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2 June 2020

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This paper will be published

Implementing the Solicitors Qualifying Examination (SQE)

Purpose

- 1 The Board took the decision in 2017 to implement a new centralised assessment for solicitors. Since then, it has considered key aspects of SQE development on a number of occasions.
- 2 Through our development work, we have explored different assessment designs, tested out alternative approaches and discussed options with stakeholders. This work has enabled us to make the recommendations about the final shape of the SQE, set out in this paper.
- 3 We do so on the basis that the proposed final design meets our criteria of being valid, reliable, manageable and cost-effective, and that it supports our two SQE objectives of:
 - a) delivering greater assurance of consistent, high standards at the point of admission
 - b) encouraging the development of new and diverse pathways to qualification, which are responsive to the changing legal services market and promote a diverse profession by removing artificial and unjustifiable barriers.
- 4 The purpose of this paper is, therefore, to ask the Board to agree the final SQE design and methodology, looking at the SQE as a whole across SQE1 and SQE2, ahead of an anticipated final application to the Legal Services Board (LSB) in July.

Recommendation

- 5 The Board is asked to agree the final SQE design and methodology as whole, including the three components below:
 - a) We should not include a skills assessment in SQE1 (paragraphs 44–54).
 - b) SQE2 should take the form of a uniform assessment model, in which all candidates take the same skills assessments set in five areas of practice (paragraphs 75–100).
 - c) There should be a phased introduction of SQE in Welsh, leading to full English/Welsh parity by year four of the SQE (paragraphs 101–114).

If you have any questions about this paper please contact: Julie Brannan, Director of Education and Training, j.brannan@sra.org.uk

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CLASSIFICATION – PUBLIC**Equality, Diversity and Inclusion considerations**

Consideration	Paragraph nos
The first objective of the SQE is to deliver greater assurance of high professional standards at the point of admission. This will protect consumers of legal services from all communities.	10,17
The second objective of the SQE is to encourage the development of new and diverse pathways to qualification, which are responsive to the changing legal services market and promote a diverse profession by removing artificial and unjustifiable barriers.	10
SQE pilot candidates were selected to be, as far as possible, representative of those who will sit the SQE. Applications were encouraged from minority groups protected under the Equality Act 2010. The analysis of the pilot data showed a similar distribution of demographic characteristics among pilot candidates to those taking the Legal Practice Course (LPC).	56
Moving to two 180-question assessments for the Functioning Legal Knowledge (FLK) assessment in SQE1 will mean that the individual tests will last longer. Kaplan have a reasonable adjustments policy for candidates with a disability or with particular learning needs. It will consider the impact of the longer assessments on those candidates who are granted reasonable adjustments and put in place measures to ensure that they are not disadvantaged eg through extra time, stop-the-clock rest breaks and appropriate timetabling.	140
Including an assessment of skills within SQE1 may disproportionately disadvantage candidates who need access to work experience to develop professional communication skills.	54
The pilots found little or no difference in performance by gender and the numbers were too small for a meaningful analysis of performance by disability. But it found that there was differential performance by binary ethnicity (white/black, Asian, minority ethnic (BAME)). Substantial confounding of variables was	72

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present ¹ . Further analyses (particularly multivariate analysis) suggested educational factors (especially completion of the Graduate Diploma in Law (GDL) and a law degree from a Russell Group University for SQE1, and performance in the pilot multiple choice test for SQE2) were the important predictors of performance.	
Quality assurance processes will be put in place to minimise risk of bias in the assessment. We will commission research to investigate the causes of differential performance by ethnic minority groups.	73
The recommendation for a uniform model for SQE2 will enable all candidates to be assessed against a single, reliable and precise, uniform standard at admission. It will enable collection and analysis of comprehensive performance data of protected groups against a single uniform standard. This will enable analysis of issues of differential performance by protected minority groups and facilitate work to promote equality of opportunity.	85
The recommendation for a uniform model for SQE2 is more likely to require classroom or on-line training, in addition to qualifying work experience (QWE), to enable a candidate to prepare for SQE2. This will mean additional training costs, although lower assessment costs than an optional model. Any additional cost may have a greater impact on those from lower socio-economic groups, particularly those who are not receiving funding.	88
The introduction of the SQE as a national qualifying exam will enable, for the first time, collection and analysis of comprehensive data with which to examine issues of differential performance by protected characteristics. It will also enable work to be done to improve equality of opportunity and to evaluate the effectiveness of that work.	164.169
A draft equality, diversity and inclusion (EDI) impact assessment is at annex 6.	Annex 6

¹ In other words, that the same candidates had many overlapping characteristics.

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Implementing the Solicitors Qualifying Examination

Background

- 6 In April 2017, the Board took the decision to introduce a new centralised assessment for all intending solicitors, the Solicitors Qualifying Examination or SQE.
- 7 The Board decision followed a long period of development and engagement, starting in 2011 with the commissioning of the Legal Education and Training Review, which reported in 2013; a consultation in 2014 on the competences required for practice as a solicitor; and further consultations in 2015 and 2016 on proposals for a new centralised assessment for admission as a solicitor.²
- 8 Our regulatory role is to make arrangements for admitting individuals to the roll and authorising them to practise as a solicitor. That requires us to set the requirements necessary for aspiring solicitors to meet in order to gain the practice rights available to them as a solicitor of England and Wales. The new approach to qualification recognises the crucial importance of that role in safeguarding standards in the legal profession, and thereby ensuring that consumers are adequately protected and can trust that those entering the profession have the necessary skills, knowledge and attributes to provide safe and effective legal services.
- 9 The Board took the decision to introduce a new centralised assessment because of the evidence it considered that the current system does not provide sufficient assurance that aspiring solicitors are assessed to a consistent, high professional standard for entry into the profession, so as to assure proper consumer protection. The current system means that people who want to become solicitors are assessed through different tests, set and marked by large numbers of different organisations. The current system is expensive and inflexible, focusing on required programmes of study. Aspiring solicitors who have the ability to practise competently, can get stuck along the path to admission because they can't afford the required courses or because they can't find a training contract.
- 10 These concerns are reflected in the two objectives for the SQE:
 - a) greater assurance of consistent, high standards at the point of admission
 - b) the development of new and diverse pathways to qualification, which are responsive to the changing legal services market and promote a diverse profession by removing artificial and unjustifiable barriers.

² More detail is set out in our [SQE Briefing](#)

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11 At its meeting in April 2017, the Board agreed that it would make a final decision to introduce the new assessment once further work had been done to develop the exact assessment design, through taking expert advice, testing, piloting and working closely with stakeholders. The criteria for reaching its decision were that the final assessment model should be:

- reliable
- valid
- manageable
- cost-effective.

SQE Regulations

12 In November 2017, following a third consultation, the Board made the regulations required to bring the SQE into force (the SQE Regulations). They introduce new requirements for admission as a solicitor, under a new regulatory framework which shifts our focus to assuring standards through a centralised assessment. Pathway requirements, such as the completion of the academic and vocational stages of training, are removed.

LSB approval

13 In March 2018, the LSB approved the SQE Regulations.

14 In our application to the LSB, we explained that we would submit a second application for approval of additional regulatory arrangements that give effect to the centralised assessment requirement. We would do this once the work had been done to develop the detailed structure and content of the assessment. The additional regulatory arrangements which needed to be approved were Assessment Regulations setting out the awarding rules governing the number of retakes, the total time a candidate can take to pass the SQE assessments, and complaints and appeals regulations.

15 The first stage decision from the LSB, putting in place the framework, was necessary to provide certainty and enable us to contract with an assessment provider to develop and pilot the assessment and so that the student market, law firms and training providers had sufficient certainty to prepare and respond to the introduction of the SQE.

Purpose of this paper

16 The SQE testing and development work is now complete and the detailed structure and content of the assessment has been developed. The main purpose of this paper is to ask the Board to agree that we should proceed with the introduction of the SQE on the basis of the assessment design recommended in the paper, looking at the total assessment (both SQE1 and SQE2) as a whole. Should the Board agree, we will then make our second application to the LSB.

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CLASSIFICATION – PUBLIC*What does SQE assess?*

- 17 As stated above, the purpose of the SQE is to protect consumers of legal services by ensuring that those gaining admission as a solicitor meet consistent and appropriate standards. The starting point for the SQE, therefore, is that it must be the minimum assessment to make sure that those who qualify as solicitors meet our competence requirements across the broad practice rights conferred upon admission to the roll.
- 18 We define the competences all solicitors must have in the [Statement of solicitor Competence](#), and the legal knowledge solicitors must demonstrate in the [Statement of Legal Knowledge](#). We specify the standard to which the competences and knowledge must be demonstrated upon admission in [the Threshold Standard](#).
- 19 Together, these documents define the standards for practice as a solicitor and the competences that aspiring solicitors need to demonstrate in order to qualify, and which we will be assessing through the SQE. They were developed through extensive engagement with focus groups, a Delphi group of experts, large-scale public research and a formal consultation. In all, we engaged with around 2,000 consumers, solicitors, training providers and other stakeholders.³

What work have we done to test and develop the SQE assessment model?

- 20 An initial SQE assessment design proposal was included in the 2016 consultation and formed the basis⁴ of the procurement of our Assessment Organisation. The design is summarised at annex 1.
- 21 The assessment model envisaged a two-stage assessment. A wide range of assessment mechanisms would be used to ensure that the SQE, as a whole, assessed all the skills in the Statement of Solicitor Competence.
- 22 SQE1 would assess FLK, that is, candidates' ability to apply their legal knowledge to advise clients and take decisions. We proposed a model which would integrate substantive and procedural law. And we proposed assessing FLK through six separate single best answer, multiple choice examinations. We pointed to the evidence showing how computer-based testing can assess a range of higher order cognitive skills, such as application of knowledge, interpretation, synthesis and analysis (Case and Swanson, 2001).⁵
- 23 We pointed out that this form of testing is widely used in other high-stakes professional assessment, such as medicine and pharmacy. It is also used in the assessment of lawyers. For example, it is used in the United States as part of the Multi-State Bar Exam (and therefore to admit attorneys in major

³ [Consultation: A Competence Statement for solicitors](#)

⁴ With some minor amendments incorporating stakeholder feedback, it was [republished](#) in 2017

⁵ Case, S.M. & Swanson, D.B. (2001). *Constructing Written Test Questions for the Basic and Clinical Sciences*, (3rd Ed). Philadelphia: National Board of Medical Examiners.

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- jurisdictions like New York and California) and as part of the Bar Professional Training Course, to assess barristers of England and Wales.
- 24 But we of course recognised that this form of assessment could not assess the full range of legal skills. We proposed a second stage assessment (SQE2) which would assess candidates' legal skills. As we said about SQE2 in our 2016 consultation: "getting the law right is clearly a core competence". That meant that the SQE2 assessments would need to test candidates' ability to use their legal knowledge and legal skills together, for example, to provide clear, understandable advice which was also legally correct. SQE2 would take the form of simulations of the sort of tasks which a newly qualified solicitor should be expected to perform competently: interviewing and advising a client, or formulating a persuasive argument in court, or researching the law relevant to a client problem and applying it so as to provide advice.
- 25 We said that further work would be required to test the effectiveness of the proposed overall model to make sure that it met our requirements of providing a valid, reliable, manageable and cost-effective assessment. We would need to engage further with stakeholders, and we would need expert assessment advice.
- 26 In July 2018, we appointed Kaplan as our assessment supplier, to develop and deliver the SQE. The appointment followed a competitive, year-long procurement process.⁶
- 27 Following its appointment, Kaplan reviewed the initial assessment model, in line with our commitment set out in paragraph 25, and developed a plan to explore the optimal assessment design and test it through pilots and input from assessment experts and stakeholders.
- 28 At the same time, we established a range of stakeholder engagement channels (regular discussions with key interest groups, including the Law Society, the Junior Lawyers Division, the Sole Practitioners Group and the City of London Law Society, a Reference Group (membership of which is set out at annex 3), LinkedIn Group, regular webinars, surveys, focus group meetings and an annual SQE conference for training providers) to make sure we captured stakeholder views about the content and design of the SQE.
- 29 In 2019, we also appointed an SQE independent reviewer⁷, to provide independent advice on the development and delivery of the SQE, and in 2020 we appointed an SQE external psychometrician⁸ to review assessment data.

⁶ Kaplan provides education, training and assessment across professional services, including in law, financial services, accountancy and banking. It has direct experience of assessment within the legal sector in England and Wales as the provider of the Qualified Lawyers Transfer Scheme (QLTS).

⁷ Geoff Coombe, previously executive director at the AQA (one of the national GCSE and A level exam boards) as the independent reviewer of the SQE. His responsibility is to advise on the development and running of the SQE.

⁸ Kiran Sanghara is psychometrician at the Standards and Testing Agency, Department for Education. She is also external psychometrician at the Royal College of Psychiatrists.

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CLASSIFICATION – PUBLIC*Exploring assessment methodology through the SQE pilots*

- 30 Kaplan ran two pilots in 2019.
- SQE1: March 2019
 - 316 candidates took the pilot assessment in 42 locations in England and Wales and internationally.
 - SQE2: December 2019
 - 167 candidates in two locations (oral skills) and 29 locations (written skills) in England and Wales took the pilot.
- 31 The purpose of the pilots was to provide assurance about operational processes, insight into specific questions we had about SQE design and, overall, to enable decisions to be reached about how best to optimise the assessment. The purpose was not to model a particular design. Neither pilot took the form of an exam that we were planning to introduce. For example, in the SQE1 pilot, candidates took the SQE1 skills assessment twice. In the SQE2 pilot they took a 60-question single best answer multiple-choice test. Neither of these elements represented a possible model for the live assessment. Instead, they gave us evidence which we used to develop the SQE about the effectiveness of SQE1 skills, on the one hand, and about the profile of the candidate groups for SQE2.
- 32 A core question in the SQE1 pilot was the optimal number of separate FLK papers needed for reliability and accuracy. Candidates sat three 120-question papers in SQE1. That enabled us to measure the reliability statistics of different combinations of questions within individual papers, so as to work out the optimal design. In the SQE2 pilot, we were looking at whether candidates should all have to take the same assessments, or whether we could give candidates an element of choice. Candidates took a hybrid of some common and some specialist tests in the SQE2 pilot, and that enabled us to explore three different possible designs and understand which alternative was the fairest and most reliable assessment.
- 33 Overall, the pilot process produced the evidence which, in combination with expert views and experience from the Qualified Lawyers Transfer Test, we needed to reach the recommendations in this paper.

SQE1 pilot

- 34 The SQE1 pilot showed that the use of single-best answer multiple choice questions was an effective assessment model for assessing FLK. It was able to differentiate between candidates who could demonstrate an ability to use their substantive and procedural legal knowledge to address client issues on a

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- reliable and consistent basis. Operationally, it was manageable and practicable.
- 35 A demographic analysis was conducted to look at whether specific candidate characteristics were a significant predictor of performance on the FLK tests to provide evidence about the fairness of the assessment. It appeared that the main predictor of performance in the FLK exams was completion of the GDL. These educational factors overlap with membership of minority groups with protected characteristics, particularly those from ethnic minority groups with lower patterns of attainment.
- 36 Kaplan advised that confounding variables⁹, the fact that characteristics were self-reported, and the small group size, especially for some categories, meant that the analyses should be viewed with caution. We will ensure proper quality assurance arrangements are in place to ensure fair assessment and will monitor performance across groups and investigate any specific trends when the SQE is implemented. These are set out in more detail at paragraph 73.
- 37 We had originally suggested that the FLK assessment in SQE1 should comprise six assessments of 120 questions each. Kaplan advised that this was more than required to provide assurance that candidates had met our requirements. So, as stated above, we piloted a model in which there were three assessments of 120 questions each.
- 38 The results of the pilot were that this model was on the borderline of acceptable levels of reliability and accuracy. Kaplan advised that amending the FLK assessment design from three 120-question assessments to two 180-question assessments would improve the reliability and accuracy of the assessment and make the SQE more robust. Good levels of reliability and accuracy mean we can be confident about pass/fail decisions. This is critical in a professional qualification that grants reserved rights of practice, and in which consumer protection requires that only those who meet the appropriate competence standards should pass. The recommendation was supported by the SQE independent reviewer.
- 39 A risk of reducing the number of separate pass/fail points is that it increases the risk of compensation – ie candidates compensating a poor performance in one area by a strong one in another. For very sensible reasons, stakeholders commonly expect a test of professional competence to require candidates to demonstrate competence separately in all individual areas of assessment through a series of different “hurdles”. The problem with this approach, however, is that either tests of each skill need to have many more stations, which would prove very expensive, or decisions in relation to each individual hurdle will lack reliability and accuracy.
- 40 In considering whether there should be two or three separate FLK assessments, Kaplan and the independent reviewer looked at compensation

⁹ In other words, some categories had a very significant overlap with other categories.

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closely. Kaplan undertook a detailed analysis of compensation effects in the pilot. Kaplan reported that, in practice, compensation effects in the pilot were limited: most candidates performed consistently across subject areas. Compensation was slightly more marked with two separate assessments than with three, but not sufficient to be a matter of concern. Nevertheless, Kaplan recommended, and we agree, that this is an important issue and should be kept under review once the SQE is introduced.¹⁰

41 The independent reviewer stated:

“There is a risk that having three, rather than two FLK tests in stage 1, will suppress pass rates to an unacceptably low level. While stakeholder concerns about candidates being able to compensate good FLK in some areas against poor FLK in others are understood, the evidence from the pilot suggests this risk is low. And, with an appropriate blueprinting strategy, this risk can be further mitigated. Kaplan understands the need for, have experience of, and are planning a thorough and detailed blueprinting strategy for the live FLK to support a high-level, public-facing document.”¹¹

42 In July 2019, we [announced](#) that we would accept the recommendation for two separate FLK assessments. This design is in line with our four requirements for the SQE as a whole – that it should be reliable, valid, cost-effective and manageable (see further at paragraph 140). In October 2019, we published the [final Assessment Specification](#) for the FLK assessment within SQE1. In December 2019, we published SQE1 [sample FLK questions](#).

43 There are three remaining decisions about the SQE assessment design which we address in turn below and invite the Board to consider, again against our four criteria:

- a) Should we include a skills assessment in SQE1?
- b) What is the best model for SQE2, and in particular, should we require all candidates to take the same SQE2 skills assessments, or let candidates choose the practice area within which their skills are assessed?
- c) Should we make provision for candidates to be able to take SQE through the medium of Welsh?

Assessment design question 1: SQE1 skills

44 In addition to the FLK component outlined above, the SQE1 pilot included an assessment of candidates’ legal research and writing skills through:

¹⁰ [Kaplan Stage 1 pilot report](#), para. 4.1.2 and appendix 2.

¹¹ Independent reviewer: [SQE Stage 1 Pilot Findings, para. 2.4](#). Blueprinting is a process to ensure proper sampling of the underlying curriculum.

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- Two legal writing exercises, where they had to explain to a lay client the meaning of a statute or primary legal resource.
 - One legal research exercise, where they had to analyse a range of resources (both relevant and irrelevant) and use them to write an answer to a client's legal question.
- 45 The pilot found that the model used to test skills was not successful, because it was not sufficiently reliable or accurate.
- c) Three exercises did not provide enough information to set a reliable and precise pass mark so that we could be sure that candidates who passed deserved to pass and those who failed deserved to fail.
 - d) Further, the assessment standard which was intended to be set at non-qualified entry level into legal services was insufficiently clear.
- 46 In addition, there was differential performance by binary ethnicity in the pilot. Kaplan and the SRA are committed to promoting equality of opportunity while maintaining the standard of the assessment. The SQE1 skills assessment which was piloted did not ensure sufficiently nor effectively that the standard of the assessment was maintained because it was not sufficiently reliable or precise.
- 47 For all these reasons, both [Kaplan](#) and our [independent reviewer](#)¹² recommended that we should not proceed with this model of skills testing and that we should instead assess skills only through SQE2.
- 48 We discussed this finding with the Board in July 2019. The Board decided that we should do more work to investigate possible options and to discuss the options with stakeholders.
- 49 Over the course of the autumn, we held a series of focus groups and other meetings with the profession, including large, medium and small firms, training providers, diversity and special interest groups. We also ran an online survey to seek views. At the same time, Kaplan looked at models which would work technically. Through this process, we refined possible options down to two:
- a) Assess skills purely through SQE2, or
 - b) include a legal research and writing assessment in each of the two FLK assessments within SQE1. The exercise would count for a maximum of 10% of the available marks. But a single assessment must have a single standard and so the skills assessment would be set at day one qualified solicitor standard, consistent with the rest of the FLK¹³. Kaplan advised

¹² Our SQE External Psychometrician was brought on board for the second pilot.

¹³ Were the skills to be set at a lower standard, it would be possible for a candidate to pass the FLK overall even though they had not met the minimum day one solicitor standard. This would not provide an adequate measure of consumer protection. In his [report](#) on the SQE1 pilot, the Independent Reviewer

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that this model could be reliable and valid and so technically defensible, and that it would enable the pass mark to be calculated with sufficient precision.

- 50 We again sought views on these options. Stakeholder views were very split, with no clear consensus emerging for either model.
- 51 Most City and larger firms favoured no skills testing in SQE1. Their reasons were lower costs, simplicity, avoiding duplication, and less marking time between passing SQE1 and taking SQE2. Many plan to take trainees for QWE (QWE) after they have passed SQE2. This group would not be recruiting candidates who have passed only SQE1.
- 52 There is less consistent feedback from smaller firms, individual solicitors and other organisations authorised to take trainees, but many of them prefer SQE1 to include a skills element. This is on the basis that they may take trainees for QWE between SQE1 and SQE2, they would value an indication of skills before taking on a trainee, and they want trainees to be able to do basic legal tasks such as legal research and legal writing from their arrival in the office.
- 53 Education and training providers have mixed views. Some see the testing of skills at SQE1 as a key indicator for progression for both candidates and employers. Others think it is more logical and simpler to test skills only in SQE2. Some individual trainees, paralegals and students and SQE1 pilot candidates favour skills testing in SQE1, others do not.

Conclusion and recommendation

- 54 Our recommendation is that we should not assess skills within SQE1 but should rely instead on SQE2. Our reasons are as follows:
- The purpose of the SQE is to ensure that those we admit demonstrate the high standards required for practice as a solicitor, and the means of assessment should be those that are proportionate to achieve that objective. It is not part of the purpose of SQE to assess skills required for individuals practising in a non-qualified capacity. Those skills will inevitably vary from role to role, and firm to firm.
 - Should businesses have skills requirements for non-qualified staff, the proper place to assess their requirements is through their own recruitment and selection processes.
 - SQE1 skills would have to be set at day-one solicitor level. If SQE1 skills were to be set at admission standard, that would duplicate SQE2 skills and would therefore be unnecessary.

stated that: "From a validity perspective, having an assessment as part of Stage 1 which is at a different, lower, but therefore difficult to define, level to the overall SQE standard (exemplifying that needed of a Day 1 newly qualified solicitor) is problematic. This confuses the definition of the overall SQE minimally competent candidate. This is because this component of the exam confuses the overall aim and overall standard of the exam and makes standard setting across the whole SQE inconsistent". (SQE Stage 1 Pilot Findings, June 2019, para. 3.1)

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- Given that we expect most candidates will attempt SQE1 some time before admission, and may need some work experience to help develop those skills, an SQE1 skills assessment set at day-one solicitor standard could create a barrier for which we have no regulatory justification.
- This barrier may disproportionately disadvantage candidates who need access to work experience to develop professional communication skills.
- The SQE1 skills assessment would increase the cost and burden of the SQE without a clear regulatory justification.
- Overall, assessing FLK in SQE1 and legal skills in SQE2 provides a model which best meets our criteria of an assessment which is valid, reliable, cost-effective and manageable.

The SQE2 pilot findings and assessment design question 2: optimal design for SQE2 – optionality or uniform exam

- 55 As stated, Kaplan ran the SQE2 pilot in December 2019. The pilot involved 167 candidates across two locations for the oral skills and 29 Pearson VUE venues across England and Wales for the written skills. We had two cohorts of candidates: 97 candidates took business as their specialist context and 70 candidates chose criminal litigation. For the purpose of the pilot¹⁴, candidates took a short multiple-choice test, designed to provide benchmark information about their FLK. They also took seven skills assessments (or “stations”¹⁵) in a common core, and a further seven stations in either business law or criminal litigation, at their choice. They were provided with legal materials for the skills exercises.
- 56 SQE pilot candidates were selected to be, as far as possible, representative of those who will sit the SQE. Applications were encouraged from minority groups protected under the Equality Act. The analysis of the pilot data shows a similar distribution of demographic characteristics among pilot candidates to those taking the LPC.
- 57 Candidate numbers were not as high as for the SQE1 pilot – SQE2 demanded a greater commitment.¹⁶ But, taken with nine years of data and experience from the Qualified Lawyers Transfer Scheme (QLTS), the advice of Kaplan’s expert advisers, the independent reviewer, and our external psychometrician, as well as views from a wide range of stakeholders on the pilot outcomes, the SQE2 pilot provides sufficient evidence to support the decisions about assessment design. In reaching our recommendation we have taken into account all of this evidence.

¹⁴ This is not intended to form part of the final design of SQE2. Its purpose in the pilot was to provide additional data against which to analyse the performance of the two cohorts of candidates.

¹⁵ A “station” is an individual assessment task, such as undertaking a piece of advocacy or drafting a document

¹⁶ They were, though, higher than for some pilots of similar national exams. For instance the pilot for the GPs’ Clinical Skills Assessment (the equivalent of SQE2) was held in September 2006 and involved 98 participants. The mandatory exam for all GP trainees was implemented in 2007.

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- 58 The SQE independent reviewer reviewed the running of the pilot. He confirms in his report that: “the planning, operation and analyses of the pilot were generally of a high or very high quality”.

Pilot findings

- 59 Overall, Kaplan reported that pilot candidates displayed a wider range of performance than would be expected in a live context, with a longer tail of poor performance and some extremely good responses. They suggest that this may be due to two factors. First, some candidates were probably better motivated than others. In all pilots, candidates’ motivation will never be as high or consistent as for a live assessment. Second, pilot candidates included those who, for the live assessment, would have been filtered out by failing SQE1. We used the multiple-choice test in the pilot to replicate the conditions of the live assessment and analysed performance on the pilot of all candidates and, separately, of those who scored over 50% in the multiple-choice test.
- 60 Through the pilot, we explored a number of facets of SQE2 assessment design and performance, the most significant of which is the question of the uniform or optional model. We look at each in turn below.

Compensation

- 61 The assessment model we piloted required candidates to attempt 14 different stations, resulting in a single overall mark. The reason for this model is that it provides the datapoints to enable a pass mark to be set with sufficient accuracy and reliability. But it does mean that candidates can compensate for a weak performance in one skill by a strong performance in another.
- 62 As with the SQE1 pilot, Kaplan looked closely at compensation effects in the SQE2 pilot. It produced an analysis of candidate performance across all skills for both cohorts (criminal and business). This showed that while some compensation occurred, it was not very common and/or marked. In general, good candidates tended to do well in all skills and weak candidates tended to do poorly. As the independent reviewer noted: “...while some limited compensation between skills did occur, it was not pronounced”.
- 63 Kaplan looked particularly closely at compensation in advocacy, because rights of audience are a reserved activity. The results from the pilot again showed that there was an element of compensation, but it was not marked. No candidates “passed” with a very low mark in advocacy. No candidates taking the business specialty “passed” the assessment and scored less than 50% on advocacy. One candidate taking the criminal specialty “passed” with less than 50% on advocacy. Their mark was 48%.¹⁷

¹⁷ As with the SQE1 pilot, it is unlikely we will set a formal pass mark. However, for the purpose of analysis, Kaplan have modelled a pass mark of 62% for both cohorts of students, based on the methodology to be used in the SQE.

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- 64 A possible way to mitigate the risk of compensation is to set a minimum pass mark in each station. This would prevent candidates passing overall despite a very low mark in particular areas. Kaplan has explored this option, but it advises against it. Individual sub-scores would be unreliable and therefore pass/fail decisions could not be made with sufficient confidence. There is also insufficient evidence that the extent of compensation observed justifies this approach. Our external psychometrician advises that the compensation between skills is not substantial enough to warrant setting individual thresholds for each skill.
- 65 Kaplan and the independent reviewer both recommend proceeding with a design of SQE2 in which there is one, single assessment. However, it also recommends that the issue of compensation is kept under review once the assessment is live.

Weighting of law and skills and number of stations

- 66 Although the SQE2 assessments are tests of candidates' legal skills, the assessment criteria are weighted 50:50 law and skills. The law criteria relate to candidates' ability to apply their legal knowledge. Kaplan looked at whether this weighting was appropriate and, given that SQE2 is a skills assessment, analysed what the impact would be of shifting the weighting towards skills.
- 67 In the pilot, on a weighting of application of law and skills at 50:50, three passing candidates scored less than 50% for application of law, with the lowest mark of a passing candidate being 47.5%. This number increased only gradually as the weighting changed. On a 70:30 weighting, the lowest score of a passing candidate on application of law was 42%.
- 68 Kaplan's experience on the QLTS, where the weighting was changed to 50:50 after some years of operation, is that this is needed to minimise the risk that only those candidates who have an acceptable score on the law pass the assessment.
- 69 For all these reasons, Kaplan's recommendation is that we should retain a 50:50 weighting on law and skills. The SQE independent reviewer suggests that the weighting should be somewhere in the range of 60:40 or 50:50. The most prudent approach is to retain a 50:50 weighting. But we will keep this under review once the assessment goes live.
- 70 Finally, Kaplan looked at the number of stations needed for reliability. There were 14 stations in the pilot and the reliability was surprisingly good. Kaplan's advice is that 14 stations would be on the borderline of what is acceptable, 18 would be ideal from a psychometric point of view, but 15/16 would be adequate to achieve sufficiently precise outcomes. The independent reviewer suggests at least 15 stations are needed and our external psychometrician recommends 16 stations, for reliability.

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- 71 Kaplan did both univariate and multivariate analyses of candidate performance by protected characteristic. In considering the results, it should be remembered that candidate numbers were small in some groups, making it unlikely that statistical significance would be found in relation to those characteristics, that characteristics were self-declared, and that there were substantial confounding relationships between individual variables.¹⁸
- 72 The univariate analysis showed no significant difference overall between men and women, but that women significantly out-performed men in the criminal specialty. White candidates significantly out-performed those of BAME ethnicity. The multivariate analysis showed that binary ethnicity became a much less significant predictor of performance in the legal skills when performance in the multiple-choice test was entered as a variable. Multiple-choice test score was the single largest predictor of performance (explaining 62% of score variance in the business group and 57% in the criminal group).
- 73 While we recognise that this pattern of differential attainment by ethnicity is consistent with current experience in assessments in the legal sector and more widely¹⁹, it is nevertheless of concern and we plan to commission research to understand better the causes of the attainment gap. We have seen no evidence that the assessment methodology or any assessment processes are intrinsically biased. Kaplan will be introducing a comprehensive package of measures to minimise any risk of unfairness to candidates from minority protected groups. This will include:
- appointing external expertise to advise on these issues
 - recruiting a diverse group of assessors
 - diversity training for assessors, markers and question writers, including on issues such as the language of questions or unintended cultural bias
 - training for assessors on unconscious bias
 - statistical monitoring of the performance of assessors of live assessments for unconscious bias
 - statistical analysis of individual questions to check for patterns of differential performance at item level²⁰
 - statistical monitoring and analysis of the performance of protected groups under the Equality Act 2010.

¹⁸ In other words, some variables overlap with other variables. For example, a candidate may be both black and a woman and from a Russell Group university.

¹⁹ See [SQE Briefing, paras 79 - 89](#)

²⁰ Through DIF (differential item functioning). This type of statistical analysis is not currently used on the QLD/GDL/LPC and is an example of the enhancement of assessment practice through the SQE.

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- 74 There were no differences in performance by disability in SQE2 skills. However only 12 candidates out of 167 declared a disability under the Equality Act 2010, which were too few for any conclusions to be drawn. Ten candidates out of 167 sat with reasonable adjustments. The adjustments included additional time, individual/smaller testing rooms, enlarged font/screen magnifier and stop-the-clock rest breaks. The most common adjustment was 25% extra time (10 candidates).

*Uniform or optional design**What does SQE2 assess?*

- 75 The primary purpose of the SQE2 assessment is to assess candidates' legal skills. However, legal skills can only be assessed through the vehicle of legal issues, which we have grouped together into five "legal contexts". They reflect the reserved activities, with the addition of Business Law and Practice, because it is such a large area of practice.²¹ The assessed skills are writing, drafting, case and matter analysis, research, advocacy and interviewing. Many of these apply in all practice areas. Others (for example advocacy and negotiation) are only required in some areas. Candidates can use their QWE to develop their legal skills in these contexts before they attempt SQE2.
- 76 This means that SQE2 assesses both communication skills and the skill of applying legal knowledge accurately to a factual context. For example, a competent client interview includes the ability to communicate in a way the client can understand and which builds trust and confidence. But it also includes the ability to use legal knowledge to identify the likely legal issues and elicit the facts relevant to those issues: both client handling skills and the ability to apply legal knowledge are required. Similarly, in advocacy, a candidate must present their argument using appropriate language and a clear structure. But they must also be able to apply relevant legal principles correctly in order to formulate an argument supporting the decision they are asking for. And throughout all this, candidates must correctly identify any issues of ethics and professional conduct and exercise judgement to resolve them honestly and with integrity.
- 77 This is reflected in the proposed weighting of the assessment criteria for all of the SQE2 assessments, which is 50:50 application of the law and skills. And it answers one of the concerns that stakeholders have that the ability to apply legal knowledge is assessed only through the single best answer multiple-choice questions in SQE1. In fact, the ability to apply the law correctly and comprehensively is required in both SQE1 and SQE2.

What did we originally propose?

- 78 Because few law firms practise across the full range of legal services, trainee solicitors start to specialise before admission through their choice of where to

²¹ The contexts are: business, property, probate, civil litigation and criminal litigation.

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train. When we consulted on SQE in 2016, we recognised this by proposing an assessment design which gave candidates the opportunity to choose two out of the five legal contexts within which to be assessed.

- 79 However, Kaplan were concerned about whether a consistent standard could be achieved in SQE2 if candidates had a choice of contexts. So, we decided to use the SQE2 pilot to test whether we could standardise an optional model, what the risks might be and the extent to which we could mitigate those risks. The pilot was designed to explore three possible options:
- a) **Specialisms only:** candidates would take legal skills assessments in two areas of legal practice (or contexts) that they could choose from a list of five (broadly, the reserved activities and business law and practice).
 - b) **Common core:** candidates would take an exam combining one practice area of their choice with a sample of all skills in the five contexts. We would explore whether the common core assessments which everyone took could be used as a yardstick to measure the difficulty of the options which only some candidates attempted.
 - c) **Uniform exam:** candidates would take the same exam, which sampled across all legal skills and all five contexts.

Pilot findings about uniform or optional design model

- 80 The pilot explored whether skills were generic and transferable across practice areas. It looked at pilot candidate performance in the skills in different contexts and found that candidates' performance varied between contexts. It is not clear why. It could be because the skills are themselves different; or because candidates needed to draw on unfamiliar law (although they were provided with legal materials in the common core); or because work experience in a particular area made them more skilled. But it does provide some indicative evidence that skills are not necessarily transferable between practice areas.
- 81 The pilot also looked at the relationship between work experience and performance in the pilot. There was a mixed and complex picture of the predictive effect work experience had on performance. Univariate and multivariate analysis indicated some predictive effect, particularly in relation to work experience in the business specialty area for business candidates, and in any practice area for candidates who took the criminal practice area. However, it was also clear from the results that work experience was neither a sufficient nor a necessary condition of doing well.

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- 82 Tentative “pass marks” for both the criminal and business candidates were calculated, using the Borderline Regression²² method, at 62%.²³ On this basis, “pass rates” between the two cohorts were significantly different. For the business group the pass rate was 42%; for the criminal litigation group it was 31%. There were also different mean scores between the two cohorts (58% for business candidates and 53% for criminal litigation candidates).
- 83 The pilot design enabled Kaplan to explore whether they could use the common core (ie the assessments that both cohorts of candidates took) to provide a yardstick to equate the results which emerged from the specialist assessments. If successful, this would enable us to standardise the options and make sure that candidates could be assessed fairly against the same standard, even though they were taking different assessments.
- 84 However, the pilot found that there was no clear pattern of correlation between candidates’ performance on their specialisms and the common core. Some candidates who performed well in their specialist area performed worse in the common core and vice versa. The common core did not function effectively as a yardstick.
- 85 Kaplan, the independent reviewer and the external psychometrician have identified three areas of risk inherent in both optional models (common core and pure specialisms):
- a) **Question writing:** It is always difficult to be sure that all questions are set at exactly the same level of difficulty. Comparing levels of difficulty precisely between different subjects is particularly difficult²⁴. In a uniform examination, a mitigation is that all candidates take the same questions and so the risk of inter-candidate unfairness within the same assessment is eliminated. In an optional examination, the problem is that different cohorts will take different questions. This creates a risk (which doesn’t exist in the uniform model) that different candidates will be set questions which are not of exactly the same level of difficulty. Mitigations can attempt to ensure comparability. But our experts advise that mitigations cannot completely eliminate the risk and that a significant risk of unfairness remains.
 - b) **Marking:** A key challenge of any assessment is to ensure that marking is as consistent as possible. The optional model makes this more difficult, because markers are marking different cohorts and different assessments. Markers’ experience of candidate performance can

²² Naveed Yousuf, Claudio Violato & Rukhsana W. Zuberi (2015) Standard Setting Methods for Pass/Fail Decisions on High-Stakes Objective Structured Clinical Examinations: A Validity Study, *Teaching and Learning in Medicine*, 27:3, 280-291, DOI:10.1080/10401334.2015.1044749
See also annex 4

²³ These tentative “pass marks” have not been approved by an exam board. They are used purely for statistical modelling.

²⁴ See for instance Ofqual’s paper of December 2015, “*Comparability of Different GCSE and A Level Subjects in England: An Introduction*” and the set of six working papers accompanying it.

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influence their assessment judgments, and so they may be differentially affected by the performance of different cohorts taking different assessments. The risk of variable marking may be mitigated by training, but training will not completely eliminate it. It is possible to spread markers across different subject areas. But this may make judgments within an assessment task less consistent. Again, the experts all advise that, overall, a significant risk of unfairness remains.

- c) **Standard setting:** We propose using the Borderline Regression method to set the standard for SQE2 – see annex 4. This method becomes less reliable with lower cohort numbers. In the early days of the SQE, it is likely we would have low numbers taking at least some of the specialist options. The more choice, the lower the numbers in the options. Alternative methods are at least theoretically possible. But they are not as well established or widely used as Borderline Regression. Borderline Regression has been upheld by the courts.²⁵ Using a different standard setting method is likely to be less reliable. So, again, our experts' view is that this is a significant risk which cannot be eliminated, except through a uniform exam.

86 Kaplan's recommendation (that of their expert panel²⁶), of the SQE independent reviewer and of our external psychometrician is, therefore, that a uniform exam is the most valid and reliable assessment design for a single entry point into the solicitors profession. The independent reviewer states: "The overwhelming evidence from a psychometric perspective is to have a universal model. This is backed up in the relevant academic literature and is the model usually followed by professional qualifications which lead to licensure. From a defensibility perspective, and in order to ensure fairness to all candidates, the evidence from the pilot is the SQE2 design should be universal, and while recognising this will not be some key stakeholder's preference, the design must be able to withstand legal challenge".

87 While it is not a primary driver, a uniform examination is a less expensive assessment model.

Stakeholder views

88 Throughout the autumn and winter, we have been discussing the three options tested in the pilot with stakeholders. Their views are mixed.

²⁵ R on the Application of BAPIO Action Ltd [Claimant] v Royal College of General Practitioners [First Defendant], in the High Court of Justice, Queen's Bench Division, The Administrative Court. 10th April 2014. EWHC 1416 (Admin) 2014 Available at <https://www.rcgp.org.uk/news/2014/may/~media/Files/News/Judicial-Review-Judgment-14-April-2014.ashx>

²⁶ The members of Kaplan's advisory board are: Dr Susan Case, formerly National Conference of Bar Examiners, [Dr David Swanson](#), American Board of Medical Specialties and [Richard Wakeford](#), University of Cambridge.

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- a) The Legal Services Consumer Panel have a clear preference for a uniform design, and said they would be concerned by the optional model because assessment in some contexts would not provide adequate consumer protection that solicitors were competent to practise in all the areas where they acquired practice rights on admission.
- b) Some stakeholders – particularly academics but also some professionals – accept that there is a clear regulatory justification for a uniform exam, because entry to the profession means that a solicitor can practise in all contexts and working environments, and that it could provide a more rigorous and consistent assessment of high professional standards.
- c) Some stakeholders are concerned that optionality would lead to over-specialised solicitors.
- d) Stakeholders representing ethnic minority practitioners tend to prefer the uniform model, as being demonstrably fair to all candidates.
- e) The Bridge Group²⁷, who are advising us on diversity in the SQE, support the introduction of a uniform model. They say it is more likely to impact positively on diversity at point of qualification compared to optional assessment, and could also subsequently affect better representation across different practice areas within the sector by avoiding some candidates “selecting out” of areas that are perceived to be aligned with particular demographic characteristics²⁸.
- f) Assessment providers have confirmed that they can provide training for either model, but that their training courses would need to be longer for the uniform exam. Most providers think this will increase the length of their courses – albeit they are relatively short courses, compared to the LPC.
- g) Most firms would prefer the optional model, because the uniform exam means training cost and resource would be used on developing skills not needed in their business.
- h) Some stakeholders (both firms and training providers) think a uniform exam does need classroom or online training and cannot be prepared for by traditional work experience in a single employer. They speculate that most candidates will wish to take SQE2 assessment as soon as

²⁷ Bridge Group is a charity which uses research to promote social equality. Clients include Sutton Trust, BBC and the Cabinet Office.

²⁸ They advise that research shows this career self-sorting to be a systemic challenge in many professions, including law, and is a significant factor contributing to differential pay, progression and attrition.

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possible after SQE1 assessment (so their legal knowledge is fresh in their minds) and that this makes it more likely that both SQE1 and SQE2 may be taken before QWE.

- i) Some stakeholders (both firms and training providers) were worried about the cognitive burden and stress for candidates of the uniform exam, because it tests them across a greater number of areas of law which they need to be able to remember.
- j) Some stakeholders think that providing materials/open book exams may mitigate the cognitive burden and the need for additional classroom preparation. Others are sceptical about whether these measures will make much difference.

89 We also ran an online survey in April. We had 50 responses²⁹. Again, views were very split. Headline findings from the survey are as follows:

- 36% of respondents preferred either the uniform exam or the specialisms, and 28% preferred the common core
- 43% of respondents thought the uniform exam would best support high professional standards, compared with 29% for each of specialisms and the common core
- 67% of respondents said that the common core would affect training costs
- 89% of respondents said that the uniform model would affect preparatory training for SQE2
- 78% said they would pay for their candidates preparatory training for SQE2.

Conclusion and recommendation

90 Our recommendation is that we should adopt a uniform model, for four reasons:

- a) It is aligned with the skills needed for the practice rights that solicitors acquire on admission, recognising that these may not be wholly generic and may vary between practice areas.
- b) It is demonstrably fair to all candidates.
- c) It meets our objective for the SQE of a consistent assessment of the high professional standards needed for practice as a solicitor, reflected in our Threshold Standard.
- d) It supports our criteria of being valid, reliable, cost-effective and manageable.

²⁹ Responses were received, among others from: students/trainees (16%), training providers (26%) and law firms authorised to take trainees (36%).

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- 91 The SQE is not about ensuring that candidates are able to practise competently in specific roles or sectors. It supports the broad practice rights solicitors gain on admission. Although individual firms employ lawyers in specialised roles, solicitors' practice rights are generalised and allow solicitors to practise across all the reserved activities. Subject to their own assessment of practising within the limits of their competence, a newly qualified solicitor is entitled to work in any area of practice, doing any type of legal work, regardless of their previous training or experience. The SQE needs to test across all the core skills that are required in order to be able to exercise these rights competently. Ensuring that those we admit have demonstrated they are able to practise competently across the range of reserved activities is a core responsibility in order to meet our regulatory requirement to protect consumers.
- 92 SQE1 assesses the FLK required for all the reserved activities. But it does not cover all the competences we specify in the Statement of Solicitor Competence. Many skills-based competences are assessed only in SQE2. And, of course, as stated above, core legal knowledge relevant to these areas is tested in SQE2. A knowledge of the legal curriculum can therefore be broadly and appropriately sampled across the SQE as a whole.
- 93 The pilot gave us indicative evidence that legal skills are not entirely generic or transferrable from one practice area to another: performance in a skill in one context was not a strong predictor of performance in that skill in another context. Some skills naturally belong in certain contexts (advocacy in civil and criminal litigation; negotiation in business, civil litigation or property). But it may be that the exact skills required vary from one context to another: drafting a statement of case may be very different to drafting a contract for the sale of land.
- 94 Most law firms do not practise (and therefore cannot offer work experience) across the range of reserved activities and in a uniform model this would drive the need for additional classroom training, which would increase the cost of qualifying as a solicitor. But, by the same token, if skills are not transferable, we cannot infer competence across all reserved areas of practice from competence in just two of them, and this presents a public protection risk. The best alignment, and the best guarantee of consumer protection, is by a uniform examination which assesses all candidates across the whole range of reserved activities.
- 95 In addition, the evidence from the experts is that even with all possible mitigations, the optional model carries with it a significant risk of unfairness, because we could not be sure that different assessments in different practice areas assessed candidates to the same standard.
- 96 For these reasons, the uniform model best achieves the primary objective for the SQE of assuring high professional standards on a fair and consistent basis. Given that the solicitor qualification is a general one, consumers, and the public more widely, are entitled to assume that all solicitors have met the same

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consistent standard and are competent to practise in whatever role they take up after admission – recognising that this may change over time.

- 97 We recognise that the uniform model means that candidates are more likely to need to develop their legal skills through a combination of QWE and classroom and/or online learning. This will add training cost – although there will be some saving of assessment cost. However, additional cost, or changes to training or recruitment practice, cannot justify an assessment model which may not assess candidates fairly or is not aligned with the practice rights conferred on admission as a solicitor.
- 98 Three years ago, we consulted on a design which gave candidates a choice as to the areas of law in which their legal skills would be assessed because we hoped the model could assess candidates fairly across generic skills. But we made clear that the proposed model was subject to development through piloting, testing and further stakeholder engagement.
- 99 The evidence which has emerged through this process shows that the early design proposal was flawed. It would be wrong to persist with the early design and to ignore the evidence from the SQE2 pilot and the expert advice.
- 100 The purpose of the testing and development phase of work was to optimise assessment design. The development work has provided us with the evidence we need to decide the shape of SQE2. The evidence is that the uniform model is both more valid than the early design proposal (because it is best aligned with solicitors' practice rights) and more reliable (because it assesses all candidates fairly and consistently against the same standard). The uniform model is operationally manageable (see paragraph 140 below) and it is more cost-effective because of the efficiencies of all candidates taking the same tests. It therefore meets the criteria we set out.

Assessment design question 3: SQE in Welsh

- 101 We discussed the detail of the SQE in Welsh with the [Board in September 2019](#). At that stage, we agreed to undertake a feasibility study and seek stakeholder views on the following emerging position:
- Candidates would have the option of writing their answers in Welsh from the introduction of the SQE.
 - We would explore the possibility of candidates taking their oral skills assessments in English or in Welsh after the introduction of the SQE.
 - We would not provide a Welsh version of the FLK assessment questions, but we would keep this decision under review.

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- 102 Over the course of the autumn and winter, we have held meetings with the Welsh Government, the Coleg Cymraeg Cenedlaethol³⁰ and the WJEC³¹. We have met the Commission on Justice in Wales, the Chair of the Commission on Justice in Wales, the Counsel General for Wales and Welsh Government officials.
- 103 We have written to all six Welsh universities who teach law degrees and/or the LPC to ask about their Welsh language provision. We have met Welsh-speaking staff and students at the Swansea University. We have spoken to the Translation Service at HM Courts and Tribunals Service in Caernarfon and to the Translation Unit at the Centre for Welsh Language Services at the Bangor University. The input of all organisations with which we have discussed the SQE has been hugely valuable.
- 104 Finally, we have also written to all Welsh-speaking solicitors to ask whether they would be interested in being appointed as bilingual SQE2 assessors. Ninety-seven have told us that they would be interested, and they cover the full range of practice areas.
- 105 It is clear that the use of the Welsh language is a fundamental part of the Welsh landscape. The delivery of services in Welsh is one of the Welsh Government's key priorities. Its strategy – Cymraeg 2050 – aims to achieve one million Welsh language speakers in Wales by 2050, by promoting and facilitating the use of the Welsh language.
- 106 The Commission on Justice in Wales published its report *Justice in Wales for the People of Wales* at the end of October. It recommended that: "Professional legal education for those wishing to practise in Wales must be available in the Welsh language with the phased introduction of the availability of all professional examinations in Welsh".
- 107 The Welsh stakeholders we spoke to were all very clear that they would wish to see full parity of approach between English and Welsh on the SQE. Pragmatically, they were prepared to accept a phased introduction (in line with the recommendations of the Commission on Justice in Wales), but only on the basis of a clear timetable leading to full parity.
- 108 As the Board knows, we are not currently subject to a legal requirement to offer SQE in Welsh. However, the Welsh Government is currently consulting on bringing the health regulators and others into the Welsh Language Measure and we anticipate that when Welsh Parliament time can be found, we would also be put under such a requirement.
- 109 We expect that numbers of candidates attempting SQE in Welsh will be small. The Commission on Justice in Wales estimated that there were about 100 students who were taught at least some part of their law degree in Welsh each

³⁰ The Coleg was established by the Welsh Government to work with universities in Wales in order to develop Welsh language courses and resources for students.

³¹ The GCSE and A level examination Board in Wales.

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year. Nationally, only about 25% of law students qualify as solicitors. In addition, there will be non-law graduates and Welsh-speaking students taking law at English universities. We estimate numbers to be about 50 students each year.

- 110 Kaplan reported at the end of February on their feasibility study into full provision of SQE in Welsh, including the FLK and skills assessments, written and oral. The SQE in Welsh can be offered and their recommended approach involves:
- Candidates' answers being marked in Welsh – they will not be translated into English and marked in translation.
 - Welsh-language candidates being assessed within the same statistical pool as English-language candidates.
 - Quality assurance processes to ensure (a) the accuracy of translations to make sure questions mean exactly the same in English and Welsh; (b) consistency of assessment decisions across both languages, including double marking and monitoring of assessor decisions.
- 111 They would recommend running a small pilot of the SQE in Welsh to test and explore operational processes.
- 112 Although SQE in Welsh could be offered on this basis, Kaplan identify risks which cannot be fully mitigated and which could lead to an unsuccessful candidate challenging their result. The main ones are as follows:
- We would be unable to statistically validate the Welsh assessment separately because numbers of Welsh-language candidates would be so small. Welsh-language candidates would be put in the same statistical pool as English-language candidates, notwithstanding a significant variable in assessment (choice of language).
 - There will be extensive quality assurance processes for the translation of materials, but the risk of inaccuracy may remain. Ideally, Kaplan would wish the translators to be solicitors with legal expertise in the relevant subject area, as well as qualified translators. Our view is that such individuals would be very difficult to find. It is likely that we will need to use qualified translators working alongside solicitors with relevant subject matter expertise. This is a model which the WJEC uses.

Conclusion and recommendation

- 113 In light of all the evidence we have gathered, including what we have heard from stakeholders, and Kaplan's feasibility study, we consider that we should change the tentative approach reached in September 2019. We therefore propose the phased implementation of SQE in Welsh, leading to full parity between English and Welsh, over a four-year period, as follows:

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- Phase 1: 2021 (from start of the SQE). Candidate can provide their *responses* to written assessments in Welsh.
- Phase 2: 2022/3 (in second year of the SQE). Candidates can provide their *responses* to SQE2 oral and written assessments in Welsh
- Phase 3: 2023/4 (third year of the SQE). Questions for oral and written skills assessments will be translated into Welsh, and candidates can respond in Welsh. This means complete parity for SQE2.
- Phase 4: 2024/5 (fourth year of the SQE). Introduce translation of FLK questions. Full parity achieved for both SQE1 and SQE2 within four years after introduction of SQE.

114 A detailed rationale for the proposed phasing is at annex 5.

Approval of the overall SQE assessment design

115 We set out at the start of this paper that the criteria on the basis of which the board should decide to proceed with the SQE are that it is

- reliable
- valid
- manageable
- cost-effective.

116 We also set out our two SQE objectives:

- a) delivering greater assurance of consistent, high standards at the point of admission; and
- b) encouraging the development of new and diverse pathways to qualification, which are responsive to the changing legal services market and promote a diverse profession by removing artificial and unjustifiable barriers.

117 We have outlined above the testing and developing process which has led us to recommend the final assessment design set out at annex 2. Our recommendation of this model is based on our evaluation that it best meets the four criteria and two objectives for SQE. We set out our reasoning below.

Revisions to the early design proposal

118 The overall design and the assessment tasks as a whole reflect our early design proposal:

- SQE1 is an assessment of candidates' FLK, through single best answer, multiple-choice questions

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- SQE2 is an assessment of candidates' legal skills through written and oral simulations of the tasks a newly qualified solicitor might undertake in practice, across the five contexts of civil and criminal litigation, wills and probate, property law and practice and business law and practice.

119 We have recommended three substantive changes:

- SQE1 FLK assessments should consist of two 180-question examinations.
- SQE1 should not include a skills assessment. Instead we will assess legal skills through SQE2.
- SQE2 should consist of a single, uniform assessment of at least 15 stations.

Supporting evidence

120 This proposed design has been shaped by expert advice, the two SQE pilots and stakeholder input.

121 It is in line with the recommendations of Kaplan, their advisory board, the SQE independent reviewer and the SQE external psychometrician (in relation to SQE2) following the two pilots conducted in 2019.

122 It is also informed by the views of stakeholders. Since 2017, we have had 13,000 stakeholder engagements through 260 plus meetings and events and 18 broadcasts and webinars. We have also had:

- 11 surveys seeking views, with more than 800 responses
- more than 440 pieces of coverage in the media
- almost 350,000 visits to our SQE-related web pages
- 8,000 views of our SQE webinars
- 20,000 engagements and 1.2m impressions on social media
- more than 1,000 followers of our Career in Law Facebook targeted at aspiring solicitors.

123 We outlined in paragraph 28 the engagement channels we set up in 2017. Since then, we have worked closely with the SQE Reference Group. We have also used the SQE LinkedIn group, which has grown to more than 1,640 members, to seek views from a wider network. Since January 2020, we have been publishing a monthly SQE bulletin, which has been promoted to all 5,000 plus training principals, many of which are in small firms, and now has more than 1,000 subscribers.

124 We have engaged with key representative groups: the academic learned societies and the key professional bodies and representative groups are represented in our SQE Reference Group. In addition, we meet regularly with The Law Society, the Junior Lawyers Division, the City of London Law Society, the Lawyers with Disability Division, the Sole Practitioners Group, and the Black solicitors Network, the Society of Asian Lawyers, the Society of British Bangladeshi solicitors, Women in Law, the Ethnic Minority Lawyers Division and many other groups.

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- 125 We have also met with local law societies and directly with small, medium and large law firms around the country. For example, five events (Leeds, Manchester, London, Birmingham, Cardiff) last autumn looking at skills attracted a full range of firms. We have talked about the SQE at our annual Compliance Conference (attended by more than 1,000 delegates, largely from medium and small firms), Legal Cheek conferences and at the annual LegalEx conference, and have had an exhibition stand at successive LawNet³² conferences, both of which are targeted at small and medium firms. We also held a dedicated SQE symposium, in partnership with the City of London Law Society, for City firms.
- 126 We have discussed the SQE regularly with the Bar Standards Board and CILEX Regulation. We have kept the profession up to date, and invited input, consultation responses and promoted our SQE webinars and events, throughout the process, using our monthly SRA Update, social media and our surveys.
- 127 Overall, we have heard wide-ranging views from large firms and small, in different geographic areas, traditional business and those working through new business models. We have visited universities around England and Wales and we have met both staff and students. We are grateful to all of those who have been involved. Their input has shaped the detailed content of the SQE, its design and assessment methodology, and our analysis of issues relating to EDI.
- 128 As a result of stakeholders' input, we have, for example, amended the detailed content of the SQE Assessment Specification, we are recommending making provision for candidates to take SQE in either Welsh or English, we delayed implementing the SQE twice, most recently from 2020 to 2021 and we have provided more information about reasonable adjustments and quality assurance measures to ensure fair assessment in the SQE. Separately, we have published additional guidance on QWE, with more to come.
- 129 We will continue to engage once the SQE is live. We are establishing a Community of Practice for training providers to ensure there are effective channels of communication, so training providers understand how the SQE works and are able to feedback their queries, comments and observations. Kaplan will be involving practitioners and subject matter experts to comment on the relevance to practice and the accuracy of the questions.

³² LawNet is a group of 70 small to medium sized law firms, who work together in a number of areas including legal education and training.

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130 In 2018, we published an indicative price range for the SQE:

- £3,000–£4,500 for SQE1 and SQE2:
 - SQE1: £1,100–£1,650
 - SQE2: £1,900–£2,850.

131 We said the exact fee would depend on the final assessment model. Through the development process, we have borne in mind the balance between the model being cost-effective and optimising the quality of the assessment. As a result, for example, not having SQE1 skills saves some costs, as does having a uniform SQE2 assessment. Giving candidates the opportunity to take the SQE in Welsh adds costs.

132 However, the fairness, accuracy reliability or validity of the assessment must not be compromised in order to save costs. For the reasons set out elsewhere in this paper, we believe the recommended design does meet minimum quality requirements.

133 At the same time, the cost of delivering a quality assessment must be cost-effective. Contractually, the SQE fee must be agreed by Kaplan with us, and is subject to contractual controls and open book accounting to ensure cost-effectiveness. Kaplan has already confirmed that the SQE candidate fee will be within the indicative price envelope set out above. We will come back to the Board when we and Kaplan have calculated the exact fee, in the light of the Board's decision about final assessment design.

134 We will be including within the SQE fee a small amount (approximately £20 for SQE1 and SQE2) to cover the SRA's SQE administration and quality assurance costs.

The developing training market

135 The assessment fee is only one part of the cost of qualifying as a solicitor. There is also the cost of preparatory training.

136 The training market is already developing in anticipation of the introduction of the SQE. We are seeing significant investment and innovation, such as new Ed-Tech platforms which enable training providers to offer online training tailored to the strengths and weaknesses of individual learners:

- 33 organisations have so far joined the [SQE list of training providers](#) on our website.
- There are new entrants to the market. For example, education and training provider, Barbri (which runs training for the US Multi-State Bar Exam and the New York Bar Exam) is advertising SQE prep courses that include a full-

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time (10-week) or part-time (20-week) SQE1 prep course for law graduates and a full-time (8-week) or part-time (16-week) SQE2 prep course. They have indicated that the cost of the two prep courses may be in the region of £7,000.

- Solicitor Apprenticeship numbers are growing. Some 25 solicitor apprentices started in September 2016. There are now over 500 on-programme.
 - Traditional universities are looking at their law degrees to consider if and how to prepare their graduates for SQE. So far, we are aware of eight universities that are making plans to introduce SQE1-inclusive law degrees. Others are including elements of SQE preparation. And others still are developing undergraduate or post-graduate courses which integrate SQE preparation with wider tuition, for example on Legal Tech, project management, or commercial awareness.
 - We do not expect all universities to incorporate SQE preparation into their law degree. Candidates may still want focused SQE preparatory training for SQE1, even after completing a law degree at university. And they may need some classroom training in addition to their QWE before taking SQE2. Early indications suggest that both SQE1 and SQE2 preparatory courses will be substantially shorter than the LPC.
 - Publishers have advanced preparations in hand to launch textbooks with accompanying suites of multiple-choice questions.
 - Firms are introducing new training programmes. These include, for example, three-year training programmes which incorporate QWE with preparation for SQE1 and SQE2: Kennedys have announced a 30-month SQE-inclusive Graduate Solicitor Apprentice training contract to start in autumn 2021; Deloitte has announced a three-year SQE-inclusive training contracts to start in September 2020.
 - A consortium of City firms has appointed BPP to run SQE training for its trainees, to start in September 2021.
- 137 Overall, it is likely that when the SQE is introduced, there will be training options which, when combined with the cost of assessment, are cheaper than the current cost of the LPC (up to about £17,000) and the professional skills course (which costs about another £1,500).
- 138 Candidates who take university programmes will qualify for student loan funding to cover the cost of training, as at present. We know from talking to law firms that some will fund the cost of SQE2 for their employees, as many do now for their legal executives taking CILEX Regulation assessments
- 139 More flexible training options give candidates greater opportunity to earn and learn. Although the government has withdrawn the career development loan scheme, new funding routes through the solicitor apprenticeship scheme (both for school leavers and graduates) are available.

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Evaluation against the SQE criteria

140 For the reasons set out throughout this paper, we believe the proposed overall SQE assessment design, across SQE1 and SQE2, meets our criteria. In summary:

Reliable

- Kaplan and its advisory board, the SQE independent reviewer and the SQE external psychometrician (for SQE2)³³ have advised that the overall design will enable us to implement a live assessment which is likely to be fair, accurate and reliable.
- Specifically, the SQE independent reviewer states in his report: “A design which has the following features appears to offer the best opportunity for a fair and reliable examination:
 - SQE1 to be 2 x 180-item FLK single response answer tests, with no skills assessment
 - SQE2 to be a uniform exam, comprised of between 15–18 assessment stations to test relevant legal skills expected of a day-one solicitor.

As with any new qualification, its assessment design should be carefully reviewed after each live sitting to analyse where improvement can be made, while ensuring fairness for the first and every subsequent cohort to take it.”

Valid

- Again, Kaplan and its advisory board, the SQE independent reviewer and the SQE external psychometrician (for SQE2) have advised that the overall design will enable us to implement a live assessment which is likely to be valid.
- The SQE model assesses all the competences in the Statement of Solicitor Competence.
- The detailed assessment content and legal knowledge to be assessed incorporates extensive feedback from solicitors.
- The assessment tasks are appropriate for the assessment objectives of SQE1 and SQE2.
- All SQE question writers and assessors will be solicitors.

³³ To note: the external psychometrician was appointed for the SQE2 pilot. Previously, we used internal psychometric expertise.

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- The uniform SQE2 design is aligned with practice rights available to solicitors on admission.

Manageable

- The operational processes involved in all of the assessment tasks and exercises have been successfully tested through the SQE1 and SQE2 pilots. The SQE independent reviewer evaluated the running of the SQE2 oral skills assessments as “deeply impressive”.
- Kaplan have nine years’ experience of running the QLTS assessments, which are similar in design.
- Kaplan’s detailed plans to increase capacity for the anticipated scale of the SQE are subject to our oversight and scrutiny.
- Reasonable adjustment arrangements were made for both pilots, and Kaplan have many years’ experience in this area through QLTS. Appropriate provision is both a legal and contractual requirement for Kaplan. We have worked on this area with the Lawyers with Disabilities Division and others and will continue to do so.

Cost-effective

- The candidate fee for the SQE will be within the indicative price range we have previously published, ie:
 - £3,000–£4,500 for SQE1 and SQE2:
 - SQE1: £1,100–£1,650
 - SQE2: £1,900–£2,850.
- We have contractual controls on the fees which Kaplan charge.
- We are putting measures in place to make sure that candidates do not have to pay VAT on their SQE fees.
- Early indications from the market are that there will be a range of training costs, including some options which are cheaper than at present.

Evaluation against the SQE objectives

- 141 For the reasons set out throughout this paper, we also believe the proposed overall SQE assessment design, across SQE1 and SQE2, meets the SQE objectives.

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Delivering greater assurance of consistent, high standards at the point of admission

- Through the SQE as a whole, including a uniform SQE2, all candidates will be assessed fairly against the same standard.
- A single, uniform assessment of all candidates in SQE1 and SQE2 provides greater assurance of consistency than the current qualification framework, where assessment of intending solicitors is distributed across more than 110 providers of the Qualifying Law Degree, 36 providers of the GDL, 26 providers of the LPC and 5,000 law firms and organisations who are authorised to sign off trainees at the end of the period of recognised training.
- The use of modern statistical assessment methodology represents a significant enhancement over current processes and means we can have more confidence that the candidates who pass should pass, and those who fail deserve to fail. This enhances consumer protection and is fair to all candidates.
- SQE assesses the competences in the Statement of Solicitor Competence to the standard in the Threshold Standard. Consumers and the profession told us these were the skills and knowledge needed for practice as a solicitor and that the standard was the expected standard.

Encouraging the development of new and diverse pathways to qualification, which are responsive to the changing legal services market

- Focusing our regulation on end-point standards, rather than specifying pathways, encourages a wide range of training options, including online, part time, work-based training or various combinations. Candidates can choose the option which best suits their circumstances. Early market indications suggest that a wide variety of training models are in development.
- The SQE provides a single, consistent standard for all candidates, no matter how they have trained. It enables those, such as apprentices, who have come through new routes to be assessed on a level playing field with other candidates who have trained in more traditional ways.
- SQE2 uniform exam may help better representation across different practice areas by minimising the risk that some candidates “select out” of areas that are perceived to be aligned with particular demographic characteristics.
- Taken together, the cost of training and assessment is likely to include options which are materially cheaper than current routes to admission.

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Recommendation

The Board is asked to agree the final SQE design and methodology as whole, including the three components below:

- a) We should not include a skills assessment in SQE1.
- b) SQE2 should take the form of a uniform assessment model, in which all candidates take the same skills assessments set in five areas of practice.
- c) There should be a phased introduction of SQE in Welsh leading to full English/Welsh parity by year four of the SQE.

Next steps

142 We plan to publish the findings from the SQE2 pilot and our next steps on 5 June 2020.

143 We will promote the SQE2 pilot findings and the Board's decision on the overall design through:

- our dedicated SQE Update ebulletin
- our SRA Update ebulletin, which goes to all the profession
- our social media channels
- a meeting of the SQE Reference Group
- the SQE LinkedIn Group
- a webinar and associated online survey
- individual engagement with key stakeholders and key representative groups, including:
 - The Law Society, Junior Lawyers Division and City of London Law Society, Sole Practitioners Group, LawNet and local law societies.
 - Special interest groups, including the Black Solicitors Network, Lawyers with Disabilities Division, Society of Asian Lawyers, and the Ethnic Minority Lawyers Division.

144 We will report back to the Board on this work at its meeting on 15 July, highlighting any areas where feedback has identified particular issues that the Board has not as yet considered. We will also come back with information about the SQE fee.

145 We will make the second SQE application to the LSB towards the end of July.

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Supporting information

Links to the Corporate Strategy and/or Business Plan

- 146 The issues in this paper relate to the first part of our strategic priorities 2020–2023, namely that “We will set and maintain high professional standards for solicitors and law firms as the public would expect.”
- 147 The SQE will provide a single, consistent assessment of the high professional standards we require all solicitors to demonstrate at admission – and throughout their professional lives.

How the issues support the regulatory objectives and best regulatory practice

- 148 By creating clear and consistent standards of qualification, the introduction of the SQE and the supporting regulations will protect and promote the interests of consumers. It will also encourage an independent, strong, diverse and effective legal profession.
- 149 Proportionality: the SQE is designed to be the minimum assessment required so that we can be sure that the individuals we admit as solicitors have demonstrated the minimum competences we specify and are therefore safe to practise.
- 150 Accountability: we consulted on the Statement of Solicitor Competence in 2014 and consulted three times (in 2015, 2016 and 2017) on the SQE. We set out at paragraph 159 the details of the extent of our stakeholder engagement since 2017.
- 151 Consistency: the introduction of the SQE will ensure that everyone seeking to qualify as a solicitor has been assessed to a consistent standard.
- 152 Transparency: we will publish the findings of Kaplan, the SQE2 independent reviewer and our SQE external psychometrician. When introduced, the SQE enables us to be more transparent about the training market. We will publish data on performance by training provider.
- 153 Targeted: the proposed introduction of the SQE enables us to focus our regulation where it is needed on ensuring standards, rather than policing pathways.

Public/Consumer impact

- 154 The introduction of the SQE will provide consumers with a high level of assurance that solicitors are safe to practise. In a 2016 ComRes poll in which 1,866 people were surveyed, 79% said that everyone should pass the same final exam to become a solicitor; 76% said that they would have more confidence in solicitors if they all passed the same final exam. We have met

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and discussed the SQE with the Legal Services Consumer Panel who were supportive of our approach.

What engagement approach has been used to inform the work and what further communication and engagement is needed

155 This is set out in paragraphs 122 to 129 and 160 to 163.

What equality and diversity considerations relate to this issue

156 We published an initial EDI risk assessment in 2016. This examined the risks and benefits of the new framework for qualification, in line with our public sector equality duty. We also commissioned the Bridge Group³⁴ to provide independent advice to us on how we could maximise the EDI benefits of the SQE.

157 We have commissioned the Bridge Group to update its independent report and this will be published in the summer.

158 We have published an updated draft EDI Risk Assessment (at annex 6). This looks in detail at every aspect of this.

159 We have run a webinar to gather views on the EDI issues highlighted in the Risk Assessment, and on the topics of fair assessment and reasonable adjustments. And we have sought stakeholder views on the draft Risk Assessment through a survey, through our SQE Reference Group and through targeted meetings with stakeholder groups.

160 The assessment has been informed by wide engagement with expert interests. For example, we have met and discussed the issues in detail regularly with interest groups including the Law Society and their divisions: the Ethnic Minority Lawyers Division, the Lawyers with Disabilities Division, the City of London Law Society and the Junior Lawyers Division. Through the SQE Reference Group, we have also met regularly with the Young Legal Aid Lawyers, the Association of Law Teachers, the Society of Legal Scholars and the Socio-Legal Scholars Association.

161 We have engaged through workshops with groups including the Black Solicitors Network, Society of Asian Lawyers, British Nigeria Law Forum, Society of British Bangladeshi Solicitors, Birmingham Black Lawyers. And we have worked closely with our SQE Reference Group, and our LinkedIn Group, which has a wide membership, on specific issues including EDI impact, reasonable adjustments and the detailed design and content of the SQE assessments. We have taken their views into account in reaching our decisions.

³⁴ Introduction of the solicitors Qualifying Examination: Monitoring and Maximising Diversity, The Bridge Group, March 2017
<https://www.sra.org.uk/globalassets/documents/sra/research/monitoring-maximising-diversity.pdf?version=4a1ace>

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- 162 We have spoken regularly to other regulators, including the Bar Standards Board and CILEx Regulation.
- 163 Stakeholders' views, concerns and our responses are fully set out in our Risk Assessment. We will provide an oral update to Board on any additional feedback on the draft Risk Assessment, from the Bridge Group, received by the time of the Board meeting.

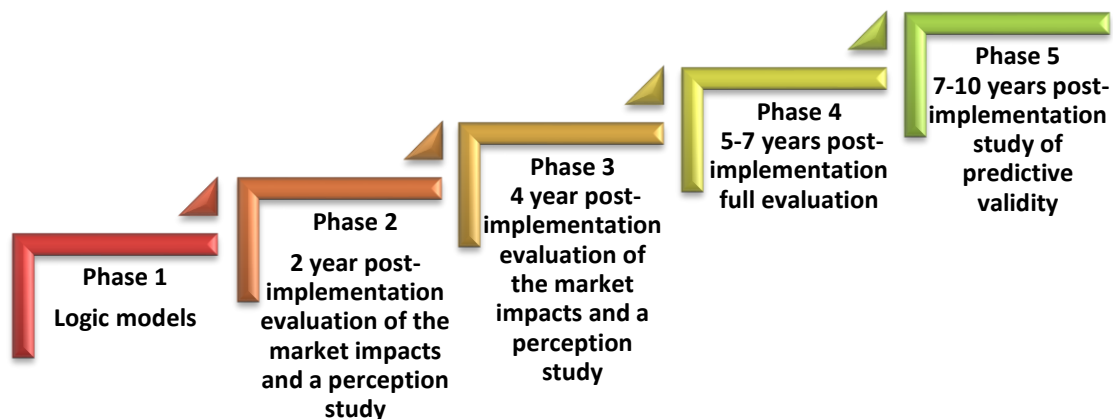
How the work will be evaluated

- 164 As with any qualification, particularly a new qualification, the assessment design should be carefully reviewed after each live sitting to analyse where improvement can be made, while ensuring fairness for the first and every subsequent cohort who take it. We have identified specific aspects of the assessment design that we will keep under particularly close review (for example, compensation in both SQE1 and SQE2, weighting of skills and law in SQE2). We will also be closely monitoring performance by protected characteristics in each assessment. This will form a routine part of our quality assurance and quality enhancement processes.
- 165 We must also undertake a wider evaluation of the effectiveness of the SQE, its market impact and how it affects diversity in the profession. We intend to put in place the framework for evaluating the SQE towards the end of 2020 so that we can be sure that we are collecting the right data to inform the evaluation once SQE is implemented. We have already asked LPC providers to give us additional data to support our evaluation of the SQE. This will be submitted for the first time in December 2020.
- 166 We have already asked LPC providers to give us additional data to support our evaluation of the SQE. This will be submitted for the first time in December 2020.
- 167 We will follow the same approach to evaluation that we have taken with the introduction of our new Standards and Regulations. It will involve the development of a logic model for evaluating the impact of the SQE which will provide a base for the evaluation to progress through phases.
- 168 We will commission independent experts to identify the metrics we will use to measure actual outcomes on different groups in the legal services and training markets and to help us to assess the impact over the short, medium and long term.
- 169 Although we cannot evaluate the full impact of the SQE until five to seven years after its introduction, we will undertake an initial, interim evaluation after two years. This initial evaluation will include a study of developments in the training market and a perception study among key stakeholders, in line with the recommendations from Bridge Group. This is in addition to the provision of data, including on protected characteristics and socio-economic information after each assessment.

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170 We will carry out a full evaluation, five to seven years after the introduction of the SQE. This will include:

- A perception study – repeated bi-annually thereafter. This will measure a range of stakeholders' views and perceptions of the SQE. It will include candidates, students, newly qualified solicitors, employers (those involved in recruitment and training), education and training providers and the general public. It will measure:
 - the level of confidence people have in the SQE to ensure candidates are competent to practise as a solicitor
 - how much people trust the SQE to be fair; ranging from trust in the accuracy of marking to the fairness of reasonable adjustments for candidates with disabilities
 - different stakeholder groups' understanding of the SQE and identify if particular groups need more information on specific aspects of the SQE and its administration.
- An investigation into the type and cost of preparatory training for the SQE.
- An investigation into the impact of training routes on career progression.
- An investigation into the overall cost of qualification (the cost of preparatory training and the cost of the assessment).

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- An investigation into the impact of the SQE on the ethnic profile and socio-economic background of the profession.

171 Furthermore, seven to 10 years after the introduction of the SQE we will undertake a study into its predictive validity. Predictive validity refers to whether the scores on the SQE can predict the future performance of a solicitor.

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Date **26 May 2020**

Annexes

- Annex 1** Early design proposal for SQE
- Annex 2** Final proposed SQE model
- Annex 3** Membership of SQE Reference Group
- Annex 4** Note on standard setting through the Borderline Regression method
- Annex 5** Rationale for proposed phased introduction of SQE through the medium of Welsh
- Annex 6** Draft updated EDI Impact Assessment

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Early design proposal for SQE

SQE1	SQE2
FLK Assessments <ul style="list-style-type: none">- Principles of Professional Conduct, Public and Administrative law and the legal systems of England and Wales- Dispute Resolution in Contract or Tort- Property Law and Practice- Business Law and Practice- Wills and the Administration of Estates and Trusts- Criminal Law and Practice	Practical Legal Skills Assessments <ul style="list-style-type: none">- Client interviewing- Advocacy/Persuasive Oral Communication- Cases and Matter Analysis – including Negotiation Planning- Legal Research and Written Advice- Legal Drafting
Practical Legal Skills Assessment <ul style="list-style-type: none">- Legal Research- Writing Skills	Assessed in two of the following contexts, at candidates' choice: Criminal practice; Dispute Resolution, Property; Wills and the Administration of Estates and Trusts; Commercial and Corporate Practice.

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SQE – final assessment design following piloting, testing and stakeholder engagement	
SQE1	SQE2
<p>Functioning Legal Knowledge Assessments</p> <p>FLK 1: Business Law and Practice, Dispute Resolution, Contract, Tort, Legal System of England and Wales, Constitutional and Administrative Law and EU Law; and Legal Services;</p> <p>FLK 2: Property Practice, Wills and Administration of Estates, Solicitors Accounts, Land Law, Trusts, Criminal Law and Practice .</p> <p>Ethical questions pervade FLK1 and FLK2</p> <p>Unflagged questions on ethics and professional conduct to pervade.</p>	<p>Practical Legal Skills Assessments</p> <p>Candidates will be assessed in all the following 6 skills:</p> <ul style="list-style-type: none"> - Client interview and attendance note/legal analysis - Advocacy - Case and matter analysis - Legal research - Legal writing - Legal drafting <p>Sampled across the following 5 practice contexts</p> <ul style="list-style-type: none"> - Criminal Litigation; - Dispute Resolution, - Property Practice; - Wills and Intestacy, Probate Administration and Practice; - Business organisations rules and procedures. <p>Unflagged points of ethics and professional conduct to pervade.</p>

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Membership of SQE Reference Group

The reference group has representatives from the following organisations:

Access to justice foundation, AGCAS, Association of Law Teachers, Apprenticeship Trailblazer employer group, Bar Standards Board, Black Solicitors Network, Committee of Heads of UK Law Schools, City of London Law Society, GMC, Government Legal Service, Institute for Apprenticeships, Junior Lawyers Division, Lawyers with Disabilities, Legal Education and Training Group, Lexis Nexis, Society of Legal Scholars, Socio Legal Scholars Association, Society of Asian Lawyers, Sutton Trust, The Law Society, the Young Legal Aid Lawyers Group, BARBRI, Cardiff University, University of Manchester, University of Buckingham and University College London, Blake Morgan, LawNet and Riverview

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Note on standard setting through the Borderline Regression method

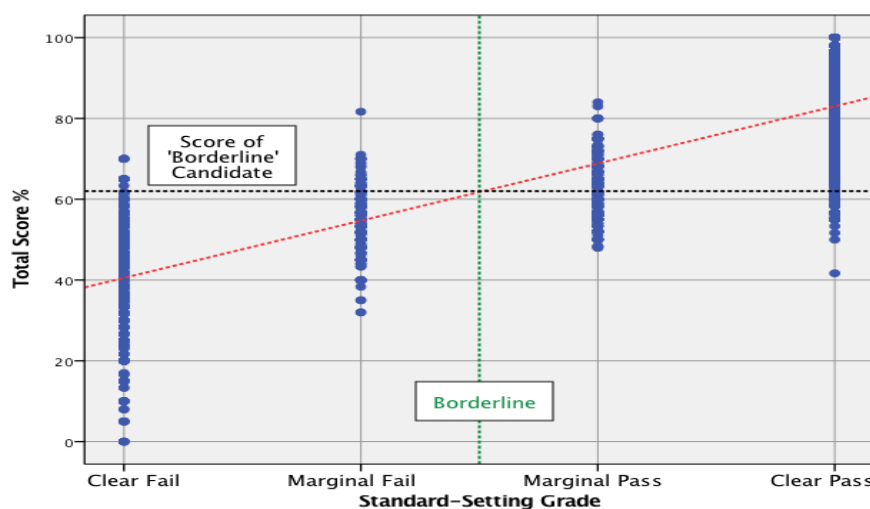
For SQE2 there is no fixed percentage pass mark. Instead the passing mark will be set on an assessment by assessment basis. It will represent the performance needed by a minimally competent candidate who can demonstrate that they have met our threshold standard for practice as a solicitor. The mark will vary, depending on the exact level of difficulty of the assessment.

The standard for each assessment will be set using the borderline regression method. It is very widely used as to standard set Objective Structured Clinical Examinations (OSCEs).

As well as a numerical score, candidates are awarded a “global score” for each assessment within the examination, based on the examiner’s judgement of their overall ability. The global score is on a scale (clear fail/marginal fail/marginal pass/clear pass), reflecting the examiner’s view of the most appropriate reflection of how the candidate performed.

The actual mark that all candidates scored for an assessment is plotted on a graph against the global score they were awarded for that assessment, and a best fit line (line of regression) is drawn. The point at which the line intersects with the “borderline” indicates the “cut-off” mark (cut score) for the individual assessment task (or station). Cut scores on the individual stations are then added and an allowance is made for error measurement, to arrive at the final pass mark for the assessment

A standard setting graph is set out below.



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Rationale for proposed phased introduction of SQE through the medium of Welsh

Phase 1: 2021 (from start of SQE). Candidates will provide their *responses* to SQE2 written assessments in Welsh

Rationale

- It is logical to start with skills in Welsh [as opposed to legal knowledge] so as to prioritise communication. The vast majority of skills assessments are written.
- If Board agrees with the recommendation that skills should be assessed only at SQE2 stage, the first time we may have candidates who ask to be assessed through the medium of Welsh will be in Spring 2022.
- We do not expect any significant demand for SQE in Welsh at this stage. Overall candidate numbers will still be small. In addition, most candidates training at smaller firms (such as Welsh-language firms) will wish to complete a substantial portion of qualifying work experience (QWE) before they attempt SQE2.
- However, should there be any candidate who would wish to be assessed in Welsh, there is some provision in relation to written assessments. This is an enhancement on current Legal Practice Course provision.
- The approach avoids translation costs and therefore keeps costs low at a time when we expect demand to be low.
- We believe this meets the current obligations under the Welsh Language Measure, were we to be subject to it.

Phase 2: 2022/3 (in second year of SQE). Candidates will provide their *responses* to SQE2 oral and written assessments in Welsh

Rationale

- Extends Welsh provision to all SQE skills assessments
- Means that there is provision for any candidate who started QWE in September 2021 to have all their skills assessed in the medium of Welsh before they complete their QWE in summer of 2023.

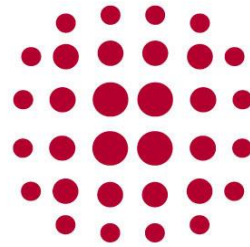
Phase 3: 2023/4 (third year of SQE). Questions for oral and written skills assessments will be translated into Welsh, and candidates will respond in Welsh. This means complete parity for SQE2.

- By this stage, we would expect to see numbers of candidates who are doing QWE in the medium of Welsh begin to grow and this to create increased demand for SQE2 in Welsh.

Phase 4: 2024/5 (fourth year of SQE). Introduce translation of FLK questions. Full parity achieved for both SQE1 and SQE2 within 4 years after introduction of SQE

Rationale/comments

- Gives Kaplan three years to prepare for FLK in Welsh and to learn from their experience of offering SQE skills in Welsh



Solicitors
Regulation
Authority

Solicitors Qualifying Examination

Equality, Diversity and Inclusion Risk Assessment

26 May 2020

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DRAFT

Headline summary

- In 2021 we will be introducing the Solicitors Qualifying Examination (SQE) - a new centralised assessment to make sure that all aspiring solicitors meet the same consistent standard at the point they join the profession.
- We also want the SQE to lead to new and diverse pathways to qualification, while removing unjustified barriers. It is in everyone's interest that talented people from all backgrounds can become solicitors. We recognise, however, that across professional assessments there are attainment gaps for some groups of candidates. This is a longstanding and complex problem, with no easy solutions.

Progress since our first Equality, Diversity and Inclusion (EDI) risk assessment

- In 2016 we published our [EDI risk assessment](#), examining the risks and benefits of our proposed approach to the SQE.
- Since then, engaging with thousands of stakeholders, we have made significant progress on developing the detail of the assessment, including the examination and approach to qualifying work experience. This has included running pilots for SQE1 and 2 with our assessment provider, Kaplan and taking specialist EDI advice.
- We have also worked with an expert organisation - the [Bridge Group](#). They have provided independent advice on assessing the EDI impacts of the SQE, and how we can maximise its positive impacts on diversity. In 2017 they concluded that although the SQE cannot solve all the diversity issues in the profession, it could help.

Our updated risk assessment - benefits, risks and mitigations

- We have now updated this risk assessment to reflect the progress we have made and how a new market is beginning to develop. We focus on the following areas: cost, fairness, access, and the quality of qualifying work experience.
- Examples of potential EDI benefits of the SQE include:
 - providing a level playing field where every candidate is assessed to the same standard regardless of their training or prior achievement
 - introducing modern best practice and consistent design to assess candidates fairly
 - tackling the training contract bottleneck through having a more flexible approach to qualifying work experience. This could reduce the risk of talented people getting stuck in the qualification process
 - the creation of a more competitive training market, where people have more choice and more opportunities to earn and learn. There is already evidence to suggest some options will be more affordable than the current admission route
 - a centralised assessment, with extensive, comparable data on results, means that we will have the ability to effectively monitor performance by diversity characteristics.

- Examples of potential risks include:
 - concerns that certain assessment methods, such as the use of multiple-choice-questions or computer-based testing could disadvantage certain groups of candidates, such as disabled people or women
 - that the potential benefits of allowing qualifying work experience through new routes, such as working as a paralegal, may not be realised, because of a view that such routes are less valid
 - the SQE assessment - and some training options - not being eligible for government backed loans in all routes to qualification.

- We are keen to mitigate risks where we can. Examples of such mitigations include:
 - creating resources, including data on candidate performance by provider, to help candidates choose the right option for them. For instance, explaining the potential to get funding through a degree course incorporating SQE preparation, or for graduates to join an apprenticeship programme
 - making appropriate reasonable adjustments for those who need them
 - making sure that the SQE assessments themselves are fair. We will continue to carry out in-depth analysis of the SQE to check it is fair - there is no evidence to date that any of the assessments are intrinsically biased. This is in addition to robust quality assurance measures - backed up by independent review. We will monitor performance by protected characteristic, and there will be a post-implementation review of the SQE which will include EDI impacts
 - reasonable adjustments for those with a disability who need them
 - publishing results to students with their mark (not just a pass/fail) and to standardise between successive sittings to aid fair recruitment.

Conclusions and next steps

- We think the potential benefits of the introduction of the SQE for candidates from protected groups outweigh any the potential risks.

- This document is not our final risk assessment. Board is still to make final decisions about our exact approach to assessing skills in the SQE, in particular whether candidates should take a uniform assessment or have options. We will update this risk assessment following Board's decision.

- We have sought stakeholder views via a survey on a draft of the impact assessment. Findings from the survey will be reported to Board at the June meeting.

Introduction

1. From 2021, we will introduce a new framework for qualification as a solicitor. We will require all intending solicitors to
 - hold a degree or equivalent qualification or experience
 - pass the SQE, a standardised, national licensing examination
 - have undertaken a period of qualifying work experience (QWE)

- meet our character and suitability requirements.
2. Our new requirements will replace the current qualification system (see annex 3) which is based on different routes, assessed in different ways by a wide range of providers. The aims of the new qualification requirements are:
 - greater assurance of consistent, high standards at the point of admission
 - the development of new and diverse pathways to qualification, which are responsive to the changing legal services market and promote a diverse profession by removing artificial and unjustifiable barriers.
 3. In 2016, alongside our second consultation, we published an EDI risk assessment which examined the risks and benefits of the new framework for qualification, in line with our commitment to supporting and promoting EDI, the regulatory objective to encourage an independent, strong, diverse and effective legal profession and our public sector equality duty. We also commissioned the Bridge Group to provide independent advice on:
 - how we could monitor the impact of the SQE on candidates with protected characteristics, and those from lower socioeconomic groups
 - practicable actions that we could take to maximise the positive impact of the SQE in relation to diversity.
 4. The Bridge Group pointed out that we will not be able to fully assess the impact of the SQE on protected groups until the SQE is implemented and we have collected data from the assessments over a number of years. To help to understand the potential implications, we have spent time engaging with stakeholders since we published our impact assessment in order to:
 - inform the design and development of the SQE assessments and
 - gain an understanding of the developing market impact of the introduction of the SQE and the new qualification framework.
 5. In light of this, we have reviewed our risk assessment to provide an update on:
 - developments since the last risk assessment
 - what new information we have, to help inform our assessment of the risks and benefits of the new system
 - what we have already done to mitigate risks
 - what else we plan to do to mitigate them
 - our ongoing work to further understand the risks and benefits.

6. This update looks at the impacts of both the introduction of changes to the qualification framework, for example, the new requirement for qualifying work experience, as well as the impacts of the introduction of the assessment itself (the SQE). The considerations are different for each, but the potential impacts are inherently linked as we identify below.
7. We have set out in this draft a consideration of the possible impacts of whether the SQE2 model should require all candidates to take the same tests, or whether they should have a choice.

DRAFT

Report from the Bridge Group

8. This risk assessment should be read alongside the [Bridge Group report](#) published March 2017. A high-level summary of this is in annex 2.
9. The report concluded that “There is no silver bullet to address diversity in the legal profession, because lack of diversity is constructed of a complex range of factors at every stage on the journey to the profession. It follows that diversity implications cannot be precisely predicted, given the variety and multiplicity of these factors”.
10. The report recommended that we place emphasis on the gathering and analysis of accurate data, throughout the implementation process and beyond, to enable us to review and evaluate impact, and take informed decisions regarding the continued development of the SQE.
11. Whilst it is clear that the SQE cannot solve all of the problems affecting diversity in the profession, the Bridge Group concluded that it could help. For example, they said “The proposals are highly likely to increase the number, and broaden the range, of training providers in the market, and provoke new models of training including online provision. Wider range of choice is...an important opportunity to support diversity, since it will enable students to chart more flexible pathways.”
12. We have asked the Bridge Group to provide an update on their report, taking into account developments since 2017. This will be published alongside the final risk assessment.

What have we done since we published the last risk assessment?

13. In line with the Bridge Group's recommendations, we have taken time to carefully develop and test the SQE. We issued a third consultation on the regulations that will implement the new approach. And we made further changes as a result of that consultation.

14. We have appointed Kaplan as the SQE assessment provider and have worked closely with them to develop an assessment that will be fair, valid¹ and reliable². We have worked closely with Kaplan to develop the detail of the assessment with potential EDI risks and opportunities in mind.

We have also included obligations within the contract with Kaplan to require them to adopt an approach to equality, diversity and inclusion that is at least equivalent to that taken by the SRA.

15. We have engaged extensively with stakeholders throughout the testing, piloting and design of the SQE to make sure that the design is informed by stakeholder views, potential market impact and considers possible EDI risks and benefits.

Since 2017, we have engaged with more than 13,000 stakeholders, through almost 300 meetings and events, plus 18 broadcasts and webinars. We have had more than 800 responses across 11 surveys on a number of topics, as well as 444 pieces of coverage in the media.

Online we have had almost 350,000 visits to our SQE-related web pages, as well as 20,000 engagements and 1.2m impressions on social media. Since launching our new dedicated [SQE bulletin](#) in January, we now have more than 1,000 subscribers to the email alerts about the monthly update.

16. We have met regularly with interest groups including the Law Society and their divisions: Ethnic Minority Lawyers Division, Lawyers with Disabilities Division and Junior Lawyers Division.

We have also met regularly with the Sole Practitioners' Group and the City of London Law Society. We have engaged through workshops with groups including the Black Solicitors Network, Society of Asian Lawyers, British Nigeria Law Forum, Society of British Bangladeshi Solicitors, Birmingham Black Lawyers.

And we have worked closely with our SQE Reference Group³, which also includes representatives from specific groups including the Young Legal Aid Lawyers, the

¹ Validity is the extent to which an assessment accurately measures what it is intended to measure

² Reliability is the degree to which an assessment produces stable and consistent results over time

³ Members which includes more than 30 experts, ranging from solicitors to academics to representative groups

Association of Law Teachers, the Society of Legal Scholars , and our LinkedIn Group, which has a wide membership (around 1,650+ members drawn from the profession, universities and other training providers), on specific issues including EDI impact, reasonable adjustments and the final design of the SQE assessments.

17. We ran a webinar on potential EDI risks and benefits in May 2020. We published a draft EDI impact assessment and asked for stakeholder views via a survey. These views will be reported to the SRA Board at its meeting in June 2020. And they will be reflected in the final impact assessment which will be published in the Summer.
18. We have published the [indicative cost of the SQE assessments](#). This is discussed in detail below.
19. The training market is developing. A number of providers have already made public their plans for SQE training. This is important because it will help realise the potential of the new approach to offer wide and flexible pathways offering aspiring solicitors more choice and ways of qualifying that suit their circumstances and means. For example, from our discussions with training providers we expect there to be more choices involving online provision which will be cost effective and suit candidates with, for example, caring or other responsibilities.
20. We have published the final [Assessment Specification](#) for the Functioning Legal Knowledge (FLK) assessment within SQE1. We have also published [sample FLK questions](#). The final SQE2 Assessment Specification will be published in Summer.
21. We have published [initial resources](#) on the SQE. These include information about how candidates can take advantage of qualifying work experience. We plan to publish further information, including information specifically for disabled candidates, as SQE implementation gets closer and we have engaged with stakeholders on what information would be helpful.

Benefits and risks of the SQE for candidates from protected groups and less privileged backgrounds

22. In our 2016 risk assessment, we set out the key risks and benefits of the introduction of the new system of qualification and the SQE. These covered three key areas:

- cost
- fairness
- access.

23. We have summarised again these risks and benefits below. And we have added a new area related to the quality of qualifying work experience. We have also added details of the potential impacts of our final design for the SQE assessments. We have also set out:

- the new information we have obtained, to inform our assessment of these risks and benefits
- what we have done since 2016 to mitigate the risks
- what else we plan to do to mitigate these risks.

Cost of training and qualification

24. Qualifying under the current system can be expensive and may deter some talented candidates, particularly those from less privileged backgrounds and those from other protected groups, from seeking admission as a solicitor⁴. The Legal Practice Course (LPC) costs up to about £17,000 and provides no guarantee of a training contract. This is in addition to undergraduate fees and, for non-law graduates, about £10,000 for the Graduate Diploma in Law (GDL). Training providers must also pay £1,500 - £2,000 for the Professional Skills Course (PSC).

25. Although some people get a period of recognised training (often know as a training contract) before taking the LPC, many people do not. That means taking the risk that by paying up to £17,000 for the LPC, they will not only pass the course, but will also get the necessary training - the "LPC gamble". With some 10,000 candidates a year taking the LPC and 6,000 periods of recognised training, four out of ten aspiring solicitors are

⁴ For example, enrolments as a percentage of applications for the full time LPC and Common Professional Examination (CPE) in 2018 were 85.6% (CPE) and 94.9% (LPC) for those funded by their training provider/employer; and 58.7% (CPE) and 72.3% (LPC) for those self-funded, or funded by a parent/guardian: Central Applications Board Ltd Annual Report 2018.

losing that gamble. Some students get funding from their employer for the LPC, but these are in the minority (around 25% are funded by their employer).

26. The table below shows average progression figures through the current system, between 2011 and 2019. It should, of course, be noted that there are a range of reasons why candidates do not progress to qualify as a solicitor. This can often be because of cost or difficulty in securing a training contract but may also be for other reasons.

Qualifying law degree	Start CPE ⁵	Start LPC	Start period of recognised training	Admitted as a solicitor by these pathways
23,413	4,499	9,978	5,757	5,407

How will the new system help to address this?

27. We will no longer specify the length, type and order of training needed to qualify as a solicitor. This means that we will no longer specify a requirement to take the LPC or any other specific form of preparatory training.

Candidates will instead demonstrate their competence to practise as a solicitor by passing the SQE. They will be able to choose the type of preparatory training for the SQE which best meets their needs and circumstances. Candidates may still need to take preparatory training for the SQE. But by removing the requirement for a specified course, we anticipate that different courses and training products will emerge at a range of different price points. For example, we expect some courses to be online, others to include classroom training. Some courses will focus purely on the SQE. Others will add in additional elements such as commercial awareness or legal tech. Some will involve full time learning, others can be taken at the same time as learning.

28. We will use market information and open data to create competitive pressures from candidates and employers/firms for high quality, flexible legal education and training. For example, we will publish SQE results by reference to where candidates did their training and qualifying work experience. We hope that this will encourage training providers to offer high quality courses at competitive prices.

What are the potential cost risks?

29. Stakeholders, including the Law Society and the Junior Lawyers Division, continue to express concern that the new system will be at least as expensive, than the current system. This could perpetuate the problems with the current system faced by those from less affluent backgrounds.
30. Stakeholders are also concerned because neither SQE preparatory training (if it is not included as part of an undergraduate or master's degree) or the cost of the SQE assessment itself, is currently eligible for government-backed student loans or for

⁵ Common Professional Examination covering the foundations of legal knowledge for non-law graduates

Disabled Students Allowances. There is also a risk that no longer specifying the length of SQE preparatory training could advantage those most able to afford the highest quality training in the shortest time – which could come at a greater cost, disadvantaging less affluent students.

What new information do we now have to inform our assessment of these risks and benefits?

31. The candidate fee for the SQE will be within the indicative price range we have previously published:
 - £3,000 - £4,500 for SQE1 and SQE2
 - SQE1: £1,100 – £1,650
 - SQE2: £1,900 - £2,850
32. These costs are comparable with other professional assessments, on time per test basis⁶.
33. The cost of any training will be additional. We have engaged extensively with education and training providers on the potential benefits of the SQE and to encourage innovative approaches to the training and support they could offer to candidates in the future. We have engaged with providers through our SQE conference, through participation in external events and through individual meetings. From our discussions, we anticipate there will be a wide range of training models, and price points, including :
 - SQE-inclusive undergraduate law degrees
 - apprenticeships funded through the apprenticeship levy and which allow people to earn a salary while training. This can include individuals with prior learning joining the apprenticeship programme for the last two years of their training. For both apprenticeship routes the employer can recover the cost of training and assessment (on a pro rata basis) through the apprenticeship levy
 - bespoke SQE-focused training courses for law and non-law graduates
 - new post-graduate professional law programmes which may include the current GDL content within an SQE training package.
34. The training market is already developing:
 - 31 organisations have so far joined the [SQE list of training providers](#) on our website

⁶ When compared with similar assessments for GPs and overseas dentists wishing to qualify in this jurisdiction

- There are already new entrants offering SQE training. For example, education and training provider, Barbri are advertising SQE prep courses that include a full-time (10-week) or part-time (20-week) SQE1 prep course for law graduates and a full-time (8-week) or part-time (16-week) SQE2 prep course. They have indicated that the cost of the two prep courses may be in the region of £7,000.
 - Traditional universities are looking at their law degrees to consider if and how to prepare their graduates for SQE. So far, we are aware of eight universities that are making plans to introduce SQE1 prep inclusive law degrees
 - Publishers have advanced preparations in hand to launch textbooks and suites of multiple-choice questions
 - Firms are introducing new training programmes. These include, for example, three year training programmes which incorporate QWE with preparation for SQE1 and SQE2
35. Some of these options will be materially cheaper than the current route to admission. Where a candidate trains through a combination of a law degree integrating SQE1 preparation there would be no additional training cost. Where a candidate requires SQE training over and above a law degree and their QWE, early market indications suggest that training costs could be substantially lower than the LPC.
36. However, we are also aware that early indications suggest that not all universities wish to incorporate SQE preparation into their law degree. So SQE preparatory training could be still be needed for SQE1, even after completing a law degree at university, particularly in the early years. And candidates may need some classroom training in addition to their QWE before taking SQE2.
37. The structure of the SQE also helps address the “LPC gamble”. Most candidates will take SQE1 before they start their QWE in the same way as they currently take the LPC before they start or have found a training contract. SQE1 is a much cheaper initial pre-work-based-learning assessment than the LPC. So when the SQE is introduced, the risk to candidates of taking SQE1 is in the region of £1,100 - £1,650 (plus any training costs they choose to incur). That is helpful to people seeking to enter the profession, particularly candidates from less affluent backgrounds.

What are we doing to mitigate the risks?

38. There is Government funding for degree courses which incorporate SQE training and for SQE costs through the solicitor apprenticeship. However, student loan funding and Disabled Students Allowances are not currently available for the cost of the SQE assessment itself, or for the cost of private courses that a candidate may choose to take. We have discussed the funding issue with the Law Society and together we will continue to lobby Government on this point.

39. Where employers offer [solicitor apprenticeships](#), the Institute for Apprenticeships and Technical Education has confirmed to us that graduates can join the apprenticeship programme to complete QWE and SQE, in which case the cost of their training and assessment (on a pro rata basis) is recoverable through the apprenticeship levy. The upfront cost, as set out above, is very significantly lower and the SQE offers real flexibility (eg online training or integrated approaches combining class-room and work place learning), providing more scope for “earning while you learn”.
40. We know from talking to law firms, that some employers are considering paying SQE costs for employees, as they currently do (for example) for their CILEx (Chartered Institute of Legal Executives) employees and for PSC fees.
41. We have contractual mechanisms with the assessment supplier to make sure that we have full visibility of the costs of the delivery of the SQE assessments. Candidate fees will be agreed with us in advance and must represent value for money.
42. When the final design and cost of the SQE is available, we will publish resources to help candidates navigate the range of options available. We have already published initial resources on the SQE tailored to the needs of different stakeholders. This will help to mitigate the impact by preparing people ahead about the options so they can navigate the choices available.
43. We have launched a Facebook page – [Career in Law](#) – to provide information to prospective students about how to qualify as a solicitor in the future. This includes information about the cost of qualifying and the different options available to students.
44. We will also provide easily accessible and authoritative SQE candidate pass rates by provider to inform the purchasing decisions of candidates and employers.
45. We will continue to engage with providers to help them to understand the benefits of the new system and the role that they can play in creating a competitive and healthy market for SQE training.

Conclusion on cost

46. We believe that, overall, our reforms will help to drive a more competitive and flexible legal education and training market which will benefit potential solicitors from a diverse range of backgrounds and address some of the issues with cost inherent in the current system. The market is already responding and will continue to develop in the years after the introduction of the SQE. We will carefully monitor and analyse any impacts on diversity and inclusion, and work with the training providers to maximise the positive effects or address any emerging difficulties.
47. As stated, early indications show that a range of options for SQE preparatory training will emerge. These will offer choice and a range of price points for candidates, with some options coming in cheaper than the cost of the LPC. The

training market will continue to develop once the SQE is introduced. But critically, it will be at a structural level more competitive both on price and quality, because of greater transparency, choice, and accountability.

48. Taken together, we anticipate that:

- the wide range of options for training and preparation
- the publication of market data to encourage training providers to deliver quality training
- the wider range of opportunities to earn and learn should make it possible for those from less privileged backgrounds to access SQE training.

49. We also believe that the removal of the “LPC gamble” will benefit candidates from less privileged backgrounds. There is a risk that the bottleneck could be shifted from the training contract to the point of admission ie more people will qualify as a solicitor and, depending on the development of the legal sector, not all of them may be able to get jobs as a solicitor.

We recognise this risk but do not think this is a reason for retaining the current qualification system. It is our role to check that those who we admit are competent and to make sure that we do not put in place any unnecessary restrictions on qualifying as a solicitor that could limit consumer access to competent legal advice. The period of recognised training is a regulatory requirement which can act as a barrier to qualification for some people. Amending our requirements to introduce more flexibility through QWE will help to address this barrier.

Fairness and consistent standards

50. We cannot be sure that all new solicitors under the current system are meeting, on a consistent basis, the levels of knowledge and skills that are needed to qualify as a solicitor. This is critical for consumer protection.
- There are different routes to admission as a solicitor, which are assessed in different ways.
 - On the graduate routes for domestic candidates, more than 110 providers offer the professional legal assessments we specify. They each set and mark their own assessments. We know that there is significant, unexplained grade inflation in higher education⁷. We also know that pass rates on the GDL and LPC vary from under 40% to 100%, but we don't know the reasons why.
 - At the end of the period of recognised training, there is no benchmarking or standardisation to make sure that decisions to sign off trainees are taken against a consistent standard. In practice, few trainees do not get signed off.

How will the new system help to address this?

51. The SQE will provide a level playing field for all candidates, whatever their backgrounds. It will assess all candidates to the same standard regardless of their training or prior achievement. Candidates who attended less prestigious universities, or who choose new routes to qualification, can demonstrate to employers that they have reached the same standard as candidates who attended more prestigious universities or followed more traditional routes.
52. The SQE will bring solicitor assessment into line with best practice in other high stakes professional assessments. It will provide a high degree of assurance that the candidates who pass are those who should pass, again regardless of their prior education or achievement. This is essential for proper consumer protection and public confidence in the profession.
53. The data generated from a large scale standardised test will also provide more detail on the performance of different groups of candidates than is possible in the current system. This will allow us to monitor performance of candidates by protected groups on an ongoing basis.

Overall, SQE introduces a step-change forward in professional legal assessment. SQE2 will be the end point assessment for solicitor apprentices. The assessment methodology and quality assurance processes have been reviewed and approved by the Education Skills and Funding Agency which has approved Kaplan as the End

⁷ [Office for Students analysis of degree classifications over time, December 2018](#)

Point Assessment Organisation for the solicitor apprenticeship, and the SRA as the External Quality Assurance Organisation.

54. The SQE will assess the competences required to qualify as a solicitor in two stages: SQE1 assesses functioning legal knowledge (FLK); SQE2 assesses practical legal skills.
55. The FLK assessments in SQE1 will consist of multiple-choice, single best answer questions. Multiple-choice questions offer benefits as set out below and are accordingly widely used in assessment in other professions (for example in medicine, pharmacy, accountancy). They are also used in the legal context, both in a university setting and in high-stakes licensing examinations (for example within the LLB, on the LPC, on the Bar Professional Training Course and as part of the US Multi-state Bar Exam, including the New York Bar).
56. Single best answer multiple-choice questions:
 - can be objectively marked
 - enable us to adopt modern, statistically based standard setting processes, to ensure a high level of accuracy in assessment decisions and consistent assessment over time, across successive sittings and between different candidates
 - can measure the cognitive skills we wish to test effectively
 - provide better assurance of a candidate's breadth of knowledge than a small number of essay-style questions: doing three essay questions on a topic increases the risk that a candidate "gets lucky" on the subjects that come up in an exam and does not in fact have the range of knowledge we expect of a solicitor
57. Multiple-choice questions cannot be used as the sole method of assessment in the SQE. They cannot assess the range of legal skills set out in the Statement of Solicitor Competence which we require aspiring solicitors to demonstrate. We will assess these skills through a suite of exercises in SQE2.

What are the potential risks to fairness and standards?

58. Stakeholders have raised a number of concerns about the SQE and its ability to uphold standards and provide a level playing field for all candidates. For example, stakeholders tell us they are worried that:
 - the assessment methods proposed for the SQE, the use of multiple-choice questions and computer-based testing, could disadvantage particular groups of candidates, especially disabled candidates and women
 - candidate performance on the SQE could be influenced by the candidate's prior educational experience, therefore re-enforcing prior social and economic disadvantage

- the requirement to sit the SQE in a single, and potentially lengthy, assessment session could discriminate against candidates with particular disabilities/conditions, or those with family or other caring commitments
- the requirement to take some of the SQE2 assessments at a small number of specified assessment centres could disadvantage disabled candidates and less affluent candidates who might find it difficult to travel
- firms and employers could be sceptical about the quality of alternative/new training providers and courses until there is sufficient data to show positive outcomes, and so would be most likely to stay with tried and trusted routes and providers. This might limit the development of a more competitive training market and may be detrimental to the progression of students from less affluent backgrounds who may choose newer and cheaper training providers.

What new information do we have to inform our assessment of these risks and benefits?

SQE1 pilot

59. We have completed and reported on the piloting and testing of SQE1. The independent reviewer for the SQE confirmed that the pilot was successful and achieved its purpose. The 316 candidates who completed the assessment were broadly representative of those who would sit SQE1, both in terms of prior education and demographic characteristics.

The pilot showed that a robust and manageable assessment of the FLK can be designed using multiple choice questions. The assessment provider concluded that a computer-based SQE1 assessment can be run both in the UK and abroad. They recommended that we amend the design of the FLK assessments from three 120 question assessments (the pilot model) to two 180 question assessments. This will improve the reliability and precision of the exam and as a result will be fairer to all candidates. The total number of questions to be answered will remain the same. But the length of each assessment may be longer. There will, of course, be appropriate rest breaks and candidates with a disability will be able to apply for reasonable adjustments.

60. The performance of pilot candidates with protected characteristics and socio-economic status was monitored. In addition, Kaplan conducted exploratory analyses to give an indication of the best predictors of candidate performance. They cautioned that despite having a diverse spread of candidates, there are limitations to drawing conclusions from the results. Reasons for this included the small sample size, overlapping variables (eg completion of a GDL and ethnicity) and the fact that behaviour will be different in a pilot when compared to a live examination.
61. With those caveats, key things to note include:

- The most significant predictors of FLK performance were completion of a GDL and completion of a law degree at a Russell Group university.
 - Male candidates performed marginally better in the FLK assessment. There was little difference in the skills assessment. Overall Kaplan concluded that gender was of limited significance in determining performance.
 - White candidates generally performed better than black, Asian and minority ethnic candidates in both the FLK and particularly the skills assessment.
62. We also found that the design of the SQE1 skills assessment was not sufficiently robust. If we took the SQE1 skills model into the live assessment it would not give us sufficiently reliable data to make accurate judgments about pass and fail decisions. In addition there was differential performance by binary ethnicity in the pilot.
63. Kaplan and the SRA are committed to promoting equality of opportunity while maintaining the standard of the assessment. But SQE1 skills does not ensure sufficiently effectively that the standard of the assessment is maintained because it is not sufficiently reliable or precise. In light of these findings, we held a series of focus groups and other meetings with the profession, training providers and special interest groups over the course of Autumn 2019. We also ran an online survey to seek views. At the same time, Kaplan looked at models which would work technically. Through this process we refined possible options down to two:
- a) Assess skills purely through SQE2; or
 - b) Include a legal research and writing assessment in each of the two Functioning Legal Knowledge assessments within SQE1. The exercise would count for a maximum of 10% of the available marks and would be set at day one qualified solicitor standard. Kaplan advised that this model would be technically defensible and that it would enable the pass mark to be calculated with sufficient precision.
- 33 Stakeholder views on these options were very split, with no clear consensus emerging for either model.
- 34 Most City and larger firms favoured no skills testing in SQE1. Their reasons are lower costs, simplicity, avoiding duplication, and less marking time between passing SQE1 and taking SQE2. They plan to take trainees for Qualifying Work Experience (QWE) after they have passed SQE2. So, they would not be recruiting candidates who have passed only SQE1.
- 35 There was less consistent feedback from smaller firms, individual solicitors and other organisations authorised to take trainees, but many of them prefer SQE1 to include a skills element. This is on the basis that they may take trainees for QWE between SQE1 and SQE2, they would value an indication of skills before taking on a trainee, and they want trainees to be able to do basic legal tasks such as legal research and legal writing from their arrival in the office.
- 36 Education and training providers have mixed views. Some see the testing of skills at SQE1 as a key indicator for progression for both candidates and employers. Others

think it is more logical and simpler to test skills only in SQE2. Some individual trainees, paralegals and students and SQE1 pilot candidates favour skills testing in SQE1, others do not.

- 37 Having considered these views, we propose that we should not assess skills within SQE1 but should rely instead on SQE2. Our reasons include:
- The purpose of the SQE is to ensure that those we admit demonstrate the high standards required for practice as a solicitor, and the means of assessment should be those that are proportionate to achieve that objective. It is not part of the purpose of SQE to assess skills required for individuals practising in a non-qualified capacity. Those skills will inevitably vary from role to role, and firm to firm.
 - Should businesses have skills requirements for non-qualified staff, the proper place to assess their requirements is through their own recruitment and selection processes.
 - SQE1 skills would have to be set at day one solicitor level. If SQE1 skills were to be set at admission standard, that would duplicate SQE2 skills and would therefore be unnecessary.
 - Given that we expect most candidates will attempt SQE1 some time before admission, and may need some work experience to help develop those skills, an SQE1 skills assessment set at day one solicitor standard could create a barrier for which we have no regulatory justification.
 - This barrier may disproportionately disadvantage candidates who need access to work experience to develop professional communication skills
 - The SQE1 skills assessment would increase the cost and burden of the SQE without a clear regulatory justification.
- 37 Overall, assessing FLK in SQE1 and legal skills in SQE2 provides a model which best meets our criteria of an assessment which is valid, reliable, cost-effective and manageable.

SQE2 pilot

- 38 We have completed a pilot for SQE2. SQE pilot candidates were selected to be, as far as possible, representative of those who will sit the SQE. Applications were encouraged from minority groups protected under the Equality Act. The analysis of the pilot data shows a similar distribution of demographic characteristics amongst pilot candidates to those taking the LPC .
- 39 Through the pilot, we explored a number of facets of SQE2 assessment design and performance, the most significant of which is the question of the uniform or optional model. This is discussed separately below.
- 40 The assessment did both univariate and multivariate analyses of candidate performance by protected characteristic. In considering the results, it should be remembered that candidate numbers were small in some groups, making it unlikely that statistical significance would be found in relation to those characteristics, that characteristics were self-declared, and that there were substantial confounding relationships between individual variables.⁸
- 41 The univariate analysis showed no significant difference overall between men and women, but that women significantly out-performed men in the criminal speciality.

⁸ In other words, some variables overlap with other variables. For example, a candidate may be both black and a woman and from a Russell Group university.

White candidates significantly out-performed those of BAME ethnicity. The multivariate analysis showed that binary ethnicity became a much less significant predictor of performance in the legal skills when performance in the multiple-choice test was entered as a variable. Multiple-choice test score was the single largest predictor of performance (explaining 62% of score variance in the business group and 57% in the criminal group).

What are we doing to mitigate these risks?

64. We recognise the challenge in higher education in relation to performance in assessments by different protected characteristics⁹. This is also the picture for professional examinations, for example in medicine¹⁰, pharmacy¹¹, architecture¹² and barrister qualification¹³.
65. In the current domestic route to admission as a solicitor, there is consistent under-performance by ethnicity on both the GDL and LPC. For example, in academic year 2017-18 (the latest for which we hold data) GDL completion rates were as follows:
- 68% for white students
 - 49% for Asian/Asian British students
 - 43% for black (African/Caribbean/Black British).
66. For the LPC, completion rates are:
- 66% for white students
 - 48% for Asian/Asian British students
 - 35% for black students.
67. We have found no evidence that any of these assessment methods used in the SQE are intrinsically biased or that the outcomes are worse than those seen in the current LPC system.
68. We will include robust quality assurance measures in the SQE:
- Appointing external expertise to advise on these issues

⁹ [Universities UK: Closing the Gap](#)

¹⁰ [Ethnicity and academic performance in UK trained doctors and medical students: systematic review and meta-analysis](#)

¹¹ https://www.pharmacyregulation.org/sites/default/files/2017-09-07_-_17.09.c.02a_june_2017_performance_breakdown_by_characteristic.pdf- see p.3

¹² [RIBA \(Education Statistics 2017-18\)](#)

¹³ <https://www.barstandardsboard.org.uk/uploads/assets/7a20eb3e-b152-4777-9e821417bf596eed/bptckeystatisticsreport2019.pdf>

- Recruiting a diverse group of assessors
 - Diversity training for assessors, markers and question writers, including on issues such as the language of questions
 - Training for assessors on unconscious bias
 - Statistical monitoring of the performance of assessors of live assessments for unconscious bias
 - Statistical analysis of individual questions to check for patterns of differential performance at item level
 - Statistical monitoring and analysis of the performance of protected groups under the Equality Act 2010
69. Kaplan has already appointed appropriate external expertise to advise on these issues. And we have appointed an independent reviewer who will provide independent, external quality assurance of the SQE.
70. As recommended by the Bridge Group, we will monitor performance by protected characteristics on the SQE on an ongoing basis and will report on the profile of SQE candidates and newly qualified solicitors by protected characteristic and socio-economic background.

We have updated the diversity characteristics so that they will be comprehensive and align with our data collection for the profession and we are already collecting baseline data from LPC providers to inform this work. We will conduct a full evaluation of the SQE post-implementation. This will include an evaluation of the impact of the SQE on diversity in the profession and a perception study to understand employers' and other stakeholders' perception of and confidence in the SQE.

71. The SQE is set at the standard we specify for practice as a solicitor in the [Threshold Standard](#). All question writers and examiners will be qualified solicitors. We will be using modern assessment methodology to set and maintain a consistent standard:
- A panel of solicitors will review questions to be used in the live assessment.
 - We will use an “Angoff panel” of solicitors to set the pass mark for the Functioning Legal Knowledge assessments¹⁴.

¹⁴ This is a method of standard setting where a panel of trained judges provide an estimate of the proportion of minimally competent candidates who would get each item correct. The information is used in setting the pass mark.

- The pass mark will include a calculation of the Standard Error of Measurement, to take the pass mark beyond the margin of error¹⁵. This further increases confidence that only those who are competent pass the SQE.
 - We will measure the reliability of the assessment over time¹⁶.
 - We will use “borderline regression” methodology to set a consistent standard for the skills assessments¹⁷.
72. Assessors will be trained and monitored statistically to make sure they understand and assess against the standard required for competence. They will also have training in unconscious bias.
73. We will continue to review the research for any emerging evidence relating to the assessment methods. We know differential by ethnicity happens widely in professional assessment, higher education and also specifically in legal professional assessment. It is nevertheless of concern and we plan to commission research to understand better the causes of the disparity in performance. This will help us understand what the reasons are and whether we can work with others to help to address any factors we identify.
74. The making of reasonable adjustments for candidates with certain conditions/disabilities is a legal obligation, which we require Kaplan to comply with. Our contractual arrangements provide for the recording and monitoring of adjustments procedures. These adjustments can include extra time to take the assessments, rest breaks, special seating or lighting, a personal assistant.
- All of these adjustments are made on an individual basis, depending on the candidate’s personal circumstances and the specific demands of the particular assessment. We will also consider religious holidays when deciding on assessment dates.
75. Kaplan has many years’ experience of making reasonable adjustments, not least in its running of Qualified Lawyers Transfer Scheme (QLTS) assessments. In preparing for the introduction of the SQE, it is already planning for an increase in adjustment requests. It is a contractual requirement that each of the SQE assessment centres is compliant with all applicable equality legislation.
76. All of the SQE1 assessments and the majority of the SQE2 assessments (the written assessments) will be taken at Pearson Vue centres which are widely

¹⁵ All measurements involve a margin of error which is the potential difference between a true and observed score. The Standard Error of Measurement quantifies that error to provide confidence in assessment outcomes.

¹⁶ Reliability is the consistency with which an assessment can reproduce the same outcomes. Cronbach’s alpha (α) is a statistical measure used to estimate internal consistency or reliability.

¹⁷ Borderline Regression is a method of standard setting where a judge provides a score and a standard setting grade for each candidate. All candidate scores are plotted against their grades, and a best fit line (linear regression) is drawn through the data. The cut is set at the score where this regression line crosses the borderline grade.

available throughout the UK and abroad. Candidates will be able to choose to sit these assessments at a centre close to home. A small number of the SQE2 assessments (the oral assessments) will need to be taken at a specified test centre. These assessments will be available at five test centres in England and Wales, once the SQE is fully established. We must strike a balance between ensuring standardisation and comparability in the assessments with the number of assessment centres. And we must also consider the additional cost that more test centres would require. Candidates with specific needs will, of course, be able to apply to Kaplan for reasonable adjustments as described above.

Conclusion on fairness and standards

77. The SQE will allow all candidates to show that they have met the same high standards, regardless of their training route or prior educational achievement. We will demonstrate the ongoing fairness and robustness of the SQE through both public reporting of candidate results and by independent scrutiny of the SQE assessment and evaluation of the reforms as a whole. The SQE will provide us with much better data than under the present system to monitor and evaluate the outcomes of candidates from black, Asian and minority ethnic backgrounds.
78. We remain confident that multiple choice questions are an appropriate method for assessing the FLK and that they will enhance assessment quality. In their advice to us, AlphaPlus stated: “The evidence regarding the use of objective tests (generally multiple-choice tests) in contexts and qualifications similar to this is strong: They are used in comparable contexts, as indicated by our case studies and experience of other similar qualifications. They can be used to assess higher order skills, as evidenced by a review of published literature and examples, mainly from the medical sciences. They have been shown to be reliable in this context.”
79. We recognise the challenges of performance by different characteristics that exist across education. It is not possible for us to solve all of these problems. They are based on multiple factors, many of which are outside of our control. It is our responsibility to make sure that SQE is fair to all candidates. We will do this in the ways described above. This is a responsibility we take very seriously.
80. We intend to continue to monitor the way diversity affects outcomes across the profession and will research the causes of the disparity in performance in assessment. This will help us understand what the reasons are and whether we can work with others to help to address any factors we identify .

Access

81. One of the major barriers to qualification is the ability to secure a training contract. There is already a two-tier qualification system for solicitors, largely based on choice of university. Many firms and employers, including City firms who will fund candidates' training, recruit their trainees from a narrow range of universities, mostly from the Russell Group. People from less privileged backgrounds are under-represented in this group. City firms also have in place programmes to help balance their trainee intake.

How the new system will help address this?

82. When the SQE is introduced, candidates will not need to gain their work experience under a formal training contract. We will recognise any work-based experience that allows a candidate to develop the competences in the [Statement of Solicitor Competence](#).
83. QWE offers a wider range of options, helping to tackle the "training contract bottleneck" that causes so many aspiring solicitors real difficulty. Periods of experience acquired through a placement as part of a sandwich degree, through working in a student law clinic, as an apprentice or a paralegal, or under a formal training contract could all contribute to this requirement. And it will provide opportunities for firms to provide work experience in circumstances where – because of their size, resources, or niche areas of law - they might currently not be able to provide a period of recognised training.
84. Firms and employers will not be making any judgments about whether a candidate is competent to be a solicitor. Instead, we will test their competence via the SQE2 assessments.

What are the potential risks to access?

85. Some stakeholders are concerned that there will be a perception that candidates who gained their qualifying work experience as a paralegal or working in a legal advice centre had not reached the same standard of competence as those who had followed a more traditional training contract route.

What new information do we have to help inform our assessment of these risks and benefits?

86. Whilst we have carried out work to develop the SQE assessments, nothing has changed in relation to the wider framework of qualification as a solicitor since our 2016 report. So new information on this issue is limited. But we do have more insight into how the market is developing. And we know from our ongoing engagement that the perception of a two-tier system of qualification continues to be a concern amongst some stakeholders.

87. We know from our discussions with stakeholders that some employers plan to require candidates to have passed both SQE1 and SQE2 before they start their QWE. There is nothing in our regulations to stop employers from doing this because we want candidates to have the flexibility to be able to start their QWE and take the SQE assessments at a time to suit their own circumstances. But there is a risk that, if lots of employers require SQE1 and SQE2 before candidates can start QWE, candidates who are self-funding will have to take the financial risk of paying upfront for SQE1 and SQE2 before they know whether they have secured a QWE position. This could disadvantage candidates from poorer backgrounds and deter them from seeking to qualify as a solicitor.

What are we doing to mitigate these risks?

88. We are planning to publish results to students with their mark (not just a pass/fail) and to standardise results between successive sittings to aid fair recruitment. And we anticipate that as SQE is more established people will increasingly use this data alongside other information to inform their recruitment decisions.
89. We will continue to engage with the profession on the potential benefits of the new system. And we will explain the benefits of candidates having done some QWE to help them develop the skills necessary to pass SQE2. We will also evaluate the market impact of the changes both in the short-term and over the longer-term.
90. We will add to our resources, tailored to the needs of different stakeholder groups, explaining the new routes to qualification. We will explain how performance in SQE2 will provide objective evidence of the competence of a candidate, and therefore help candidates to market themselves, even if they have followed a less traditional route to qualification.

Conclusion on access

91. We know that the under-representation of candidates from less privileged, socio-economic backgrounds and some ethnic groups in the legal and other professions is a complex and longstanding problem with no easy solutions.
92. The SQE should help because it will provide objective data to help employers make recruitment decisions.
93. We recognise that we have limited influence over how the profession, as employers of potential solicitors, respond to the changes. We will carefully monitor and analyse any impacts on diversity and inclusion, and work with the training providers to maximise the positive effects or address any emerging difficulties.
94. We know that some employers already have plans to change the way they train and recruit solicitors. But we also know that some may not intend to make any significant changes. However, the narrow recruitment practices of some firms and employers and the fact that some employers may be cautious about some of the new routes to qualification are not compelling reasons to retain the traditional two-year period of recognised training. Through our testing and piloting, we will make sure that the

SQE will be a robust assessment of competence and that allowing greater flexibility in qualifying work experience will not dilute standards but promote a wider range of talented candidates to qualify as a solicitor.

95. We do recognise that employer trust in the SQE is key to realising the benefits arising from more flexibility in training and in qualifying work experience, but we believe that the quality of the assessment and our ongoing engagement with stakeholders will develop that confidence over time, once SQE is introduced. We intend to carry out a study to examine stakeholders' perception of the SQE a couple of years after introduction. And a perception study will also be included in the full evaluation to be carried out five years after introduction.
96. We know that the under-representation of candidates from less privileged , socio-economic backgrounds and some ethnic groups in the legal and other professions is a complex and longstanding problem with no easy solutions. But we believe that the SQE will help to address this problem through:
- the enhanced flexibility of QWE
 - independent and authoritative data on candidate performance on the SQE by provider to inform the purchasing decisions of candidates and employers
 - online resources for candidates.
97. We will continue to engage with the profession to set out the potential benefits of the new system. We will also evaluate the market impact of the changes both in the short-term and over the longer-term.

Quality of training during qualifying work experience

98. We have set out the benefits of QWE above. These include enhanced flexibility, a wider range of options and all candidates being assessed consistently through the SQE assessments. In addition, the move to QWE could help to improve the quality of training because we will publish data on candidate performance by training provider. This will provide better visibility than in the current system on the quality of training and will help to drive up standards

What are the potential risks to the quality of training in qualifying work experience?

99. Stakeholders, including the Junior Lawyers Division, are concerned that widening of the scope of qualifying work experience (QWE) could encourage less responsible employers to take on candidates without providing appropriate training or to exploit them, for example, by making them work for free. There is a risk that these candidates are more likely to be from non-professional backgrounds

What are we doing to mitigate this risk?

100. We already have in place a number of regulatory requirements which will protect candidates from exploitation during their qualifying work experience. These requirements can be found in a number of different sources:

- The competences to be developed are contained in the Statement of Solicitor Competence.
- Requirements not to take unfair advantage, and to properly supervise and manage staff are set out in the Code of Conduct for [firms](#) and [solicitors](#).
- Our disciplinary approach is set out in our [Enforcement Strategy](#) and we can take action when we have evidence that employers are not meeting their obligations.

101. We, not the employer, will make the decision about whether or not a candidate is competent and has met the standard for qualification as a solicitor. We will do this through the SQE assessments. The employer will be responsible for confirming that QWE has taken place and that it has met our requirements.

102. Our online resources will include information to help candidates who are looking for QWE. We will provide pointers on what candidates should look for when choosing an employer. We will also make available data on candidates' performance by reference to where they did their QWE.

103. We also know that other stakeholders are developing resources which will help candidates when the SQE is introduced. For example, the Sutton Trust has produced guidance on work placements. We have published this as part of our suite

of SQE resources. The Law Society is also planning to publish guidance for candidates and firms.

Conclusion on risk to quality of training during QWE

104. We have in place regulatory controls to protect candidates. We do not see why QWE might create any greater risk of exploitation than under the current system. On the contrary, the wider availability of QWE means people may be less likely to put up with poor treatment than in the present system where there is a scarcity of alternative training contracts.
105. We removed the minimum salary for trainee solicitors in 2014, given the introduction of the national minimum wage. And we carried out a post implementation evaluation of that decision in 2017. We do not see a case for reintroducing it for QWE. Indeed, given that QWE can encompass any form of work experience in legal services which gives a candidate the opportunity to develop the competences in the Statement of Solicitor Competence, it is difficult to see how it could be a practical measure.
106. QWE can include time spent in a student law clinic. This encourages the integration of classroom and work-based learning. Introducing a requirement for QWE to be paid would exclude this option.
107. Our online resources, together with resources provided by other stakeholders will help candidates when choosing a provider of QWE. We will monitor the effectiveness of the information available through our SQE evaluation.

SQE2 assessment: final design

108. The primary purpose of SQE2 is to assess candidates' legal skills. Ensuring that those we admit have demonstrated they are able to practise competently is a core responsibility in order to meet our regulatory requirement to protect consumers. Legal skills cannot be assessed in a legal vacuum, so SQE2 must assess skills, through the vehicle of different areas of practice. These will be the reserved areas of practice¹⁸ and business law (because it is such a major sector). One of the key questions for the pilot was whether candidates should all have to demonstrate their legal skills through the same assessments (the uniform model), or whether they could be allowed to demonstrate their legal skills in practice areas of their own choice reflecting their work experience or career aspirations (the optional model).
109. Few law firms practise across all the reserved activities. In practice, trainees start to specialise before admission when they choose which law firm to train in. There is no current requirement for trainees to demonstrate their competence across all reserved areas. For this reason we originally proposed a model where candidates could choose two practice contexts in which to have their legal skills assessed. This best reflected current custom and practice in the sector, and enabled SQE2 assessment to be aligned to work experience in some practice areas only.
110. The pilot enabled us to explore three alternative models:
- a) specialisms only: candidates take legal skills assessments in two contexts of their choice
 - b) uniform exam: candidates take same exam, which sampled across all legal skills and all contexts
 - c) common core: candidates take an exam combining one context of their choice with a sample of all skills and all contexts
111. At the same time, we have been exploring these options with stakeholders since September 2019, through roundtables, individual meetings, webinars, the SQE Reference Group and an online survey.
112. The pilot findings are clear that both of the optional models (specialisms only and common core) create a significant risk that candidates may not be assessed fairly against the same consistent standard. It was not possible to make a precise statistical comparison of the level of demand of different subjects. Quality assurance arrangements can mitigate, but not eliminate, this risk.

¹⁸ Broadly, civil litigation, criminal litigation, advocacy, probate and property

113. Candidates with protected characteristics may be disproportionately represented in some specialist areas¹⁹ and having optionality would make monitoring of performance by protected characteristics (and other statistical methods of investigating differential performance) less meaningful, with the attendant drawbacks in terms of advancing equality of opportunity. The pilot also provided some indicative evidence that legal skills were not wholly transferrable between different practice areas. Given that the solicitor qualification is broad, this does create a consumer protection risk: the optional model may result in people being licensed to practise who have not demonstrated their competence in all reserved activities.
114. On the other hand, the uniform model is likely to make it more difficult to rely on work experience alone to prepare for SQE2. Some form of classroom or online learning may be required, at least to top up legal skills. The uniform model is likely to cost less to assess, but the training costs may be higher than the optional model.
115. We have discussed these risks with stakeholders since September 2019, and again following the pilot. Their views are mixed. Training providers confirm that training for a uniform exam is likely to cost more. And law firms worry about funding training in skills which their particular businesses don't need. On the other hand, some stakeholders recognise that the uniform model provides the greatest measure of consumer protection, and that it avoids early over-specialisation.
116. Consumer protection and fairness to candidates mean that all candidates must be assessed to the same standard. In a uniform exam, all candidates take the same examinations and so are demonstrably assessed against the same standard
117. Kaplan's recommendation, that of their expert panel, of the SQE Independent Reviewer and of our expert External Psychometrician is therefore that a uniform exam is the most defensible assessment design for a single entry point into the solicitors profession. The SQE Independent Reviewer, Geoff Coombe, states: "The overwhelming evidence from a psychometric perspective is to have a universal model. This is backed up in the relevant academic literature and is the model usually followed by professional qualifications which lead to licensure. From a defensibility perspective, and in order to ensure fairness to all candidates, the evidence from the pilot is the SQE2 design should be universal [ie uniform], and while recognising this will not be some key stakeholders' preference, the design must be able to withstand legal challenge".
118. The Bridge Group²⁰ have advised us that "the potentially beneficial impacts on diversity of a uniform assessment at SQE2 outweigh those associated with an optional assessment".

¹⁹ For example, there is over representation of Asian and black lawyers in firms doing criminal practice. SRA law firm diversity data 2019 <https://www.sra.org.uk/solicitors/resources/diversity-toolkit/law-firm-diversity-tool/>

²⁰ A non-profit consultancy that uses research to promote social equality

119. The Bridge Group also suggest that a uniform assessment might provide an opportunity to counteract the effects of some candidates 'selecting out' of areas that are perceived to be aligned with particular demographic characteristics. Research²¹ shows this career self-sorting to be a systemic challenge in many professions, including law, and is a significant factor contributing to differential pay, progression and attrition.
120. Although individual firms employ lawyers in specialised roles, practice rights are generalised and allow solicitors to practise across the reserved activities. Therefore we need to test across all the core skills that are required in order to be able to exercise these rights safely and effectively. And we need to test on a fair and consistent basis. The best way to do this is through a uniform assessment.
121. The uniform model best achieves the primary objective of the SQE of assuring high professional standards on a fair and consistent basis. Given that the solicitor qualification is a general one, consumers are entitled to assume that all solicitors have met the same consistent standard. It also avoids the risk of a perceived two-tier qualification, and that it is easier to qualify through some assessments instead of others. The uniform exam is a single exam that all candidates take. So their results are standardised and consistent. While not a primary driver, this assessment is also cheaper. For these reasons, we propose that SQE2 should take the form of a uniform assessment model in which all candidates take the same skills assessments set in five areas of practice.

How will we mitigate the risks of a uniform assessment design for SQE2?

122. Although candidates may need some top-up training to prepare for SQE2, they will still be able to develop their skills through QWE. This will help them to prepare for SQE2. The top-up training can build on the knowledge demonstrated in SQE1 and skills developed during QWE.
123. We know that some employers plan to pay for their candidates' SQE2 training. And both training and assessment costs are covered by employers for apprentices, including graduate apprentices covering QWE and SQE1 and SQE2.
124. Candidates can also get their QWE with more than one employer if they choose to. This would enable them to develop their skills in more than one context.

²¹ Bridge Group research can be found [here](#)

Overall conclusion

125. We have continued to engage with stakeholders, including representatives from special interest groups, on the potential risks and stakeholder concerns about the SQE and the wider qualification framework. We have developed and designed the SQE with these issues firmly in mind. We have carefully considered the potential benefits and risks. We remain of the view that the potential benefits of the introduction of the SQE for candidates from protected groups outweigh the potential risks.
126. We will continue to engage with stakeholders. Through ongoing and transparent evaluation, we will check whether the potential benefits we have identified are being realised and whether the mitigations we have put in place have minimised the risks. We will do this through the transparent collection, analysis and reporting of data on candidate performance on the SQE at each assessment session and through the regular collection and analysis of data on the profile of the profession. We will commission an evaluation of the SQE to include an evaluation of market and EDI impacts and stakeholder perceptions.

Annexes

Annex 1 – What we have already done and plan to do to minimise the risks

Annex 2 – High level summary of the 2016 Bridge Group report

Annex 3 – High level timeline

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Annex 1 - What we have already done and plan to do to minimise the risks

Summary of what we have already done to minimise the potential risks

- We have fully tested and piloted the SQE assessments. And we have put in place independent scrutiny of the SQE design, development, piloting, testing and implementation through the appointment of an independent reviewer and an independent psychometrician.
- In March 2019 we ran a pilot of SQE1. The range and diversity of candidates was broadly representative of the profile of candidates we expect to take the live assessment. Both Kaplan and our independent reviewer confirmed that the pilot was a useful and valid exercise that achieved our aims. It showed it is possible to design a robust, manageable assessment of functioning legal knowledge. We have made some changes to the design of the SQE1 assessments.
- The full range of reasonable adjustments will be made for those with particular needs. Kaplan has many years' experience of making reasonable adjustments for candidates with a wide range of disabilities, through its involvement in the QLTS assessment. The QLTS Alternative Assessment Arrangements Policy includes a long (but non-exhaustive) list of reasonable adjustments that can be made, including:
 - break periods
 - computer screen adjustments
 - the provision of an amanuensis
 - separate invigilation
 - signed assessments
 - use of audio-tape
 - adaptations to assessments
 - rescheduling of assessments.

Test centres will be accessible. Each SQE assessment centre will be compliant with all applicable equality legislation and accessible to candidates with special requirements (for example limited mobility).

- Kaplan also operate a "fit to sit" policy, whereby in attending an assessment, a candidate certifies himself or herself as being fit to sit it.

- We have published initial resources on the SQE tailored to the needs of different stakeholders.
- We have continued to engage with universities, other providers of SQE preparatory training and publishers to make sure they have timely information about the SQE to allow them to design appropriate courses and materials. We have:
 - established an SQE Reference Group, whose members include:
 - The Law Society
 - Junior Lawyers Division
 - Young Legal Aid Lawyers
 - The City of London Law Society
 - the Association of Law Teachers
 - the Society of Legal Scholars
 - the Socio-Legal Scholars Association
 - the City of London Law Society
 - formed a LinkedIn Group, which is open to all. The group currently has more than 1,600 members drawn from the profession, universities and other training providers
 - held regular SQE webinars and event broadcasts which have been viewed more than 7,000 times
 - drawn together subject matter experts to advise on technical aspects of the SQE
 - conducted surveys (which we have sent directly to education and training providers) on aspects of the SQE, including the Assessment Specification and the timing of the assessment windows. We have had over 800 responses to our surveys.
 - held roundtable events to discuss the assessment of skills in SQE1 and 2
 - held three annual conference with education and training providers, which have attracted almost 100 delegates each year
 - published the final Assessment Specification for the Functioning Legal Knowledge (FLK) element of the SQE and a set of 90 sample FLK questions.
- We have trademarked SQE and require training providers to sign up to the terms of the trademark if they wish to use SQE in their marketing for preparatory training. So far, we have 31 providers on this list.

- We have made sure, through our contract mechanisms, that the assessment supplier has a transparent funding model for the delivery of the SQE assessments and all candidate fees will be agreed with us in advance. They must represent value for money.
- We have published information about the indicative/ cost of taking the SQE assessments. This is comparable with other professional assessments, on time per test basis. Early market indications suggest that there will be options available to candidates where the total cost of training and assessment will be less than the cost of the LPC.
- We have launched a Facebook page – Career in Law – to provide information to prospective students about how to qualify as a solicitor in the future. This includes information about the cost of qualifying and the different options available to students.

Other things we plan to do to minimise the risks

- We will monitor performance by protected characteristics on the SQE on an ongoing basis. All questions will be reviewed for cultural bias, and all examiners will be trained to recognise unconscious bias.
- Kaplan will recruit a diverse examiner team.
- We have commissioned the Bridge Group to provide an update on its report, taking into account developments since 2017.
- We will conduct a full evaluation which will be carried out post-implementation.
- We will continue to engage with representative groups working in this area.
- We will continue to monitor the way diversity affects outcomes across the professions.
- We know underperformance by ethnicity happens widely in professional assessment, higher education and also specifically in legal professional education. We plan to research the causes of the disparity in performance. This will help us understand whether the causes are outside our control or what we can do to help.
- We will report on the profile of SQE candidates and newly qualified solicitors by protected characteristic and socio-economic background to monitor the impact of the SQE on the profile of the profession.
- Through our resources, we will explain how performance in SQE2 will provide objective evidence of the competence of a candidate, and therefore help candidates to market themselves, even if they have followed a less traditional route to qualification.

- We will continue to engage with universities, other providers of SQE preparatory training and publishers on the design of the SQE and make sure they have access to timely information to allow them to design appropriate courses and materials.
- We will provide easily accessible, independent and authoritative data on candidate performance on the SQE by provider to inform the purchasing decisions of candidates and employers.
- We will provide more resources explaining the new routes to qualification. This will include information about the different types of SQE preparatory training available and information candidates and employers could use to inform their choice of university or other training provider.
- We will publish the confirmed SQE fee as soon as it is available.
- We will continue to engage with the government to explore whether career and professional development loans can be used for SQE preparatory training and assessment.

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Annex 2 – High level summary of Bridge Group report

1. We commissioned the Bridge Group to review our proposals to provide us with advice and recommendations about how we could monitor the impact of the SQE and practicable solutions we would take to maximise the positive impact of the SQE
2. The Bridge Group report provides an analysis of the issues and factors affecting diversity in the legal sector and the barriers that some face in qualifying into and progressing within the profession.
3. The report concludes that “There is no silver bullet to address diversity in the legal profession, because lack of diversity is constructed of a complex range of factors at every stage on the journey to the profession. It follows that diversity implications cannot be precisely predicted, given the variety and multiplicity of these factors”.

The report recommended that we place emphasis on the gathering and analysis of accurate data, throughout the implementation process and beyond, to enable us to review and evaluate impact, and take informed decisions regarding the continued development of the SQE.

4. Whilst it is clear that the SQE cannot solve all of the problems affecting diversity in the profession, the Bridge Group concluded that it could help. The report commented that the SQE:
 - can help the sector to have an improved understanding of the causes of, and potential solutions to, the lack of diversity, due to the greater transparency it affords
 - has the potential to increase the range and choice of legal training, without compromising on the need for high standards
 - may drive down costs for trainees through competitive pressures in the market.
5. The report also:
 - identified the risk that greater choice of training, whilst of itself a good thing, could make the training market more difficult for students to navigate
 - emphasised the need for effective information, advice and guidance
 - suggested that data from the SQE will allow us to monitor far more closely the performance and progression of particular groups
 - recognised the role for employers and education and training providers to take advantage of better information and new freedoms to promote greater diversity in recruitment.

- suggested that different models and ways in which to study will emerge – for example, online or work-based – and better information may enable students to make choices about which course would suit them best in terms of cost and lifestyle. Information about courses and providers will also be available to recruiters to help them make informed decisions.
6. In addition to emphasising the importance of data gathering and evaluation, the report recommended that:
- we make sure that the proposed resources for students is accessible, robust and that there are resources in place to enable students from all backgrounds to navigate the increasingly complex range of qualification routes
 - the credibility of assessments should be supported by considering carefully the timing of the reforms, and undertaking a transparent testing process that is accompanied by a communications strategy with differentiated messages to key stakeholders
 - we continue to liaise closely and frequently with employers to establish and preserve their confidence in the rigour and relevance of the SQE, to make sure that it is meeting their needs.

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Annex 3

SQE milestones 2020 to 2030

