

Justice Committee

Alternative Dispute Resolution

Written submission from the Law Society of Scotland

Alternative Dispute Resolution (ADR) is covered at various parts of the route to qualification. It should be noted that we are currently looking at content of the route and ADR will obviously be part of that discussion.

The LLB

The LLB is arranged around a series of Outcomes ([The Foundation Programme Outcomes](#) detailed in full in the link):

By the end of the Foundation Programme, a student should display a fundamental knowledge and understanding of the purpose and sources of law, and the main elements of public and private law in Scotland in the context of the UK, EU and wider international law setting through study of: the profession of law, legal systems and institutions affecting Scotland; Human Rights; freedoms and protections; persons; property; obligations; commerce; and crime.

The student should communicate the following core concepts through his/her knowledge and understanding in each of these knowledge areas (NB: some removed for ease of reading)

- The structure of the court system; the role of the courts including judicial review, and (in outline) tribunals, inquiries and dispute resolution ...

As well as the knowledge outcomes above there are a series of skills outcomes. One of these (communication and literacy) is as follows:

- In all formats demonstrate an ability to address the resolution of disputes by a variety of adversarial and non-adversarial skills.

The Diploma in Professional Legal Practice (DPLP)

The DPLP is arranged a series of Outcomes ([The PEAT 1 Outcomes](#) detailed in full in the link)

One of the outcomes relating to skills is 'Negotiation':

- Understand different approaches to the theory of legal negotiation including facilitated negotiation. Positive indicators:
 - Can explain the differences between at least cooperative, problem-solving, and adversarial negotiation, and the effects of each approach in practice.
 - Can demonstrate differences between models in action.
 - Can demonstrate an understating of the rules of mediation.

Many Diploma courses do offer elective modules relating to ADR, mediation etc. Others will have an elective on family law which will cover off family law mediation, collaborative law etc.

The traineeship

This builds on the DPLP. There is a similar negotiation outcome ([full link here](#)). Obviously, a dispute resolution firm or one with a DR department is much more likely to offer work experience and training in ADR whereas a chamber practice or commercial practice will not. Similarly, a family law practice may offer family law mediation experience. There is also the potential for structured learning via Trainee CPD (although this should be tailored to the needs of each trainee).

For qualified solicitors, there is quite a lot of training available and options available:

- Accredited Family Law Mediators (<https://www.lawscot.org.uk/members/career-growth/specialisms/accredited-mediators/>).
- Accredited Commercial Mediators (<https://www.lawscot.org.uk/members/career-growth/specialisms/accredited-mediators/>)
- We have two specialisms which people can be accredited in (Arbitration Law; Solicitor Arbitrator)
- There are other qualifications/support available: CALM, Resolution Scotland, Core Mediation, CiArb, Scottish Mediation Network etc.
- The Scottish Arbitration Centre

Law Society of Scotland
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