on working across different jurisdictions.

Practical Law has recently launched roundtables, aimed particularly at deputy general counsel and in-house teams. "A small group discuss an issue in a Practical Law way. Our moderator will provide a summary of the change and lead the discussion. Since all the people in the room are in the same industry, you can get a really good discussion going. There are lawyers from five to 10 different companies involved, so they come back with something of real value, rather than just an update on the law."

#### Reduced focus

Josh Goodhardt and Yehuda Solomont, the COO and marketing manager respectively of online compliance training specialist VinciWorks, work mainly with the top 300 law firms. "The overwhelming majority of our clients are going to continue with the existing hours-based system in 2015," Mr Goodhardt says. "The big law firms are waiting to see what the others do. There is a sense of safety in numbers. If everyone does the same thing, it can't be a bad decision. They tend to move forward in a pack."

Mr Solomont says there is "a bit of confusion" around the changes. "This does not change any of the requirements on compliance training – in particular money laundering and bribery," he says.

"Money laundering is seen as a 'key risk' by the SRA, along with equality and diversity. Irrespective of any changes to CPD, compliance training remains a key part of the Handbook."

He reckons that firms want to take more control of training. "We are building a competency-based system to replace the old CPD. Firms will be able to provide guidance to their lawyers on what their training needs are, whether it is drafting or anti-money laundering. "We have rolled out the system to a small number of our clients – it's a more flexible and elaborate system that can be tailored to the needs of each solicitor.

"What we're hearing from law firms is that the SRA is asking them to focus on competency, what makes people better at lawyering, rather than whether they have done a certain numbers of hours of CPD. Firms are looking to create training that focuses on real life skills and scenarios – they are not looking at the clock. It's no longer a question of gathering hours, but more effective, more regular training in smaller amounts."

John Spencer, president of the Association of Personal Injury Lawyers (APIL), says his organisation will not be changing its approach to training, regardless of any "watering down" of requirements by the SRA. "There is a danger that some practitioners will see this as an opportunity to reduce the focus on competence and quality," he says.

"Training changes all the time and some subject areas are more popular than others – clinical negligence and disease claims, for example. This is reflected in the increased number of this type of claim being brought. The advent of the personal injury portals has had a similar impact on the demand for core courses, as there is tendency for less qualified staff to be used. The demand for webinars, responding to the latest developments in rules, judgments and legislation, has also increased.

"Our response is not to change our own CPD requirement of 16 hours for accredited members. This is our statement as to whether we think it is a good idea to remove the requirement for all solicitors."

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An end to tick-box compliance

Mr Spencer emphasises that APIL does not take the view that competence is about hours only, but it is an important prerequisite. "There is more to it than attending a training course, but a course is a very important platform without which competence is at severe risk."

#### Ending the autumn rush

Peter Crisp, dean of BPP Law School, welcomes the move from a "tick-box requirement" to a "position where you want the profession to be reflective practitioners". He explains: "The concept of CPD has evolved rapidly in the last couple of years. It's not seen as just about technical skills, but about personal development. Commercial lawyers are seen as business partners by their clients.

"The softer skills are seen as increasing valuable – how to influence people in court or to influence commercial clients. There is also a move towards training providers working with law firms to meet their particular needs. In the past CPD-type training has focused on very specific, narrow areas. Now people are looking more holistically at what they are doing and will be using the competence statement to address their training needs."

Mr Crisp expects people to "take their time to adjust" to the new regime, and move only when required to. The question of policing the new system is "more pertinent" for small firms than larger ones, but, whatever the size of firm, solicitors are professionals and must comply with the SRA's code of conduct.

"We predict that the model for delivering technical training will be very different. People are looking for bite-sized updates in 20-30 minute chunks, which they can access at lunchtime or at home. You can only provide a high standard of service if you are a reflective practitioner. This frees up solicitors to be much more creative and reflective."

Mr Crisp adds that he hopes solicitors will take a more "planned and measured" approach to their training than a "hell for leather" rush in the autumn.

Richard Album, co-vice-chair of the Legal Education and Training Group, says most of the organisation's 105 member firms recognise the need for change. The head of learning and development at City firm Ince & Co, he says that although the changes are "not too troubling" for firms with "relatively organised training departments", concerns have been raised about their practical impact.

"Firms which found compulsory hours to be a huge administrative headache are delighted to be free of that burden. Other people are still recording hours and their behaviour will not change."

Mr Album says one magic circle law firm has taken a "formal decision" to keep hours-based CPD internally. Other firms have already developed their own competence frameworks, or are working on them. "This is a tremendous opportunity to introduce much more effective learning, allowing people to reflect on their practice," he says. "They will be able to concentrate on what they really need, as opposed to logging 16 hours of CPD every year."

#### Freedom to choose

The SRA is not alone in abandoning an hours-based system. The Bar Standards Board launched a pilot scheme at the start of the year to test plans to replace its hours-based system with a new scheme putting the emphasis on "individual responsibility" for learning rather than "measuring the effort involved".

At the same time the board introduced a new approach to accreditation, with training providers self-accrediting courses, and it is also working on a 'professional statement' for barristers, its version of the SRA's competence statement.

Meanwhile, at the Chartered Institute of Legal Executives, a new CPD regime was approved at the end of 2013 and is being introduced in stages. An additional 'professionalism' element has been added to the requirements for all members, which will not be measured in hours but in outcomes.

It will be interesting to see how training providers, law schools and law firms adapt to the SRA's new competence-based approach. Whatever happens, the change is meant to give them freedom – even if it is the freedom to continue with hours-based learning, on their terms and in their own way.