



Personal Injury Accreditation Scheme

Guidance

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A. An introduction to the Accreditation Scheme

The Personal Injury Accreditation Scheme covers all work undertaken by solicitors and Fellows of the Institute of Legal Executives (FILEX) on behalf of victims and their dependants, or compensators, as to their rights and obligations arising out of any alleged act of negligence or breach of statutory duty as a result of which the victim has sustained personal injuries or fatal injuries.

The scheme will cover all types of personal injury work, irrespective of the method of funding. There will therefore be no distinction between cases funded by private means, public funding, trade unions or legal expenses insurance. The scheme is open to those who act exclusively for claimants or defendants as well as those with a mixed practice.

The scheme is non-exclusive, practitioners who are not accreditation scheme members will remain free to undertake personal injury work.

B. Who is eligible to apply for membership?

Solicitors and FILEX may apply. FILEX applicants should have passed the Institute's civil litigation and tort papers.

C. What types of membership are available?

There is one type of membership available - Law Society Accredited Practitioner.

Memberships last for 5 years, after which members are required to apply for re-accreditation.

D. The level of experience you will be required to demonstrate

All applicants must be able to demonstrate career experience which includes:

- Taking or defending at least one personal injury case to a full trial or settlement achieved after the issue of proceedings through a joint settlement meeting or other formal means of alternative dispute resolution;
- Acting in at least 10 cases which have reached the filing of pre trial check list (listing questionnaire) stage, of which at least two must have involved a dispute over liability;
- Acting in at least one case where the award or settlement was approved by the court because the claimant was a minor or a protected party.

All applicants will need to have concluded at least 36 personal injury instructions in the three years prior to the application, or at least 60 personal injury instructions in the five years prior to the application. For claimant practitioners this includes not only cases which have been successfully concluded but also cases which were turned down or discontinued. For defendant practitioners this will apply equally to cases whether they have been instructed before or after proceedings.

Practitioners dealing with defendant PI work, either exclusively or as a significant part of their overall caseload, are reminded to ensure that they prepare their application to clearly demonstrate relevant experience in the following:

- a proactive approach to collecting evidence, identifying relevant issues and assessing prospects of success
- pursuing cases expeditiously and demonstrating a readiness to take the case to a speedy trial.

If you are unable to comply fully with the above experience criteria, you may still apply for membership if you are able to demonstrate a suitable level of experience. We would instead ask you to explain why you believe that you have a suitable level of experience to justify membership of the scheme.

For example, it may be that you:

- have been concerned with catastrophic injury cases which has limited the number of cases you have been able to deal with
- have other responsibilities within your organisation which mean that you do not conduct a sufficiently large personal PI caseload, for example if you manage the personal injury unit or you direct and supervise the work of a number of other personal injury practitioners
- spend 100 per cent of your time working in civil litigation, and of that work at least 60 per cent is spent conducting personal injury cases
- have not taken ten PI cases to a stage where pre trial check lists (listing questionnaires) have been filed but have reached that stage in other non-personal injury civil litigation cases

E. How to apply and what you should include

All applications for Law Society Accreditation Schemes are in two sections.

Section 1 - Individual's details and Organisation's details.

Section 2 - Scheme specific application form.

You will be required to fully complete each section, and forward your completed application, with the relevant fee, to the Law Society.

Case reports

We ask for the completion of 3 case reports with supporting papers where necessary. These must be taken from cases you have personally conducted and concluded in the last 12 months. There is a case report form available on our website which you should use to complete these reports.

You should select cases which you believe best demonstrate your specialist skills as a personal injury practitioner. You are free to select those cases, but we do have some specific requirements.

There is no word limit on case reports, however applicants should provide a resume of each case setting out the details of the legal and medical issues and explain why the case illustrates your expertise.

If you were not the conducting fee earner throughout any of these cases please specify your role and how you believe it demonstrates your expertise.

F. How you will be assessed

On receipt of your application form, we will send your application to be marked by one of our independent assessors.

Each subset of questions within Section 3 of the application form, and the case reports, will be marked **A B C D** or **F**.

- **A** is acceptable
- **B** is borderline
- **C** is incomplete or confusing when compared to other answers and written clarification is required before final assessment can take place.
- **D** is defer and relates to training only
- **F** is fail

To be admitted or re-admitted an Applicant requires an A in every section.

Should a candidate score a B in any section they may be asked to explain how they can further demonstrate their expertise. They will be clearly guided by the assessor as to what further information is required.

Should a candidate score a C in any section, they may be asked for further clarification and/or information. They will be clearly guided by the assessor as to what is incomplete or confusing and what is required.

G. What other checks and assessments are made?

You must demonstrate that you are a fit and proper person to become an accreditation scheme member, and must continue to be so throughout your membership. The Law Society reserves the right during the currency of any voluntary scheme membership to investigate any matter which may call into question the fitness and propriety of any scheme member to act as such, and to take whatever action is considered appropriate at whatever stage of the investigation.

The Law Society will examine whether your past record reveals that you have committed any offences involving fraud or other dishonesty or violence.

The Law Society will also be concerned with any practice in which you may have engaged in the course of any business or employment which do not conform with the best standards of professional conduct. Evidence showing delays in dealing with cases, failure to answer

correspondence and failures or delays in responding to enquiries from regulatory and revenue authorities will raise doubts as to your competence to remain a scheme member.

The assessment of fitness is not a mechanical exercise whereby compliance with a number of specific requirements ensures the grant of an authorisation. It is rather a judgement based on the review of your whole record and individual circumstances.

If the Law Society, with due regard to the rules of procedural fairness, determines that you have ceased to be a fit and proper person to continue to be a member of the scheme, or that the fitness or propriety to act as such has been compromised, it may refuse, revoke or suspend the membership or attach conditions to it. Members affected by a decision taken under this paragraph have a right to request a review in accordance with the procedures set out elsewhere in this document.

Where a complaint or other matter which may affect your suitability to remain on the scheme is considered to be of sufficient seriousness, the Law Society may suspend your membership pending the completion of the investigation and any proceedings as may arise.

H. What fees are payable for making your application?

Please see the website for the most up to date fee schedule.

I. Information on re-accreditation

The purpose of re-accreditation is to ensure that members are maintaining the standards, systems and experience necessary to satisfy the Law Society as to their competence. It is not a re-examination of a members' original submissions.

Members will be sent a reminder 3 months prior to the expiry of their membership that they are due to re-accredit.

Applications for re-accreditation have the same section 1 as all Law Society Accreditation Scheme applications, with a separate section 2 specific to reaccreditation for the scheme.

J. Our requirements for continued professional development

Members of the scheme are subject to re-accreditation every five years in order to demonstrate their continued suitability for membership of the scheme. A reminder will be sent to members three months prior to the due date.

Both in respect of initial application and reaccreditation, members will be expected to have attended at least 8 hours per year of training courses or other approved CPD events to update their knowledge of personal injury litigation and practice.

You should make clear;

- All CPD training events attended;
- Any training events at which you have presented any lectures or talks relevant to personal injury

K. What standards of competence are expected of a member of the scheme?

The overall standard of for scheme membership is set at that of a competent personal injury practitioner.

A competent practitioner is defined as:

‘a practitioner who can identify and advise on a wide range of personal injury and related issues and who does not perform work that is outside of his/her current knowledge, skills and expertise. A competent practitioner will seek appropriate advice and assistance as may be required to enable them to provide a full and effective legal service to their client.’

Areas of law

Applicants for membership of the scheme will be expected to have in depth knowledge of the law, associated rules, regulations and procedures relevant to this area of practice.

Ethical issues

Applicants for membership of the scheme are expected to have awareness of the ethical issues and problems arising in this area of work, for example in relation to the use of expert witnesses; signature of statements of truth; disclosure of medical records and reports and conflicts of interest.

Professional skills

Applicants must be able to demonstrate the skills appropriate to those undertaking personal injury work, such as interviewing and advising clients, appraisal of issues and risk assessment, drafting and negotiation.

It is considered appropriate to ensure that applicants for the scheme possess these skills, since research indicates that lack of them is a frequent cause of unsatisfactory standards of work in personal injury cases:

- investigation and other research
- assessment of damages and calculation of interest
- case management
- utilising expert witnesses
- DWP claims/benefits procedure
- representation of minors and protected parties

Trial preparation

It is essential that personal injury specialists approach the majority of their PI cases on the basis that the case will reach trial and not be settled. Scheme applicants are expected to demonstrate a commitment to take appropriate cases to a full hearing.