Solicitors Regulation Authority

Training for tomorrow: Assessing competence

Consultation on a proposal to introduce the Solicitors Qualifying Examination: SRA response and analysis of responses

October 2016

Contents

Consultation summary

We were pleased with the level of interest in our initial consultation on the Solicitors Qualifying Examination (SQE). We received over 240 responses. As expected, responses were very mixed and reflected the experience and expertise of the different stakeholder groups who responded.

A number of key themes emerged from the responses:

- A majority of respondents thought we should continue to require some form of pre-qualification legal work experience, and that we should specify both the time period required and the competences to be developed. Most respondents were also in favour of us recognising a wider range of work experience beyond that obtained in a training contract.
- While most respondents supported an SQE set at least at graduate level, many did not think that there should be a requirement for all solicitors to have a degree.
- Most respondents thought that, if we did introduce the SQE, we should continue to regulate the pathways leading to qualification as a solicitor.
- Some respondents did not support the SQE in principle. Others felt they could not support it at this stage because they did not think they had enough information about it to form a view.
- Some respondents did not agree with the proposed SQE structure and assessment methods, in particular the use of computer-based multiple choice testing.
- Some respondents thought the SQE design was based on an outmoded idea of a high street solicitor, and did not reflect the reality of increasingly specialised legal practice.
- Most respondents felt that the introduction of the SQE in 2018/19 was too soon and more time was needed to develop and introduce it and to make sure it is right. No consensus views emerged about when it should be introduced.

Our response

In response to these views, we have:

- Looked again at the design of the SQE, to make sure it is clearly focused on testing professional competence.
- Made sure that our second consultation in autumn 2016 enables stakeholders to better understand our proposals. We have developed a draft Assessment Specification that sets out in detail the design and content of the SQE.
- In the second consultation we seek views on:
  a) the design and content of the SQE
  b) proposals about how we might regulate pathways to qualification and what information we should give to students to guide their choice of training provider and route to qualification

c) proposals about what requirements we should specify for pre-qualification legal work experience
d) proposals about the need for any exemptions from the SQE, in particular for intra-UK and EU qualified lawyers.

We have also revised our timetable. We had said we would not introduce the SQE before the academic year 2018/19. In the light of consultation responses, we want to be clear that we will not introduce it before academic year 2019/20. In addition, we will look at a possible phased approach to implementation, and consult on possible approaches in our autumn consultation.

About the consultation

Our consultation, ‘Training for tomorrow: assessing competence' took place between 7 December 2015 and 4 March 2016.

The purpose of this consultation was to seek views on our proposal to introduce a common professional assessment for solicitors to assess the competence of all intending solicitors. This common professional assessment, the SQE, would consist of a part one assessment of functioning knowledge, and a part two assessment of skills.

We sought views about whether respondents supported the introduction of a common professional assessment as a matter of principle, as well as on a number of specific aspects of our proposed assessment model for the SQE.

To inform a subsequent consultation on these specific issues later in 2016, we also asked for views on possible entry requirements for the SQE and about the role of pre-qualification work experience within any new qualification requirements.

The consultation questions were available either to complete online or to download.

A copy of the consultation and the responses we received are available on our website.

Who responded?

We received a total of 238 responses to the consultation.

Type of respondents		
Academics	22	9.24%
Law firms	47	19.75%
Local law societies	17	7.14%
Members of the public	9	3.78%
Other capacities eg non-practising solicitors, foreign qualified lawyers, and recruiters	18	7.56%
Other legal professionals	10	4.20%
Representative group (legal profession)	11	4.62%
Representatives group (universities, careers, academics)	5	2.10%
Representative group (regulators)	3	1.26%
Solicitors (employed)	16	6.72%
Solicitors (private practice)	14	5.88%
Solicitors (trainee)	8	3.36%
Students	21	8.82%
Universities	35	14.71%
Not disclosed	2	0.84%
Total respondents*	238	

*We also received ten other responses that did not follow the structure of our consultation questions but took the form of blogs or emails on specific points. We have considered all the feedback received but these non-standard responses are not included in the analysis of responses to individual questions.

Respondents were informed that their response would be attributed and published unless they indicated otherwise. Some 92 respondents requested that their responses should not be attributed and published, or restricted attribution in some other way.

Consultation analysis

We have summarised the key themes from the responses to the consultation questions in the order in which they were asked in the consultation document.

Section 1: Background, rationale, benefits and evidence for a new common professional assessment for solicitors

Question 1: Do you agree that the introduction of the SQE, a common professional assessment for all intending solicitors, best meets the objectives set out in paragraph 10?

We asked whether the introduction of the SQE would enable us to meet the following objectives:

- To focus our regulatory effort more rigorously than at present on assuring consistent and comparable high quality standards at the point of admission across all pathways to qualification.
- To ensure that the most talented candidates can qualify as a solicitor by encouraging the development of new and diverse pathways to qualification that are responsive to the changing legal services market and which remove artificial and unjustifiable barriers.

Some respondents did not support the SQE in principle. Others felt they could not support it at this stage because they did not think they had enough information to form a view.

A smaller number of respondents agreed with our analysis that the introduction of the SQE would enable us to meet these objectives.

Reasons why respondents agreed included:

- There should be a mechanism to assure comparable and consistent standards of competence for all solicitors, regardless of their training pathway.
- The introduction of the SQE would address concerns about inconsistency of standards across universities and the Legal Practice Course (LPC).
- If there was no longer a requirement to take the LPC, which is no longer fit for purpose, the introduction of the SQE could result in the development of more flexible and cost effective training pathways.
- The introduction of the SQE could broaden access, particularly if there was no requirement for workplace experience, by taking control away from the profession.

Reasons why respondents disagreed included:

- Control of standards and entry to the profession should not lie with the SRA.
- The introduction of a common professional assessment might ensure consistent standards but this would not necessarily be at the right standard. Without the specification and regulation of training pathways, the SQE alone will not ensure the development of the academic and higher levels skills required by solicitors.

- Concerns about inconsistency of standards within the Qualifying Law Degree (QLD) or the LPC would be better addressed by strengthening the current regulatory framework, rather than by introducing a new common professional assessment.
- The introduction of a common professional assessment, without the specification and regulation of training pathways, will not ensure consistent standards across all pathways.
- Standards and the reputation of the profession would be threatened, particularly if the introduction of the SQE meant there was no longer a requirement for trainees to take a QLD or undertake a period of training in the workplace.
- The SRA has not provided convincing evidence of solicitor incompetence or consumer detriment arising from the current training regulations.
- The introduction of the SQE would narrow the legal education curriculum and constrain the design of new and diverse pathways to qualification because 'wash-back' from the assessment would determine the content of training.
- The concept of a generic, centralised professional assessment for all solicitors is not aligned to business need and a changing legal services market where the solicitor role is increasingly specialist.
- The introduction of the SQE would introduce additional cost and a new barrier to qualification, particularly if there was no access to public funding for the SQE assessment or for any preparatory training.
- Without knowing the likely cost of the SQE and any preparatory training for the SQE, it cannot be said that its introduction would necessarily reduce the cost of qualification.
- If unlimited re-sits were allowed, candidates who were not funded would be disadvantaged.

Section 2: The proposed assessment model for the SQE

Question 2: Do you agree that the proposed model assessment for the SQE described in paragraphs 38 to 45 and in annex 5 will provide an effective test of the competences needed to be a solicitor?

We proposed that eligibility for the award of title of solicitor would require candidates to demonstrate they have successfully completed the SQE, which would consist of two assessment components:

- Part one – Functioning Legal Knowledge Assessments: assessing candidates' ability to draw on sufficient knowledge to practise effectively.
- Part two – Practical Legal Skills Assessments: assessing candidates' competence in interviewing and advising, advocacy/oral presentation, negotiation, writing, drafting and legal research.

Some respondents did not agree, while others felt they could not form a view at this stage because they did not think they had enough information to decide.

A smaller number of respondents agreed that the proposed model would provide an effective test of the competences needed.

Reasons why respondents agreed included:

- The SQE would assess standards at a higher level than the current LPC.

- Ethics should be assessed throughout.

Reasons why respondents disagreed included:

- Without the detailed Assessment Framework document it is not possible to judge whether the SQE would be a valid assessment of competence.
- The SQE could only be a valid assessment if preparatory training was specified and regulated.
- The SQE could only be a valid assessment if accompanied by workplace assessment and/or experience.
- The proposed assessment model is not valid because it is based on the Qualified Lawyers Transfer Scheme (QLTS), which was designed to assess a different cohort of candidates – already qualified lawyers.
- The assessment methods proposed for the SQE are not valid, in particular the use of objective testing to assess functioning legal knowledge.
- The proposed assessment methods cannot be used to assess higher level skills such as analysis, synthesis and problem solving.
- Some of the competences can only be validly assessed in the workplace.
- The inclusion of one-to-one role play assessments in part two of the SQE would be expensive and unmanageable, and could never truly reflect the demands of practice.
- The subject knowledge to be assessed by the SQE part one, as set out by the Statement of Legal Knowledge, is too focussed on the reserved activities.
- The contexts to be assessed in the SQE part two are too focussed on the reserved activities and private practice.
- The assessment model does not reflect the needs of business, the profession and the changing legal services market because of the focus on reserved activities.
- The SRA is missing an opportunity to align the assessment to activity-based qualification.
- There should be more choice in the SQE, similar to that provided by the LPC electives.

Question 3: Do you agree that all intending solicitors, including solicitor apprentices and lawyers qualified in another jurisdiction, should be required to pass the SQE to qualify and that there should be no exemptions beyond those required by EU legislation, or as part of transitional arrangements?

Our proposal was that the SQE will assess all solicitors, regardless of the pathway they have followed. We considered whether we should grant individuals who have completed particular qualifications, such as a law degree, exemptions from the SQE, but concluded that we should not, for the following reasons:

- The SQE is aligned to our Statement of Solicitor Competence, and is assessing different competences to what is examined as part of a liberal law degree.
- This would limit our ability to ensure comparable, high standards between different pathways.
- It would fail to recognise the concerns about the variability of academic standards expressed by the Higher Education Funding Council for England and others.
- It would make the SQE a less reliable assessment.

A majority of respondents did not agree with this proposal and some of those that did agree that in principle there should not be any exemptions made it clear their agreement to this question did not mean they supported the introduction of the SQE.

A smaller number of respondents agreed with the proposal.

Reasons why respondents agreed included:

- If the primary purpose of the SQE is to ensure consistency of performance standards by requiring all solicitors to pass the SQE, it would be contradictory to allow exemptions where candidates would be assessed against another standard.
- It would give confidence that all newly qualified solicitors have been assessed to the same standard by taking the same assessment.

Reasons why respondents disagreed included:

- Not allowing exemptions would result in an additional assessment burden, cost and barriers to qualification by duplicating assessments already undertaken for other qualifications such as the QLD or LPC.
- If exemptions were permitted for a transitional period, what is the rationale for withdrawing this opportunity?
- It is not possible to reach a decision without further information about what will be assessed within the SQE.
- Not recognising prior achievement and experience through a system of exemptions will limit the development of flexible routes to qualification.
- It would be inflexible and out of line with the approach taken by other professions.
- It would be unfair to allow exemptions as required under EU law, and not give any exemptions to other intra-UK qualified lawyers.

Question 4: With which of the stated options do you agree and why:

a) offering a choice of five assessment contexts in part two, those aligned to the reserved activities, with the addition of the law of organisations?
b) offering a broader number of contexts for the part two assessment for candidates to choose from?
c) focusing the part two assessment on the reserved activities but recognising the different legal areas in which these apply?

We proposed that the part 2 practical legal skills assessments would be assessed in the reserved activities (probate, property, criminal and civil litigation), with the inclusion of law of organisations because this covers such a major practice area for solicitors. We focused on these areas because they are aligned with the entitlement to practise reserved legal activities conferred by the award of the solicitor title. Limiting assessment contexts in this way would also provide a measure of consistency to ensure comparability and fairness, while still encouraging a breadth of practical experience. However, we recognised that not all firms can offer experience in all five practice areas and, therefore, proposed that candidates could take the assessments in three out of the five contexts, with at least one being contentious and one non-contentious. We recognised, however, that greater flexibility might align better with business needs of firms and employers.

The majority of respondents agreed with option b) and the least popular was option a). However, many respondents commented that there were difficulties with all the options and that they had chosen what they considered to be the least, worst option.

Some respondents also felt unable to comment without having more detail about the SQE or because they disagreed with the introduction of the SQE.

Those respondents who selected option b) did so for the following reasons:

- Not all solicitors work in reserved activities and many work in a much wider range of practice areas. This focus on reserved activities reflects an out of date model of practice. In particular, it does not align with practice of the City firms, who recruit substantial numbers of trainee solicitors.
- At the point of admission, most solicitors are specialists. If the SQE part two is taken after a period of pre-qualification workplace experience and the contexts are limited to the reserved activities, trainee solicitors will be assessed in practice areas in which they have not been working and which are not relevant to their career path.
- If trainee solicitors are being assessed in contexts outside their work role, this will require additional training and/or experience. This will incur additional cost and disruption and may discourage employers from recruiting trainees.
- The contexts do not reflect the difference between criminal and civil practice.
- The introduction of reserved activity-specific licences, as opposed to the award of a general title of solicitor, could provide an alternative approach.

Those respondents who selected option a) did so for the following reasons:

- The focus on the reserved activities reflects the practice areas in which solicitors have a monopoly.
- Limiting the number of contexts would make the assessment more manageable and lead to more consistent assessment.
- Allowing choice of three out of five of the proposed contexts is comparable to current requirements for the period of recognised training (PRT) and offers sufficient flexibility.

Respondents who chose option c) did so because they agreed that the focus should be on the reserved activities but wanted to increase choice and flexibility.

Other comments included:

- Increasing the amount of choice in the contexts for assessment could compromise consistency of standards, increase the cost and complexity of the SQE and still not be fully aligned to business needs.
- It will be difficult for many firms to provide the breadth of experience and/or training to prepare trainee solicitors for assessment in even three out of the five proposed contexts, including contentious and non-contentious aspects.
- Newly qualified solicitors require a breadth of knowledge and experience and should not be required to specialise too early in their careers.

Question 5: Do you agree that the standard for qualification as a solicitor, which will be assessed through the SQE, should be set at least at graduate level or equivalent?

Currently the assessments taken by intending solicitors through the LPC route range from level 4 (end of first year in a degree) to level 7 (postgraduate) in the Framework for Higher Education Qualifications (FHEQ). By the time solicitors reach qualification, their skills and legal ability are further developed through their two year PRT, although the standard required at this point is not aligned to a particular level in the FHEQ.

Our proposal was to set the standard for the SQE at a level that assures the high quality required for practice as a solicitor, recognising the importance of solicitors having the higher level cognitive skills that are associated with being a graduate.

The majority of respondents agreed that if the SQE was introduced, it should be set at least at graduate level. Many stated that their response did not mean they supported the proposal to introduce the SQE, nor that they thought that SQE was capable of assessing graduate level knowledge and skills.

A small number of respondents disagreed with the question because it was interpreted as saying at graduate level, rather than 'at at least graduate level'. Some respondents also addressed the question as if it was asking whether a degree should be a requirement for qualification.

Reasons why respondents agreed included:

- It was essential to articulate that the SQE was at graduate level or above to protect the reputation and brand of solicitors, domestically and internationally.
- The role of solicitor requires the intellectual skills demonstrated through graduate level study.
- If candidates were not able to achieve a graduate level qualification, they would not have the knowledge, skills and attributes necessary to undertake the work of a solicitor.
- Employers and the public would expect solicitors to have achieved a graduate level qualification.
- Barristers and most other professionals are required to hold a graduate level qualification.
- The LPC is a level 7 qualification and if the SQE is not set at this level, then standards are being lowered.

Reasons why respondents disagreed included:

- The SQE assessment should be set at different levels to reflect where an individual practised; the same standard should not be expected in non-practising areas.

Other comments included:

- What exactly is meant by graduate level or equivalent? Level 4, 5 or 6 of the FHEQ?
- If there is such inconsistency of standards across universities, how will graduate level be defined?
- If the SQE is to be set at graduate level, what is the rationale for not allowing exemptions for candidates with a QLD or higher level qualification?
- The SQE should be aligned to the FHEQ or European Qualifications Framework.

- Part one of the SQE should be set at graduate level; Part two should be set at level 7.

Section 3: Pre-qualification work-place experience and workplace assessment

In the consultation document, we did not include a formal proposal on this issue, but made it clear that we believed that a period of pre-qualification work experience would have a significant role in developing the competence of intending solicitors and in assuring the credibility of the new approach to qualification and the solicitor brand. We asked for early views on the role of pre-qualification work experience to inform a subsequent consultation in 2016.

Question 6: Do you agree that we should continue to require some form of pre-qualification workplace experience?

Many respondents agreed that we should continue to require some form of pre-qualification workplace experience.

A smaller number of respondents disagreed.

Reasons why respondents agreed included:

- It is only in the workplace that trainee solicitors really learn how to do their job and develop their practical legal skills and professional ethical values.
- Consumers expect a solicitor to have had workplace experience before they qualify, and confidence in the profession would be damaged if there was no such requirement.
- Pre-qualification work experience is needed to protect the quality of advice to consumers.
- The international reputation of solicitors would be damaged if there was no requirement for workplace experience.
- Trainee solicitors would not be able to pass SQE part two without experience in the workplace.

Reasons why respondents disagreed included:

- The ability to access workplace experience will continue to be a barrier to qualification.
- If the SQE assesses competence as claimed, requiring pre-qualification workplace experience in addition is an unnecessary barrier to qualification.
- It is not possible to comment without more information about the SQE and the timing and regulation of any pre-qualification workplace experience.

Question 7: Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?

Many respondents felt that it was necessary to specify a minimum time period. There were differing views on how long this should be but most respondents proposed a period of pre-qualification workplace experience of between 18 months to two years.

A smaller number disagreed.

Reasons why respondents agreed included:

- Specifying a minimum time period ensures consistency and a common standard.
- There is a risk of a 'race to the bottom' if a minimum time period is not specified.
- A minimum time period will provide certainty and clarity for both trainee solicitors and employers.

Reasons why respondents disagreed included:

- Specifying a minimum time period does not take into account the fact that trainee solicitors develop their competence at different rates.

Question 8: Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?

The majority of respondents disagreed, with most saying that the SRA should specify the competences to be met in addition to specifying a minimum time period. There was also support for greater regulation by the SRA of any period of pre-qualification work experience.

A smaller number of respondents preferred the approach of specifying competences rather than a minimum time period for the following reasons:

- Specifying competences would give a better focus to the period of pre-qualification workplace experience.
- It recognises that trainees have a range of prior experience, knowledge and skills and may not all need the same time period to meet the competence requirements.

Reasons given by respondents why both should be specified included:

- Specifying the competences alone does not provide consistency and clarity about what is expected of trainee solicitors or employers.
- If a minimum time limit is not specified, then there is risk of poor practice and abuse of the system.

A small number of respondents did not feel that it was necessary to specify the competences at all. Reasons included:

- Specifying the competences will not guarantee uniformity of experience in the workplace because of the variety of legal work.
- The requirements of the competences may be too restrictive, particularly for small firms, and not aligned to business need.
- It would introduce an additional layer of bureaucracy.

Question 9: Do you agree that we should recognise a wider range of pre-qualification work experience, including experience obtained during a degree programme, or with a range of employers?

Many respondents agreed that a wide range of pre-qualification workplace experience should be recognised but only if that experience was regulated, was under the supervision of qualified solicitor and was aligned to any specified competences.

A smaller number disagreed.

There were mixed views on whether any work experience undertaken during an academic programme should be recognised.

Reasons why respondents agreed that a wider range of experience should be recognised included:

- There is already flexibility built into the 2014 regulations for the PRT, including enabling previous experience to be recognised through 'time to count'.
- Greater flexibility is likely to attract a more diverse work force.
- Paralegal work experience of the right standard should be recognised as relevant experience.
- There are benefits for trainee solicitors and employers of gaining experience in different sectors and firms.
- The 2014 PRT regulations favour experience gained in commercial services/law.
- The 2014 PRT regulations favour younger trainee solicitors who are seeking to qualify after university; they indirectly discriminate against older trainees who may have already gained relevant legal work experience.

Reasons why respondents disagreed included:

- It would not be possible to assure a consistent experience or assure standards across multiple employers/firms.
- A relaxation in the requirements for a PRT would result in a drop in standards and reputational damage.
- An increase in flexibility would create a two tier system where some experience is more highly valued than others, thus disadvantaging some trainee solicitors.

Other comments included:

- To ensure that any block of experience counted is of a substantial nature, a minimum time period should be specified.
- There should be a period of validity to ensure the relevance of any experience.

Question 10: Do you consider that including an element of workplace assessment will enhance the quality of the qualification process and that this justifies the additional cost and regulatory burden?

Many respondents felt unable to answer the question without further detail of what might be required as part of workplace assessment and what the likely cost might be. Also, some respondents were not clear about the difference between workplace experience and workplace assessment.

Others said that even if it was costly, that was not a valid reason for not including workplace assessment within any revised regulatory approach.

Some respondents replied that workplace assessment need not necessarily be complex or costly.

Comments from those who felt that it was unlikely to justify the additional cost and regulatory burden included:

- Any additional cost or time commitment is likely to deter employers, especially in small firms, from recruiting trainees.

- The SQE should be the vehicle for assessing competence at the end of a period of pre-qualification workplace experience.

Question 11: If you are an employer, do you feel you would have the expertise to enable you to assess trainee solicitors' competences, not capable of assessment in part one and part two, to a specified performance standard?

Many respondents did not answer this question; some because they were not employers, others because they felt unable to answer the question without further detail of what might be required as part of workplace assessment.

Most employers who responded said that they would be capable of assessing to the standard required to determine whether a trainee was a competent solicitor.

But some employers said that if they were required to assess to a standard equivalent to a QLD or LPC, they would not be able to do so.

Comments from respondents who were not employers included:

- Employers should not be determining whether their staff were competent as there could be a potential conflict of interests. The SRA should be making that judgment.
- Employers would be likely to pay training providers to carry out any workplace assessment.

Question 12: If we were to introduce workplace assessment, would a toolkit of guidance and resources be sufficient to support you to assess to the required standard? What other support might be required?

Many respondents did not answer this question; some because they were not employers, others because they felt unable to answer the question without further detail of what might be required as part of workplace assessment.

The majority of respondents said that a toolkit would be helpful. Other suggestions for support included:

- sample portfolios of evidence of competence
- training for workplace supervisors and assessors
- having the opportunity to compare judgments with others
- better regulation by the SRA of training providers
- sample assessments.

Section 3 (continued): Entry requirements

We did not include a formal proposal in our consultation document about the regulation of training pathways or specification of entry requirements but asked for views on a range of options.

Question 13: Do you consider that the prescription or regulation of training pathways, or the specification of entry requirements for the SQE, are needed in order to:

- support the credibility of the assessment?

- and/or protect consumers of legal services and students at least for a transitional period?

A majority of respondents considered that both the regulation of training pathways and the specification of entry requirements were needed to support the credibility of the SQE and to protect consumers of legal services and students. Most argued that this should not just be for a transitional period.

A small number of respondents argued that specifying entry requirements or pathways would restrict opportunities to develop more flexible and innovative training courses.

Reasons in support of regulating training or specifying entry requirements included:

- Not having entry requirements or specifying pathways will damage the reputation of the solicitor brand domestically and internationally.
- An unregulated training market will lead to crammer style courses, which will not develop the necessary skills required to be a competent solicitor.
- An unregulated training market will damage the reputation of the solicitor brand domestically and internationally.
- Regulating training and specifying pathways is necessary to protect both students and employers.
- If pathways are not specified, there will be less clarity about the routes to qualification and a two tier system will emerge, where particular routes are preferred by employers. A two tier system of this kind is likely to disadvantage students without access to informal networks who are unaware of employer views.

Question 14: Do you agree that not all solicitors should be required to hold a degree?

In our consultation, we proposed that a degree was not an essential pre-requisite for safe practice and that we could see no regulatory justification for introducing a new requirement that all solicitors must be graduates.

A majority of respondents agreed that not all solicitors should be required to hold a degree. However, some respondents said the wording of this question was unclear and, in light of this, it is possible that some respondents may have misinterpreted the question.

Reasons why respondents agreed included:

- It is currently the case that non-graduates can qualify as a solicitor and there is no evidence of consumer detriment.
- It is important that solicitors can demonstrate graduate level skills but this can be demonstrated through equivalent qualifications or experience, not just through a degree.
- Recognising equivalent qualifications in addition to a degree is likely to widen access to the profession.

Reasons why respondents disagreed included:

- Most other professions require a degree.

- It would damage the public perception and threaten the reputation of the solicitor brand if a degree was not a requirement to qualify.
- It risks the creation of a two tier system where graduates are preferred by employers and intending solicitors taking alternative routes are not able to gain employment.
- A degree is necessary to develop the academic, analytical and critical thinking skills required to practise as a solicitor.
- Those who qualified previously under the 'five year' rule did not just have to pass a centralised assessment; they had to develop their skills over an extended period of time.
- Most solicitors have a degree; it is likely to be an exception not to hold a degree.

Section 4: Equality, diversity and inclusion (EDI) issues

In the consultation document, we proposed the use of data as a regulatory tool to support diversity, regulate preparatory training for the SQE and protect candidates' interests.

Question 15: Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?

Some respondents did not feel that they had enough information about the SQE or what was being proposed in terms of grading or ranking to answer this question.

Of those that responded, a majority agreed that candidates should be provided with data on their individual performance on the SQE.

Reasons why respondents agreed included:

- This would provide useful feedback to inform future learning and choice of career pathways.
- Candidates and employers would wish to see scores across different assessments/modules.
- What would be the rationale for not providing this data?

There was greater variation in the responses to the second part of the question – whether comparative performance data should be published.

Those who argued against the publication of this comparative data did so for the following reasons:

- If the SQE is intended to be an assessment of competence, results should be reported only as either competent (pass) or incompetent (fail).
- The introduction of grading or the ranking of candidates would increase the complexity of the assessment.
- Performance on the SQE would inevitably be affected by the quality of preparatory training and experience and this would favour more affluent or employer-funded candidates who could afford to pay for the best training and have access to the greatest breadth of experience. Differentiating candidate performance in this way would not therefore necessarily support our aim of increasing diversity as candidates would not be competing on a level playing field.

Others supported the proposals, arguing that if employers are not able to use graded or ranked results from the SQE to differentiate between applicants then they will use other less

relevant information within their recruitment processes, such as university attended and A level and GCSE grades.

Question 16: What information do you think it would it be helpful for us to publish on:

- overall candidate performance on the SQE?
- training provider performance?

Some respondents didn't answer this question. Of those that did, the majority of respondents said that it would be helpful if we published overall candidate performance on the SQE because it would enable all stakeholders to monitor the performance of the SQE, it would support EDI monitoring, and it would enable candidates to know the likelihood of passing the SQE.

There was greater variation in the responses to the second part of the question – whether it would be useful to publish training provider performance data and what data might be published.

Reasons in support of publishing training provider data included:

- It would support the development of a competitive and open marketplace.
- It might mitigate the development of crammer courses or poor quality training provision.

Those that did not agree gave the following reasons:

- Training providers with the highest success rates would be more likely to increase their fees.
- Candidate performance data must be contextualised in terms of background, prior educational achievement and training pathway to be meaningful.
- Data about provider performance is commercially sensitive and SRA has no regulatory role in releasing such data.

Question 17: Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?

We published an initial EDI impact assessment as part of our consultation document and asked respondents if they foresaw any additional impacts.

Many respondents anticipated negative EDI impacts.

A smaller number of respondents said that the introduction of the SQE would have a positive impact.

Some respondents felt that the introduction of the SQE would have no EDI impact because:

- The SQE will not address prior educational or social disadvantage.
- If there continues to be a requirement to gain pre-qualification work experience before admission, the existing barriers to joining the profession will remain.

The reasons given for anticipating a positive impact were:

- A centralised professional assessment taken by all intending solicitors would be fairer and more transparent.
- If the achievement of the SQE alone, without a requirement for pre-qualification work experience, gave admission to the profession, this would remove a barrier to qualification.

Reasons offered for foreseeing potential negative impact included:

- The introduction of the SQE will introduce an additional cost, as yet unknown, which will increase the cost of qualification as most intending solicitors will still study for a degree and will require preparatory training for the SQE part two. There is no guarantee that the cost of this preparatory training will cost less than the LPC and PSC.
- The assessment methods proposed for the SQE, including the use of computer-based multiple choice questions, are likely to be discriminatory.
- If unlimited attempts to sit the SQE are permitted, this would favour more affluent or employer-funded students.
- There would be less clarity around the routes to qualification, favouring students who have access to informal networks and discouraging those from disadvantaged backgrounds.
- A two tier system would emerge where employers favour trainee solicitors following the traditional route to qualification.
- The introduction of the SQE part two, taken during or at the end of a period of pre-qualification workplace experience would deter employers, especially small employers, from recruiting trainee solicitors. This would limit opportunities to train outside large or city firms who do not recruit a diverse workforce.

Section 5: Transition, timetable and next steps

Question 18: Do you have any comments on these transitional arrangements?

We recognise that some aspiring solicitors might be part way through their route to qualification at the time that the SQE and the new regulations come into effect and in our consultation we set our transitional arrangements for domestic and international candidates.

Some respondents did not comment on our proposed arrangements or felt unable to without further details about the SQE.

Comments from those that did included:

- Domestic candidates who had completed or were part way through a QLD should be exempt from all of the SQE part one.
- Candidates who have started a QLD when the new regulations come into effect should be allowed to continue with the existing pathway to qualification.
- Transitional arrangements cannot be determined until a final decision has been made about the SQE and the new approach to qualification.

Question 19: What challenges do you foresee in having a cut-off date of 2025/26?

Assuming that the new regulations come into effect in 2018, we proposed a cut-off date for admissions of the end of academic year 2025/26.

Some respondents felt unable to comment on our proposed arrangements.

Those that did respond identified the following challenges:

- A long transitional period is likely to cause confusion.
- However long the transitional period, some candidates will be affected and some system of waivers or special considerations will be required.

Question 20: Do you consider that this development timetable is feasible?

The development timetable in the consultation document proposed that the SQE assessments became available in autumn 2018, after a period of testing in 2017 and 2018.

Some respondents felt unable to comment on the feasibility of the timetable, but of those that did, the majority did not feel that our development timetable was feasible.

Universities and training providers in particular did not feel that the timetable allowed them sufficient time to revise their courses to accommodate the SQE.