

**Solicitors  
Regulation  
Authority**

# **Training for tomorrow: Assessing competence**

**Consultation on a proposal to introduce the Solicitors  
Qualifying Examination: Consultation responses**

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October 2016

### Responses

Abbe Brown - University of Aberdeen

Adam Brown

Adrian Berry - Immigration Law Practitioners' Association

Alastair Mullis - University of Leeds

Alexandra Jordan- Cardiff and South-East Wales Junior Lawyers Division

Alison Brammer - Keele University

Alison Yuen

Amanda Fancourt- City University London

Andrew Callaghan - University of Sheffield

Andrew Chadwick - BPP University Law School

Andrew Hart

Andy Unger- London Southbank University

Anglia Law School, Anglia Ruskin University

Ann Murphy- Liverpool Law Society

Anne Davies- University of Oxford

Arvind Thiruvallure Thatta - New Castle Law School

Association of South Western Law Societies (ASWLS)

Becky Huxley-Binns- The University of Law

Ben Middleton- Sunderland University

Beverley Sorsby- Ropes & Gray International LLP

Birmingham City University Law School

Birmingham Law Society

Byron Jones- Cardiff University

Carol Cook - University of Huddersfield

Caroline Collins

Caroline Pearce - City of London Law Society

Ceri Evans

Chidinma Nwahirie

Chris Lee

Chris Wilkinson- The Association of Graduate Careers Advisory Services (AGCAS)

Christina Perry - Queen Mary University of London

Christopher White - Aspiring Solicitors Junior Advisory Board

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Colin Lester- Cambridgeshire & District Law Society  
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Coral Hill- Association of Women Solicitors  
Cordella Bart Stewart - Black Solicitors Network  
Damian Kelly  
David Dixon  
De Montfort Law School, De Montfort University  
Diana Payne- London Criminal Courts Solicitors' Association (LCCSA)  
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Fiona Fargher - LJMU School of Law  
Freshfields Bruckhaus Deringer llp  
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Graham Julian Jones  
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Hazel Biggs - University of Southampton  
Helen James - University of Winchester  
Herbert Smith Freehills LLP  
Hilary Underwood - Sole Practitioners Group  
Holly Gaskin-Old  
Hugh Price Cardiff and District Law Society  
Hugh Rowland - Criminal Law Solicitors Association  
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Jenny Knox  
Jill MM Phillips  
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Johanna Sahti-Proto  
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John Hodgson - Association of Law Teachers  
John Moriarty - Bristol Law Society  
JPA Baird  
Julian Rivers - University of Bristol Law School  
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Kate Cooper - Bristows LLP  
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Kerry James - Burges Salmon LLP  
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Krzysztof Kwiatkowski  
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Marion Elizabeth Vesey - Shacklocks LLP  
Mark Edwards- Rocket Lawyer UK Ltd  
Martin McKay-Smith  
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Michael Rutstein  
Nathan Heyes  
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Nottingham Law Society  
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Paul Downing  
Paul Scholey- Morrish Solicitors LLP  
Paul Seath - Bates Wells Braithwaite  
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Peter Cartwright- School of Law, University of Nottingham  
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Puneet Tahim- Lathan & Watkins  
QLTS Law School

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Rachel Woodburn -Travers Smith  
Rebecca Yates  
Richard Album - Legal Education and Training Group (LETG)  
Richard Hyde  
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Richard Taylor - Society of Legal Scholars  
Saami Salami  
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Sarah Jane Littlemore - Weightmans LLP  
Sarah L Hughes- South London Law Society  
Scott Storch - York Law School, University of York  
Shelagh Taylor  
Simon Timothy Harker - Government Legal Service  
Steven Walker- Roberts  
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The City of Westminster & Holborn  
The Law Society  
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Toby Stephens- Holman Fenwick Willan LLP  
Tony Steiner - Devon & Somerset Law Society's Education & Training Sub-Committee  
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University of Wolverhampton Law School  
Viola Joseph- Hogan Lovells International LLP  
Warwick Law School  
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Young Legal Aid Lawyers  
Yousif Naji Hussain  
Zoe Kalandra Lock

### **Anonymous responses**

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### **Responses not published**

Simon Hart

Stephanie Tidball

Nigel Duncan

Roehampton Law School

Anthony George King



Abbe Brown - University of Aberdeen



## **T4T - Assessing competence**

### Consultation questionnaire form

This form is designed to be completed electronically—in MS Word. Please save it locally before and after completing it.

**To request an alternative format please visit [www.sra.org.uk/contact-us](http://www.sra.org.uk/contact-us).**

## 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?

No.

The proposals may lead to a requirement to complete a degree, an LPC, then training for the SQE. This may impose an additional burden on entrants, both in terms of time and cost.

The profession is likely to suffer if entrants do not take this pathway and instead choose intensive study (over say a period of months) leading to successful pathway of part 1 exams but limited training and transferrable skills. It would then be for firms to provide this additional training and understanding to entrants - if positions could be found for entrants who did not have a degree. The very possibility of law being a profession open to those who did not have a degree may make it less appealing, with a decline in quality entrants. There could also be a potential negative impact on wider education and societal goals, if Law Schools focus on delivering part 1 training rather than providing students with a wide ranging educational experience and the opportunities to use law in a range of further careers, all of which contributes to the central place of law in society. The narrow approach with a focus on assessment could also be inconsistent with the increasing focus on teaching excellence, the student experience and the contribution of law to wider research. This might in turn lead to some universities choosing not to teach to the part 1, focussing on postgraduate teaching and research. This would in turn be inconsistent with encouraging the most able and promising students to enter law as it is a challenging career.

Generally, solicitors and firms vary and develop in the light of clients and their needs. The time for assessment is at the end of the degree (or equivalent) and then the end of the practical training.

If the barristers profession does not take a similar approach, and it seems unlikely that they will, this will be an unhelpful division between these two branches of the profession at a time of significant change and interaction. Further, if the bar continues to require a degree, concerns of distinction between pathways may increase - and the esteem of solicitors in society may fall.

## 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?

No.

We agree that solicitors should be able to draw on sufficient knowledge (compare part of the existing Foundation Requirements and SRA benchmark statement), address ethical issues, and be competent across the practical legal skills areas. This knowledge should be demonstrated over time (eg through degree and other studies) before work starts in a firm, and then demonstrated and assessed informally through firms on an ongoing basis.

Assessment of the nature proposed can be both burdensome and unrealistic. It will involve many in duplication of study eg those who choose to continue with degree.

Further, without sight of sample assessment, this issue cannot be assessed fully. It is important however that there is a high level of sophistication and testing of understanding and creativity in demonstrating appropriate legal knowledge. A true/false assessment does not fit this; other professions might in some cases be better suited to this.

### **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?

No. This is highly onerous and imposed an unnecessary barrier on solicitors who can contribute to the profession and meet clients needs. It is also disrespectful to the professions in other countries. A limited level of examination is much more appropriate depending on the jurisdiction and expertise of the solicitor involved.

## Question 4

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

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

Subject to points above, which do not agree with the proposed SQE: option b would be preferred. This option recognises existing needs of firms and what solicitors are actually doing. The time for ensuring basic knowledge is much earlier in the training process. The views of the profession on this are obviously key.

## **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?

Yes.

## Question 6

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

Yes

## Question 7

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

Yes. No matter the level of prior experience in other fora or for example as part of a degree, a period of working in a firm in a solicitors role is essential prior to qualification. This enables skills to continue to be developed, including working with clients and with colleagues, and to hone existing skills within the solicitors context. If this is not done, clients will suffer, colleagues will need to provide additional support, and the overall service will not be that to be expected of a qualified solicitor.



## **Question 8**

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

No. This would pose a burden on firms to administer and also devalues the skills and experience gained from being in a training role for a period of time.

## **Question 9**

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

Yes although there should still be some requirement of spending some time with a firm in a trainee role as well as other roles. The level of recognition should vary with the nature and level of pre-qualification workplace 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?

This could assist particularly through say reflective workplace diaries and discussion with supervisors (which already exists) and sharing this with the regulator. Care would need to be taken that workplace assessment does not imposing an undue burden on firms and does not devalue the steps in training and teaching and learning taken prior to entering the workplace.

## 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 1 and Part 2, to a specified performance standard?

N/A

## 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?

N/A

## 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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

Yes.

Yes.

There is much more to being a solicitor and providing services to a client than intelligence and performance to an academic standard. These are, however, key requirements and they should continue to be demonstrated by entrants and training provided by Universities. (and so by providers).

## **Question 14**

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

Yes. However, intelligence and ability to cope with challenging concepts at graduate level must be demonstrated in other ways, over a sustained period of time, for example through other training and work experience. This is not the same as being able to pass the first level of the proposed SQE.

## Question 15

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

Yes



## Question 16

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

Race, gender. Entry levels to provider and the diversity of their intake .

## **Question 17**

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

How are firms likely to respond? Will they be less willing to have trainees? Any new regime will need to be promoted and explained effectively and to be based on strong prior interaction with the profession.

## Question18

Do you have any comments on these transitional arrangements?

No

## Question 19

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

None

## **Question 20**

Do you consider that this development timetable is feasible?

No, especially tender process.

**Thank you for completing the** Consultation questionnaire form.

Please save a copy of the completed form.

Please return it, along with your completed **About you form**, as an email attachment to [consultation@sra.org.uk](mailto:consultation@sra.org.uk), by **4 March 2016**.

Alternatively, print the completed form and submit it by post, along with a printed copy of your **About you form**, to

SQA consultation  
Solicitors Regulation Authority  
Regulation and Education  
The Cube  
199 Wharfside Street  
Birmingham  
B1 1RN

# Consultation - T4T assessing competence

Response ID:333 Data

## 2. Your identity

### 1. Surname

Brown

### 2. Forename(s)

Adam

### 3. Name of the firm or organisation where you work

Student

**4. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Attribute my/our response and publish my/our name.

**5. Please identify the capacity in which you are submitting a response. I am submitting a response... as a student studying for a qualifying law degree or legal practice course**

## 3.

**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?**

yes

## 4.

**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?**

yes

## 5.

**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?**

yes

## 6.

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

a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?

**Why...**

More choice is better and more realistic to career

## 7.

**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?**

Definitely

## 8.

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

Yes

9.

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

Yes

10.

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

No

11.

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

Yes

12.

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?

Yes

13.

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 1 and Part 2, to a specified performance standard?

Yes

14.

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?

Yes

15.

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?

16. (untitled)

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

no

17.

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

yes

18.

16.



**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

yes

19.

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

no

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

21.

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

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

Adrian Berry - Immigration Law Practitioners' Association

## T4T - Assessing competence

### Consultation questionnaire form

This form is designed to be completed electronically—in MS Word. Please save it locally before and after completing it.

#### 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 do not consider that there is sufficient information available to answer this question.

The stated aims are to ensure consistent and comparable high quality standards and ensure that the most talented candidates qualify as solicitors through diverse pathways to qualification that remove unjustifiable barriers. As yet there is no information on the cost of the SQE which will be a significant factor influencing the latter of these considerations, alongside the decision whether to require the LPC. The overall costs of qualification must be considered.

As we said in our response of 7 January 2015:

In terms of general feedback ILPA remains concerned that if the key purpose of the new competency standard is to diversify the routes to qualification then a lot more will need to be considered as to how these matters can be evaluated. Care will need to be taken to ensure that the changes do not result in fewer training contracts being available which may have an impact in terms of equality of opportunity for certain groups by reference to race, gender, sexuality or age.

In addition is there a danger that a checklist will lead to a reduction in the achievement of the highest standards replaced by a modicum of mediocrity.

## 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?

Much will depend upon the detail of the areas assessed. The difficult issue will be whether to assess a broad range of practice areas or not.

As we stated in our previous response:

The profession of solicitor is increasingly differentiated. There are generalist practitioners although few if any would claim that they practice across all or even most areas of law. There are many others whose practice is very highly specialized indeed. We suggest that it is necessary to consider:

- What any solicitor is expected to cover in the academic phase of training
- What any solicitor is expected to experience during a training contract/the early months/years of practice
- What all solicitors are expected to have detailed knowledge of and be up to date with throughout their careers
- What all solicitors are expected to have some (to be defined) knowledge of throughout their careers and maintain that knowledge up to date
- What solicitors across broad practice areas are expected to have detailed knowledge of and be up to date with throughout their careers
- What solicitors across broad practice areas are expected to have some knowledge of throughout their careers and maintain that knowledge up to date
- What solicitors in specific practice areas are expected to have detailed knowledge of and be up to date with throughout their careers

### **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?

If the SQE is to be introduced yes this should be required for all those wishing to qualify as a solicitor, otherwise the objective of consistency will not be met.

Whether or not the SQE will achieve this desired consistency will only be apparent once the full details of the subjects assessed, costs and remaining qualification criteria are available.

## Question 4

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

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

We are unable to answer this question until the full range of options is laid out. However more generally, our members would benefit from assessment offering a broad range of specialisms reflecting the diversity of the profession.

Again as stated in our previous response:

We suggest the separate legal areas of public law, EU law, human rights and discrimination and equalities law.

We should not expect, for example, solicitors who go on to develop a public law practice to retain detailed and up to date knowledge of wills and administration of estates. Similarly, with matters such as taxation. In the field of immigration, business immigration lawyers are likely to need greater knowledge of taxation than those practicing in asylum.

Immigration status increasingly impinges on very many areas of civil life, besides immigration control's being backed by a long list of crimes. We consider that a basic understanding of legal status in the country and of control before, on and after entry is now relevant to all practice and should form part of the curriculum for all students. More broadly, solicitors may be called upon to advise on issues of civil status in many different contexts. Adoption, gender recognition, marriage, civil partnership, capacity, death can impinge on practice in many areas. Questions of private international law are also relevant here.

We are aware that there is frequently cross-over in our field with employment law and we do not consider that this is unique to immigration. Whether under other headings or standing alone, employment law should be mentioned.

## **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?

Yes.

## Question 6

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

In our experience, pre qualification workplace experience is a useful tool that enables practitioners to develop their skills and knowledge. Yet the availability of training contracts does present a significant barrier for entry into the profession and therefore affects diversity within the profession.

Much will depend on the method of assessment.

Potential candidates often gain experience and develop core skills as interns and caseworkers, so a more flexible approach to the nature of the pre qualification workplace experience would mean this becomes less of an obstacle to entering the profession. Also the need for experience in 3 different seats should be reviewed, as this can act as a bar to becoming qualified and does not recognize there is great deal to be gained from focusing on one area practice as you are more likely to have a more rounded training experience.

## **Question 7**

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

This depends on what one hopes to achieve. If a candidate has reached a specified standard in terms of ability to draft advice and representations, conduct basic advocacy and research, is a specified period necessary?





## **Question 8**

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

Yes - although until the assessment criteria to be used are clarified it is difficult to answer this question.

## **Question 9**

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

Yes - ILPA supports a wide range of routes to qualification providing that the assessments are consistent, achievable and clear.

## **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?

Answered above.

## **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 1 and Part 2, to a specified performance standard?

If this was assessed independently, like the immigration accreditation, you could ensure a consistent standard across the profession. Also it would give trainees greater confidence in the fairness of the system, and remove the burden from employers.

## 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?

We are unable to comment at this stage without detail about how the tool will be used. If a work place assessment is to be introduced then this must set clear objectives of the standards to be met. How will this be monitored and regulated?

How will an employer react if an employee does not meet the required standard? One query ILPA would like to raise again and which has not yet been answered is if a firm that is involved in training concludes that an individual has not met the competence standard could they end up in a dispute with an employee/former employee for an assessment as to that competency by another body. If so who bears those costs of the setting up of such a body.

The assessment of professional standards should be based on a set of clear competencies. We welcome the moves to work closely with the Bar Standards Board and the Chartered Institute of Legal Executives (CILEx) and other regulators, for example in immigration and asylum law, the Office of the Immigration Services Commissioner (OISC), and so we should like to request that the Solicitors Regulation Authority works closely with these other regulators to promote consistency and ensure that consumers can compare services offered.

ILPA would like to highlight our real concerns about the lack of clarity amongst the regulators about how to facilitate pro bono working by qualified expert solicitors and barristers to ensure that regulation does not place unnecessary bureaucratic hurdles in the way of this, whilst being conscious of the need to protect clients against poor advice.

## 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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

Yes providing that there are a sufficient number of pathways to ensure diversity within the profession.

## Question 14

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

Yes.



## **Question 15**

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

Yes but see the next question.

## Question 16

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

We are unable to comment at this stage without detail on the scheme as a whole however:

a) Care would need to be taken over how this is implemented. Candidates would of course find it useful to know how they fared however if employers were to use this when recruiting, there is a risk that candidates with better resources could re-sit to improve their results.

b) ILPA agrees that it is important that candidates and employers are able to assess the competency of training providers.

## **Question 17**

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

Without more detail it is hard to say, but efforts should be made to keep the costs of any new qualification or assessment to a minimum as this is real burden for debt laden students and will be a deterrent to many who wish to enter the profession. To be blunt, this should not be a money making exercise for those involved in organising and carrying out the exams/assessments.

There were some concerns expressed by ILPA members about the ability of the SRA to effectively evaluate the impact in terms of equality and diversity.

## **Question18**

Do you have any comments on these transitional arrangements?

Students who have already started their undergraduate degree in law could be particularly disadvantaged. If universities begin to incorporate study towards the SQE as part of the undergraduate degree, then a student part way through the current degree structure would be disadvantaged. Would they still be able to qualify under the existing arrangements? Much will depend on the detail still yet to be provided.

## **Question 19**

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

See above

## **Question 20**

Do you consider that this development timetable is feasible?

ILPA is not in a position to answer this question.

**Thank you for completing the** Consultation questionnaire form.

Please save a copy of the completed form.

Please return it, along with your completed **About you form**, as an email attachment to [consultation@sra.org.uk](mailto:consultation@sra.org.uk), by **4 March 2016**.

Alternatively, print the completed form and submit it by post, along with a printed copy of your **About you form**, to

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# Training for Tomorrow: assessing competence

## Response of the School of Law, University of Leeds

### Overview

The School of Law at the University of Leeds is one of the leading law schools in the UK, and has over a century of experience in legal education. All our teaching draws on the expertise generated by our three main research centres: Business Law and Practice; Criminal Justice Studies and Law and Social Justice. The direct link between these research centres and our undergraduate programmes ensures that the teaching is relevant, focused and delivered by leaders in the field.

The School enjoys strong relationships with the profession in what is the largest legal and financial sector in the country, outside London. This relationship between university legal education and the legal profession is critically important. A strong and clear link between the academic discipline of Law and its practice environments, enables our graduates to develop the necessary skills, knowledge and attributes to forge successful careers within the profession. Moreover, it enables innovation in legal services to be informed by cutting edge research, and for research in universities to deliver an impact in the most disciplinarily relevant environment.<sup>1</sup>

Our degrees are already characterised by innovative practice, informed by educational developments and a research-driven understanding of the professional landscape. We will continue to ensure that our graduates are effectively prepared so that they are in the strongest possible position to realise their aspirations to enter the legal profession and a range of other professional sectors. The conversation begun by LETR and continued by the SRA is an important and timely one in a rapidly changing, highly complex legal services marketplace. However we have serious concerns about much of the detail that has been proposed by the SRA and, particularly, the un-intended consequences of the proposed changes.

We are strongly committed to the SRA's objectives to achieve proportionate regulation and appropriately robust measures of the standards of solicitors entering practice to ensure consumer confidence in the profession and the wider legal system. Moreover, we have a demonstrable track-record of supporting the objectives to deliver a fair and diverse legal profession open to all, irrespective of background. The responses below are, therefore, offered in this spirit of constructive dialogue.

Our response draws upon the considerable research expertise that the School enjoys in the field of the legal profession, its regulation, education and professional diversity and, in particular, the extensive work carried out by Professors Francis, Loughrey and Sommerlad. Professor Sommerlad has been conducting research into the legal profession for over two decades, her work is highly cited and has been commissioned by leading policy stakeholders and regulators. A particular focus has been the factors behind the relative failure of the profession to diversify, particularly in its upper echelons, beginning with a study of the position of women solicitors (leading to the first full length academic study of women solicitors in the UK in 1998). Her continuing engagement in this issue led her to establish the Centre for Research into Diversity in the Professions, whose work included the 2013 research for the LSB: *Diversity in the legal profession in England and Wales: a qualitative study of barriers and individual choices*. Most recently, she has carried out research with Dr Louise Ashley and Professor Jo Duberley for the Social Mobility Commission into the barriers faced by non-traditional aspiring professionals. This most recent study reinforces

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<sup>1</sup> The School of Law at Leeds was rated Top 5 in the country for its research impact (REF 2014).



previous findings, namely that firms are particularly attracted by behavioural and personal attributes which suggest 'class'; and that indicators of upper middle class status such as Oxbridge education are regarded as highly significant in 'selling the firm'. Professor Loughrey has a leading reputation in regulation of the legal profession,<sup>2</sup> the law regulating lawyers (especially conflicts of interest and legal professional privilege) and the regulation of conduct in financial services. Prior to this, she was a commercial litigator in Hong Kong and England and Wales. Professor Francis has developed a leading reputation in the regulation and organisation of the legal profession, with projects funded by Inner Temple, the Nuffield Foundation and the UK Centre for Legal Education. His most recent work looking at Social Mobility and Employability was published in the *Journal of Law and Society* in 2015.<sup>3</sup> Our combined research expertise causes us to doubt many of the propositions upon which the proposed reform appears to rest.

The University of Leeds has a sector leading track record in widening participation and outreach work. "Access to Leeds" is one of the largest contextual admissions schemes in the country and is testament to our position as a University and a School of Law with a great deal of expertise not only in recruiting students from non-traditional backgrounds but supporting them thereafter. Thus, through the Leeds+ programme (which, as set out in our Access Agreement, we believe to be one of the most comprehensive support infrastructures for WP students in the country) we support them through to graduation and beyond. The School has also been successfully running for many years, in collaboration with the Sutton Trust, Pathways to Law. The Pathways to Law programme was set up in 2006 by The Sutton Trust and The Legal Education Foundation, with support from major law firms, to inspire and support academically-able students in year 12 and 13 from non-privileged backgrounds interested in a career in law. Pathways to Law was established to widen access to the legal profession. It followed research by the Trust which showed that the top echelons of the profession were drawn from a narrow range of social backgrounds – and law firms were not making full use of the talents of students from non-privileged homes. We are concerned that effective structures such as these, explicitly designed to support students from non-traditional backgrounds into HE and beyond will be threatened by many of the unintended consequences of the SRA's proposals.

It should also be noted that we share many of the conclusions and reservations of the Leeds Law Society, which drew on a significant survey of local stakeholders.

### **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?*

No. The SRA's paper does not provide evidence that a SQE will meet the objectives set out in paragraph 10. In particular, there is no evidence that a centralised, assessment designed around computer based objective testing will assure consistent and comparable high standards. Thus, as the SRA are not proposing to benchmark the level of the assessment to any commonly understood national qualification framework, it is difficult to identify whether the standards that are assured are any higher or lower than are assured through current regulatory processes.

Moreover, there is no evidence presented to indicate why the current system does not meet appropriate standards, and how the proposed SQE will address any identified issues more effectively. LETR's conclusions were that overall the current system worked well (2013: ix)

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<sup>2</sup> See, e.g. Loughrey JM, 'Accountability and the Regulation of the Large Law Firm Lawyer', *Modern Law Review*, 77.5 (2014), 732-762

<sup>3</sup> Francis, A. (2015) 'Legal Education, Social Mobility and Employability: Possible Selves, Curriculum Intervention and the role of Legal Work Experience' 42(2) *Journal of Law and Society* pp. 173-201

and made a number of additional recommendations (see further below). The SRA's approach is a relatively narrow one of seeking, through the creation of the SQE, to achieve a consistency of standards and a diversification of routes – which it believes will support a more diverse profession – a belief which the evidence suggests is erroneous.<sup>4</sup>

It should also be noted that the evidence provided which purports to demonstrate the weakness of current standards in the university sector rests upon a single quotation from a HEFCE document published in 2015. This document is not a report setting out conclusions from a thorough review of the system; it is a consultation which poses a series of questions. Moreover, its overall premise is that “the proposals should not be seen to cast doubt on the ability of the current system to secure the reputation of the UK higher education system over recent years” (para 25). Critically, it notes that quality standards within UK higher education are currently assured through a range of different mechanisms. The line selectively extracted by the SRA comes at the end of the discussion suggesting that External Examining arrangements might be further strengthened (para 84). It should be noted that in its analysis of the responses to its Consultation (Nov 2015), HEFCE noted that the external examining point was, in fact, not straightforward and required considerably more work. We are concerned at this selective and misleading use of evidence and we would caution against its use to support a major policy initiative.

The SRA's proposal similarly fails to provide any evidence as to how the creation of the SQE along the lines proposed will address the diversity objective. Drawing on the School's research expertise in this field, and decades of experience in working with widening participation and social mobility initiatives, we believe that the SRA's proposals will, in fact, undermine what remains a challenging environment for social mobility.<sup>5</sup> The SRA proposals will further exacerbate what is an increasing complexity of routes towards the legal profession. Thus, particularly if the failure to work in a co-ordinated manner with the BSB continues, students will need the information, guidance and mentoring about the choices of education and training providers at an earlier stage. Even ostensibly similar pathways (e.g. a University Law degree) may not deliver the same outcome. One of LETR's key recommendations (2015:x), which the SRA did not highlight was the lack of information and understanding about the current pathways. Our research indicates that these knowledge asymmetries are particularly pronounced among those with little prior exposure to HE and the professions. Thus, there are real concerns that the proposals will impact negatively upon the very cohort of students that they are designed to assist. Moreover, as the Law Society has itself noted, the Legal Service Board's 2014 Statutory Guidance states that under Outcome 1 'regulators (should) act to facilitate easier movement between the professions, during training, at the point of qualification and beyond'. The SRA's proposals will make the situation worse - and, moreover add cost (see further below.)

It should also be added that a proposal to emphasise a route towards the legal profession, which symbolically marginalises the University route (whether or not it practically does), risks losing the expertise and experience of a sector which has been heavily involved in social mobility and widening participation initiatives, with success for a number of years. For example, Leeds has always been an active player in widening access to all students (see above). It was one of the first Law Schools to introduce the 'Pathways to Law' programme and has a current cohort of approximately 32% that are defined as 'widening participation' students. Leeds and other HEIs have decades of a demonstrable commitment to the

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<sup>4</sup> See e.g. Ashley, Duberley, and Sommerlad *A qualitative evaluation of non-educational barriers to the elite professions* 2015 (Social Mobility and Child Poverty Commission, London); Francis, A. (2015) 'Legal Education, Social Mobility and Employability: Possible Selves, Curriculum Intervention and the role of Legal Work Experience' 42(2) *Journal of Law and Society* pp. 173-201

<sup>5</sup> Ashley, L; Duberly, J. and Sommerlad, H (2015) *A qualitative evaluation of non-educational barriers to the elite professions* 2015 (Social Mobility and Child Poverty Commission, London)

widening participation agenda and can point to real successes. In order to ensure that the legal profession continues to be as open and diverse as possible, it is important that the university route towards professional qualification continues to be recognised as the central route. Moreover, the advantages of a degree should not be downplayed to cohorts of students, who through lack of appropriate information and planning may opt for shorter/cheaper routes.

The SRA could achieve its objectives by building on the strengths of the current system (as recommended by LETR, 2015: vi) to include a number of measures that could offer further assurances that the threshold standards have been achieved at point of qualification. Thus, some form of a centralised assessment (although further work would still be required on this – see below), might be possible, but should be built onto the current system through a combination of exemptions and recognised pathways. To do otherwise would be costly and inefficient in regulatory and financial terms – with the real burden likely to fall upon those from the most disadvantaged backgrounds.

Thus, pathways such as CILEX, apprenticeships and university law degrees (validated by as meeting the QAA benchmark), could offer partial or full exemptions from the Statement of Legal Knowledge. There are a range of additional mechanisms by which the SRA could satisfy itself that particular providers offered comparable quality – indeed many of them are clearly already contemplated within the transitional arrangements. Under the proposals within the Government's Green Paper, there is also likely to be a strengthened focus on quality and standards within the sector. In keeping with the approach in the HE sector, a proportionate risk-based approach to regulation might see a model of 'trusted provider' in the first instance, with further reviews at periodic intervals.

While the SRA references media concern about perceived grade inflation (particularly around the 2(i) / 1<sup>st</sup> class boundaries) and the HEFCE Consultation Document (June 2015) also references these concerns, there is no evidence that threshold standards are in question. QAA benchmarks are based around the minimum that a graduate should achieve and the SRA has followed a similar approach in designing its Threshold Statement. The SRA proposals do not provide evidence that there is a substantial harm in terms of the quality of threshold standards (demonstrated, for example, by a law degree) that needs to be addressed through the proposed changes. Any concern about the comparability of higher degree classifications is a matter of judgement for the recruiting profession. From a regulatory and consumer perspective, the issue is whether there is confidence in the achievement of the threshold standards. Appropriate recognition of existing pathways to provide exemptions can do this. It would lower regulatory cost and ensure that the SRA could effectively build on the strong features of the existing system without risking standards, the standing of the profession, or the gains that have been made in terms of social mobility.

## **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?*

No. The first important point in response to this question is that there is still far too little detail presented. The AlphaPlus Report notes that it would be risky to rely on a single instance assessment (p.13) and we share the Law Society's concern that there is insufficient information provided to assess that risk. However, on the basis of the information provided, we do not agree that the proposed model assessment within the SQE will provide an effective test of the competences needed to be a solicitor.

The computer based objective assessment model is designed to measure competence on the basis of the candidate's ability to demonstrate knowledge of the relevant areas and in

some cases apply that knowledge. They manifestly do not demonstrate either the higher level learning outcomes identified in Bloom's taxonomy and expressed in point 4 of the QAA generic undergraduate degree descriptor as 'an appreciation of uncertainty, ambiguity and limits of knowledge'. If the SQE is designed as a graduate level assessment it is difficult to see how it can sustain this claim if it is not designed to assess graduate level outcomes. Moreover, the SRA's own Knowledge Statement recognises the need for innovation and originality in the work of a solicitor and describes the threshold standard as being able to 'form judgements around possible ways forward'. Although computer based objective assessments are based upon certainty and clarity, legal practice is not like this. Without considerable work and a complex assessment model, it is difficult to see how many elements of the Competence Statement can be assessed. Of course, existing pathways, such as CILEX and Law degrees, are designed not only to develop these skill sets, but also to assess these learning outcomes in robust ways. A legal education and training regime needs to effectively incorporate these routes into its qualification processes.

Moreover, the proposed model assessment indicates that 'unflagged ethical questions' will appear throughout. The SRA rightly emphasises the importance of continuing to regulate the individual alongside its entity based regulatory approach and an important dimension of this is conveyed by the inclusion in legal knowledge of "The ethical concepts governing the solicitor's role and behaviour, including as expressed in the law, and the economic, social and cultural influences that can bias independent and ethical judgement." LETR also recognises the importance of ethics at all stages of legal education and training (2015: Chap 7.89). A snapshot assessment of a candidate's ability to address a specific (albeit unflagged) ethical question cannot be taken as evidence of the development of ethical reasoning and character. The work of Moral Psychologists makes clear the importance of practice and the educational input required to build ethical behaviour;<sup>6</sup> see too the work of the Virtue Centre on Character and the Professions at the University of Birmingham. Moreover, the work of leading ethicist Professor Philip Schrag (Director of the Center for Applied Legal Studies Georgetown University, US), highlights the time it takes to produce an ethical practitioner and the public interest in such work being done properly. There is a strong argument that the importance of developing ethical practitioners over time (and the SRA's role in supporting this) has been accentuated by the moral hazard posed by the marketization of the profession (see further Rostain & Regan's discussion of this<sup>7</sup> and also the essays by Professors Terry and Black in the 2011 LSB report on legal services regulation:<sup>8</sup>)

### 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?*

No. It is important to maintain exemptions for all including solicitor apprenticeships, lawyers qualified from other jurisdictions and those who have studied through CILEX or a validated University Law degree. To offer no exemptions for those who have followed CILEX/Apprenticeships/Law degree adds to the overall regulatory burden, increases costs

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<sup>6</sup> Nicolson, D. (2005) 'Making lawyers moral? Ethical Codes and moral character' 25(4) *Legal Studies* 601-626

<sup>7</sup> Tanina Rostain & Milton C. Regan, Jr., *Confidence Games: Lawyers, Accountants, and the Tax Shelter Industry* (Cambridge, Mass.: MIT Press 2014); Milton C. Regan, Jr. & Jeffrey Bauman, *Legal Ethics and Corporate Practice* (St. Paul, Minn.: Thomson/West 2005).

<sup>8</sup> Laurel S. Terry, *Understanding the Economic Rationale for Legal Services Regulation: The Importance of Interdisciplinary Dialogue*; Julia Black *Calibrating Regulation in Understanding the economic rationale for legal services regulation - A collection of essays*, LSB 2011

and inefficiencies and potentially increases the assessment load on students. All these issues run counter to the SRA's stated objectives. Thus, even if re-designed LLB content closely maps onto SQE Part 1, students will still face additional assessments without an exemption process.

The SRA is clear that the assessment will be at graduate level. However, it does not demonstrate how this claim will be objectively measured and assured. Incorporating existing qualifications (which are robustly and demonstrably at graduate level) into the qualification route would assist in this regard.

The critical issue for regulatory confidence is establishing the framework by which exemptions are permitted. All that is required is a mechanism by which providers demonstrate that their qualification (already subject to multiple mechanisms of quality assurance) meets the threshold competences as discussed above. This might be on the basis of modules, entire (or parts of) qualifications (degree/CILEX), or additional requirements – higher pass-mark for subject areas at different FHEQ levels of study. Depending on the level of risk that the SRA attached to particular providers, exemptions could be granted on a proportionate basis; e.g. greater scrutiny for new entrants (in an analogous manner to developing plans for HE nationally). This would send a signal that new entrants offering diverse pathways are to be welcomed and supported but subject to rigorous quality assurance.

AlphaPlus suggests that exemptions would limit the opportunity for the SRA to maintain oversight of a consistent approach, and suggest that Part 1 SQE assessments could be incorporated into existing programmes of study, such as law degrees (p.15). This does not address the concerns raised by the absence of exemptions, in particular in constraining the content of existing programmes and increasing the assessment burden. Were the SRA's proposals to lead to a market response whereby University Law degrees, to a significant degree, changed content to effectively map onto SQE Part1 this could result in a market, and regulatory, failure. Whilst such a response could reduce the need for students to pay for expensive 'crammers',<sup>9</sup> it would also significantly curtail the ability of University Law degrees to offer the breadth of legal knowledge and understanding that is currently delivered by a range of providers. Moreover, the range of emphases/combinations currently available provides students with the opportunity to reflect upon the fragmentation of the legal services marketplace. In particular, key areas such as Family Law, Disability Rights and other aspects of Social Welfare Law are critically important areas to support the vital public service contribution the profession makes to society. The subsequent lack of an opportunity for aspirant entrants to the profession to explore these pivotally important areas of law (not required by the Statement of Legal Knowledge), would mean that over time these subjects would be lost from the discipline - to the ultimate detriment of both individual consumers and the wider public interest.

While the SRA's approach is presented as a de-regulatory one, we are concerned that the market interventions of the SRA's proposals could lead to an overly prescriptive re-regulation of the academic stages of qualification. Preparation for the SQE would provide the overarching context for much of the content and delivery of undergraduate programmes. The quality of those graduating would be undermined both by the restrictive content of the material that they would be able to cover (restricting the opportunity, for example, to cover

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<sup>9</sup> Although the market for private tuition for school children aspiring to enter selective secondary schooling suggests that this will emerge regardless. Moreover, if the LPC is withdrawn, private providers will need to stimulate demand for new courses from somewhere. It is difficult to envisage a situation, whereby however, closely undergraduate degrees signal the preparation that they offer for the SQE, that those students who can afford to do so, will not choose an additional SQE preparatory course.

language or business modules alongside their law degrees) and of the orientation towards successful completion of computer based objective assessments, which have not been demonstrably designed to assess graduate level outcomes.

#### **Question 4**

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

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?*
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?*
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?*

Either Option A or Option C. Option C may become unnecessarily complex. Much would depend on the design of Option A in terms of whether it could sufficiently take account of the increasing complexity of practice settings, while recognising the importance of the basis of common access to a unified profession.

#### **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?*

We cannot agree with this question as formulated because there is no evidence provided to suggest that the SQE can test gradueness. However, we do agree that the threshold standard for entering the profession should be set at graduate level or equivalent and, moreover, that university law degrees should have a key part in the demonstration of this. Given the existing qualifications at such graduate level, there is no need for the SQE to be the only (or even primary) mechanism for the assessment of such graduate-ness.

Moreover, there is a fundamental contradiction in the SRA's position. It asserts that the assessment will be at graduate level and yet offers no explanation as to how there will be any confidence in the quality assurance around the robustness of these standards and while at the same time questioning the legitimacy of current graduate level qualifications which are all subject to rigorous quality assurance mechanisms and processes.

There is strong evidence from other professions about the importance of positioning professional entry at graduate level. However, the claim of 'graduate-ness' having being made, it is equally important in terms of consumer confidence to be able to authoritatively support the claim that the threshold competences of those entering the legal profession are, indeed, assessed at graduate level.

The SRA provides no evidence as to how this will be done, nor does it provide any evidence of graduate-ness.

If entrance to the profession is positioned at graduate level, as it should be, then, in order to reduce the regulatory burden and costs for all those involved in the system, particularly students, the most efficient route would be to make use of existing graduate level qualifications CILEX/Apprenticeships/law degree, which are all subject to existing quality processes.

#### **Question 6**

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

Yes, this is important to provide assurance of the high standards of those entering the profession.

The SRA makes the point (at para 58) that it is concerned that a requirement of a training contract may impact negatively on the diversity of the legal profession. It is not the training contract or other 'form of pre-qualification workplace experience' that impacts negatively on diversity on the legal profession; rather it is because this is currently the crucial entry point to the legal labour marketplace. If the focus were simply on the workplace (or an alternative pre-qualification experience) the same issues in terms of the attributes and qualities prioritised by firms' recruitment practices would prevail.<sup>10</sup>

Thus, the pre-qualification workplace has to be seen as more than 'an important rite of passage'. Indeed if it was simply 'a rite of passage' it would be difficult to see how the SRA could justify it by reference to its own stated objectives. Experiential learning is a crucial part of the development of the competences that lead to consumer confidence in a strong legal profession and we believe this should be retained.

It is striking that the value that the SRA is, rightly, placing on pre-qualification workplace experience appears to privilege learning in the workplace, rather than the value derived from learning in a variety of educational settings prior to assessment. There is no evidence presented to explain or justify this difference in approach.

#### **Question 7**

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

While the move towards satisfaction of competences does beg the question above, it is not unreasonable to argue that satisfaction of the threshold competences can only be developed through prolonged exposure to a range of different issues over time in a practice setting. The setting of a minimum period has the important advantage of sending a robust signal of quality and rigour to consumers and to other international jurisdictions, particularly as a point of comparison in relation to other professions.

#### **Question 8**

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

In keeping with the overall regulatory approach, it would seem entirely consistent to establish competences and a minimum time period. The two can work together.

#### **Question 9**

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

Any pre-qualification workplace needs to be recognised in the context of the overall regulatory objectives and the competences that are designed to be developed during this period. In order to increase the diversity of routes into the profession, it should be possible to design a framework within which a greater diversity of legal environments could facilitate the development of the competences, over time without this requiring the formal training contract. However, the stage of experience and the likely exposure to the range of issues that would be faced upon qualification, would need to be appropriately taking into account. Workplace experiences during a degree can be important learning experiences for students,

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<sup>10</sup> Sommerlad et al (2013) LSB Study, and then Social Mobility Commission work (2015)

but it would be difficult to replicate a level of practice exposure, currently provided, for example, on a training contract.

**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?*

Yes.

**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 1 and Part 2, to a specified performance standard?*

N/A

**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?*

N/A

**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:*

- a. support the credibility of the assessment?,*
- b. and/or protect consumers of legal services and students at least for a transitional period?*

Yes, the prescription or regulation of training pathways are needed to support the credibility of the assessment process and to protect consumers and students, not only for the transitional arrangements envisaged but longer term.

Effective development of the well-recognised, clearly understood and robustly regulated existing pathways would ensure confidence in the system. In particular, it would enable the graduate-ness of the assessment to be designed into the system at the outset.

Prescription of pathways does not mean that innovation and creativity will be restricted. Under the existing regime, new developments have already been seen including apprenticeships, LLBs incorporating LPC or Masters qualifications, CILEX, 2 year degrees, part-time law degrees, sandwich programmes and many others. For those providers who felt it appropriate, it would be entirely possible to develop qualification routes leading to the satisfaction of the SQE. What is important in terms of consumer confidence and student knowledge and understanding is that the robustness and legitimacy of a qualification route is recognised, in a way which goes beyond the mere marketing claims of a provider.

It should be possible to maintain a review as to the level of regulation that is required in a proportionate and risk-based manner to ensure that the regulatory burden and cost to the system is minimised.

**Question 14**

*Do you agree that not all solicitors should be required to hold a degree?*



This is a misleadingly framed question that conflates current practice and the regulatory position. Solicitors are not required to hold a degree, nor should they be required to do so in the future, in order to ensure that the full diversity of routes of qualification (both currently existing and envisaged by LETR) can continue. However, 'solicitors' should be required to hold a degree level qualification such as CILEX, apprenticeships or a law degree, or can demonstrate that they meet degree level competences through equivalent means

Multiple pathways are important to ensuring the diversity of the legal profession and that consumers can be served by a flexible and responsive profession. However, a degree level qualification (or equivalent) is crucial for safeguarding the standing of the profession, ensuring it can fulfil its vital social function of meeting the requirements of government, civil society and the economy and providing a robust statement about the graduate standing of the SQE.

#### **Question 15**

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

Given that the SQE is designed to assess threshold competence, it is difficult to understand how information about individual performance might effectively be presented and what the regulatory objective might be in so doing.

Moreover, if this becomes institutionalised, it is likely to lead to the rise in requests for repeat assessments, which are likely to be disproportionately available to those with the means to pay. Clearly this does not meet the objective to increase diversity and improve social mobility.

#### **Question 16**

*What information do you think it would be helpful for us to publish about:*

- a. overall candidate performance on the SQE?*
- b. training provider performance?*

It is difficult to know what available information might usefully be gained, beyond very high level information (e.g. as previously captured in Annual Trends about LPC performance).

Similarly, given the relationship between training provider and the SQE is so unclear and may well remain so, it seems that this would not be helpful information to attempt to provide for students. The levels of contextual background data may be so complex as to render the exercise meaningless at best and counter-productive at worst.

#### **Question 17**

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

There is a fundamental concern, based on our research expertise, that the SRA proposals would not only fail to increase social mobility within the legal profession, but might well actually entrench existing inequitable patterns.

The proposals would be likely to add uncertainty and cost into the system. Research undertaken by academics at this institution (and indeed elsewhere) has consistently demonstrated that those from more disadvantaged socio-economic backgrounds lack the information resources to make the right choices at the right time – indeed this was a key LETR finding. The proposed system is likely to add costs. Simply removing the LPC from the

costs calculation does not effectively take into account the costs of preparatory courses that may need to be undertaken in addition to existing qualification routes.

Moreover, any narrowing of the focus of University Law degrees potentially decreases the opportunity for students (at a stage when a career in the legal profession is a possibility but not a certainty) to select programmes that are a valued degree because of the intellectual skills that are developed and the access to other professions/sectors they provide. There is little evidence that narrowly focussed degrees would have the same standing with a range of employers, and experience with the LPC suggests otherwise. Even if SQE preparatory content were to be included in existing courses (to the detriment of the quality and standards of potential solicitors graduating from those programmes – see above), then there are likely to be costs, in that students might make ill-informed choices to study such narrowed programmes, and are likely then to struggle to secure employment in the legal profession. In such a scenario, they would be left with a degree that would be narrowly focussed on a profession that does not wish to employ them. The vocational stage of training is already a significant financial commitment for students for these reasons. Furthermore, a cohort of students who represent an opportunity to add diversity to the profession will be lost, if these students choose instead not to embark on a degree, without the current safety net of its clear cut value to other sectors. While the removal of a potential route to other professions is clearly not a matter of concern for the SRA, the loss of talented potential solicitors on the basis of choices framed by socio-economic background should be. Preserving the existing flexibility within the system avoids such problems.

Two additional difficulties: There is concern that what could be read as an attempt to marginalise HEIs from the prescribed education and training pathways risks the gains that have been made in effective co-ordination of WP and social mobility initiatives across the legal professions, universities and schools and colleges. There is experience and expertise in this sector and in order to achieve the SRA's diversity objectives, this important dimension of the route to the legal profession needs to be embedded in the qualification framework.

The other important issue is whether the single, centralised SQE can effectively take into account the complexity of the issues facing students requiring reasonable adjustments. HEIs have a huge amount of experience and expertise in working with, supporting and designing robust assessments for these students. Again it is difficult to see how the SQE will deliver these objectives without significant detriment to an already under-represented group of students.

### **Question 18**

*Do you have any comments on these transitional arrangements?*

The QLD is being undertaken by students as satisfying the "Academic Stage". This approach should be preserved. Many of the suggestions for the transitions could be incorporated into a longer-term model.

### **Question 19**

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

There are still far too many uncertainties

### **Question 20**

*Do you consider that this development timetable is feasible?*

No. See above. Still seems too soon, given uncertainties to be resolved.

Alexander Jordan - Cardiff and South-East Wales Junior  
Lawyers Division

## **T4T - Assessing competence**

### Consultation questionnaire form

This form is designed to be completed electronically—in MS Word. Please save it locally before and after completing it.

## 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?

No.

In respect of the first objective, we do not believe that the SQE will assure consistent and comparable high standards.

Part 1 of the SQE is admittedly consistent and comparable, as it is one standard test for all candidates. However, where we believe it will fail is to ensure that candidates meet the high standards that the SQE aims to achieve. Multiple choice tests do not allow any scope for legal analysis and argument, which is of such high importance when working as a solicitor. There is often no definitive answer in law and a multiple choice test does not reflect this. We accept that multiple choice tests are appropriate in other vocations, such as accountancy, where there is often a definitive answer but we do not believe that passing a multiple choice test is any demonstration of a high standard of solicitor.

Furthermore, the training that will be provided in preparation for Part 1 of the test will inevitably teach candidates how to pass the multiple choice test, rather than preparing them for a career in law. As the test is so limited in terms of testing the skills required of a solicitor, this will result in candidates who are successful in completing Part 1 of the SQE but are not skilled in the areas required to be a highly skilled solicitor.

We also do not believe Part 2 of the SQE will deliver consistent and comparable standards.

Inevitably firms will offer different standards as they have different work, give varying amounts of training, different levels of responsibility, and will be subjective in their assessing candidates as competent. The SRA (or Law Society should they take over this responsibility) will need to heavily regulate and monitor firms offering Part 2 of the SQE in an attempt of standardisation but without one common exam or assessor this seems impossible.

In terms of the second objective, we do not believe that the SQE will encourage the development of new and diverse pathways.

It is more likely to decrease diversity as there will be a discrepancy between those who can afford preparation courses and resits, and those who cannot. We believe that, due to the introduction of alternative methods of qualifying and degree courses combining the LLB and LPC, the cost of the LPC will be driven down and the SQE will in fact be more expensive to complete.

We agree that the qualification procedures should be reviewed, and with the objectives themselves, however we do not believe that the SQE is the answer. The introduction of new routes of qualification, such as cILEX, have already increased diverse pathways. We think that having different routes to qualification is necessary to allow people wanting a career in law flexibility to choose the path to meet their specific circumstances; having a common assessment in a varied legal market does

not seem flexible enough to meet different needs and circumstances.

Rather than implementing a qualifying exam we believe the best way of dealing with any concerns of failing standards is standardising the current system, for example ensuring LPC providers have the same offering and that cILEX examinations are indeed equivalent to a degree. There should be an obligation on course providers and employers to ensure that their students and employees meet the high standards and the focus should be on this rather than an additional cost and assessment pressure for qualifying solicitors.

Additionally, we have not yet been provided with any evidence to suggest that a) there is a low standard in the current legal market to require this change, and b) a common assessment is the correct method to achieve the required standard. If it was decided that a common assessment should be introduced, we would welcome evidence to justify the introduction of such an assessment.

## **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?

No.

As we commented in our answer to Question 1, we do not believe that the computer-based training is flexible enough to demonstrate the competencies required of a solicitor.

We agree with the proposed 13 subjects for Part 1 but these are mostly covered in the law degree so we do not believe that the SQE is required to test students in these subjects.

We appreciate that the Part 2 assessment could be of benefit to those qualifying as a solicitor but we would like further information in respect of salary safeguards, whether there will be enough jobs once Part 2 has been completed, how those completing Part 2 will be distinguished from paralegals etc. We are concerned that it will result in an increase of fixed term contracts to employ paralegals without the financial burden of employees undertaking Part 2.

As we detailed in our answer to Question 1, we do not believe that Part 2 would be an effective test unless it is heavily regulated and monitored, as the standard will be employer dependent.

### **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?

No.

The reason provided by the SRA for enforcing this requirement is to avoid the SQE appearing less credible or unreliable. We submit that the time and cost arguments relating to requalifying outweigh the risk argument of the SQE appearing undependable.

We also submit that requiring solicitor apprentices and lawyers in other jurisdictions to pass the SQE compromises entirely the SRA's aim of ensuring that only the best candidates enter the solicitor profession. The prospect of moving to work as a solicitor in the jurisdiction of England and Wales becomes significantly less attractive if requalification is a requirement. This in turn means that experienced and quality solicitors will think twice about taking up work in this jurisdiction, and the quality of the solicitor profession would suffer accordingly. The SQE presents a significant hindrance to social and professional mobility. The focus would be taken away from recruiting quality, and placed rather on recruiting candidates who are willing and can afford the time and cost of putting themselves through the SQE, despite already being qualified in their own jurisdiction.

## Question 4

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

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

We agree with (b) – offering a broader number of contexts for the Part 2 assessment for candidate to choose from. Limiting the Part 2 assessment to a choice of 5 assessment contexts has an unfair impact on candidates who do not work for firms who practice in these areas. A high street firm is likely to be able to offer experience in areas such as criminal litigation, wills and probate, property and civil litigation. A larger firm might be able to offer experience in civil litigation, the law of organisations and possibly property; however other legal departments, which currently offer well-established training contracts, might not be able to offer any of these areas, for example the Government Legal Services. A candidate who is disadvantaged by this will undoubtedly face further challenges; they may be required to pay for additional courses, probably in the evening time, which will carry a cost. Their training will also be impaired by having to spend a disproportionate amount of time becoming familiar with an area of law in which they do not practice and may never practice. This could prevent this candidate from making the most from their work experience at their legal department due to them being focused on preparing themselves to pass the Part 2 assessment. This will be a problem for many candidates, albeit to a lesser degree for some due to the firms that they are training in. Some firms may be discouraged from employing anyone who has not passed their Part 2 as it would mean either enabling the candidate to go on secondment to gain experience in one of the five areas, or knowing that their candidate will be taking an assessment severely disadvantaged compared to other candidates. This will not be desirable for any firm as it may lead to a high failure rate.

Another alternative scenario would be that gaining experience in these areas would become so desirable for candidates that firms would be in a position to offer placements on a work experience basis i.e. for no pay or very low pay. This would not lead to increased diversity in the profession as many candidates may not be in a position to do this. Training as a solicitor will become less appealing than other professions, such as accounting whereby you train whilst being employed by a firm with the firm paying for all of your exams and retaining subject to successful completion of all exams. If a structure similar to the accountancy model could be adopted then this would be more appealing for candidates. They could complete Part 1 during their studies, and then complete Part 2 whilst in a secure, decently paid job. In order for this to work, firms would need to agree to this and the contexts for Part 2 would need to be significantly more flexible than what is being put forward as the preferred option currently. We cannot see how this would cause an undue burden on the SRA given that they are no longer required to regulate the pathways to qualification.



## 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?

No.

The current system requires solicitors to have achieved a postgraduate diploma or equivalent. If the current issue is that standards are not meeting the desired levels of competence then it seems senseless to reduce the levels of qualification and certainly does not promote the SRA's objective of assuring a high quality standard at the point of admission. Should the SQE be introduced it should be at postgraduate diploma or equivalent, or higher, thereby upholding the standards and reputation of the profession. This also demonstrates dedication and ability on the part of the student.

We agree with the term 'or equivalent' as it must be recognised that routes such as CILEX are equivalent to a degree.

## Question 6

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

We agree. We consider that practical pre-qualification workplace experience is a key element of the current qualification process and to remove this requirement would not only go against the objectives stated in this consultation, it would have the effect of not fully equipping candidates to qualify to a high standard.

From a practical perspective, it would most likely result in candidates being required to still have pre-qualification work place experience in the form of paralegal and legal assistant work. In turn this would disadvantage candidates who would usually be paid a minimum wage as a trainee solicitor and instead they would get their pre-qualification experience being paid at the rate set by a firm and not by the SRA.

## Question 7

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

Yes.

As stated above we consider that practical pre-qualification workplace experience is a key element of the current qualification process. We believe that it is required in order to meet the objectives stated in the consultation.

As junior lawyers we have recent experience of the qualification process. We found practical experience significantly more beneficial than educational experience in terms of skills gained. Whilst you are able to learn the theory during the LLB, and the LPC assists with practical application, until you are employed as a lawyer you do not truly learn how to do the job, and especially how to do it at a high standard. We therefore do not consider that it would be possible to become a competent solicitor without prior workplace experience.

In light of this, we agree that the SRA should specify a minimum time period. If they do not then it undermines the standardisation that is aimed by the SQE.

We do, however, believe that there should be flexibility to continue the 'time to count' that has been allowed with the current system. The role of a paralegal and of a trainee can be very similar, in fact a paralegal with more than six months experience in one area will be more qualified in that specialism than a trainee who will only do six months in that seat, and we feel that this should be recognised.

We find the current system appropriate allowing three or four six month seats with up to six months potentially discounted as time to count. This gives the trainee time to adjust to the firm's practices and experience a range of departments whilst acknowledging their previous relevant experience.

We reiterate that any workplace experience should be regulated and monitored by the SRA (or the Law Society) to promote standardisation.

## Question 8

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

We submit that it would be virtually impossible to implement a blanket rule on either the time period or the specific competences needed to be met during pre-qualification workplace experience.

The competences acquired in one workplace can differ hugely from those acquired in another. No blanket rule could realistically be applied universally to every workplace experience. Setting specific competences could put certain candidates at an unfair disadvantage. For example, lower level workplace experience might not match the competences of higher level workplace experience. It would be unfair that a candidate of lower level experience who has committed an extensive period of time to that workplace and has gained a rounded contextual experience, is discredited for not fitting the specific competences criteria laid down by the SRA, despite matching the standards from a holistic perspective. The period of time should depend on the nature of the workplace experience; so again, no blanket rule could possibly be applied for a minimum time commitment either.

## Question 9

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

We feel that this is a difficult question to answer given the stage of this process. In theory, we feel that the answer should be “yes”, however details are too scarce at this stage to provide an informed answer. In particular more information is required with regard to: How will this experience be regulated as they are likely to be short periods of experience? Will there be a minimum salary for these placements? How will the SRA ensure that these placements do not end up as competitive as training contracts? Is there any benefit of completing this experience before gaining the knowledge a degree programme offers you? How will a candidate prepare for their Part 2 if they have completed their work based experience during the Part 1 phase (and therefore before they are able to sit the Part 2 assessments)?

Currently, training to be a solicitor does not offer security: there is no limit on the number of LPC students that institutions can admit, which means that many people who pass the LPC do not end up securing a training contract. For the ones who do secure a training contract, the uncertainty continues with the majority of trainees being employed on fixed-term contracts which do not guarantee permanent jobs on successful completion of the training contract. When comparing this to other professions, trainee solicitors seem significantly disadvantaged in this regard. However, this uncertainty and lack of security is likely to decrease further if these proposals are implemented. Also, the competitiveness for training contracts is likely to be mirrored by the competition for the essential “work place experience”, with the employer facing no scrutiny with regards to the work these trainees complete. We feel that a firm should have to pay for the Part 2 assessment and provide the trainee with the necessary support and training for them to pass the Part 2. We also feel that trainees should be employed on permanent contracts, with the ability for the firm to terminate the contract should the candidate fail the Part 2 (as well as all of the usual reasons). This is again similar to the accountancy programme. The firm will be investing in their future solicitors and are therefore more likely to support and mentor the trainee for their Part 2 through their period of essential work 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?

Yes subject to the answers to our questions at 9 above.

We have found that practical experience whilst in employment as paralegals and trainee solicitors has been the most beneficial in terms of knowledge and skills developed and feel that it would be impossible to assess some elements of solicitor competence through written examinations alone. However, problems arise when the employer fails to provide appropriate work to satisfy the criteria for the workplace assessment and you hear of rare cases when an employer will sign off an employee as competent in order to pass them when they have not completed the required work. It would therefore need to be regulated to ensure that the assessment is standardised and that employers are meeting the requirements for their employees who are undertaking the workplace assessment.

## 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 1 and Part 2, to a specified performance standard?

N/A

## 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?

N/A



## 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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

If the SQE was introduced, it would be important to set and regulate the training pathways and specify entry requirements otherwise there is a real risk of lowering the standards of candidates and the market generally. This would go against the SRA's objectives and therefore it would be difficult to justify a removal of any prescription or regulation of pathways.

If all that was needed was to pass the SQE, this would most likely have the effect of lowering the standards of candidates. At present, specific LPC grades can be helpful to a candidate and make them stand out in their application. To simply have a pass/fail for the SQE would make it more difficult for firms to distinguish between candidates and therefore to employ the highest calibre of candidates.

On this basis, we consider that because it is essential that training pathways and entry requirements are prescribed by the SRA to ensure a high standard of candidates are being recruited, we do not see how it would be different from the current process and therefore this questions the need for change generally.

We think that the current GDL/LPC/training contract regime should instead be improved to ensure a more consistent approach is being taken by legal education and training providers.

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## Question 14

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

We think that having numerous routes to qualification has had a positive impact with regards to ensuring that entering the legal profession is more accessible.

The CILEx route enables people to work and study at the same time, therefore allowing entry into the profession for those who cannot afford to give up work. However, to qualify as a solicitor the LPC is still required. Therefore, on this basis we would agree that not all solicitors should be required to hold a degree, however we believe that all solicitors should hold qualifications which are degree equivalent. It is very difficult at this stage to comment on whether this should be more than the SQE; should the SQE be successful in becoming the sole indicator of competence then it is likely that specifying other requirements would add significantly to the cost of training. However it is also likely that an employer will look more favourably at a candidate who has strong academic achievements, such as a degree, alongside their SQE pass.

## Question 15

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

No.

For a fairer system that does not discriminate on the ground of financial means, individual and tailored feedback should not be provided to candidates. Those who are in a financial position to resit upon failing the SQE would be able to utilise the feedback to target their specific problem areas to try and try again. Those fitting this description would have a distinct and unfair advantage over failing candidates who do not have the means for resitting. The SRA would be encouraging an elitist tier to access the SQE as often as they can afford it in order to qualify. The quality of successful candidates would be compromised by the individual feedback if candidates were able to buy their qualification through resits.

## Question 16

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

(a) Information which is published should be limited to statistical information.

(b) Publishing information with regards to training provider performance is a good idea so that providers remain competitive and seek to obtain the best results possible. These results will give a clear indication regarding the standard of teaching etc. at the institution because all candidates from all institutions will sit the same exam. Information published should include pass/fail rates and areas covered.

## Question 17

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

Yes we foresee negative impacts.

The SQE aims to decrease the cost of qualification thereby increasing opportunities for those who would not afford to qualify under the current system. However, with the introduction of additional exams we do not believe that the SQE will have the cost advantages that are hoped. Training providers will undoubtedly offer courses to assist with both parts of the SQE which puts those who are unable to afford the additional expense at a disadvantage to those who can. There is also an additional disadvantage for those who cannot afford multiple resits.

With the current system there are options to assist those who are less financially able such as obtaining a degree equivalent through cILEX and/or studying for the LPC part time whilst in employment. We therefore do not believe that the introduction of the SQE will have a positive impact on equality, diversity and inclusion and submit that, in fact, it would have a negative effect on these areas.

## Question18

Do you have any comments on these transitional arrangements?

No.

## Question 19

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

It is difficult to put forward a fully considered response to the 2025 cut-off without having before us a detailed proposal on how the SRA intends to implement the transitional arrangements.

We generally agree that the 8 year transitional period is reasonable however we foresee the proposed cut-off as causing grave concern to students. Those enrolling on law degrees and other postgraduate professional courses during the transitional period are likely to feel uneasy about the value of their course upon completion. Aligning all universities and course providers consistently throughout the period of change is likely to be very difficult. Some course providers may start implementing the new SQE before others, leaving those students mid-way through a law degree in 2024 at an institution yet to implement the SQE, at risk of having to re-qualify through the SQE upon graduating.

## **Question 20**

Do you consider that this development timetable is feasible?

If Universities, course providers and employers across the solicitor profession are willing to cooperate, then yes, this timetable is feasible.



**Thank you for completing the** Consultation questionnaire form.

Please save a copy of the completed form.

Please return it, along with your completed **About you form**, as an email attachment to [consultation@sra.org.uk](mailto:consultation@sra.org.uk), by **4 March 2016**.

Alternatively, print the completed form and submit it by post, along with a printed copy of your **About you form**, to

SQA consultation  
Solicitors Regulation Authority  
Regulation and Education  
The Cube  
199 Wharfside Street  
Birmingham  
B1 1RN

## **Response to SRA consultation: Training for Tomorrow – Assessing Competence**

### **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 do not agree that the proposed SQE meets the defined objectives.

The consultation document states "*A strong and respected legal profession is enhanced if unnecessary barriers to good candidates becoming solicitors, regardless of their backgrounds, are removed. The SQE will facilitate the development of more flexible pathways to qualification for those who are able to meet the robust standards of the assessment.*" It is clear therefore that the SRA regards the SQE as a means to widen opportunity. We are unconvinced that it will achieve this effect. Currently, the main routes to qualification are either a law degree + LPC + training contract, or a non-law degree + CPE / GDL + LPC + training contract. Given that most intending solicitors are likely to wish to be educated to degree level (indeed, the job market may insist on this), it is likely that the vast majority will still undertake a degree. The SRA envisages, that it could require specific qualifications as a pre-requisite to taking the SQE. Applicants will then need some sort of training in practical law, so an LPC equivalent course will be needed. Applicants will have to pay for the SQE, including a potentially unlimited number of further attempts if unsuccessful, so instead of reducing the cost of qualification, these proposals will add to it. It is unlikely that all the knowledge and skills required to take the SQE could be delivered with a three year degree, without sacrificing student choice and breadth of learning.

If the SQE were adopted, it is likely that candidates would wish to pay for training courses in order to prepare for this assessment. At present, it is unclear whether the SRA would wish to accredit / regulate such training entities. If they chose not to do so, we can envisage the rise of profit-motivated "crammer" style organisations. Pre-admission training is currently delivered almost exclusively by Universities, which are in the main not-for-profit organisations with a declared commitment to educational excellence, and which are closely regulated by the QAA. We are concerned that the current commitment to quality education and training would be diluted, to the detriment of students, in an unregulated environment.

Whilst according to the Consultation no decision has yet been made on entry requirements, statements made by senior officials at the SRA over the past few months suggest that there is a preference for having no entry requirements, or at least not at degree level. We cannot envisage a solicitors profession where there is no requirement for graduate level education (though we accept that this can be achieved by means other than the completion of a traditional degree) and we can foresee that the adoption of this approach would result a diminution in the reputation of the England and Wales Solicitor 'brand', which will discourage the brightest, both at home and from overseas, from applying to join the profession.

It is correct as noted in the Consultation paper that not all solicitors possess degrees, as in the cases of those following five year articles and the CILEx route. However in both those cases candidates had to (and still have to) take and pass assessments at degree equivalent level. Most professions (nursing, midwifery, social work, dentistry, medicine) in England and Wales have a requirement of degree level qualifications.

There are clear indications that the Bar Standards Board will continue to require a qualifying law degree. This could place logistical difficulties on Law Schools which are trying to cater for all student needs, but is more likely to have the effect that all school and college leavers who are interested in a career in the law will continue to take a qualifying law degree. This will defeat the SRA's stated objective of creating more flexible pathways to qualification and the addition of the SQE will add to the cost burden for intending solicitors. In addition, students who choose to take a qualifying law degree will be assessed twice, once on the degree and again on the SQE. This seems a waste of time and effort, and may result in additional cost for students taking refresher courses if their degree was completed some time previously.

We would not wish to gear our programmes towards the SQE outcomes. Law Schools have to consider wider issues in devising their programmes, such as the research outputs of their staff, the provision of a wide choice of options in order to remain competitive in the market for students, and teaching and assessing the wider academic and skills outcomes outlined in the QAA Subject Benchmark Statement for Law.

## **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 do not agree although it is difficult to comment fully without sight of at least some sample assessments. We understand that the proposed assessment is based on the Qualified Lawyers Transfer Scheme assessment. This is aimed at lawyers who are already qualified in other jurisdictions and it is therefore designed to test a different type of applicant to those likely to be taking the SQE.

Law / CPE / CILEx graduates at the moment have all had the opportunity to demonstrate their breadth of knowledge and application of the law by degree level assessments, which are specifically designed to test a range of knowledge, skills and abilities at graduate level in our view, desirable in a competent solicitor. We are unconvinced that all of this can be assessed by the multiple choice or true / false questions in the proposed Part 1 of the SQE. The Consultation paper notes that such tests are already used in other professions to test high-order skills. However, what it does not say is that in those other professions (for example, medicine), a relevant degree is a pre-requisite.

### **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?*

We do not agree. Rather, there should continue to be exemptions for entrants who have taken and passed appropriate assessments in other contexts. Failure to do so simply adds cost to the qualification process. Exemptions are already a well established feature in other professions - for example, accountancy.

### **Question 4**

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

- *offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?*
- *offering a broader number of contexts for the Part 2 assessment for candidates to choose from?*
- *focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?*

Option 2, as a significant number of solicitors do not practice in reserved areas.

### **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?*

Yes. We cannot see that an applicant who has not been able to achieve graduate level qualifications would have the necessary skills, attributes and qualities of mind to undertake the complex and technical work required of a solicitor.

### **Question 6**

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

Yes, some form of work based learning should be required and there are clear indications that the profession supports this view.

### **Question 7**

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

Yes, although the quality of the placement is also crucial there does need to be some minimum period of time specified. We would suggest a minimum of one year.

### **Question 8**

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

Not as an alternative to a minimum time period.

### **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?*

Yes. The current number of training contracts is insufficient to meet demand and there are a number of potential solicitors who are unable to qualify. Expanding the range of acceptable experience (provided it was in a legal context) would be of benefit to these students. Experience gained by students during degree programmes could be included, for example on the CLOCK programme provided at Keele University.

### **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?*

Possibly but we would like to see more detail on this.

### **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 1 and Part 2, to a specified performance standard?*

Not applicable.

### **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?*

Not applicable.

### **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?*

Yes, it is essential that each route is specified.

### **Question 14**

*Do you agree that not all solicitors should be required to hold a degree?*

We agree that all solicitors should have qualifications at graduate level, as is the case at present.

### **Question 15**

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

Our understanding is that the SQE is designed to be a competence - level assessment. We are not sure, therefore, what would be served by providing candidates with this information.

### **Question 16**

*What information do you think it would it be helpful for us to publish about:*

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

We feel this is a question which can better be answered if and when the decision to proceed with the SQE has been taken and once we have a clearer view of the nature of the assessment.

### **Question 17**

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

We have serious concerns about the potential impact on potential solicitors from less advantaged backgrounds, and evidence shows that this affects disproportionately certain BME groups.

### **Question 18**

*Do you have any comments on these transitional arrangements?*

The timetable is extremely challenging. Currently students proceed on the assumption that 0 QLD is required for entry into the profession. There should be at least 3 years notice of any changes in order that the information is available before students embark on a degree programme. A minimum lead in time of 3 years would also be necessary to allow Universities time to make any necessary changes to degree programmes.

### **Question 19**

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

There will need to be provision for exceptional circumstances for some students.

### **Question 20**

*Do you consider that this development timetable is feasible?*

We can envisage difficulties with this timetable given the level of uncertainty about the proposals and as noted, Universities require sufficient lead in time (2/3 years) for the introduction of new programmes.

**Professor Alison Brammer**  
**Head of the School of Law**  
**Keele University**

**4 March 2016**

# Consultation - T4T assessing competence

Response ID:370 Data

## 2. Your identity

### 1. Surname

Yuen

### 2. Forename(s)

Alison

### 3. Name of the firm or organisation where you work

Howard Kennedy

**4. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Attribute my/our response and publish my/our name.

**5. Please identify the capacity in which you are submitting a response. I am submitting a response... as another legal professional**

Please specify:: Paralegal

## 3.

**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?**

Yes I believe it will increase diversity within the profession

## 4.

**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?**

Yes

## 5.

**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?**

I think there should be exemptions for people who have already done the LPC or are a qualified legal executive as they would have already been assessed in some areas that the SQE aims to assess. There is no point assessing a legal executive on knowledge that they have already been assessed on in the ILEX. It will just be a waste of time. Therefore, I believe there should be exemptions to the SQE. Even if it is just part exemptions.

## 6.

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

c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

**Why...**

## 7.

**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?**



I agree in order to maintain a high standard.

8.

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

I agree. Gaining pre-qualification work experience is important as people learn a lot of practical skills when they are working in a law firm. Reading law from a book is different to practising in real life.

9.

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

Yes. Just like how the current training contract is 2 years and how the CILEX specifies a qualifying employment of 3 years, pre-qualification employment develops vital skills required as a solicitor.

10.

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

Yes. It will be helpful if the SRA did specify what the competences are so people know what type of legal work to look for. It ensures people look for the correct type of legal work experience rather than wasting their time on legal work that doesn't count as qualifying employment.

11.

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

Yes. Pre-qualification employment doesn't have to exist in a law firm and can exist with a range of employers. For example, someone could be working within an in-house team of a large company. I think that should count towards the qualifying employment provided the competences are met.

12.

**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?**

Depends on what the workplace assessment will involve and how it will be assessed.

13.

**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 1 and Part 2, to a specified performance standard?**

14.

**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?**

15.

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?**

Yes

16. (untitled)

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

I agree as it is the ability to do the job that matters. Clients don't care whether or not you hold a degree, they

just want to know that you can do the job well. The legal industry should therefore, consider people who do not have degrees and allow them the opportunity to qualify as solicitors. If a degree is required then it will create a barrier and less diversity.

17.

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

Yes. It will be helpful information so candidates know how they can improve if they did not pass the SQE. It will give them something to work on if they are given individual performance feedback.

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

Both. Overall candidate performance so candidates know where they stand in comparison to others taking the exam. Training provider performance will be helpful too so people can make an informed decision about which provider to go with.

19.

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

I think the SQE will be for the better. It will increase diversity whilst maintaining the high standard. There are people who have not done the LPC because of the extortionate costs for funding and some people do not want to get in to so much debt. The SQE will provide another way to qualify.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

21.

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

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

Amanda Fancourt- City University London

## **T4T - Assessing competence**

### Consultation questionnaire form

This form is designed to be completed electronically—in MS Word. Please save it locally before and after completing it.

## 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?

No, for the reasons set out below.

While we agree with the need for assuring 'consistent and comparable high quality standards at the point of admission' as stated in paragraph 10 of the consultation document, we do not feel that this is achieved by the proposed SQE. The SRA offers limited evidence of the lack of consistency between providers and refers to varying pass rates. Such variation is inevitable given the diversity of cohorts in both LLB and LPC providers.

There needs to be some consistency of route as well as at the endpoint. It should be remembered that the final LETR report, while commenting on inconsistency of standards across providers of LLBs and LPCs, did not ultimately recommend doing away entirely with such provision. Further, the regulator has itself removed mechanisms for monitoring standards by doing away with the JASB, LPC monitoring visits and more recently quality assurance of LPCs by external examiners.

In addition, we do not believe that the SQE will assist with improving diversity and enabling the 'most talented' to qualify as solicitors. As has been discussed at length in recent events and articles on these proposals, we have a concern that the SQE would impede a greater diversity of entrants to the profession rather than increase it, for reasons of cost as well as perception of the profession. As employers will most likely continue to require a degree, most potential entrants to the profession will continue to study undergraduate law; then in order to take part 1 of the SQE they will need to take some sort of training course even though they will have studied and been assessed on contract law for example in their degrees. The SQE itself will carry a fee, and if that of the current QLTS tests is anything to go by, that will be high. There will be unnecessary duplication of assessment of some knowledge areas. Overall costs will be high which will act as an additional barrier for talented students from less privileged backgrounds from entering the profession.

The separation of the knowledge areas from the skills as proposed is also worrying because there will be a significant gap in time between the part 1 tests and the skills tests, even though it is proposed that the skills will be tested in the context of the current LPC knowledge areas.

There is a real danger that 'crammer courses' will emerge that will teach to the test, removing the current incremental development of knowledge and skills in a practice context offered by the LLB and the LPC. Such crammer courses are not appropriate for intending professionals. Further we are not convinced that crammer courses will achieve the 'flexible and innovative training' the SRA suggests. It is also not clear if the SRA plans to regulate or validate training providers who will offer these courses. This is of additional concern.

In conclusion we would strongly urge the SRA to reconsider the introduction of 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?

On the basis of the information provided, no. There is insufficient detail in the proposed model to enable us to comment meaningfully, but we doubt that such testing would be effective. We would want to see the assessments modelled to ensure that they are valid and reliable. We would want to see how they can be mapped against the competences in the statement. We are doubtful that a series of computer-based objective tests, which will include multiple choice questions, will enable candidates to demonstrate effectively the competences required.

### **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?

No. If exemptions were not available, there would be added cost. Exemptions are established and should be continued.

## Question 4

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

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

The profession is perhaps best placed to comment on this. However, offering a broader number of contexts (ie option (b)) would be of benefit given the wide range of practice areas in firms. The elective subjects on the LPC benefit intending solicitors not only through broadening their knowledge base, but also through enabling further practice skills development. It is noticeable how the majority of students demonstrate an enhanced professional ability in the electives part of the course. This is a further reason against the introduction of the SQE: a narrow subject base along with proscriptive assessment methods.



## **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?

Yes - there is no question about this. We do not believe that a candidate who has not achieved qualifications at graduate level would be able to demonstrate the skills and characteristics of a professional practitioner. It is not merely a question of knowing what the law is but being able to apply it. The QAA law subject benchmark for example focusses on what students are able to do with the legal knowledge gained, rather than what that law actually is.

## **Question 6**

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

Yes. It is in the workplace during a training contract or similar situation that entrants hone the skills they have developed on the LLB/GDL and LPC. This cannot be underestimated.

## **Question 7**

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

A minimum period would be appropriate but not a maximum as pre-qualification experiences can vary and individuals develop at different rates.

In our view, individuals only acquire the necessary level of skill and attitudes required of a solicitor after a certain period of experience of practice. If there were not such requirement, there are clear risks to clients from being represented by solicitors who have not benefitted from the training and supervision that is central to the current period of work based learning.



## **Question 8**

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

We feel that a minimum time period would be a helpful benchmark for the period of work-based learning, but it would also assist clarity of achievement of competences to identify those for this period. However, it would be essential to ensure these are aligned with those to be addressed in the SQE. We would be concerned however about how the achievement of such competences would be demonstrated and checked, and by whom.

## Question 9

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

Yes, as it is the quality of the pre-qualification experience that is important rather than the label attached to it. However, issues could arise in assessing whether such experience would qualify. We would want reassurance that the SRA would monitor it and provide adequate guidance for employers as to what is requisite 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?

Yes, especially if there is increased flexibility in how entrants may gain that pre-qualification experience. However, we would like to see more detail.

## 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 1 and Part 2, to a specified performance standard?

N/A



## 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?

Although we are not an employer, we consider a toolkit of guidance would be of assistance. Indeed, this could assist training programme providers in ensuring coherence and alignment of development of skills and competences across the different stages pre-qualification.

## 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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

Yes for the reasons given above and below.

As an education and training provider, clear pathways, with built in flexibility of mode of delivery, enable us to provide high quality learning and ensure appropriate achievement of criteria and competences.

Pathways provide clarity for would-be entrants in terms of mapping achievement of required outcomes.

Removal of pathways, and in particular the requirement of a degree followed by a period of vocational training such as the LPC, could also have an adverse impact on the reputation both nationally and internationally of the solicitors profession of England and Wales. Further there is an increasing trend for other professions to require a degree. This is further discussed below.

## **Question 14**

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

Not to require a degree, or degree level qualification, would significantly undermine the solicitors' profession and its reputation. As mentioned above, the requirement of a degree is a feature of an ever growing number of professions, including teachers, nurses, as well as the police officers in the near future. Further, the Bar Standards Board will in all likelihood continue to require a degree as a precursor to qualification as a barrister. Were the requirement for a degree or equivalent to be removed for solicitors, the result would be a downgrading in the perception of solicitors as a profession.

## **Question 15**

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

Yes. Feedback is important as part of the learning and training process. Transparency is also important.

## Question 16

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

Transparency is key but this must be tempered with a concern over potential development of a form of provider-league table which can be divisive. Publication of pass rates could encourage teaching to the test, an issue already discussed. In addition, providers may become selective in who they accept and take only the brightest and the best. This would fly in the face of the SRA's desire for greater diversity of entrants to the profession.

## **Question 17**

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

We have addressed our concern over these issues in our response to question 1, principally in relation to the likely cost of the proposed route to qualification. We do not agree for the reasons given that costs will be markedly reduced. Our view is that the negative impact of these proposals on equality and diversity is significant and demands a robust impact analysis.

## **Question18**

Do you have any comments on these transitional arrangements?

If the SRA proceeds with the introduction of the SQE, we feel that those who have embarked at the time on a QLD or a GDL should be exempted from all areas of the Part 1 knowledge areas already addressed.

## **Question 19**

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

We would not wish to speculate on the transition difficulties which might arise beyond the concerns we have expressed in answer to the previous question.



## **Question 20**

Do you consider that this development timetable is feasible?

No. We consider that there is insufficient time given for reflection between each stage of the change process. Institutions require considerable lead in time for validation and development of new programmes, and at present there is much uncertainty in the details of the proposals. This uncertainty is also an issue for prospective entrants to the profession and those advising them: full details must be available in relation to possible pathways and likely costs.

**Thank you for completing the** Consultation questionnaire form.

Please save a copy of the completed form.

Please return it, along with your completed **About you form**, as an email attachment to [consultation@sra.org.uk](mailto:consultation@sra.org.uk), by **4 March 2016**.

Alternatively, print the completed form and submit it by post, along with a printed copy of your **About you form**, to

SQA consultation  
Solicitors Regulation Authority  
Regulation and Education  
The Cube  
199 Wharfside Street  
Birmingham  
B1 1RN

Andrew Callaghan - University of Sheffield

## **T4T - Assessing competence**

### Consultation questionnaire form

This form is designed to be completed electronically—in MS Word. Please save it locally before and after completing it.

## 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?

No.

We are concerned that the proposals lack rigour and will not result in sufficiently high standards in those qualifying as solicitors. We accept that there may be a place for centrally set assessments, but we do not support the model proposed in the consultation paper.

The proposals will not encourage new and diverse pathways. The current pathways are:

1. QLD/GDL then LPC and training contract.
2. CILEX and LPC
3. Apprenticeships
4. QLTS
5. Equivalence

Under the SRA's proposals, all of those pathways will remain, but they will be altered to insert the SQE. The proposals won't obviously result in new routes. In fact, in the most extreme version of the SRA's proposals (no need for any qualifications at all other than passing the SQE and no period of workplace experience) there will actually only be one route to qualifying; passing the SQE.

We are also concerned that the proposals will (despite the best intentions of the SRA), for most people, increase the costs involved in qualifying, thus reducing, rather than widening, access to the profession. It seems likely that, irrespective of the regime that is eventually implemented, firms will still require most of their lawyers to be graduates, and it is likely that candidates will need to have some form of preparation for all aspects of the centrally set assessments. This would mean that most people would remain subject to the financial burden that the current regime brings, but would also have to pay for the cost of the assessments themselves.

There is also a risk of the SRA and the Bar Standards Board going in different directions. This could result in people having to make career choices much earlier than is currently the case. It might also mean that it will be harder in the future to switch from being a solicitor to becoming a barrister. We would urge the SRA to take note of what is said in the report they commissioned from Kyla Malcolm; "work with the BSB to ensure that similarities between regimes are identified such that, as far as possible, law degrees can meet the needs of both professions"

We accept that a 2:1 degree from University A may not be 'worth' the same as one from University B, but the cherry-picking of parts of the 2015 HEFCE consultation gives a misleading impression. Furthermore students and employers have a good understanding of how they would rank different universities (and those rankings are

different for different disciplines). Crucially, the SRA's proposals involve being satisfied that all those entering the profession have reached the required standard. Provided that the answer to that question is 'yes', it does not matter whether a particular individual has done so by a narrow margin or a large margin. So, provided that it is clear that passing a particular degree takes one over the threshold, then that should be sufficient. It is only very recently that the JASB, the body created to oversee standards of Qualifying Law Degrees and GDLs, was dissolved on the basis that the combination of universities self-certifying and meeting the requirements of the QAA, rendered the JASB unnecessary. It would be surprising if the SRA is now suggesting that those arrangements are not appropriate.

We accept the criticism about disparities between LPCs. Of course the vocational stage of qualification used to have centrally set assessments, but it was the regulator that changed that, not the providers. Having said that, the threshold point that we make in relation to the QLD/GDL also applies to LPCs.

\*The third of the recommendations in that report.



## 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?

No.

We are strongly opposed to the proposed model. It will not be an effective test of the competences needed to be a solicitor. It is not sufficiently rigorous, and will result in a lowering of standards.

The SRA's Statement of Legal Knowledge should be revised. At the risk of oversimplifying, it is made up of the essential elements of a current Qualifying Law Degree and most of Stage 1 of the LPC (with the exception of the skills elements).

The Statement of Legal Knowledge should be divided into two parts; academic and vocational.

We accept that the academic elements of the Statement of Legal Knowledge can be centrally assessed (as SQE 1), but only on the basis that:

1. The current QLD and GDL remain, and give exemptions to SQE 1.
2. SQE 1 is much more rigorous than is currently proposed. It should be assessed to the equivalent of degree standard\* . We acknowledge that it can be partially assessed through MCQs, but only up to a maximum of 30%\*\* . Candidates need to be able to demonstrate that they can construct and develop a legal argument – for example through the use of essay and problem based questions.

We accept that the vocational elements of the Statement of Legal Knowledge can be centrally assessed (as SQE 2), but not solely through MCQs. MCQs can form an important part of those assessments, but candidates need to face assessments in which they have to explain the litigation process, advise on wills, draft a contract, or set out the advice they would give when advising on choice of business medium\*\*\* . Our suggestion would be that SQE 2 be fairly similar to the current Stage 1 of the LPC (omitting skills, and with an accounts assessment which is more about understanding accounts and the SRA Accounts Rules, rather than bookkeeping). Those assessments should, as now, include 'hidden' professional conduct questions\*\*\*\*. Additionally we would suggest that the SRA consider the retention of a course similar to Stage 1 of the LPC that would give exemption from what we have labelled SQE 2.

We agree with the proposals set out in relation to Practical Legal Skills Assessments (we would call it SQE 3), but we think the SRA need to be clearer as to the standard set. There is nothing on the face of the consultation document that suggests that the intended standard is anything other than that currently required for skills on the Legal Practice Course, but we have twice\*\*\*\*\* heard the SRA say that the standard being considered is "LPC plus two years". We agree that this higher standard is appropriate (we are not quite sure about the best definition of it, but it is about the standard

required at the point of qualification).

We are aware that the SRA's proposed model for the SQE is heavily influenced by what is seen as the success of the QLTS. But it simply doesn't follow that tests that work reasonably well for a group of people who have qualified (and often have degrees and will have been in practice) in other jurisdictions will work equally well for those who do not have the same background.

We realise that it might be suggested that our proposed SQE 1 is not appropriate for those coming through from CILEx, apprenticeships or the QLTS\*\*\*\*\*, but that cannot be a reason for setting a lower standard for the majority who do not come through those routes. It might be appropriate to set an 'easier' version of SQE 1 for those coming from such backgrounds but the SRA must first satisfy itself that there would be true equivalence between each route\*\*\*\*\* .

There needs to be an acceptance of the fact that one size simply does not fit all. We fully appreciate that it is convenient to set the same assessments for every entrant to the profession. But the priority should be the maintenance of standards, not administrative convenience.

\*If the SRA is not prepared to go this far then the requirement to have a degree should be retained, but the SQE would, in any event, need to be much more rigorous than the current SRA proposal.

\*\*We agree that assessing by MCQs can be more sophisticated than some would realise, and that they can test more than 'mere' knowledge, but they cannot test everything that, for example, can be assessed by means of an essay.

\*\*\*Of course they might face these tasks in the later skills tests, but (because of the degree of choice given to them at that stage) they could also avoid those tasks.

\*\*\*\*Under the current regime there is a discrete Professional Conduct exam (which includes financial services) and a requirement that 5% of the marks in each of Business, Property and Litigation be for professional conduct questions. We consider that all professional conduct questions should be 'hidden'; the key step in dealing with these types of issues is actually recognising that there is a potential problem – something that is clearly not tested in a discrete exam.

\*\*\*\*\*When Julie Brannan came to the University of Sheffield to talk to the local profession and universities, and at a meeting between the Qualification Working Group and the SRA on 21 January 2016.

\*\*\*\*\*We can understand that people coming through those routes at present will often make excellent solicitors but might struggle with a traditional 'academic' exam.

\*\*\*\*\*This ought not to be a difficult exercise as presumably the SRA is currently satisfied that there is equivalence.



### **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?

Yes – but on the basis that we propose in our answer to question 2.

## Question 4

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

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
  - b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
  - c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?
- a) Yes. We accept the rationale set out in the consultation document.
- b) No. For the reasons set out in paragraph 50 of the consultation document.
- c) No. It takes specialisation at the point of qualification too far. Whilst we would not argue strongly against this proposal, we think a) is better.

## 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?

It should be set at higher than graduate level or equivalent.

The qualification is currently assessed to higher than graduate level. The Legal Practice Course is a postgraduate course, and the training contract definitely adds something to that (even though it does not obviously align to an FHEQ level). The current standard can be described as 'postgraduate plus'. We would certainly be opposed to an overall lowering of the standard.

## **Question 6**

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

Yes. We regard this as being essential, despite the concerns about variation between the standards of the current training contract providers.

## Question 7

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

Yes. Candidates mature and develop considerably during the current training contract. The differences between a Day 1 trainee and a Day 1 solicitor are considerable, and those differences illustrate the value and importance of the training contract.

The period of time of pre-qualification workplace experience should be fixed, and we suggest that it should remain unchanged (subject to existing possibility of a six month reduction). If a purely outcomes-based approach is taken there is a real risk of a rush to the bottom.

## Question 8

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

We don't think that it is a case of one or the other. We consider that there should be a period of workplace experience (see our answers to questions 6 and 7). So the real question is whether, additionally, the SRA should specify competencies that are to be required to be met during pre-qualification workplace experience.

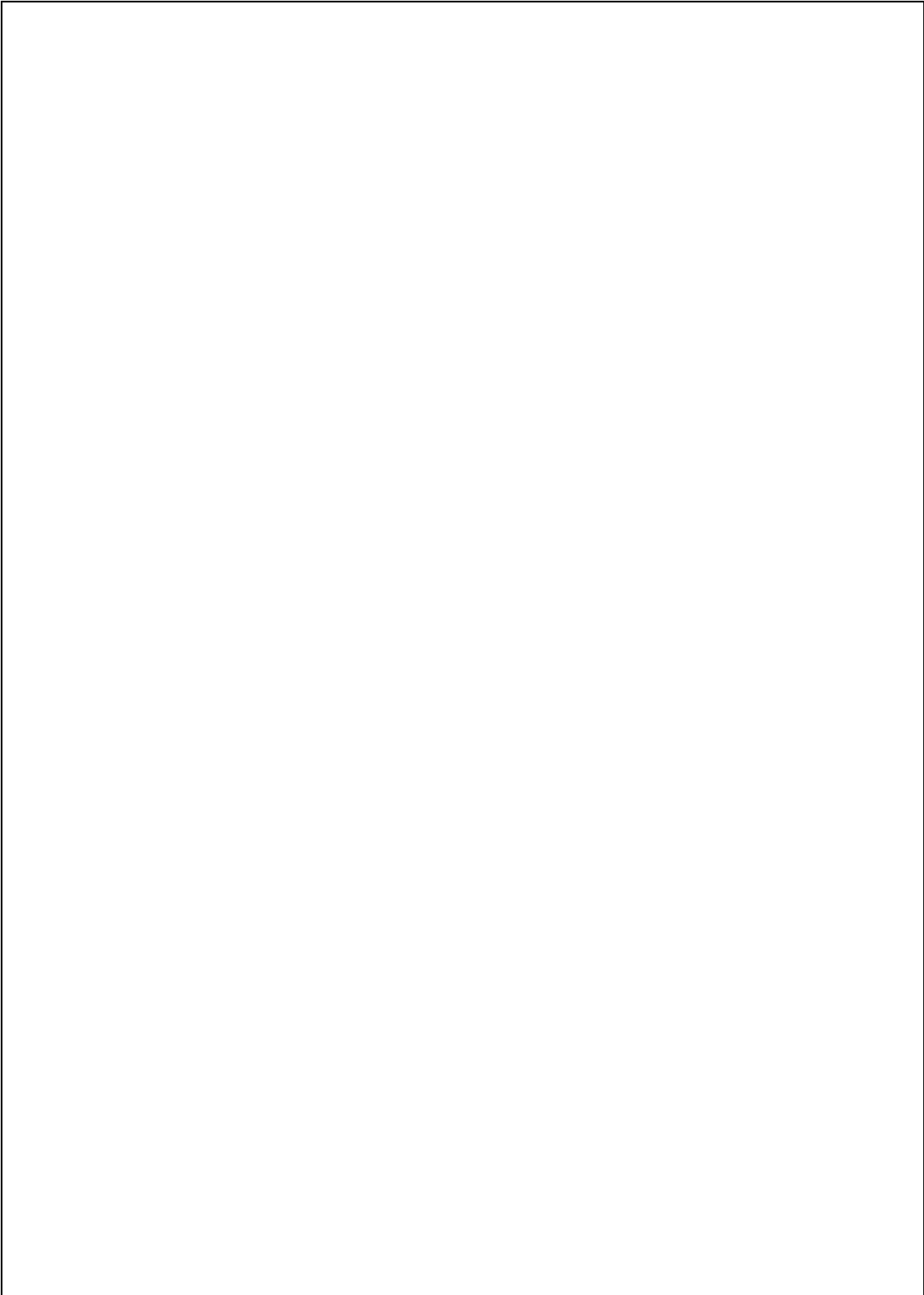
If the SRA is to specify competencies that are to be required to be met during pre-qualification workplace experience, then there has to be some device for assessing them.

We note that there are currently no proposals for assessing a number of the competencies set out in the Statement of Solicitor Competence (A2, A3, D1, D2 and D3). We agree with AlphaPlus that if these competencies are not to be assessed then there is no point in including them in the Statement of Solicitor Competence (at least in relation to requirements as at the date of qualification). In any event, we suggest that, because of the very nature of these competencies, the only point at which they can be assessed is during (or at the end of) a period of workplace experience.

The most commonly suggested method of assessment is through a portfolio, but there are significant issues with such an assessment. One (though it can be guarded against by redactions etc) is the risk of the breach of client confidentiality. Another is that firms (or groups of firms) will develop a standard portfolio into which one simply slots a few specific examples. If (as will generally be the case) firms feel that their trainees are ready to qualify, then a portfolio will largely be the work of the firm, and not the work of the individual. Unless candidates are to be required to attend to be questioned on the portfolio (which, we acknowledge, is a possibility – albeit one that carries an expense), then the portfolios themselves will actually be of little value.

We do think that it is worth pointing out that there is a sense in which the current training contract does assess competencies. The training principal has to certify that an individual has completed the period of recognised training, and regulation 12 of the Training Regulations 2014 sets out what that involves. It includes satisfying competencies (although it is not quite expressed in that way) – see the references in regulation 12 to the Principles and the Practice Skills Standards. The signing off of a trainee is a form of 'soft' assessment.

The Training Regulations are not terribly specific in relation to what is required of a training contract (or as to standards) and one possibility is to consider incorporating elements of the Statement of Solicitor Competence (perhaps parts of A2, A3, D1, D2 and D3) into regulation 12.



## Question 9

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

We think that there is a danger of this being unworkable if it goes beyond what is currently permitted under regulation 12.3 of the Training Regulations 2014.

Many degree programmes do include the opportunity for some workplace experience, but we would not suggest that this should normally be recognised as it usually takes place alongside other studies. It would normally be equivalent to only a very few weeks of full time work.



## **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?

Please see our answer to question 8.

## **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 1 and Part 2, to a specified performance standard?

We are not an employer, but we would nevertheless like to comment.

As we say in answer to question 8, this already happens (although perhaps not quite in the way that the consultation now envisages). Beyond that, we think it is difficult for firms to answer this without more detail of what it is that you might be asking them to do.

## **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?

It is impossible to answer this question unless you provide more detail of what it is that you are proposing.

## 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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

Yes, prescription and regulation are necessary.

We would urge the SRA to consider seriously the proposal that we put in answer to question 2. But if that proposal is not accepted, then:

- As to entry requirements for the SQE, if the SQE is sufficiently rigorous, then we do not consider that entry requirements are necessary. But, we are firmly of the view that the current proposals for the SQE are a long way from being sufficiently rigorous.
- Assessments must be credible. The proposals for the SQE are not.

We find the suggestion that consumers of legal services and students need protecting only for a limited period a little odd. Either they need protecting, or they don't.

## **Question 14**

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

Yes. But that is the current position anyway. Non-degree routes (apprenticeships/ CILEx/QLTS) are reasonably treated as having equivalence.

## **Question 15**

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

We don't have a strong view. Having said that, the thrust of the consultation is about judging competence ie is an individual competent or not? That approach is more consistent with not giving information about comparative performance.

## Question 16

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

a) It depends upon what you do in relation to question 15. If you don't publish information about individuals then information about overall candidate performance may be of limited value. One might think that, if the information is easily available, there may be little reason not to publish it, but we do share the reservations set out in the second part of paragraph 85 of the consultation document.

b)

i) If, by 'training provider' you mean an institution that prepares candidates for the SQE, then if the SRA's proposals were adopted we would be opposed to publishing any such information, because it could adversely impact upon the widening participation policies of some institutions.

ii) If, by 'training provider' you mean a firm (or other body) that is providing workplace experience that is to be assessed, then we would be opposed to publishing any such information unless you are proposing some form of assessment of the workplace experience which involves the training provider taking no part in the assessment itself.

## **Question 17**

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

We are of the view that the proposals, as currently framed, will increase the costs of qualifying (see our answer to question 1), which will disadvantage some.



## Question18

Do you have any comments on these transitional arrangements?

We don't feel that the transitional arrangements are fully formed. Indeed they cannot be fully formed until one knows exactly what any new regime is going to look like (ie until one knows what we are transitioning into). They seem to be broadly sensible, but we would not wish to comment beyond that.

If the proposals that we outline in answer to question 2 are accepted then certain aspects of transition become more straightforward – a QLD/GDL (whenever obtained) would give an exemption from what we label SQE 1, and an LPC (whenever obtained) could give an exemption from what we label SQE 2 (but not from SQE 3).

## Question 19

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

It is always possible to imagine a one-off case of a single individual who would seem harshly treated by the operation of a cut-off date, but we accept that a line has to be drawn somewhere.

## **Question 20**

Do you consider that this development timetable is feasible?

It does seem ambitious. For example the production of the draft Assessment Framework document is a substantial undertaking; it should include detailed syllabuses and sample assessments - that is likely to take some considerable time. It should also be the subject of consultation (the programme of work makes no reference to such a consultation).

But the question ought not just to be about the feasibility of the timetable; it should also be about its appropriateness. For example, our view is that the draft Assessment Framework document ought to have been produced as part of the current consultation.

**Thank you for completing the** Consultation questionnaire form.

Please save a copy of the completed form.

Please return it, along with your completed **About you form**, as an email attachment to [consultation@sra.org.uk](mailto:consultation@sra.org.uk), by **4 March 2016**.

Alternatively, print the completed form and submit it by post, along with a printed copy of your **About you form**, to

SQA consultation  
Solicitors Regulation Authority  
Regulation and Education  
The Cube  
199 Wharfside Street  
Birmingham  
B1 1RN



## **SRA CONSULTATION PAPER “TRAINING FOR TOMORROW: ASSESSING COMPETENCE**

**Published on the 7<sup>th</sup> December 2015.**

### **RESPONSE FROM BPP LAW SCHOOL**

#### **INTRODUCTION**

BPP Law School is one of the largest providers of professional legal education in England and Wales. We offer the LLB, GDL, LPC, BPTC and a suite of LLMs to the market. We have over 5,000 students across the country and seven Law Schools in London, Leeds, Manchester, Birmingham, Liverpool, Cambridge and Bristol.

We have exclusive relationships, as provider of choice, with over 50 of the leading law firms in England and Wales. We are the provider of choice to the majority of the Top 20 largest law firms in the country, many of which operate internationally. As such we have a good knowledge of the needs of a large and diverse section of the profession. We have discussed the SRA's proposals with many of our clients and our views are informed by the discussions we have had. We also have a significant proportion of students who do not have training contracts and our response also takes into account the perspective of these students.

The foreword to the consultation document makes it clear that the SRA “welcomes views on both the case for change and our proposals”. We therefore begin our response by addressing the case for change. We then set out our detailed responses to the 20 specific questions in the consultation document and then conclude by making some general points about the effect and consequences of the proposals.

## **THE CASE FOR CHANGE**

The case for change is said to be based on two main concerns: a concern about inconsistent standards and a concern about diversity in the profession. We believe the case for the former is not made out and seems to be based on weak evidence, flawed reasoning and questionable conclusions. As to the latter concern, whilst there may be a legitimate concern about diversity in the profession, we believe the proposals will not address the issue and, in many respects, will make the situation worse.

### **Inconsistent standards**

The consultation document refers on page 10 to a “growing body of evidence which raises concerns about whether everyone who qualifies as a solicitor has reached the high standard we would expect”. We are not aware that there is a widespread concern either amongst the profession or the public at large about the inconsistent standard of solicitors.

The evidence put forward for this statement seems to be quite weak and the conclusions being drawn from the evidence are strained at best and illogical at worst. We comment on the 4 pieces of evidence below.

#### **1. Differing levels of LPC pass rates.**

The report suggests that the fact that some LPC providers have success rates in excess of 90% while others are below 50% is evidence of inconsistent standards. On page 49 of the document it states “The accelerated full time study has a high pass rate compared with the norm”. The report states on page 11 “There may be many reasons for this disparity in pass rates - student cohorts of differing ability, variable teaching quality or different assessment standards, but is very difficult for us [the SRA] to understand clearly the reasons for this variation or whether these variations are justifiable or not”.

We suggest that it is not difficult to understand why there is such a diversity in pass rates. The underlying fact of the matter is that very high pass (and distinction) rates obtained on some LPCs (in particular the Accelerated LPCs, which we run many for large City firms), is a reflection on the high calibre of the cohort. We would therefore expect pass rates on some courses (and therefore some institutions) to be much higher than others. It would be a major concern if they were not.

The SRA only needs to consult the reports of its own external examiners over the years to confirm this. These independent external examiners have commented often on the strength of the scripts, the high pass and distinction rates and the calibre of the students. It is therefore not in the least bit surprising that LPC pass rates differ. The differing pass rates do not however indicate that there are inconsistent standards of LPCs- quite the reverse. The differing LPC pass rates are clear evidence of a consistent LPC standard being set across all providers nationally and therefore evidence that every trainee entering the profession has reached the same basic level of competence.

If despite this the SRA has concerns about the inconsistent quality of LPCs or providers, it should reinstate its systems of external examiners and quality assurance visits.

## **2. Different entry requirements for university law courses**

The second piece of evidence put forward is the fact that some law degree courses have very high entry requirements (A\* and A grade) and others require lower grades (B, C, D). This has always been the case and is simply a consequence of demand for places at more prestigious universities. It is wrong to draw the conclusion that everyone should be at the A\* A ability range for entry to the profession or equally that someone who only obtained a BCD is not of sufficient high calibre.

The report quotes HEFCE and its purported conclusion “that the current QA assess system does not provide direct assurance about the standard of awards or their comparability” but we would suggest that this is misrepresenting the position.

The consultation paper refers to a HEFCE report which questions the ability of the current quality assessment system to provide complete assurance about the standard of awards made to students and their broad comparability yet it is clear from a full read of that paper that there was confidence in the HE system generally and no fatal flaws were identified. However the SRA have decided that since there are these doubts, this justifies introducing a new system that will be entirely centrally controlled. Effectively the SRA is calling into question the fundamental reliability of the higher education system in the United Kingdom.

If contrary to this, the SRA believes there is a concern about the QAA’s mechanisms, why did the SRA choose to rely on the QAA mechanism for its QA assurances on the LPC? Surely the answer is to take back control via a system of SRA appointed external examiners, a system which worked so well for so many years.

## **3. Very few trainees fail to be admitted**

The third piece of evidence is the seemingly surprising fact that “only a very small number of trainees fail to be admitted as solicitors following their period of recognized training” (page 11). This should not be a surprise at all. Trainees have all passed the hurdles of the academic stage and the LPC. It would be a surprise (and an indication that the academic stage is not operating as an effective filter and the LPC is not good preparation for the training contract) if they subsequently failed to be admitted in substantial numbers. Again, we would suggest that illogical conclusions are being drawn from this statistic.

## **4. Negligence claims against firms of solicitors**

The fourth argument put forward is the fact that “In each of the last 4 years around 18% of firms have faced a negligence claim” (page 13). This is being used as evidence of falling standards in the profession. This is a superficial and strained conclusion. It ignores for example the number of transactions and lawyers working in any particular firm so the statistic is meaningless. The report assumes that each of these claims is a result of inadequate training or exams to qualify as a solicitor. We doubt this would be the case.

In summary, we do not believe a proper case had been made for the proposition that there is concern about whether everyone entering the profession has reached the same standard in order to justify such a radical overhaul of the qualification system.

## **Concern about Diversity**

Whilst there is clearly an issue about lack of diversity in the profession, it is not restricted to law. It is the case in other professions such as medicine, the judiciary and the civil service.

Our view is that the SRA is ignoring the major initiatives being taken by many firms, including the largest in the City. Instead the SRA is proposing a system which will not only fail to address diversity but in many ways it will exacerbate the problem.

The SRA believes diversity will be tackled by the lack of requirement for a degree, reducing costs and encouraging flexible and cheaper pathways to emerge. We do not believe this will be the case for the reasons we set out below.

### **1. Requirement for a degree**

Our detailed comments on this are contained in the answers below. In summary, even if the SRA does not require all entrants to the profession to be educated to at least degree standard (or equivalent), a “gold standard” will emerge with the majority of firms continuing to require its recruits to have a degree. It is also the case that unless a person has been educated to degree standard they are likely to have difficulty passing the SQE.

Students from certain backgrounds will continue to obtain degrees and therefore secure training contracts (or their replacement) and pass the SQE. Students from less advantageous backgrounds (and without the same level of career guidance) may decide, wrongly, to pursue a career in law in the cheapest possible way and will find it more difficult to pass the SQE and obtain employment as a solicitor as a result. This will have a general negative impact on diversity.

### **2. Cost**

The report states that diversity will be addressed by reducing costs and implies that the costs of £12,500 (being the typical cost of an LPC) will be “saved”. This is misleading as it fails to properly take into account the cost of what is being proposed as a replacement.

The costs of delivering and assessing the SQE (particularly Part 2) are likely to be high and in addition no-one is suggesting that students will be able to prepare for the SQE without some form of training. As one of the largest providers of legal education in the country, our view is that the cost of any replacement system is likely to be comparable or higher than the existing cost of training. Having spoken to many of our clients, we believe a “gold standard” will emerge where students are expected to complete training at least equivalent to the LPC (notably the skills and elective elements), the resulting additional costs will, as the SRA acknowledges, be higher.

The higher cost will adversely affect diversity.

### **3. Flexible and cheaper pathways will emerge**

There is no doubt that the proposed system will lead to low cost routes to passing the exams. However passing the exam and success in the profession are two different things.



As we have stated above a gold standard will emerge which requires training beyond the minimum necessary to pass the SQE.

Students who misguidedly choose the cheaper “crammer” courses may find themselves unable to eventually qualify or obtain employment. This will reduce rather than increase diversity in the profession.

Our overall conclusion is that the SRA’s proposals are actually going to adversely affect the issue of diversity.

### **Conclusion on case for change**

Our overall conclusion is that a case for change has not been made out in order to justify such a radical overhaul of the present system.

The LETR report stated that the current system was fundamentally fit for purpose and yet the SRA is now proposing to dismantle it. The SRA had a number of possible approaches to LETR and yet has only put forward one of these possibilities to formal consultation.

A fundamental dismantling of the entire qualification system and its replacement with a system which carries with it a number of risks and undesirable consequences can, in our view, only be made if there is clear evidence that the current system is unfit for purpose and a clear need for change has been made. For the reasons set out above, we do not believe a clear case for change has been made out.

## RESPONSES TO THE 20 QUESTIONS SET OUT IN CONSULTATION DOCUMENT

### 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?*

#### **BPP Response**

No, we do not.

The objectives in paragraph 10 are to:

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

We believe the starting point for this question is wrong. The question assumes there is currently no basis for ensuring a consistent entry standard to the profession. This is based on flawed reasoning as discussed above.

The process the SRA has followed and the questions it has posed are flawed. The question that should be being asked is whether people agree with the proposition that there is a need to introduce the SQE (or any other mechanism) in view of inconsistent standards. In other words, whether there is a problem to be solved.

As to the exact wording of the question whilst it is logically possible to run an argument that if everyone does the same test then there will be consistency this is a very simplistic view and cannot be looked at in isolation from the specifics of what the SQE (as proposed) entails.

The question also specifies “best meets the objectives”. We fundamentally disagree that the SQE is the best method of meeting these objectives, since it will cause more problems than it solves. A better way of meeting the objectives would be to strengthen the external examiner system and for the SRA to monitor providers.

Further, although it may achieve consistency (of sorts), it does not mean it is suitable for students or the profession.

The profession is diverse, as is the range of organisations providing legal services and the universities teaching undergraduates and graduates on their journey into legal practice. These proposals will not alter that diversity. The current system has evolved to meet the needs of this diverse profession with tailored and accelerated programmes increasing the skills and knowledge of those undertaking them. Every year programme enhancements are made to keep pace with practice. The SQE seeks to reduce the focus to the reserved areas and will lower the baseline requirements of a candidate starting out in the profession. It will reduce the breadth of knowledge of such a candidate.

As many organisations which employ solicitors are likely to have no faith in the assessment, an unintended consequence of this proposal if implemented is likely to be a more elitist, less diverse,

more costly route to qualification for the reasons outlined in various parts of this response document. In particular this proposal is far too exam focussed and this is out of step with current thinking in Higher Education especially if the stated aim is to address diversity and access to the profession.

Finally the English system of legal qualification already requires fewer qualifications than in other jurisdictions. For example in Germany a PHD is a requirement for a practising lawyer and many jurisdictions require a Masters qualification. These proposals are likely to have a negative impact on the reputation of UK law on the global stage.

In summary, the SQE is attempting to solve a problem which we do not believe exists, and is solving it in the wrong way which will lead to serious problems.

## 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?*

### BPP Response

The SQE may be a test, but we do not believe it will be an *effective* test. It is far removed from the needs of employers.

We have not seen a sample of what the SQE will look like. We are being asked to take a leap of faith and assume that the test will be able to assess as the SRA describes and will meet the objectives we have repeated above. However, for the following reasons this will not be achievable.

- There is no LPC elective coverage – this therefore results in a reduction in required knowledge at the point of admission when compared to the current system. Many law firms view the electives coverage as a vital part of the training, which enables trainees to function in the office. Anecdotal evidence from trainees during their training contracts confirms this view. The SQE does not incorporate this area of training which will mean that for many firms trainees will arrive less competent than they are currently. Instead, students will be required to cover a number of areas that will not be relevant to their practice in greater depth than they do currently, for example criminal litigation for those pursuing a career with a corporate firm. The SRA will have achieved an objective of ensuring everyone has had the same test but there will be less appropriate or useful training. This is an unhelpful step backwards.
- Part 1 MCQs cannot properly assess application of the law, reasoning and problem solving skills in the same way as a long form question. Clients do not seek the advice of their solicitors and give them a range of options from which to choose, so whilst MCQs do have a place amongst a diet of assessments they cannot play such a large part in the qualification process. Importantly MCQs do not enable the candidate to demonstrate an appreciation of the uncertainty of the law which plays a large part in professional practice.
- Under the current system students spend a great deal of time under examination conditions being asked detailed questions about law and its application. Degree and GDL examinations are mapped against the Higher Education Qualification Framework. Additionally the students have to undertake a number of skills assessments. The SQE will substantially reduce the amount of time spent in assessment and as a result will drive down standards

- MCQs are not the best way of working out who the “most talented” candidates are. Some highly talented people may not be particularly good at MCQs but could have a real aptitude for analysis and problem solving. The current system ensures that students undertake their vocational training having already obtained an academic understanding of the law via the QLD or the GDL. Their vocational training then mirrors practice in terms of simulating the office environment and the tasks that trainees are expected to perform. The assessment strategy of the LPC follows the teaching methodology and is therefore a true reflection of practice. The SQE is a poor substitute. It is a one dimensional test. The frequent comparison made by the SRA to the QLTT is fundamentally misconceived, since candidates who take the QLTT are already qualified lawyers who have demonstrated the necessary higher level skills in their jurisdictions. In many cases they have already had substantial experience of legal practice.
- We have been given little or no information about how the part 1 tests might be modularised or at what level (4, 5, 6 or higher) and no indication of how long these passed modules could be ‘banked’ for.
- An MCQ test is likely to lead to individuals taking test preparation “crammer courses” of varying quality. Whilst such courses may be cheaper, they will not be able to replicate the current quality of training. If the current level of training were to be replicated, as the SRA acknowledges this will lead to a more expensive system.
- An SQE which has not been tested for its validity is no way to control entry to a profession. Given that many law firms will want their trainees to have gone through a programme of legal education prior to employing them the SQE will simply be an additional hurdle. It is likely that those who are not sponsored will follow suit. This will have the effect of adding costs into the system, which could be a further barrier to entry.

### 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?*

#### **BPP Response**

No we do not.

There is no logic in preventing a student who has studied, for example, contract over a long period of time and passed an assessment at degree level, to not be exempt from that element of the SQE. To require such a student to pass a further assessment will cause logistical issues and will drive up costs for no justifiable benefit.

Students who have invested time and money in a valuable educational process should be given credit for that in the form of exemptions. Granting exemptions is a well-established practice within Higher Education and other professions do allow exemptions from their assessment requirements.

EU law requires that prior experience and education must be taken into account when candidates apply to undertake the QLTS. It is possible that two lawyers from the same jurisdiction will have attended a variety of Universities and followed a range of paths to qualification in their own

jurisdictions. It seems perverse that they should be able to obtain exemptions and yet the domestically educated applicant should not.

#### Question 4

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

- *offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?*
- *offering a broader number of contexts for the Part 2 assessment for candidates to choose from?*
- *focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?*

#### BPP Response

The fundamental problem with Part 2 is timing. In a) and c) a candidate will have been potentially practising in areas of the law very different from the reserved areas and the basic 'law of organisations' for some considerable time if Part 2 of the SQE comes after the 'Period of Recognised Training.' The areas of practice in global corporate firms, niche firms and high street practice are so diverse that many candidates will necessarily have to re-acquaint themselves with the relevant areas of law whilst trying to keep up with the 'day job.' Their day to day job may be too specialised. No doubt they will seek a test prep or crammer course to help them – adding stress and cost to the route to qualification which in the current system was not there.

Furthermore, the logistics around conducting the Part 2 assessments will be very difficult to manage. The number of assessors needed and the number of people going through the system will mean that an assessing organisation will need a large number of staff simply to arrange the events. Inevitably this will drive up cost and, from the perspective of the firm will be very difficult to manage, particularly if there are a large number of trainees at the firm.

The cost of preparing students for 12 Part 2 skills assessments is likely to be very high. This will be an additional cost to the current system which the SRA does not seem to have factored in. Part of the reason may be that the SRA has made comments along the lines that students should not need any preparation for the Part 2 assessments, as students will be in practice.

This highly unrealistic for four reasons.

(1) As the SRA has removed any skills training from Part 1 of the SQE, under the proposed system, students will have had no formal training on drafting or advocacy or any of the skills when they start the period of work based learning. How does the SRA envisage students acquiring the necessary skills.

(2) It is unrealistic to expect students to sit 12 assessments (which they pass in order to qualify) with no element of preparation;

(3) The contexts that these assessments will be far removed from their day to day jobs; and

(4) It is a fundamental principle of assessing that students should not be tested without at least a formative assessment.

Option b) is the better option but the problem with b) is the sheer range of possibilities and the cost involved in accommodating just a smaller extended range of options. Surely the fact that the central

assessment can be set in different contexts immediately means that the test won't be the same for all? Although this mirrors the reality that different people have different practices it does rather undermine the SRA's whole philosophy behind the changes, and in fact re-enforces the point that the current system should be maintained.

#### **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?*

#### **BPP Response**

We agree but for this to work we need the SRA to adopt the HE Framework and map all learning outcomes and assessments against that framework. It seems to us that the current system enables the sector to do this.

It is difficult to see how the SQE could possibly do this as it does not seem capable of replicating the rigour of the current assessments in any meaningful way.

#### **Question 6**

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

#### **BPP Response**

Yes. We do not think that someone should be able to say they have qualified a solicitor simply by virtue of having passed an assessment. A system which only required this would undermine the profession. We don't think that consumers would have confidence in a qualified lawyer who has not trained at a law firm or in a legal services environment.

It also needs to be recognised that trainees develop a lot during the current training contract from the level they have reached at the end of the LPC. Therefore some form of pre-qualification workplace experience should continue to be mandatory.

#### **Question 7**

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

#### **BPP Response**

Yes. We think that this provides clarity for all parties and we believe that other professions require minimum periods. A minimum period ensures some consistency and protection for the public. A doctor would not be allowed to qualify without a minimum time spent with patients, even if that doctor purported to have met the necessary competencies.

### **Question 8**

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

#### **BPP Response**

The danger of this approach is alluded to in the SRAs introduction to this consultation.

Might not some employers rush to sign off a candidate quickly so as to end the PRT for commercial or other reasons without proper adherence to the competency framework? If there is no formal regulation and testing of compliance how does this improve the quality of the PRT?

### **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?*

#### **BPP Response**

Yes. This would help with the diversity of experience issue and is in fact already permitted under the Equivalent Means process.

The complexity of assessing and signing off a diverse range of work experience would need to be modelled using information and insight from the current equivalent means process. Given it is probably the more disadvantaged candidates who might need to submit such a portfolio of experience the cost of signing this off should perhaps be reviewed.

In theory work done in a pro bono or volunteering context ought to be counted but there should be minimum criteria such as the level at which it was carried out and whether the work was supervised and independently verified. Better guidance should be given on how to evidence this and relate it to the competency framework.

### **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?*

#### **BPP Response**

It may enhance the process but not to the extent of justifying the increased costs. We have set out the logistical problems with this (and the impact that these logistical consequences will have in driving up costs) in answer to question 4 above.

### **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 1 and Part 2, to a specified performance standard?*

#### **BPP Response**

Not applicable

### **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?*

#### **BPP Response**

Not applicable

### **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?

#### **BPP Response**

If the SRA is determined to introduce the SQE then pathways leading to it will be needed. Pathways provide clarity for entrants, and build credibility. Pathways should also be prescribed to ensure students are properly prepared for the SQE and ensure the unwary are not wasting their time and money. We make it clear however that our overall position is that we do not support the SQE.

If SRA feels it is sensible to prescribe or regulate pathways, then we cannot see the logic of only doing so in a transitional period. If pathways are recognised in the transitional period, they will become the preferred route to qualification.

### **Question 14**

*Do you agree that not all solicitors should be required to hold a degree?*

#### **BPP Response**

Not all solicitors now hold a degree but the vast majority do. Going forward we believe there should be a requirement.

In an age where many roles now require a degree it seems perverse that a degree is apparently undervalued by the SRA. We believe that this will damage the solicitor brand, domestically and



internationally.

It will shortly be possible for a solicitor to be trained under a trailblazer apprenticeship route. The solicitor apprenticeship has not been set up as a degree apprenticeship but were we to offer it we would include a degree as part of the education we deliver. This is because our market research suggests that solicitor apprentices would want to get a degree to enhance their future career prospects.

Possession of a law degree (or another degree and the GDL) should be a prescribed pathway to qualification and exemptions from the SQE (should it be implemented) should be given for the reasons stated above.

### **Question 15**

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

#### **BPP Response**

If the stated aim of the SQE is to ensure consistency of standards and all solicitors have met this standard then it should be a pass/fail scenario. There is no logic in giving students their results as this would simply lead to “degrees of competence”. One can envisage a situation where firms will advertise their positions as “only those who have achieved at least 80% in the SQE” need apply, as is often the case with a 2.1 degree.

The fact that the SRA can propose this for the SQE, indicates the incoherence of the whole proposal with the SRA appearing to have to lost sight in this question of what the SQE is there to achieve.

### **Question 16**

*What information do you think it would it be helpful for us to publish about:*

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

#### **BPP Response**

We do not believe publishing overall candidate performance or training provider performance will be helpful, as it will simply lead to providers teaching to the exam in order to keep their performance figures high. This will undermine the ability of providers to provide proper training to prepare students for the workplace. A direct parallel can be drawn with the general education system. There appears to be some criticism of school league tables which is leading to many top universities concluding that, while schools may be preparing students to achieve excellent A level results, the wider preparation for university is being lost and students are often arriving at university ill equipped for study at that level.

Further if the SRA goes down the route of not prescribing pathways it will, in effect, be creating an unregulated market place where “crammer courses” will be offered for the SQE. In such a market it will be very difficult for the SRA to collect any meaningful data.

### **Question 17**

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

#### **BPP Response**

Yes. We believe that most students will want to obtain a degree for future career prospects. The LPC is valued as a programme which trains a student to be a trainee solicitor and so is an important part of the journey to qualification and many employers will require people to undertake it or something similar. The SQE will therefore be seen as an additional cost and additional barrier. In all likelihood it will put off a number of potential entrants from a range of disadvantaged backgrounds.

There is much research that a MCQ approach to assessment significantly disadvantages those with dyslexia and other learning support needs. There is also research that men do better at MCQs than women. A reliance on an MCQ approach in Part 1 of the SQE favours a particular skill set which can be honed by those with money and access to the right sort of tutoring. This tends not to be students from disadvantaged backgrounds.

Without specified pathways to the SQE there is potential for confusion about how to qualify as a solicitor which will mean that those without access to good quality careers advice and support will be put off from starting the journey. From the perspective of a student the proposal is really confusing. What will they best be advised to do?

If the SRA publishes candidate performance data for the SQE this will be yet another marker that firms will look at to choose the 'best' candidates but for all of the reasons set out above it may not necessarily reflect their actual abilities because they have been disadvantaged by the choice of assessment instrument.

A far better way of tackling the diversity agenda is the way in which firms are altering their recruitment techniques to adjust for socio-economic and other factors.

### **Question 18**

*Do you have any comments on these transitional arrangements?*

#### **BPP Response**

There is far too much uncertainty in the proposals. We can only conclude that they are unrealistic.

### **Question 19**

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

#### **BPP Response**

No comment

## **Question 20**

*Do you consider that this development timetable is feasible?*

### **BPP Response**

No. The development work required to create high quality courses to respond to this proposal is considerable. Unless much more detail about the structure of the modules, curriculum and example assessment materials are provided soon the timetable will have to be revised.

The consultation document is also internally inconsistent regarding the timeframe. On page 34 the SRA acknowledges that no developmental work can begin until at least the Assessment Framework document is published in December 2016. We believe that realistic work cannot begin until an assessment provider has been appointed and sample assessments have been published.

Even assuming work can begin on 1 January 2017, page 34 acknowledges that 2-3 years' work is needed.

This means courses cannot begin until academic year 19/20 at the earliest and possibly 20/21. Certainly not 2018/19, as that will only give 18 months to develop new programmes.

## **EFFECT AND UNINTENDED CONSEQUENCES OF THE PROPOSALS**

We believe these proposals would have far reaching and negative effects on all the following stakeholders: universities, training providers involved in professional education, firms, students and the reputation of the profession as a whole and protection of the consumer.

### **1. Universities**

The SRA believes the reforms will open the gateway for new imaginative degree courses to emerge which seek to combine the academic element of legal training with Part 1 of the SQE and therefore reduce the time and cost to the student of legal training.

Whilst it is certainly the case that some such degree courses will emerge, we do not believe that there will be widespread desire to change the content or focus of the traditional law degree to make it more vocational. The majority of law students do not go on to qualify as solicitors. When they first start the course many have yet to decide whether they want to enter the solicitors or barristers profession. Some study law intending to pursue a career in areas such as accountancy, banking or business. Others simply study it for interest. It is unlikely that all universities will alter their degrees in such a radical way (and it will need a radical change of syllabus and emphasis) to cater for a small proportion of the student market.

### **2. Training providers involved in professional education**

The proposals involve a retrograde step in legal education. For the last 15 or so years (starting with the development of the so-called “City LPC” in 2000), the SRA has recognised that the diverse nature of the legal profession and the differing needs of practice means that the traditional concept of a solicitor no longer exists in the 21<sup>st</sup> century and a “one size fits all approach” is inappropriate. It seems surprising that the SRA is seeking to turn the clock back to precisely such an approach.

The SQE represents a significant backward step. The need to teach a centrally-set fixed syllabus will result in students studying some areas of practice to a level of detail that will not benefit them in practice. This level of study will be at the expense of elective modules which students currently select on the basis of the practice areas in which they will, or plan to, work.

Further, teaching which has been moving for many years away from simply passing an exam hurdle towards proper training designed to equip potential trainees for life in the office, will move back to the former. Students will become more exam focussed than they already are. Some providers will simply deliver crammer courses. Although students may be able to pass the SQE, the resulting one-dimensional training will not prepare them for entry to the profession.

### **3. Firms**

We have been discussing the proposed reforms since they were first published with many firms (including our client firms) and others involved in legal education. The response to the SQE proposal from them is overwhelmingly negative.

No one feels that the justification for radical change has been established by the SRA. Firms do not understand why the SRA seems determined to turn its back on 15 years of positive change in legal education, change that was driven by the profession to move away from the one size

fits all approach towards a allowing a certain amount of tailoring to recognise the diversity of legal practices.

From the employer's perspective, students will come out of the SQE with significantly less relevant knowledge than they currently do having passed the LPC. We believe that a gold standard will emerge that will represent the knowledge base that the profession requires its trainees to have. This will involve adding back in to the process what firms view to be the missing elements in the SQE, notably the electives.

The SQE will become an additional hurdle that will represent the bare minimum level of achievement for qualification, a level that few firms will have confidence in, rather than the proper training the current system affords.

Further the proposals will present huge logistical difficulties for firms, notably:

- Difficulty in recruitment decision- based on a plethora of different entry points
- Logistical problems of Stage 2.
- Difficult retention decisions

In summary we are surprised that the SRA seems to be determined to push ahead with reforms that the profession does not want and will cause it so much difficulty.

#### **4. Students**

The proposals will create many difficulties for those considering a career in the legal profession. Far from facilitating entry to the profession, the proposals are likely to create a great deal of confusion.

Many potential routes will appear to be open to students, but a gold standard preferred route will emerge. Those properly advised will follow the preferred routes. Those less well advised may choose routes which will ultimately cause them to fail the SQE or fail to obtain employment, leading to a greater diversity issue than at present.

Forcing students to choose at school or early on whether they wish to qualify as a solicitor is unfair on students and undesirable. Further, if the traditional law degree becomes less advantageous as a result of the reforms because it does speed the route to qualification, this could lead to a decline in the number of students studying law.

Finally as mentioned in numerous places in this document, the overall cost to students is likely to be higher, leading to a greater diversity issue than at present.

#### **5. Reputation of the profession as a whole and protection of the consumer**

If the profession does not view the SQE as an appropriate way to safeguard standards, then the public certainly will not. How does this tally with the SRA's assertion that the SQE will protect consumer interests?

The proposals will damage severely the brand of solicitor, both domestically and internationally. What will it do to the international brand of solicitor if it is necessary to have a degree, Masters or even PhD to practice law in some countries, but it is possible to qualify and practise as a solicitor in England and Wales without a degree, a mandatory term of recognised training and after only passing some exams consisting of MCQs.

## **OVERALL CONCLUSION**

At BPP we have developed and refined our offering over the last 20 years to reflect the ever-changing needs of those who consume legal services and have also responded to the ever-changing needs of law firms. As a result we firmly believe that the quality of legal education in this country is higher than it has ever been.

Over the last twelve months or so we have discussed the proposed reforms with a large number of firms and those involved in legal education. Our overwhelming impression is that the SQE proposal has met with a highly negative response. We appreciate fully that the SRA's duty is to protect the consumer but the SRA must bear in mind the following:

- If the profession does not think that the SQE is an appropriate way to safeguard standards then the public certainly will not;
- The brand of solicitor will be severely damaged as a result;
- An increase in costs will have a negative impact on the diversity of the legal profession

# Consultation - T4T assessing competence

Response ID:298 Data

## 2. Your identity

### 1. Surname

Hart

### 2. Forename(s)

Andrew

### 3. Name of the firm or organisation where you work

**4. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Attribute my/our response and publish my/our name.

### 5. Please identify the capacity in which you are submitting a response. I am submitting a response... in another capacity

Please specify: solicitor who acts only for friends and family

## 3.

**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?**

Yes

## 4.

**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?**

Not without tweets

## 5.

**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?**

yes

## 6.

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

b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?

**Why...**

more flexibility for candidates

## 7.

**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?**

Yes

## 8.

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

Yes

9.

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

Yes

10.

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

Yes

11.

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

Yes

12.

**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?**

Yes

13.

**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 1 and Part 2, to a specified performance standard?**

Yes

14.

**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?**

Yes. It would usefully include suggestions for enabling candidates to improve the basics which graduate level education today does not guarantee eg self-help or other courses for writing in English to a good standard.

15.

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?**

Yes for both of those reasons and also for a third reason:

in order to reduce the burden on the competent solicitors, acting for the other party to the transaction, having to try to help the clients in the transaction to achieve their common objective despite the limitations of the inexperienced solicitor/trainee.

16. (untitled)

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

Yes

17.

**15. Do you agree that we should provide candidates with information about their individual and**



**comparative performance on the SQE?**

Yes

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

material the publication of which will encourage students not to sign up with providers/trainers whose services appear not to lead to good levels of attainment by their clients

19.

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

No

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

No

21.

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

Few. The main challenge will be whether the SRA survives to that date.

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

yes

Andy Unger- London Southbank University

## T4T - Assessing competence

### Consultation questionnaire form

This form is designed to be completed electronically—in MS Word. Please save it locally before and after completing it.

#### 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?

NO.

We respect the SRA's desire to ensure high and consistent outcomes at the point of qualification but have doubts whether the proposals will achieve that goal any better than the existing arrangements. We also have concerns that the equal opportunities implications will be negative, particularly given the likely rise in course and assessment costs in what may become a two-track or double track system. We welcome the development of flexible alternative routes to qualification (SRA option 2) but not at the expense of the entire dismantling of the existing LLB, LPC, training contract route (SRA Option 3) which in our opinion has served the profession well.

We have concerns that the fees likely to be charged for the SQE Part 1 and 2 assessments, coupled with the option to re-sit an unlimited amount of times for those who can afford to do so, will have a negative impact on equal opportunities and diversity within the profession.

We have concerns that some students will seek to minimise the costs of qualifying by taking unregulated crammer courses instead of academically rigorous alternatives to the current LLB + LPC regime. Students taking this option may be less well prepared to pass and to practice as Solicitors.

Those who can afford to do so will take both.

There should be an independent assessment of the equal opportunity impact of the proposals..



## 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?

NO.

The SQE is to be based on the Qualified Lawyers Transfer Scheme - This test is used to test the competence and knowledge of lawyers who have already gone through a more traditional professional formation in another jurisdiction, usually a graduate route. They will already have engaged in professional practice and the test primarily serves to test knowledge of distinct features of English law and practice. It is therefore not clear that it provides a suitable model on its own for the SQE.

No draft instruments of assessments have been provided to assist in the evaluation of the SRA T4T proposals. It is very difficult to evaluate the proposals in their absence. What appears to be lacking is the testing of the ability to give appropriate legal advice in a practical context in addition to legal knowledge and legal skills.

In our experience there is a danger that centralised assessment separated from the course planning process may lead to providers teaching to the test rather than the testing of the desired competency outcomes.

You express particular concern about differential pass rates on the LPC and the fact that individual solicitors have the final say in certifying a trainee as fit for practice. The SQE Part 2 addresses concerns about standards at the point of qualification. The concerns about the LPC are not fully articulated as it is not clear if the differential pass rates relate to different admissions policies, variable quality of teaching or variable assessment standards (or varying combinations of all three). Nonetheless, it is likely that students will continue to need to take an LPC style course.

We do not understand why a Qualifying Law Degree is not retained, offering partial exemption from the SQE Part 1 (SRA Statement of Legal Knowledge). An LPC style course might offer exemptions for the remainder of the SQE part 1. A final, common SQE Part 2 would remain the SRA's guardian at the gate to professional practice.

We also observe that the BSB is likely to retain a form of QLD and we feel it highly undesirable for there to be such a separation in the common training required for these two legal services professions. The current system allows for student choice and brings comparative status to the professions. Students should not have to choose between the two professions at the outset of their studies.

### 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?

NO.

We believe that a qualifying law degree should be retained as a principal route to qualification. Students with a QLD should be exempted from the relevant parts of the SQE part 1. We agree that all entrants should be required to take the SQE Part 2 if adopted. This should be sufficient to ensure consistent high standards at the point of qualification.

We note that the Law Society and the City Law Firms amongst others have expressed concerns about damage to the international reputation of the Solicitors profession if it is perceived no longer to be a graduate profession.

The four professions referred to in the case studies (and Medicine) appear to remain predominantly graduate entry professions.

It will place considerable burdens on students who choose to take a law degree if they have to be assessed twice on SOLK topics – once for the degree and once for the SQE Part 1. There will be a double burden of assessment and a potential time delay between LLB teaching and SQE Part 1 assessment.

If law schools have to teach to the SQE Part 1, it will considerably narrow the possibility of teaching and assessing the wider academic and skills outcomes outlined in the QAA Subject Benchmark Statement for Law. There is no evidence that a student who passes an online objective test has higher order, critical thinking skills, the ability to respond with unprompted complex information and communicate clearly. Nor will there be room for options exploring law reform or important practice topics such as Employment Law and Intellectual Property. Consequently, students will have no opportunity to develop and explore their future practice specialisms.

It will require students to choose between careers as a Solicitor or as a Barrister at the outset of their studies if the BSB decides to retain a requirement for a qualifying law degree. It may also create an impression that the Solicitors' profession is trained to a lower level than the Bar. We feel it highly undesirable for there to be such an unjustified separation in the common training required for these two legal services professions. The current system allows for student choice and brings comparative status to the professions. .

## Question 4

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

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

We would support option c) but remain concerned that the SQE may not test essential higher order, critical thinking skills and the ability to respond with unprompted complex information and communicate clearly, as discussed above.

## **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?

Yes, but we see no good reason not to map the SQE onto the Framework for HE Qualifications at L7.

## **Question 6**

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

Yes. Strongly. Our concern with the SQE Part 1 and 2 proposal is that there will be insufficient preparation of intending Solicitors to ensure that they take full benefit from the 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?

Yes. There should be a normal period of two years as at present with power to authorise alternative routes to qualification that satisfy the requirements of the SRA with regard to the Competence Statement. Shorter or longer periods may be appropriate as part of flexible alternative routes permitted and encouraged under Option 2.

## **Question 8**

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

Yes, but it is difficult to see how these will be assessed within the framework of the current proposals.

## **Question 9**

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

Yes. We welcome the opportunity to develop alternative routes to qualification associated with our courses that could take full advantage of undergraduate clinical legal education experience and our links with the local profession.

## **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?

We agree with your consultants and believe that is an essential part of fully testing the the Competence Statement.

## 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 1 and Part 2, to a specified performance standard?

N/A

## 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?

N/A

## 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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

We support your Option 2 rather than Option 3. We would like to see the retention of a qualifying law degree, an LPC or equivalent and a period of training as the mainstream route leading to the SQE (part 2). We would then welcome the recognition of alternative equivalent routes including Apprenticeships, CILEx and new innovative models. We also believe that Option 2 is a safer option as it would allow the development of the SQE and the equivalent routes for smaller cohorts over a longer period of time.

## Question 14

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

Yes.

We strongly support alternative, equivalent routes but believe that the graduate route should be retained as an mainstream route. despite the concerns you raise about degree standards, we note the HEFCE Report referred to says:

25. The proposals should not be seen to cast doubt on the ability of the current system to secure the reputation of the UK higher education system over recent years, although later in this document we note some concerns expressed during the discussion period about the continuing appropriateness of current arrangements for the future. Our purpose throughout has been to consider what kind of quality assessment arrangements will be necessary as we look towards 2025, rather than to review the effectiveness of the current approach. Throughout the discussions, we have been clear that preserving and indeed strengthening the reputation of the UK higher education system must be an essential component of thinking about future arrangements.



## **Question 15**

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

Yes.

## Question 16

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

No strong view held at present.

## Question 17

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

As indicated, we have concerns that the fees likely to be charged for the SQE Part 1 and 2 assessments, coupled with the option to re-sit an unlimited amount of times for those who can afford to do so, will have a negative impact on equal opportunities and diversity within the profession.

We have concerns that some students will seek to minimise the costs of qualifying by taking unregulated crammer courses instead of academically rigorous alternatives to the current LLB + LPC regime. Students taking this option may be less well prepared to pass and to practice as Solicitors.

Those who can afford to do so will take both.

There should be an independent assessment of the equal opportunity impact of the proposals.

## **Question18**

Do you have any comments on these transitional arrangements?

Only that there should be as much clarity about the final proposals and the transitional arrangements as soon as possible and that we should ensure that no students who embark upon the study of law before the new arrangements are confirmed should be disadvantaged in any way.

## Question 19

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

The suitability of the cut off date partly depends on whether students who have started on an old route can finish it rather than being switched to the new, possibly much more expensive route.

## **Question 20**

Do you consider that this development timetable is feasible?

No.

It is too short and too risky given the uncertainty regarding whether the proposed SQE can assess the Competence Statement fully and without negatively impacting on equal opportunities. We prefer Option 2.

**Thank you for completing the** Consultation questionnaire form.

Please save a copy of the completed form.

Please return it, along with your completed **About you form**, as an email attachment to [consultation@sra.org.uk](mailto:consultation@sra.org.uk), by **4 March 2016**.

Alternatively, print the completed form and submit it by post, along with a printed copy of your **About you form**, to

SQA consultation  
Solicitors Regulation Authority  
Regulation and Education  
The Cube  
199 Wharfside Street  
Birmingham  
B1 1RN

# **Response to the SRA consultation on *Training for Tomorrow: assessing competence***

Submitted on behalf of Anglia Law School, Anglia Ruskin University

Dr Penny English  
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## **Introduction**

We have had the benefit of reading the responses from the Committee of Heads of University Law Schools, the Society of Legal Scholars and the Association of Law Teachers, and are in full agreement with these responses, which taken together provide a collective view from the bodies which representative of the legal academic and education community.

As a provider of legal education at both the academic and vocational stages (Qualifying Law Degree and Legal Practice Course), we share concerns that the current proposals are not likely to deliver improvements on the current system and will not achieve the SRA's stated aims of widening access to the profession.

### **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?

No.

The requirements of legal knowledge set out in the statement of underpinning legal knowledge will be an additional, and burdensome, requirement in terms of both time and money on students intending to qualify as solicitors. There are two potential outcomes for the law degree. Either providers of law degrees will incorporate the whole of the body of subject knowledge required for the SQE within their LLB courses, or if they choose not to include all areas within the undergraduate degree, will create the need for an additional course of study beyond or outside the LLB. Both have significant drawbacks. Furthermore, it seems likely that the Bar Standards Board may retain the QLD, further complicating the situation, since degree providers will wish to provide programmes of study which allow their graduates access to a career either as solicitor or barrister. Few law students have a clear idea of which route they will eventually wish to take, and indeed for many, their career will not be in either branch of the legal profession.

### **The first objective: to provide consistent and comparable high quality standards.**

The measures of apparent disparity in standards, such as differing A level entry tariffs for Law degrees, and differences in LPC pass rates between providers provide at best an incomplete picture. A level results are in part a reflection of past educational education rather than potential for future achievement and are not an indicator of the quality of a Law degree, nor a measure of the added value. LPC courses have diverse intakes, and given



that the cohorts at some providers are small, statistical comparisons may be misleading. There is no clear evidence of a problem with a lack of consistency in standards.

**The second objective: to encourage new and diverse pathways to qualification.**

The proposals risk achieving the opposite of the stated aim.

The introduction of the SQE will be likely to have consequences which will make it harder for currently unrepresented groups to access the profession.

An LLB which is driven by the SRA requirements to a far greater extent than is the case at the moment will crowd out any opportunity for students to study optional subjects (many of which, such as Family or Employment Law not only provide breath and context to the programme of study but are also directly relevant to professional practice). The ending of the current system of providing exemptions from the academic stage for recognised Qualifying Law Degrees would then have the result of narrowing the scope of the law degree to an overloaded curriculum representing largely 'teaching to the test', to the detriment of the development of precisely those skills and qualities of mind which are vital to the quality of entrants to the profession. Employers may well favour applicants who have completed a more broadly-based degree, coupled with a graduate course. This latter scenario will privilege those students with the financial resources (and the informed careers guidance) to contemplate embarking on a three year degree which will require them to undertake further study after graduation in order to prepare for the full range of topics covered by the SQE. This will be a serious barrier to many students, and will narrow, rather than diversify, access.

**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?

No.

The proposed SQE will provide a common assessment together with candidates who are already qualified lawyers in another jurisdiction. A test based on the current Qualified Lawyers Transfer Scheme, utilising multiple-choice questions and questions requiring short answers is appropriate for assessing those who are already professionally-qualified and almost certainly graduates. It cannot demonstrate the full range of graduate skills in order to achieve the stated aim that post-SQE, entrants to the profession will be at graduate level.

**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?

For the reasons stated in the question above, a single assessment for all three categories of candidate is not appropriate.

On the question of exemptions, there appears to be no evidence that the current system of exemptions through the QLD system is problematic. The inevitable additional cost requiring applicants to sit the SQE rather than gain exemptions for the subjects already studied and examined as part of a degree will create an additional financial hurdle to qualification which will not help to diversify access.

#### **Question 4**

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

- offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

This question is more appropriately answered by employers than the providers of legal education.

#### **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?

Yes, in that the standard for qualification as a solicitor should be at graduate level or equivalent. To be a solicitor should retain its status as a graduate-level profession. The current system, while not requiring all entrants to be graduates, does require graduate level education.

However, already stated, the SQE alone will not be able to assess all the attributes of a graduate.

#### **Question 6**

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

This question is more appropriately answered by employers than the providers of legal education.

#### **Question 7**

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

This question is more appropriately answered by employers than the providers of legal education.

### **Question 8**

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

This question is more appropriately answered by employers than the providers of legal education.

### **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?

In principle, yes, as this would meet the stated aim of encouraging flexibility. Increasingly, work experience is incorporated within and alongside degree programmes and this should be recognised, if a requirement for pre-qualification work experience is adopted.

### **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?

This question is more appropriately answered by employers than the providers of legal education.

### **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 1 and Part 2, to a specified performance standard?

Not applicable

### **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?

Not applicable

### **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?

Yes.

A requirement of graduate or graduate-level qualification as an entry requirement is desirable (as now).

The regulation of training pathways should remain. The likely prospect of a market in unregulated training courses to prepare for the SQE would not be a benefit.

#### **Question 14**

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

The current position, whereby the vast majority of solicitors hold a degree, should remain. Alternative routes, such as CILEx already provide the flexibility for alternative entry, and require qualification at an equivalent level..

#### **Question 15**

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

There is insufficient evidence on which to base an answer on this point, but in principle this could be provided. At present it is not clear whether a competence-based assessment can generate this type of information, nor is it clear what useful purpose this would serve.

#### **Question 16**

What information do you think it would be helpful for us to publish about:

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

It is difficult to see what purpose either might serve. This could potentially generate some misleading statistical information, particularly if the range of training courses becomes diverse.

#### **Question 17**

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

Yes.

See the reply to Question 1. Applicants from less wealthy backgrounds will be significantly disadvantaged.

#### **Question18**

Do you have any comments on these transitional arrangements?

The lack of certainty is potentially disadvantaging current law students who will be affected by the changes.

**Question 19**

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

This will depend on a number of factors which will not become clear until later. This date will need to be kept under review.

**Question 20**

Do you consider that this development timetable is feasible?

No.

The detailed information about the SQE assessment needs to be made public before HEIs can determine how and whether to include preparation for the SQE into undergraduate and possibly also new postgraduate programmes to replace the LPC.

The lead-in time for the development and validation of law degrees is significant, and not feasible within the current timetable.

## Liverpool Law Society

### Training for Tomorrow

LLS represent over 2500 members of the legal profession in the Merseyside area. Members are solicitors, barristers and academics. This paper has been produced by the Society's Regulatory committee. It sets out the LLS response to the consultation, Training for Tomorrow.

Underpinning the responses to the individual questions is the LLS's real concern that without proper considerations of the options available the regulatory objectives will not be met.

The LLS supports proposals that have at their heart the improvement of standards throughout the profession and closer regulation of entry into the profession. It also agrees that the current routes to qualification into the profession results in inconsistencies in the levels of competence of newly admitted solicitors and, in certain instances, are overly prescriptive. However, the consultation paper contains little evidence to support a wholesale change of approach and because of this provides no comfort that the options that are currently being explored will result in change for the better.

LLS would support a single qualifying examination to ensure that each new entrant into the profession is required to demonstrate a high level of knowledge and skill but only if the qualification has credibility. This will mean introducing eligibility requirements for the SQE and strict controls for the moderation of papers/assessment. As to both of those aspects, the consultation paper raises more questions than it answers and until answers are provided is unlikely to attract support from the various stakeholders.

#### **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?**

The Objectives set out in paragraph 10 are:

- To set a high common standard at the point of entry into the profession; and
- To provide/facilitate flexibility in the pathways to qualification.

Without suitable eligibility criteria – knowledge and skill - for the SQE there is a risk its introduction will not achieve either objective. What amounts to suitable eligibility criteria is a question asked by the consultation and respondents are invited to comment on the academic standard for the SQE mindful that the regulator is also considering the desirability of doing away with the requirement for candidates to hold a degree.

The consultation also raises the possibility that the current requirements for pre-qualification work experience will be swept away – in the interest of facilitating flexibility; a proposal that LLS does not believe benefits candidates, employers or consumers.

In LLS's view the eligibility criteria is fundamental and has to be the starting point as this will form the foundation on which the SQE's credibility is built. Get it wrong and there is slim prospect of

breaking down the current barriers to qualification as employers are likely to set their own standards (e.g. a degree) outside of the SQE when recruiting.

A related point is the cost of the SQE. This is not addressed in the consultation papers and until the eligibility criteria is bottom out there can be no meaningful comparison between the current cost of qualification and the likely cost if the proposals are implemented.

Our answers to the questions that follow are subject to the above point.

## **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?**

The models assessments described will only provide an effective test if the questions are set at the correct level. Currently the Qualifying Law Degree and GDL are wholly or largely set at Level 6 undergraduate level and the LPC is a postgraduate (Level 7) qualification. We cannot see how it is in the best interests of consumers or the profession to lower this standard. In addition, the current qualification encourages depth and breadth of understanding and critical analysis. It is difficult to see how this can be achieved through multiple choice assessments. We agree that Part 1 should be based around the Statement of Legal Knowledge.

## **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?**

Yes.

## **Question 4**

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

- **offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?**
- **offering a broader number of contexts for the Part 2 assessment for candidates to choose from?**
- **focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?**

The LLS committee members were divided in their opinions on the best approach to Part 2 of the SQE. There was consensus that all candidates should be assessed in more than one context and that it was in candidates' interest at the pre-qualification stage to be encouraged to broaden their experience. We were mindful that some employers would struggle to provide skills training in even three out of the five areas but felt that the balance ought to favour the candidates at the pre-qualification stage.

We could not agree on the desirability to align the choice to reserved activities. The majority of our number was in favour of this as qualification as a solicitor, regardless of the practice of the individual, as it confers a right to practice in reserved areas. From the consumers point of view they

need to be confident that any solicitor they approach is competent to carry out the reserved activities. The majority thus chose the final option. The minority made the valid point that the reserved activities are narrowly defined and thus favoured option 2.

#### **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?**

Yes we do. This should be the case regardless of the eligibility criteria. We also consider that candidates should be left in no doubt that the SQE, if introduced, is of degree standard so they know what to expect.

#### **Question 6**

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

Yes. The LLS would be very concerned for consumers of legal services and for the reputation of the profession as a whole with any proposal that sought to do away with workplace experience as a precursor to qualification. The LLS consider that traineeships offer candidates and employers a vital opportunity to practise and assess what has been learnt in the classroom and are a fundamental part of the qualification process.

#### **Question 7**

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

Yes. LLS believed the period should be 18-24 months. LLS would not support a minimum of less than 6 months and would only support a six month period if the candidate was able to demonstrate after that period that they had the required level of competence to practise as a solicitor.

#### **Question 8**

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

It should do both. See answer to Q7 above.

#### **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?**

LLS can see the rationale for the SRA being able to take account of experience obtained outside of a solicitor's office. However, there is a danger that without strict criteria the standard of entrants to the profession is diluted. All experience would need to be considered to ensure that it met the specified competencies.



#### **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?**

Yes provided the assessment has to be carried out to a prescribed standard and there is a way for the regulator to ensure those standards are being adhered to.

#### **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 1 and Part 2, to a specified performance standard?**

N/A. The LLS is not an employer.

#### **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?**

The LLS believes a toolkit to aid assessment would be welcome by employers. A central query portal to field queries should also be considered.

#### **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?**

Yes. See our comments above. If the eligibility requirements are sufficiently robust then the SQE will have a level of credibility from day one. If the perception is that the requirements have been diluted from the current requirements there will be a lack of confidence in the SQE as a threshold standard, which will be detrimental to the candidates, consumers and the profession as a whole.

#### **Question 14**

**Do you agree that not all solicitors should be required to hold a degree?**

Yes but we are in favour of the SQE being at least graduate level.

#### **Question 15**

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

Yes.

### **Question 16**

**What information do you think it would be helpful for us to publish about:**

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

It would be helpful to publish the percentage pass mark – what represents a pass or a fail, the percentage of candidates who passed the SQE and if it is intended to grade performance the percentage of candidates falling into each grade.

The above information could be given for each training provider as a way to monitor the performance of each provider and to maintain high standards.

### **Question 17**

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

All impacts were addressed.

### **Question 18**

**Do you have any comments on these transitional arrangements?**

No.

### **Question 19**

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

### **Question 20**

**Do you consider that this development timetable is feasible?**

With the fundamental question as yet unresolved we consider the timetable extremely ambitious. The consultation envisage a wholesale change to the way candidates qualify into the profession and requires the support of training providers and an infrastructure that is not yet in place. LLS have real concerns that the changes will be railroad through so the timetable can be met at the expense of due consideration.

Anne Davies- University of Oxford

## **T4T - Assessing competence**

### Consultation questionnaire form

This form is designed to be completed electronically—in MS Word. Please save it locally before and after completing it.

## 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 strongly support the SRA's commitment to improving access to, and diversity in, the profession. We also accept that it is appropriate for the SRA as regulator to seek to ensure that entrants to the profession meet a minimum standard of legal knowledge and professional competence that is set at a high enough level to guarantee effective practice. However, we are concerned that the introduction of the SQE will not meet these goals and may make the profession less diverse and less effective than it is at present.

We think that law firms and their clients will continue to value the skills that students develop during their law degree, including deep engagement with legal materials, analytical reasoning skills and effective written and oral communication. Most UK professions require education to degree level as a condition for entry. The solicitors' profession in England and Wales is unusual internationally in not requiring a law degree as a condition for entry. We are concerned that the reputation of the profession in the global market for legal services may be damaged by the SRA's proposals and that consumer confidence may be reduced.

While we accept that the SRA should concern itself with ensuring that solicitors meet a minimum standard of competence, the consultation document does not offer sufficient evidence to demonstrate that there is a problem with the current arrangements that will be solved by the proposals. Statements from HEFCE about variations between law degree programmes are quoted out of context. If there is any evidence that some law degree programmes are inadequate to produce graduates with sufficient legal knowledge for competent practice as a solicitor, this problem should be tackled head-on. The current proposals disregard all law degrees without giving any justification for this.

From the perspective of improving the diversity of, and access to, the profession, we are concerned that the SRA's proposals are at best ineffective and at worst potentially misleading.

The SRA appears to assume that universities will adapt their law degrees to teach to the SQE, thereby saving students the additional expense of taking the LPC. However, this ignores the fact that universities cater to a range of students, not all of whom aspire to a career as a solicitor in England and Wales. It appears that the Bar may retain some concept of a QLD, and of course many students follow other routes such as further study or qualification in another jurisdiction.

In practice, therefore, it seems likely that a version of the current system will remain in place with students taking a degree followed by (or perhaps alongside) some kind of preparatory course for the SQE, varying according to the student's prior degree. Since this course will not be compulsory, students will not be eligible for career development loans to complete it. This will exacerbate existing inequalities between those who are able to secure funding from a law firm to complete the LPC or those who can afford to pay for a course and those who cannot.

Of particular concern from an access perspective is that the SRA's proposals may

mislead some potential entrants into believing that it will be possible to have a successful career as a solicitor by completing the SQE without doing a degree. We anticipate that unregulated 'cramming' courses will emerge, purporting to offer students preparation for the SQE, of poor quality and high cost. Students may be tempted to take these courses instead of a degree, only to find that firms continue to want to employ graduates.

We consider that the best way of improving access to the profession is to improve access to good degree courses. Our faculty already devotes considerable time and effort to this (with help and support from the profession) and we would be willing to do further work with the SRA and other relevant bodies on this.

## **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?

Our focus is on Part 1 of the proposed assessment; we offer no views on Part 2. In relation to Part 1, we do not accept the SRA's assumption that legal knowledge and analytical skills can properly be assessed through a multiple-choice test.

It is possible that multiple-choice tests may be appropriate for the assessment of basic knowledge of legal rules where the law is clear. But multiple-choice testing is of no value in determining whether an individual would be able to give competent advice in situations in which the law is unclear. In these situations, it is necessary to be able to analyse the problem from different angles using a range of legal tools, and to work out the best strategy for meeting the client's needs. A candidate's ability to do this can only be judged through more sophisticated forms of testing in which the candidate is permitted to explore the problem at length in writing.

We note that it is not appropriate to make assumptions about the SQE based on the QLTS, since this is designed to test up-to-date knowledge of English law among candidates who are already qualified as lawyers in their home jurisdiction. Candidates taking this test are, for the most part, graduates, and usually have law degrees.

### **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?

No. It should remain possible for candidates with a law degree to obtain exemption from those aspects of the SQE (primarily in Part 1) that they have covered during their degree.

As noted above, concerns about possible variations in standards between different universities do not justify the SRA's apparent assumption that holding a law degree is of no value at all as an indicator of an individual's knowledge of law.

## Question 4

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

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

We have no opinion on the Part 2 assessment.



## 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?

Yes. We believe that the most straightforward way to do this would be to require solicitors to hold a degree, preferably in law. It seems bizarre to say that the standard for qualification should be set at graduate level, whilst refusing to rely on the most obvious indicator that an individual is at graduate level: that he or she holds a degree.

We accept the SRA's concerns about access to the profession but we would argue that these are best resolved by improving access to degrees. This is a key focus of our activities at Oxford and we have been strongly supported by the professions in our endeavours. We anticipate that the introduction of the SQE will undermine these efforts by purporting to offer students a quicker route to qualification, but one that we believe will be ineffective, for the reasons given in our response to Q1.

## **Question 6**

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

We have no opinion on this.

## **Question 7**

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

We have no opinion on this.

## **Question 8**

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

We have no opinion on this.

## **Question 9**

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

We have no opinion on this.

## **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?

We have no opinion on this.

## **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 1 and Part 2, to a specified performance standard?

This question is not applicable to us.

## **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?

This question is not applicable to us.



## 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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

We consider that since the SQE is supposed to be at graduate level, a degree should be a pre-requisite (subject to current exceptions). Students with a law degree should be exempted from taking those parts of the SQE covered in the degree.

## Question 14

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

No. We think that law firms and their clients will continue to value the skills that students develop during their law degree, including deep engagement with legal materials, analytical reasoning skills and effective written and oral communication. Most UK professions require education to degree level as a condition for entry. The solicitors' profession in England and Wales is unusual internationally in not requiring a law degree as a condition for entry. We are concerned that the reputation of the profession in the global market for legal services may be damaged by the SRA's proposals and that consumer confidence may be reduced.

## **Question 15**

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

No opinion.

## Question 16

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

No opinion.

## Question 17

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

From the perspective of improving the diversity of, and access to, the profession, we are concerned that the SRA's proposals are at best ineffective and at worst potentially misleading.

The SRA appears to assume that universities will adapt their law degrees to teach to the SQE, thereby saving students the additional expense of taking the LPC. However, this ignores the fact that universities cater to a range of students, not all of whom aspire to a career as a solicitor in England and Wales. It appears that the Bar may retain some concept of a QLD, and of course many students follow other routes such as further study or qualification in another jurisdiction.

In practice, therefore, it seems likely that a version of the current system will remain in place with students taking a degree followed by (or perhaps alongside) some kind of preparatory course for the SQE, varying according to the student's prior degree. Since this course will not be compulsory, students will not be eligible for career development loans to complete it. This will exacerbate existing inequalities between those who are able to secure funding from a law firm to complete the LPC or those who can afford to pay for a course and those who cannot.

Of particular concern from an access perspective is that the SRA's proposals may mislead some potential entrants into believing that it will be possible to have a successful career as a solicitor by completing the SQE without doing a degree. We anticipate that unregulated 'cramming' courses will emerge, purporting to offer students preparation for the SQE, of poor quality and high cost. Students may be tempted to take these courses instead of a degree, only to find that firms continue to want to employ graduates.

## **Question18**

Do you have any comments on these transitional arrangements?

Since we object strongly to the introduction of the SQE we offer no opinion on this.

## **Question 19**

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

See answer to Q 18.

## **Question 20**

Do you consider that this development timetable is feasible?

See answer to Q18.



**Thank you for completing the** Consultation questionnaire form.

Please save a copy of the completed form.

Please return it, along with your completed **About you form**, as an email attachment to [consultation@sra.org.uk](mailto:consultation@sra.org.uk), by **4 March 2016**.

Alternatively, print the completed form and submit it by post, along with a printed copy of your **About you form**, to

SQA consultation  
Solicitors Regulation Authority  
Regulation and Education  
The Cube  
199 Wharfside Street  
Birmingham  
B1 1RN

Arvind Thiruvallore Thattai - New Castle Law School

## **T4T - Assessing competence**

### Consultation questionnaire form

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To request an alternative format please visit [www.sra.org.uk/contact-us](http://www.sra.org.uk/contact-us).

## 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?

No. The reforms are predicated on the unproven assumption that the teaching and assessment of law in Higher Education Institutions (HEIs) nationwide is inconsistent and incomparable to such an extent that centralised assessment is the only viable corrective. The SRA has not provided evidence in support of this assertion, and the two reports on which it places significant reliance themselves come to precisely the opposite conclusion to that which underpins the SRA's proposed reforms.

In making its case, the SRA has relied on a short quotation taken, out of context, from a HEFCE consultation document (not a final report). The SRA has misleadingly labelled this cherry-picked quotation a "conclusion" (which, being taken from a consultation document, it manifestly is not) and presented it as evidence of wholesale chaos in the grading of law degrees. The entire HEI system is painted (in the SRA's consultation document) as a wholly unreliable indicator of students' abilities. In making this assertion, however, the SRA has ignored the fact that, in the same document, HEFCE explicitly stated (twice) that its "proposals should not be seen to cast doubt on the ability of the current system to secure the reputation of the UK higher education system over recent years." Indeed, HEFCE's final recommendation was that the problems could be addressed through improvements to the external examining system. Recommending, as HEFCE did, some improvements to the external examiner system is not, and cannot rationally be taken to be, evidence of a need to uproot the current system entirely and put in its place a system of centralised assessment. That is an excessive, disproportionate response to a set of highly specific challenges to which less radical solutions have already been proposed. We believe it would behove the SRA to wait until the fruits of HEFCE's proposals are put into place and their results can be scrutinised. Acting before it is possible to determine whether HEFCE's proposed solutions are effective is premature, particularly given the very significant risks to the integrity of the legal profession if the very drastic changes proposed by the SRA have unintended side-effects. HEFCE's report does not provide any backing for the suggestion that these changes are necessary, or even that they are desirable.

The SRA also quotes the executive summary from the Legal Education and Training Review (LETR) report in further support of its claims regarding widespread inconsistency.

The LETR did not propose the introduction of standardised assessments for the Foundations of Legal Knowledge. Indeed it clearly stated:

"Further regulation [of HEIs' curricula] could reduce innovation and narrow the focus of university legal education if it forced the academic law schools to focus more specifically on preparation for vocational requirements, especially if the imposition of standardised entry testing ... created pressure on law schools to 'teach to the test'. It might also have an undesirable impact on access and diversity if it created a secondary market in 'cram' courses preparing students for access to professional school."

For the SRA to determine that such a radical move (to standardised assessment) is

necessary on the basis of a quotation taken from the summary of the report involves an intellectual leap that is difficult to justify, considering the LETR did not at any point recommend such a step. Indeed, the LETR's recommendations 10 and 11 (amongst others) envisage the retention of the QLD as a primary component in the route to qualification.

The proposals assume that at least some HEIs will adjust their current LLB curricula in order to include knowledge components from Part 1 of the SQE. In so doing, these HEIs would prepare students directly to sit the SQE Part 1 assessments. Other HEIs will not make such adjustments and there is good reason why they should not do so. Law degrees are not merely training regimes for future solicitors. Fewer than half of all UK law graduates go on to practice either as solicitors or barristers. Many do not wish to do so. A law degree gives graduates a wide range of transferable skills and broad-ranging knowledge. The global reputation that UK universities have for excellent standards of teaching (and research) in law would be jeopardised if law departments refocused their curricula on teaching students to pass the SQE.

Given the SRA's concern that QLDs are currently lacking in comparability (and even assuming, arguendo, that this is correct), we caution that the proposals may well exacerbate the problem. If there is a split between HEIs (with some offering SQE-tailored LLBs and others offering traditional, academic LLBs) there is the potential for increased uncertainty about just what a graduate with an LLB degree has studied and is equipped-for. Students would also be forced to make an unenviable choice at the point of entry to university. They would need to choose whether to attend a university which teaches a traditional law degree or one which specifically prepares them for the SQE. At present, many law students arrive at university having not decided whether they wish to go into practice (or, if they do, in which of the professions). Others – many others – change their minds mid-way through their studies. Placing such an onerous choice on individuals – the vast majority of whom are teenage school-leavers (a class of individuals that is already facing unprecedented levels of stress, anxiety and related well-being concerns) – is unnecessary and undesirable. It also assumes that teenagers inhabit a world of steely-eyed rational evidence-based decision-making – something which flies in the face of academic evidence in relation to how teenagers make decisions. Moreover, if these proposals are brought in, school-leavers will find themselves having to determine – before going to university – which of these career paths they wish to pursue. This will create a substantial barrier to entry to each of the professions should students later change their minds. The SRA should thus note that its proposals may create a barrier to entry to the Bar, as well as to its own profession. It is worth pointing out that this is likely to disproportionately affect students from disadvantaged backgrounds, and from state schools, who benefit from far less support and assistance in making these decisions than do their counterparts from more privileged backgrounds, or from the independent school sector. Rather than promoting diversity, these reforms may end up pushing students into university classes that are sorely lacking in diversity.

The SRA's objectives include ensuring that "the most talented candidates can qualify as a solicitor". Nothing in the proposed SQE meets this objective. As we elaborate upon below (in our response to Q2), the proposed regime of Multiple Choice Testing is intended to assess only a narrow range of talents (limited to knowledge and application of the law). It seems unable to (and Julie Brannan confirmed at the Consultation Event in York on 23 February 2016 that it is not intended to) assess any other abilities or talents. Creative thinking, for instance, is not amenable to

assessment by MCT. It is, however, both a vital part of lawyering and a considerable talent in and of itself. The SQE cannot, as presently proposed, assess a sufficiently wide range of abilities for the SRA to “ensure that the most talented candidates can qualify as a solicitor”. That is, unless “talent” is simply taken to mean the capacity for the memorising of a narrow subset of legal doctrine. The proposals, therefore, will neither address nor achieve this objective.



## 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?

No. What is proposed is self-contradictory and irrational. The SRA proposes to introduce “computer-based objective testing” in order to assess “the application of knowledge and legal processes”. Although the term “subjective” is not used in the Consultation document, it was used frequently by Julie Brannan during her presentation to the SRA’s Consultation Event held in York on Tuesday 23 February 2016. At that event, Ms Brannan juxtaposed the “objectivity” of the proposed assessment with what she characterised as the “subjectivity” of the current assessment culture at UK HEIs. It is clear that the SRA regards current university assessment practice in law as “subjective” and – owing to that – inadequate.

During the SRA’s presentation in York, it became apparent that the SRA’s position is, to a significant extent, based on a misunderstanding of processes involved in university assessment. Julie Brannan repeatedly contrasted university assessment, which she characterised as a “random number”, with the SRA’s proposed assessment, which she said would be competencies-based. But university assessment, too, is competencies-based. Universities assess based on marking criteria, which are tied to a statement of the knowledge, skills, and competencies that a person completing the module in question is required to have. Curriculum directors spend significant time and effort mapping the various competencies developed across the curriculum onto benchmark statements, including those formulated by the QAA and the SRA. The suggestion that the SQE is needed because universities do not assess relevant competencies is, therefore, based on a serious mischaracterisation of the assessment process in universities. It suggests that the SRA has failed to consider whether the desired outcome can be achieved through the much easier, and much less risky, process of working with universities and law schools to better align their assessment processes with the SRA’s desired competencies. Before proposing a drastic change, one would expect a regulator to consider less drastic options based on the facts, rather than on preconceptions. This points to a deeper flaw with the SRA’s evidence base. Consulting individual academics is not an effective way of understanding what universities do, any more than consulting a mid-level disciplinary officer is an effective way of understanding the SRA’s competencies framework. Understanding a university’s approach to assessment, and what it seeks to assess across the curriculum, requires engagement with academics in a position of responsibility – for example, the head of school or the curriculum director. The SRA’s approach to consulting with academics without regard to role, by contrast, has, as we also discuss later (in our response to Q5), resulted in a number of mistakes as to the current shape of undergraduate legal education, which has flawed its evidence base.

Secondly, whilst the possession of certain aspects of legal knowledge can indeed be tested objectively, we do not consider it possible to assess application of legal knowledge “objectively” through a multiple-choice test. We note that the SRA has not yet published detailed proposals on the format of the assessments. However, the SRA states that such “objective testing requires a candidate to choose or provide a response to questions whose correct answer is predetermined.” What is absolutely

clear from this is that the only questions which are deemed “objective” are those to which there can be a single, predetermined “correct” answer. Whilst knowledge of the law may be tested in this way, application of the law cannot. Application of the law requires the making of a judgment; judgment calls are evaluative and inevitably (inter)subjective.

The SRA takes inspiration for its proposed multiple choice testing programme from a mixture of proposals and current practice in medical and accountancy circles. The analogy with both these fields is flawed. Accountancy rules are generally statutory and, until reformed by subsequent legislation, absolute; they do not possess the mutable characteristics of common law norms. In medicine, moreover, there are objectively “right” and “wrong” determinations. For example, an infection may be viral or bacterial. One of those will be right, the other will be wrong. The key point is this: a bacterial infection cannot be persuaded – by a process of rational argument – to become viral. But legal norms do change in this way, and a solicitor’s task very frequently involves precisely this type of reclassification. Meeting a client’s needs in a commercial transaction, for example, will involve considering how best to structure a transaction and which legal concepts to bring to bear. It is hard to see how even something as basic as the implications of a ‘best endeavours’ clause can be tested through an objective, multiple choice exam. Evaluative work is unavoidable in legal practice, and whether an individual possesses sufficient legal knowledge to be a solicitor can only properly be tested in an evaluative context: this is fundamentally a matter of legal knowledge (Part I of your proposed test), and not legal skills (Part II of your proposed test).

It is worth pointing out that the two jurisdictions your consultants’ report cites – New York and New South Wales – recognise this. Both require a law degree before their respective Bar examinations may be sat. The New York Bar exam, additionally, expressly includes questions requiring narrative answers as well as multiple choice questions in its equivalent of Part I, testing legal knowledge. Adopting the SRA’s proposal would make England & Wales the only jurisdiction in the developed world that assesses solicitors’ competency in knowledge and application of the law solely by way of MCT. This seems to cut against the use of New York State and New South Wales as comparable jurisdictions. We understand that AlphaPlus provided information to the SRA on the New York State and New South Wales models but this appears not to have been made public, and no information has been provided on how and why the SRA decided which of their features were considered important and which unimportant. By proposing a test so significantly at variance with them, the SRA’s proposed approach implicitly suggests that there is something exceptional about the practice of the law of England and Wales, which makes it unlike other common law jurisdictions. With respect, we suggest that your report has not provided evidence to support this suggestion.



### **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?

No. We believe the proposed SQE model to be flawed (as detailed in our responses to Q1 and Q2). We do not believe any intending solicitors should be required to pass it in the form proposed.

## Question 4

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

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

Since we do not provide any education falling within the ambit of the proposed Part 2 (vocational stage) of the SQE, we express no view on this question.

## 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?

We agree that the standard for qualification as a solicitor should be set at least at graduate level. We do not agree that this should be assessed through the SQE as proposed, because the SQE has been designed in a way that makes it incapable of assessing these skills at a graduate level.

The standard statement of what is expected at the “graduate level” – i.e., FHEQ Level 6 – is contained in the SEEC Credit Level Descriptors, which set out “a description of levels of learning through a hierarchy of knowledge and skills.” These have been expressly framed to meet the requirements for information of “academics, employers, professional bodies and learners”, and are thus of obvious importance to the SRA. These descriptors require learners to possess a level of knowledge and skill that cannot be assessed through a multiple choice computer-based test. Thus, for example, they envisage a student who “Works with ideas at a level of abstraction, arguing from competing perspectives” and “identifies the possibility of new concepts within existing knowledge frameworks and approaches.” This is simply one example.

It is a matter of regret that neither the SRA nor its consultants have attempted to assess whether an examination of the format proposed is capable of assessing graduate-level ability in law as an alternative to a law degree. Nor has the SRA explained either (a) what it believes “graduate level” to consist in, if not the SEEC descriptors, or (b) how it proposes to assess all of the attributes that feature in Level 6 qualifications through the SQE. Thus whilst we agree that setting the standard for qualification as a solicitor at graduate level is a necessity, we express our serious concerns as to whether the SRA is equipped to do this centrally, or whether it has even given adequate consideration to the challenges this would entail.

It is worth stressing, once again, that neither the medical nor the legal precedents that the report cites come remotely close to taking the view that their tests can replace a degree in assessing high-order skills. They seek to supplement the assessment a degree provides, not to replace it. This is precisely the correct approach, but this will require starting in a very different point from the approach taken in the work leading to this review. We would also add that the failure of the SRA and its consultants to consider the relevance of the existing descriptors also highlights the flawed character of the process that has produced this consultation. Had the SRA engaged in a systematic way with the individuals in law schools who are actually responsible for curriculum design, these issues would have been flagged up at an early stage.

## **Question 6**

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

We express no view on this.

## **Question 7**

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

We express no view on this.

## **Question 8**

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

We express no view on this.

## Question 9

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

Yes. We support the idea that, with appropriate quality assurances, candidates ought to be given credit for experience gained in legal arenas other than the training contract (for example, in pro-bono schemes run by universities), as long as these can be demonstrated to require the deployment of an appropriately high-level knowledge of law. It seems eminently sensible for the SRA to develop a way in which to give recognition to the experience gained through such practice.

We would also like to point out that recognising broader types of work experience would fit very well with the underlying idea of broadening access to justice, which the consultation paper adverts to, and which was even more strongly stressed by Julie Brannan confirmed at the Consultation Event in York on 23 February 2016. Given the background of ongoing cuts to legal aid, the SRA can make a genuine difference to access to justice by, for example, enabling the CAB or third-sector organisations to create schemes which provide candidates with pre-qualification work experience. Such a scheme, if properly designed, will very significantly boost access to justice without compromising on the quality of legal services, and will do so in a far more effective way than more narrowly market-oriented solutions. Our experience with creating pro-bono schemes suggests that it will also receive considerable support from universities and the legal profession.

## **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?

We express no view on this.



## **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 1 and Part 2, to a specified performance standard?

Not applicable.

## 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?

Not applicable.

## 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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

We do not consider that the SQE, as currently proposed, should enter into existence. However, we do agree that minimum entrance requirements (for instance, for entry onto the LPC or similar) would support and maintain the credibility of the assessment of the skills component of any future solicitors' qualification.

## **Question 14**

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

Yes. It has never been the case that solicitors are required to hold a degree and it should not become a requirement. Alternative routes to qualification, for instance through experience as a Legal Executive, have been a mainstay of the profession for many years and should be retained. We do, however, believe that it should be necessary to hold a QLD (or other degree + GDL) in order to sit the LPC or Part 2 of the proposed SQE. Since we do not support the introduction of Part 1 of the SQE, we express no view as to the prerequisite qualification for sitting that assessment.

## **Question 15**

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

Since we do not support the introduction of the SQE as currently proposed, we express no view on this.

## Question 16

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

We express no view on this.

## **Question 17**

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

Yes, we envisage negative impacts as detailed in our response to Q1.

## Question18

Do you have any comments on these transitional arrangements?

No.



## **Question 19**

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

We express no view on this.

## Question 20

Do you consider that this development timetable is feasible?

No.

The timetable is extremely tight, and extremely significant issues have been left entirely open and un-investigated – including critical issues in relation to the feasibility of what has been proposed. It is hard to believe there is sufficient time for proper quality-assurance and testing of the proposed assessments to take place. The SRA has yet even to publish details of the types of questions to be set in Part 1.

We caution strongly against the setting of an arbitrary timetable for the introduction of changes to the solicitors' qualification route as significant as these. If the timetable is badly managed such changes would be profoundly damaging to the profession and to the broader international reputation of the UK's legal education and services, as well as to the interests of users of legal services.

Our view is that the concerns we have raised in response to other questions demonstrates the need for a fundamental reconsideration of these proposals, including the need, purpose, and design of the SQE. If the SRA nevertheless decides to press ahead with the proposals, it is our view that a very rigorous and methodologically sound programme of testing and piloting will need to be built into the schedule. Given the potentially serious consequences of getting things wrong, the design of any such programme of testing will have to involve the equivalent of testing on healthy volunteers, in other words, a large scale trial, carried out on volunteers and not carrying any consequences in relation to eligibility to practice, and involving sufficient numbers of diverse participants to enable robust conclusions to be drawn in relation to the test's adequacy at picking up the competencies that solicitors actually require, as well as whether the test's design has an adverse or disproportionate impact on diversity in the profession. These will need to be assessed not in the abstract, but comparatively – in other words, the question to which the analysis of the pilot should be directed is whether the new framework performs better than the existing framework. It is hard to see how a case for regulatory change will be made out unless it can be demonstrated to do so to a high degree of confidence. The study will need to be carried out by an organisation with demonstrated competence in evaluation research specifically, as it will also need to be grounded in a far better understanding of the existing framework and of the requirements of legal practice generally than the AlphaPlus report was.

The points we have made above follow from a simple application of the precautionary principle, which is of obvious importance to proposed changes as significant as these. It is all well to say that tests need not have an adverse effect, or that they could potentially have a beneficial effect, but responsible regulation requires rigorous

testing to ensure that the actual design that is adopted does in fact achieve the objectives that are sought to be achieved. In our view, the proposed timeline falls very far short of allowing the time that rigorous design, rigorous testing, and rigorous analysis will require.

**Thank you for completing the** Consultation questionnaire form.

Please save a copy of the completed form.

Please return it, along with your completed **About you form**, as an email attachment to [consultation@sra.org.uk](mailto:consultation@sra.org.uk), by **4 March 2016**.

Alternatively, print the completed form and submit it by post, along with a printed copy of your **About you form**, to

SQA consultation  
Solicitors Regulation Authority  
Regulation and Education  
The Cube  
199 Wharfside Street  
Birmingham  
B1 1RN

**RESPONSE BY THE ASSOCIATION OF SOUTH WESTERN LAW SOCIETIES  
(ASWLS)**

**To SRA SQE Consultation**

4 March 2016

Questions	Responses
	<p><b>Opening comments :</b></p> <p>We are concerned by the piecemeal nature of the SRA's approach to the training for Tomorrow consultations. We have already had a consultation on continuing professional development and the Statement of Solicitor Competence. We are now told there will be a further consultation on the development of more flexible pathways to qualification and also on pre-qualification work experience. The approach seems disjointed all these matters are inextricably linked and it is difficult, and we believe the wrong approach, to consider the individual parts in isolation.</p>
<p><b>Question 1</b></p> <p>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?</p>	<p>No. Focusing on ensuring consistent and comparable high quality standards can be best and most easily met by the LPC and the SRA (although we believe the Law Society should take over this responsibility) monitoring more closely the universities which teach the LPC so that it can be satisfied with the consistency of standards set by the course providers.</p> <p>Further, to ensure continuing high standard the SRA (or in our view the Law Society) should focus attention on the quality of training given by the firms who provide periods of registered training (PRT).</p> <p>We agree it is absolutely right to review the way in which solicitors qualify, to establish whether the system is still fit for purpose, particularly</p>

bearing in mind the changes that have been introduced to the various routes to qualification. However, the existence of new routes to qualification is not in itself a reason for change. We wholeheartedly agree that the most talented candidates should have the opportunity to qualify as solicitors - but it is for the new entrants to achieve the existing high quality standards and not for the bar to be lowered to allow them into the profession. We are concerned, however, at the SRA's piecemeal approach to its proposals which should be put together so that we can consider the full implications as against the objectives.

We believe that there remains a place for a qualifying law degree and an LPC. The LPC provides extremely valuable skills for our young trainee lawyers, and this must not be lost or diluted in order to accommodate new entrants. In practice we have noticed a distinct difference between those individuals who have completed the LPC and those who have not - the LPC graduates have shown themselves to be much better prepared.

We question whether there is a need for change when the Legal Education and Training Review found that the current system of legal education and training is fundamentally sound. There seem to be three reasons put forward in support of an SQE :

- (1) The quality of the profession
- (2) consistency and the standard of training and
- (3) the cost of qualification.

As to quality, the SRA notes that in each of the last four years, 10% of firms paid a negligence claim. However, there is no evidence that newly qualified solicitors have been disproportionately negligent. The SRA also relies on the Compensation Fund having paid £23.8m to clients in 2014. This again is not evidence of any lack of training because the Compensation

Fund compensates clients who have suffered loss from the criminal acts of solicitors. There is no evidence that the current system produces incompetent newly qualified solicitors or those with criminal tendencies.

As to the SRA's concerns over the consistency of rigour and marking of QLD and LPC, we consider that there is always likely to be a variance between universities. Some universities attract better students than others and some universities run bespoke LPCs. So this is in itself no cause for alarm. The SRA have produced no evidence of any other cause of inconsistency in results. We are not convinced by the justification for change or the unattributed quotes set out within the SRA's paper.

The SRA are concerned that cost of qualifying is limiting access to the profession; however we believe that SQE may in fact further limit access through increased cost.

The SRA have not released any costings for the SQE and, during the roadshows, they have refused to give even an indication of the cost. However, we cannot imagine that it can be cheap option, bearing in mind the nature of the course. Many do not consider that it can possibly be cheaper than the LPC and PSC. This concern is supported by the fact that the SQE is modelled on the QLTS, the test for overseas lawyers. The fee for the QLTS assessment is around £5,000. The SQE has more assessments than the QLTS so it is likely to be more expensive. A number of institutions have created courses to help people to pass the QLTS which cost a few thousand pounds more. It is likely that the SQE will mirror this as we consider that students are very unlikely to take the SQE assessments without taking a preparatory course which will produce further cost. Since such courses are not validated by the SRA, as the LPC is, they and the providers will be unregulated; therefore we are left with an unregulated potentially more inconsistent

	<p>training for our lawyers of tomorrow.</p> <p>It should also be borne in mind that the market is already driving down the cost of qualification. For example the LPC is being included within the three year undergraduate degree in a number of institutions, and there are also flexible options available enabling students to study the LPC part time and earn while they learn.</p> <p>Therefore, we do not believe that there is any evidence that the alleged drivers for change actually exist. We firmly believe that the LPC should remain in place, although with greater monitoring, to ensure standards and avoid damaging the brand of solicitor both in this country and abroad.</p>
<p><b>Question 2</b>  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?</p>	<p>No. We are very concerned that the computer-based objective testing does not provide suitable testing. The virtue of questions of this kind is that they are easy (and quick) to mark and produce objectively correct answers. However, this limits the scope and context of the questions because in practice there is not always a right and a wrong answer to every situation- it is rarely so clear cut. The “<i>functioning legal knowledge</i>” assessments in Part 1 will, as a result, have to avoid such situations and will therefore be of limited value.</p> <p>The proposed Part 1 assessments cover the 13 subjects contained in the statement of legal knowledge. However, since there will be considerable overlap between the Part 1 assessments and the subjects studied as part of a law degree the Part 1 assessments are an unnecessary duplication for those students as they will already have been tested rigorously in those subjects.</p> <p>At first glance the Part 2 practical legal skills assessments appear sensible, rigorous and</p>



	<p>thorough and an effective test of competence in the six skills. However, given the SRA's concern about the current cost of qualifying as a solicitor, it is very surprising that the SRA propose such an expensive and intrusive set of twelve assessments. If they are needed, it would be more sensible to incorporate the Part 2 assessment into a revised LPC. There is scope for this and doing so would improve the consistency of standards across LPC providers.</p> <p>Candidates should also be given a limited number of attempts to pass each of the 24 assessments. The rigour of the assessment is being diluted by permitting candidates to take one assessment at a time rather than a set of assessments as has traditionally been required under the Solicitors' Final Examination and the Legal Practice Course.</p>
<p><b>Question 3</b>  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?</p>	<p>No. The Legal Services Board encourages the removal of barriers to cross-qualification between the various legal professions, the policy of refusing to recognise assessments which candidates have passed en-route to such qualification is unreasonable and cannot be justified.</p> <p>Furthermore, since the Part 1 assessments will duplicate the subject-matter of assessments which the majority of candidates will already have passed, the Part 1 assessments are wasteful and unnecessary, and mean as they do not recognise the past achievements of candidates.</p> <p>We would support an exemption from Part 1 for students who had undertaken an undergraduate law degree/GDL or the equivalent CILEx, equivalent means and apprenticeships qualifications. This will mean that it should be possible to continue to accommodate these pathways alongside the more usual route of degree (plus GDL) and LPC.</p>

	<p>The imposition of the SQE on students who have already passed assessments in the functioning legal knowledge subjects would be an unnecessary, artificial and unjustifiable barrier to qualification.</p> <p>It could also have a detrimental impact on access to the profession. It will impact more upon less advantaged students who will not have financial resources to pay (or pay so easily) for the tests and for the crammer courses necessary to get through tests which will (in whole or in part) be assessing subjects that the students have already passed.</p>
<p><b>Question 4</b></p> <p>With which of the stated options do you agree and why:</p> <ul style="list-style-type: none"> <li>➤ offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?</li> <li>➤ offering a broader number of contexts for the Part 2 assessment for candidates to choose from?</li> <li>➤ focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?</li> </ul>	<p>On balance we favour option 2 because the importance of reserved activities is becoming less and less relevant in actual practice. Modern day solicitors undertake work in a wide variety of practice areas, particularly in commercial firms. It is impractical to focus the qualification assessment on reserved activities only when the work that many (if not most) candidates will go on to undertake in practice is much broader. Thought should also be given to including an option relating to the “lawyer of tomorrow” and the likely future marketplace, job opportunities and client requirements for delivery of services.</p>
<p><b>Question 5</b></p> <p>Do you agree that the standard for qualification as a solicitor, which will be assessed through the SQE, should be set at</p>	<p>The current educational requirement for all solicitors who qualify under the current system (other than the QLTS route) is set at level 7 of the Framework for Higher Education</p>

<p>least at graduate level or equivalent?</p>	<p>Qualifications (ie postgraduate diploma).</p> <p>It is not acceptable for this standard to be reduced to level 6 (ie bachelor's degree).</p> <p>A reduction in the educational attainment required of solicitors will damage the international reputation of the brand of solicitor of England and Wales. In this connection it is pertinent to note that in many European and Commonwealth countries, as well as in the United States of America, most newly-qualified lawyers are required to hold two university degrees, one of which is in law.</p> <p>We believe that it cannot be right to suggest that the skills developed through study on a three year law degree (or non-law degree plus the GDL) can be replaced by a multiple choice test without there being a consequential drop in standards.</p>
<p><b>Question 6</b></p> <p>Do you agree that we should continue to require some form of pre-qualification workplace experience?</p>	<p>Yes. Pre-qualification workplace experience is absolutely essential in gaining competence as a solicitor.</p> <p>It forms a vital part of the process of qualification. In our experience, there is a vast difference between trainees at the beginning and the end of their training contract, as a consequence of the workplace experience gained.</p> <p>If the SRA were to remove the requirement for pre-qualification work experience then the profession would ensure that it continues by simply showing a preference for employing candidates who have had previous paralegal experience.</p> <p>Properly structured, high quality and supervised pre -qualification work experience gives trainees an opportunity to learn skills in a practical environment that could never be replicated in a classroom setting. It also helps</p>

	<p>them to hone their client facing and communication skills, establish the areas of law that they have a particular aptitude for and may wish to specialise in and to understand the ethics and conduct that the profession demands.</p> <p>We believe that pre-qualification workplace experience is an essential part of the development of the skills required by a newly qualified solicitor. They must have sufficient time to develop and demonstrate their competence in those skills to ensure that standards are maintained and the status and brand of “solicitor” continues to have credibility at home and abroad.</p>
<p><b>Question 7</b> Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?</p>	<p>Yes. SRA should not to remove or reduce the minimum period due to its importance in the development of junior lawyers.</p> <p>Although the equivalent period is shorter than 2 years in many jurisdictions, the rigour of the academic stage in those jurisdictions is much greater and the longer minimum period of in England and Wales goes some way towards redressing this mismatch.</p> <p>A minimum period of 2 years’ represents six months in which to adjust to office life and working practices and 6 months’ work experience in each of three areas of practice. Trainees develop enormously over the course of the training period so any time period should be significant.</p> <p>However, the existing flexibility should remain which accommodates candidates who require time to count for time spent doing quality work as a paralegal – a new trainee straight from education, with little or no work experience, is a very different animal to a trainee who has already spent a period of time working as a paralegal. In some cases, the work undertaken</p>

	<p>by paralegal is at an equivalent or higher level than that undertaken by trainee and there should be a mechanism to recognise this.</p> <p>Trainees must be allowed the time to experience a range of practice areas and gain a good grounding and an understanding of the work of a solicitor and develop all of the relevant competencies.</p>
<p><b>Question 8</b> Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?</p>	<p>Both the competences and the time period are important if standards are to be maintained or even improved.</p> <p>If no competences are specified there will be little incentive or guidance for firms to train trainees on the broad range of skills required to make them fit for purpose.</p> <p>The advantage of a fixed period of PRT (subject to exemptions, as under the current system) is that it provides certainty to both employer and employee. The disadvantages to the more flexible model include the perception of unfairness if one candidate's PRT is shortened and another's is lack of consistency; the difficulty of planning when one doesn't know how many people are undergoing PRT at any particular time in the future and the consequent uncertainty affecting recruitment plans.</p> <p>If competences but not time periods are specified there would be a risk that solicitors will not have adequate time to become proficient in all the areas.</p>
<p><b>Question 9</b> Do you agree that we should recognise a wider range of pre-qualification work experience, including experience obtained</p>	<p>We welcome the additional flexibility as long as the experience can be assessed for suitability purposes.</p>

<p>during a degree programme, or with a range of employers?</p>	<p>The SRA has already permitted candidates to qualify via the “equivalent means” route which has introduced a significant degree of flexibility in the range of experience that can be recognised. We believe that this means of qualification should bcontinue.</p> <p>We must be able to recognise experience gained at the same time as studying (e.g. for students undertaking part-time courses especially the GDL and LPC) - this will go a long way towards rectifying some of the perceived barriers to entry to the profession for students coming from poorer backgrounds.</p>
<p><b>Question 10</b> 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?</p>	<p>Yes. Some of the elements of the Statement of Solicitor Competence, particularly sections C (Working with other people) and D (Managing themselves and their own work) can only be assessed through workplace assessment. See also the response to question 7.</p>
<p><b>Question 11</b> 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 1 and Part 2, to a specified performance standard?</p>	<p>Yes, most law firms have an immense amount of experience of recruiting trainees and training them and have a very clear understanding of the requirements of a newly qualified solicitor.</p>
<p><b>Question 12</b> 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?</p>	<p>We consider that the consistency at the workplace training stage is crucial in ensuring quality standards. A toolkit of guidance and resources seems a sensible initiative and would be of particular importance to small and medium sized practices. The level and form of additional support would depend on what was contained in the toolkit, however online resources as has been provided for the new learning and development provisions, including the use of practical videos, have proved to be very helpful. Regional workshops and webinars would also assist.</p>

**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?

We note that this will be the subject of another consultation in 2016. Aspiring solicitors should know what they need to do to qualify as a solicitor and the order in which they should do it - this information should be as clear and comprehensible as possible.

The virtue of the current system of entry i.e. QLD + LPC + PRT or degree + GDL + LPC + PRT or CILEx + LPC or QLTS or legal apprenticeship is that there is a clear and defined structure to the qualifying process and each of the three stages to that process has a defined role (academic learning, vocational training and work-based training).

Abandoning this process on the basis that outcomes-focused regulation does not define pathways is unhelpful. The overwhelming majority of those who are going to have to choose which pathway to take to qualify will be between 16 - 20 years old who desperately need guidance and a clear pathway.

The regulation of training pathways and clear entry requirements are essential to protect consumers and students.

We consider that Option 1 on page 11 of the consultation paper (Continuing to prescribe a limited number of pathways to qualification) is the best option. However, we do not see those pathways as a means of supporting the credibility of the SQE. If the current pathways are retained then we see no useful purpose for the SQE, which will just add cost unnecessarily.

We consider that the current framework protects consumers. Our concern is that the SQE may adversely affect this.

The SRA's 'evidence base' is singularly unimpressive. At paragraph 30 of the

	<p>consultation paper the SRA refers to the number of negligence claims in the past 4 years, the complaints upheld by the Legal Ombudsman in 2014-15 and the payments by the SRA Compensation Fund in 2013-14. There is nothing in those figures that logically suggests a fundamental flaw with the current system of qualification. To begin with, there are no comparator figures with earlier eras to suggest the situation is getting any worse due to the current system of qualification. For all the SRA know, the situation may be getting better due to the current system of qualification or improved supervision and risk management. Also, how many of the solicitors found negligent, or who have had complaints upheld against them, or whose conduct has led to the SRA Compensation Fund paying out, have qualified under the current system? How many of them have qualified under earlier regimes that predate the LPC ? Recent reports in the Law Society Gazette have focussed on solicitors that have been struck off who have been qualified for over 30 or 40 years, and who would have qualified under an older regime not unlike the one now proposed by the SRA.</p>
<p><b>Question 14</b> Do you agree that not all solicitors should be required to hold a degree?</p>	<p>The 'non- graduate route' should be the exception rather than the rule</p> <p>However, a degree should not be required in certain limited circumstances only, ie where the candidate has qualified through either the legal apprentice route or the CILEx route( both of which are set at level 6 of the Framework for Higher Education Qualifications and are therefore are equivalent to degree level) <u>plus</u> the LPC, which is set at level 7.</p>
<p><b>Question 15</b> Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?</p>	<p>Yes as this information is an essential part of the information that potential employers need. In the same way that University degrees are not all the same, a mandatory exam that simply gives a pass/fail result will be of little value for</p>



	<p>candidate selection purposes. Potential employers need to be able to identify the most able candidates.</p>
<p><b>Question 16</b>  What information do you think it would be helpful for us to publish about:</p> <ul style="list-style-type: none"> <li>➤ overall candidate performance on the SQE?</li> <li>➤ training provider performance?</li> </ul>	<p>Employer's will want to know how an individual candidate has performed on the SQE and how they compare with their peers : the individual performance data should therefore be provided/made available.</p> <p>As for the training provider, assuming all candidates are sitting the same exam (regardless of what study/courses they have undertaken) then the performance of the provider will be of considerable interest to students.</p>
<p><b>Question 17</b>  Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?</p>	<p>We are not convinced that the SQE will make a positive impact on EDI. There is a broader issue at large with the whole of the education system to ensure that students from ethnic minority and poorer backgrounds have the opportunity to progress while at the other end of the process the profession will need to change its approach to recruitment. A firm that wants to recruit traditional private school educated candidates will be able to continue to do so regardless of the introduction of the SQE. Also, many firms already practice blind or contextual recruitment of trainees in an effort to recruit the best candidates regardless of background.</p> <p>The potential advantage of the SQE to EDI was mooted to be the cost savings. However, we are far from convinced that there will be a cost saving at all (see our answer to Q1) and no evidence has been produced to support this. We also, once again point out that there is already a degree of flexibility that particularly helps students coming from poorer backgrounds. Students are able to study for the LPC (and GDL) part time which enables them to work at the same time as studying. In addition institutions are now starting offer the LPC as an option during the 3 year undergraduate course. There is a danger, with the likely need for</p>

	<p>intensive post graduate preparatory courses , that the likely financial impact of these changes will disproportionately affect poorer students and cause a negative impact on EDI.</p>
<p><b>Question18</b> Do you have any comments on these transitional arrangements?</p>	<p>We think that the timetable is far too tight. As a result, we think the transitional arrangements are not workable. As mentioned in the answer to question 20, there is considerable uncertainty for students, for school leavers, for careers advisors and for educators. It is very difficult to provide clear advice for students and potential students on their future education and training. Assuming a decision is made on the SQE this year (i.e. that the SRA sticks to its development timetable without slippage), we think it would be more appropriate if the transitional arrangements were extended so that students beginning a degree as late as September 2017 (or preferably September 2018) were able to continue to qualify under the existing system. This would include those school sixth form pupils currently considering what they wish to study at university and where they wish to study.</p>
<p><b>Question 19</b> What challenges do you foresee in having a cut-off date of 2025/26?</p>	<p>We understand that the SRA would like a cut-off date, but we do not see why students who have started one route to qualification should not be able to complete that route, whenever that may be.</p> <p>There has never been a shelf life for the LPC and the SRA has removed the shelf life of the qualifying law degree/GDL. Under the proposed system, candidates will be able to spread their assessments and their resits over an unlimited period of time.</p>

	<p>Why then should candidates who have taken degree/GDL and LPC exams under the current system be required to be re-assessed in those subjects and skills? What is the rationale for not having a time limit with one route but having a time limit with another? Again, this is likely to impact on less advantaged students with less access to law firms and would present a further barrier to access to the profession for them.</p>
<p><b>Question 20</b> Do you consider that this development timetable is feasible?</p>	<p>No. The Legal Education and Training Review took longer than planned and there was more than one delay in its consultations as well as the delay in publishing its final report. Training for Tomorrow has also been afflicted by delay - this consultation was delayed by some 2 months. So it is realistic to expect further delays in the consultations to come.</p> <p>The date for appointing the assessing institution in the summer of 2017 is vulnerable to slippage because of this. Even if the assessor was appointed then, it is highly unlikely that the processes of appointing question setters and external examiners, classifying the questions in ranges of difficulty, road-testing the questions, testing the skills assessments, hiring the actors, setting up the necessary arrangements for assessment regulations, extenuating circumstances, appeals, and liaising with the education providers and firms which offer PRT to ensure that they are ready to operate the new regime from September 2018 will be ready on time. The universities will need to write new courses which deliver to the statement of solicitor competence and these courses will need to be ready by September 2018, so it's not just the assessor who will have to be ready.</p> <p>We understand from discussions with degree providers that law schools need a considerable period of time to develop new law degree curricula. Universities have internal validation processes to follow. Courses also have to be advertised and of the degree is aimed at sixth form students applying via the UCAS system,</p>

which means a long lead-in time. There are now strict CMA (Competition and Markets Authority) requirements regarding advertising and marketing degree courses. The shape of any new degree syllabus therefore has to be worked out a considerable time in advance of when students are enrolled. It is likely that any courses which are to be offered in September 2018 would need to go to internal validation in January 2017. We are already in late February 2016, a decision on the current consultation is not due until June 2016. That may be later anyway, and this leaves scant time for more detail about the level of detail required by the SRA on the thirteen areas of legal knowledge. It is more than likely that there is insufficient time for law schools to develop new degrees in time, even assuming the SRA timetable does not slip, which it probably will. It would be better to plan for changes to take effect in 2019/20 or even 2020/21.

What the SRA is proposing is such a fundamental change in the framework of legal education that changes have to be planned much further in the future than currently is the case. The SRA appears to have chosen an unduly optimistic timetable, perhaps fearful that any timetable set will slip. But the current timetable leads to much uncertainty to all concerned, not just for law degree providers, but also for prospective students, and those who have to advise them on their career options. Already, students currently in Year 1 of their degree will be affected by these changes. A more sensible approach would be to decide on all aspects of the framework and set a timetable so that no students currently in the system (or even school leavers choosing degree courses) had uncertainty about their path to a career in law.

Also, it should not be forgotten that there is nearly universal opposition to the SQE from stakeholders who have fed back to the SRA at various events they have staged since they announced their provisional preference for the

	<p>SQE in the spring of 2015.</p> <p>If, notwithstanding this, the SRA proceeds with this assessment despite this opposition and the SRA is afflicted by teething troubles, it will suffer enormous (and possibly fatal) damage to its reputation. The SRA should delay the implementation of the SQE by another year or two.</p>
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## **Training for Tomorrow: assessing competence**

### **Response from the University of Law to the Solicitors Regulation Authority**

**1<sup>st</sup> March 2016**

The University is the largest provider of vocational legal education in the UK and consequently has a wealth of experience assessing legal knowledge and skills. In addition to assessing its own taught programmes – the LLB, GDL, LPC and BPTC it also has experience of assessing for other professional bodies – notably the SRA in respect of Higher Rights of Audience and historically the Qualified Lawyers Transfer Test.

The following are the collective responses from academics and business professionals within the University taken during a series of focus group meetings.

#### **Introduction**

Throughout the focus group discussions, a common concern repeatedly arose; if these proposals are suggested because there are too many complaints currently being made against solicitors, how is this assessment framework going to deal with this problem? Respondents were not at all sure of the rationale for the proposals. Data on variable entry and success rates at law schools are not evidence that the solicitors' profession suffers from a competence problem. The usual basis of a complaint or a negligence claim against solicitors is not lack of knowledge or understanding, but rather missing a deadline. These proposals do not appear directly to address the SRA's stated concerns.

#### **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?**

In principle, a common examination leads to consistency, but it is not the only way to assure this and it is not synonymous with achieving consistently high standards. There are many unknown variables in respect of the assessment for us to make an informed comment. The unknown variables include the level of the assessment, the quality of (unregulated) tuition and the precise method of assessment e.g. MCQs and SAQs etc. The latter forms of assessment feature regularly in the consultation paper but are very difficult to use to assess the day 1 outcomes in transactional issues.

On balance, the answers to this question were "no". One respondent commented, "No, I don't agree. Opening up other pathways is more than adequately covered with other routes into the profession already and will be augmented by the trailblazer apprenticeship option. The SQE as described will not be a good test of whether someone could be a lawyer and will not be able to cover any of the skills that are integral to being a solicitor now."

There are concerns about the standards and rigour of the assessments if they are (in respect of the Part 1's at least) to be taken at a computer. Although comparisons are made

in the consultation paper with other professions whose professional examinations make use of online objective tests, the comparisons as presented by the SRA lack context and hence cannot serve as a useful yardstick. Online assessment cannot assess students to the same level of critical analysis (in the grey areas of the law) that being competent in the practice of law requires. If the SRA was minded to move to a more rigorous system, such as requiring students to produce written answers, assessors would require a clear marking guide for consistency and transparency. A further concern is that there are 13 heads of study under the SLK and if each head has its own assessment which can be separated off with unlimited retakes, this will inevitably lead to a lowering of standards.

The SQE, (from what we do know of the proposed assessment framework), is incapable of assessing competence as a solicitor. We have a more fundamental concern, however, and that is how the SQE, as proposed, deals with any of the problems presented by the SRA (such as inconsistent provider pass rates).

## 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?**

No. Although most respondents agreed a firm and broad grounding in the law was needed by solicitors, the Statement of Legal Knowledge was considered to be far too broad (and the intended assessment not fit for purpose, see above) and the Part 2 skills assessments was considered too narrow and not reflective of what solicitors in practice do. There was a concern that the Part 2 assessments could be taken a long time after the Part 1s are passed and this does not address standards in the profession; nor does the move to a more modularised assessment method, which could be seen, across the piece, to have an adverse effect on standards. The assessment framework as proposed would place far too much emphasis on the assessments themselves and not require any emphasis at all on how high level skills are developed.

The legal education, legal services and student bodies must see and be consulted on with detailed examples of the proposed assessments to see if they will work. We cannot answer in a fully informed way whether the assessments will assess what they are designed to assess without seeing them.

There are concerns about how the SRA will monitor access to resources for (particularly but not limited to) the research element of Part 2. There is no indication yet that the SRA will publish a statement on minimum resources required for the programmes or for employers. There may be considerable cost consequences to this and in turn, this could have considerable impact on fairness, diversity and smaller firms. No mention is made in the framework about the provision for students with special needs; what ability will there be to make reasonable adjustments?

### 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?**

No. If the SRA is keen to ensure a more diverse profession and widen participation, it would be perverse to ignore relevant experience and provide exemptions, not only for the considerable cost reasons, but for consistency with the other regulators of legal services (such as CILEX) as well as to remain an attractive jurisdiction for foreign lawyers to qualify in to practice, having to be assessed in precisely the same way as non-qualified lawyers seeking qualification. The comment was made that the ‘quality of practising lawyers in the UK might deteriorate because we would not be attracting quality from around the world’.

The proposed lack of exemptions will hinder diversity, further restrict entry to the profession and increase cost.

### Question 4

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

- a) **offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?**
- b) **offering a broader number of contexts for the Part 2 assessment for candidates to choose from?**
- c) **c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?**

Option 4b was the strong preference although some respondents answered ‘none of the above.’

Observations made about question 4 include;

If it is proposed that skills are assessed twice in a different practice context, why does context matter if the SRA is simply assessing the skill?

There is established research that separation of skills and knowledge is undesirable and no evidence is given by the SRA that this model will maintain (or increase) standards.

Business and the Law of Organisation is an obvious inclusion as a non-reserved area – but why not Employment or Family; these were very important omissions, not only for student choice, but for law firms. Respondents within the University asked the SRA not to “limit choice for the sake of diversity”.

The proposed SQE will lose credibility with law firms if candidates asked to study areas they don’t practice in. This was felt to be particularly acute with international lawyers seeking to qualify in England and Wales.



### 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?**

Respondents answered in two parts. First, isn't this a backward step from the current position and second, what does graduate level mean according to the SRA? All respondents commented that for entry to the profession, students should be assessed at least at graduate level to retain credibility as a professional – in fact, graduate level should be the bare minimum. If the SRA will not use the FHEQ, how will it articulate the level? The 'threshold' statement approved in April 2015 uses vague and elastic terms such as "acceptable" which is meaningless. The SRA is urged to articulate its view of what 'graduate' level is as a matter of urgency.

### Question 6

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

Yes

### Question 7

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

Yes, however respondents asked that answers to questions 7 and 8 be read together to which the answers are 'both'.

A minimum period of time of pre-qualification experience should be required. Most respondents said this should be no less than a year, some said no less than 18 months, some had reservations about reducing it from 2 years. All respondents agreed the period of time should be capable of being fulfilled from a variety of legal practice workplaces but should not include simulated workplace experience as simulated legal practice is good preparation for but not the same as real legal services practice; "You cannot mimic practical experience in a classroom".

Respondents all commented that foreign qualified lawyers should get some time exemption. Any and all exemptions need to be clearly defined in advance. The SRA must specify whether the relevant workplace experience could take place before or after the Part 2s, and separate to this point, but related, the SRA should specify a time period for the assessments to be taken. If the purpose of the SQE is to check standards at the point of admission, where is point of admission given that under the proposals, there is nothing to stop a future solicitor taking 15 years to pass all the Part 1s and 2s.

### Question 8

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

Not 'instead of', no.

All respondents thought that any period of workplace learning requires assessment, and thought that evidence of competency could be presented through portfolio, assessed by regulated assessors accredited by the SRA.

### Question 9

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

All respondents agreed yes, but with many caveats and further questions. Workplace experience could be valuable, with a range of employers, but how are standards are measured across different employers? Most respondents were of the view that the workplace should be in legal environment, broadly defined, so this could be a placement in a professional practice but not general commercial practice. Some concerns were expressed (linked to the answer to Q8 above) whether workplace experience during a degree programme could count, for example, pro bono – how would this be consistently, clearly and transparently regulated by the SRA? Many respondents commented that such experience should be post-qualification and not taken during a degree, but noted that equivalent means should continue to be available.

### 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?**

On the whole, yes, but we are concerned about this cost being passed to the 'trainee' given our comments above about cost and diversity. An example of a comment from a respondent who said 'no' to this question includes, "I think many smaller/medium sized firms would find this impossible to deliver and rather than widening access to the profession it will narrow it as the majority of firms will be unable to accommodate this."

### 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 1 and Part 2, to a specified performance standard?**

N/A

### 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?**

N/A

### 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?**
- **protect consumers of legal services and students at least for a transitional period?**

Prescribed pathways are vital to ensure there are courses available, otherwise there would be uncertainty on how to qualify for candidates, a problem which would be particularly acute for entrants from non-traditional backgrounds.

Separately, the respondents had very serious concerns about the very real likelihood of unregulated providers taking student money for a course which would not be sufficient or satisfactory preparation for either Part 1 or Part 2 SQE. It was felt that not regulating providers would be an “abrogation of regulatory responsibility”.

### Question 14

**Do you agree that not all solicitors should be required to hold a degree?**

We agree that not all solicitors should be required to ‘hold’ a degree (e.g. by an apprenticeship or CILEX) but we urge the SRA to maintain degree level equivalence and articulate it clearly.

### Question 15

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

Yes, candidates get this now.

### Question 16

**What information do you think it would be helpful for us to publish about: a) overall candidate performance on the SQE? b) training provider performance?**

- a) Individual marks  
Pass rates and how well candidates have passed in bands eg 10 % at 50-60; 25% at 60-70 etc.

**Question 17**

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

No additional views were expressed other than those mentioned elsewhere in this response.

**Question 18**

**Do you have any comments on these transitional arrangements?**

See below

**Question 19**

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

**Question 20**

**Do you consider that this development timetable is feasible?**

No.

We felt this was ambitious at best, and probably not possible given that we are already planning the 2017 and 2018 intake. We were unsure, given the lack of detail in the consultation, how this would affect a student commencing in 2017 on a part time degree course (either in law or on a non-law degree with a view to following a part-time GDL then part-time LPC then looking for a training contract. They need, and deserve, to understand their options now)

Ben Middleton - University of Sunderland

## **T4T - Assessing competence**

### Consultation questionnaire form

This form is designed to be completed electronically—in MS Word. Please save it locally before and after completing it.

To request an alternative format please visit [www.sra.org.uk/contact-us](http://www.sra.org.uk/contact-us).

## 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?

No.

It is impossible to assess the impact an SQE would have on ensuring high standards without considering what such assessment would look like, when it would take place and the training that is required to get students to the point of taking the assessment.

It is easy to conceive that an SQE might reduce lead to reduced standards by: -

- a) reducing the length of time students learn the law and legal skills;
- b) reducing the depth and breadth of legal knowledge that students are required to develop;
- c) Encouraging fast track, cramming courses that teach to assessment and do the bare minimum required to get students through;
- d) Meaning that the SRA and the profession has less control than at present over standards of legal education and training as a whole;
- e) Meaning that solicitors may join the profession having had a much less holistic legal education that at present in which they may not have been exposed to key ethical and jurisprudential concepts or have been required to analyse or critically evaluate;
- f) reducing the time it takes to qualify as a solicitor and thereby denying students those crucial formative years in which they develop their understanding and their ethical and professional practices. It takes time to develop the skills necessary to be a reflective, lifelong learner. Also we should be wary of reducing the overall time taken to become a solicitor. All the professions require a minimum and significant period of training. Reducing the period from six years may encourage students to attempt to become solicitors on a whim.

We are concerned that there is a risk that an SQE may actually have an adverse impact on widening participation in the legal profession by discouraging students with atypical entry qualifications from embarking on a law degree, making it harder for them to acquire the skills and knowledge needed to demonstrate competence. There is evidence that many of these students come from BME communities or disadvantaged backgrounds; qualifications on entry to their undergraduate studies are not always indicative of their true abilities. We consider that it will be difficult to develop the skills of these individuals without an extended period of training such as that offered by the current routes to qualification.



## 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?

It is not possible to form a view on this until a sample assessment is released for consultation and the SRA indicates how it expects students to reach the position whereby they could satisfactorily meet the requirements of the SQE.

It is clear that a dedicated course of study over a number of years would be required for any student to meet the described standard.

For this reason it seems strange that the SRA is not giving consideration to what it thinks a good quality law degree, perhaps one including vocational skills, would look like. It is quite clear that many students will want to study law at degree level before attempting an SQE. Even if the SRA intends to permit anyone to attempt the SQE, by working with universities and others to provide quality undergraduate legal education, standards can be raised further.

The SQE has much in common with the LPC and it is surprising no effort has been made or consideration given to look at reforms to the LPC before doing away with it altogether. For example, the SRA could look to mould the LPC around the competence statement for solicitors so that it modernised to meet the needs of solicitors today.

The SRA could then look to reform the Professional Skills Course which is currently undertaken during the period of recognised training. The SRA could require that it be undertaken after, say, at least a year of a period of recognised training by which time trainees can be expected to display a higher level of competence than they would at the current final, formal assessment the LPC. Successful completion of this revised course would have to be achieved before candidates could be admitted. This ensures that the SRA, rather than law firms, has 'final say' over whether or not someone has achieved the required level of competence. Further it is unlikely to add to the overall cost of legal education as trainee solicitors are currently required to do a Professional Skills Course in any event, the content of which this new assessment could take into account. Like the Professional Skills Course many law firms would no doubt contribute or pay for the course then, especially if they are minded to continue to employ the trainee once they have qualified.

QLDs or a modernised LPC should not be centrally assessed as this stifles, if not prohibits, innovation in teaching and learning and will inevitably lead to a 'tick box' or 'teaching to assessment' approach which will be hugely detrimental to quality and student choice. Reform of the LPC and the introduction of a centrally assessed PSC or equivalent after or during a period of recognised training would seem the best option to achieve the SRA's goals.





### **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?

No, for the reasons stated above. We expect that the majority of students to wish to complete a period of undergraduate study before undertaking an SQE, and it makes sense for this to be delivered by Universities and other providers where it can be properly regulated by the QAA to ensure the quality of provision.

## Question 4

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

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

We suggest that there should be a broad range of contexts since this is reflective of the realities of many solicitors' roles.

## 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?

Yes. Students are currently required to undertake postgraduate vocational education and training and this should continue to be the case (i.e. qualification at level 7). Qualification itself should not be made easier. The SRA should not confuse opening up access and wider routes to get to the point of qualification and the standard of qualification.

The aim is to ensure access to the profession irrespective of personal circumstances and that is laudable, if not difficult to achieve in some cases. But anyone who qualifies as a solicitor must continue to exhibit a high level of intellectual ability that is consistent with having studied and achieved at postgraduate level.

Whatever the SRA chooses it must remember that the profession itself, as employers, remain the ultimate arbiters of who practices as a solicitor. The SRA should therefore take very close heed of the profession's views on its proposed reforms and strive to meet its needs. There is little point in developing a system which risks a divergence between what the SRA and the legal profession considers 'good enough'. Otherwise, would we have large numbers of SQE 'graduates' unemployed but able to use the title of solicitor?

More preferable would be to reform the Professional Skills Course which is currently undertaken during the period of recognised training. The SRA could require that it be undertaken after, say, at least a year of a period of recognised training by which time trainees can be expected to display a higher level of competence than they would at the current final, formal assessment the LPC. It could be assessed centrally. Successful completion of this revised course would have to be achieved before candidates could be admitted. This ensures that the SRA, rather than law firms, has 'final say' over whether or not someone has achieved the required level of competence. Further it is unlikely to add to the overall cost of legal education as trainee solicitors are currently required to do a Professional Skills Course in any event, the content of which this new assessment could take into account. Like the Professional Skills Course many law firms would no doubt contribute or pay for the course then, especially if they are minded to continue to employ the trainee once they have qualified.

This would mean that candidates would need a training contract or equivalent but this is the same as currently and prevents a situation where any number of people could enter the SQE and we have hundreds if not more unemployed 'solicitors' who have needlessly undertaken the time and expense of an SQE.

The focus on widening access should be on encouraging those with the necessary aspiration and ability to access University or another route to qualification such as CiLex. Barriers to these should be removed as far as possible.

## Question 6

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

Yes, absolutely. This is essential. The rate of learning increases rapidly once in the workplace and students are exposed to a wider range of knowledge and skills than they encounter whilst in education. Under no circumstances should students be required to have less than the current 2 years work experience before admission.

If the SRA wishes to assess competence closer to the point of admission it should look to have an assessment after a period of recognised training. Currently, save for a few exams on the PSC, the last substantive assessment undertaken by those seeking admission is during the LPC, frequently some two years before they are admitted to the roll. After that, determination as to competence is left to law firms. This seems to be the period that the SRA is seeking to address, and a method is proposed in outline above.

## Question 7

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

Yes. This is in common with all professions and is in fact one of the principal methods through which a satisfactory standard can be achieved.

Commercial forces come into play to ensure that only students which exhibit a high level of ability are given the opportunity to begin the period of recognised training and only those who have acquitted themselves sufficiently well remain employed as solicitors afterwards. Of course, opportunities for all, regardless of background and personal circumstance, to achieve this standard and become eligible to begin a period of recognised training should be explored. We believe the place to start is to ensure access to relevant higher education.

## Question 8

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

No. The SRA could look to specify pre-qualification competencies as well as prescribing a minimum period but under no circumstances should the minimum period be scrapped. It is often the case that people need to be exposed to skills, experiences, concepts and knowledge repeatedly and over a sufficient period of time to develop genuine competency. This is part of a natural learning process. People also need time to mature and develop as individuals and as legal practitioners. Scrapping the minimum time period will simply lead to a box ticking approach whereby students meet or evidence a competency once, forget about it and move on to the next one instead of continuously looking to develop in all areas over a sustained period of time.

Reform of the PSC so that it is centrally assessed and covers the competencies that the SRA wishes to have oversight of at that stage, by when candidates can be expected to have developed a higher level of confidence, would seem to achieve the SRA's objectives without the need to turn its back on undergraduate legal and vocational education.

## Question 9

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

Yes. Experience with a range of employers can be considered but only experience that is sufficiently recent and proximate to admission should count.

Experience during a degree programme should not count as such experience has a different objective and that is facilitating teaching and learning as part of a broader programme of study. Such experience, whilst incredibly valuable in providing students with the opportunity to take their time and very carefully learn about aspects of legal practice under the supervision of qualified solicitors, does not always mirror the realities of life in commercial practice. Such experience undoubtedly prepares students well for the period of recognised training, and gives those who experience it an advantage on the jobs market over those who don't, but it is not a substitute for the two years of recognised training that is currently required.



## 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?

If the SRA could develop a method of workplace assessment that could take place during or at the end of a period of recognised training, as suggested above, then this would go some way to dealing with concerns it has over law firms being charged with the responsibility of signing off trainees for admission. Coupled with reform of the LPC or even the QLD this could easily deal with all the concerns raised by the SRA regarding quality. We are concerned that the SQE could pose even greater problems whilst not achieving the stated objectives.

The only issue it would not deal with would be in broadening opportunity and access to the profession but it may be that the concept of the SQE is trying to kill too many birds with a single stone in any event and the reality is that the root of this problem is much 'further down the chain'. We believe that ensuring access to high education or vocational pathways to those who are able regardless of personal circumstance and background is the area that should first be explored in this regard. Ultimately, though, admission as a solicitor must always come down to ability and the sad reality is that this is often influenced by personal circumstances and background and there is only so much the profession can do to compensate for that. It is, of course, a much wider issue for society as a whole.

We believe that given the already significant cost of qualifying as a solicitor any steps which increase this further risks singlehandedly outweighing any other steps that might be taken to broaden access to the profession regardless of background and personal circumstance. Cost is a huge barrier in this regard and adding cost simply does not make sense in view of what the SRA wants to achieve.

Reform of the PSC in the way suggested means that any additional costs will be much reduced, being offset by the current cost of the PSC, and will in all likelihood be met by law firms in many cases.

## **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 1 and Part 2, to a specified performance standard?

Not applicable.

## 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?

Not applicable.

## 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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

Yes. The SRA should be keenly interested in pathways taken by candidates of an SQE and should continue to work with legal education providers to ensure a high quality legal education that develops candidates that are ready for and likely to succeed in any SQE. Law degrees are likely to remain extremely popular and the SRA needs to remain involved in that market.

## **Question 14**

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

We agree that all should be qualified to graduate level; the current system already provides a route to admission for those who do not hold a degree.

## **Question 15**

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

Candidates of any assessment would undoubtedly welcome feedback but how is this data to be used? Does the SRA intend to recognise certain levels of achievement so as to enable employers to differentiate between candidates? If the students are to be ranked against each other as a cohort it may give rise to unfair analysis of what are subjective elements of the assessment.

## Question 16

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

Further details are needed in relation to the nature of the assessment before this can be properly answered. Potential students selecting training providers would undoubtedly welcome data to help them distinguish between providers and will ensure that providers strive to maintain and increase standards and the numbers of their students who pass an SQE.

Overall performance would be most helpful for the SRA in evaluating the effectiveness of the pathways in preparing students for the SQE.

## **Question 17**

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

Yes- see our response to question 1.



## **Question18**

Do you have any comments on these transitional arrangements?

The timetable will be extremely challenging given the long delay between information given to applicants of University and their qualification date. There needs to be adequate notice provided to students studying for A levels, who are unlikely to be aware of the possibility of significant change to the route to qualification.

## **Question 19**

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

We have no comment to make here.

## **Question 20**

Do you consider that this development timetable is feasible?

We believe that the timetable is extremely challenging. Quality processes in Higher Education generally require a lead in time. Additionally, it is not clear that students embarking on their A levels have been given sufficient information on the future of legal education to be able to make an informed decision as to their options.

**Thank you for completing the** Consultation questionnaire form.

Please save a copy of the completed form.

Please return it, along with your completed **About you form**, as an email attachment to [consultation@sra.org.uk](mailto:consultation@sra.org.uk), by **4 March 2016**.

Alternatively, print the completed form and submit it by post, along with a printed copy of your **About you form**, to

SQA consultation  
Solicitors Regulation Authority  
Regulation and Education  
The Cube  
199 Wharfside Street  
Birmingham  
B1 1RN

Beverly Sorsby - Ropes & Gray International LLP

## T4T - Assessing competence

### Consultation questionnaire form

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#### 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?

The SQE might, with time, develop into an assessment which best meets the objectives set out in the first bullet point of paragraph 10, although given that the detailed assessment framework has yet to be published it is difficult to see how we can be sure that the standards will necessarily be 'high quality'. Ensuring consistent and comparable high quality standards at the point of admission is an important objective for the SRA : the key question is whether the assessment framework can truly deliver the quality standard envisaged.

It would seem even less certain that the objectives set out in the second bullet point of paragraph 10 will necessarily be met by the introduction of the SQE. With cost an important factor in determining access, the question arises as to whether the exam itself, the preparatory courses and work placements that are likely to be required will really reduce the costs of qualifying. In addition, it does seem difficult, without evidence to support this, to assess whether the new framework will lead to the widening of participation in the profession.

## 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?

It is difficult to see that Part 1 of the SQE is necessarily testing competences, as opposed to testing legal knowledge. The Statement of Legal Knowledge is considerably more extensive than the Competence Statement.

Part 2, with its emphasis on the reserved activities, is more problematic. The consultation on pre-qualification experience is not due to take place until the summer of this year, but it seems clear that students will be unable to take this Part without some form of work experience. Indeed, all of the examples of training in the SRA's slideshow accompanying the consultation events suggest that Part 2 would be taken having obtained employment. It is difficult to see how the range of contexts could possibly 'simulate the real demands of practice' and reflect work experience and potential future employment. It is clear that the only way that many aspiring solicitors would be able to pass Part 2 would be through attending expensive courses to cram in the areas in which they may not have seen practice.

### **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?

Yes, if one of the stated objectives of the SQE is to 'assure consistent and comparable high quality standards at the point of admission across all pathways to qualification'.

## Question 4

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

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

As expressed in the Consultation Paper, it is difficult to envisage how the stated options would reflect the practice of lawyers. From the Consultation Event, it seems clear that the SRA does not envisage students/apprentice sitting Part 2 without some form of on and off the job training, thus a period of work experience coupled with training courses.

Option a, which would appear to be the SRA's preferred option, would, as the Consultation Paper itself suggests, be difficult for a number of smaller firms, corporations with in-house legal departments, and many others would struggle to satisfy the requirement for experience in the reserved activities. The Law of Organisations is a very broad area of activity - which elements would be assessed?. It would seem clear that this option will necessarily result in expensive arrangements and training for those organisations that cannot provide experience in the reserved activities. In addition, the fact that candidates will be taking three out of five contexts might (conversely) suggest that the award of solicitor was being made on the basis of an assessment which does not even cover all of the reserved activities.

Option b. appears to have been ruled out by the SRA as more complex, expensive to administer and less consistent. However, it is probably the closest to the reality of practice as it might (designed effectively) 'be more closely aligned with business need'.

Option c. appears from the scant detail offered to be almost as complex to administer as Option b. in that the range of activity for some of the larger firms is such that it is probably unlikely that the practical legal tasks, unless extensive, would be able to 'simulate the real demands of practice'.



## **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?

If the acknowledged objective of the SQE is to assure consistently high standards better than in the current system this must surely mean that the standard at Part 1 of the SQE is set at least at graduate level or equivalent. The Consultation Paper suggests that 'the standard of the Part 2 assessment will be comparable to the level trainee solicitors currently reach by point of qualification' which, presumably, means that the SRA acknowledges that the level required for Part 2 must be higher than graduate level.

## Question 6

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

Yes, in addition to endorsing the expert advice mentioned in the Consultation Paper that pre-qualification workplace experience has an important role to play in developing the competence of intending solicitors and that it has a part to play in the consumer's trust in the solicitor brand, it is difficult to see how Part 2 could be assessed in any meaningful way without some form of 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?

Given the number of areas which need to be clarified regarding the SQE, it would seem to be in the interests of the regulator to retain a minimum time period of pre-qualification workplace experience to provide time for employers to feel comfortable with any new regime.

## Question 8

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

It would seem appropriate that if there are elements of the Statement of Solicitor Competence that cannot be met through either of the Part 1 or Part 2 of the SQE, and as the SQE is a competence based approach, an assessment of these competences should be included as part of the SQE. It would also seem to be essential from the perspective of the objective set out in paragraph 10 - the assurance of consistent and comparable high quality standards at the point of admission across all pathways to qualification - and the integrity of the qualification process.

On the question of whether specifying the competences would obviate the need for a specified period of work-based training, please see the response to question 7. It would seem probable that employers would prefer to see a minimum time period in place for some time whether or not additional competences were assessed during the pre-qualification workplace experience.

## **Question 9**

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

Yes, if the workplace experience is appropriately regulated and supervised and meets criteria and assesses competences to the level required. In terms of widening participation to the profession and ensuring that candidates experience a range of practical legal tasks, simulating the real demands of practice, a wider range of pre-qualification workplace experience is to be welcomed.

## **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?

As discussed in Question 8, given that it is acknowledged in the Consultation Document that advice has been received by the SRA suggesting that some competences cannot be assessed through either the Part 1 or Part 2 of the SQE, it would seem essential for the integrity and validity of the assessment framework that an element of workplace assessment be included.

Clearly, the (unquantified) additional cost and regulatory burden would be of some concern but would probably need to be shouldered by the regulator and employers for the new regime to have validity.

## 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 1 and Part 2, to a specified performance standard?

As the SRA has not as yet revealed any of the details of the Part 2 assessments and that employers have not had to consider the Competence Statement in relation to trainees to date it is a little difficult to answer this question at this stage. However, given that there is a strong informal 'assessment' element within the training contract itself (following the Skills Standards, professional skills and technical legal training programmes, trained supervisors delivering feedback and appraisals as well as written training records and reflections) it seems feasible for firms such as ours to suggest that in theory we might be able to assess trainee solicitors' competences which are not capable of assessment in Part 1 and Part 2.

As with many of the suggestions regarding workplace assessment, more detail is required before a definitive answer can be given on this point.

## 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?

It is difficult to answer this question with any degree of certainty when there is no detail regarding any potential workplace assessment. If the assessments are incapable of being integrated with ease into the existing model (Skills Standards, professional skills and technical legal training programme, trained supervisors delivering feedback and appraisals, training records and reflections) then additional resources may well need to be extensive, including the provision of training for assessors



## 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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

The suggestion that training pathways should not be regulated at all is of some concern. If the SRA are saying candidates do not have to complete any particular course before taking the exam but then suggest that the exam will be at degree level this does seem a little out of kilter with the objective of driving up standards. If the regulator does not specify the design and content of training programmes, approve or 'kite-mark' training programmes, publish data on provider performance, or introduce eligibility requirements to sit the SQE, there must be a risk of reputational damage to the profession. There is clearly a danger that courses will be driven by cost and the need to get students through the assessments. In addition, employers will find it difficult to make recruitment decisions if training programmes are unregulated as they will have no clear understanding of differences in quality.

## **Question 14**

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

As the Consultation Paper points out the solicitors' profession has never required all solicitors to have a degree. Solicitors who are non-graduates can still qualify through the CILEx route. There is no reason for this to change to a requirement that all solicitors should be required to hold a degree.

From a practical perspective , it is clear that in most cases solicitors will still hold a degree and that many employers will require it.

## **Question 15**

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

The main concern regarding this question is in relation to diversity. If candidates are allowed to retake/resit the examinations, what does this mean in terms of cost and the ability of less advantaged groups to pay for the expense of these retakes? If the focus of the SQE is on whether or not a candidate is competent should the SRA be expending additional resources and costs on scoring mechanisms which might be skewed as a result of candidates resitting the exams to improve their scores?

## Question 16

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

Clearly, for recruitment purposes it would be helpful to have much information as possible on both overall candidate performance and on training provider performance.

Training provider performance would be particularly important given that there are likely to be new entrants at both Part 1 and at Part 2 level.

Again, it would be helpful to have more details of the kind of information you may be thinking of publishing (with the caveat noted in the answer to Q.16 regarding diversity and marks skewed by resits).

## Question 17

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

The suggestion is that the only pathway which will be more expensive than the current one is the LPC and PSC route, but it is difficult to see how that suggestion can be made when the exams have not been costed, and the training providers have not prepared or costed the programmes which may be required in order for candidates to pass the exams.

It is also unclear whether this will have a positive impact on diversity in the profession or whether it will lead to a greater demarcation between those who are sponsored or can afford preparatory training courses and a number of resits and those who do not have the options above and will need to find cheaper and less well-regarded arrangements.

## **Question18**

Do you have any comments on these transitional arrangements?

It is difficult to make any comment on transitional arrangements in the absence of further detail on the framework.

## **Question 19**

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

The cut-off date seems fairly lengthy but given the complexity of the new arrangements for providers appears understandable.

## **Question 20**

Do you consider that this development timetable is feasible?

No - the timetable is far too ambitious, with decisions being made far too quickly following consultation on a very challenging framework with a very significant number of moving parts. Taking into consideration the work needed to be done if the framework goes ahead with Part 1, Part 2, workplace experience assessment and so on, the start of the academic year 2018/2019 is much too early to consider introducing the SQE..



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Alternatively, print the completed form and submit it by post, along with a printed copy of your **About you form**, to

SQA consultation  
Solicitors Regulation Authority  
Regulation and Education  
The Cube  
199 Wharfside Street  
Birmingham  
B1 1RN

**Birmingham City University (BCU) - Law School Responses to SRA  
Consultation: Training for Tomorrow: assessing competency**

<p>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?</p>
<p>BCU consider that the SQE <i>could</i> meet the objectives set out in paragraph 10. However as a Law School we are not convinced that this is the only way this can be done. There is not overwhelming evidence that the current system is not “fit for purpose”.</p>
<p>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?</p>
<p>Without more information and sample tests to view it is difficult to answer this. There is concern however that it could negatively impact on law degrees to the extent that they may just become a means of passing these tests. This therefore raises the question as to whether solicitors would still need a degree and what place they would have in the education and qualification of solicitors. We note that this is one of the questions that has been raised. This seems to indicate a lack of clarity overall with what is proposed and the difficulty of commenting on the proposals.</p>
<p>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</p>
<p>Yes. There should be a clear standard for all, so there should be no way to bypass the standard through additional exemptions. But the question remains as to whether the SQE in the form proposed is the best option.</p>
<p>4. With which of the stated options do you agree and why:</p> <ul style="list-style-type: none"> <li>a. offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?</li> <li>b. offering a broader number of contexts for the Part.2 assessment for candidates to choose from?</li> <li>c. focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?</li> </ul>
<p>Overall C would be the preferred option. However the School does see the merit in option b as well. This could reflect the changing nature of practice over the years and the provide flexibility for chosen routes.</p>

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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?

Yes. It is sensible that the standard for qualification should be at graduate level or above (Level 6 or higher), but this needs careful discussion if it is adequately to factor in the reality of how students will study. If a student is studying for a law degree it is not realistic to set Level 6 standard assessments for 1<sup>st</sup> year (Level 4) students. That would result in high failure levels. If all SQE tests are at Level 6 this would necessitate one of 2 things – either that a student must alongside their normal degree programme take additional SQE tests in their 3<sup>rd</sup> year of study on subject areas they have already covered earlier in their course, or that a 4<sup>th</sup> year of study be introduced specific to the SQE. There would be a desire on the part of students to avoid the extra time and expense, so putting pressure on universities to offer degree programmes where all 3 years were at Level 6. It is possible that many students would opt for that over optimistically or unwisely and then fail. If some institutions did this there would be intense market pressure on others to do the same. It would probably be best to require that the SQE Part 1 be studied after completion of the degree. For law graduates that might be 6 months to 1 year, for non-law graduates up to 2 years. Which then looks very much like what we already have with GDL and LPC – which begs the question as to whether the change is really worth the trouble.

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

Yes we strongly agree that this should be the case. Workplace experience is essential to be fully trained and this is a common requirement for other professional qualifications.

7. Do you consider it necessary for the SRA to specify a minimum time period of prequalification workplace experience for candidates?

Yes, if standardisation of quality is the aim. Previous relevant experience (as is the current position) should remain factored in to this

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

Yes but this should be in addition to a minimum time period rather than one or the other.  
Having Part 2 of the SQE set at a level above Level 7 to reflect competence on qualification should ensure this. But part of the value of the current 2 year training

<p>period is to give the trainee an extended period of exposure to the reality of practice. That is important and is necessarily time-related, so a time requirement should remain</p>
<p>9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?</p>
<p>Yes - in principle this seems a good idea, but might suffer from difficulty in policing to ensure maintenance of consistent quality standards. We note that this is one of the reasons the SRA is reviewing and proposing changes to the current qualification route.</p>
<p>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?</p>
<p>We are unconvinced by this. Workplace assessment would be difficult to administer, probably costly, and likely to be inconsistent if based on employer assessment. Realistically it would be seen as another hoop to be jumped through rather than valuable in itself and could become something to which lip service only was paid. Probably not worth the trouble – introduction of stricter pre-qualification practical assessment at SQE Part 2 should be able to achieve this objective MB</p>
<p>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 1 and Part 2, to a specified performance standard?</p>
<p>Although not an employer in the views of the BCU Practitioner Liaison Committee were sought. The firms we consulted thought that yes they could but were conscious that small firms may not be able to and therefore may be put off offering training contracts (if these were still part of the requirements)</p>
<p>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?</p>
<p>Again the Practitioner Liaison Committee thought this would be useful but without more detail it is difficult to be conclusive. It is likely that training would be required to ensure it was being implemented effectively.</p>
<p>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:</p> <ol style="list-style-type: none"><li>support the credibility of the assessment?,</li><li>and/or protect consumers of legal services and students at least for a transitional period?</li></ol>

Yes we strongly feel that this is required.
14. Do you agree that not all solicitors should be required to hold a degree?
Yes we strongly feel they should have a degree.  In addition the Practitioner Liaison Committee also agreed with this view.
15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?
Yes you should. If all that was given was a pass/fail result this would have two consequences. Firstly it would encourage students to do the minimum only to pass – which rather defeats the object of the training. Secondly it would encourage employers to select based on other measures – degree transcript, A level results etc – which will make the ‘access to opportunity’ position even worse than currently.
16. What information do you think it would be helpful for us to publish about: a. overall candidate performance on the SQE? b. training provider performance?
Percentage pass rates would be helpful to let students assess the risks of embarking on a course. Publishing information about training provider performance is less clear – what information? Who assesses how good the provider is? That risks generating unreliable results.
17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?
It is difficult to say. There is concern that the consultation is self-serving in reaching the conclusions it does. The bigger question is not just what the SRA does but what happens at school and what happens at firm level. These arguably have a greater EDI impact than anything the SRA does.
18. Do you have any comments on these transitional arrangements?
A decision needs to be made soon, the uncertainty is not helpful at all in trying to plan for the future and advising students what they should do.
19. What challenges do you foresee in having a cut-off date of 2025/26?
It is difficult to be definitive on this. There are likely to be on-going issues as well as a great deal of uncertainty as to who has to take what route.

20. Do you consider that this development timetable is feasible?

It appears to be a very tight deadline. The concern is that there is not enough time to fully develop the new route.



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**T4T – Assessing competence**

SRA Consultation  
December 2015

February 2016

## **T4T - Assessing competence**

### Consultation questionnaire form

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## 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?

Birmingham Law Society (BLS) wishes to express its concerns at the outset of its response to this consultation that it believes the SRA is extending its reach beyond its regulatory powers into controlling entry into the solicitors' profession, standards etc. We are extremely concerned that this consultation as well as other reviews ongoing e.g. the Separation of Powers, will fundamentally undermine the perceived independence and highly regarded standards of the solicitors' profession and the rule of law in England and Wales within the international context. Also, that the proposals put, if implemented, would seriously compromise the branding of the profession and adversely affect the continuing future economic prosperity to England and Wales obtained as a result of the globally acknowledged high quality legal service supplied by solicitors/legal firms within the international market.

BLS welcomes developments which ensure comparable high standards at the point of admission and ensure the most talented candidates can qualify by encouraging new and diverse pathways into the profession as the term solicitor should signify excellence, integrity and professionalism especially in the eyes of clients and society as a whole. We agree that any artificial and unjustifiable barriers to entry should be removed. We also support the idea of centralised assessments but we are concerned that there is not sufficient detail for us to be able to assert clear, knowledgeable and intelligent views. What is being proposed in this consultation is not sufficiently scoped out to enable anyone to say whether high standards, quality, increased diversity or comparability of pathways will be achieved without fuller detail.

We would propose that a better approach would be for the current system to be retained and improved, with the possibility of carefully managed centralised testing to ensure standards across the board.

As regards a higher standard being achieved because of the proposed assessment changes, BLS in respect of the Competency Statement Consultation expressed its view that the threshold standard for entrance into the profession was set at too low a threshold at level 3, and, therefore, we believe that rather than these new proposals increasing quality, they will actually reduce quality on entrance to the profession as the standards will be watered down in order to enable the flexibility of more pathways to becoming a solicitor.

The centralised assessments covering Part 1 and Part 2 will not increase standards. Part 1 is covering the academic stage by means of multiple choice questions (mcqs) and there is no need for a recognised programme of study via a law degree, or CPE equivalent or CILEX. This will open up crammer courses which will not raise the quality perception of the profession, in fact, quite the opposite. It will also not ensure quality providers or more talented candidates. We are not aware that the degree level stage requires a centralised assessment as we also want to ensure that 'trainees'/solicitors are individuals who are intellectually stretched, enquiring and thinking and creative individuals which we do not think will be achieved by this centralised Part 1 assessment.

Also, as no costing structure or examples have been made available by the SRA we

cannot say that this system will be less costly.

## 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?

The consultation includes very little detail beyond what has already been discussed. The assessments are referred to but there is no detail on how these will be managed or what they will look like. Many of the important elements, such as the requirement for pre-qualification work-experience and the assessment framework, are to be consulted on at a later date, if at all, which renders the majority of the questions put to be answered with limited detail of what is actually being proposed. Therefore, all questions are answered within this context.

When considering whether the proposals are sufficiently robust and appropriate for entry to the solicitor's profession the devil is in the detail and the detail is missing. Without being able to assess the whole, it is difficult to draw adequate conclusions and the SRA should refrain from making any definite decisions on the implementation of these proposals before the future planned consultations have been held and stakeholders have been able to respond to the full scope of them.

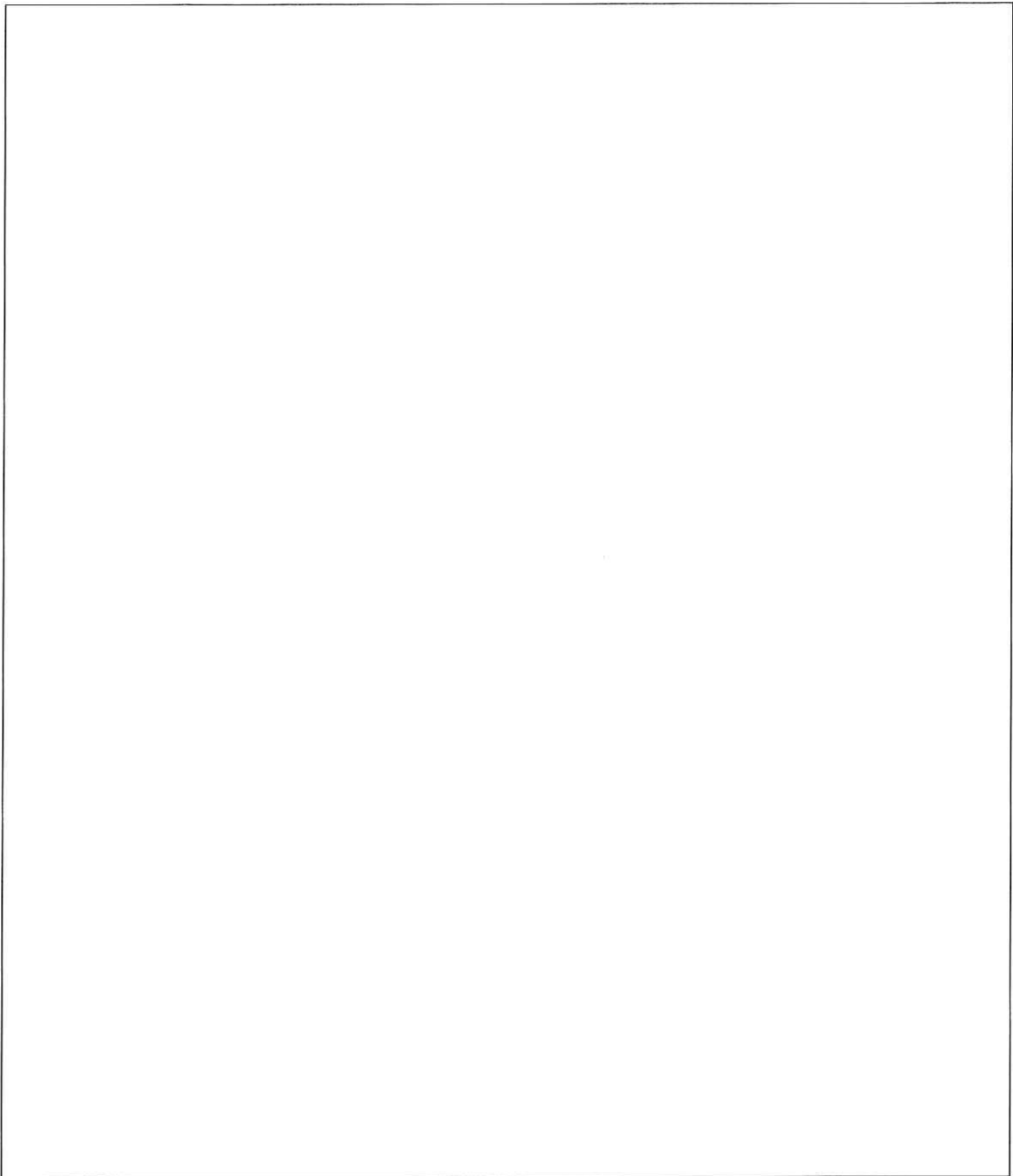
The ability to take the assessments without any restrictions on the number of times an assessment can be retaken, alongside the lack of time restrictions on the completion of all elements, brings into question the rigour and quality of this approach. It could lead to a situation where students can effectively 'bank' elements indefinitely, which they may have no familiarity with by the time they finally manage to qualify. It also means that familiarity with the assessment, question types or scenarios could enable students to gain higher marks than may have been the case on their abilities alone. This does not lead one to feel that standards will be raised but may be the contrary view.

Part 1 as explained in the answer to question 1 will not enable the expected skills of a solicitor to be tested but merely, knowledge questions via rote learning.

Part 2 assessments which are skills based and can be by legal tasks, case studies, role plays etc. will be resource intensive, costly and also sounds like the LPC. We cannot see why if the LPC needs improving which we can appreciate it may do so after 20 years of operation, why the good aspects are not retained and the areas requiring attention are improved. How can skills e.g. advocacy, interviewing be assessed by role play with sufficient equivalent assessment role play cases and sufficient personnel to ensure comparability and consistency of standard.

Also, for the role plays it is important that the non-student individuals taking part in the role playing are of the right standard with the right guidance to ensure consistency of assessment, otherwise, there is no comparability of standard.

We again would say that there is not sufficient evidence base provided for us to agree with the SQE Part 2 to be an effective test of competence needed to be a solicitor.



### 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?

It is felt that if all students undertake the centralised assessments there will be consistency. However, the reservations in 2. above indicate that it will be a lowering of standards.

To require all candidates to undertake the Part 1 and 2 assessments may appear acceptable. However, to offer no exemption from the assessments for those who have completed law degree or postgraduate diplomas in law would be costly and inefficient, as well as there being a real danger of overloading students with multiple assessments. This would create unnecessary cost rather than lightening the financial load. This would mean that students would have to sit assessments from their university as well as those from the SRA. We would suggest that degree modules could be accredited by the SRA and that these would enable the SRA to know that the necessary competencies had been achieved whilst enabling exemption.

## Question 4

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

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

a) above would not be acceptable as the reserved activities are too narrow in their subject coverage to test a trainee's ability or knowledge and wills and criminal law as part of the restricted areas are now only supplied by limited legal organisations , therefore, it would be 5 plus the law of organisations , including areas which a large number of delegate/trainees would have no knowledge of nor should they necessarily be required to do so. Also, the law of organisations is a broad area and again some trainees/delegates would have a focused and intense but limited knowledge.

b)A broader number of contexts would be better but still would be a problem as quite a number of individuals practice in niche areas. Would this be a fair and comparable test especially when based upon work based knowledge. However, out of the three this would be the best.

c)No, we do not agree with this option as we do not think that there will be comparability of areas to test delegates in when they are dealing with such a variety of topics as explained in a) above.

We do not think the options will give delegates from their work based learning the same level playing field for the assessments . At the moment the LPC is normally taken before work based learning of a meaningful fashion and students undertake a programme of study so that there is a level playing field but all 3 options above can create difficulties for the trainee/delegate and the legal organisation in which they are undertaking their work based experience. This again shows a lack of thinking through the impact and effect of changing the existing system and the volume and wide diversity of assessments required to test during and/or at the end of work based learning.

## **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?

We agree that if a Part 1 exists it should be at least at graduate level . However, Part 2 should be at a higher level i.e. masters level as the majority of the LPC is currently otherwise there is a dilution of quality. This will not raise standards or maintain standards which is supposed to be one of the objectives of these changes.

## Question 6

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

We strongly assert that there should be quality work place training to enable an individual to have the knowledge, experience, skills and competences to be able to hold themselves out as a solicitor. We would expect the training period to be 2 years as is the current position , and in some rare occasions because of previous experience, 18 months. Any shorter period would not give sufficient depth of knowledge to operate as a solicitor.

We take issue with the phrase ' some form of ' and the word 'experience'. Some form of indicates that it may not be sufficiently structured training and , therefore, could be misinterpreted. For the protection of the individual and the public, training should be at the right skills and competence level and should be formal structured training not merely work experience of a few days here or a week there, as we know it. We are concerned that a relaxed and unclear training period will lead to confusion and a lowering of standards. Therefore, we feel that the present system of training for 2 years should be retained.



## Question 7

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

As explained in 6 above we do think that the SRA should retain a minimum period of 2 years training in order to retain the integrity of the profession and its high standing not only in England and Wales but the international market where the english system of training is much admired and mirrored.



## Question 8

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

The SRA should give guidance as to the skills and competences required during the 2 year period especially to help smaller firms. The checklists need to be retained for firms for their protection and guidance and the SRA needs to ensure that guidance documentation is available . In order to ensure that standards are maintained the SRA as regulator should help firms to ensure the performance of 'trainees' is of the best quality. Large firms do have their own mechanisms in place but smaller firms need back up and assistance so that the public are provided with the best legal service.

## Question 9

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

It is important that any recognised training consists of meaningful substantive work which is of the level and quality we would require of a trainee in order to achieve the level of competence expected of a solicitor delivering legal services.

The workplace training should be work undertaken under the supervision of a solicitor for it to be acceptable. Small amounts of workplace training should not be recognised. The minimum should be a 3 months training period but we would also require the two year period not to be made up of small amounts acquired over a long period and we would prefer there to be a noticeable long period of training with one employer so that the development of skills and competencies can be ensured.

In order to ensure that the appropriate level is being assessed for the workplace training, the SRA should also give some thought as to the appropriate level at which a trainee should be working during this period. This could be achieved, in part, through the clear specification of competencies to be achieved, although guidance on the sorts of tasks and roles a trainee may undertake would also be welcome.

Unless the degree programme is a sandwich course and involves work as explained above we would not recognise 'work experience' during the degree as work of a substantive legal level acceptable to count to training. Students studying on year 1 would not have the basic skills and unless at level 3 or 4 they have a years experience in a solicitors office of meaningful and certifiable legal work we would not agree to work experience during the degree being acceptable.

Also, pro bono work or CAB work alongside the degree or 'LPC' level of study we would not accept as meaningful legal experience to count towards training but we would consider, as we do now, work experience helpful in enabling an individual to have some experience of legal work. The training needs to be of sufficient length and depth to be meaningful legal training and, again, to ensure that there is not a two tier level of becoming a solicitor and that the consumer is protected as well as the standing of the profession.

## **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?

Without clear guidance and examples of cost and additional cost from the SRA we are not able to make an informed statement in relation to this question.

## 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 1 and Part 2, to a specified performance standard?

The SRA may need to set a benchmark level in relation to the 'softer skills' which we believe this question to be referring to. Again, it depends on the resources available to the firm. The larger firms will not have a problem as they have resources available. However, smaller firms may not have the time, resource and skill, therefore, such firms may decide to employ only an individual who is qualified or a non-qualified who they will not be able to take on at previously the 'trainee' level. This may affect diversity.

The SRA would need to produce guidance and benchmarking mechanisms to ensure a quality standard, otherwise, how could consistency of level be assumed.

## 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?

If workplace assessment were introduced a toolkit and resources would certainly need to be produced for quality and benchmarking purposes as explained in 11 above.

We cannot comment at this stage whether other support would be required as it will depend upon the quality of the information produced which does not exist. There would be a need for training to be available as some practitioners will not be familiar with all requirements , but again, we cannot say for certain as we cannot comment on unknown or unseen information.

## 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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

If the SQE was brought in and we are not agreeing that this should be the case as it is proposed, we would require it to be at graduate level as is currently the case to qualify as a solicitor, therefore, as a prerequisite a degree/GDL or the CILEX route or apprenticeship if at graduate level, is necessary to retain the integrity of the profession as we go forward and to protect the public.

Other professions such as doctors, osteopaths, nursing, require a degree/graduate level qualifications as a prerequisite as does the role of a barrister. The role of a solicitor is as intellectually challenging as that of a barrister or other professionals such as a doctor where a degree is the expectation for entrance.

To reiterate comments in relation to the above questions, the solicitor qualification needs to retain its branding globally. To have expectations below graduate level would affect the role of our solicitors and their work within the increasing international market and would impact on the economy.



## Question 14

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

Please see answer to 13 above where we expect the entrance requirement to be at graduate level. However, graduate level as the academic level requirement, is absolutely essential to maintain intellectual rigour in the profession and for profession to retain its dominant position in the international legal market. The high standing of the profession depends upon it retaining all the high level knowledge, skills and rigour

## Question 15

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

A candidate who sits any assessment should have feedback on their performance and if the SQE were in existence we would expect a candidate to receive their individual performance and comparative performance to enable them to assess how they have achieved, or if they were not successful a clear indication of where they need to improve. This will enable them to determine whether to attempt again the assessment, otherwise individuals will spend money on retaking when their chances of success may be low.

## Question 16

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

As regards overall candidate performance this is important as we will need to know how candidates have performed in respect of each question to ascertain whether the assessment was fair or too easy or too difficult. We also would need to know how many candidates are passing, failing, resitting to enable us to assess whether this system is meeting benchmark requirements.

Also, training provider information is essential to enable candidates to make an informed decision..

We wish to point out that by answering these questions it should not be taken that we agree with the SQE in its entirety as set out in the documentatio.

## Question 17

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

As the SRA has not made available to us any costed out examples we are unable to say whether the cost will impact upon candidates and/or firms.

We would have welcomed a costing out of this new proposed system to compare with the existing system but none has been forthcoming. Therefore, cost may be an issue.

We are still concerned regarding the likely financial impact of these changes which would disproportionately affect poorer students. Part 1 and Part 2 proposed centralised examinations will almost certainly operate within a free market environment of intensive preparatory courses. These courses will not be covered by Student Finance England or Wales, as current required courses are, so will need to be self funded, or funded via commercial loans. This will have an impact upon poorer students who already have financial difficulties in meeting the costs of post-graduate education, both tuition and maintenance, and this would be an additional barrier

## Question18

Do you have any comments on these transitional arrangements?

As regards transitional arrangements, it is important that no student who is currently seeking to qualify by a designated recognised route should be adversely affected. For example, students who are in the process of completing a qualifying law degree should be given a waiver for Part 1 of the SQ, as currently, a qualifying law degree would be the acceptable academic qualifying stage.

## Question 19

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

The transitional arrangements should be worked through for each of the current ways to see if the cut off dates are viable for each route. This is particularly relevant for part-time courses and for CILEX as the duration of such programmes may include time out for illness, family reasons or exceptional circumstances. The SRA should plot out a non-typical student's timeline on such a pathway route .

## Question 20

Do you consider that this development timetable is feasible?

The timetable has challenges . A major one is the appointment of an assessment provider in 2017 and the setting of the assessments for 2018/19 academic year. This does not give a long enough time for the assessments to be created, for there to be sufficient number of questions available as well as a period to test their acceptability.

Also, we question whether there is enough time for providers to create acceptable quality courses if they need to change existing courses or create new courses.

The SQE must be credible and watertight in its first year and ongoing. If the time period is too tight and there are problems arising from the SQE when it starts then it, and the profession, as well as providers will lose their reputation .

It is important that sufficient time is given to enable students, universities, providers and , in particular, the profession to be able to clearly be aware of what is changing and how and to guide new entrants into the profession. Confusion will mean that we will lose good candidates who will enter other professions where the route to qualifying is not so obscure.

With reference to the Draft Assessment Framework document will we be consulted on this?. We would hope so and that sufficient time should be built into the timetable.

**Thank you for completing the** Consultation questionnaire form.

Please save a copy of the completed form.

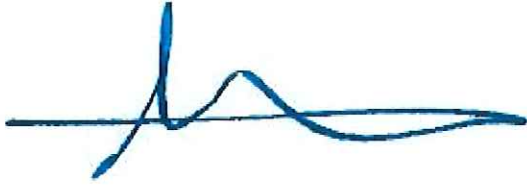
Please return it, along with your completed **About you form**, as an email attachment to [consultation@sra.org.uk](mailto:consultation@sra.org.uk), by **4 March 2016**.

Alternatively, print the completed form and submit it by post, along with a printed copy of your **About you form**, to

SQA consultation  
Solicitors Regulation Authority  
Regulation and Education  
The Cube  
199 Wharfside Street  
Birmingham  
B1 1RN



29 February 2016

A handwritten signature in blue ink, consisting of a series of connected loops and strokes, positioned above a horizontal dashed line.

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Mushtaq Khan  
President  
Birmingham Law Society

Cardiff University



## **T4T - Assessing competence**

### Consultation questionnaire form

This form is designed to be completed electronically—in MS Word. Please save it locally before and after completing it.

To request an alternative format please visit [www.sra.org.uk/contact-us](http://www.sra.org.uk/contact-us).

## 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?

This is the response of Cardiff University to the SRA consultation on Training for Tomorrow: Assessing Competence. Cardiff University is a research intensive Russell Group university which was placed 5<sup>th</sup> (among non-specialist institutions) in the most recent REF exercise. Cardiff's School of Law and Politics is alone among Russell Group universities in offering (through its Centre for Professional Legal Studies - CPLS) the vocational routes to qualification for both barristers and solicitors. It has in each case delivered these to a high standard since 1993 (LPC) and 1996 (BVC/BPTC). The School of Law and Politics has more than 1,000 law students. Many remain at Cardiff to complete their professional training through CPLS. The School is home to the Journal of Law and Society, the Centre for Crime and Justice and the Wales Governance Centre among others.

We do not agree that there should be an SQE. We strongly believe that Option 1 in paragraph 11 (Continuing to prescribe a limited number of pathways to qualification) is the best option. This is essentially the current framework for qualification. In line with the reasoned and sensible conclusions of the LETR, whilst the current framework could be refined, we do not see the rationale or need for radical change. We do not understand why the SRA is ignoring the conclusions of a report that it jointly commissioned.

The SRA appears to be wedded to the SQE, despite what seems to be almost universal opposition. There is a concern that the current consultation is not a true consultation, and that the SRA will not listen to the likely majority view against an SQE. This suspicion arises from other recent SRA consultations, notably that on Continuing Professional Development, when the voices raised against the SRA proposals were seemingly ignored. We were disappointed with the current consultation paper, in that scant reference was made to the results of informal soundings which the SRA took during 2015, to the significant opposition to the proposed test, and to lack of support for the proposed test from the groups and bodies with which the SRA engaged.

We consider that the current framework can and should be adapted, and that the SRA should regulate the various existing pathways properly. We consider that the current range of pathways allow for diversity and that imposing an SQE will in fact introduce a new artificial and unjustifiable barrier. The current system allows for those without a law degree to qualify following the CILEX (plus LPC) route, or by obtaining a legal apprenticeship, or via equivalent means. Even the traditional route, incorporating the LPC, has flexibilities which improve access: the design of most full time LPCs with lessons concentrated on a few days a week, which enables students to undertake some part time work whilst studying, and the existence of various part time models of LPC provision that enable students to undertake full time or almost full time work whilst studying.

In fact, the most significant barrier to qualification is not the current academic and vocational educational framework, but rather the shortage of training contracts. If (as seems likely) a period of recognised (work-based) training is to be required, this will simply become the new main barrier to qualification, and the SQE will do little to

improve access. It will simply add another barrier to qualification. On the other hand, if candidates are able to self-certify what is and what is not a period of recognised training (i.e. so they are not reliant on the firm deciding what counts), then self-certification will increase access to the profession by allowing far greater numbers to qualify. The result of that would be an oversupply of newly qualified solicitors chasing the same number of newly qualified posts.

Question 1 is worded in a way that makes it very difficult to answer. It assumes that the objectives in paragraph 10 are the right objectives. We would take issue with this. To begin with, we do not agree with the SRA's view that there is currently a significant problem with comparability and consistency. The current system of different pathways should be designed in such a way that there is equivalence – although the pathways are not the same, they should be seen as having equivalent rigour. The SRA has vigorously promoted legal apprenticeships and other non-traditional pathways. The SRA should be prepared to defend those new pathways against assertions that they lack rigour, and the SRA should monitor and regulate those pathways properly to ensure that they have sufficient rigour.

With regard to the 'traditional' pathway of QLD/GDL followed by an LPC followed by a training contract, we do not share the SRA's concerns. There will inevitably be variations between degree providers, LPC providers and training contract providers, but we see the system as ensuring a sufficient level of rigour, producing solicitors who have the competences required.

We believe that, whilst there should be limited and well prescribed routes to qualifying without a degree, the profession should be predominantly a graduate profession. When other professions, such as nursing and the police service, are moving to all graduate entry, we see it as irrational and counter-intuitive to dispense with a need for a degree as the norm for solicitors.

Throughout this process the SRA seems to have been unable to distinguish between (a) paralegals working within the legal services sector and (b) qualified solicitors. The qualification of solicitor should not be equated with simply doing legal work within the legal services sector. Whilst there is a need for large numbers of paralegals undertaking (in many, although not all, cases) relatively limited tasks within defined and highly prescribed areas, there is also a need for more highly qualified professionals with a greater breadth and depth of knowledge and experience. There is a serious danger that if qualification is based purely on passing the SQE, together with a period of (perhaps) self-certificated, unassessed and unregulated work experience, the market will be flooded with poorly qualified solicitors, thus significantly devaluing the qualification and standing of English and Welsh solicitors at home and abroad. The SRA's approach will not help with access to the profession either. Instead of the situation of having large numbers of paralegals seeking a small number of training contracts, the proposals could lead to large numbers of qualified solicitors seeking a small number of newly qualified positions.

We also have concerns that the SRA seriously devalues the benefits of a University education and, in particular, a law degree. It is as if the SRA believes that all that students learn at degree level is knowledge. This ignores the immensely important intellectual development of analytical legal reasoning and thinking skills for those who study for a degree, and the wide range of varied and transferable skills that they acquire during their studies.

The SRA approach also undervalues the importance of a vocational course such as the LPC. We are told by employers that employees who have studied the LPC are far more useful to the firm than those who have not. Unless the LPC is replaced by a course or courses that provide the same vocational emphasis as the LPC, those joining law firms will be far worse prepared for practice than is the case currently.

Another concern for legal educators is the dead hand that the SRA's proposals will place on law degree curricula. If degree providers are to cover the thirteen areas of knowledge in the Statement of Legal Knowledge (essentially the core subjects in the current qualifying law degree and the core subjects of the current LPC) then this will have a detrimental impact on the optional subjects that law students can study, and will stultify the degree, making it a very dull and uninteresting experience for students and educators alike. It will kill innovation. It will limit the opportunity for in-depth learning and the development of legal thinking skills. It will also make it much more difficult for students studying for joint and integrated honours degrees, who need to study another subject alongside law. With all of the SRA's knowledge subjects crammed in, there will be little room for the modules in the other discipline. Also, has the SRA considered the impact on overseas students who currently benefit from studying for a qualifying law degree? The SQE will be of no benefit to them and applications from overseas students could suffer as a result. Ultimately, the SRA's insistence on the SQE pushes the law degree into a silo suited only for those who wish to qualify as a solicitor in England and Wales.

A further concern is the seeming divergence between the BSB and the SRA. We think that the regulators must work together to produce aligned proposals, because otherwise it is very difficult for students to decide which route to follow and how to tailor their studies accordingly. The current lack of alignment also makes it very difficult for a student to change direction once they begin studying subjects which are tailored to one regulator's framework but not to the other's. We think this potential reduction in flexibility would also restrict, rather than widen, access.

Also, under the SRA's proposals, any such crammer and other courses which develop would not benefit from the regulation, requirements and oversight of the SRA and, quite possibly, from similar university measures, including internal quality assurance measures. There is no suggestion by the SRA that any courses would be regulated by the SRA. In contrast, there is presently internal and external supervision of courses within the current system. This regulation and supervision is designed to help ensure that the student learning experience is as strong, valid, productive and useful as possible. These safeguards and quality assurance mechanisms could be lost under the new system proposed.

In summary, whilst the SQE would appear superficially to be a good idea – it sounds sensible to have a common assessment for all – when the implications are examined carefully, the idea is a bad one. There is very little to recommend it. The SQE cannot provide an adequate replacement for the current framework, yet if it is added to the current framework it produces an additional burden, more cost and an additional barrier to qualification.



## 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?

No. To begin with, as recognised by the SRA's independent experts, Alpha Plus, the SQE will not test all of the competences in the Statement of Solicitor Competences. If those other competences are to be assessed, there will have to be some form of assessment of the period of recognised training.

There are also many other flaws with the proposed model for the SQE.

To begin with Part 1: the tests proposed initially (three 1.5 hour, largely multiple choice tests) would be wholly insufficient to assess the thirteen areas of knowledge adequately. The suggestion now, from speaking with the SRA, is that Part 1 will consist of more tests than was originally envisaged, no doubt in response to that earlier criticism. However, there is then the danger that the Part 1 tests will mushroom, and get more expansive, producing a behemoth of an assessment. If the assessment becomes a behemoth, then there will follow very large, and expensive, crammer courses. This will just lead to a new version of the LPC in all but name but without the better features of the LPC. There would be no integration of skills, for example, as there is on the LPC, because Part 1 will be all about knowledge, and Part 2 comes later. A crammer course for Part 1 would not need to address the skills.

The SRA has also suggested that Part 1 could be taken in segments, in that it could be modularised. The thinking appears to be that the tests can be taken at different times, perhaps one at the end of each year of a 3 year law degree. The problem with this is that the tests are not supposed to test basic academic knowledge, but rather to test higher level, functioning knowledge. How could students finishing their first year at university know how to answer questions on how contract law or tort law should be dealt with in practice i.e. in the context of a litigation matter, with all the procedural concerns? In other words, how will those students be able to have the high level knowledge expected of a qualified solicitor? To put this problem in another way – how can you modularise the Part 1 assessments when they are assessing what is done in practice? In contrast, the LPC works even though LPC students have not yet started their work-based training. This is because the emphasis on the LPC is vocational, on what should be done in practice. LPC students are therefore equipped to answer such questions. Also, LPC students study Litigation after studying their degree subjects, including Contract and Tort. It is far too much to expect a Year 1 undergraduate to absorb the Law of Contract, the Law of Tort, and Civil Procedure at the same time, so as to be in a position to answer these sorts of question. It is also extremely difficult to teach Civil Litigation without a prior base knowledge in Contract and Tort. In other words, Part 1 of the SQE does not recognise the fact that students acquire functioning knowledge over a period of time, and that they do this in stages. We doubt, therefore, that students will be able to take Part 1 in bits, but will instead need to sit Part 1 at the end of their degree (if they do one), probably after attending a crammer course.

There is also a basic objection to the form of Part 1, which would be computer-based, predominantly multiple choice questions. Multiple choice questions are notoriously

inflexible – they are good for absolutes – questions which have right and wrong answers. They are less good for evaluative questions – what is the best practice, what should you do in a given situation.

In the discussions we have had, practitioners have been unimpressed by the proposed assessment method. They have indicated their view that multiple choice testing is a poor way of testing the higher level evaluative skills needed by solicitors. Practitioners are also very concerned that Part 1 of the SQE will lead to a dumbing down of the profession – that rigour will be lost and that the quality of entrants will suffer as a result. They have little confidence that the assessment will impose a higher standard or that it will push up standards. We share these concerns.

In paragraph 40, the SRA makes much of the use of what it calls computer-based objective testing by other professions, such as medicine, pharmacy and accountancy. However, we think the point is overstated by the SRA, as it is not the case that the other professions use that form of testing as the sole means of testing its entrants. Computer-based objective testing is used by other professions, but in combination with a wide range of other assessment methods. Part 2 aside, the SRA is proposing ditching all forms of assessment, save for the computer-based objective testing in Part 1. This proposal seems misguided, because this form of testing has its uses, but not as the sole method of assessing future solicitors on their functioning knowledge. Also, those other professions use the assessments in conjunction with requirements to attend and study courses. To say that the Part 1 assessment (or any assessment) is sufficient in itself is unsupportable. Other professions would not follow that model.

Turning to Part 2, in principle there is less objection to what is proposed, save that there are concerns about the timing of it, the resourcing of it and the cost of it. There is less of an objection to Part 2 than there is to Part 1 because Part 2 resembles what is currently done in the LPC (and even more resembles what used to be done in the LPC before the Law Society reduced the skills content of the LPC in the late 1990s to increase the amount of Business Law). There is probably general agreement that entrants to the profession should be assessed in a range of practical skills. But why not adapt the LPC to bring back that skills content? Is there a need to test those skills in the manner described by the SRA?

First, what is the justification for not allowing students to sit Part 2 until after Part 1? Second, what is the justification for not allowing students to sit Part 2 until they have commenced their period of recognised training? The timing of the assessment could have a disruptive effect on that period of recognised training, with trainees periodically needing time out of the office to attend the assessments and, probably, to attend training courses developed to help them pass those assessments. Firms will come under pressure to pay for their employees' Part 2 assessments and to cover the cost of any preparatory course. Whilst not necessarily being a bad thing, this could impact on less well-off trainees at smaller firms, as those firms may be less likely to pay for Part 2 and any preparatory courses, leaving such trainees to try to fund Part 2 and those courses themselves. In contrast, better paid trainees at larger firms will be much more likely to have the costs of Part 2 met by the firm. This will restrict, not improve, access to the profession.

There is also thought needed on the scope of Part 2. Is it necessary to assess every skill twice? The burden on firms and on trainees would be much reduced by reducing



the number of assessments from 12 to 6.

We also have a concern about the monopoly afforded to one organisation to provide the Part 1 and Part 2 tests. We also doubt the ability of a single organisation to run the Part 2 tests, given the variety of practice contexts which must be offered for the skills tests, and the need to cover both contentious and non-contentious areas.

Whilst we understand that the SRA has said that the assessment provider will not be able to offer tuition, we have concerns about the adequate dissemination of assessment information to all possible course providers to enable them to design courses to prepare students for Part 1 and Part 2. There must be a danger of a situation arising whereby certain organisations become privy to more information than others about the assessments, and thereby have a commercial advantage in designing preparatory courses. Unless there is a requirement on the assessor organisation to make information freely available to all at the same time, and unless that requirement is adhered to, competition will be adversely affected. With a lack of effective competition, prices of crammer and preparatory courses will rise, to the detriment of students.

Lastly, the ability to take both Parts 1 and 2 multiple times, with no limit on the number of retakes and no time limit for completion of both parts, will seriously undermine the rigour of the SQE. Again, this is something which concerns practitioners and we share their concern. No matter how good an assessment, candidates with multiple attempts (and presumably feedback on failed attempts) will in most cases eventually get through. It might have taken them 10 years to do it. Does the SRA really consider that this means they are competent to be a solicitor? Does this provide adequate protection for the public? We think it does not. Similarly, there is a problem with allowing students to sit their assessments spread over an extended period of time. To allow candidates such freedom fails to put candidates under sufficient examination pressure. Part of the benefit of a diet of assessments is that it forces candidates to focus on more than one subject at a time and to cope with assessments in each of them. It becomes much easier to pass assessments if the candidate can cherry pick them over a long period of time, with no time limit (or no reasonable time limit) on completion. In fact, we would argue that the current 5 year time limit for completion of the LPC is far too long. The previous time limit (of 3 years from the date of enrolment) was much more sensible, whilst still allowing candidates a long time within which to complete. It cannot be right to change to a system where there is no time limit, where candidates can cherry pick when to sit assessments and where there are unlimited resit attempts.

The SRA might argue that these features improve access to the profession, but we would argue probably only to candidates who ought not to be solicitors. Concerns have been expressed by practitioners about dumbing down and that widening access should not be pursued at the expense of a diminution in standards. Also, there is a negative effect on access of allowing unlimited attempts – such attempts cost money, and so it will be easier for rich students to continue taking assessments than it will be for less advantaged students.

### **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?

We do not agree. If candidates have already passed assessments in their degree or other courses on the functioning legal knowledge subjects, we can see no justification for not giving credit for those passes. The SRA has in recent years been very keen to encourage LPC providers to allow exemptions and accreditation in respect of prior learning. Why then the opposition now to allowing exemptions from the SQE?

The SRA's thinking seems driven by a desire to obtain statistical information. This desire should not drive the whole process to the point that candidates are having to be assessed again in subjects where they have already demonstrated competence. Also, that statistical information would not be completely comprehensive anyway, because under EU rules, credit has to be given to those who have qualified, or part qualified, in another EU country. The imposition of the SQE on students who have already passed assessments in the functioning legal knowledge subjects would be a classic example of an unnecessary, artificial and unjustifiable barrier to qualification, and would operate to the detriment of UK students.

Not giving credit for prior learning flies in the face of the desire to widen access, as this will impact more upon less advantaged students who will not have financial resources to pay (or pay so easily) for the tests and for the crammer courses necessary to get through tests which are (in part) assessing subjects that the students have already passed. For all students, rich or poor, not giving credit for prior learning will impose additional, and wholly unnecessary, costs.

## Question 4

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

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

Given that Option 1 will be difficult enough to manage, Option 1 is the most practical solution. We can envisage difficulties for a single assessment organisation in coping with Option 1, but even greater difficulties coping with the other two options.

However, our position is as stated earlier. We do not think an SQE should be introduced. We consider it better to retain, and refine, the current framework.

## 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?

We think that the standard for qualification as a solicitor should be set at the highest level possible – currently the level set is level 7 on the LPC (postgraduate diploma). However, parts of a student's education currently are at lower levels, in respect of the core subjects on the qualifying law degree. This points to certain fundamental problems with the SQE. The first problem is that the SQE is trying to assess too much in one go. Instead of, as under the current framework, assessing the core legal subjects at degree level, and then practical/vocational knowledge at level 7, the SQE is trying to assess everything at the same level. That level is either likely to be too low (if pitched at the level appropriate for a first year law student) or too high (if at level 7).

The second problem appears to be that the SRA would like a pre-qualification test, yet a true pre-qualification test would be taken immediately before someone wished to qualify, so that it was appropriate to test that person at the level expected of a newly qualified solicitor. This would mean logically that both Part 1 and Part 2 would have to be taken immediately before qualifying and after the period of work based training. However, this does not work practically because firms and candidates would not be happy training in the workplace but then facing an assessment (which they might not pass, or might not pass first time) at the end of it. This would be extremely disruptive to firms and to aspiring entrants to the profession. For that reason, the SRA has proposed that Part 1 can be done earlier and Part 2 during the period of recognised training, but then it is not possible to test students (particularly in Part 1) at the level expected of a newly qualified solicitor, because it is envisaged that most students will sit Part 1 before starting their period of recognised training.

What we suspect also is that the SRA is confusing the stated point of the SQE assessment (to check competences at a particular point in time at a particular level) with the development and education of aspiring solicitors. There is an assumption by the SRA that students will develop their knowledge in order to pass Part 1 by taking a course or courses (whether a vocationally based degree or a degree plus a crammer course) beforehand. Instead of being a test of competence at the point of qualification, the SQE (or Part 1 thereof) will create a framework where students will be forced to take certain courses and will be assessed in bits over a period of time (perhaps a considerable period of time) leading up to qualification. Effectively, the SRA is seeking to replace the LPC with new courses that deal with the knowledge (Part 1) and the skills (Part 2) in bits. One framework is being replaced by another framework. There seems little point in doing this, given the immense disruption for students, firms and educators, the likelihood that the costs would not be reduced, or not reduced greatly, and with only very minimal benefits from a common assessment. As said, though, what Part 1 and Part 2 will not do is assess candidates at the point of qualification, which surely is the point.

## Question 6

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

Yes. We think it is essential that there is a period of workplace training before qualification. This is essential under the current system where, for most persons, a degree and an LPC are requirements. The need becomes even more acute under the SRA's proposals for placing so much reliance on an assessment without requiring attendance on courses as well. Simply assessing students is insufficient, as students can be coached to pass tests relatively easily. Once the parameters of the SQE tests are known, it will be possible to provide very specific courses to prepare students to pass the tests, and no more. To allow someone to qualify as a solicitor without having a degree, without having undertaken a vocational course and without having any period of work based training, simply because that person has passed a series of tests, seems ludicrous.

## Question 7

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

Yes. Whilst we are not employers, from discussions with employers, the consensus is that a period of 2 years is appropriate. A period of 2 years allows for an initial period of settling in to the firm and then three periods of 6 months when trainees can train in three different contexts, as now. Whilst the time period for training is shorter in many jurisdictions, those jurisdictions often require a longer period of university learning (sometimes with two degrees) than is required in England and Wales.

Also, if a Part 2 SQE is to be introduced, a trainee will be taken out of the office for considerable periods of time for the skills assessments and for preparatory courses, and this is likely to suggest a need for a longer period of training, not a shorter one.

## Question 8

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

No. The problem with outcomes focussed regulation and with competences is that, whilst logically they appear to make sense, there is a loss of certainty and clarity. This was the case with CPD. The SRA could have retained the hours requirement, but just provided that those hours had to be in areas relevant to a practitioner's practice.

The advantage of a fixed period is that it provides certainty to all parties – employers and employees. If there were no fixed period there would be disagreements between employers and employees about whether an employee had done enough to qualify e.g. over whether a 14 month period or a 26 month period had been sufficient to achieve the relevant competences. There would inevitably be a lack of consistency between employers in signing off employees as ready to qualify. Would the SRA be capable of monitoring and regulating such a system adequately? We are concerned that the SRA might not have the resources to do this.

## Question 9

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

Yes. A wider range of pre-qualification work experience should be recognised, including clinical work on Pro Bono schemes and voluntary work such as CAB experience. However, there would have to be assurances that the volume and quality of work was comparable with recognised training with a law firm/existing training contract provider. The SRA would have to be able to monitor and regulate properly. Again, does the SRA have the resources to do this?

Perhaps there should be a limit on the amount of this other pre-qualification work that could be counted – say, no more than 12 months. There should also be a change to the waivers from the period of recognised training where an applicant has appropriate past experience, increasing the allowance from 6 months to 12 months. Again, the SRA would have to be able to manage the workload involved in dealing with applications regarding time to count.



## **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?

The independent report commissioned by the SRA recommended that all competences should be assessed. As some of those competences cannot be assessed by the SQE they would have to be assessed within the workplace. This will, of course, lead to additional cost and a greater regulatory burden. If the SRA is certain it wishes to assess all the competences then a workplace assessment is essential. If the SRA is happy not to assess all competences, then this calls into question the need for, and usefulness of, the SQE.

## **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 1 and Part 2, to a specified performance standard?

Not applicable.

## 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?

Much would depend on how comprehensive the toolkit would be and how useful it would prove to be in practice. There is the danger that the toolkit could be full of statements of the obvious, of simply objectives that employees and employers are meant to achieve, without there being detailed practical help for employees and employers on how to achieve those objectives. There is the suspicion that any toolkit that is developed will be quite superficial in nature. If the toolkit was very detailed and provided genuine practical assistance then it would be a good idea. Presumably, some (probably larger) firms will decide to assess in-house, whereas other (probably smaller) firms might need the assistance of outside assessment organisations. This has a cost implication for the firm (and possibly for the candidate). There is also the issue of how well regulated the assessment will be – will the SRA simply rubber-stamp assessments that are conducted in-house, when firms will have a vested interest in their trainees passing?

## 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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

As said above in our answer to Q1, we consider that Option 1 on page 11 (Continuing to prescribe a limited number of pathways to qualification) is the best option. However, we do not see those pathways as a means of supporting the credibility of the SQE. As said above, we think the current pathways should be retained and that the SQE should not be introduced. We see no useful purpose for the SQE.

We do not consider the current framework to be a danger to consumers. The SQE is simply not needed to protect consumers. The SRA's 'evidence base' is singularly unimpressive. At paragraph 30 of the consultation paper the SRA refers to the number of negligence claims in the past 4 years, the complaints upheld by the Legal Ombudsman in 2014-15 and the payments by the SRA Compensation Fund in 2013-14. There is nothing however in those figures that logically suggests a fundamental flaw with the current system of qualification. To begin with, there are no comparator figures with earlier eras to suggest the situation is getting any worse due to the current system of qualification. For all the SRA know, the situation may be getting better due to the current system of qualification. Also, how many of the solicitors found negligent, or who have had complaints upheld against them, or whose conduct has led to the SRA Compensation Fund paying out, have qualified under the current system? How many of them have qualified under earlier regimes that predate the LPC? Recent reports in the Law Society Gazette have focussed on solicitors that have been struck off who have been qualified for over 30 or 40 years, and who would have qualified under an older regime not unlike the one now proposed by the SRA. The SRA is being disingenuous therefore, and its reasoning is spurious.

The SRA also makes reference in its evidence base to the extensive engagement with external stakeholders. No mention is made in the consultation paper of the overwhelming hostility to the SQE from that engagement exercise. The many valid objections have simply been airbrushed away, particularly in paragraph 33 of the consultation paper, which appears to suggest that stakeholders only had positive things to say about the proposal or, at worst, cautions to ensure the process was properly planned. The basic objections to the proposals are simply not given sufficient recognition by the SRA.

## Question 14

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

To repeat what we said in answer to Question 1, we believe that, whilst there should be limited and well prescribed routes to qualifying without a degree, the profession should be predominantly a graduate profession. When other professions, such as nursing and the police service, are moving to all graduate entry, we see it as irrational and counter-intuitive to dispense with a need for a degree as the norm for solicitors.

It is a retrograde step to hark back to the time when solicitors qualified by following a five year period of articles, a central exam, and no degree. The world has changed, and a far greater proportion of people now attend university. Degrees are required as a basis for many jobs, in many walks of life, many of them a lot less challenging than the law, and with far less potential to adversely affect other people's lives through getting it wrong. It is startling and puzzling to see the regulator of the largest group of qualified lawyers within the legal profession suggest that a degree be dispensed with, and not just in certain prescribed and limited circumstances. We simply do not understand the SRA's race to the bottom. We also worry about the protection of the public, which we think will be weakened by dispensing with the graduate requirement.

## Question 15

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

As said multiple times in this response, we do not agree with the proposal to introduce the SQE at all. However, we are aware that employers would like information about candidates' performance on any SQE, to assist with their hiring decisions. It would make the SQE significantly more complex to do this, though. We understand that the SRA intends using panels of experts to assess what the level of competence should be on any given assessment, rather than having a fixed pass mark. If candidates are to be graded above competence level then the panels will also have to determine the thresholds for the higher levels for each and every assessment, which is considerably more difficult to do.

Another problem is that the statistics will lose some meaning, given that candidates will be able to spread their assessments out, cherry picking one at a time. One candidate may do all Part 1 in one sitting. Another does Part 1 over a 5 year period. The student who takes the assessment over five years has slightly better results. How do you compare the two? Can you compare the two?

The SRA makes much of being able to compare the performance of ethnic minority students and students from particular backgrounds. However, we do not think this is a sufficient reason to introduce the SQE. We suspect that the results on the SQE will mirror the results of those students in other assessments at earlier stages of their education. If that is the case, what has the SQE achieved? By and of itself it cannot deal with disadvantages encountered by those students at earlier stages of their education. The SQE would just confirm the performance seen in that student's academic record. What, though, if the results on the SQE are out of line with prior academic achievement? What will that mean? Having the results will not provide the reasons why there is a difference.

## Question 16

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

See answer to question 15 above.

## Question 17

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

We foresee the following EDI impacts:

- there is a great danger that the new system will prove to be more expensive than the current system. The SRA has said it will be cheaper than the current system on its models, but that some models are not significantly cheaper than the current system. We agree with the view of the Law Society that the new system is likely to prove more expensive. This will have a detrimental effect on financially less well-off students;
- richer students would have an advantage over financially less well-off students with unlimited attempts at the Part 1 and Part 2 assessments, richer students being better able to afford the resits;
- trainees at larger law firms would have an advantage, having their Part 2 exams and preparatory courses paid for by the firm, whereas financially less well-off students who can only get work with smaller firms will have to bear the cost themselves;
- not allowing exemptions for prior learning and attainment will impact more upon financially less well-off students who will be bearing the cost of sitting and preparing for assessments in subjects they have already passed. Although this would be the case for richer students, the richer students will be better able to afford it;
- the SQE represents in itself an unjustifiable barrier to practice if there are pre-qualification conditions which mean it is just an expensive bolt-on; and
- the development of a two tier approach to qualification, with those solicitors who have qualified via a more traditional approach being preferred to those who have not.



## Question18

Do you have any comments on these transitional arrangements?

Please see the answer to question 20. We think that the timescale is far too tight and, as a result, the transitional arrangements are not workable. As mentioned in the answer to question 20, there is considerable uncertainty for students, for school leavers, for careers advisors and for educators. It is very difficult to provide clear advice for students and potential students on their future education and training. Assuming a decision is made on the SQE this year, we think it would be more appropriate if the transitional arrangements were extended so that students beginning a degree as late as September 2018 were able to continue to qualify under the existing system. This would include those school sixth form pupils currently considering what they wish to study at university and where to study.

## Question 19

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

We understand that the SRA would like a cut-off date, but we do not see why students who have started one route to qualification should not be able to complete that route, whenever that may be. There has never been a shelf life for the LPC and the SRA has removed the shelf life of the qualifying law degree/GDL. Under the proposed system, candidates will be able to spread their assessments and their resits over an unlimited period of time. Why then should candidates who have taken degree/GDL and LPC exams under the current system be required to be re-assessed in those subjects and skills? What is the rationale for not having a time limit with one route but having a time limit with another? Again, this is likely to impact on less advantaged students with less access to law firms and would present a further barrier to access to the profession for them.

## Question 20

Do you consider that this development timetable is feasible?

No, the development timetable is not feasible, mainly because of the time it will take for law schools to develop new law degree curricula to take account of the SQE if it is introduced. Universities not only have internal validation processes to follow but courses also have to be advertised, and of course the degree is aimed at sixth form students applying via the UCAS system. There are also CMA (Competition and Markets Authority) requirements regarding advertising and marketing our courses. The shape of any new degree syllabus therefore has to be worked out a considerable time in advance of when students are enrolled. It is likely that any courses which are to be offered in September 2018 will need to go to internal validation in January 2017. We are already in late February 2016 and a decision on the current consultation is not due until June 2016. If there is slippage, that decision may be later than June 2016, and this leaves scant time for more detail about the level of detail required by the SRA on the thirteen areas of legal knowledge. It is more than likely that there is insufficient time to develop new degrees in time, therefore, even assuming the SRA timetable does not slip, which it probably will. It would be better to plan for changes to take effect in 2019/20 or even 2020/21.

The SRA may be suspicious that this is a delaying tactic, but it is not. What the SRA is proposing is such a fundamental change in the framework of legal education that changes have to be planned much further in the future than currently is the case. The SRA appears to have chosen an unduly optimistic timetable, perhaps fearful that any timetable set will slip. But the current timetable leads to much uncertainty to all concerned, not just for law degree providers. Pity the poor students, and those who have to advise them on their career options. We already have students in Year 1 of the degree who would be affected by these changes. A more sensible approach would be to decide on all aspects of the framework and set a timetable so that no students currently in the system (or even school leavers choosing degree courses) had uncertainty about their path to a career in law.

**Thank you for completing the** Consultation questionnaire form.

Please save a copy of the completed form.

Please return it, along with your completed **About you form**, as an email attachment to [consultation@sra.org.uk](mailto:consultation@sra.org.uk), by **4 March 2016**.

Alternatively, print the completed form and submit it by post, along with a printed copy of your **About you form**, to

SQA consultation  
Solicitors Regulation Authority  
Regulation and Education  
The Cube  
199 Wharfside Street  
Birmingham  
B1 1RN

# Consultation - T4T assessing competence

Response ID:475 Data

## 2. Your identity

### 1. Surname

Cook

### 2. Forename(s)

Carol

### 3. Name of the firm or organisation where you work

University of Huddersfield

**4. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Attribute my/our response and publish my/our name.

**5. Please identify the capacity in which you are submitting a response. I am submitting a response... as an academic**

Please enter the name of your institution.: University of Huddersfield

## 3.

**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?**

No.

In principle the requirement for all individuals to complete a centralised assessment of competence prior to admission could meet the SRA's first objective in paragraph 10. The SRA identifies an inconsistency of standards on the Legal Practice Course as the villain in the current education framework but it has not shown a link between this and solicitor incompetence or negligence.

The consultation does not contain sufficient detail to demonstrate how it can meet the second objective. If the focus of any pre-qualification education is, as is likely to be the case, on the SQE, it is difficult to envisage what diverse pathways will emerge. The SRA has not included evidence of the impacts of the SQE on learning and curriculum design. It does not appear to have considered washback theory or evaluated the impacts that such a high stakes test will have on teaching and learning. We consider that there is a real risk that the SoLK and the SQE will place even tighter constraints on education providers than that currently felt by the Joint Statement. Consequently, control of the curriculum will be entirely vested in the organisation which controls the assessment. This seems entirely incompatible with objective 2.

It has not made a strong case for assessment of such a broad range of knowledge and why that requirement meets the needs of the current or future market. If, as it says, it is keen not to extend its regulatory reach beyond what is necessary and proportionate, then it is not clear why it is requiring assessment in subject areas which bear no relationship to the reserved activities or how that meets the needs of the current (and future) legal services market and consumers. If employers continue to recruit graduates and the SRA requires all solicitors to complete a period of work-based learning (which if the integrity of the SRA's argument relating to lack of consistency of standards is to remain intact would need to be subject to fairly robust and expensive QA processes), then the cost of qualification is unlikely to change, and may increase. Is this likely to be passed to consumers?

To be able to fully appraise whether the proposal 'best meets' the SRA's objectives, we would need to

consider this option against the other two options which the SRA refers to but upon which it has not consulted. Higher education providers have a long history of delivering programmes which are a compulsory element of the current education and training pathway and are subject to a greater or lesser extent, to the regulation of the SRA. It has been the SRA's practice to consult with this community on proposed changes to any element within the existing framework. This, in our view, raises a legitimate expectation that there would have been a consultation on all of the options at a more formative stage. This calls into question the fairness of this consultation (*R (on the application of Moseley) v Haringey London Borough Council* [2014] UKSC 56).

4.

**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?**

In theory yes but we would need to see examples of the assessments to be able to properly consider the question. The effectiveness of an assessment depends largely on validity and reliability – the Annex has merely described the assessment devices. A well drafted MCT can be a valid and therefore effective assessment, a poorly drafted one will not.

5.

**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?**

No. This would seem a backward step in the progress that the SRA has made towards rational and proportionate regulation. The consultation does not include any evidence of a link between negligence/misconduct and the current education and training regime and makes no case for why recognition of prior learning achieved in a regulated environment where threshold standards are explicit, would harm the public interest.

6.

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

**Why...**

We don't have any views on this at the moment.

7.

**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?**

No, not entirely. Bearing in mind we take issue with the breadth of the knowledge base, we cannot see why, if it is all to be assessed, that all assessment should be graduate level. This is particularly so when it includes assessment in areas outside an individual's area of practice.

8.

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

Our response to this depends on the timing of the SQE in relation to the point of qualification, its function and relationship to the SQE, whether it would be assessed and how. It also depends on the other regulatory tools which could be used to ensure an appropriate level of supervision and consumer-protection post-qualification.

9.

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

We can't answer this until we are clear about the function of work experience within the qualification

requirements.

10.

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

Again it depends on the function of the work experience, the intended outcomes and how they are assured.

11.

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

Yes. If the SRA is willing to do this, then its position on no exemptions for accredited learning within a degree programme seems inconsistent with this proposition.

12.

**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?**

This depends on the purpose/function of the workplace experience and for example, the timing of it, how it is evidenced, what is required to take place during it and the timing of the SQE. If it is a pre-qualification requirement that is linked to competency then how else will it be known that the competences have been met if it is not assessed? If it is not linked to competence, then what is its purpose?

13.

**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 1 and Part 2, to a specified performance standard?**

n/a

14.

**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?**

n/a

15.

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?**

We are not entirely clear exactly what this question is asking. If it is asking whether we the assessment alone can ensure that a competent solicitor can be a candidate who has simply passed the SQE without completing a regulated pathway or having specific entry requirements to take the assessment, then the answer is, yes possibly. If the question is asking whether the regulation of pathways towards qualification in addition to the SQE is needed to ensure the credibility of the solicitor qualification, then the answer must be, not necessarily: the requirement for pre-qualification experience and the post-qualification regulation (e.g. the current 3 year rule), are factors to weigh in the balance.

Please see our answer to Q18 in relation to students and transitional arrangements. We do have concerns about the impacts of an unregulated education training market on students. A distinction must be made between prescribing what learning must take place and the environment in which it occurs. It should not be necessary for the SRA to prescribe training if the assessment standards and criteria are sufficiently clear to enable education and training providers to align learning to it. It may however be necessary to regulate in some way training providers who are not otherwise subject to regulation.

**16. (untitled)**

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

Yes. The current regime allows for non-graduate entry to the profession.

**17.**

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

Not on the basis of the information contained in the consultation – for example what will the grading criteria be, how will reliability of grading be achieved? If the SQE is principally focussed on a single judgement against a competency standard, what further interest does the SRA have in grading?

**18.**

**16.**

**What information do you think it would be helpful for us to publish about:**

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

All equality and diversity data and quality assurance data as a minimum should be published.

**19.**

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

We see no positive EDI impacts in the current proposals. The expert evidence provided by the SRA acknowledges that "the proposed assessments are unlikely to support or hinder increased diversity..." The report refers to evidence about the ways that different "sub-populations may be effected by different assessment types" but offers no further insight.

We do not see a clear case made for how the introduction of the SQE will improve diversity in the profession. We have insufficient information about the cost of the SQE and the impact on education. We are concerned that there will be a disconnect between meeting the regulatory requirements for qualification and gaining employment. We have no information as to how the introduction of this new regime may impact positively on recruitment practices. Higher education provides a pool of diverse students from which employers may recruit but we know from the data collected that this level of diversity is not reflected in the recruitment of trainees and the profile of the profession.

**20. (untitled)**

**18. Do you have any comments on these transitional arrangements?**

There is a risk that students caught in the transitional window will still have to pass the SQE to get work. We do not know if, as soon as the SQE becomes available, employers will insist on it even though under the regulatory framework, a transitional student is entitled to qualify under the current regime (or receive credit for what they have done). Students caught in the transitional window may suffer the disadvantage of completing an education and training pathway required at the time they started (and the consequent expense), which is not necessarily aligned to the SQE (because it didn't exist when they started), but still have to complete the SQE to achieve employment.

**21.**

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

See answer to question 18. Furthermore the SRA must recognise that students and trainees now and for the next few years until the introduction of a new regime, are meeting the SRA's requirements for qualification. The SRA has produced no evidence that those on the current pathway are not competent at the point of admission. In the light of this we would argue that the SRA owes a duty to all those on the current regime not to devalue the qualification pathway they have been forced along.



## 22. (untitled)

### **20. Do you consider that this development timetable is feasible?**

It may be insufficient to ensure that there is adequate education and training available for the SQE. Even if we knew what the assessment criteria now, University lead times on the development and validation of new programmes is at least two years.

## 2. Your identity

### 1. Surname

Collins

### 2. Forename(s)

Caroline

### 3. Name of the firm or organisation where you work

BPP University

**4. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Attribute my/our response and publish my/our name.

**5. Please identify the capacity in which you are submitting a response. I am submitting a response... as an academic**

Please enter the name of your institution.:

## 3.

**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?**

No, I do not.

There is an indication of a belief that there is a problem that can be solved?

A review of quality assurance of the current assessments/training and providers may serve better?

Issues of diversity. The profession and providers of legal services are diverse, as are the providers of undergraduate and post graduate law courses. The system is constantly changing to allow diversity. Initiatives are encouraging a diverse student body, who will be tomorrow's professionals.

The proposal adds to the examinations to be passed by candidates. If a general aim of the SQE is to address diversity/access, does it? Or, would it, in reality, disadvantage the cash or time poor?

## 4.

**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?**

This is not a question I feel able to fully address without knowing the quality/level of the test. Degree/GDL testing addresses the HEQ Framework. Skills assessments are inbuilt.

MCQ testing has a certain amount of "chance" built in, which is of concern. Current systems serve to ensure vocational training follows academic understanding of law after a QLD/GDL has been obtained.

The SQE seems quite simplistic? Without more information on this, I cannot comment further.

## 5.

**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?**

Granting exemptions are well known practice. Other professions allow for this. To prevent this seems unacceptable?

## 6.

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

**Why...**

Part 2 has with it timing issues. Practice areas and timing of the last study of these areas? Candidates may need to review law, whilst working? Stress may be experienced by candidates? Will this mean burned out trainees, and possible stress related injury claims against those firms?

Are the assessments practical? Assessors and staff requirements may be unworkable? Will firms cope with organising their trainees through this process/the costs of it all?

Are the cost of preparing students for 12 Part 2 skills assessments prohibitive?

Option b) is better, the range and cost of accommodating it seems problematic? Central assessment it is noted can be set in different contexts, does this mean the test is not the same for all candidates?

**7.**

**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?**

Agreed.

The SRA must adhere to HE guidelines and framework, including those of their learning outcomes/assessments.

**8.**

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

Yes. Passing assessments are not enough. Confidence in the market for legal services could suffer if a qualified lawyer was not additionally trained in a legal services setting.

**9.**

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

Yes. A minimum period provides consistency and public confidence in legal services provided.

**10.**

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

Some employers may feel pressured to "sign off" trainees too quickly to end the PRT for commercial, or many other reasons? Formal regulation and testing must be required.

**11.**

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

Yes.

Addressing diversity.

This is allowed under the Equivalent Means process. The Equivalent Means process could be used as a guide? Costs of "signing off" considered? Guidance is needed on how this would work/the type of evidence required in practice, and related to the competency framework.

**12.**

**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?**

Justifying the increased costs seems to be key here.

13.

**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 1 and Part 2, to a specified performance standard?**

Not applicable

14.

**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?**

Not applicable

15.

**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?**

If the SQE comes into fruition, pathways will be needed to be clear to applicants, and ensure fairness and diversity. These should be transparent and established to ensure students are ready and prepared to take the SQE, and a clear indication of cost implications of this included.

16. (untitled)

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

As the vast majority of solicitors do, this should be a requirement.

17.

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

The SQE is seemingly to meet consistency standards and all solicitors must meet this standard, then it should be pass/fail. Otherwise distinctions that currently exist would continue to do so.

18.

16.

**What information do you think it would be helpful for us to publish about:**

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

I do not think this is helpful.

19.

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

Yes. Most students will want a degree for their own self-worth, and career prospects.

The SQE will involve extra cost and no doubt be seen as another barrier to entry, especially to those from less traditional backgrounds.

Diversity could be addressed in the way most firms are changing their recruitment.

Students with learning support needs may be disadvantaged.

Research suggests MCQ as an assessment has a significant effect on dyslexic students and other learning support students.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

There is not enough information upon which I could base an accurate answer.

21.

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

I am unable to assist with an answer to this question.

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

Personally, no, it is far too soon.

As someone who has to write the content of courses, I consider this unworkable.

Solicitors Regulatory Authority  
The Cube  
199 Wharfside Street  
BIRMINGHAM  
B1 1BN

4<sup>th</sup> March 2016

Dear Sir/Madam

**City of London Law Society Training Committee Response to the SRA's Consultation  
on Assessing Competence**

The City of London Law Society ("CLLS") represents approximately 15,000 City lawyers through individual and corporate membership including some of the largest international law firms in the world. These law firms advise a variety of clients from multinational companies and financial institutions to Government departments, often in relation to complex, multi-jurisdictional legal issues.

The CLLS responds to a variety of consultations on issues of importance to its members through its 19 specialist committees. This response to the consultation has been prepared by the CLLS Training Committee.

**General Remarks**

The Consultation is far ranging and not confined to the SQE itself. It is the culmination, so far, of the SRA's proposed introduction of the most far reaching reforms of the solicitors' qualification process in modern times. The questions asked in the Consultation provide no opportunity to enter the debate about the validity of and need for these reforms on a general level. We believe that it is vital that stakeholders participate in this way and so we propose to make some general observations on these reforms before responding to the individual questions. We believe that it is all the more vital for us to do so as (a) City law firms already account for a very large proportion of all training contracts and (b) it is proposed that, under

these reforms, employers of intending solicitors play an even more pivotal role in the qualification journey than they do now.

We find that our hands are tied because the Consultation contains little more than skeleton proposals which do not allow us to reply definitively with the level of detail warranted by such a major shake-up of the way that the entire solicitors' profession qualifies. From this point of view the Consultation is disappointing. It asks us to respond to a model for assessment which, in terms of the SQE itself, is not adequately formulated, nor one which demonstrates to us that the requisite high standards will be maintained, and where consideration of some of the most fundamental features is put off to another day, for example, pre-qualification workplace experience and graduate or graduate level entry or other pre-entry requirements.

In short, the drip feed realisation of the reforms does not give us (or other stakeholders) the opportunity of properly considering the reforms as a whole. As the proposals in the Consultation are far from definitive, we do not believe that the SRA should be reaching any final conclusions at this stage on the merits or otherwise of these proposals, let alone the implementation of the detail. Once the complete framework of the reforms as a whole and the detailed proposals for their implementation have been formulated in their entirety, then is the time to make the decisions. To do so any sooner risks catapulting the profession down a radical pathway that fails to achieve the objectives of a better system of qualification in the interests of greater consumer protection and damages the credibility and reputation of solicitors.

We will be dealing with many of the specific aspects of the proposals later in this response as part of our replies to the Consultation questions but as an overview, we have a number of general observations to make.

## **Standards**

It is absolutely crucial that standards are not lowered. It is essential that quality and standards are at the heart of any new qualification requirements. In relation to the SQE itself, we have very serious reservations about the suitability of multiple choice questions to test skills and abilities such as analytical thinking and structuring arguments and also doubt that simulated exercises will be able to fully and robustly examine students and so maintain standards.

It is also crucial that standards are not perceived to have been lowered. The solicitors' profession in England and Wales would stand out as a profession which is not based unequivocally on a graduate or graduate level education.

## **The international picture**

We envisage potential damage to the international credibility of the solicitors' qualification and the global standing of solicitors if sophisticated consumers of legal services around the world, who make up the client base of City law firms, do not recognise these proposed qualification requirements to be of equivalent status. We share the concerns and support the views expressed in the Law Society's Global Competitiveness of the England and Wales Solicitor Qualification in July 2015 on these issues.

English law plays a major role in a highly competitive legal market. The fears that have already been expressed to the effect that the reforms to the qualification process for solicitors

could undermine the pre-eminence of English law as the governing law in international transactions are, we believe, accentuated by what is in the Consultation. Any lessening of the pre-eminence of English law would have political and economic repercussions which should be of concern to the SRA as a regulator, when its objectives are to encourage a strong and effective legal profession and to promote the public interest. This should not therefore be dismissed as mere scaremongering.

### **Cost considerations**

One of the arguments put forward in the Consultation is that the proposed new approach to qualification via the SQE will be cheaper and open up opportunities for those currently unable to afford to become solicitors. There is no evidence in the Consultation nor, as far as we are aware, elsewhere to support this argument. Nor can there be at this stage, as the proposals need to be developed significantly before costs can be quantified.

In any event, a major concern is that new courses are likely to emerge that are driven more by cost and the imperative of getting students through the SQE than by giving them the wider base in the law and analytical thinking that the current system now does. Such courses are a feature of other jurisdictions with a single examination regime, for example the US and Japan. This would be to the detriment of the overall legal knowledge and problem solving capabilities that solicitors should have on qualifying and need in the interests of protecting consumers of legal services.

Often cost-saving arguments are not absolute savings but cost-shifting exercises. Our member firms are concerned at the increased burden they are likely to be obliged to shoulder. This does not just include direct costs. In particular, we believe that little or no thought has been given to the disruption to firms' businesses and to clients and the wider cost implications for firms, of either (a) requiring solicitors to have workplace experience in areas that are either peripheral to, or not part of, the practices of those firms or (b) more generally, imposing a set of qualification requirements that do not allow for intending solicitors, as under the current training contract, to develop their skills and integrate themselves within their firms prior to qualification through an uninterrupted period of "on the job" training and close supervision and mentoring.

### **The training provider market**

It is by any measure a fairly startling proposition to propose that in relation to a professional qualification, there will be an entirely unregulated training provider market based on the notion that it gives freedom to the training providers to be more flexible and innovative which will drive down costs. It dictates that the market, or part of it, will be driven by the cheapest way to get students through the SQE and the emergence of crammers or "teaching to the test". The economic impact report points out that creating new flexible pathways to qualification does not guarantee their success, leaving of course the students themselves most at risk. We believe that the lack of prescribed routes to qualification is likely to impact negatively on those it is seeking to help – ie those who do not have access to good advice and information relating to the realities of the choices they make (particularly the early choices) on their future career options.



## **The SQE**

As to the SQE itself, the focus of the proposed qualification requirements is the SQE. In fact, there is no certainty that there will be anything else. Everything hinges on the SQE. The SQE must therefore be better than the examination system we have now: better in terms of quality assurance; better coverage of the areas of legal knowledge which are relevant for lawyers qualifying in the modern world; better consistency in testing; and better for breaking down social and diversity barriers and widening access to the profession. We do not believe the SQE does this and will be taking each of these issues in turn further in this response.

## **Conclusions**

Our comments in this response are not about protectionism or maintaining the status quo, and we would support change where what is proposed is better than what it replaces. In our response to the SRA's earlier consultation on a Competence Statement for Solicitors, we referred to the conclusion reached in the Legal Education and Training Review of July 2013, which was that the current LSET system provides, for the most part, a good standard of education and training. However, the proposals in the Consultation are built on a premise that everything needs to be changed. Yet, the alternative approach, which is to build on and improve the current system, has been dismissed by the SRA without putting forward a fully stated case for doing so and without a formal consultation with stakeholders. This may require more regulation and supervision by the SRA but this is not a reason not to explore this. The objectives in paragraph 10 of the Consultation focus on securing the most effective regulatory effort; reducing the SRA's role is not an objective.

Until our fundamental objections as outlined in this response are addressed, we are unable to support these proposals. We believe that there is room to meet the SRA's concerns, especially about consistency in standards, by making improvements to the current system.

## **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?**

No.

The first objective refers to consistency and comparable high standards across pathways to qualification. It is axiomatic that requiring all intending solicitors to sit a common professional assessment will provide consistency in the standard of assessment, but we do not believe that the SQE in the form outlined achieves the objectives set out in the Consultation. As will be clear in the response to Question 2, we are not persuaded that the SQE will be capable of ensuring the high quality of education and training which is needed at the point of admission to the profession. Consistent and comparable minimum standards (elsewhere referred to as a stated objective of the SRA) are not the same as high quality standards.

Some form of standard centralised assessment could be beneficial but in our view, it would be better to incorporate it by changes within the existing qualification model.

## **Consistency**

The SRA will in practical terms be assessing intending solicitors in a role which no longer exists, at least not for the majority of current practising solicitors. We therefore question its validity, in conceptual terms, as a way of assessing competence of role-readiness. The practice of law has over the years become increasingly complex, specialised and diverse, even pre-qualification. This change is not reflected in the subject areas of the SQE. The almost exclusive emphasis in Part 2 on the reserved activities, channelling all intending solicitors through the same reserved activities' assessment (with some allowance in the election of contexts in Part 2), is a backward step. Therefore, the SRA's proposal to sheep-dip solicitors through this process runs counter to the realities of the practice of solicitors now and the direction in which the profession is heading into the future. Consistency in the wrong areas of law cannot be a satisfactory regulatory objective.

The Consultation cites the 2015 Framework for Higher Education Qualification (HEFCE) consultation on standards and quality in Higher Education to support its argument relating to inconsistency in standards, but the consultation was across all subjects and not just law and was for the purpose of considering what kinds of quality assessment arrangements would be necessary through to 2025. Its conclusions cannot be used as a basis for not pursuing the LETR recommendations that more should be done to set standards across education providers. The SRA has the opportunity to do so with the GDL and LPC.

Looking at the inconsistency argument in its broadest terms, any inconsistencies in standards between university degrees cannot be unique to the UK and yet it is hard to find any major jurisdiction (whether under the civil law or common law) that does not require a degree to qualify as a lawyer.

The Consultation also looks at inconsistency at the LPC level referring to the 26 different providers and the varying pass rates. However, the economic evaluation report points out that two leading providers together account for around 70% of students. Further, it is with the SRA's blessing that a variety of LPC courses are now offered, with some accelerated and some focused, for example, on skills needed for City firms. See further below. It is no surprise that this results in differing pass rates. The analysis of why this is and more importantly, whether it reflects a genuine problem, has not been done. It would seem to be feasible to introduce an element of standardisation and improve consistency within the current system, but this does not seem to be a direction that the SRA wants to go.

In relation to consistency and validity of the assessment, we note the following quote from the AlphaPlus report "How stakeholder views are taken on board and responded to will also be important". We cannot overstate this – listening to practitioners has not only to be seen to be done, but also done.

## **Comparable high quality standards**

Much work has been done in recent years by CLLS member firms to improve aspects of the current qualification process, largely through working with the LPC providers to improve the LPC in relation to the topics covered and in the methods of study. This work has ensured that the LPC continues to keep pace with the changes in the legal services market. The quality of the trainee contract in City firms is also high. We are therefore confident in the standard of education and training provided by City firms during the vocational stage and consider that

they demonstrate that the current model can be a good one and with improvements to some aspects, the current model is to be preferred.

### **Ensuring that the most talented candidates can qualify as a solicitor**

This is the second of the SRA's stated objectives and is to be achieved by encouraging the development of new and diverse pathways to qualification which are responsive to the changing legal services market and which remove artificial and unjustifiable barriers.

First, we agree with the observation in the economic impact report that offering new flexible pathways to qualification does not guarantee their success. We also see a danger for students under a regime that does not prescribe the routes to qualification. It will disadvantage those who are less well informed on the impact of choices on later career options. It will force some students to make their career choices early and before they might otherwise want to. Greater choice of pathways may close down career options to students depending on which pathway they choose. For example, as a non-graduate, the Bar would no longer be an option and joining a City firm may well be much harder.

With a unregulated training provider market, it may be difficult for students to make valid comparisons between providers. Shorter crammer style or "teach to the test" courses may indeed result in a pass on the SQE, but may not open up career options if the preference of employers is for a higher quality training.

The Consultation makes the point that the cost of qualification is a barrier to becoming a solicitor. It provides no evidence on the extent that cost is a barrier to entry and it provides no evidence that the new requirements to qualification will be cheaper. Indeed, the economic impact report is unable to conclude unambiguously that the new approach would lead to lower average costs of qualification. The case for saying that the new system will be cheaper is not proven.

The SRA considers that access to training contracts is a further barrier to entry. Subject to the caveat that there is insufficient detail available to be conclusive, concern has been expressed that a consequence of increasing the financial and organisational burden on firms might actually lead to a reduction in the number of trainees taken. Alternatively, to minimise any additional burdens, recruitment could well continue as now for many member firms and therefore will not widen access.

We cover other diversity implications in our response to Question 17.

### **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 competencies needed to be a solicitor?**

No.

Without the key component of the SQE model, which is the assessment framework, there is insufficient information to comment in detail, but we are able to comment on the important points of principle.

## **The SQE model**

Part 1 of the SQE covers the knowledge equivalent to the Foundation subjects of a law degree/ GDL, plus the other compulsory subjects that are currently taught on the LPC. As pointed out in our response to Question 1, Part 2 focuses on the reserved activities (plus the law of organisations). All other subjects in the electives of the LPC would be lost. To a greater or lesser degree the reserved activities are no longer relevant to many law firms or other providers of legal services and yet, in addition to being covered in Part 1, they are singled out for Part 2. They do not, any more, represent the education and training that many solicitors need to have to practise. This approach does not seem consistent with what should be one of the main aims of any new qualification - that of testing the competence of intending solicitors in relevant areas of legal practice and therefore better protecting consumers, as opposed to slavish adherence to disproportionate regulation of reserved activities.

As City firms:

- We do not support the proposal of a “one route” assessment. Several years ago, the SRA allowed greater flexibility for firms to tailor LPC courses to provide intending solicitors with the early stage vocational training which would be more relevant preparation for practice. Now requiring all intending solicitors to undergo the same assessment is counter-productive.
- Removing the LPC stage 2 vocational electives from the qualification process plays very badly for many non-general firms (or at least those whose practices do not match the elements contained in the proposed Part 2) – it will affect City firms to a disproportionate degree. Our member firms will be employing intending solicitors who will gain no SRA qualification credit or advantage for studying the current LPC electives which prepare them for practice in those firms. We regard the LPC electives which have been developed over the last decade as essential for City practice, covering as they do, such elements as corporate transactions, debt finance and equity finance. The current proposal effectively denies City firms the opportunity to provide their future trainees with the training they need to perform competently and successfully in the role. The elements covered in the LPC electives will need to be undertaken separately and additionally and with the consequential additional costs.

We are not confident that the proposed "two or three assessment" methodology (for Parts 1 and 2) will provide an effective test. Several educational specialists point to the necessity for multi-assessment methodologies to be deployed to maximise test accuracy, particularly in relation to high-stakes events such as qualification into a profession. The AlphaPlus report concludes that a range of assessment methods should be incorporated into the assessment process and also talks to the risk of placing too great a burden on a single assessment process.

Yet Part 1 which is the essential legal knowledge test is to be a single (but modular) test examined on a multiple choice basis. It cannot be right that the knowledge test is based exclusively on this one method.

We have grave reservations based on what we read in the Consultation that the Part 1 multiple choice questions (MCQs) will be effective. This is because:

- MCQs are quantitative not qualitative. Comparative studies on the use of MCQs in medical sciences, dentistry and accountancy does not necessarily mean it is the right

assessment methodology in law. We need to have qualitative questions in law to examine at a deeper level and to be able to differentiate between candidates.

- MCQs do not assess written communication skills, English language skills, unprompted recall of information, thought process, complex problem-solving ability, high-level analytical skills, evidence-gathering ability, the exercise of judgment and the ability to write convincing arguments.

In principle, we would expect the SQE to test at least to the depth and breadth of the existing requirements, because there is no suggestion that the existing knowledge requirements are too rigorous. However, we have yet to see the evidence. The duration of testing for Part 1 appears to be substantially less than the duration of testing carried out for the GDL. If the testing is less, then the syllabus (not yet specified) will inevitably be tested in less breadth and depth.

As practitioners and not academics or educationalists, it is more difficult for us to comment on the technical aspects of the proposed assessment. We have though noted that the AlphaPlus report validates the concept of multiple choice testing, but not by reference to the proposed solicitors' competence framework. Furthermore, it is not clear that when used in other professional qualifications, this form of assessment is used alone as the sole method of assessing of functioning knowledge and in a situation where there are also no pre-entry requirements to taking the assessment. The report refers to comparative case studies having been carried out (qualifying as an attorney in New York and as a solicitor in New South Wales) but there is no reference to any findings from these case studies, which might have been instructive.

We have observed that AlphaPlus are insufficiently confident in their conclusions on the validity and reliability of the SQE to the extent that they recommend a safeguard, namely a relevant degree, specifically for the purposes of demonstrating high level academic skills in essay writing and critical thinking. The omission of any testing of these abilities also goes to the very core of our concern with the SQE assessment proposals. If there is no testing of them, there need not be any learning of them to pass the SQE.

Quality assurance must also come in the form of proper benchmarking of standards. The Consultation says that the assessments will be set at graduate level and yet there is no undergraduate pinning of a degree level course, whether it takes the form of an undergraduate degree, or graduate equivalent such as a CILEx or trailblazer apprenticeship qualification. The Consultation also says that it is not appropriate to benchmark the SQE directly to the degree level descriptors set by FHEQ. Therefore, it appears to be saying that it will be at graduate level but not actually using the graduate level criteria and that it will not grant exemptions for law graduates even though the SQE is to be at graduate level. We are unable to follow the logic here.

A single modular multiple test assessment is very far removed from the examinations which make up a typical degree. We are not sure how it is possible to reconcile the SQE with degree equivalence and it is certainly not clear from the Consultation.

We agree that Part 1 should be required to be passed before Part 2.

### **The pass or fail model**

A pass/fail model will not be robust as it will not identify stronger candidates eg those with higher-level analytical skills (who will make for better solicitors). Our member firms are unpersuaded that the complexity and challenges involved in providing a graded assessment is sufficient reason not to offer a graded model.

An absence of grading of the SQE means that candidates cannot demonstrate higher abilities and does not encourage higher achievement. The standards set by training providers may not be as high if all that is required from their students is a simple pass or fail. Employers cannot use the SQE as a measure of choosing the most able solicitors and so will use other evidence of achievement such as good degrees, which is counter-productive on diversity grounds. It will disadvantage candidates without a degree the most and might hit those from more modest backgrounds the hardest.

### **Unlimited re-sits**

An unlimited re-sit policy will not properly assess for true competence as it increases the chances of a candidate passing through other means, such as learning from previous sitters, studying mark schemes, memorising and demonstrating superficially convincing behaviours. The AlphaPlus report talks to the challenges involved in creating an "item bank" of MCTs, for example, sufficiently wide to protect against this and states that an unlimited re-sit policy should only be offered if the items banks are of the requisite size. It also speaks to the additional pressure that would be placed on an already demanding system. We would be interested to hear the SRA's plans relating to this bearing in mind its other statements relating to the increased complexity and costs involved in extending out the Part 2 contexts or in providing assessment gradings.

An unlimited re-sit policy lacks academic credibility and is also at odds with the re-sit policy of undergraduate and graduate degrees (which have on average a two re-sit policy).

We would have thought that the provision of an unlimited number of re-sits of itself brings the issue of consistency into question. Some candidates would be able to fund several re-sits, whereas others will not be able to. For our member firms, quality concerns are definitely raised if a solicitor is not able to pass on the first two to three attempts. There are also reputational risks for the profession.

In summary, we find the unlimited re-sit proposal counter-intuitive to the stated objectives of consistency, quality and diversity.

### **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?**

We believe that exemptions should apply for those who have completed an English qualifying law degree, to avoid duplication in terms of students' time and the cost of having to prepare for and sit two sets of examinations in the same area (with their educational provider and the SQE). We do not understand how the proposals can outline a SQE at graduate level or equivalent if they do not allow exemptions for those with an English qualifying law degree.

There are other possible examples where a no exemptions rule would appear to be unjustifiable and that is in relation to those qualifying in Scotland and in relation to barristers.

During transition, we believe that exemptions should also apply for those who have completed the GDL and/or LPC.

For non-UK lawyers, our member firms in general feel there should be no exemptions beyond those required by EU law.

## Question 4

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

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?**
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?**
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?**

Our preference is for Option (b).

We do not agree with Option (a) because many City law firms do not operate in even three areas of reserved activity and many do not have contentious practices. They would be unable to offer experience in three of the five contexts.

There is an assumption in the Consultation that experience is likely to help students pass Part 2, but the five contexts are so broad that it is by no means certain that any experience they get from firms within each context will be sufficient to cover that breadth.

If Part 2 assessments are required to be taken at the end of the period of workplace experience in contexts in which firms do not practise, trainees will need to regain legal knowledge not used since their Part 1 examinations. In this situation we envisage that firms would provide support to their trainees by sending them on external courses. This would represent an additional cost to firms (both in cash terms and in terms of time their trainees are away from the office). This would be likely to give rise to a new industry of “crammers”, providing little real value to the experience of the trainee. The proposals suggest that experience in the assessed contexts would help the candidate to pass the assessment - in which case, is this fair to those candidates who cannot get access to that experience? If Part 2 is to come at the end of the training contract, City law firms feel that there should be enough contexts to ensure that trainees are being examined in a relevant area.

Option (c) would not, in practice, be much more workable for City law firms than Option (a). Option (c) would also require trainees to regain legal knowledge not used during their work experience and would also mean that firms would need to send trainees out on external courses.

Given that approximately half of all training contracts are currently undertaken with City law firms, it is important to the firms we represent that any new training regime can be operated within the contexts of the businesses of those firms. We note that the SRA indicates that it does not favour Option (b) because this option would be more expensive to administer and less consistent and would mean that the assessment was less clearly focused on the reserved activities. These concerns should not take precedence over the need to structure the SQE in a way which reflects so much of modern practice today and in a way which firms can accommodate.

Since we see the current choice of contexts as misconceived, our member firms would, we believe, be willing to help put together a list of contexts which would be common to most City law firms if Option (b) were to be adopted.

Options (a) and (c) again bring up the issue of the focus on the reserved activities. Legal knowledge for the reserved activities will be examined in the Part 1 assessment. The Part 2 assessment is designed to assess candidates' competence in six professional skills (interviewing and advising, advocacy/oral presentation, negotiation, writing, drafting and legal research). We do not see that Part 2 needs to examine these skills in the context of the reserved activities; this is not necessary in order to ensure that candidates can demonstrate that they have the skills to practise as a solicitor. We believe that Part 2 should examine these skills in the context of the legal practice areas (reserved or not) in which candidates work. It is anomalous to limit the contexts in which candidates' skills to practise are tested to areas in which many firms no longer practise. Adding the law of organisations to the reserved activities (in Option (a)) does not go far enough to enable many City firms to give trainees experience in three relevant contexts.

Offering a broader number of contexts for Part 2 would make it more likely that a wider range of pre-qualification workplace experience could be relied on to prepare candidates for Part 2 (a possibility mooted in the Consultation). If Part 2 contexts are predominantly the reserved activities, workplace experience for Part 2 will have to be gained mainly in traditional law firms, which in turn will mean that there will not be a significantly wider range of workplace experience.

## **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?**

Our member firms generally feel that the standard for qualification should be set at a level equivalent to that currently reached by trainees on qualification (which is level 7 in the FHEQ, plus two years of work experience). We also feel that the various stages of the SQE (Part 1 and 2 and any required work experience) should be mapped to the highest standard currently required in the qualification process (that is to say that Part 1 should be set at least at FHEQ 6) and that this mapping should be done in the most transparent way possible, by, for example, using the FHEQ.

Graduate level requires important skills such as analysis and close reading. As we have observed in other responses to these questions, these skills are essential requirements for practice. If the new system is intended to be a more robust and consistent test than the current postgraduate LPC and training contract route, then it follows that the test must be of at least the equivalent level.

This is in line with other professions (nursing, physiotherapy, accountancy, engineering, etc). The new trailblazer solicitor apprenticeship is also set at level 7.

Failure to set an equivalent standard to the current standards or an inability to demonstrate that a high standard has been set risks undermining the credibility of the solicitor qualification both in the international arena and in the local market. See also our response to Question 14.



## **Question 6**

### **Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Yes.

A period of pre-qualification workplace training is a crucial part of the training process for all intending solicitors. Additionally, we are told there are elements of the Statement of Solicitor Competence which cannot be validly and reliably assessed in any way other than via workplace experience over a period of time.

Workplace experience is essential to the development and application of learnt knowledge and skills and provides the trainee solicitor the opportunity to develop these still further within a working environment. Indisputably, this is where much of the real learning is done, where neat black letter law meets the messy reality of clients, courts, real time decision making and real opponents and where trainees have the opportunity for guided learning in a relatively safe environment. One only needs to assess a trainee's competence at the beginning and at the end of such experience to appreciate the benefits that this testing of their mettle brings. Even students with the strongest academic backgrounds require this time to adjust to the considerable demands of practice.

The knowledge that trainees have been through a period of supervised "on the job" training means that clients and consumers of legal services can have greater confidence in the quality of their solicitor and know the standard that can be expected of them.

Workplace experience is a validated method of ensuring quality which is used extensively in most if not all other professions (eg accountancy, medicine and dentistry).

Such a period of workplace experience is also crucial in maintaining the international standing of the solicitor qualification and helps to address questions about the robustness of the English qualification from other countries' regulators.

We understand the SRA's current position is that some form of pre-qualification workplace experience is likely to be maintained, as advocated in the AlphaPlus report, and we cannot overstate our support of its retention – it is an essential, for us non-negotiable, element of the qualification process. However, we strongly believe it should remain in its present form without any significant downgrading in the breadth of experience trainees are required to obtain or length of pre-qualification experience required before admission. The workplace experience system serves our firms, trainees, solicitors and clients well and should be allowed to do so.

## **Question 7**

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

Yes.

It is essential that the SRA imposes a minimum time period of pre-qualification experience for candidates. This is essential for the maintenance of standards and the protection of consumers of legal services.

Member firms who employ overseas qualified lawyers from jurisdictions with a single examination regime have commented on the lack of work based experience those overseas

qualified lawyers have on qualification. It is very clear that short periods of internship produce lawyers who are neither socialised to an office environment nor capable of working effectively within teams or as commercial advisers to their clients at the level and standard we expect of newly qualified lawyers. Consequently, some firms insist on those newly qualified overseas lawyers making-up the missing period of training.

An unspecified period is unsafe. It would mean that trainees could do the minimum required to pass Part 2. Since the Part 2 contexts are not necessarily those in which solicitors practise on qualification, there is a risk that many of them will qualify into practice without relevant experience. The absence of a minimum industry standard, would exacerbate any inconsistency in the experience of newly qualified solicitors. This inconsistency between firms would make the comparison between candidates in the recruitment process more difficult. Those with a shorter period of workplace experience may be disadvantaged upon qualification compared to those with a longer period. Such inconsistency would in fact contradict the SRA's stated objective of assuring consistent standards across the profession.

There would also be an inherent danger that there would be "a race to the bottom" as firms compete for trainees and are forced, either as a result of financial pressures or in a bid to attract the best candidates, to sign off as soon as possible. This could mean that firms stipulating a longer period of pre-qualification experience could have a smaller pool of people from which to recruit - ironically, those firms requiring higher standards of competence from its solicitors could be penalised.

Without having an understanding of how the assessment framework will work in practice, it is very difficult to recommend anything other than the retention of the two year period which is so fundamental in the current process of training solicitors.

The majority of our member firms are in favour of retaining the well-established and proven period of two years pre-qualification workplace experience. In our opinion, this is the optimum period of time for intending solicitors to be able to experience a sufficient variety of practice areas to become credible practitioners in their own right. Any shorter period would have a significant impact on the experience gained. This will be even more so for trainees who might otherwise have the opportunity to undertake the valuable experience of an overseas or client secondment during that period, as is commonly the case in our member firms.

Importantly, it would also make it more difficult for firms properly to assess the competence of trainees and for individuals to make a considered decision about their specialism.

Perhaps more importantly, a shorter period would inevitably result in trainees gaining less experience within practice areas. It is this ability to see problems within the wider legal context and to assess the impact of other areas that distinguishes the student from the practitioner.

## **Question 8**

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

No.

We assume that this question envisages competences being specified by the SRA for stages during the pre-qualification workplace experience that would build up to the Threshold Standard in the Solicitors Competence Statement. If this is the suggestion, we do not

consider that it is necessary or desirable: it will be sufficient for candidates to be assessed (in the way eventually adopted) by reference to the Threshold Standard at the end of the period.

The reasons for setting a compulsory pre-qualification time period have been set out in response to Question 7. However, there is no reason why a time period and the competences to be achieved at the end of it are mutually exclusive. Any model designed to ensure consistency of quality of newly qualified solicitors across the many different types of practices from which they emerge: small, medium and large firms, in-house whether it be industry or local government etc, must impose a uniform standard on these practices to enable each to judge the quality of the end product by reference to the same. A poorly designed, “pick and mix” or worse, a “suit yourselves” approach will inevitably lead to poorly trained solicitors and a two or even three tier profession.

The benefit of specifying a minimum time period in addition to the requirement to meet the Threshold Standard is that intending solicitors would have their competences tested over a period of time, giving a better indication of the consistency of standards, the achievement of which is one of the SRA’s stated objectives.

### **Question 9**

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

We support widening access to the profession and recognise that the current system could work more effectively for entrants from a diverse range of backgrounds. We would like to see this improved.

We support the development of the trailblazer apprenticeship and our member firms actively engage in a range of high quality initiatives and programmes designed to widen access to the profession.

In principle, we are in favour of the SRA recognising a wider range of pre-qualification workplace experience, including experience obtained during a degree programme or with a range of employers. However, the devil will be in the detail. It is essential that any such experience is monitored and accredited as being of the necessary equivalent high standard. Without this support and supervision, there is a real risk that the experience will lack cohesion and rigour and will not provide appropriate development opportunities for the candidate (and which is equivalent to that obtained by the current route). This would be of concern for the quality of the profession and for the protection of consumers of legal services.

Work experience gained at undergraduate level (or equivalent) might be feasible but it would need to be built on by higher level experience if it were to replicate the quality of the experience that trainees have today. The benefits of allowing this would have to be weighed against the much greater practical difficulties of ensuring that it is of the same quality of experience of trainees today. It might require a maximum allowable at this early stage so that significant experience remains gained at postgraduate level.

We also note that undertaking work experience (unless paid) during term-time or during vacations could have a disproportionately negative effect on individuals from less privileged backgrounds.

The specified competencies and the maintenance of a minimum period would become of even greater importance than currently for candidates who have obtained their experience in this way.

## 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?**

Our members firms are already working hard to provide significant training and development for their trainees. This is seen as an essential part of the development of junior lawyers (and indeed this emphasis on continuing professional development is maintained throughout legal careers).

If, as the Consultation suggests, not all of the competencies in the Statement of Solicitor Competence can be assessed within the SQE, then there is a case for some form of workplace assessment at least to the extent necessary to assess those competencies. We would need to see further detail from the SRA as to what is proposed. For example, would this be through some form of training delivered by supervisors? Or through the development of trainee portfolios? Or in some other way?

For assessment to be workable, it must be reasonable and proportionate, both in terms of the length of time it takes and the attendant expense. Firms have noted that the cost is likely to be significant. As we indicated in the General Remarks in this response, we believe that little or no thought has been given to the disruption to firms' businesses and to clients, and the wider cost implications for firms. This merits repeating as it is a matter of some considerable concern to our member firms.

These concerns and the financial and organisational burdens would be felt most acutely by firms which do not have budgets for increased training and human resources and the real cost could be considerable for large City firms with large numbers of trainees. If the burden is too great, it may lead to a reduction in trainee numbers or a shift to firms using more paralegals and other less qualified staff. This could reduce opportunities at a range of firms which in turn might damage the breadth of experience available and not promote diversity.

## 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 1 and Part 2, to a specified performance standard?**

Yes.

The City firms generally already have established education and training teams of significant size and competency, we believe that they would be able to assess trainee solicitors' competencies to a specified performance standard. This is what City law firms already do in order to assess, and manage, trainee solicitors through to qualification.

We believe that our member firms between them contain a significant proportion of the learning and development professionals operating today within law firms in England and Wales and, consequently, we should have a high regard for their views. Their views on the present system are eloquently represented by one member firm's comment that:

*"Firms like ours already operate a robust training contract assessment process – whatever is introduced should recognise that and not simply impose another administrative pre-qualification burden on the firm and its people, including its intending solicitors.....[We]*

*have worked hard, and continue to do so, to create a comprehensive, effective, practical and developmental period of work-based learning to nurture its intending solicitors.”*

### **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?**

If the toolkit which is provided is sufficiently comprehensive and easily adaptable to the needs of our firms, focusing as they do on the application of the law to commercial contexts, then a toolkit might be helpful. If, however, it is generic in nature, we shall need to work with the SRA to develop a toolkit which has direct application to the work which we do.

We do not, however, have sufficient information about the SRA’s proposals in order to comment on this aspect of them.

### **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:**

- a. support the credibility of the assessment?,**
- b. and/or protect consumers of legal services and students at least for a transitional period?**

We believe that training pathways need to be prescribed and regulated and that entry requirements for the SQE should be imposed to support the credibility of the assessment and to protect consumers and students.

In our view a degree or degree level qualification should be set as the entry requirement.

As mentioned in responses to other questions, but for emphasis, gaining a degree (or degree level qualification) demonstrates the acquisition of academic skills such as high-level written and verbal communication skills, critical thinking and the ability to analyse and reason. These skills are essential for a competent solicitor. The SQE as proposed gives us no confidence that these skills will be tested.

Without such an entry requirement, there is a danger of a two tier profession emerging: many law firms will recruit only those with degrees or equivalent (either as trainees or later as qualified solicitors) and those who have qualified by passing the SQE without first having attained a degree level qualification will be less employable. This is exactly contrary to the SRA’s aim to make the profession more accessible.

We accept that the SQE might examine at the appropriate level. The danger, in our view, is that this might not be the case or that it might not be perceived to be the case, with resulting detriment to the credibility of the assessment and loss of faith in the solicitor qualification. These are not risks worth taking. In any event, we note that there is currently insufficient detail available about the SQE tests for anyone to be able to judge whether the SQE will maintain current standards.

We are concerned that, unless training pathways are prescribed and regulated, students who are not well connected will be unable to discern which pathways are well regarded by the profession and may waste their money and time pursuing pathways which will not secure

them employment as solicitors. This will not help to make the profession more diverse but will exclude the very people the profession is trying to include. We think that the SRA should give more consideration to Options 1 and 2 from the 2014 Consultation on the Statement of Solicitor Competence.

#### **Question 14**

##### **Do you agree that not all solicitors should be required to hold a degree?**

Our member firms believe that all solicitors should hold a degree or degree equivalent qualification because:

- Successful solicitors need to have advanced rational and analytical skills - an ability to analyse, understand and synthesise large amounts of information to provide clients with nuanced, balanced and appropriately tailored advice. These skills are essential for competence and for consumer protection. They are all skills that are developed even for the most gifted students through quality academic courses and qualifications and over a period of time; and
- All other major legal jurisdictions (and most importantly, the New York Bar) and many professions in the UK (for example, teaching and nursing) require a degree or degree level qualification and against that backdrop it is hard to see how the credibility of the solicitor qualification can be maintained without this requirement.
- The new trailblazer apprenticeship standards are set at level 7 of the FHEQ, which is recognition of the need for a post-graduate level qualification to practise effectively as a solicitor. Given the emphasis on consistency of standards, it would also be anomalous to require those who are seeking to qualify via the apprenticeship route to attain level 7 and yet allow others to qualify without reaching this level.

The consequences of devaluing the solicitor qualification would be far reaching. The firms represented by the CLLS are operating in a very competitive international environment and any suggestion that the standard required to be an English solicitor has been lowered risks making English law and lawyers less attractive to international clients, who have the choice of numerous legal jurisdictions.

The SRA has mentioned elsewhere that if the SQE is set at degree or equivalent level this should be sufficient to maintain standards without the requirement that intending solicitors complete any particular academic or vocational courses or qualifications beforehand. We have noted our concern that this will result in the introduction of crammer courses and “teaching to the test” courses to pass the SQE, which will produce solicitors who are able to pass the SQE but have not developed their cognitive or rational skills or the maturity to apply them as set out above.

We note in passing that the comparative studies carried out by AlphaPlus for their report all had graduate entry requirements.

#### **Question 15**

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

This raises the issue of grading results on the SQE or providing percentages. Our member firms want to see grading of SQE results rather than pass or fail. Grading of the SQE is

surely needed to encourage higher achievement from the students. It is likely to be beneficial for students, otherwise they are wholly reliant on other academic or vocational achievements to distinguish themselves.

Recruitment of intending solicitors and qualified solicitors is based on an assessment of relevant academic and vocational achievements. There is a vital missing piece of the jigsaw if the SQE, which, under the proposals, is the single assessment of solicitor competence, lacks any grading and therefore any means of comparison between candidates.

Whilst under the present system, City firms recruit from university which will be before the SQE is completed, it will be a relevant recruitment factor post qualification. If the only option is pass or fail, any distinction between candidates will need to be made on prior academic achievements, which would be secondary and tertiary education. Above all else, this will do little for the social mobility and diversity benefits.

We do not believe that pass or fail will contribute to maintaining the standards of training courses at an appropriately high level. If there is no grading of achievement in the SQE, training providers merely have to get students to the pass mark.

As we understand it, the technical experts are of the opinion that it is feasible to grade results in a way that is valid and reliable.

### **Question 16**

**What information do you think it would be helpful for us to publish about:**

- a. overall candidate performance on the SQE?**
- b. training provider performance?**

We would not be in favour of publication of individual candidate performance but publication at a consolidated basis on overall candidate performance would presumably provide useful statistics on a comparative basis year on year.

It is difficult to see how useful training provider information would be in an unregulated training provider market where courses will not be comparable. The other possibility is that the publication of information will lead to artificial league tables.

### **Question 17**

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

While we can see that the SQE is intended to make it easier for people from a broader range of backgrounds to enter the profession, we feel it may actually have the reverse effect because:

- Part 1 and Part 2 will still need preparation which will be provided on a commercial basis. The preparatory courses are likely to be of varying quality and priced accordingly. Students who are funded or who are able to pay more will have access to better quality preparation.
- It is unrealistic to think that students with more challenging economic circumstances will be able to sit the tests a number of times. Again this route will only be available for those who are able to pay.

- Ability to meet the technical standards to become a solicitor is only one part of what law firms are considering when they are looking for solicitors at the entry level. These other requirements will not change whichever system of testing of technical ability is in place. In fact these other requirements may be given more weighting in the recruitment process if firms do not have the comfort of having some control over the technical development of those at the entry level. This is likely to serve intending solicitors from a more affluent background.

We believe that there are social and commercial benefits to opening up the profession to people from a more diverse range of backgrounds. We also believe that it is vital that the standards of the legal profession are maintained and those entering into it should have fair access to the same quality of legal training regardless of their background.

It would be misleading to students to give the impression that a graduate education is not essential for some legal career options and unfair to expect them to make career choices at such an early stage. As member firms have indicated to us, they are likely, in the main, to continue to recruit trainees who are graduates because they consider that degree performance, rather than the SQE, will provide the necessary assurances of a high level of academic skills. They also believe that their clients expect their legal advisers to be graduates. As City firms are by far the largest recruiters of intending solicitors, this could lead to a greater chance of a two tier profession and therefore do little to improve diversity and social mobility in the profession. It is likely that many of the measures that City firms are already putting in place under the current system will be more effective in terms of improving diversity and social mobility, and yet there seems to have been no acknowledgement by the SRA in the Consultation of any of these measures.

There appears to be very little credence given in any quarter that a centralised assessment will create a level playing field and will help to break down social and diversity barriers. AlphaPlus itself says that the proposed assessments themselves are unlikely to support or hinder increased diversity and access of any particular groups. The economic impact report suggests that the case for diversity advantages is as yet unproven.

## **Question 18**

### **Do you have any comments on these transitional arrangements?**

It is, in many ways, difficult to comment on transitional arrangements from the current qualification framework to a new framework at a time when that new framework has not yet been fully developed and is not in a form which we are able to support. However, we believe that a number of aspects of the transitional arrangements are potentially detrimental to individuals and firms and require further discussion.

Our main concern stems from the fact that our member firms currently recruit trainee solicitors, in the main, approximately two to three years before the start of their training contracts. As a result, they are currently recruiting trainee solicitors to start in the autumn of 2018 or the spring of 2019. By the end of 2016, those firms will have made arrangements for those future trainee solicitors (funded by the firms) to take the GDL (if applicable) and the LPC prior to starting their training contracts, and the future trainee solicitors will also be making their own plans based on those arrangements. There will be a further round of recruitment in 2017 for trainee solicitors to start in the autumn of 2019 or the spring of 2020.



Accordingly, irrespective of when any new framework came into effect, there would at that time be several thousand individuals who had previously accepted offers of training contracts under the existing qualification framework.

The current proposed transitional arrangements (as described in paragraph 95 of the Consultation) distinguish between:

- (a) those who are in the process of studying for a QLD/GDL – who would only get credit for the Part 1 elements that are included in the QLD/GDL and who would need to both (i) enrol on further courses just to cover those sections of Part 1 of the SQE which are not covered in a QLD/GDL and (ii) take Part 2 of the SQE; and
- (b) those who are in the process of studying for the LPC or undertaking a training contract – who would have the option of continuing under the existing qualification framework.

We believe that the option of continuing under the existing qualification framework needs to be given to all those individuals who have, at the time of the introduction of the new regulations, accepted offers of training contracts under that framework – irrespective of what stage they have reached at that time.

The offer and acceptance of a training contract is a significant long-term commitment between an individual and a firm. By applying the new qualification framework to individuals who had already accepted these offers, the SRA would be interfering with those long-term commitments and adding unnecessary cost and uncertainty to the recruitment and qualification process for all parties involved (both individuals and firms).

It is worth bearing in mind that the individuals affected would be those who, through no fault of their own, were applying to enter the profession at the same time as the new framework is introduced so that they have no clear idea of how it might affect them.

We believe that it is appropriate that individuals who accept a training contract offer should know that, if they accept an offer, they will be able to qualify under the existing framework without this being frustrated by the SRA. If, instead, there is significant uncertainty around this then it is likely to affect individuals' willingness to accept offers from firms, and a large number of potential solicitors may be lost to the profession as a result.

Given that the vast majority of our member firms do not currently utilise the legal apprenticeship or equivalent means routes to qualification, we have no comments on the proposed transitional arrangements for those routes (as described in paragraphs 96 and 97 of the Consultation).

We also have no comments regarding the proposed transitional arrangements in relation to the QLTS (as described in paragraph 98 of the Consultation).

## **Question 19**

### **What challenges do you foresee in having a cut-off date of 2025/26?**

On the basis that the proposals set out in our responses to questions 18 and 20 are accepted, we believe that having a cut-off date for qualification under the existing framework that is in the region of 7 to 8 years after the introduction of the new framework would, in principle, be workable for trainee solicitors taking the full-time graduate route. It might not be workable for those taking a part-time route or those on CILEx or trailblazer apprenticeship courses.

## **Question 20**

### **Do you consider that this development timetable is feasible?**

The proposed development timetable (set out in paragraph 105 of the Consultation) focuses only on those aspects of the process that are being led by the SRA. It does not take into account the ability of stakeholders (eg universities, training providers and firms themselves) to get themselves in a position to be ready for the introduction of the new qualification framework.

Given the current situation, where neither the full extent of the proposed new qualification framework nor the detail of its implementation has been provided by the SRA, we are not confident that those aspects of the process that are being led by the SRA can be completed by 2018.

We also believe that the nature and extent of the changes that would be required in connection with any new qualification framework (not just the SQE, but potentially also workplace assessment) mean that it would not be feasible for the SRA to impose an “impact day” when the new regulations take effect without a huge amount of additional work first having been undertaken by stakeholders to be ready for this. The way in which information is being drip fed to stakeholders currently makes this work difficult, if not impossible, to undertake.

Taking both this and the significant substantive concerns expressed elsewhere in this response into account, we therefore believe it would be unrealistic for the SRA to press ahead with the proposed development timetable.

Yours faithfully

THE CITY OF LONDON LAW SOCIETY TRAINING COMMITTEE

**THE CITY OF LONDON LAW SOCIETY  
TRAINING COMMITTEE**

Individuals and firms represented on this Committee are as follows:

Caroline Pearce (Cleary Gottlieb Steen & Hamilton LLP) (Chair)

Rita Dev (Allen & Overy LLP)

Lindsay Gerrand (DLA Piper LLP)

Ruth Grant (Hogan Lovells International LLP)

Hannah Kozlova-Lindsay (Berwin Leighton Paisner)

Patrick McCann (Herbert Smith Freehills LLP)

Frances Moore (Slaughter and May)

Catherine Moss (Winckworth Sherwood LLP)

Ben Perry (Sullivan and Cromwell LLP)

Stephanie Tidball (Macfarlanes LLP)

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## 2. Your identity

### 1. Surname

evans

### 2. Forename(s)

ceri

### 3. Name of the firm or organisation where you work

University of law

**4. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Attribute my/our response and publish my/our name.

**5. Please identify the capacity in which you are submitting a response. I am submitting a response...  
on my own behalf as an employed solicitor**

## 3.

**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?**

No, practice is diverse and requires different skills depending on the type of practice undertaken. approaching assessment in this manner suggests solicitors should all offer the same basic competencies. Assessing students in different ways and in different subjects allows employers to understand the strengths of interviewees

## 4.

**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?**

No, its too generic

## 5.

**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?**

I believe all intending solicitors and lawyers qualified in another jurisdiction should have to prove they have adequate skills to practice in their chosen field

## 6.

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

b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?

**Why...**

Limited assessments will churn out 'one trick ponies'. The profession needs solicitors who are able to think creatively and with authority. Only testing a limited number of core areas will produce solicitors who lack depth of knowledge.

## 7.

**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?**

Yes, absolutely. Most jobs require degree level qualifications including the police force and nursing. It is essential solicitors are taught legal principles before advising clients. A grasp of practical law only would lead to a second class service for clients.

8.

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

Law firms do not have time or skills to teach the vocational aspect of their profession, without pre-qualification experience there is a risk that compliance within firms will be breached by trainees/apprentices who do not know or understand the importance of their work.

9.

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

yes, to avoid pre-qualification employees from being given a work load which is beyond their experience or ability.

10.

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

Both are needed. The difference in trainee knowledge and experience is astounding. Legal education providers should be much more regulated and assessed.

11.

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

No, there is a risk that firms will pressurise employees to obtain a reduction in their training period, providing the firms with cheap labour. The profession needs to recognise and value the training period. It gives the trainee time to improve their skills and mature. The training period is also comparative to most other professional roles. Law is no less complicated than accountancy why are we trying to pretend trainee solicitors can learn their skills by osmosis?

12.

**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?**

Most students will undertake vacation schemes which they find extremely useful, however this is undertaken in addition to their vocational course. A workplace assessment is not needed unless it forms part of the two year training contract.

13.

**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 1 and Part 2, to a specified performance standard?**

14.

**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?**

15.

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?**

New scheme will lead to poor customer service and an increase in public dis-satisfaction with the legal profession

16. (untitled)

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

I do not agree. All solicitors should have to study, understand and prove they have grasped the basic principles of law.

17.

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

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

19.

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

The role of solicitor will be seen as an administration job with no previous knowledge required. This will lead to a de-valuation of the profession. Most importantly however solicitors qualifying via this qualification are unlikely to meet the standards expected by the consumer.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

Apalling

21.

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

Unfortunately I won't have retired by then.

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

## 2. Your identity

### 1. Surname

Nwahiri

### 2. Forename(s)

Chidinma

### 3. Name of the firm or organisation where you work

**4. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Attribute my/our response and publish my/our name.

### 5. Please identify the capacity in which you are submitting a response. I am submitting a response... in another capacity

Please specify: A Nigerian qualified lawyer intending to qualify as a solicitor in England

## 3.

### 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?

I agree that the introduction of the SQE will lead to a level playing ground for everyone intending to become a solicitor as well as make the sector more diverse.

## 4.

### 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?

Yes I agree

## 5.

### 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?

Yes I agree.

## 6.

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

b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?

#### Why...

Option "b" comes across as the option that best achieves what the SQE assessments set out to achieve.

## 7.

### 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?

Yes I do.

## 8.

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

Yes I believe this is vital

9.

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

It will help to have a standard for employers to be guided by.

10.

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

The clearer the requirements for qualification the better.

11.

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

Yes I do

12.

**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?**

Yes I do

13.

**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 1 and Part 2, to a specified performance standard?**

N/A

14.

**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?**

15.

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?**

Yes I do

16. (untitled)

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

I believe all solicitors should hold a degree.

17.

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

That seems like a tedious and time consuming task. Information on comparative performance should be given to all while Information on individual performance should be given on request.

18.

16.



**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

Combination of both

19.

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

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

21.

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

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

Yes I do

## 2. Your identity

### 1. Surname

Lee

### 2. Forename(s)

Chris

### 3. Name of the firm or organisation where you work

University of Law (student)

### 4. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.

Attribute my/our response and publish my/our name.

### 5. Please identify the capacity in which you are submitting a response. I am submitting a response... as a student studying for a qualifying law degree or legal practice course

## 3.

### 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?

No - the best way to "ensure that the most talented candidates can qualify as a solicitor", to respond "to the changing legal services market" and "to remove artificial and unjustifiable barriers" (paragraph 10) is to ensure more funding and better access to existing academic degrees required for a training contract - namely, qualifying law degrees, the GDL and the LPC.

This is for three reasons.

Firstly, there is little to suggest that the proposed SQE would be a qualification as rigorous as that of a qualifying law degree, the GDL and the LPC. These are academic courses which take a combined total of 2-4 years to complete.

Secondly, even if the proposed SQE were set at degree level, the vast majority of candidates taking the SQE would not be able to pass the exam, given their lack of academic instruction.

Thirdly, and perhaps most importantly, the major barrier to talented candidates at the moment into the legal profession is socio-economic profile and background. At the moment, law firms and chambers overwhelmingly recruit based on class and academic attainment as opposed to competence and talent (see, for instance, Hilary Sommerlad's excellent article: "The commercialisation of law and the enterprising legal practitioner: continuity and change"). Furthermore, many people who would make excellent lawyers are put off studying the GDL and the LPC due to the high cost of such degrees - they feel that the financial risk is not worth the potential reward of a training contract. A key factor is the need for students to make a large number of applications in order to secure training contracts and pupillages. A good friend of mine, who obtained a First Class Honours degree in English from the University of Oxford chose not to take the GDL after being rejected for a training contract by a number of City law firms, due to the large financial cost. Her situation is one that is far from unique. I see myself as a counter-example - having been rejected for training contracts by several firms during my final year at the University of Oxford, I was fortunate enough to have the financial resources to self-fund the GDL - a venture that paid off after I secured a training contract halfway through the GDL. The fact that Oxbridge graduates are being put off entering the legal profession

due to the high financial cost of entry illustrates the scale of the problem faced by the legal profession.

One (not entirely laughable) solution to this would be to create a pool of funding for people without training contracts to study the GDL and LPC - perhaps it could be created by putting a 1% levy on the Magic Circle firms similar to the existing bank levy. Putting a 1% levy on Linklaters (net profit last year: over £50 million) would raise over £5 million pounds - enough to fund tuition fees and maintenance for 166 students of the GDL and LPC (at £30,000 each).

Ultimately, therefore, I see greater funding of existing law degrees and qualifications - either through a levy, as suggested above, or through another source, as the only sensible compromise between ensuring high standards and lowering barriers to entry.

4.

**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?**

No - the model assessment as described merely sets out a series of broadbrush guidelines regarding the topics and format of the assessment, and fails to outline the depth of knowledge that candidates will be required to develop.

5.

**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?**

No comment.

6.

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

b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?

**Why...**

I do not agree with any of the options.

7.

**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?**

The standard for qualification as a solicitor should be set at least at graduate level or equivalent - however, I do not believe the SQE is an adequate means of assessment.

8.

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

No - that's what the training contract is for.

9.

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

No - see answer to 6.

10.

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

No.

11.

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

No.

12.

**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?**

No.

13.

**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 1 and Part 2, to a specified performance standard?**

Not an employer - n/a

14.

**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?**

Not an employer - n/a

15.

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?**

Specification of entry requirements for assessment of solicitors pre-qualifications - if the SRA is determined to push ahead with the SQE - should at the very least incorporate the structure and format of the GDL and the LPC.

16. (untitled)

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

No - and I believe the current routes of entry into the profession are sufficient.

17.

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

If the SQE is instituted, which I do not support, then yes.

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

Percentile rankings.

19.

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

No.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

No comment.

21.

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

No comment.

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

No comment.

## 2. Your identity

### 1. Surname

Wilkinson

### 2. Forename(s)

Chris

### 3. Name of the firm or organisation where you work

The University of York - York Law School

### 4. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.

Attribute my/our response and publish my/our name.

### 5. Please identify the capacity in which you are submitting a response. I am submitting a response... on behalf of a representative group

Please enter the name of the group.: The Association of Graduate Careers Advisory Services (AGCAS)  
Legal Profession Task Group

## 3.

### 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?

General Point: Please note these comments are submitted by the AGCAS Legal Profession Task Group and do not necessarily represent the viewpoint of our individual institutions.

We are not convinced that the SQE meets these objectives.

There is no evidence that it is the initial stages of education and training which causes issues later. Many years of research and planning have gone into the QLD and the LPC's to reach the right standards required for practice.

The current system of education has encouraged students with diverse qualifications into the profession. It is difficult to see how the introduction of the SQE could further widen participation for students from less advantaged backgrounds.

Allowing any number of pathways could lead to confusion about "what is best" and potentially a "two tiered" approach to qualification.

The first may be seen as the 'gold standard' which would be a law degree followed by an LPC equivalent/preparation course for the SQE Part 1, followed by a Period of Recognised Training and then the SQE Part 2 (possibly paid for by the larger employers).

The second would be a 'low cost' option, which would not involve a law degree but which would involve a course designed specifically to pass the SQE Part 1 and Period of Recognised Training (if this could be obtained) followed by the SQE Part 2 (possibly paid for by the individual). There is a concern that some firms may be less keen to employ candidates who follow this route because of the importance to their clients of instructing solicitors with a degree.

It will be harder for universities who decide not to incorporate Part 1 into their law degree to attract students

from less advantaged backgrounds as these students will have to take into consideration the additional (unknown) expense of taking Parts 1 and 2 on top of the law degree. This could impact significantly on Law Schools' ability to meet their institutional Widening Participation agenda.

Opening up more pathways does not mean that more solicitor jobs will be available and this is where the real issue of access to the profession lies. Potentially the introduction of the SQE could result in more 'qualified' applicants without an increase in the number of jobs available.

Max Harris of the JLD (The Junior Lawyers Division of the Law Society) in his letter to the SRA, asked why a central assessment for the LPC could not be introduced. This would create a rigorous, consistent standard. It is not clear from these proposals why the current LPC, which many employers regard as fit for purpose, should be discarded particularly if it was to be more rigorously regulated by the SRA.

We are also very concerned about the potential divergence between the SRA and the Bar Standards Board which seems likely to continue to require a QLD. This is likely to force students to make a choice of profession at an even earlier stage and cause even greater confusion.

4.

**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?**

No.

The assessment is based on the QLTS which is designed to test a different type of applicant from many of those likely to be taking the SQE.

We understand that the test can be taken as many times as the candidate wants and as such would favour candidates who can afford to do this. This has ramifications from both a diversity and quality perspective.

There is concern that the tests for Part 1 are to use computer based multiple choice questions. This is an entirely different and narrower skill set to those that are developed by law graduates where students are taught to look at both sides of a problem. How can these higher level analytical reasoning and legal writing skills for example be adequately demonstrated in a set of multiple choice questions?

If Part 2 is to be centrally assessed using case studies and practical role plays - how will this be done when on average 5,000 training contract positions are available each year? Even if done on a modular basis we cannot see how that would actually work in practice without excessive delays etc. to those wishing to start work and get their practising certificates.

5.

**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?**

In the event that the SQE is introduced we agree that it would make sense for all of the different routes to be assessed in the same way.

This however has access and cost implications for those who have passed relevant and appropriate assessments in other jurisdictions.

6.

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

b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?

## Why...

This would depend on the objective for Part 2 assessment: A common level to be reached by all solicitors and therefore compulsory modules for all or a narrower common level for all with other activities added according to specialism?

From a 'careers' perspective the better option would be for 'trainees' to gain as broad an experience as possible and as such Option (b) would be the most likely to achieve this. This assumes that candidates will have sufficient knowledge at this stage to make this choice.

If Part 2 is to be taken after the Training Contract (or Period of Recognised Training)/work experience there does not seem much point in assessing trainees in contexts in which they are not going to practice. This will involve additional study, more time out of their jobs (which law firms would not be keen on) and possibly further costs. It could also lengthen the time taken to qualify.

## 7.

### **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?**

Should the SQE be introduced we would suggest that it be set at the current level, namely a significantly higher standard than graduate level.

Being a competent solicitor requires two things - having the intellectual capacity to know and understand the law and having the high level practical skills to be able to work with the law in practice. This is beyond graduate level and only comes with a mix of academic and practical work experience.

Paragraph 56 seems to remove the need for the LPC and Training Contract. This seems to be at odds with the overall aim of being "better than the current system" (Paragraph 53). Clients need to be confident that the individual who is managing their case is educated and qualified at a higher level than graduate level.

If the profession is not to be devalued then it should require a professional postgraduate level qualification to maintain its professional standing and its international reputation for quality and integrity.

## 8.

### **6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

We agree that the model of assessment ultimately implemented by the SRA should continue to require some form of pre-qualification workplace experience.

From a qualitative and personal development perspective pre-qualification work experience is essential to preserving the standing of the profession and consumer confidence. Furthermore the work experience requirements in the UK differentiate E&W trained lawyers from those from other jurisdictions where this isn't a requirement. We believe that this reinforces the quality of our lawyers over their international counterparts.

It would be difficult to assess candidates for Part 2 if they have not undertaken pre-qualification experience.

Having a period of experience is important for trainees to enable them to decide which practice area suits them. It also allows employers time to teach them valuable higher level practical legal skills that are not acquired at university.

## 9.

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

Yes.



The current two year training contract seems to be a sensible period of time to gain the necessary experience to operate as a competent lawyer.

Without a specified length of pre-qualification workplace experience this could be a licence for firms/'trainees' to do what they wanted and therefore could be open to possible abuse, with the potential of impacting negatively on the profession on a number of levels.

10.

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

We believe that the most effective model would include a combination of both a minimum pre-qualifying time period and a specification of the competences to be met.

As acknowledged in Paragraph 64 however there will be considerable costs in administering this model.

11.

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

To incorporate this as standard practice, we believe would require a highly structured framework and careful regulation of the experiences to ensure that the quality of the training is not diluted. We feel that this might be too onerous to be workable.

Legal work experience during a degree is very useful but may be for short periods of time and therefore difficult and expensive to assess to the standard required to maintain confidence in the profession.

Exceptions to this might include 'mature' students or those who have secured longer work experience placements, such as 12 month professional placement at university.

12.

**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?**

Yes.

Workplace experience is essential. To allow someone to qualify without this sort of experience would undermine and devalue the qualification. This could also have Professional Indemnity implications.

13.

**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 1 and Part 2, to a specified performance standard?**

Not applicable.

14.

**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?**

Not applicable.

15.

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?**

This is important to both support the credibility of the assessment and to protect consumers and students not only during the transitional period but we would suggest beyond this.

Paragraph 69 raises many issues including who will these organisations be, how much will these courses cost and how long will they take? In order to maintain the credibility of the legal profession it is extremely important that the SRA prescribes and monitors approved organisations to enter this market.

Paragraph 70 refers to the Law Society and JLD's view about retaining the LPC and introducing a common professional assessment. The SRA states that this will not reduce costs. Parts 1 and 2 however will incur unquantified and unspecified costs.

**16. (untitled)**

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

No for the reasons already outlined in Question 5. Equivalent educational qualifications should also be recognised.

It is important for the credibility of the legal profession that studying and learning the law is still regarded as an underpinning requirement for every potential lawyer.

Holding a degree or equivalent we believe underpins public confidence in the profession, and puts it on the same level as barristers.

Many other comparable professions require a degree level qualification (Doctors, Engineers, Architects, Nurses, Accountants etc.)

Previously it has been possible to qualify without a degree but the work that qualified lawyers now undertake is vastly more complex and technical and requires graduate skills and attributes as well as intellectual rigour.

**17.**

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

Yes.

This would enable candidates to differentiate themselves. It is likely that employers will also want to have access to this information.

The control referred to in Paragraph 83 could be achieved through keeping good records of LPC students and trainees.

Paragraph 84 states, "It would provide objective evidence of the quality of a candidate and their suitability to be a solicitor." It is difficult to see how this differs to achieving a pass, a commendation or a distinction on the LPC.

Paragraph 85 raises the issue of 'candidates with more resources could afford to pay for additional re-sits to improve their scores' and it is not clear how this would be addressed or reflected in the information provided on individual candidates.

**18.**

**16.**

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

We believe that it would be important to publish information on both candidate and training provider performance to facilitate differentiation of results on the SQE.

This would be helpful for employers and candidates.

**19.**

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

Without having further information in relation to the full scope of the proposed SQE it is difficult to anticipate the full EDI impact.

Paragraph 88 highlights how much of an unknown cost the SQE will be.

Paragraph 90 states that £12,500 would be removed from the cost of qualification with the abolition of the LPC or PSC. There would however be costs attached to the preparation for and sitting of the SQE.

We feel that the whole aspect of costs is rather optimistic - i.e. that costs will reduce. We cannot yet predict how the universities will react so do not yet know whether Part 1 will be an additional cost for students (on top of a law degree). This will undoubtedly affect student choice and diversity.

Nor do we know how providers will react - if they are forced to make courses cheaper than the LPC will they be able to maintain the required standard and quality?

Will firms still insist on an LPC? It is unclear what they may be prepared to pay for. It may become common practice to pay for Part 2 only and this would have a significant impact on EDI and put some candidates in a worse situation than they currently are whereby some firms fund the GDL and LPC.

There is a concern that if some universities do change their courses to accommodate Part 1, the students will be forced at a much earlier age to decide which career route they wish to follow - this will not help diversity.

**20. (untitled)**

**18. Do you have any comments on these transitional arrangements?**

The primary concern is that the arrangements are going to cause a great deal of confusion and uncertainty for both current and incoming students (see comments under Question 20).

There may be implications for current first or second year students who plan to take a year out.

**21.**

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

At this stage we do not foresee an issue with this cut-off date. However this position may change as further details of the proposed programme emerge.

**22. (untitled)**

**20. Do you consider that this development timetable is feasible?**

We do not believe that this timetable is feasible. If universities want to change their curriculum it usually takes 3 years - this takes us well beyond the date that the SQE would come into force.

Students in their 2nd year are currently being offered Training Contracts to start in 2018/19 - the date for the introduction of the SQE. This will cause uncertainty - what sort of contract are they going to sign and who is

going to decide which route to qualification they take – the student, the firm or the SRA?

Students in Year 12 are currently making university choices and they are likely to be most affected by the first changes. How can they possibly decide about which law degree to take with all this potential change going on in the higher education market?

What message do we give to incoming students?

Additional comments:

We have welcomed the opportunity to respond to this important consultation.

We have however noted that the document contains a number of examples of conflicting evidence which has caused confusion. This coupled with a lack of robust statistical information has made it difficult to respond to some of the questions as comprehensively as we would have wished.

We look forward to hearing the outcome of the consultation.

AGCAS Legal Profession Task Group:

Chair: Chris Wilkinson (University of York)

Morag Brocklehurst (London School of Economics)

Bridget Lavin (Brunel University)

Helen Lovegrove (King's College University of London)

Susan Rees (De Montfort University)

Jan Steele (University of Southampton)

Juliet Tomlinson (University of Oxford)

## 2. Your identity

### 1. Surname

Perry

### 2. Forename(s)

Christina

### 3. Name of the firm or organisation where you work

Queen Mary University of London

**4. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Attribute my/our response and publish my/our name.

**5. Please identify the capacity in which you are submitting a response. I am submitting a response... as an academic**

Please enter the name of your institution.: Queen Mary University of London

## 3.

**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?**

No. The objectives set out in paragraph 10 are particularly of concern from an equality and diversity perspective. If the level of knowledge that is to be assessed in the SQE is of the same level as that presently assessed during the Qualifying Law Degree or GDL process, then there is likely to be a material additional burden on students. The consultation indicates that the SQE should be at least at graduate level. This, together with the knowledge requirements listed in the SQE, means that the SQE will require additional time and cost to undertake. This additional time and cost will disproportionately affect students from poorer backgrounds, who are disproportionately likely to be students of BAME origin.

It is not possible to assess whether the introduction of the SQE meets the objectives set out in paragraph 10 without knowing what the pathways to the SQE will be. The first objective assumes that that standards at the point of admission will be higher quality with the SQE than at present, but the introduction of a system with a significantly expanded number of pathways to qualification (and, in particular, many pathways without a degree) could lead to lower quality standards of candidates at the point of admission than at present.

The SRA has indicated that undergraduate institutions may provide the SQE Part 1 knowledge in the Law degree. If all of the subjects listed in the SQE Part 1 were to be studied properly at graduate level, there would not be time for students to pursue any other subjects. Students would not be able to study such popular optional subjects as Labour Law, Family Law, Public International Law, Human Rights Law, etc. These subjects are all very important and relevant to the practice of many solicitors. The SQE Part 1 subjects seem designed to reflect a traditional law practice that does not reflect the reality of practice for many solicitors, whose practices are increasingly highly specialised. In addition, many students do not decide on a career path until they are well advanced in their studies. Requiring students to study all of the SQE Part 1 subjects at graduate level would mean that students would be required to choose their career path at the very beginning of their degrees.

## 4.

**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?**

No. There are two significant ways in which the proposed model assessment does not provide an effective test of the competences needed to be a solicitor. The first way in which the proposed model assessment does not provide an effective test of the competences needed to be a solicitor is because it does not assess many of the competences needed for the modern practice of many solicitors. The subjects examined in the proposed Part 1 SQE contain nothing concerning international or trans-national issues. They are heavily focused on private law rather than public law and do not address areas of law affecting social justice or welfare such as Family Law, Employment Law, or Immigration Law.

The second way is that there is no evidence to suggest that multiple choice or true/false questions alone can show skills and abilities at graduate level. 2.2 of the Law Subject Benchmark Statement states "degree-level study in law also instils ways of thinking that are intrinsic to the subject, while being no less transferable. These include an appreciation of the complexity of legal rules and principles, a respect for context and evidence, and a greater awareness of the importance of the principles of justice and the rule of law to the foundations of society". Multiple choice and true/false questions can test basic knowledge, but they cannot assess the analytical skills and understanding of a graduate.

5.

**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?**

No. Students who have studied the subjects required at present for the Qualifying Law Degree or GDL should be exempt from the SQE Part 1 knowledge test. Students who study those subjects at degree level at present already study these subjects to a high level of competence at graduate level. Allowing such exemption arrangements would provide sufficient assurance for regulatory purposes that the students are obtaining the required knowledge. The proportion of students receiving 2:1 and First class degrees ought not to be of concern to a regulator, if the focus is to be on minimum standards.

This is also the case because universities are significantly regulated and already provide consistent standards. Such standards are set forth in QAA and acknowledged by HEFCE. HEFCE has acknowledged this in para 25 of Future approaches to quality assessment in England, Wales and Northern Ireland: Consultation): "The proposals should not be seen to cast doubt on the ability of the current system to secure the reputation of the UK higher education system over recent years". Also, at para 81 HEFCE said: "It is important to note that as funding bodies we are not advocating a shift away from the autonomy of degree awarding bodies to set and maintain standards. Nor are we proposing the development of either a national curriculum or a national student examination. Far from it. Rather, we are seeking to develop established elements of the wider quality assurance system so that clearer assurances can be provided to students, governments and other stakeholders on the issues that matter to them."

6.

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

**Why...**

No opinion.

7.

**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?**

Yes. The standard of qualification should be set at graduate level or equivalent and students who possess a law degree or another degree as well as the GDL ought to be given credit for achieving this standard through their university studies. Most other jurisdictions require lawyers to be graduates or equivalent, and an increasing number of professions require entrants to those professions to be graduates. An exam cannot replicate the experience of graduate-level study.

8.

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

Yes.

**9.**

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

Yes.

**10.**

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

No opinion.

**11.**

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

Yes.

**12.**

**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?**

Yes.

**13.**

**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 1 and Part 2, to a specified performance standard?**

Not applicable.

**14.**

**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?**

Not applicable.

**15.**

**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?**

Yes. The prescription and regulation of training pathways are necessary for the protection of consumers of legal services and students as an ongoing matter. We consider that a law degree ought to always form part of a recognised pathway to being admitted as a solicitor. Students who undertake law degrees have a number of different career possibilities in addition to becoming solicitors, but many such students do wish to become solicitors, and law degrees offer unparalleled training for this purpose.

**16. (untitled)**

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

We think that the majority of solicitors should be required to hold a degree. The best way to demonstrate that a graduate standard has been reached is the possession of a university degree. The SRA has spoken positively of the standard for medical training, but it remains a requirement that doctors should have a

medical degree.

There will be certain instances where people are able to show that they have achieved a graduate standard without obtaining a degree, such as apprenticeships, or people who have achieved the required standard in the workplace or in another country. Many of these alternative routes were designed to benefit those who were prevented from obtaining degrees due to institutional and environmental barriers. In the modern climate, many of those barriers have been removed. We consider that the majority of solicitors should achieve a graduate standard by obtaining a degree.

17.

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

No opinion.

18.

16.

**What information do you think it would be helpful for us to publish about:**

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

It is not possible to provide a meaningful answer to the question without more information about the assessments themselves.

19.

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

Yes. We foresee significant negative EDI impacts to this proposal. Please see the answer to question 1 above.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

The transitional arrangements should not be considered definite until the proposal has been approved.

21.

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

No opinion.

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

No opinion.



## Consultation questions

### 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?

#### ASJAB1:

- Re the high quality standard - if it is introduced as suggested and kept to a very rigorous level then yes. Would be very important that there is no perception of grade inflation or it being easier than graduate level.
- Re diversity and meritocracy - would be dependant on the discussions we had yesterday re modularisation, time frames, resits and, most importantly, flexibility while maintaining high standards.

#### ASJAB2:

- Re high quality standard - I agree with ASJAB1 that it must be rigorous enough to ensure that the intended high quality standard is met. I also think that specifying that candidates must undertake prequalification workplace experience will be crucial to achieve this standard.
- Re diversity – I think the introduction of the SQE will definitely level the playing field for the future generation of lawyers. However, it is essential that there is flexibility and clear guidance as to what each module/stage will cover so that the individual can make an informed decision as to whether or not they think they are ready to sit the exam.

#### ASJAB1:

- Re high standards: Careful consideration needs to be given to if Part 1 should be *entirely* multiple-choice or whether there are some prose based answers. I did touch on this below in question 2 but think it could do with reiteration. This could be a big stumbling block to the perception of the SQE of ensuring very high standards (again, as said below, to a level *higher* than graduate: see answer to question 5).
- Re diversity: we spoke about this a lot in the meeting and I know it was something ASJAB2 was specifically concerned about but the criteria for passing the SQE *must* be clear, open and accessible. It cannot be like current marking schemes as found on places such as AQA (which are hard to find and muddled). A dedicated website to the SQE would be extremely desirable with the criteria being put out in a clear format with a step by step guide to how to completing the SQE, the requirements of each stage, and the associated cost.

ASJAB3: agree with both ASJAB5 and ASJAB1.

ASJAB4: Yes.

ASJAB6:

*On ensuring consistent and high quality standards at the point of admission*

- Undoubtedly a new common professional assessment goes some way to provide an up-to-date benchmark of quality for aspiring solicitors. It enables the proficiencies of students from a variety of different academic and non-academic backgrounds be assessed on a level playing field. The two phases of the proposed qualification route will also ensure that certain skills can be said to be achieved at different stages.
- However, there is an argument that the current route of GDL/LPC needs reform rather than a complete overhaul. As alluded to in other areas of the Consultation, the fact that there will be a period of time during which the credibility of the common professional assessment will be questioned will cause concern amongst employers who may wish to retain their 'old' benchmark standards in the form the undergraduate degree and GDL/LPC. For example, reforming the current status quo so that all assessments are centralised may achieve the desired objectives of increasing the consistency of high quality standards at the point of admission, whilst also retaining the confidence of future employers.
- Ultimately, the introduction of a common professional assessment on its own will never fully resolve the problems with the current regime. To ensure that the highest quality candidates are admitted on a consistent basis will require a combination of academic assessments and real experience in the workplace.

*On ensuring the most talented candidates qualify by encouraging the development of new and diverse pathways to qualification*

- Although mostly addressed in the answer above, I will stress and repeat that an assessment on its own is not the panacea for ensuring only the best candidates are admitted. Nor will it remove all unjustifiable and artificial barriers; although this concept is entering its mere adolescence, we still have not heard how many providers will be recognised by the SRA to provide the preliminary training? What will the total costs be of sitting the assessment? Will materials be included? Will the syllabus be taught mostly online or taught in person? What about students who fall short of the academic requirements because of mitigating circumstances? These are all vital questions that need to be addressed before any statements can be made about whether the assessment would increase social inclusion by removing barriers.

ASJAB5: Yes.

## 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?

ASJAB5: Yes.

ASJAB1:

- Remove Part 1 must be passed before attempting Part 2. There must be flexibility here (especially re apprenticeships and vocational legal courses) [para 43].
- Might also want to consider whether Part 1 should be *entirely* 'premeditated response questions'. Many will raise the typical objection of 'multiple guess' exams [para 41] and go against idea of it being a test maintaining high quality.
- Important that there is *no* requirement of an undergraduate degree [para 44] but that it is made clear that it will be exceptionally difficult to become a solicitor without one.
- Should not be a simple pass/fail system. Standardised grading is essential from a diversity and social mobility standpoint [Annex 5.3.2.4].
- Requirement that each area be passed twice might have scope for linking to practical on the job training (a crucial requirement in my opinion) [Annex 5.3.3.7].

ASJAB2:

- I like the idea that there should be no requirement for an undergraduate degree however it really needs to be stressed that undertaking a law degree/GDL is advisable so as to meet the high standards to pass/achieve a high grade. I believe that universities will see this as a massive opportunity and can imagine the introduction of intensive law degrees that can be sat in one year (like the GDL but without the requirement of a prior degree)

- I agree with ASJAB1 that the grading system should be standardised to allow individuals to stand out if they achieve a high mark. On my LPC the skills assessments are assessed on a competent/not competent basis and as someone who performs well in advocacy, I would have much preferred to have a grade at the end of the assessment rather than 'competent'.

- I actually disagree with ASJAB1 re Part 1 and 2. If part 2 will require knowledge expected from Part 1 then I think Part 1 needs to be sat before 2 to ensure that they are ready. In addition, it will also save the individual on

costs because if they cannot pass or achieve a good mark in Part 1 then they may make the decision not to spend the time or money trying to pass Part 2.

ASJAB3: I agree with ASJAB1. Students should be able to juggle both Part 1 and Part 2. I think this will be an important factor in making the SQE a much more affordable alternative to the LPC, as it would mean that students could undertake paid work experience whilst studying Part 2. This may also enable students to achieve higher grades in both parts of the assessment, as working would probably necessitate a more organic and speedy acquisition of Part 1 knowledge. I also agree with ASJAB1 regarding the grading. Standardised grading is more meritocratic.

ASJAB4: Agree with the point re flexibility – Part 2 shouldn't necessarily have to be completed before Part 1, although it may make sense to do so.

With all honesty, I'm undecided with respect to whether an undergraduate degree should be required. From a diversity perspective, it could be argued that removing the requirement for an undergraduate degree really opens the doors. But from a quality perspective, although I think many of us will agree that our law degrees have not really helped in practice in terms of the content we learned, I still believe that it was worthwhile due to the skills that were gained. Moreover, it is agreed that it would be very difficult to complete the SQE without completing a degree.

My concerns are more closely related to whether removing the requirement of an undergraduate degree will really assist in terms of diversity. Law firms will always have to distinguish between people, so even if the SQE is completed by someone who hasn't got a degree, would law firms pick that person ahead of someone who does? If this is the case, are we not replicating the current problem by giving people the opportunity to spend time and money on a course which in fact may not lead them to obtaining employment? (Analogy with completing the LPC without a Training Contract in place). Are we stating that the SQE is going to be the fundamental distinguishing factor for law firms and is this realistic given that degrees still/will exist?

We also touched on the fact that it is difficult to envisage the long-term consequences of the SQE in terms of diversity i.e. would someone who has completed the SQE be more favourable compared to someone who has completed the LPC later on down the line? Equally, would someone who has completed the SQE alongside a degree be more favourable compared to someone who hasn't? Although everyone would be required to complete the SQE, from a law firms perspective, would a person who completes the SQE without a degree have equal standing to someone who has completed the SQE with a degree?

I don't know the answer to these questions but perhaps it is something to think about.

Perhaps a solution *is* to require people to complete an undergraduate degree as well as the SQE, creating a level of consistency that is fundamental to this whole project. Perhaps the diversity problem associated with going to university can be addressed by the SRA pushing law firms to engage with apprenticeship programs similar to that of [leading international law firm], of course, adapting it by removing the LPC and replacing it with the SQE (A six year work and learn programme where at the end of the 6 years the apprentice is qualified to the same level as a trainee who has gone through the traditional route of completing a degree as well as the relevant qualification exams). I think this would assist in creating a consistent framework whereby whichever route you take, you have completed a degree and you have completed the SQE.

ASJAB1: I understand ASJAB4's concerns and have seen/heard them repeated a number of times. I do, still, strongly disagree with requiring an undergraduate degree.

It is clear from looking at the ACA, ACCA, and CII that in the vast majority of cases employers require their candidates to have degrees. Most have graduate schemes that run an accelerated qualification routes. It varies from employer to employer as to how they are completed. [Leading accountancy firm], for example, internally undertake intensive full-time studies. By contrast, [large accountancy firm] sends their grads to [postgraduate centre] part-time while they also work for the firm. [Large accountancy firm], as with many others, also allows their interns to undertake some of the modules during their placements – especially if they are undertaking a year in industry with the firm.

One of the great strengths of such a system is that all people, irrespective of their route to qualification, share an identical qualification. This means that people who join the firms straight out of sixth form have the same ACA/ACCA/CII as those who have completed degrees. Yes, those with degrees might end up being promoted quicker or finding it easier to get jobs elsewhere but many who don't have degrees go on to be extremely successful.

From what I understand the SQE will work in a similar way. Legal apprenticeships will be working to pass their SQE just as those doing a degree will be doing the same. Yes, employers may regard the average graduate as better than the average apprentice but so long as the SQE is rigorous enough, this will just be unfounded prejudice against alternative routes. It would then be down to the SRA and organisations like Aspiring Solicitors to change opinions of alternative routes. If we can say with confidence that anyone who passes the SQE is of an equal standard then we will already be winning that fight.

The most important thing is that the SRA is not putting barriers to exceptional people exceeding despite breaking the mould. A degree requirement would be one such

barrier. It is irrelevant that the vast majority of employers will still require a degree. If a handful of people are good enough to pass the SQE and go on to find employment despite not having a degree, then the SRA should not stand in their way.

A final point, I think it is also very important that this issue is not *City-centric*. We keep talking about what firms require but we are generally only talking about it from a City perspective. I am sure that a greater number of smaller local/regional firms would benefit a great deal from being able to offer alternative routes to qualification but still be regarded as of an equal standard as large London firms. This is because many simply can't afford to offer training contracts and/or bursaries for the LPC.

ASJAB6

No. There is not enough information here to say definitively whether an effective test for the key competencies of a solicitor would be achieved with the introduction of the two-phase assessment.

What I take particular issue with is Part 1 of the assessment. Computer based assessment does not enable the assessor to rigorously test various skills, such as critical thought and analysis, lateral thinking, problem solving and unprompted recall of information etc, which are fundamental skills for all solicitors. There is no evidence that the assessment of the knowledge requirements for a lawyer through multiple choice questions or true or false questions can, in itself, demonstrate that a person who has passed that part of the assessment possesses the skills and abilities of an undergraduate, or even a postgraduate.

I envisage these are details that may come to light as we progress into late 2016/early 2017 once the assessment framework has been produced.

### 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?

ASJAB5: Yes. In the ideal world I would like to see it replace the LPC – though I know that this is not feasible.

ASJAB1: Yes - it will bring parity to all routes to the profession and not restrict the development of alternative route solicitors

ASJAB2: Yes

ASJAB3: Yes – the proposed format of the SQE covers such a wide range of competencies that I believe any intending solicitor should possess.

ASJAB4 – Yes

ASJAB6 – Absolutely.

#### Question 4

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

- offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

ASJAB5: Option 1 because the objective of the SRA is to form a test that must be undertaken by all candidates at a standardised level, and I think that that will be lost if candidates are able to pick and choose. However the assessment contexts are very broadly described in the Consultation Paper so I wonder how Option 3 would tie in. Would these be tailored depending on the area of law a candidate wishes to pursue? What if the candidate does not know which area of law they wish to pursue?

ASJAB1: I agree with ASJAB5.

ASJAB2: I was initially swayed towards Option 3 but I appreciate ASJAB5's point that the standardised level may be lost if the exam becomes too flexible. I think this is a tricky one and there are a lot of positives and negatives for both options.

ASJAB3: I also agree with ASJAB5. It should be mandatory for students to undertake assessments in those areas outlined in the consultation paper, so long as these are the core competencies and firms agree that these skills are essential.

ASJAB4 – Agree with ASJAB5.

#### 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?

ASJAB5: Yes, it is of course very important to maintain a high standard. This way nobody can criticise the SQE for making it too easy for people to become solicitors.

ASJAB1: I agree with ASJAB5. In some ways, to best mimic and improve upon the current route, it should be at a level *higher* than graduate to reflect the current requirements for the LPC and two years work experience.

ASJAB3: I agree with both ASJAB5 and ASJAB1.

ASJAB5: I also agree with both ASJAB5 and ASJAB1. This academic level should be clear from the outset in order to both deter criticism and to allow non-graduates to make a truly informed decision.

ASJAB4: Agree with ASJAB1 that it should be set at a level higher than graduate level. This is mainly because of the lack of clarity as to what graduate level actually is, therefore the SRA need to try and establish as much as possible what graduate level is and then set a level slightly higher than that in order to qualify.

## Question 6

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

ASJAB5: Yes but I think it should be flexible. There are skills that you acquire on-the-job that are impossible to learn from a book. I know that I personally learnt a great deal about working as a lawyer just from my 3 week vacation schemes during the summer, that I could never have learnt academically. However, there should definitely be some flexibility regarding “how” you obtain the workplace experience – in my opinion there are many paralegals that are just as good as qualified trainees and this experience should not be overlooked.

ASJAB1: Yes - this is a crucial selling point of English and Welsh solicitors at the moment. Practical experience is key. However, on reflection, I think that although the *type* of work experience required needs to be flexible, it must still be of the high quality of that gained through training contracts (regardless of current issues of lack of exposure for some trainees). I think experience such as at CABx or university legal clinics might better be viewed as practice for the Part 2. The actual requirement for workplace experience should be separate. As such, in my view, there should still be a minimum time of workplace experience along the line of trainee level BUT with dispensations given to those who have already undertaken substantial workplace experience. E.g. a paralegal who has spent 3 years in a firm’s commercial department reviewing documents might be given a year long dispensation and only required to undertake x months of contentious workplace experience, etc. I am still unsure how precisely this would tie in with Part 2 but that should be covered in the second consultation in more detail.

ASJAB2: Yes, I agree with ASJAB1 that practical experience is key for both the profession and the individual themselves. Working as a paralegal for three months



over the summer taught me so much that the degree and LPC couldn't so I definitely think that prequalification workplace experience should be a requirement. I also agree with ASJAB5 that too many paralegals are overlooked despite them being more than capable of carrying out the work of a trainee solicitor.

ASJAB4: I think that pre-qualification work experience (through a Training Contract) most definitely should remain. I agree with ASJAB5 and ASJAB1 to an extent. I have paralegalled myself for a short amount of time, and through this process I have understood the following:

- A) There are many paralegals who are carrying out work to a similar standard of a Junior Associate. On this basis, there should be some form of dispensation.
- B) There are also many paralegals who are not carrying out work to a standard of a Trainee Solicitor. Many are carrying out administrative work and general support, and on this basis, even if you have been doing this for 4 years, should not mean that you benefit from a dispensation.

Great caution must be taken as regards dispensations. There is no general job description of a Paralegal and therefore there is no consistent understanding of what Paralegals do. As a result, the dispensation should be based upon the quality of work that you have participated in not the amount of time that one has spent Paralegalling. How this would be assessed is a difficult question. The SRA perhaps could create some sort of form which lists the requirements of what one needs to complete in order to benefit from a dispensation i.e. if you have paralegalled in a litigation department, you would perhaps have needed to have drafted documents, attended meetings with Counsel, taken witness statements etc. This would have to be of course verified by a Partner of the firm that you have worked in.

I also think that whilst there should be dispensations, especially for the Paralegal who has done so for 4 years and completed work to the standard of a Junior Associate, for the purpose of consistency, there should be a minimum requirement of time spent on a Training Contract, perhaps 18 months as opposed to 2 years. In essence, the maximum dispensation could be 6 months. The reason being – even if you have paralegalled in litigation for 4 years, this does not mean that you have sufficient understanding of how to be a lawyer in Corporate Finance, Real Estate, etc etc. One of the points of the work experience gained from a Training Contract is to enable a Trainee to be able to understand different aspects of the law and apply themselves adequately. Therefore, I think there should still be a requirement of experiencing at least three different seats and this would also create a level of consistency across the board.

Question 7

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

ASJAB5: In the ideal world, no because certain candidates may learn faster and certain candidates may be exposed to a wider range of experiences in a shorter period of time. Realistically however this would be very difficult to measure on an individual basis. Perhaps there could be different skill categories such as “a minimum time period of 6 months exercising X Y Z set of skills, a further 6 months learning to do A B C”, instead of a blanket label of “2 years work experience as a trainee”.

ASJAB1: Fantastic idea from ASJAB5. The requirement could be: “a minimum of 6 months [or any other period of time], with a further x months until completion of Part 2”.

ASJAB2: If there is to be a minimum time period then I think that 6 months to a year should be the absolute minimum.

ASJAB3: Yes great idea, ASJAB5. However I think the SRA needs to be conscious of overlap because clearly a student will be developing numerous skills simultaneously. I am also conscious of the fact that it may be harder for some students to secure longer periods of work experience, so would like the minimum period of time to be set at lower than 6 months, perhaps with a recommendation of 6 months though.

## Question 8

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

ASJAB5: Yes I think this is exactly what I was referring to in my answer to question 7.

ASJAB1: Same as ASJAB5. Also touched upon in response to question 6.

ASJAB2: I think that realistically, both will be needed. Also, to meet those competences, it is likely that practical experience will be necessary anyway.

AASJAB3: Absolutely. I think it would be helpful for the SRA to issue some form of checklist/collection of guidelines that will instruct both the student and their employer as to how to meet the requirements. This should not be in the form of rules or mandatory requirements in order to reflect the varying nature of law firms and the departments within them. If I were undertaking the SQE, I would want to see a block of guidance for each Part 2 skill, telling me the sorts of activities that *could* be undertaken in order to best prepare me for sitting the assessment for that skill. It

would be important to caveat any guidance, however, with an assurance to students that they need not complete all or any of these tasks in order to pass the exam. Emphasis must be placed on the subjective nature of Part 2 and the fact that students should look to their own experience, abilities and instinct when deciding to sit the exam. The guidance would merely be available should students wish to use it. I think guidance would also benefit employers: they would know from the outset the sorts of tasks that students need to be undertaking, so it would provide them with clarity.

ASJAB4: Agree with ASJAB2 – I think both are needed.

## 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?

ASJAB5: I definitely think there should be a compulsory period of time spent working in an actual legal career environment prior to qualification (as referred to in question 7) but some of the skills required by Part 2 of the SQE could certainly be obtained before then. During my first year of university we were offered an advocacy course that consisted of a 6 week intensive course that taught us a great deal about advocacy – this is something that perhaps could be considered with relation to Part 2.

ASJAB1: Covered in response to question 6.

ASJAB2: Definitely, someone who has taken part in mooting competitions for example may feel that they are more than capable of passing the advocacy part of the exam so I think that this experience should be recognised.

ASJAB3: Yes – this would allow students to fully benefit from in-house and commercial work experience.

ASJAB4: Covered in Q6. I think this should be the case up to a certain point.

## 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?

ASJAB5: It may not be necessary if the exams undertaken prior to qualification as part of the SQE are of a particularly high standard. I also wonder if firms would keep

trainees on board if they reached the qualification stage and were not up to standards, since they would be a liability to the firm.

ASJAB1: Again, ASJAB5 hits the nail on the head. The worry about a requirement of doing workplace experience might just replicate the current system of firms signing off a wide range of abilities. This would be solved by the Part 2 being linked to the workplace experience so it is no longer down for firms to decide and for the SRA alone.

ASJAB3: Agree with above.

ASJAB4: Agree with the above.

### 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 1 and Part 2, to a specified performance standard?

All: N/A

### 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?

All: N/A

### 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?

ASJAB5: There are currently a very high number of candidates who express interest in becoming a lawyer but somewhere along the way the "traditional route", either at the Law A-level stage or halfway through their LLB degree, they realise that actually it is not suited for them. So having some entry level would be ideal just so that those candidates do not waste their time or money sitting an exam that is not suited for their needs. I am unsure of how this could be formulated. I was initially going to suggest that graduates to have achieved at least a 2:1 at the end of their degree, but

this is not necessarily indicative of very much since most students obtain a 2:1 without much scrutiny into the quality of teaching they have been exposed to. So yes I think there should be an entry requirement but I am unsure how this could be created so as to provide fair opportunities for everyone but also filter out those candidates who find out later in their careers that being a lawyer is not for them. I do not however think that an entry requirement is necessary for consumer protection because if a candidate is not fit to be providing legal advice, then they will not be able to pass the SQE in the first place.

ASJAB1: I don't actually know what this question is precisely getting at. If, as ASJAB5 has taken it to mean, should there be entry requirements for the SQE I don't think there should be any. If the test is rigorous enough and the cost not too restrictive then that should be enough. Universities' current use of the LNAT might be adopted to sit the SQE but, again, I don't see the worth? If the test is rigorous yet accessible enough then why add another hurdle to pass? If, on the other hand, the question is about whether there should be a set way of taking the SQE, then, again, I think not. There should be clear suggestion as to the best and most reliable way of approaching the SQE (presumably through an SQE-integrated law degree or a postgrad SQE-GDL equivalent) BUT whilst also making it clear that it is a flexible thing where the onus is on the individual to undertake the tests if and when they are ready.

#### Question 14

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

ASJAB5: A degree is useful, and I would personally not have taken another route, but I do not think it is the only way to create a good lawyer. A lot of the skills you obtain after a degree do not necessarily dictate if you will be a competent solicitor.

ASJAB1: No. It should be made clear that it will be difficult to achieve the academic level required to pass the SQE without one but it should *definitely not* be a requirement. Defeats the point of flexibility and allowing non-traditional routes.

ASJAB3: I am massively in favour of scrapping the degree requirement. Some of the most intelligent and pragmatic people I know don't have a degree and I would love to see such people, who have natural ability, able to access the profession.

ASJAB4: Mentioned my viewpoints on completing a degree above. I do agree with the above however, especially with ASJAB3 in that many of the leading businessmen and women do not in fact have a degree. Therefore, removing this requirement does make the profession more accessible. However, my point above more closely relates to whether law firms will discriminate on this basis, and if they will, then I wouldn't want to give people a false sense of hope similar to that of the

current situation where people self-fund the LPC in the hope of obtaining a TC but on many occasions never in fact obtain one. Although the SQE will be cheaper, it would still be a similar situation whereby people are pursuing a route but their chances of achieving their end is actually quite low. If somehow it could be established/ascertained that law firms will value the SQE above and beyond everything else, and not really assess on the basis of degrees anymore, then removing the degree aspect would be fine. But this is a huge movement which I am not convinced that law firms will take. I think further consultation is needed on this.

If any of you have time, take a look at the qualification that chartered insurers currently have to go through. In a similar fashion to what is proposed through the SQE, individuals are required to take various exams and complete them as and when they are ready. Certain exams will require you to have completed a degree/worked in the environment in order to give you the best chances of success. So this seems quite similar to what is proposed by the SQE. Now in practice, insurers are selecting their graduates on the basis of other things (not just the relevant exams that are required). They are having to distinguish between candidates on the basis of their degrees and experience as a result of how competitive the market is. Moreover, they do not necessarily believe that by virtue of completing the relevant qualification exams that they immensely stand out. Most insurers will fund the examinations and are looking at other things (degrees and work experience) as opposed to whether the qualification exams have been taken. I am conscious that this may be a similar fate for the current SQE system.

## Question 15

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

ASJAB5: Yes it would be valuable data to have and be able to present on application forms for jobs.

ASJAB1: Yes, as discussed above.

ASJAB3: Yes, although this could lead employers to require candidates to divulge both sets of information. Perhaps comparative performance info should be available upon request?

ASJAB4: Yes.

## Question 16

What information do you think it would be helpful for us to publish about:

- overall candidate performance on the SQE?

- training provider performance?

ASJAB5: Candidates: score breakdowns for each module. Training provider: score averages of students enrolled at their institutions.

ASJAB1: Agree with ASJAB5. Might be useful to provide relative performance for candidates (although might be controversial but this is how it works for medical students applying for clinical places and has its merits). Training providers should be ranked too.

ASJAB3: Agree with ASJAB5.

ASJAB4: Agree with ASJAB5.

### Question 17

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

ASJAB5: It would level the playing field and showcase strong candidates that perhaps did not attend the most prestigious universities. I am concerned however about how willing academic institutions and law firms will cooperate. Such as whether firms will still continue to require candidates to undertake the LPC, on top of the SQE, and result in very high tuition fees.

ASJAB1: It is obviously not a silver bullet but ensuring that there is no prescribed (and proscribed) routes into the profession is important. Most firms will still require degrees and specific routes but AS is working hard to encourage them to be flexible in their requirements and adopt a case-by-case approach to recruitment. The SRA's role is to support this push and to ensure that they are not putting any unnecessary and discriminatory barriers in place. The SQE seems to be achieving that goal.

ASJAB3: I agree with ASJAB5. I am concerned about students with deeper pockets being more financially able to complete both the LPC and the SQE and a new class of "super qualified" students getting most of the TCs. This is why cooperation between the SRA, universities and firms is needed. However, I'm really excited to see the diversity implications of scrapping the degree requirement.

### Question 18

Do you have any comments on these transitional arrangements?

ASJAB5: At this stage, no.

ASJAB1: I think the current transitional time frame is very ambitious for those already part way through their studies. A complete exemption for those currently doing the LPC and/or TCs might reduce confusion and resistance to its implementation. Any perception of rushing through the SQE must be avoided – we might not like the LPC but the current quality of solicitors is far from disastrous and therefore does not warrant hasty reform.

ASJAB3: I agree with ASJAB1. As someone who will be undertaking the LPC this year, I'm concerned/confused about how (if at all) the introduction of the SQE will impact my TC. More clarity is needed to assure students that their hard-earned qualifications will not be redundant come 2018.

## Question 19

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

ASJAB5: I would be interested to know more about the rationale behind this cut off point and whether it would be extended if the SQE was successful or terminated if the SQE was unsuccessful.

ASJAB1: See above.

ASJAB3: Having this cut-off could potentially slow down the process, as firms and education providers may drag their heels because of fear of change/reluctance to change. However, I recognise the importance of having a cut-off date and do not think it is overly ambitious.

## Question 20

Do you consider that this development timetable is feasible?

ASJAB5: It is a little early to tell but I think, judging from some of the backlash from the press, it may take a little more time before the different stakeholders and institutions come to an agreement regarding the structure of the SQE, since it will be quite a revolutionary change to how solicitors are trained.

ASJAB1: See above.

ASJAB3: I think the biggest problem you are going to face is achieving uniformity. I think it will take a while to convince firms to get on board and even longer to establish confidence and satisfaction among education providers.



Clare McShane

## **T4T - Assessing competence**

### Consultation questionnaire form

This form is designed to be completed electronically—in MS Word. Please save it locally before and after completing it.

## 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?

By way of introduction, we wish it to be clear that Nottinghamshire Law Society are not averse to change where change will demonstrably bring about improvement. We are supportive of measures to improve consistency and comparability between the routes to qualification. We also support measures to increase social mobility, equality and diversity and to maintaining and improving consumer confidence in the profession by ensuring high standards of entry and high standards of legal education and training.

That said, the main problem we have identified with this consultation document is that it doesn't start off with any evidential base for the reforms e.g. that most negligent claims and/or interactions with the SRA are from new or recently qualified solicitors; it then wraps up its proposed changes in a cloak of better achieving equality and diversity and of raising standards and ensuring parity of qualification but the entire consultation does not provide detail or anything other than assertion of how these changes will deliver the improved quality and standard of newly qualifieds as well as better equality of opportunity.

This Society is also concerned that the format of the consultation paper will discourage responses by being unnecessarily complex and lengthy. In addition, the questions are too narrow in scope and therefore prevent open discussion and the opportunity to provide observations of a general nature.

We also note at this stage that the approach proposed by the SRA ignores the primary finding of the Legal Education Training Review (LETR). Namely, that the current system is broadly fine and fit for purpose and its recommendation that small scale changes could bring the required improvements.

Like the Law Society nationally, we support the idea that the Law Society should take responsibility for professional standards which includes entry into the profession and awarding the professional title of solicitor.

In response to the above question, we have the following observations:

A huge concern to the Society at the moment is the fact that despite clear warnings from LPC providers that candidates should have an offer of a training contract before incurring the cost of that course, somewhere round about 50% of those on the LPC are taking a chance. If the necessity for a training contract is removed then surely that position is going to get worse? Aren't more and more people going to enrol on courses teaching the SQE? Is not therefore the impact on these unfortunate students going to be worse because there will only ever be a finite number of places available within law firms? Will that improve or worsen the lot of poorer applicants?

We acknowledge that a centralised assessment may be appropriate in some form in conjunction with quality assured pathways to qualification. However, this Society opposes any system which could end up with people becoming solicitors with little or no mandatory education requirements at all and with little or no work experience in a legal environment. This Society believes that this would be extremely damaging to

both the profession and the public.

Being a professional and being a solicitor is not just about passing an exam. It is about common standards of behaviour, conduct and ethics which really and truly are only learned by keeping the company of other solicitors. That is the reason why there is currently a two year training contract and why one has to practise as an employed solicitor for three years after that before one can start one's own firm. You don't learn these behaviours from a book. The SRA outcomes need to be learnt in context.

Those graduating or passing the exam may get employment but it will be at the same paralegal level as at present and the fact that they be called solicitor will be neither here nor there and indeed will lead to a diminution of that status.

These proposals also run the risk of lowering, not improving standards. The depth and breadth of experience obtained during the training contract, which requires a rounded overview of a solicitor's practice, would be lost if entrants to the profession were largely based around an exam which is learned in the summer term and forgotten by the autumn term. One needs to learn about things such as the duty to the court, dealing respectfully and honestly with one's opponents, what to do when a client puts you in a compromising position and, probably most importantly of all, handling client money, in practice

This Society believes it would detrimental to the profession and the consumer for the SRA to absolve itself from any regulatory responsibility in the involvement of the training required to qualify as a solicitor.

The removal of clear and/or authorised pathways to qualification will have a significant impact on both domestic and international reputation of the UK legal profession. We feel strongly that the findings of The Law Society's Report into the Global Competitiveness of the England and Wales Solicitor Qualification (July 2015), should not be ignored. This Report addresses the risks to our international reputation if the SRAs proposals come to fruition. In particular, that Report emphasises the importance of the training contract as maintaining the brand and reputation of the solicitor qualification. As one of the contributors to that Report put it "the regulator must take care of what the title means and the what standards are behind it. The international credibility of the qualification is at stake if this is threatened. If you erode the title, you erode English law as a commodity".

Rather than innovate legal education and training, there is a real risk that the introduction of the SQE will lead to 'crammer' courses designed solely to enable the candidate to pass the exam rather than preparing them to be solicitors. This risk is particularly acute in respect of the proposed SQE part 1. It is unlikely paragraph 10 will be achieved by ensuring that there are new and diverse pathways to qualification, as there is little incentive to innovate (such as the through apprenticeships or programmes such as the ones adopted by the accountancy model for example) if the potential student can simply choose a cramming course. With cost as a factor, it is unlikely that training courses designed to prepare students for a SQE will incorporate factors designed to improve overall employability nor is it likely to incorporate a broader knowledge base. Nottinghamshire Law Society would support a position where prescribed pathways can sit alongside space to innovate and create new pathways. .

## **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?

This is a difficult question to answer and assumes a simplicity and certainty that is not currently evident. Significantly, we do not know the form in which legal education and training will take prior to these assessments. We do not know whether the number of re-sits will be limited and, if so, to what number. We do not know what the time limits on the time taken to pass and/or between taking particular modules and ultimately passing the assessment will be. We do not know the detail of how these will be assessed or who candidates will be assessed by.

Employment law does not appear to be covered in either Part 1 or Part 2. This is an area of wide applicability and importance and we believe it is worthy of inclusion.

### **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?

We do not agree that all intending solicitors should be required to pass a SQE on the model currently proposed for the reasons outlined elsewhere in this response.

If exemptions can be achieved during a transitional stage then it is difficult to see why similar exemptions should not be permitted following a transitional stage in order to reduce the burden, including the financial burden, of aspiring solicitors. A model that would retain exemptions would be more flexible and more in line with the model for other professions, such as accountancy.

## Question 4

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

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

A combination of b) and c). Consideration should be given to a broader number of contexts e.g. employment, family, media and technology, company and commercial, construction and engineering, immigration, financial services, clinical negligence and PI. This would increase the practical relevance of a SQE and allow greater flexibility.

We note that this might be difficult for some firms to support, so is going to require some form of training. This has a costs impact and may therefore reduce the possibility that firms will recruit intending solicitors.

## **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?

Yes. It is imperative to protect the reputation and brand of solicitor that all of those achieving qualification have been assessed to graduate level or equivalent.

The Bar Standards Board has indicated that they will keep the undergraduate law degree as part of their route to entry. If this standard, or equivalent, was not maintained for solicitors it devalues the profession and would create disparity between the two professions with the real risk that solicitors would be viewed as inferior and less qualified.

## Question 6

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

Without a doubt. Furthermore, this Society believes that pre-qualification work based learning should be substantial and should be undertaken in a suitably regulated legal environment. In addition, work experience should be properly supervised by a solicitor. In view of the unique skills required to be a solicitor it is difficult to envisage how experience in other work environment could appropriately compare to qualify as a period of recognised work based learning.

This Society also believes that it would be preferable, and important, to retain a requirement to undertake vocational work experience in more than one practise area. This would help to ensure that intending solicitors improve their employability prospects upon qualification and prevent employers from taking advantage to suit their own business needs without regard to the needs of the individuals and, ultimately, consumers. We accept that this does not promote increased flexibility and as such would suggest that there is an opportunity to apply for an exemption from this requirement but that such an exemption only be granted where it is in the interest of the aspiring solicitor and consumers as opposed to the interest of an employer. For example, we envisage the scenario where someone has been a successful paralegal in a particular area for a number of years and wishes to qualify into that area.

The SRA has a responsibility to ensure that intending solicitors will be qualifying with the requisite skills to be able to compete on an equal footing in a competitive market and to ensure that legal education and training pre-qualification is as broad and as rigorous as possible. It is difficult to see how consumers can be protected if intending solicitors are not required to undertake a significant period of work based learning. Furthermore, if this was not a requirement, the solicitor brand would be significantly devalued.

A number of points we make at question 1 are also relevant to this issue, so we repeat them here for the sake of completeness:

Being a professional and being a solicitor is not just about passing an exam. It is about common standards of behaviour, conduct and ethics which really and truly are only learned by keeping the company of other solicitors. That is the reason why there is currently a two year training contract and why one has to practise as an employed solicitor for three years after that before one can start one's own firm. You don't learn these behaviours from a book. The SRA outcomes need to be learnt in context.

Those graduating or passing the exam may get employment but it will be at the same paralegal level as at present and the fact that they be called solicitor will be neither here nor there and indeed will lead to a diminution of that status.

These proposals also run the risk of lowering, not improving standards. The depth and breadth of experience obtained during the training contract, which requires a rounded overview of a solicitor's practice, would be lost if entrants to the profession



were largely based around an exam which is learned in the summer term and forgotten by the autumn term. One needs to learn about things such as the duty to the court, dealing respectfully and honestly with one's opponents, what to do when a client puts you in a compromising position and, probably most importantly of all, handling client money, in practice

This Society believes it would be detrimental to the profession and the consumer for the SRA to absolve itself from any regulatory responsibility in the involvement of the training required to qualify as a solicitor.

The removal of clear and/or authorised pathways to qualification will have a significant impact on both domestic and international reputation of the UK legal profession. We are strongly of the opinion that the findings of The Law Society's Report into the Global Competitiveness of the England and Wales Solicitor Qualification (July 2015), which addresses the risks to our international reputation if the SRA's proposals come to fruition, should not be ignored. In particular, that Report emphasises the importance of the training contract as maintaining the brand and reputation of the solicitor qualification. As one of the contributors to that Report put it "the regulator must take care of what the title means and the what standards are behind it. The international credibility of the qualification is at stake if this is threatened. If you erode the title, you erode English law as a commodity".

## **Question 7**

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

As stated above, the importance of work based learning should not be underestimated. As such, there should be a minimum time period coupled with requisite competencies to be achieved. There is simply no substitute for work based learning in a legal environment. Certain skills, knowledge and experience can only be gained by on the job learning.

## **Question 8**

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

As stated above, this Society thinks it should be a combination of both.

## Question 9

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

Whilst not wholly opposed to allowing some forms of alternative work experience to count towards a period of recognised training, there can be no substitute to skills learnt within a legal environment. We strongly believe that no-one should be able to qualify as a solicitor without a period of work experience undertaken in a suitably regulated legal environment.

The Society would support work experience undertaken as part of law degrees to count towards pre-qualification workplace experience.

We believe it is worth noting that Nottingham Trent University offers placement law degrees which are extremely successful and benefit both the employers and the aspiring solicitors and we as a Society are fortunate to have a successful placement scheme within our region. We would strongly advocate that such degrees that combine both academic and vocational learning are an extremely effective method of legal education and training and a model that works to ultimately produce high quality solicitors. Placement degrees also allow an opportunity for a student to ascertain whether a career in law is right for them before embarking on an expensive LPC course (and potentially expensive SQE and/or the courses that prepare for a SQE). This model also allows the student a period of paid employment to help towards financing their studies and increasing their employability..

It is noted that the Institute of Chartered Accountants in England & Wales (ICAEW) allows time during a sandwich year to count towards the professional requirement for technical work experience (subject to restrictions), there is no reason why a similar model could not be applied in the legal profession.

Whilst we are strongly supportive of legal work experience counting towards a period of recognised training, there must be assessment of competency within those periods of work experience. It is going to be difficult to show competency from periods of work experience alone without, for example, a portfolio (which is produced as part of a sandwich degree).

## **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?

Absolutely - see questions 6 - 9 above.

## 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 1 and Part 2, to a specified performance standard?

N/A

## 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?

Employers should be properly supported and given clear guidance and resources so that they know what is expected of them. They should have access to standardised templates and appraisal documentation and be given clear information on who they can contact to access additional support. Employers providing such training should be properly authorised and regulated to ensure that they are providing a high standard of work based training.

If there is going to be a requirement placed on the firms to ensure day one competence the firms need to know how to do this. We have some concerns about the burden that this will place on small firms in particular and it may be a disincentive to hiring those who are not qualified which may in turn have a diversity impact

## 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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

By not having clear pathways it will be very difficult for aspiring solicitors to make an informed choice as to what pathway to follow. By not prescribing pathways and/or by not regulating legal education and training providers then this could significantly weaken the standard and devalue the profession. Those from a poorer background may be forced to choose the lowest cost option and then find that money has been wasted as they are not adequately prepared for the SQE and/or for qualification. These students will therefore be disadvantaged and there will be no recourse available to them if they have received substandard training. They may also find it difficult to obtain employment, even having passed a SQE, as employers may still be looking towards the traditional routes and/ or require education and training to have been given by particular institutions as a pre-requisite to any offer of employment. Less well informed or advised students are at risk of being severely disadvantaged.

There is also a risk of employers being faced with a number of applicants who have all followed distinctly different pathways, with no clear and coherent information on the quality, breadth or depth of any of the courses undertaken. With no assurance of consistency we are concerned that employers will stick to what they know and that those students who have taken alternative routes to qualification will find themselves at a disadvantage to those who have followed something akin to the current routes to qualification.

It is noted that there is to be a further consultation on the issue of pre-entry requirements therefore a more informed and balanced view can be given once further information is known. What is of the utmost importance is the credibility and standard of the proposed SQE, the legal education and training required in preparation for it and the associated work based training. It is therefore important that any SQE be designed to be of a sufficiently high standard to be able to identify those that do not have the required intellectual capability and skills to be a successful solicitor.

What this Society is very clear on is that it is imperative that legal education and training needs to be of a high standard and suitably robust in order to protect the reputation of the profession and to protect consumers and be available in such a way so as not to negatively impact on equality and diversity. We also need to be able to confidently state to consumers and other jurisdictions that our system is suitably robust and achieves high quality standards.



The difficulty will be avoiding a two tier system - what must be achieved is that a particular route is not given less weight than an alternative route.

Note also the comments made at questions 12 and 15 in respect of equality and diversity. The findings of the Law Society's Global Competitiveness Report (July 2015) are also relevant here.

## **Question 14**

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

This Society is committed to equality and diversity and increasing social mobility. As such, it is important that there are routes to qualification that do not require a degree. However, it is equally important that these alternative routes are recognised as being equally robust and of a comparative standard to ensure that those taking a non-degree route are not disadvantaged and that a two-tier system is avoided. It is noted that the current system allows for qualification via the CILEx, equivalent means and apprenticeship routes, all of which do not require a degree.

## Question 15

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

It is felt that at this present time, there is insufficient information to answer this question particularly as the information available at present suggests that an SQE would be assessed on a competent/non competent basis. If it is to be competent/non competent then what information can be given about individual and comparative performance? If it is proposed that gradings/scores are to be given then these seems to be at odds with a competent/non-competent system.

We do have some initial concerns that these would become important factors for recruiters, encouraging students to re-sit to achieve higher marks and therefore putting students with less money at a disadvantage.

## Question 16

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

Further detail is needed to fully respond to this question, particularly with regard to point (a). In respect of (b) if the SRA presses ahead with the proposal not to regulate or authorise legal and education training providers, it is difficult to see how training provider performance can be accurately and objectively judged.

## Question 17

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

The Society is concerned that introduction of a SQE will actually increase the cost of legal education and training rather than decrease it. It is noted that it is not yet known how much the SQE will cost and training will be required to enable one to pass the SQE. In addition, we understand that there will be no Student Finance Loans available for the SQE which creates a further barrier for those from poorer backgrounds.

It is likely, and indeed has been identified by SRA research, that some employers will still require that intending solicitors follow the traditional route of degree and LPC. This risks creating a two tier system where only the more affluent candidates will be able to afford the 'gold standard' route and, as such, have an increased chance of passing the SQE, of obtaining work based learning opportunities, of achieving employment on qualification and/or better paid positions.

It is therefore not clear how the stated position of employers that they will require LPC and Degree will fit with the move towards the SQE – it seems that there will be a real dilemma for students, particularly if they are able to take SQE subjects at different points, where some firms may disfavour them for having done this, whereas other firms will be looking for SQE competencies as a recruitment requirement.

In addition, unlimited re-sits would create a bias towards more affluent candidates. Furthermore, unlimited re-sits do not sit comfortably with the objective to drive up the standards to enter the profession.

## **Question18**

Do you have any comments on these transitional arrangements?

We note that 'full transitional arrangements' are to be published later this year. In view of this and in view of the information as yet unknown it is premature to comment at this stage,

## **Question 19**

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

At present, there is too much information to be clarified to properly comment on this question.

## **Question 20**

Do you consider that this development timetable is feasible?

It is difficult to comment on feasibility in light of the number of unknowns and further information to be provided. Based on the current information, the proposed timetable can be best described as optimistic.



**Thank you for completing the** Consultation questionnaire form.

Please save a copy of the completed form.

Please return it, along with your completed **About you form**, as an email attachment to [consultation@sra.org.uk](mailto:consultation@sra.org.uk), by **4 March 2016**.

Alternatively, print the completed form and submit it by post, along with a printed copy of your **About you form**, to

SQA consultation  
Solicitors Regulation Authority  
Regulation and Education  
The Cube  
199 Wharfside Street  
Birmingham  
B1 1RN

Clifford Chance

## T4T - Assessing competence

### Consultation questionnaire form

This form is designed to be completed electronically—in MS Word. Please save it locally before and after completing it.

#### 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 remain unconvinced that it is possible to devise one tool which validly as well as reliably assesses competence for all the different types of intending solicitor. Whether an SQE can achieve the high quality standards depends on how the competence statement is developed to cover the breadth and depth covered by the current system and how easy it is for relevant parties to adapt to the content needed. We would need to see more detail on what is proposed here.

We are also unconvinced that it would remove artificial and unjustifiable barriers.

## **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?

Part 1 - See Question 1 - we are not convinced it can truly cover the breadth and depth offered by the current system. We would need to see more on how this would work

Part 2 - It is difficult to see how this could be created to assess a meaningful level of competence for the roles they would be performing in practice. The skills to be tested are fine but would be better assessed in a more customised context to allow a meaningful assessment of competence on what they will be doing in practice. The risk otherwise is that the knowledge element to be used for these tests may be irrelevant to the type of knowledge they have used in practice during a period of training. They would then have to go back to restudy elements of knowledge they may not have used since taking Part 1 and which they may never use again. It is difficult to see whose interest is being served by this.

### **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?

Yes.

## Question 4

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

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

We can see that there is a tension between being fair and consistent (reliability) and the need to provide a contextually relevant test (validity). This raises the question about whether Part 2 can be turned into a test which gives useful protection to clients or the general public. It could also be a distraction to the process of learning and developing competence:

(a) This seems to be protecting the public for a possible future career rather than their present one. Although giving a choice of 3 out of 5 areas will make this proposal more flexible, it would seem logical to either make all 5 compulsory, if they are necessary requirements or none if the intention is truly to reflect competence in the areas which they are actually practising. We feel that there is little point in creating a test which is not set in a relevant context.

(b) This is a preferable option to (a) and possibly the best option but does pose a question about whether choosing different contexts should lead to different qualifications. Would it not be better to conduct any test of practical competence around a more discrete qualification, e.g. corporate/financial transactions, major civil litigation, etc. to fit with a particular desired legal career?

(c) This is better than (a) but still not really a truly contextually relevant test of competence and it is difficult to understand exactly what is proposed here.

The key issue is that it would be better to avoid trainees having to relearn material at the end of a training period which they have not used and possibly will never use.

## **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?

Yes and indeed should be set at a higher level.

## Question 6

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

As a matter of principle, we agree. The broad consensus over a number of years here would be that the value of work-based training is the most important part of the learning process.

However, we would be concerned if the new requirement means that this period of training is either assessed by a non-contextually based test or by an over-prescribed monitoring regime. We would ideally like to be able to offer training which is fully focussed on the business needs of this organisation rather than having to fit with a regime which is intended for everyone and consequently no-one. We can therefore see a good argument that any compulsory learning is completed before qualification so that we can tailor the content and monitoring of the training period to ensure that it fits with the needs of this business. However, we would prefer that there is some compulsory period of pre-qualification training as long as it can be tailored properly to the practice of the Firm. The flexibility offered by the current period of training system allows us to do that.

Therefore, much depends on the nature of what is required in the form of 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?

Any time period is arbitrary to some degree although if no minimum time period is specified, it is likely that some will short cut this requirement altogether. We think that one year is sufficiently long to test whether trainees can develop the practical skills to become good solicitors and this would allow more flexibility in resourcing post-qualification.



## **Question 8**

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

No, this should be a question for the training organisation and what is relevant for the long-term benefit of its business. It would be of benefit to us to be able to determine freely the experience requirements within the training period.

## **Question 9**

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

No view. Our priority is that training should be relevant to our business.

## **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?

Possibly, if it can be demonstrated that it is truly relevant to the work they will be doing. Much depends on what the workplace assessment regime looks like, whether it can be made truly relevant to the knowledge, skills and experience they need to develop and whether the value can easily be demonstrated to Supervisors who will have to implement it.

## 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 1 and Part 2, to a specified performance standard?

The expertise is there to assess but supervisors would need more guidance for the threshold level. They would need some exact guidance on how to make judgments about levels of competence. In particular, they would need some fairly detailed guidance if they considered someone not to be suitable for the profession. We, as an organisation, would also have to decide whether being unsuitable in one particular practice area means that someone is not competent. The more clarity we have to help us with this guidance, the better.

## 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?

A toolkit would be useful although unlikely to be enough in itself and we would need quite clear guidance on what is and is not competent. We would also be very wary of a work place assessment which is too onerous and which distracts from the overall learning process. It seems likely that some form of helpline would be needed to support any contentious decisions. Much depends on to what degree any toolkit created can be made relevant to the practical day-to-day tasks of supervision within the business.

## 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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

We think it would be useful to continue with the regulations of pathways until it can be shown that the SQE on its own provides a sufficient proof of quality and relevance to us and our clients.

## **Question 14**

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

Yes but they need to show they are working beyond this level and, in practice, we are likely to continue to recruit almost exclusively from the graduate population.

## **Question 15**

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

We have no view on this..



## Question 16

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

We have a fairly neutral view on this issue. It would be useful to see a comparative breakdown for both candidates and training organisations if only to be able to track how performance on the SQE relates to future performance of solicitors.

If training provider means the Firms offering periods of training (rather than those providing training leading to the exams), we would want to see a lot more detail about what this would involve and would need a good deal of reassurance about how any such data might be used.

## **Question 17**

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

No but equally we have not seen enough to make us think it will improve concerns about "unjustifiable barriers".

## **Question18**

Do you have any comments on these transitional arrangements?

No, although with recruitment sometimes happening several years in advance, it could require a lag of several years (i.e. beyond September 2018) to ensure that any employment offers already made or which are due to be made over the next year are not affected by these changes.

## Question 19

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

None.

## **Question 20**

Do you consider that this development timetable is feasible?

See question 18 - it could perhaps be longer once a final decision has been made.

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SQA consultation  
Solicitors Regulation Authority  
Regulation and Education  
The Cube  
199 Wharfside Street  
Birmingham  
B1 1RN

## 2. Your identity

### 1. Surname

Thomas

### 2. Forename(s)

Clive

### 3. Name of the firm or organisation where you work

Monmouthshire Law Society

**4. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Attribute my/our response and publish my/our name.

**5. Please identify the capacity in which you are submitting a response. I am submitting a response... as an academic**

Please enter the name of your institution.:

## 3.

**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?**

No. Focusing on assuring consistent and comparable high quality standards can best and most easily be met by the LPC and the SRA (or the Law Society - as we believe that they should they take over this responsibility) monitoring more closely the universities which teach the LPC so that it can be satisfied with the consistency of standards set by the course providers.

Further, to ensure continuing high standard the SRA (or the Law Society) should focus its attention on the quality of training given by those firms where it is concerned about the experience and training they provide to people who are undertaking a period of registered training (PRT).

We agree it is absolutely right to review the way in which solicitors qualify, to establish whether the system is still fit for purpose, bearing in mind the changes that have been introduced to the routes to qualification. However, the existence of new routes to qualification is not in itself a reason for change. We wholeheartedly agree that the most talented candidates should have the opportunity to qualify as solicitors - but it is for the new entrants to achieve the existing high quality standards and not for the bar to be lowered to allow them into the profession. We are concerned, however, at the SRA's piecemeal approach to its proposals which should be put together so that we can consider the full implications as against the objectives.

We believe that there remains a place for a qualifying law degree and an LPC. The LPC provides extremely valuable skills for our young lawyers, and this must not be lost or diluted in order to accommodate new entrants. In practice we have noticed a distinct difference between those individuals who have completed the LPC and those who have not - the LPC graduates have shown themselves to be much better prepared.

We question whether there is a need for change when the Legal Education and Training Review found that the current system of legal education and training is fundamentally sound. There seem to be three reasons put forward in support of an SQE : (1) The quality of the profession, (2) consistency and the standard of training and (3) the cost of qualification.

With regard to quality, the SRA notes that in each of the last four years, 10% of firms paid a negligence claim. However, there is no evidence that newly qualified solicitors have been disproportionately negligent. The SRA also relies on the Compensation Fund having paid £23.8m to clients in 2014. This is not evidence

of any lack of training as the Compensation Fund compensates clients who have suffered loss from the criminal acts of solicitors. There is no evidence that the current system produces incompetent newly qualified solicitors or those with criminal tendencies.

As to the SRA's concerns over the consistency of rigour and marking of QLD and LPC, we consider that there is always likely to be a variance between universities. Some universities attract better students than others and some universities run bespoke LPCs. So this is in itself no cause for alarm. The SRA has produced no evidence of any other cause of inconsistency in results. We are not convinced by the justification for change or the unattributed quotes set out within the SRA's paper.

The SRA is concerned that cost of qualifying is limiting access to the profession, however we believe that SQE may in fact further limit access through increased cost. The SRA have not released any costings for the SQE and, during the roadshows, they have refused to give even an indication of the cost. However, we cannot imagine that it can be cheap option bearing in mind the nature of the course. Many do not consider that it can possibly be cheaper than the LPC and PSC. This concern is supported by the fact that the SQE is modelled on the QLTS, the test for overseas lawyers. The fee for the QLTS assessment is around £5,000. The SQE has more assessments than the QLTS so it is likely to be more expensive. A number of institutions have created courses to help people to pass the QLTS which cost a few thousand pounds more. It is likely that the SQE will mirror this as we consider that students are very unlikely to take the SQE assessments without taking a preparatory course which will produce further cost. Since such courses are not validated by the SRA, as the LPC is, they and the providers will be unregulated; therefore we are left with an unregulated potentially more inconsistent training for our lawyers of tomorrow.

It should also be borne in mind that the market is already driving down the cost of qualification. For example the LPC is being included within the three year undergraduate degree in a number of institutions, and there are also flexible options available enabling students to study the LPC part time and earn while they learn.

Therefore, whilst we agree with the need for a review we do not actually believe that there is any evidence that the alleged drivers for change actually exist. We firmly believe that the LPC should remain in place, although with greater monitoring, to ensure standards and avoid severely damaging the brand of solicitor both in this country and abroad.

4.

**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?**

No. We have grave concerns about the computer-based objective testing described in paragraph 40. Such questions may be easier to mark but it limits the scope and context of the questions because in practice it is never as clear cut. There is not always a right and a wrong answer to every situation. The "functioning legal knowledge" assessments in Part 1 cannot therefore cater for such situations and will therefore be of limited value.

We agree that the Part 1 assessment should cover the 13 subjects contained in the statement of legal knowledge. However, due to the extensive overlap between the Part 1 assessments and the subjects studied as part of a law degree the Part 1 assessments are unnecessary for those students.

Part 2 practical legal skills assessments appear a sensible test of competence in the six skills. However, we believe the cost to provide them will be a bar for students and it would be more sensible for the Part 2 assessment to be incorporated into a revised LPC. We are advised by academics that there is scope for this and doing so would improve the consistency of standards across LPC providers.

Candidates should be given a limited number of attempts to pass each of the 24 assessments to avoid diluting their rigour. Also candidates should not be permitted to take one assessment at a time rather than a set of assessments as has traditionally been required under the Solicitors' Final Examination and the LPC.

5.

**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?

No. There is no justification for not granting exemptions to candidates who have already passed assessments in legal knowledge subjects. The Part 1 assessments will duplicate the subject-matter of assessments which the majority of candidates will already have passed. It is unfair not to recognise the past achievements of candidates.

We support an exemption from Part 1 for students who had undertaken an undergraduate law degree/GDL or equivalent training from CILEx.

Not giving credit for prior learning could also have a detrimental impact on access to the profession as it impacts upon less advantaged students who will not have financial resources to pay for the additional (possibly duplicated tests) and the crammer courses necessary to get through tests ..

6.

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

b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?

#### Why...

On balance we favour option 2 because the importance of reserved activities is becoming less and less relevant in actual practice. Modern day solicitors undertake work in a wide variety of practice areas, particularly in commercial firms. It is impractical to focus the qualification assessment on reserved activities only when the work that many (if not most) candidates will go on to undertake in practice is much broader. Students should also be trained in the future of the law in order to ensure they are adequately prepared for the changes ahead and the jobs and opportunities for services and delivery of services that that will create.

7.

### 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?

It is important to understand that the current educational requirement for all solicitors who qualify under the current system other than the QLTS route is set at level 7 of the Framework for Higher Education Qualifications (ie postgraduate diploma).

It is not acceptable for this standard to be reduced to level 6 (ie bachelor's degrees). A reduction in the educational attainment required of solicitors will damage the international reputation of the brand of solicitor of England and Wales. It is pertinent to note that in many European and Commonwealth countries, as well as in the United States of America, most newly-qualified lawyers are required to hold two university degrees, one of which is in law.

8.

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

Yes. Pre-qualification workplace experience is absolutely essential in gaining competence as a solicitor. It forms a vital part of the process of qualification. In our experience, there is a vast difference between trainees at the beginning and the end of their training contract, as a consequence of the workplace experience gained. If the SRA were to remove the requirement for pre-qualification work experience then the profession would ensure that it continues by simply showing a preference for employing candidates who have had previous paralegal experience.

Properly structured, high quality and supervised pre-qualification work experience gives trainees an opportunity to learn skills in a practical environment that could never be replicated in a classroom setting. It also helps them to hone their client facing and communication skills, establish the areas of law that they have a particular aptitude for and may wish to specialise in and to understand the ethics and conduct that

the profession demands.

We believe that pre-qualification workplace experience is an essential part of the development of the skills required by a newly qualified solicitor. They must have sufficient time to develop and demonstrate their competence in those skills to ensure that standards are maintained and the status and brand of "solicitor" continues to have credibility at home and abroad.

9.

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

Yes. Such is the importance of the pre-qualification experience in the development of solicitors that the SRA should not be tempted to remove or reduce the minimum period.

Although the equivalent period is shorter than 2 years in many jurisdictions, the rigour of the academic stage in those jurisdictions is much greater and the longer minimum period of in England and Wales goes some way towards redressing this mismatch.

A minimum period of 2 years' represents six months in which to adjust to office life and working practices and 6 months' work experience in each of three areas of practice. Trainees develop enormously over the course of the training period so any time period should be significant. However, the existing flexibility should remain which accommodates candidates who require time to count for time spent doing quality work as a paralegal – a new trainee straight from education, with little or no work experience, is a very different animal to a trainee who has already spent a period of time working as a paralegal. In some cases, the work undertaken by paralegal is at an equivalent or higher level than that undertaken by trainee and there should be a mechanism to recognise this.

Trainees must be allowed the time to experience a range of practice areas and gain a good grounding and an understanding of the work of a solicitor and develop all of the relevant competencies.

10.

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

We believe both competences and the time period are important if standards are to be maintained or even improved.

If no competences are specified there will be little incentive on firms to train trainees on the broad range of skills required. Employers need to invest in trainees and ensure that they receive the best training possible to make them fit for purpose.

The advantage of a fixed period of PRT (subject to exemptions, as under the current system) is that it provides certainty to both employer and employee. The disadvantages to the more flexible model include the perception of unfairness if one candidate's PRT is shortened and another's is not and a potential inconsistency in standards.

If competences but not time periods are specified there would be a real risk that solicitors will not have adequate time to become proficient in all the areas.

11.

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

We welcome the additional flexibility as long as the experience can be assessed for suitability purposes - not all experience will be of an appropriate standard.

The SRA has already permitted candidates to qualify via the "equivalent means" route which has introduced a significant degree of flexibility in the range of experience that can be recognised. We believe that this means of qualification should continue.

We must be able to recognise experience gained at the same time as studying (e.g. for students undertaking part-time courses especially the GDL and LPC) - this will go a long way towards rectifying some of the perceived barriers to entry to the profession for students coming from poorer backgrounds.

12.

**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?**

Yes. Some of the elements of the Statement of Solicitor Competence, particularly sections C (Working with other people) and D (Managing themselves and their own work) can only be assessed through workplace assessment. See also the response to question 7.

13.

**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 1 and Part 2, to a specified performance standard?**

Yes, most law firms have an immense amount of experience of recruiting trainees and training them and have a very clear understanding of the requirements of a newly qualified solicitor. However care must be taken and also monitoring to ensure a consistent approach across firms as some will clearly be better than others in assessment.

14.

**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?**

We consider that the consistency at the workplace training stage is crucial in ensuring quality standards. A toolkit of guidance and resources seems a sensible initiative and would be of particular importance to small and medium sized practices. The level and form of additional support would depend on what was contained in the toolkit, however online resources as has been provided for the new learning and development provisions, including the use of practical videos, have proved to be very helpful. Regional workshops and webinars would also assist.

15.

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?**

It is absolutely essential that the regulation of training pathways or entry requirements are needed to protect consumers and students.

We note that this will be the subject of another consultation in 2016. Aspiring solicitors should know what

they need to do to qualify as a solicitor and the order in which they should do it - this information should be as clear and comprehensible as soon as possible.

We believe that the current framework and its entry requirements protect consumers and has a high level of credibility. If the SQE is to be brought in it must contain sufficient checks and balances to ensure that it does not jeopardise this.

## 16. (untitled)

### **14. Do you agree that not all solicitors should be required to hold a degree?**

A degree should always be required save in limited circumstances, ie where the candidate has qualified through either the legal apprentice route or the CILEx route ( both of which are set at level 6 of the Framework for Higher Education Qualifications and are therefore equivalent to degree level)

## 17.

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

Yes as this information is an essential requirement for potential employers. In the same way that University degrees are not all the same, a mandatory exam that simply gives a pass/fail result will be of little value for candidate selection purposes. Potential employers need to be able to identify the most able candidates

## 18.

### **16.**

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

A potential employer will want to know how an individual candidate has performed on the SQE and how they compare with their peers : the individual performance data should therefore be provided/made available.

As for the training provider, assuming all candidates are sitting the same exam (regardless of what study/courses they have undertaken) this information (on training providers' performance) will be of considerable interest to students.

## 19.

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

We are not convinced that the SQE will make a positive impact on EDI. There is a broader issue at large with the whole of the education system to ensure that students from ethnic minority and poorer backgrounds have the opportunity to progress while at the other end of the process the profession will need to change its approach to recruitment. A firm that wants to recruit traditional private school educated candidates will be able to continue to do so regardless of the introduction of the SQE. Also, many firms already practice blind or contextual recruitment of trainees in an effort to recruit the best candidates regardless of background.

The potential advantage of the SQE to EDI was mooted to be the cost savings. However, we are far from convinced that there will be a cost saving at all (see our answer to Q1) and no evidence has been produced to support this. We also, once again point out that there is already a degree of flexibility that particularly helps students coming from poorer backgrounds. Students are able to study for the LPC (and GDL) part time which enables them to work at the same time as studying. In addition institutions are now starting offer the LPC as an option during the 3 year undergraduate course. There is a danger, with the

likely need for intensive post graduate preparatory courses , that the likely financial impact of these changes will disproportionately affect poorer students and cause a negative impact on EDI.

## 20. (untitled)

### 18. Do you have any comments on these transitional arrangements?

We think that the timetable is far too tight. As a result, we think the transitional arrangements are not workable. As mentioned in the answer to question 20, there is considerable uncertainty for students, for school leavers, for careers advisors and for educators. It is very difficult to provide clear advice for students and potential students on their future education and training. Assuming a decision is made on the SQE this year (i.e. that the SRA sticks to its development timetable without slippage), we think it would be more appropriate if the transitional arrangements were extended so that students beginning a degree as late as September 2017 (or preferably September 2018) were able to continue to qualify under the existing system. This would include those school sixth form pupils currently considering what they wish to study at university and where they wish to study.

## 21.

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

We understand that the SRA would like a cut-off date, but we do not see why students who have started one route to qualification should not be able to complete that route, whenever that may be. There has never been a shelf life for the LPC and the SRA has removed the shelf life of the qualifying law degree/GDL. Under the proposed system, candidates will be able to spread their assessments and their resits over an unlimited period of time. Why then should candidates who have taken degree/GDL and LPC exams under the current system be required to be re-assessed in those subjects and skills? What is the rationale for not having a time limit with one route but having a time limit with another? Again, this is likely to impact on less advantaged students with less access to law firms and would present a further barrier to access to the profession for them.

## 22. (untitled)

### 20. Do you consider that this development timetable is feasible?

Byron

Question 20

Do you consider that this development timetable is feasible?

No. The Legal Education and Training Review took longer than planned and there was more than one delay in its consultations as well as the delay in publishing its final report. Training for Tomorrow has also been afflicted by delay - this consultation was delayed by some 2 months. So it is realistic to expect further delays in the consultations to come.

The date for appointing the assessing institution in the summer of 2017 is vulnerable to slippage because of this. Even if the assessor was appointed then, it is highly unlikely that the processes of appointing question setters and external examiners, classifying the questions in ranges of difficulty, road-testing the questions, testing the skills assessments, hiring the actors, setting up the necessary arrangements for assessment regulations, extenuating circumstances, appeals, and liaising with the education providers and firms which offer PRT to ensure that they are ready to operate the new regime from September 2018 will be ready on time. The universities will need to write new courses which deliver to the statement of solicitor competence and these courses will need to be ready by September 2018, so it's not just the assessor who will have to be ready.

We understand from discussions with degree providers that law schools need a considerable period of time to develop new law degree curricula. Universities have internal validation processes to follow.

Courses also have to be advertised and of the degree is aimed at sixth form students applying via the UCAS system, which means a long lead-in time. There are now strict CMA (Competition and Markets Authority) requirements regarding advertising and marketing degree courses. The shape of any new degree syllabus therefore has to be worked out a considerable time in advance of when students are enrolled. It is likely that any courses which are to be offered in September 2018 would need to go to internal validation in January 2017. We are already in late February 2016, a decision on the current consultation is not due until June 2016. That may be later anyway, and this leaves scant time for more detail about the level of detail required by the SRA on the thirteen areas of legal knowledge. It is more than likely that there is insufficient time for law schools to develop new degrees in time, even assuming the SRA timetable does not slip, which it probably will. It would be better to plan for changes to take effect in 2019/20 or even 2020/21.

This is not just a delaying tactic. What the SRA is proposing is such a fundamental change in the framework of legal education that changes have to be planned much further in the future than currently is the case. The SRA appears to have chosen an unduly optimistic timetable, perhaps fearful that any timetable set will slip. But the current timetable leads to much uncertainty to all concerned, not just for law degree providers, but also for prospective students, and those who have to advise them on their career options. Already, students currently in Year 1 of their degree will be affected by these changes. A more sensible approach would be to decide on all aspects of the framework and set a timetable so that no students currently in the system (or even school leavers choosing degree courses) had uncertainty about their path to a career in law.

Also, it should not be forgotten that there is nearly universal opposition to the SQE from stakeholders who have fed back to the SRA at various events they have staged since they announced their provisional preference for the SQE in the spring of 2015. If the SRA inflicts this assessment upon the profession despite this opposition and the SRA is afflicted by teething troubles, it will suffer enormous (and possibly fatal) damage to its reputation. The SRA cannot afford the SQE to fail. That is why the SRA will have to delay the implementation of the SQE by another year or two.

Clyde & Co

## T4T - Assessing competence

### Consultation questionnaire form

This form is designed to be completed electronically—in MS Word. Please save it locally before and after completing it.

#### 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?

It is important to note from the outset of this response that to date we have seen very little exact detail about the SQE which makes it difficult to answer this question with any degree of certainty.

In principle, however, the introduction could meet the first objective set out in paragraph 10 (assuring consistent and comparable high quality standards at the point of admission) if it is developed to be capable of ensuring the 'quality' and 'rigour' needed for a strong, effective and reliable legal profession at the point of admission, not just become merely an exam that addresses the current issue of consistency without guaranteeing the high standards expected by our clients.

Moreover, with regard to the second objective (ensuring the development of new, diverse pathways whilst removing artificial and unjust barriers) there are too many variables at this stage to predict the effect on equality and diversity in relation to access. The new SQE will introduce costs (both the examination and the associated training and preparation requirements) and it remains to be seen how this compares with the current qualification pathways.

On balance, we would need to see more clarification on the required training/preparation in addition to the content and method of assessment to provide a reasoned evaluation to whether the proposals will meet the objectives set at paragraph 10.

## 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?

As mentioned in the response to question 1, we are yet to see a detailed outline of the format of the SQE in the practice and 'model' described in the paragraphs referred is high level.

Nevertheless, it seems that the proposed model assessment for Part 1 is 'computer based' which suggests a heavy reliance on multiple choice style questions. MCQs do have some merits, but they also present a number of limitations in going beyond assessing candidates superficial knowledge of the law as it will lack the ability to explore the depth needed of a solicitor. MCQs do not allow a candidate an opportunity to apply the law to case study facts, give tailored and well-reasoned advice nor does it allow the ability to explore other options - it merely offers the ability to merely learn to a textbook standard, an unrealistic expectation of practicing as a solicitor.

Moreover, Part 1 seems to assess baseline knowledge with the elective subjects in the LPC model not appearing. Many current trainees in fact join us with very useful, beneficial knowledge from their elective choices and we wonder whose responsibility it will be to bridge this knowledge gap? If this is the case, we would be concerned about the cost and logistics of such a development which we do not currently face.

In relation to the lack of confirmed detail on the proposed model assessment. for Part 2 it is difficult to see if the proposed assessment model will deliver on the assertion that the standardised practical assessments in will 'simulate' the real demands of practice' and they may, in reality, lack the complexity/subtleties of the matters a trainee is involved in in reality. Thereby limiting the ability to truly assess a candidate's competence.

In summary, as there are a number of unconfirmed variables, we are therefore unable to commit to a meaningful response on whether the proposed model assessment will be an effective test of competences until we have seen the detail of what the SQE will actually look like in practice, what it actually assesses, how it conducts those assessments and the level at which those assessments are set.



### **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?

Yes. It would seem contradictory to the aim of "assuring consistent and comparable high quality standards at the point of qualification" if exemptions continue to be provided and will not address the "lack of common basis for assessing the quality of output" from the bodies and institutions providing legal education and training. Moreover, the provision of exemptions will continue to enable the perceived inequalities between the various routes into the profession.

However, if there were to be any exemptions, the most obvious would be for candidates who have passed modules in a law degree (or equivalent) thereby exempting them from the corresponding elements of Part 1.

## Question 4

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

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

An inherent problem with Part 2 of the SQE is that as a firm we may not be able to offer the requisite level of exposure and experience in each of the reserved activities, option (a) therefore seems to be the requisite compromise in enabling intending solicitors the ability to succeed.

However, considering that Part 2 is to follow a period of recognised training intending solicitors will inevitably need to refresh material with the relevant reserved areas they are being assessed in. Therefore, there will be a need for a training resource, whether internally or externally, to support candidates with preparation and revision. This could introduce an unnecessary cost for us as a firm or the individual directly, thereby introducing a potential barrier that contradicts the EDI impacts considered at paragraphs 87 - 93.

## 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?

In part, yes. It is of our opinion with the intention to create an assessment of two parts which reflect differing stages therefore require differing levels of assessment.

From examination of the proposed Part 1 assessment, this seems to replace the current requirement of the undergraduate degree or GDL whilst also covering LPC elements such as taxation, business law and practice etc. (as seen at paragraph 41 of the Consultation Document). The assessment, therefore, should be set at the graduate level or equivalent considering the elements included from the current regime (QLD + elements of the LPC) and to meet the standards found within the Statement of Legal Knowledge. However, it is our concern that this level will be compromised as a result of the amount that seems to be crammed into Part 1 with the overall coverage and depth of knowledge reduced as a result.

Part 2, however, looks to assess the intending solicitor at the qualification and will, as mentioned at paragraph 56, be above the current LPC standard. Consequently, the level at which the Part 2 assessment should be set is at the level expected of a qualified solicitor and therefore above the level expected of a graduate. a graduate.

## Question 6

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

Yes. As highlighted within the expert evidence discussed at paragraphs 60 and 61, pre-qualification workplace experience has an important role to play in developing our trainees to meet the level of competence required under the Statement of Solicitor Competence, Statement of Legal Knowledge and Threshold Standard. Moreover, such a requirement does indeed "expose them to the realities of working as a solicitor" which, from speaking with key stakeholders and partners within the firm and current and future trainees, develops the legal and commercial skills expected in addition to the self-confidence needed to provide a competent and high-quality level of advice that has come to be expected by our clients.

Additionally, it is difficult to see how the assertion made at paragraph 56 that the "standard of the Part 2 assessment will be comparable to the level trainee solicitors currently reach by the point of qualification" can be met without the requirement of pre-qualification workplace experience and the absence of such experience may lead to a decline in the competence of our trainee solicitors despite meeting the SQE threshold.

Our opinions of the level of pre-qualification workplace experience should be required of intending solicitors will be addressed in the relevant responses to questions 7 - 10.

## Question 7

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

Yes. The current framework of a two-year training contract provides a number of benefits, both to us an employer and to intending solicitors.

From our perspective as an employer, when considering the training process a sufficient duration of pre-qualification workplace is vital. It allows us to conduct the relevant amount of training and supervision to ensure that they are of a standard we, and our clients, have become to expect of our newly qualified associates. A trainee that has spent only a few months with the firm but is deemed 'competent' under the proposed framework will not have had, in our opinion, enough real life exposure to the intricacies or realities of our practice areas to service our clients efficiently. Moreover, we see our trainees skills flourish throughout the training contract satisfying the Partners that they can practice independently, efficiently and effectively. Additionally, looking to the qualification process, this duration of training and level of exposure within the firm assists in the retention decisions of our trainees.

From the perspective of our trainees, the current framework offers the ability to gain a breadth of experience across a number of practice areas thereby strengthening their legal abilities to work independently and make positive contributions to the business. Additionally, it assists personal decision making of a selecting a sector or area in which they wish to pursue throughout their career. Without experiencing a range of practice areas trainees will be limited on the areas they can hope to qualify into, thereby creating potential barriers to their career aspirations.

Moreover, on a holistic evaluation, it is difficult to ascertain how in removing a minimum time period of pre-qualification workplace experience can provide enough practical and relevant experience to enable an intending solicitor to undertake the Part 2 assessments within the SQE nor can it offer enough exposure to be reach the standard expected within the Statement of Competence, Statement of Legal Knowledge and Threshold Standard on account of limited practice in the relevant areas. Finally, it is our opinion that in removing a minimum time period, the competence expected of intending solicitors, both internally and by the SRA, will become merely a textbook approach to practice which, in reality, is unrealistic and often disproportionate to the realities of practice.

## **Question 8**

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

No. Whilst we would welcome the SRA's specification of the competences to be met during the pre-qualification workplace experience it is our opinion that this should be an addition, not replacement, to the minimum time period on account of the reasons provided in response to question 7. In doing so, there is a greater chance of intending solicitors meeting the requisite level of competence required within the Statement of Competence, Statement of Legal Knowledge and Threshold Standard thereby ensuring the first objective outlined in paragraph 10 of the Consultation being achieved.

## **Question 9**

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

Yes, in addition to the fact that this is currently already permitted under the Equivalent Means process, this could be a beneficial inclusion in the proposed assessment model provided the SRA continues to regulate and supervise the experiences that will be recognised. It is, in our opinion, that this would enable wider access to the profession through allowing the education and voluntary sectors (subject to a minimum criteria at which it was carried out and supervised) to provide the practical training which eludes so many given the finite number of training contract opportunities currently available.

## 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?

As mentioned within a number of answers within this Consultation Response, without further detail, description and form of an element of workplace assessment we are reluctant to offer a solid response here due to hesitation and regulatory and financial burdens this would impose upon us as a firm. Additionally, we would require further information and clarification about the form of the proposed assessment model - will it take the form of supervisor assessments or some type of 'work based learning' portfolio assessment. If the former, it is questionable whether this will be fair and consistent across supervisors and if the latter, what the resourcing implications would be to facilitate it to operate at an effective level.

Moreover, it is our opinion, one shared within the AlphaPlus report, that by creating a method of assessment that only consisted of the SQE would raise question about the integrity of the qualification process. As the SQE is introduced and developed, by involving an element of workplace assessment will enable and, to an extent, guarantee the requisite level of competence.

Whatever form this takes (if introduced) we would hope that if a workplace assessment is to be introduced, it will take a form that is manageable to firms of all sizes across England & Wales.



## 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 1 and Part 2, to a specified performance standard?

At the current development stage of the SQE, no. Whilst we have an extensive portfolio of internal training resources this is not something we as an employer have had to do previously and would therefore need the requisite support and guidance from the SRA as to how to meet this function. Moreover, we would need to ensure that if this element were to be introduced, we would expect that the method of assessment does not introduce any unnecessary cost, complexity or logistical issues into our current offering. In short, we would hope that should any workplace assessment be required that it seamlessly integrates into our current offering.

## 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?

In principle, yes, however we would need to know and understand what is to be included in the toolkit of guidance for it to meet the level of support we would require. Of course, should workplace assessment be introduced we would be reliant on the support of colleagues within the market but would hope that as a starting point the aim of this method of assessment will be easily integrated and/or adapted into the current model of supervision and training we already provide.

## 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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

Yes. Whilst the SQE is introduced and implemented within the provision of legal education and training prescription and regulation is of utmost necessity. Without such prescription and regulation it could cause difficulties to the integration of the SQE and may consequently lose the kudos and credibility that legal training and education within England and Wales currently holds both with consumers but also globally with international students coming the England and Wales to study.

Moreover, without such prescription and regulation it is difficult to see how the current issue of consistency between education providers and law firms can be addressed and alleviated as an unregulated and unprescribed system could breed inconsistency, at least at the formative stage of the SQE's introduction.

## Question 14

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

Yes. The current Regulations do not require all solicitors to hold a degree and, as supporters and providers of the legal apprenticeship, to require solicitors to hold a degree would introduce an 'artificial and unjustifiable barrier' to the profession and would therefore be contradictory to the objectives set out in paragraph 10 of the Consultation document. Therefore, we would like to reiterate our response to question 5 that the solicitor qualification should be at 'graduate level' thereby enabling solicitors to either hold a degree or having undertaken an alternative programme of study (such as the legal apprenticeship) leading to a graduate level qualification. In short, the requirement to hold a degree would be an unnecessary one.

## Question 15

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

No. Whilst it would be potentially of individual interest to the candidate how they performed individually and comparatively it is unclear what benefit this would actually provide. From speaking with current and future trainees of the firm, the intending solicitor will want to know merely if they are deemed to be competent within the context of assessment, not 'how competent' they are in comparison to others.

Moreover, by introducing the ability to rank a candidates' performance in relation to their peers in a method of assessment which would otherwise be viewed on a 'competent/not competent' threshold (as seen within the current QLTS) would introduce unnecessary cost and complexity into the assessment model.

## Question 16

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

With regard to overall candidate performance, it would be beneficial to see a modular breakdown of performance across Part 1 and Part 2, in particular where a majority of candidates perhaps under or over performed. As the SQE develops over a number of years, this will assist us in monitoring any trends. Consequently, this will enable us to ensure we develop the necessary internal training packages needed to support our trainees, and newly qualified associates, to meet the continued level of competence expected under the corresponding statements and threshold.

Similarly, turning attention to training provider performance, it would be helpful to see candidate performance by training provider. If, like under the current LPC model, there are a number of providers of which we may partner we would need the ability to monitor and compare providers to ensure we are enabling our trainees receive the highest quality training available. Additionally, for those self-selecting providers without our involvement or potential sponsorship, it will enable them to make an informed and reasoned decision of which provider(s) to select.

## Question 17

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

No. The issue of access is dealt with, in our opinion, adequately at paragraphs 78 to 86 provided the SQE is developed in a way to focus attention, as referred in paragraph 82, to candidate performance across the protected characteristics. However, it is unclear whether any potential barriers in relation to cost are addressed and removed from the introduction of the SQE. Whilst the assumption is made at paragraph 89 and 90 that this issue would remain only if the LPC is retained, this may not occur in reality. Even if the LPC ceases to be a regulatory requirement it is, in our opinion, potentially unrealistic to believe that there would cease to need to be some form of training course for both Parts 1 and 2 of the assessment. Even if not a prescriptive requirement, additional training will undoubtedly be needed to bridge the gap left by removing the LPC.

Additionally, many top firms are likely to require trainees to hold a degree and have done Part 1 of the SQE before their training contract. If, for example, a student has not yet secured a training contract but aspires to a good firm they will still need to fund the degree and SQE. Whilst the proposal may reduce some barriers, there will still be an issue for many considering the demand of training contracts remains to outweigh the number available.

Consequently, until we know the format and requirements of the SQE we cannot comment with certainty that the proposal to introduce the SQE will have a positive EDI impact to entry into the profession.

## **Question18**

Do you have any comments on these transitional arrangements?

Of course there is a need for transitional arrangements and those outlined in paragraphs 94 to 100 seem, in principle, logical and appropriate. However, as we are unsure of what exactly we are transitioning to it is difficult to comment meaningfully on the arrangements outlined. We will, of course, continue to monitor and provide comment when required as the detail of the new qualification and assessment framework is developed.



## **Question 19**

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

As the candidates we typically recruit transition into the proposed model of assessment we do not foresee any challenges by 2025/26 being the cut-off date.

## Question 20

Do you consider that this development timetable is feasible?

With the current knowledge of the SQE and the need to develop and solidify fundamental aspects such as entry requirements and the requirement of pre-qualification workplace experience, the development timetable seems ambitious.

The SQE described in this Consultation seems somewhat complex and without a concrete understanding of the format and method of assessment or enough knowledge to ascertain the internal transitional arrangements we as a firm need to make, it would be irresponsible to make a commitment to the current timetable.

We are therefore of the opinion that it would be more appropriate to take the requisite time to get this right, with the correct safeguards in place, than to do this quickly and potentially recklessly. The SRA should indeed continue defining the SQE and its parameters with the necessary support of employers, providers of legal education and students and continue to reevaluate the timetable until such time that a realistic and feasible timetable is established.

**Thank you for completing the** Consultation questionnaire form.

Please save a copy of the completed form.

Please return it, along with your completed **About you form**, as an email attachment to [consultation@sra.org.uk](mailto:consultation@sra.org.uk), by **4 March 2016**.

Alternatively, print the completed form and submit it by post, along with a printed copy of your **About you form**, to

SQA consultation  
Solicitors Regulation Authority  
Regulation and Education  
The Cube  
199 Wharfside Street  
Birmingham  
B1 1RN

Colin Lester -Cambridgeshire & District Law Society

## T4T - Assessing competence

### Consultation questionnaire form

This form is designed to be completed electronically—in MS Word. Please save it locally before and after completing it.

#### 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?

Answer:

We don't fully follow the first objective, but think the SQE might meet it.

We do not think the second objective would necessarily be best be met by the SQE; many other approaches could meet it, and the way in which the SQE addresses it has not been fully explained. How, for instance, would it 'encourage new pathways'?

## **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?

Answer:

In outline it looks as if it would provide an effective test, but it lacks sufficient detail for us to be sure that it would do so in practice.

We would require anyone qualifying to have had practical work experience.

### **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?

Answer:

Yes

## Question 4

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

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

Answer:

We reject b), and think that c) is a better fit than a).

## 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?

Answer:

Yes, that would meet our concerns in part; but in rare cases a degree itself might not be necessary as long as the level was attained – though the level should be post-graduate to reach the skills level required, as it is at present where at least a year after graduation is necessary for full qualification as a solicitor.



## **Question 6**

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

Answer:

Yes, it's important to have actual interviewing etc skills proved, and it's necessary to have oversight of the skills in real practice conditions.

## **Question 7**

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

Answer:

Yes, and with a minimum of 18 months.



## Question 8

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

Answer:

No, it should be both workplace experience and a minimum time period; but we have concerns about the difficulty of finding a common yardstick to ensure consistency of outcomes, and about the extra burdens that would be placed on employers.

## Question 9

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

Answer:

Any experience should take place within the profession and applicable to the work of the profession, as well as being subject to strict parameters including duration. Skills applicable to the profession are needed in practising within it.

## **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?

Answer:

No, this would defeat the purpose of the SQE. There should be either a single assessment, which is what the SQE is supposed to be about, or we might better work at improving consistency within the present system.

## 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 1 and Part 2, to a specified performance standard?

Answer:

We don't fully understand the phrase "not capable of assessment in Part 1 and Part 2" in this question; it depends how competently Parts 1 and 2 are assessed. If they were fit for purpose this question would have no applicability.

## 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?

Answer:

No, there would still be an extra burden on firms. Besides, it would depend what the toolkit consisted of. Also, it would materially alter the working relationship between trainees and their principals.



## 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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

Answer:

a. Yes

b. Yes, but SQE must be debugged before being tried out in practice.

## Question 14

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

Answer:

Yes, though it would be a rare candidate who did not – it's difficult to imagine a candidate of the proper standard coming into the profession without a degree nowadays. Were it permitted it could devalue the brand, in the eyes of the public and other professionals including barristers.

## **Question 15**

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

Answer:

A qualified yes.

## Question 16

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

Answer:

a. & b. Yes, both should be published, by reference to the centiles in which they fall.

## **Question 17**

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

Answer:

We see funding concerns if the SQE does not replace the LPC and/or the PSC. It's essential to ensure that loans will be available for SQE candidates before it's scheduled for launching.

## Question18

Do you have any comments on these transitional arrangements?

Answer:

No.

## **Question 19**

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

Answer:

With proper preparation that timing should work.

## Question 20

Do you consider that this development timetable is feasible?

Answer:

Probably.



**Thank you for completing the** Consultation questionnaire form.

Please save a copy of the completed form.

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SQA consultation  
Solicitors Regulation Authority  
Regulation and Education  
The Cube  
199 Wharfside Street  
Birmingham  
B1 1RN

# **SRA CONSULTATION PAPER "TRAINING FOR TOMORROW: ASSESSING COMPETENCE"**

**Published on the 7th December 2015.**

## **Response of the Committee of Heads of UK Law Schools**

### **Introduction**

The Committee of Heads of UK Law Schools (CHULS) is an organisation whose members are Heads of Law Schools and Departments across the UK. Membership is open to all Heads of School / Department in institutions which offer higher education programmes in Law. The organisation exists to provide support for Heads, as well as a forum for discussion of strategic issues relevant to managers of Law teaching institutions, and membership includes representatives from pre and post 1992 Universities across England, Wales, Scotland and Northern Ireland.

We have followed the SRA's emerging proposals with a keen interest and members have discussed and commented on the proposals in various forums, including at our recent conference held in February 2016.

### **Executive Summary**

Whilst we understand that it is important to keep under review any system of qualification into a profession, we have identified a number of concerns arising from the proposals. These include:

- We are not convinced that the need for change cited - variable performance in currently used assessment vehicles - is properly supported by evidence.
- One of the SRA's stated aims is to remove unnecessary barriers to qualification. We are concerned that the proposals will actually add cost and therefore increase barriers.
- There is a suggestion that there will no longer be a pre-requisite of a qualification at degree level. we believe this will be damaging to the reputation of the profession, including overseas.
- We are not convinced that the nature of the proposed assessment is appropriate to deliver the depth and breadth of knowledge, skills and abilities needed by a modern solicitor.
- If other branches of the legal profession - such as the Bar - continue to insist on a law degree or equivalent, this will create a two tier system to the detriment of students.
- If the SRA no longer validates / accredits training programmes leading to assessment of competence, this could open the market up to unscrupulous and unregulated training providers, to the detriment of students.

- If these proposals are adopted, Law schools may feel they have to gear their degree programmes towards teaching to the SRA's outcomes, to the detriment of the rich breadth and depth of legal knowledge and research currently produced by Law Schools.
- The suggestion that there should be no exemptions to the SQE may have the effect of placing UK applicants at a disadvantage compared to EU applicants. In addition, we can see no real justification for ignoring an individual's existing accredited learning, and contend that the SQE will in this sense add unnecessary cost.

**We urge the SRA to give these issues serious and detailed further consideration before making a final decision.**

Our responses to the questions posed by the SRA are below.

### **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?*

No.

We have a number of concerns relating to this proposed way forward, as follows:

1) The consultation document states "*A strong and respected legal profession is enhanced if unnecessary barriers to good candidates becoming solicitors, regardless of their backgrounds, are removed. The SQE will facilitate the development of more flexible pathways to qualification for those who are able to meet the robust standards of the assessment.*" It is clear therefore that the SRA regards the SQE as a means to widen opportunity. We are unconvinced that it will achieve this effect. Currently, the main routes to qualification are either a law degree + LPC + training contract, or a non-law degree + CPE / GDL + LPC + training contract. Given that most intending solicitors are likely to wish to be educated to degree level (indeed, the job market may insist on this), it is likely that the vast majority will still undertake a degree. The SRA envisages, at paragraph 16 of the Consultation Document, that it could require specific qualifications as a pre-requisite to taking the SQE. Applicants will then need some sort of training in practical law, so an LPC equivalent course will be needed. . On top of this, applicants will have to pay for the SQE, including a potentially unlimited number of further attempts if unsuccessful, so instead of reducing the cost of qualification, these proposals will add to it. Arguably, all the knowledge and skills required to take the SQE could be delivered with a three year degree, but in our view this would be at the expense of student choice and breadth of learning.

It is true that there may be a small number of individuals who will have gained knowledge and experience in other ways for whom the SQE could be a benefit, but they are already provided for under the current system, for example by recognition of CILEX qualifications and by the Equivalent Means Route.

2) The SRA has made assumptions in their proposal about the quality of current provision, which are not necessarily supported by evidence. The foreword to the consultation states;

*"...there is no standard basis on which to measure the quality of students who emerge from the education and training process. Some Legal Practice Course (LPC) providers have success rates in excess of 90%, while others are below 50%. Some undergraduate law schools require A and A\* A-level grades from entrants, others admit students with B, C and D grades:*

Whilst these statements may be correct (although no evidence is cited to support them), they do not show the full picture; for example, in comparing pass rates at LPC institutions, it is also necessary to factor in entry level qualifications. Level of achievement at A level is not necessarily a determining factor to competence as a solicitor, and the SRA should be well aware that certain ethnic and other groups are known to show a poorer performance at school; for example, in the Government's Statistical First Release on GCSE performance for 2013/14, pupils from a black background were the lowest performing group, and were significantly below the national average

([https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/399005/SFR06\\_2015\\_Text.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/399005/SFR06_2015_Text.pdf)). It may be that some Law Schools are doing an excellent job in providing opportunities to certain disadvantaged groups, who then have the opportunity to shine in a University setting. In addition, many Universities are now offering places on an unconditional basis, which may have led, or lead in the future, to lower levels of attainment at A level. The Sutton Trust has published evidence which shows that the more selective Universities have a bias towards independent and selective schools: *"Independent school pupils are more than twice as likely as pupils in comprehensive schools to be accepted into one of the most 30 highly selective universities: 48.2% of independent school pupils in England were accepted by these universities, compared with 18.0% of pupils in non selective state schools, and 47.6% in selective state schools."* (<http://www.suttontrust.com/wp-content/uploads/2011/07/sutton-trust-he-destination-report-final.pdf>). Assumptions about the quality of solicitors, based on A level grades, do a disservice to underprivileged young people and those Universities which are able to see past those grades, through the use of contextual data, to true potential.

A better test of whether the current system is providing appropriately educated and trained solicitors would be to measure the quality of the current cohort of admitted solicitors; and we note in this context that in the Office for Legal Complaints Annual Report for the year ended March 2015, the number of complaints received had shown a steady annual reduction from 22,350 in 2011-12 to 18,185 in 2014 - 15 (<http://www.legalombudsman.org.uk/wp-content/uploads/2014/09/Annual-Report-2014-15.pdf>).

Paragraph 23 of the Consultation states:

*"The 2015 HEFCE consultation on standards and quality in Higher Education, states that current quality assurance mechanisms do not ensure consistency of standards across universities. HEFCE concludes: 'the current quality assessment system does*

*not provide direct assurance about the standard of awards made to students, or their broad comparability."*

However, it should be noted that the HEFCE Consultation went on to say:

*25. The proposals should not be seen to cast doubt on the ability of the current system to secure the reputation of the UK higher education system over recent years, although later in this document we note some concerns expressed during the discussion period about the continuing appropriateness of current arrangements for the future. Our purpose throughout has been to consider what kind of quality assessment arrangements will be necessary as we look towards 2025, rather than to review the effectiveness of the current approach. Throughout the discussions, we have been clear that preserving and indeed strengthening the reputation of the UK higher education system must be an essential component of thinking about future arrangements.*

3) If the SQE were adopted, it is likely that candidates would wish to pay for training courses in order to prepare for this assessment. At present, it is unclear whether the SRA would wish to accredit / regulate such training entities. If they chose not to do so, we can envisage the rise of unscrupulous profit-motivated "crammer" style organisations. Pre-admission training is currently delivered almost exclusively by Universities, which are in the main not-for-profit organisations with a declared commitment to educational excellence, and which are closely regulated by the QAA. We are concerned that the current commitment to quality education and training would be diluted, to the detriment of students, in an unregulated environment.

4) Whilst according to the Consultation no decision has yet been made on entry requirements, statements made by senior officials at the SRA over the past few months suggest that there is a preference for having no entry requirements, or at least not at degree level. We cannot envisage a solicitors profession where there is no requirement for graduate level education (though we accept that this can be achieved by means other than the completion of a traditional degree) and we can foresee that the adoption of this approach would result in a) the brightest and best seeking alternative careers, where degree level education is appreciated and b) a diminution in the reputation of the England and Wales Solicitor 'brand', which will discourage the brightest, both at home and from overseas, from applying to join the profession. The Consultation paper makes much (paragraph 72) of the fact that it has never been a requirement that solicitors had to possess degrees, citing five year articles and the CILEx route as examples;

*"However, the solicitors' profession has never required all solicitors to have a degree. For many years, solicitors could qualify through a five-year period of articles. Solicitors who are non-graduates can still qualify through the CILEx route. Many solicitors who have qualified through these routes have enjoyed long and successful careers in demanding areas of practice".*

What this fails to mention, however, is that in both those cases candidates had to (and still have to) take and pass assessments at degree equivalent level.

Most professions (nursing, midwifery, dentistry, medicine) in England and Wales have a requirement of degree level qualifications.

5) Although the Bar Standards Board has yet to consult in detail, it seems clear that the Bar will continue to require a qualifying law degree. This could place logistical difficulties on Law Schools which are trying to cater for all student needs, but is more likely to have the effect that all school and college leavers who are interested in a career in the law will continue to take a qualifying law degree. This will defeat the SRA's stated objective of creating more flexible pathways to qualification and the addition of the SQE will add to the cost burden for intending solicitors. In addition, students who choose to take a qualifying law degree will be assessed twice, once on the degree and again on the SQE. This seems a waste of time and effort, and may result in additional cost for students taking refresher courses if their degree was completed some time previously.

6) Law Schools may feel under pressure to gear their programmes towards the SQE outcomes. Apart from the obvious pedagogic issues relating to "teaching to the test", many Law Schools (where only 50% or fewer students have the aim of becoming qualified lawyers) will be unwilling or unable to do this. Law Schools have to consider wider issues in devising their programmes, such as the research outputs of their staff, the provision of a wide choice of options in order to remain competitive in the market for students, and teaching and assessing the wider academic and skills outcomes outlined in the QAA Subject Benchmark Statement for Law. Students attending Law Schools who have chosen to maintain a broad curriculum may then have the additional expense of paying for education in subjects not included in their law degree.

7) We share concerns expressed by the Junior Lawyers Division, that career development loans would not be available under banks' current rules for any non-mandatory training course. If the revised regime is introduced, this could deter intending solicitors from less privileged backgrounds.

## **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?*

No.

Without sight of at least some sample assessments it is difficult to comment, but we believe that the proposed assessment is based on the Qualified Lawyers Transfer Scheme assessment. This is aimed at lawyers who are already qualified in other jurisdictions and it is therefore designed to test a different type of applicant to those likely to be taking the SQE.

Law / CPE / CILEx graduates at the moment have all had the opportunity to demonstrate their breadth of knowledge and application of the law by degree level

assessments, which are specifically designed to test a range of knowledge, skills and abilities at graduate level. The QAA Law Subject Benchmark Statement, published in 2015, describes a law graduate thus:

*A graduate of law with honours has demonstrated:*

*i) intellectual independence including ability to ask and answer cogent questions about law and legal systems, identify gaps in their own knowledge and acquire new knowledge, and engage in critical analysis and evaluation*

*ii) self-management, including an ability to reflect on their own learning, make effective use of feedback, a willingness to acknowledge and correct errors and an ability to work collaboratively*

*iii) awareness of principles and values of law and justice, and of ethics iv knowledge and understanding of theories, concepts, values, principles and rules of public and private laws within an institutional, social, national and global context v study in depth and context of substantive areas of law*

*vi) ability to conduct self-directed research including accurate identification of issue(s) which require researching, retrieval and evaluation of accurate, current and relevant information from a range of appropriate sources including primary legal sources*

*vii) ability to work with a range of data, including textual, numerical and statistical*

*viii) ability to recognise ambiguity and deal with uncertainty in law ix ability to produce a synthesis of relevant doctrinal and policy issues, presentation of a reasoned choice between alternative solutions and critical judgement of the merits of particular arguments*

*x) ability to apply knowledge and understanding to offer evidenced conclusions, addressing complex actual or hypothetical problems*

*xi) ability to communicate both orally and in writing, in relation to legal matters, including an ability to listen and respond to written and oral stimuli including questions and instructions*

*xii) engagement with their own personal and professional development, and academic integrity*

All of the above, we are sure the SRA will agree, are desirable and some are essential in a competent solicitor. We are unconvinced that all of this can be assessed by the multiple choice or true / false questions in the proposed Part 1 of the SQE. The Consultation paper notes that such tests are already used in other professions to test high-order skills. However, what it does not say is that in those other professions (for example, medicine), a relevant degree is a pre-requisite.

### 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?*

No.

There should continue to be exemptions for entrants who have taken and passed appropriate assessments in other contexts. Failure to do so simply adds cost to the qualification process. Exemptions are already a well established feature in other professions - for example, accountancy.

The SRA accepts that it may be obliged to grant exemptions to EU applicants with equivalent qualifications / experience. This could lead to the situation where an EU national who has passed a UK Law degree would be exempted whilst a UK national with the same qualification would not.

### Question 4

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

- *offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?*
- *offering a broader number of contexts for the Part 2 assessment for candidates to choose from?*
- *focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?*

We have no strong views on this point and feel it should be for the profession to decide what kind of qualified lawyers it needs.

### 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?*

Yes. We cannot see that an applicant who has not been able to achieve graduate level qualifications would have the necessary skills, attributes and qualities of mind to undertake the complex and technical work required of a solicitor.

However, without a great deal more detail on the proposed assessment, it is impossible to say whether that standard will be achieved. Concerns have been expressed elsewhere about the ability of the type of question proposed to assess graduate level skills, attributes and qualities of mind.



### **Question 6**

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

Yes.

We cannot envisage a competent solicitor who has not had this sort of experience.

### **Question 7**

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

Yes.

Whilst it is true that individuals learn and mature at different rates, there does need to be some minimum period of time specified. If there is no minimum requirement, there would need to be an assessment of what has been learned through work experience, which again could add cost to the process.

### **Question 8**

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

No - see above.

If the SRA specifies competences, who checks that these have been achieved?

### **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?*

Yes.

The current number of training contracts is insufficient to meet demand and there are a number of potential solicitors who are unable to qualify. Expanding the range of acceptable experience (provided it was in a legal context) would be of benefit to these students.

### **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?*

Possibly but we would like to see more detail on this.

### **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 1 and Part 2, to a specified performance standard?*

Not applicable.

### **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?*

Not applicable.

### **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?*

Yes, for the reasons given above.

### **Question 14**

*Do you agree that not all solicitors should be required to hold a degree?*

We agree that all solicitors should have qualifications at graduate level, as is the case at present, for the reasons given above.

### **Question 15**

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

Our understanding is that the SQE is designed to be a competence - level assessment. We are not sure, therefore, what would be served by providing candidates with this information.

### **Question 16**

*What information do you think it would be helpful for us to publish about:*

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

We feel this is a question which can better be answered if and when the decision to proceed with the SQE has been taken and once we have a clearer view of the nature of the assessment.

### **Question 17**

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

As outlined in our response to question 1, we have serious concerns about the potential impact on potential solicitors from less advantaged backgrounds, and evidence shows that this affects disproportionately certain BME groups.

### **Question18**

*Do you have any comments on these transitional arrangements?*

We are concerned that the arrangements are not yet clear to students, who are currently making important choices based on limited information.

### **Question 19**

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

An arbitrary cut-off date will always see some difficult cases emerge, where students may have been prevented from progressing due to illness or disability.

## **Question 20**

*Do you consider that this development timetable is feasible?*

No.

We can envisage difficulties with this timetable as nothing at the moment is certain. Universities, as recognised in the Consultation document, tend to have lengthy lead in times (2/3 years) for the introduction of new programmes. Many Heads are concerned that the current uncertainty will put Law Schools in difficulties with the Consumer Rights Act as prospective students, and current first years, are now entering a law degree on the basis of unclear information as to what the next stage of training is.

Coral Hill - Association of Women Solicitors

## T4T - Assessing competence

### Consultation questionnaire form

This form is designed to be completed electronically—in MS Word. Please save it locally before and after completing it.

#### 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?

AWS London has completed questions 2, 14, 17, 19 and 20.

Association of Women Solicitors

## **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?

### **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?

No. It is likely that a rigid approach would discriminate against certain groups. For example, many women complete their study and workplace experience in a non-standard manner and there should be the ability to grant exemptions.

## Question 4

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

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?



## **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?

## **Question 6**

Do you agree that we should continue to require some form of 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?

## **Question 8**

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

## **Question 9**

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

## **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?

## **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 1 and Part 2, to a specified performance standard?

## **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?



## 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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

## **Question 14**

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

We agree that not all solicitors should be required to hold a degree but they should all hold either a degree or the equivalent of a degree set at an appropriate standard.

## **Question 15**

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

## Question 16

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

## **Question 17**

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

We will be able to review this more fully when there is further detail, particularly relating to the workplace experience or assessment. Provided there is sufficient provision for women progressing through study and work part time and /or with career breaks, we do not anticipate a negative impact.

## **Question18**

Do you have any comments on these transitional arrangements?

## Question 19

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

This could affect a woman progressing on a part-time basis or with career breaks. For example, starting an Open University course in 2016 and completing in 2022. Taking the LPC or equivalent over two years and completing in 2024. If a training contract were immediately available she would have completed her training by 2026. This timeline would need extending to allow for those that have a break between courses or have difficulty in finding a training contract.

## **Question 20**

Do you consider that this development timetable is feasible?

It would require good publicity at institutions where many part-time and distance learning students study eg the Open University, otherwise a student might embark on a degree without appreciating the changes.



**Thank you for completing the** Consultation questionnaire form.

Please save a copy of the completed form.

Please return it, along with your completed **About you form**, as an email attachment to [consultation@sra.org.uk](mailto:consultation@sra.org.uk), by **4 March 2016**.

Alternatively, print the completed form and submit it by post, along with a printed copy of your **About you form**, to

SQA consultation  
Solicitors Regulation Authority  
Regulation and Education  
The Cube  
199 Wharfside Street  
Birmingham  
B1 1RN

## Training for tomorrow – a response on behalf of the Black Solicitors Network

### Introduction

1. The Black Solicitors' Network (BSN) was formed in 1995 to promote the interests of black solicitors, for support and sharing information, to participate in consultations, initiated by the Law Society and other Government bodies, in relation to matters which affect black solicitors. BSN aims to be the primary voice of black solicitors in England and Wales.
2. We agree with the principle that the standard expected of a lawyer in any jurisdiction should be a high one. As such BSN supports the SRA as regulator to ensure that standards of solicitors in England and Wales are high and maintained. Any proposed changes in the qualifying process should be fit for a modern profession which is now competing with other entrants into the marketplace. We believe that unnecessary barriers to qualification should be removed but also ensure that the title of solicitor carries weight, is respected and where possible, enhanced.
3. The BSN is committed to achieving equality of access, retention and promotion of black solicitors within the sector. Membership stands at well over 6000. We also attract, and welcome, members from across the cultural and diversity spectrum. Our principal aims include to:
  - Represent Black solicitors, and ensure that their views are articulated and heard within the profession, The Law Society, media and other relevant bodies.
  - Promote equality and challenge discrimination within the profession

The SRA statistics for 2013/2014 reveal that black and minority ethnic (BME) students make up 37% of undergraduates on Law degrees and of LPC students 32% are BME. These are high retention levels at the academic stage. These same statistics reveal that the outcomes for these students are poor in comparison to their non BME peers. Few receive distinctions (none for those who declared African Caribbean ethnicity) and there is a higher fail rate. Not surprisingly the rate of BME admission to the profession was 25%. Additionally BME are paid lower salaries. With the cost of attaining a degree excluding maintenance of £27000 plus the high fees charged by providers of GDL and LPC, it seem BME candidates are paying a high price for failure under the current system. Anything to address these marked disparities is welcome.

4. Currently there is no standard basis by which to measure the quality of students who emerge from education and training. We agree with the general proposition of a common professional assessment subject to safeguards. We are also of the view that there should be no abrogation by the SRA, who have obligations to the profession and to the consumer of legal services, of their responsibility to ensure a rigorous quality service from training providers having regard to the high level of fees being charged.

5. BSN promotes equality of access retention and promotion and supports any considered and proportionate initiative that attempts to remove unnecessary barriers to good candidates becoming solicitors regardless of their backgrounds however the quality of education and training will be the foundation of a successful career.
6. **It is important to note that BSN has a large and diverse membership. Membership includes a large number of students of varying ethnicity , trainees and solicitors in all sectors from single handed Sole Practitioner's to solicitors in local government, industry and the within the largest city firms. In early 2016 BSN facilitated a focus group on the proposed SQE with the SRA and within that group of approx 25 persons a range of views were expressed not all of which supported the proposals but there were some common themes. The caveat is that, as would be the position of any large organisation, this response cannot hope to reflect the views of every BSN member or supporter. However given the high number of BAME students that will be affected by these proposals we concluded that it would be inconsistent with our aim to be the voice of BME solicitors if we did not submit a formal response.**
7. BSN has always been an advocate of more flexible pathways to qualification and are reassured to note that there will be further consultation on this. We will continue to challenge the requirement for pre qualification training as a compulsory element when there is no such requirement on the Bar with never any suggestion that the Bar of England & Wales is anything but of high quality. Part of an increasingly diverse profession is working in a global environment, a feature of the Bar and increasingly so for solicitors. The current restriction on qualifying without a period of prequalification training operates as an unfair restriction particularly in an era when individuals are mobile and moving across continents. There should also be recognition of the large number of unrestricted areas of practice, the changing legal services market and new entrants who are occupying the traditional space of solicitors.
8. The statistics at para. 3 evidences that the present subjective system is no assurance that the most talented candidates can qualify as a solicitor. For talented and capable BAME candidates the biggest barrier continues to be access to a training contract. SRA research confirms the disproportion (*Indicative economic impacts of a new qualification framework for solicitors. Malcolm.K*). There is a place for activity based qualifications. Currently only 63% of trainees are admitted at the training organisation but 85% with larger firms. See Malcolm 4.2.3 as to how this might work
9. We recommend the SRA seriously reconsider the justification of such a restriction. It should be possible to confer the title of non practising solicitor until such time as the candidate demonstrates completion of work place experience in much the same way as the Bar. The SQE Part 2 assessment would be the stage at which such a qualification would be conferred, assessing those elements of the Competence Statement essential for holding the professional status of practising solicitor.

10. The practice of law is increasingly complex and we agree that all solicitors should demonstrate a high level of intellectual, analytical and critical ability which is only likely to be achieved by undertaking some form of advanced teaching and learning. Consequently we agree that the level of competence should be at least graduate level. This is also necessary for the profession to meet the expectations of a more challenging and educated consumer.
11. A concern is the inconsistency in the period of learning and training. A part 1 exam may address this disparity. Consistent standards cannot be assumed especially in smaller under resourced firms where many BME candidates are found. With the introduction of full tuition fees, students are seeking choice and best fit. The proposed Part 1 areas are sufficiently broad but may be too prescriptive e.g. we question why litigation is considered essential, an area never practised by many.
12. We also consider that the proposed changes allow training providers more flexibility in what they teach. Whilst some universities might say the QLD is a restraint, this should be approached with caution. Some universities are research focussed and strongly academic. Some post 1992 universities will revert to their more vocationally inspired foundations and create courses in tune with the proposed model. For reasons highlighted in other research, that include bias on the part of Russell Group Admissions Officers, BME candidates are still mainly to be found in these institutions. The proposed core elements will be covered in a 2 to 4 year Law degree.

### **The questions**

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?**  
Subject to what we have said above, we agree the introduction of the SQE has the potential to meet the objective. For us, a key factor is regulation and monitoring of the quality of the education providers. This is missing from the dialogue. This leads us to question whether the SQE will provide the assurance as to quality on it's own given other factors described above and also question whether it will deliver diversity without some of those underlying issues being tackled.
2. **Do you agree that the proposed model assessment for the SQE described in paragraph 38-45 and in Annex 5 will provide an effective test of the competences needed to be a solicitor**  
We agree that the SQE as described could be effective but we approach this with caution until there is more detail on the framework
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?**  
We believe that there should be consistency therefore ideally no exemptions should be required. The resources that will be spent on assessing exemption applications would be better utilised on monitoring, support and the regulation of training. The

drive should be for consistency within the market and confidence for consumers and other stakeholders.

4. **Which of the stated options do you agree and why;**  
**Offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?**  
**Offering a broader number of contexts for the Part 2 assessment for candidates to choose from**  
**Finding the Part2 assessment on the reserved activities but recognising the different legal areas in which these apply?**

Our preference is option (b) reserved activities plus. Despite the fact the solicitor title allows practise in reserved activities, in an increasingly specialised market this is not a reflection of practice. A broad understanding of these different practice areas will emanate from the Part 1 assessment and can be recognised in the assessment of different legal areas. This will also allow for a changing legal landscape and areas of practice as some areas decline and others grow or emerge.

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 a graduate level of equivalent?**

We agree the SQE should be graduate level. The flexibility of the Part 1 allows for diversity in getting there.

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

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

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

9. **Do you agree that we should recognise the wider range of pre-qualification workplace experience including experience obtained during a degree programme or with a range of employers?**

The SRA and other stakeholders should have regard to cross sectionalism of diversity. Gender diversity is as much an issue for our members as ethnicity. The issue of access to pre-qualification training is a serious concern for our constituency. The point of a training contract could be said to be to learn to become a solicitor but it is not the only way. There are 2 issues. The form of pre qualification that is recognised and the stage at which the qualification (which can be limited or conditional as we suggest) is awarded. We advocate that the measure should be experience by outcome rather than time. We accept that odd weeks of work experience should not count however it is unlikely that a candidate could demonstrate the competence in short bursts spread out over some unlimited period of time. However the measure of competence will be the SQE leading to eligibility to a full practising certificate.

We are not aware of any objective evidence in support of 2 uninterrupted years as the ideal. A trainee may have only sat behind Counsel or sat in on interviews for much of their training contract yet be eligible to take the SQE. Conversely some paralegals carry out the same work as a trainee or solicitor also with experience of

working across departments. Some may have experience from non traditional training contract providers such as accountancy firms and industry. That experience if measurable and meets the competences should be taken into account.

**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 costs and regulatory burden?**

Some firms will not want to carry out work place assessment or not have the skills to do so effectively. We favour compilation by the trainee of a portfolio of evidence that can be externally assessed. We consider the additional costs and regulatory burden to be justified as long as this is proportionate.

**11. If you are an employer do you feel you would have the expertise to enable you to assess trainee solicitor's competences, not capable of assessment in Part 1 and Part 2 to a specified performance standard?**

The time and resources can be built into the programme of training and appraisal carried out by all good employers. We see no reason this should not be part of the obligation on the part of the employer.

**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?**

There should be support such as a toolkit of guidance. It should not be excessively complex and time consuming, only measuring the essential elements. There should also be access to external assessors and a helpline.

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

- a. support the credibility of the assessment**
- b. and/or protect consumers of legal services and students at least for a transitional period.**

We believe this is covered in our introduction.

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

Amongst African Caribbean's degree level study is high. They make up a disproportionately high number of Law graduates so this question is not a major issue. The issue is the "quality" of the degree. We have already indicated our view that some regulation of training providers should be part of the final plan. A 17 year old may not be equipped with sufficient information as to the best choice for them in a training provider. This may also be the case in respect of their parents and teachers. A degree is an indication of advanced learning only however some courses are more academically and intellectually rigorous than others. For some, undergraduate study operates as a barrier for financial or other reasons. The University attended as opposed to the course content may be a further barrier in respect of social mobility. The requirement that all solicitors should hold a degree is inconsistent with the CILEx and apprenticeship route and risks perpetuating the idea that these qualifications are inferior. It follows that whilst we agree that the training

and work experience should be at post graduate level and above, a degree does not have to be a prerequisite.

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

There is a large amount of research that confirms an attainment gap for BME students compared to their white peers at all stages of education save early years and that black students are worst affected. Whilst the existence of the gap in higher education has been known for at least 2 decades, it is only in the last few years any attention has been paid to it and so there is still little research into the causes of that gap and how it can be reduced or eliminated. See e.g. National Union of Students (NUS) (2011) Race for Equality. A report on the experiences of Black students in further and higher education. Richardson, J.T.E. (2008) Degree attainment, ethnicity and gender: a literature review. HEA/ECU.] Broecke, S. and Nicholls, T. (2007) Ethnicity and Degree Attainment. DfES Research Report RW92. London: DfES. Berry, J. and Loke, G. (2011) Improving the degree attainment of Black and minority ethnic students. York: ECU/HEA. As candidates may have already been disadvantaged by the time they undertake GCSE's, A'levels, and for many BME, BTec, etc the SRA will be challenged in designing a programme that can fully overcome that disadvantage. It does not however mean that it does nothing. By recognising the gap exists in the Malcom report is a welcome step. A disproportionately high number of BME are undergraduates on Business and Law courses, courses where the degree outcome attainment gap is widest. Part of the gap is attributable to the wide degree of discretion in the marking/assessment system, as is the case with the GDL and LPC, a discretion which is susceptible to bias, conscious or otherwise. An examination that limits discretion and objective will go some way to addressing the inherited disadvantage.

**16. What information do you think it would be helpful for us to publish about;**

**a)overall candidate performance on the SQE**

**b)training provider performance?**

The SQE should aim for transparency and part of this openness should require that candidates be provided with meaningful information which should include raw score data on their individual performance, which whether or not successful could be seen as an objective measure of suitability as well as comparative performance against other candidates. Training provider data should include cost, class sizes, face to face tuition hours, average entry qualification of the cohort, breakdown of results. There will always be fear that this leads to a risk of litigation however we believe that transparency should be the default.

**17. Do you foresee any additional E&D impacts, whether positive or negative, from our proposal to introduce the SQE?**

At this stage we do not.

**18. Do you have any comments on the transitional arrangements?**

No

**19. What challenge do you foresee in having a cut-off date of 2025/26**

We believe that a cut of date 2025/26 should be sufficient for admission as this is 7 years from proposed implementation in 2018.

**20. Do you consider that this development timetable is feasible?**

The proposed timetable may not be realistic and seems rushed. Much of the success will rest on training providers. There needs to be a chance for proper reflection on the response to this consultation. The decision to issue another consultation in summer 2016 soon after publication of the result of this consultation, at the busiest period for them may be onerous. It is also a period when much of the profession and other stakeholders are away. This ought to be pushed back to autumn.

C. Bart-Stewart  
Executive Director  
Black Solicitors Network  
4<sup>th</sup> March 2016



# Consultation - T4T assessing competence

Response ID:434 Data

## 2. Your identity

### 1. Surname

Kelly

### 2. Forename(s)

Damian

### 3. Name of the firm or organisation where you work

Arenalegal Solicitors

**4. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Attribute my/our response and publish my/our name.

**5. Please identify the capacity in which you are submitting a response. I am submitting a response...  
on my own behalf as a solicitor in private practice**

## 3.

**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?**

No. I believe the current system is appropriate. I came through the current system and was the first of my Family to become a Lawyer or go to Third level education.

## 4.

**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?**

No. Current structures are sufficient.

## 5.

**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?**

No. I know plenty of very capable Foreign Lawyers who have transferred from other Jurisdictions eg Ireland. Why put barriers up when current system works.

## 6.

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

**Why...**

I do not agree with any changes.

## 7.

**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?**

Please keep the current system.

## 8.

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

Yes. Important as on the job training and dealing with the Public always a good thing.

9.

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

Yes.

10.

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

This may put smaller Firms and Sole Practitioners at a great disadvantage. I had a Trainee Solicitor who wanted to do Family Law. I do not deal with Family Law. I was lucky enough to have a colleague in another Firm who was willing to take my Trainee for 6 months. I paid his wages and expenses without any recompense to my Firm, save to ensure the Trainee got trained. Depends on what competences fixed by SRA. General competences are ok but legislating it may mean training becomes too rigid.

11.

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

Yes. I spent time as a Paralegal on Inquest and Criminal cases before qualification. Some of those months were knocked off my Articles. System always allowed for this.

12.

**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?**

No. I think current system should stay. It works well in my experience. I came through current system and have put through 6 Trainees, all now fully qualified and doing well.

13.

**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 1 and Part 2, to a specified performance standard?**

Yes if I had funds to do that. But why needed?

14.

**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?**

Toolkit ok. Local person at local Law Society or Local Firm could be in place to monitor any problems raised by Trainee or even where Firm goes bust. This used to happen unofficially at Leeds Law Society many years ago.

15.

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?**

No.

16. (untitled)

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

No.

17.

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

No. Deal in training.

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

Get local Law Societies to manage or support system. Why centralise an issue which is not there. A local list of Firms via Law Societies would be appropriate.

19.

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

Yes. I see the hard work qualifying as a Solicitor being eroded and public confidence in Profession falling further. Make changes where needed but I cannot understand why changing things now? I endured to qualify from nothing and if you are able and persistent you will get there. Danger in changing system could mean two tier Solicitors brand being developed.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

Yes. I cannot understand why proposed when there are plenty of other areas that need to be fixed.

21.

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

Who can tell what financial problems will face us in the future.

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

No.

## RESPONSE TO SRA CONSULTATION ON ASSESSING COMPETENCE

My name is David Dixon. I am responding to this consultation because I teach on the LPC and GDL courses at Cardiff Law School and have taught there since 1993, the year the LPC was introduced. I am also president of the Cardiff and District Law Society and have encouraged it to respond to the consultation. I am also a member of the council of the Law Society of England and Wales and am a member of its education and training committee - I am the member with the longest current continuous service.

I view the SRA's proposals with grave concern. They have nothing to do with implementing the recommendations of the Legal Education and Training Review, which found the current system of legal education and training to be fundamentally sound. The SRA disestablished the JASB so it can no longer play the (admittedly small and perhaps ineffective) part it had played to monitor standards on the undergraduate QLD. It terminated its role in appointing external examiners to the institutions which teach the LPC so it no longer monitors consistency of standards on the LPC and it doesn't appear to have monitored the PSC either. The relatively small number of LPC and PSC providers make them much easier to monitor than the hundreds of QLD courses and firms who provide PRT. Those are therefore the points in the qualification process where the SRA should be concentrating its efforts in ensuring consistency of standards.

The cost of the proposed SQE is another significant concern. The QLTS is not cheap, costing about £5,000. The SQE consists of more assessments, including 6 live assessments, so it will be more expensive. Sensible candidates will not risk sitting the SQE without first attending preparatory courses and these will be expensive too.

The justification for requiring candidates to sit an additional layer of assessments in which functioning legal knowledge will be tested by unlimited opportunities to pass MCQ tests with no credit being given for any academic courses they may have studied, passed an assessment in and even excelled at is to enable the SRA to gather comprehensive statistics about the pass rates achieved by certain targeted demographic groups. Inflicting a stressful, expensive and unnecessary assessment in order to gather spurious data which demeans the people who are sitting it because it reduces them to categories about what they are (eg age, sex, race, disability, social class, educational background and so on) rather than who they are is deeply offensive. It is also inappropriate: the SRA has not published the LPC pass rates for the July and resit results for several years. I know this because I have written in the *Law Society Gazette* about the surplus of LPC graduates who cannot find training contracts. I have been unable to update my article with more recent information because the SRA has not released it. Although I am confident that if the SQE is implemented it will capture the statistics the SRA wants, I am not confident that these will be for public consumption. I suspect that this will merely be an arid information-gathering exercise such as one might expect from a totalitarian state.

Further, I don't expect the SRA to change its mind as a result of the representations it receives as a result of this consultation. Given the SRA's record in pursuing its reforms to CPD and the removal of the minimum salary for trainee solicitors, it is clear that the SRA does not find any merit in opinions which disagree with its proposals. So be it. I shall have my say anyway.

## Consultation questions

### 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?**

No. Focusing on assuring consistent and comparable high quality standards can best and most easily be met by the SRA monitoring more closely the universities which teach the LPC so that it can be satisfied with the consistency of standards set by relatively few course providers. Further, the SRA should focus its attention on the quality of training given by those firms where it is concerned about the experience and training they provide to people who are undertaking a period of registered training (PRT).

The SQE is a uniform and centralised test. As such it is an inappropriate tool for assessing and assuring new, diverse and innovative pathways to qualification. Furthermore the SQE, which would be a new, artificial and unjustifiable barrier to qualification, would frustrate and impede the SRA's objective of removing artificial and unjustifiable barriers to qualification. The only purpose the SQE would serve is to enable the SRA to gather statistics on entry to the profession. It does not further the SRA's regulatory objectives in any way.

### 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?**

No. The computer-based objective testing described in paragraph 40 does not resemble professional working experience. The virtue of questions of this kind is that they are easy (and quick) to mark and, if set carefully and accurately, they produce objectively correct answers. But this limits the scope and context of the questions because in practice there is not always a right and a wrong answer to every situation. The "functioning legal knowledge" assessments in Part 1 will therefore have to avoid such situations. Having said that, the proposed Part 1 assessments cover the 13 subjects contained in the statement of legal knowledge, which is sensible.

At first glance the Part 2 practical legal skills assessments appear sensible, rigorous and thorough and an effective test of competence in the six skills. However, given the SRA's concern about the current cost of qualifying as a solicitor, it is perverse of the SRA to require such an expensive and intrusive set of twelve assessments which most candidates are likely to take during their PRT, assuming such a requirement will still apply. Is there any evidence that the Part 2 assessments are needed?

Candidates should be given a limited number of attempts to pass each of the 24 assessments. The rigour of the assessment is being diluted by permitting candidates to take one assessment at a time rather than a diet of assessments as has traditionally been required under the Solicitors' Final Examination and the Legal Practice Course. Further dilution, by allowing an unlimited number of opportunities to take each assessment, is unacceptable.

### 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?**

No. The only justification for not granting exemptions to candidates who have already passed assessments in the functioning legal knowledge subjects is to enable the SRA to gather statistics about every candidate who wishes to qualify as a solicitor. Clearly, from a statistical point of view, complete statistics are preferable to incomplete statistics. But in the real world, in which the Legal Services Board encourages the removal of barriers to cross-qualification between the various legal professions in this country, the policy of refusing to recognise assessments which candidates have passed *en route* to such qualification is unreasonable and cannot be justified by the need for statistical purity. Furthermore, since the Part 1 assessments will duplicate the subject-matter of assessments which the majority of candidates will already have passed, the Part 1 assessments are wasteful as well as unnecessary, and mean as they do not recognise the past achievements of candidates.

#### **Question 4**

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

- **offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?**
- **offering a broader number of contexts for the Part 2 assessment for candidates to choose from?**
- **focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?**

Option 1 is the most sensible.

#### **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?**

No. The current educational requirement for all solicitors who qualify under the current system other than the QLTS route is set at level 7 of the Framework for Higher Education Qualifications (ie postgraduate diploma). It is not acceptable for this standard to be reduced to level 6 (ie bachelor's degrees). A reduction in the educational attainment required of solicitors will damage the international reputation of the badge of solicitor of England and Wales. In this connection it is pertinent to note that in many European and Commonwealth countries, as well as in the United States of America, most newly-qualified lawyers are required to hold two university degrees, one of which is in law.

#### **Question 6**

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

Yes. Given the relative ease of the academic stage of qualification, pre-qualification workplace experience is essential.

#### **Question 7**

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

Yes. The SRA should not be tempted to reduce the length of PRT. Although the equivalent of PRT is shorter than 2 years in many jurisdictions, the rigour of the academic stage in those jurisdictions is much greater and the longer period of PRT in England and Wales goes some way towards redressing this mismatch.

A minimum period of 2 years' PRT is sensible - this represents six months in which to adjust to office life and working practices and 6 months' work experience in each of three areas of practice. It should also be borne in mind that many people undertaking PRT will also be attending preparatory courses for the Part 2 assessments and sitting the twelve Part 2 assessments. These absences from the office should be taken into account when specifying the minimum period of PRT.

#### **Question 8**

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

No. The advantage of a fixed period of PRT (subject to exemptions, as under the current system) is that it provides certainty to both employer and employee. The disadvantages to the more flexible model include the perception of unfairness if one candidate's PRT is shortened and another's is not and the consequent resentment that one candidate is favoured over another; the difficulty of planning when one doesn't know how many people are undergoing PRT at any particular time in the future and the consequent uncertainty affecting recruitment plans.

#### **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?**

Not as a general rule as this will be difficult to (1) identify, (2) assess for suitability purposes and (3) individually 'police'. However, the current system of granting waivers to shorten the length of PRT by a maximum period of 6 months should be reviewed. The SRA should have discretion to increase to 1 year the length of time that past experience can count towards PRT where a candidate can persuade it that this is justified.

#### **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?**

Yes. Some of the elements of the Statement of Solicitor Competence, particularly sections C (Working with other people) and D (Managing themselves and their own work) can only be assessed through workplace assessment.

#### **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 1 and Part 2, to a specified performance standard?**

Not applicable.

### **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?**

A toolkit of guidance and resources seems a sensible initiative. The level and form of additional support would depend on what was contained in the toolkit.

### **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?**

I note that this will be the subject of another consultation in 2016. Aspiring solicitors should know what they need to do to qualify as a solicitor and the order in which they should do it and this information should be as clear and comprehensible as possible. The virtue of the current system of entry ie QLD + LPC + PRT or degree + GDL + LPC + PRT or CILEx + LPC or QLTS or legal apprenticeship is that there is a clear and defined structure to the qualifying process and each of the three stages to that process has a defined role (academic learning, vocational training and work-based training).

Abandoning this process on the basis that outcomes-focused regulation does not define pathways is unreasonably dogmatic, blinkered and dangerously irresponsible. The overwhelming majority of those who are going to have to choose which pathway to take to qualify will be between 16 - 20 years old. They need guidance rather than the freedom to choose between the merits of several pathways to qualification which will simply bewilder them.

It is astonishing that a regulator can ask whether its consultees consider that the regulation of training pathways or entry requirements is needed to protect consumers and students. Yes, of course it is.

### **Question 14**

**Do you agree that not all solicitors should be required to hold a degree?**

Yes, subject to the message being sent very clearly is that a university degree is usually a pre-requisite to become a solicitor but that the degree is not required if the candidate has qualified through either the legal apprentice route or the CILEx route, both of which are set at level 6 of the Framework for Higher Education Qualifications and are therefore equivalent to degree level, plus the LPC, which is set at level 7.

### **Question 15**

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

No. Since the title of this consultation is Assessing Competence the purpose of the SQE appears to be to assess competence. It does not matter how many marks a candidate scores as long as he or she is adjudged to be competent.



Although it might appear attractive from a regulatory point of view to be able to track how well students from particular backgrounds or particular ethnicities perform on the SQE, and to track the relative performance of “providers”, this is irrelevant to the purpose of the SQE. Moreover as well as being unnecessary, it would be expensive to compile and gather such statistics for each assessment (there are 24 assessments in total) and for the overall performance in the SQE (a 25<sup>th</sup> assessment). Further, the statistics would not be comparable as candidates can choose when to sit each assessment and some assessments will be of greater rigour than others, and some candidates might be taking their 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> or 6<sup>th</sup> attempt at particular assessments..

So the statistics would be expensive to gather and of little benefit. They could even be harmful because they would confuse candidates into thinking that excellence rather than competence was being assessed. It is possible that publishing this data would lead to firms offering jobs subject to candidates attaining a particular percentile performance in the assessment and that could lead to appeals or challenges to the marks that candidates were given. At worst, some candidates could apply to the High Court to judicially review their marks.

#### **Question 16**

**What information do you think it would be helpful for us to publish about:**

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

None. Such data is unhelpful and can mislead. The results in any one year are only as good as the students and the assessments they sat. Students only need to know they are competent - that is the purpose of the SQE. There is no regulatory reason for the SRA to process information about either overall candidate or provider performance if it is satisfied that the candidates who passed the SQE are competent.

#### **Question 17**

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

I suspect most of the barriers to equality and diversity come at the training contract stage, as that is where the oversupply of students is most apparent. If that is the case, the SQE will make no difference to the current scene. On the other hand if, as I suspect, the cost of the SQE and the unregulated preparatory courses which students will take is greater than the cost of the LPC, and firms are reluctant to release students from their period of PRT to take their Part 2 assessments (and won't pay for the Part 2 assessments either), I can foresee fewer students being offered PRT. Those who cannot afford it will not pay for their Part 2 assessments so will be unable to progress further. Since this is the stage at which candidates with EDI issues are disproportionately unsuccessful in progressing their careers, I suspect that the reduction in training places will also hit them disproportionately hard.

#### **Question 18**

**Do you have any comments on these transitional arrangements?**

No.

#### **Question 19**

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

See answer to question 20.

**Question 20**

**Do you consider that this development timetable is feasible?**

No. The Legal Education and Training Review took longer than planned and there was more than one delay in its consultations as well as the delay in publishing its final report. Training for Tomorrow has also been afflicted by delay - this consultation was delayed by some 2 months. So it is realistic to expect further delays in the consultations to come.

The date for appointing the assessing institution in the summer of 2017 is vulnerable to slippage because of this. Even if the assessor was appointed then, it is highly unlikely that the processes of appointing question setters and external examiners, classifying the questions in ranges of difficulty, road-testing the questions, testing the skills assessments, hiring the actors, setting up the necessary arrangements for assessment regulations, extenuating circumstances, appeals, and liaising with the education providers and firms which offer PRT to ensure that they are ready to operate the new regime from September 2018 will be ready on time. The universities will need to write new courses which deliver to the statement of solicitor competence and these courses will need to be ready by September 2018, so it's not just the assessor who will have to be ready.

There is nearly universal opposition to the SQE from stakeholders who have fed back to the SRA at various events they have staged since they announced their provisional preference for the SQE in the spring of 2015. If the SRA inflicts this assessment upon the profession despite this opposition and the SRA is afflicted by teething troubles, it will suffer enormous (and possibly fatal) damage to its reputation. The SRA cannot afford the SQE to fail. That is why the SRA will have to delay the implementation of the SQE by another year or two.

David Dixon

2 March 2016.



**LEICESTER DE MONTFORT LAW SCHOOL,  
DE MONTFORT UNIVERSITY**

**T4T - Assessing competence**

**Consultation questionnaire form**

This form is designed to be completed electronically—in MS Word. Please save it locally before and after completing it.

To request an alternative format please visit [www.sra.org.uk/contact-us](http://www.sra.org.uk/contact-us).

## 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?

No.

We have a number of concerns relating to this proposed way forward, as follows:

1) We are unconvinced that the SQE will achieve the SRA's desired effect of widening access to the profession. Currently, the main routes to qualification are either a law degree + LPC + training contract, or a non-law degree + CPE / GDL + LPC + training contract. It is likely that the vast majority of would-be solicitors will still undertake a degree, given that the job market might expect this. Prospective qualifers will then need some sort of training in practical law, so an LPC equivalent course will be needed. Applicants will then have to pay for the SQE, including a potentially unlimited number of further attempts if unsuccessful, so instead of reducing the cost of qualification, these proposals will add to it. Some providers may go down the route of a three year degree including all the SRA outcomes, but this will narrow student choice of options in the degree and result in a less well-developed and rounded solicitor.

The SQE could be a benefit to a small number of individuals who do not follow the traditional route, but they are already provided for under the current system, for example by apprenticeships, by recognition of CILEX qualifications and by the Equivalent Means Route.

2) The SRA has made assumptions in their proposal about the quality of current provision, which are not necessarily supported by evidence. For example, variability in pass rate on the LPC may well be due to variability in entry qualifications, motivation and aspirations of the students concerned. At degree level, it is true that there is variability at point of entry on A level grades, but the SRA has not produced any evidence that this has an effect on the quality of solicitors produced.

3) Pre-admission training is currently delivered almost exclusively by Universities, which are in the main not-for-profit organisations with a declared commitment to educational excellence, and which are closely regulated by the QAA. We are concerned that, if the SRA proceeds with what appear to be plans not to specify or regulate education and training prior to the SQE, the current commitment to quality education and training would be diluted, to the detriment of students, in an unregulated environment.

4) We are concerned that entry to the profession should be graduate only. This does not mean that every prospective solicitor must have a law degree - there are already exceptions to this rule in the form of CILEx qualifications and the Equivalent Means scheme. However, a law degree or quivalent should be a requirement, so as to ensure that solicitors have the necessary skills, abilities and atributes to ensure competence in a complex working environment. If graduateness were not a requirement, we can forsee this leading to a diminution in reputation and 'brand' for the profession, especially overseas, whilst the brightest students will avoid the solicitors profession in favour of alternatives where their degree is recognised and valued. Virtually every other profession in the UK (e.g. nursing, midwifery, dentistry,

medicine) in England and Wales have a requirement of degree level qualifications.

5) It seems likely that the Bar will continue to require a law degree or equivalent. This will make it difficult for law schools who will be trying to cater for all students. It is also likely to mean that, whether it is needed for the solicitors profession or not, most school and college leavers will opt to take a law degree in order to keep their options open, thus defeating the SRA's stated intention of widening access. The SQE will then add a further cost burden. In addition, assuming no exemptions from the SQE are permitted, students who choose to take a qualifying law degree will be assessed twice, once on the degree and again on the SQE. This seems a waste of time and effort and money, and may result in additional cost for students taking refresher courses if their degree was completed some time previously.

6) There may be an assumption by the SRA that, if the SQE is introduced, Law Schools will adjust their degree curriculum to accommodate the SRA's outcomes. However, it must be borne in mind that not all students taking law degrees wish to qualify, and many bright students may be put off taking a law degree by a practice-focussed curriculum. Some Law Schools will not wish to adapt their curriculum. This could result in extra cost for additional post degree training for some students and a two tier system, where the wealthy can enjoy the luxury of a wide-ranging law degree followed by a practical training course whilst poorer students will have to remain vocationally orientated throughout their degree.

7) The Junior Lawyers Division has expressed concerns that bank loans would not be available for courses leading to the SQE, as such courses will not be mandatory. We share those concerns.

## 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?

No

Without seeing some examples of the proposed assessments it is difficult to comment in detail, but we are struggling to see how the full range of graduate level skills usually tested on a law degree or CPE can be assessed using multiple choice and true/false questions. Degree programmes are designed to provide the ability to think analytically and critically, to problem solve and to provide a range of different possibilities and viewpoints on any given area of law, and this cannot in our view be tested using the proposed methodology.

### **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?

No

We can see no good reason why appropriately accredited and recognised learning should be ignored. Failing to recognise prior learning (which has been appropriately validated and subject to a rigorous quality assurance process) simply adds cost to the qualification process.

The SRA recognises that it may have to give exemptions to EU nationals; in such a case, it would be illogical to exempt such an individual whilst refusing the same exemption (for the same prior learning) to a UK citizen.

## Question 4

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

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

We have no strong views on this point and feel it should be for the profession to decide what kind of qualified lawyers it needs.



## **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?

Yes.

The SRA will need to do some further work to ensure that the SQE is properly set at such a level, but we consider it vital for the good health of the profession in the future that all solicitors have achieved learning at graduate level.

## Question 6

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

Yes.

## Question 7

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

Yes.

Without a specified minimum period, the only way to ensure consistency of learning would be to introduce a further test and this would add cost.



## **Question 8**

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

No - see above. If the SRA specifies competences, who checks that these have been achieved?

## Question 9

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

Yes.

We recognise that the current number of training contracts is insufficient to meet demand. We also note that there are many valid workplace situations in which legal knowledge and skills can be obtained, and which are not training contracts.

## **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?

Possibly but we would like to see more detail on this.

## 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 1 and Part 2, to a specified performance standard?

Not applicable.



## 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?

Not applicable.

## 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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

Yes, for the reasons given above.

## **Question 14**

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

We agree that all solicitors should have qualifications at graduate level, as is the case at present, for the reasons given above.

## Question 15

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

No

We cannot see the logic of doing so in the context of a competence based assessment. In various meetings the SRA has stated that the SQE is designed to be a threshold level assessment and as such we cannot see that its design could or should generate different levels of competence.

## Question 16

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

We feel this is a question which can better be answered if and when the decision to proceed with the SQE has been taken and once we have a clearer view of the nature of the assessment.

## **Question 17**

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

Unfortunately we do not foresee any positive EDI impacts.

We do not believe that the proposed assessment will have the desired effect of widening access to the profession, for the reasons stated, and in fact the opposite effect - discouraging good applicants away from a non-graduate profession - could be achieved.

## **Question18**

Do you have any comments on these transitional arrangements?

We are currently finding that students who have already embarked on degree programmes are confused as to what will be the value / currency of their degree and more clarity from the SRA, including a clear statement and flow chart on their website, would be helpful.

## **Question 19**

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

We can foresee that there might be applicants who for legitimate reasons cannot complete in the specified period.



## Question 20

Do you consider that this development timetable is feasible?

No

Assuming an assessment provider is appointed and is able to provide sample assessments by the end of next academic year (i.e. by summer 2017), this might enable Law Schools to consider their proposed courses and have them in place for 2019-20, but 2020-21 is probably more realistic.

**Thank you for completing the** Consultation questionnaire form.

Please save a copy of the completed form.

Please return it, along with your completed **About you form**, as an email attachment to [consultation@sra.org.uk](mailto:consultation@sra.org.uk), by **4 March 2016**.

Alternatively, print the completed form and submit it by post, along with a printed copy of your **About you form**, to

SQA consultation  
Solicitors Regulation Authority  
Regulation and Education  
The Cube  
199 Wharfside Street  
Birmingham  
B1 1RN

28 September 2016

## **LCCSA RESPONSE TO TRAINING FOR TOMORRO**

The London Criminal Courts Solicitors' Association (LCCSA) represents the interests of specialist criminal lawyers in the London area. Founded in 1948, it now has almost 750 members including lawyers in private practice, Crown prosecutors, freelance advocates and many honorary members who are circuit and district judges.

The objectives of the LCCSA are to encourage and maintain the highest standards of advocacy and practice in the criminal courts in and around London, to participate in discussions on developments in the criminal process, to represent and further the interest of the members on any matters which may affect solicitors who practice in the criminal courts and to improve, develop and maintain the education and knowledge of those actively concerned with the criminal courts including those who are in the course of their training.

The LCCSA has decided to only respond to those questions which are pertinent and within the ambit of knowledge and concerns.

If you have any queries regarding this consultation please contact:

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## **Question 1**

It cannot be prejudicial to ensure that minimum standards of entry to the profession are met and that some form of centralised assessment be incorporated into achieving that.

The present system qualification need not however be disrupted to achieve this. It could be made part of it.

If the assessment were to be the one test of competence for entry into the profession, it could never hope to meet the requirements of being a sufficiently rigorous and comprehensive test of all qualities and knowledge required of an intending solicitor.

Given the SRA's desire for high standards of those entering the profession, it is submitted that those standards are best achieved by a centralised assessment being supported by either a higher education or vocational qualification.

With regard to the second objective set out that candidates may qualify by the development of new and diverse pathways to qualification therefore a response to the change in Legal Services market and which remove artificial barriers – this would be to all intents and purposes deregulating training. To make the training pathways less restrictive would introduce more difficulties in determining the quality of each. The prospective candidate would be bewildered as to whether the path they seek to choose is in fact the best. A talented candidate is not assisted in entering the profession if their choice of training pathway fails to deliver the proper training. They could find themselves being excluded from entry through no fault of their own other than ignorance as to the quality of their chosen training pathway.

## **Question 2**

The proposed model of assessments does not specify the level of knowledge and skill that is to be assessed. It may fall short of that required presently. If qualification as a solicitor is to be the "gold standard" that would hardly meet its purpose.

One centralised test is likely to be constructed to meet a wider medium ability amongst other candidates so that the weakest of candidates are ruled out but that it still allows the maximum number of candidates to pass. This is not rewarding or identifying real talent. The course is likely to be narrow in the issues of learning just so as it enables itself to be truly centralised and common. This does not allow for greater knowledge to be acquired as would be the case under the current system. It is limiting in its expectations and knowledge.

By such a modular approach, the candidate will focus on only the module in hand. By the end of the course, what state of recollection of that module will the candidate have? It is analogist to cramming. It does not encourage strength and depth of knowledge.

The ability to undertake and re-take modules is worrying. How does that correlate with a desire for excellence? Just because a candidate eventually passes does not mark them out as able within the profession. If the analogy is drawn of repeated

retakes of driving tests – would the fact that the driver passed on their fourth or fifth attempt instil in you any confidence that they had any real aptitude for driving? The same goes for qualification as a solicitor. Additionally multiple re-takes give an unfair advantage to those with the financial means to do so.

### **Question 3**

The SQE appears to be along similar lines as the QLTS and may therefore be, subject to depth of testing, appropriate for those wishing to enter the profession or qualified in another jurisdiction.

This may not however be appropriate for those qualified in other UK jurisdictions.

If no exceptions were to be offered to those who already hold law degrees, it would be imposing additional cost in testing on candidates. Further, the decision to qualify as a solicitor or barrister is often not an immediate choice. If the requirement of a law degree, which is generic to both branches of the profession, were removed, it would force candidates into the need for a much earlier choice between qualifying as either a solicitor or barrister.

### **Question 4**

Option A would appear best in meeting the requirements of entry, being cost effective and retaining flexibility of training for the candidates.

### **Question 5**

The benefit of a law degree is that it allows a sustained period of time for not only learning but the development of the necessary thinking that makes it possible for solicitors to employ lateral thinking around a subject that is required, the depth of thinking and the mental acuity and flexibility that is required to embrace the changes in law and procedure that will take place during the course of a career.

A limited modular, narrowly focussed common set of assessments will not assist in developing that depth of learning and application long term.

### **Question 6**

It is essential that there be a period of work based training in a legal environment with supervision prior to qualification. It is where the real learning of practising as a solicitor takes place it is opportunity to apply the candidate's knowledge but with the safety harness of supervision in place. It allows an opportunity to learn the craft of what makes a business survive which would not be covered in the assessments. Likewise a "real client" will bear little similarity to the "sanitised" mock client provided for testing during assessments.

It allows also for a period of time for the integrity and ethics of the candidate to be tested. They may be able to answer accurately a question on ethics in an assessment but do they possess the moral fortitude to take the right action when called upon in practice?

### **Question 7**

A minimum period is supported. It should be appropriately lengthy to allow candidates to continue learning the practice skills that the assessment cannot impart and to demonstrate that they are validated candidates for entry to the profession.

### **Question 8**

This should not be an either/or position. The SRA should specify both the competences and the minimum period of pre-qualification workplace experience.

This should be standard in both respects with the certainty of those qualifying and the proper observances with regard to training and qualifying.

### **Question 9**

It is agreed that pre-qualification experience could count towards qualification but that experience must be for a sustained period in a legal environment and under supervision of a solicitor. That experience must also be fully documented.

“Bite size” pieces of work experience accumulated in a “flying hours” manner would be unacceptable.

### **Question 10**

Workplace assessments are not just an enhancement of the qualification process, they are necessary.

If the SRA seeks to achieve a standard of excellence, then it cannot compromise with considerations of regulatory burden and additional cost, as long as that cost be reasonable.

The workplace element should be considered so integral to qualification that it is non-negotiable.

### **Question 11**

Not applicable

### **Question 12**

All guidance would be welcomed in support. With regards an access to a helpline for enquiries would be useful also.

### **Question 13**

It is believed that the prescription and regulation of training pathways are needed in order to support the credibility of the assessment.

The SRA should take a holistic approach to overseeing and regulating the quality of pre-qualification training. It would also offer protection to candidates and thereby, ultimately consumers.

It should be an ongoing responsibility however and not just transitional.

#### **Question 14**

Solicitors need not hold a degree as long as they hold a degree level equivalent qualification. This is the foundation of the academic abilities that are required to preserve the services and reputations of solicitors in regard by the public.

#### **Question 15**

To provide candidates with information on their comparative and individual scores would bring more disadvantages than advantages.

This would be so in the terms of increased costs in administering such a procedure. Of particular concern, it would favour those students who may choose to re-sit the assessment – maybe on multiple occasions – in order to improve their placing.

#### **Question 16**

It would be informative to publish overall candidate performance.

Equally, performance by the training providers would be useful. If the candidates are to invest a good deal of money in their training, they should be aware of the likely return on that investment. It may also encourage providers to aspire always to the highest training standards if it were to correlate with the volume of attendance at their institution. The only caveat would be that the most successful training providers would be sufficiently subscribed or indeed over-subscribed, so that they may be tempted to increase their fees which would militate against those economically ill equipped to afford them.

#### **Question 17**

On closer consideration, the introduction of the SQE would not appear to enhance access to the profession.

There are already criticisms that entry to the profession leans in favour of those with financial support and the best education.

If there is a determined move away from the predominantly graduate entry, then the divisions between the economically and educationally secure will become even more profound.

It is unlikely that an employer's desire for graduate entry will be diminished.

This will set back any progress being sought to improve social mobility with regard to entry to the profession.

### **Question 18**

It should be the case that during the currency of the transitional arrangements, anyone who has embarked upon a qualifying law degree would be exempted from the entirety of the Part 1 assessment of the SQE.

### **Question 19**

The SRA should exercise proper consideration so that all possible current entry options to the profession be allowed proper time for completion.

### **Question 20**

The timetable appears unrealistically expeditious.

In the criminal defence profession, we have become only too well acquainted with overly optimistic dates. The premature implementation of reforms by the Legal Aid Agency and Ministry of Justice that have been either abandoned or rolled out inefficiently. This would be damaging to the reputation of the profession which is after all, what the SRA concerns itself.

It leaves insufficient time for observation by the profession and training provider.

It leaves insufficient time for training providers to give proper thought to the content and resourcing of the SQE.

It would certainly put candidates in a difficult position as to their pathway choices as many will already be giving consideration to graduate entry. It is a change too abrupt to them and has the potential to be hugely disruptive to their training contemplations and undertakings.

It must be sensible that a longer lead in period allows candidates to make more informed decisions about their training pathway.

There should also be no element of undue haste preventing the efficient implementation of whatever assessments are resolved upon. Chaos, discontent and criticism does nothing to enhance the reputation of the solicitor's profession.



Dorothea Bannerman-Bruce - Berwin Leighton Paisner LLP

## **T4T - Assessing competence**

### Consultation questionnaire form

This form is designed to be completed electronically—in MS Word. Please save it locally before and after completing it.

## 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?

No, we do not think that the introduction of the SQE is the best way for the objectives in paragraph 10 to be met. We believe that the SRA's objectives are more likely to be met through maintaining the current routes to qualification, increasing flexibility and the rigorous monitoring and regulation of standards. More generally, without having detailed information about what will be assessed and the assessment methodology, we do not feel able to make a fully informed decision about the SQE. However, we have set out some initial concerns below.

### High Standards

We support the SRA's aim of increasing access to the profession; however, this must not be at the expense of standards.

We believe that the introduction of the SQE may mean that solicitors will not have the same depth and breadth of knowledge as they do under the current system. We are concerned that the proposals in their current form may lead to future trainees only focusing on areas of law that they need to pass the SQE rather than developing knowledge in a broad range of practice areas. We also wonder whether the proposals outlined in the consultation will lead to the creation of new 'crammer' style courses which focus on getting students through the SQE rather than increasing their knowledge of the law.

### Opening the profession to talented candidates

We remain to be convinced that the introduction of the SQE will lead to more talented people entering the profession.

Many firms, including ours, are likely to continue to recruit graduates, as a way of identifying the most talented candidates. This could create a two-tier profession, with those who have not qualified through the traditional route, finding it more difficult secure a job on qualification.

At this stage it is not clear what the cost of qualifying will be once the SQE has been introduced. Many larger firms are likely to favour something very close to the traditional route to qualification (i.e. law degree/GDL and LPC-type course). The addition of the unknown cost of the SQE (and courses to help people through the SQE) is, therefore, unlikely to remove barriers to the profession.

The new proposals may create uncertainty about routes to qualification. Students who already have contacts in the profession will have greater insight into which routes to take. However, candidates without such contacts may follow routes which are less attractive to employers and thus find it harder to secure a job upon qualification.

## 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 do not believe that the proposed structure for the SQE will be an effective test of the competencies needed to be a solicitor for the following reasons:

- **Assessment methodology** - we remain to be persuaded that the SQE can replace the challenge of a QLD/ degree and GDL, LPC and pre-qualification experience. We question whether the Multiple Choice Questions in Part 1 are an effective way to assess in-depth legal knowledge and other key solicitor competencies such as written and verbal communication, critical thinking, problem solving, analytical reasoning, research and putting forward cogent arguments.
- **Grading** - a pass or fail model will not identify the most talented candidates. We would, therefore, favour a graded model of assessment; and
- **Re-sits** - we do not favour an unlimited re-sit policy. We would support candidates having a maximum of two opportunities to re-sit for the following reasons:
  1. The competence of a candidate who has taken multiple re-sits should be questioned;
  2. Multiple re-sits could lead to concerns about the rigour of qualifying solicitors and raise concerns about the robustness of the profession as a whole; and
  3. The opportunity of sitting the SQE many times is likely to favour wealthier students and therefore undermine the SRA's objective of increasing diversity.

### **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?

No, whilst we acknowledge that the SRA is keen to ensure consistency there is not enough flexibility in the proposed framework for talented lawyers who already have a law degree, an alternative legal qualification or who have already qualified in other jurisdictions.

We are in favour of providing exemptions to elements of the SQE for Barristers and lawyers who have a law degree (QLD or GDL) or have qualified in another jurisdiction. This would recognise the cognitive skills that individuals would have developed by attaining their qualification and avoid duplication in terms of aspiring solicitors potentially having to complete two sets of exams in the same topic areas.

## Question 4

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

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

We would favour Option B. Options A and B do not reflect the reality of what the majority of solicitors in City firms spend their time doing. The reserved activities form a minimal part of the role of advising clients. We, and many other firms, would find it difficult to offer experience in just the reserved activities.

Option B would enable intending solicitors to demonstrate their competence in areas they have practised in (and will practise post-qualification). Demonstrating competence in areas which mirror their practice will be a more accurate way of assessing an individual and will give clients more confidence in the solicitor title. For intending solicitors, Option B will encompass more than three areas so it will require them to demonstrate their competence more broadly.

We appreciate that Option B may be more costly to administer, but we believe that the benefits of intending solicitors being able to demonstrate competence in a broader range of areas outweigh the increased costs.

## 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?

Yes. We believe that the profession should continue to have a minimum graduate level entry requirement or equivalent. A degree, or equivalent, acts as a foundation for vocational learning and enables future solicitors to develop a wide range of skills and knowledge. In particular, the profession requires a high level of cognitive skills with an ability to analyse and synthesis large amounts of information to come to logical and reasoned conclusions and we believe these skills are best developed through quality academic qualifications.

Entry into most professions and an increasing number of vocations (e.g. teaching and nursing) require a degree or degree equivalent. We believe that moving away from this position will create the impression that the profession in England and Wales is 'dumbing down'.

If the SRA's objective is to raise standards, we would encourage the SRA to consider increasing the standard at the point of qualification to post-graduate level. Paragraph 53 of the consultation states that:

"The introduction of the SQE is designed to assure consistently high standards better than in the current system,"

Under the current system, the QLD is set at Level 6 (in the Framework for Higher Education Qualifications); with the LPC being at Level 7. On that basis, it would make sense for Part 1 of the SQE to be at the graduate level. In addition, if Part 2 of the SQE can only be taken after Part 1 has been passed, Part 2 must be set at a higher level – we would suggest the current LPC equivalent (Level 7 – post-graduate level). However, if Part 2 is intended to be taken at the point of qualification it should be set above Level 7 as the current route to qualification permits qualification after two years post-qualification experience and training.

We would also encourage the SRA to be transparent about the level to which the SQE has been set by mapping it directly to the Framework for Higher Education Qualifications.

## Question 6

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

Yes. We strongly believe that a period of pre-qualification experience (minimum 18 months) should continue. This will give aspiring solicitors the opportunity to gain on-the-job experience and support through qualified supervision. There are many vital skills that are developed during pre-qualification experience which cannot be taught through a course, e.g. listening, questioning and resilience. These skills are developed and honed over time.

Other professions, e.g. accountancy and medicine require future professionals to gain work experience.

## Question 7

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

Yes. We believe that the SRA, as the Regulator, should be the body that specifies the minimum time period of pre-qualification work experience. We would suggest that this should be a minimum period of 18 months. Over this period intending solicitors should be able to gain broad and in-depth experience in a range of areas.

If the SRA does not specify a minimum, firms will choose their own limits which could:

- create inconsistency in experience as solicitors move laterally and join other firms;
- lead to some firms using a reduced period of pre-qualification experience to attract candidates which could drive down the length of pre-qualification work-experience across the market, as others seek to follow; and
- increase the administrative burden for firms with large numbers of trainees.



## **Question 8**

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

If the SRA's aim is to meet the objectives in paragraph 10 of the consultation paper, we believe that it should specify the minimum competences which should be met during a period of work experience and the minimum time period.

## Question 9

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

Yes. If the knowledge and experience gained can be shown to help the individual meet or exceed the minimum competency requirements then a wider range of pre-qualification workplace experience should be recognised. However, we believe it is the job of the Regulator to decide whether that experience is sufficient, if it is gained outside the training contract.

We would suggest that pre-qualification work experience should be a minimum of 18 months and include at least three different areas of law (which is similar to the current “equivalent means” route to qualification).

## **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?

Yes, we do. Many vocations have elements of workplace assessment; in addition the SRA has previously carried out extensive research on work-based learning so a loose structure already exists for workplace assessment to be incorporate into the qualification process.

We would encourage the SRA to develop a workplace assessment framework which is flexible enough to be integrated into different firms' trainee supervision models and does not increase the cost of training solicitors.

## **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 1 and Part 2, to a specified performance standard?

Yes. We believe that we have the expertise to assess competencies subject to receiving clear and helpful guidance from the SRA and the flexibility to implement the guidance in an efficient way.

## **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?

Yes, a toolkit would be very helpful. However, without knowing the required standards it is difficult for us to comment on what guidance or support we would need.

## 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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

Yes, we agree with both points. We believe that as the Regulator, the SRA should prescribe entry requirements for the SQE to support the credibility of assessments; however, we believe that this should be for longer than just the transitional period.

As noted elsewhere, there is a risk that deregulation of the routes to qualification will result in a two-tier profession.

## **Question 14**

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

We believe that all solicitors should be required to hold a degree or degree equivalent qualification. Please see our response to Questions 5 above.

## **Question 15**

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

Yes, we do. Without this information it will not be possible to identify the best candidates for recruitment purposes and will make it more likely that firms will rely on degree results to identify good candidates, this will be disadvantageous to candidates who have not followed the traditional route to qualification.



## Question 16

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

For the reason described in Question 15, we believe it would be helpful to have published information which allows the comparison of a candidate's performance against others, e.g. showing performance in quartiles.

We think aspiring solicitors will find it helpful to have information about training providers.

## Question 17

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

Our view is that the introduction of the SQE will, particularly if it is accompanied by a deregulation of the routes to qualification, have a negative impact on diversity within the profession because it will:

- Increase the cost of qualifying as a solicitor;
- Make firms fall back on traditional measures of ability (such as degrees) to identify talented candidates;
- With possible multiple routes to qualification appearing, disadvantage candidates from less privileged backgrounds as they may be less informed about which route to qualification employees might find most attractive; and
- Mean that candidates from wealthier backgrounds are more likely to be able to afford to re-sit the SQE.

## **Question18**

Do you have any comments on these transitional arrangements?

Not at this time. We have not been given enough information to provide a considered response.

## **Question 19**

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

We do not see any challenges at this time.

## Question 20

Do you consider that this development timetable is feasible?

The timetable is very tight and we are concerned that it will not give the profession sufficient time to digest and properly respond to the consultations. Universities and training providers will need time to develop programmes to properly prepare students for the SQE and it may be challenging for them to achieve this by 2018/19.

It is also likely that providers will be operating two systems where they are supporting people who are following the current route and starting to develop new courses. Will providers be able to maintain quality to support both?

**Thank you for completing the** Consultation questionnaire form.

Please save a copy of the completed form.

Please return it, along with your completed **About you form**, as an email attachment to [consultation@sra.org.uk](mailto:consultation@sra.org.uk), by **4 March 2016**.

Alternatively, print the completed form and submit it by post, along with a printed copy of your **About you form**, to

SQA consultation  
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The Cube  
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## Response to T4T Consultation from LJMU School of Law

### We would take issue with a number of matters raised in the Foreword.

We are concerned at the negative approach taken in the Foreword and in recent public presentations. There may be a discrepancy in pass rates across institutions offering the LPC but the implication that this is necessarily a negative indicator is flawed. A vast number of factors impact upon pass rates. It may be that the higher pass rates are the result of excellent teaching, or hard work and perseverance by a particular cohort of students, but this possibility does not appear to be acknowledged.

Similar comments might be made with regards the GDL pass rate. GDL students are mature applicants with extensive experience of studying in HE, by virtue of being graduates. They are usually self-funding and highly motivated so a high pass rate might well reflect the initial selection process – having a degree- and the subsequent level of study and application.

The comment on consistency in standards across HE institutions is a quote taken out of context. In the same report HEFCE emphasises the responsibility of autonomous providers to safeguard academic standards, and talks of co-regulation:

*“19. Reflections on the changing nature of the higher education landscape have led us, the funding bodies for England, Wales and Northern Ireland, to propose options that differ in some respects from current arrangements, and that place more emphasis on the responsibility of autonomous providers to safeguard academic standards and the quality of the student learning experience, in the context of their own diverse missions and the diverse needs of their students. At the same time we are seeking to ensure that certain core assurances – which are not well addressed by the current arrangements – can be provided to students, government, taxpayers and other stakeholders in the matters that are important to them. We wish to achieve this without placing a disproportionate and costly regulatory burden on providers who can evidence continuing safe custody of standards and quality”.<sup>1</sup>*

The requirements of the QLD dictate the relevant underpinning knowledge for students, but there are many factors that impact on the ability of the student to move

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<sup>1</sup> HEFCE (2015). Future approaches to quality assessment in England, Wales and Northern Ireland: Consultation. <http://www.hefce.ac.uk/reg/review/>

from learner to practitioner. In a climate of reduced opportunity it might be appropriate to introduce a centralised test of eligibility to study the vocational stage, similar to the Bar Course Aptitude Test. The SRA has discussed this possibility on more than one occasion in recent years, and we would suggest that this option might be reconsidered.

We would further take issue with the reference to statistics on consumer complaints and negligence made in the Background section. We are given the figures for one year with no comparator. Whilst there is recognition that 'It is difficult to establish a direct link between consumer detriment and inadequate training' there is a lack of consideration of the great number of factors that might influence the level of consumer dissatisfaction. In particular the potential impact of the shift to outcomes focussed regulation in 2011 has not been acknowledged.

### **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?**

Not in the manner proposed.

We would question the proposal to detach the assessment from the course or programme of study. The law degree and LPC are much more than a mere vehicle to enable students to demonstrate competence on a snapshot day in time. They are each an experience which encourages the development of the individual across a period of time, empowering them and enabling them to grow in confidence as well as ability. The law degree is a recognised and trusted qualification 'passporting' students into many different careers, it is excellent 'brain training' and should not be dismissed as irrelevant to a career within the broad legal profession.

It may make sense for some elements, particularly those in the proposed stage 2 (which assess competences which are more exclusively required of solicitors), to be assessed centrally. However, having a set of assessments covering the full range of the currently compulsory subjects on a qualifying law degree appears likely to result



in duplicate assessment and additional expenditure for many of those seeking to qualify as a solicitor.

A centralised examination is clearly not the only way in which "consistent and comparable high quality standards" (first limb of paragraph 10) may be achieved. Such an outcome was in fact achieved for many years by the robust external examiner system operated by the SRA across all institutions seeking to award a qualification in areas covered by the Statements of Legal Knowledge and Solicitor Competence. It is ironic that, despite the stated concern about standards, the SRA chose to abandon that proven system very recently.

The idea that the introduction of the SQE will encourage "the development of new and diverse pathways to qualification" (second limb of paragraph 10) is misconceived. The majority of those seeking to qualify will continue to take a degree:

- A law degree remains a requirement for qualification as a barrister, so anyone undecided as to the professional path they wish to pursue will still need to enrol on a law degree to keep options open.
- It is highly likely that many solicitor's firms will require a graduate qualification as part of their recruitment requirements.

Many aspiring solicitors will therefore continue to incur the expense associated with a degree and then the additional cost of taking a set of exams, many of which will duplicate topics in which they have already been assessed at degree level.

No indication is given as to the cost of taking the proposed SQE. However, given the breadth of the Statements of Legal Knowledge and Solicitor Competence and the desire to achieve a standard at least equivalent to the current qualifying law degree or GDL, and LPC, it is likely to involve numerous individual assessments (12 or 13 for stage one is suggested by the Alpha Plus Evaluation - see p 42, and a further 12 for stage 2 – p 17 of the Consultation Document). The cost is therefore likely to be considerable.

The likelihood is that, for many, the SQE in its proposed form will be an additional and expensive barrier to qualification.

It is also of concern that there is no stipulation as to the need for any particular quality of educational experience (or indeed any educational experience at all) in preparation for the SQE. The likelihood is that this will lead to the development of “crammer” courses, focused entirely on passing the assessments. The proposal appears to ignore completely the value of the broad experience obtained from attendance at institutions currently offering law degrees and the LPC. For example, the opportunity to engage at an early stage in such activities as law clinics and mooting, and to learn from tutors who are or have been experienced practitioners.

Obviously, such experience may not be necessary for those who choose the apprenticeship route to qualification. However, it is worrying that there will apparently be no requirements as to educational experience for those who do not choose this route.

Students need the opportunity to take part in activities which prepare them for day 1 in practice, either in the workplace or in simulated activities and role play in education. They need far more than mere preparation for an assessment where they might choose the correct MCQs by luck rather than logical thinking enabling them to possibly pass without having the required understanding. It is unfair to expect students to be able to undertake a demanding role in practice with inadequate preparation.

## **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?**

It is difficult to comment on this, given the lack of any detail as what Part 1 will involve beyond “computer based objective testing” (ie multiple choice questions of various types). It appears that this is the means by which the whole of the Statements of Legal Knowledge will be assessed and, possibly, headings A1, A4, A5 and B7 of the Statement of Solicitor Competence (see para 6.3.1, Alpha Plus Evaluation). No illustrative examples are given of questions which might be used. No indication is given as to what materials will be permitted for those taking the

assessment. It is proposed that there will be modularised assessments which can be taken separately, but no indication is given as to how many.

The Statement of Legal Knowledge contains 134 individual items of required knowledge under 13 broad headings and the Statement of Solicitor Competence contains a further 16 individual items under the headings referred to above. Some of these individual items are themselves of considerable breadth. For example, conveyancing procedure and practice (a reserved activity) appears to be encapsulated in just one part of one item (“5c Estates and interests in land and their transfer: freeholds, leases, mortgages, easements; and rights over land: licenses, tenancies at will”). This is currently the subject of a full stand-alone assessment on the LPC.

We are particularly concerned about the ability to communicate clearly which students taking an undergraduate degree are able to develop through a number of activities including essay writing and oral presentations. Testing via MCQs, will not assess the development of such communication skills which are vital to the work of a solicitor.

On the LPC many of those elements that would be assessed in Part 1 are currently assessed in detailed case study based assessments reflecting legal practice. It is difficult to envisage how this experience could be replicated online.

The creation of a portfolio of assessments which map to the items of knowledge above would appear to be an enormous undertaking. The proposal is a massive departure from traditional methods for examining legal knowledge. Despite this, there appears to be no intention of conducting any form of trial to ascertain whether the proposal is, in fact, a viable or effective means of assessment.

An assertion is made that there is strong evidence for the proposed method of testing in similar contexts (para 40, consultation document). However, the examples cited are of occupations which are scientific or numeric in nature. It is not clear how this constitutes strong evidence that the method is appropriate for testing legal knowledge. It is also asserted that there is extensive research that it can be used to assess “higher order skills”. The supporting evidence cited for this is the Alpha Plus evaluation report commissioned by the SRA. In turn, the Alpha Plus report (footnote

13, page 35) cites the following 4 publications in support of the contention that multiple choice tests can be used to assess higher order skills:

- An article from the American Journal of Physics concerning students of introductory mechanics. The focus is, therefore, on a subject involving scientific reasoning rather than legal knowledge. Furthermore, the article is not concerned with examining whether multiple choice is an effective method of examining “higher order skills”. It simply suggests that this type of test is useful in examining the effectiveness of “alternative interactive engagement activities” for courses in introductory mechanics.
- A short article from Vanderbilt University’s website on how to write good multiple choice questions. The article is focused on scientific subject matter. It does not contain any analysis as to the effectiveness of this method of assessment or its ability to assess “higher order skills”. It is clearly not a piece of research.
- A paper from the Australian Council for Educational Research concerning the assessment of “Higher-order Thinking in Cross-curricular Tests with Multiple Choice Items”. The context for the article is a tradition of cross-curricular testing in Australia at senior secondary school level. It examines, in particular, whether multiple choice tests can be used to assess higher order thinking in the Humanities, Arts and Sciences. It gives 5 examples of multiple choice questions in which it is suggested that this is achieved. The article does not, however, investigate whether this type of question is an effective method of assessment.
- A document published by the USA Board of Medical Examiners on “Constructing Written Test Questions for the Basic and Clinical Sciences”. Again, this is obviously concerned with assessment of scientific subject matter. It is a guidance document, not a piece of research. It does not investigate whether multiple choice questions are capable of assessing “higher order skills”.

It is hard to see how the above references constitute “extensive research” that multiple choice testing can be used to assess “higher order skills”. None of them contain any empirical research as to whether the use of multiple choice tests are an effective method of assessing “higher order skills”, let alone the most appropriate method of doing so. Furthermore, none of them are concerned with assessing legal knowledge.

It appears foolhardy to introduce such a radically different method of assessing the current foundations of legal knowledge and core LPC subjects without initially conducting independently monitored trials as to its effectiveness compared with current methods of assessment.

The proposed timetable for the introduction of the SQE appears extraordinarily optimistic, given the breadth and complexity of what is proposed!

Part 2 of the proposed SQE is more familiar from the methods of assessment currently used to assess the skills elements of the LPC. These appear entirely appropriate methods of assessing the relevant skills. The proposal to increase the number of assessments in these areas is likely to have cost implications. It would be helpful to have some indication of the costs involved.

However, it is difficult to see how the use of multiple choice testing for as the sole means of assessment for Part 1 will provide an adequate basis for the application of legal knowledge required in Part 2. The use of critical analysis questions, problem questions and transactional questions currently used on law degrees and the LPC as a means of assessing legal knowledge would appear to provide a much sounder preparation for what will subsequently be required in Part 2.

### **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?**

No.

For the reasons given in response to Q1 above, many intending solicitors are likely to continue to take a law degree. To require those in this position to additionally take assessments in areas in which they have already been assessed at degree level will involve unnecessary duplication and cost.

If there is a genuine concern about the standard and/or consistency of such assessment by higher education institutions, this can be rectified by an aptitude test or more rigorous external examination system as suggested above.

There should also be some recognition that lawyers who have qualified in other jurisdictions are likely to have undergone extensive training similar to the current UK scheme, and have relevant experience. It is not appropriate to include them in the same category as 'intending solicitors'.

#### **Question 4**

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

**a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?**

**b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?**

**c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?**

Option c) would appear to offer a balance between ensuring that the particular issues which arise in reserved activities are assessed while allowing for a degree of diversity in the chosen career path of the individual being assessed.

#### **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.**

Yes. A failure to do so is likely to devalue the qualification. It should be noted that current proposals would lead to all police officers either entering the force as a graduate or completing a degree within the first three years of service. How can it be sensible to suggest that the legal profession become a non-graduate profession?

A question arises as how it will be determined that the qualification is degree equivalent. Who will be responsible for monitoring this and how?

### **Question 6**

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

Yes. It would seem bizarre that an individual could hold the title of Solicitor without having had any experience of working in legal practice. Two years is a lengthy period of time, and yet that has been the period of pre-qualification experience required under Articles of Clerkship and then Training Contracts for a great number of years. What is the justification for even considering the dismissal of the requirement for significant pre-qualification workplace experience?

There are, however, questions as to consistency when assessing outcomes from that workplace experience. It was noted that there were 104 institutions offering law degrees, but there are over 10,500 law firms in the UK. What is the proposal to ensure consistency across the sector?

### **Question 7**

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

Yes, students need to spend periods of time in a number of seats to enjoy a breadth of training experience.

### **Question 8**

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

The two are not mutually exclusive. Yes competences should be set but the relevant time period might be flexible, with a prescribed absolute minimum.

### **Question 9**

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

Yes, clearly there are relevant transferable skills that might be demonstrated by students who have worked in other areas, or been involved in pro-bono work during their degree, but a minimum level of experience within the legal profession should be required as well.

The question has been asked in presentations by the SRA Director of Education and Training as to whether the relevant experience need be paid experience. Whilst this point is not specifically addressed in the consultation, we would urge the SRA to consider the implications of recognising unpaid work in terms of access to the profession. Many students will not be able to undertake significant amounts of unpaid work and there is a real risk of a significant impact on the diversity of the profession.

### **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?**

Yes.

### **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 1 and Part 2, to a specified performance standard?**

n/a



### **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?**

n/a

### **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:**

**a. support the credibility of the assessment?,**

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

Yes. See responses to Qs 1 and 2 above. If introduced in its current form, the SQE is a radical departure from the current methods of assessment. There should be a trial period during which the 2 systems run alongside each other and evaluation made as to the effectiveness of the SQE.

### **Question 14**

**Do you agree that not all solicitors should be required to hold a degree?**

Yes, provided that the qualification they hold is broadly equivalent to a degree.

This is, of course, the current position. Those qualifying through the ILEX route are not required to hold a degree, but need to have passed assessments in the Foundation Subjects set at an equivalent level, and have completed a period of workplace training. This could easily be the model for the apprenticeship route to qualification.

## **Question 15**

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

Probably. Not doing so is clearly likely to place those also holding a degree at an advantage as they will be able to provide such information in relation to their degree. However, as pointed out in the Alpha Plus Evaluation, doing so will considerably increase the complexity (and presumably cost) of the proposed SQE.

However, the danger in providing candidates with information about their individual and comparative performance on the SQE is that it is limited in its usefulness, particularly in relation to SQE part 1 which is to be assessed by MCQs. Such information is likely to be numeric and statistical. This would be virtually meaningless to students allowing them only to compare their result with those of fellow students. How would this assist a candidate to improve their approach or understanding?

Current degree level assessments, typically in the form of exams and coursework provide students with a grade or a percentage mark. During the course of their degree or LPC, students can measure their marks as against assessment criteria and degree (or other) bands. Students can presently make further sense of their performance by accessing feedback. This may be generic (common mistakes amongst the cohort) or specific (dedicated to the individual student). Students then have the further opportunity of contacting tutors for further clarification. Academic feedback includes commentary on many areas and will generally include an element of 'feed forward' identifying areas for improvement and suggesting strategies for moving forward. The focus is on the individual, not who is 'top of the class'.

While there is the potential for similar feedback in relation to SQE part 2, there is not in relation to SQE part 1 - how can feedback be given on an MCQ? What might be provided other than the correct answers? A narrative may be provided explaining why alternative MCQ choices were incorrect but this does not address precisely how an individual student's thinking or performance could be improved.

### **Question 16**

**What information do you think it would be helpful for us to publish about:**

**a. overall candidate performance on the SQE?**

Bald statistics are of limited use. For them to be meaningful numerous characteristics including age, socio-economic background and workplace experience should be taken into account.

**b. training provider performance?**

Again, it would be difficult to draw any informed conclusions from basic information such as pass rates without an analysis taking into account issues such as economic deprivation, and prior educational or social disadvantage.

### **Question 17**

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

Yes.

It is the case that institutions already offering the law degree or LPC have extensive experience of making reasonable adjustments and providing support in terms of learning and assessment. The SRA recognised the importance of this area by requiring an external examiner to review and comment annually on the arrangements at each institution under the former external examiner system. The separation of the assessment from a prescribed course of study may impact on the ability of candidates to access appropriate support or reasonable adjustments, and we would question the ability of a central organisation administering online assessment to offer appropriate reasonable adjustments to disabled students.

The proposal to introduce the SQE is likely to enable a monopoly amongst current larger institutions which already have well-developed corporate brands aided by their marketing budgets. The development of their existing market position will enable them to undermine the free market principles (and the freedom of choice) advocated in the consultation.

Such institutions will continue to represent themselves as higher quality training providers. The fact that these institutions have established links with Russell Group universities (which have a disproportionate number of students who were educated at independent schools) will result in the further entrenchment of inequality for those candidates from lower socio-economic groups (necessarily including students with protected characteristics of ethnicity and disability).

Finally, students from disadvantaged backgrounds may obtain student loans to cover undergraduate studies so gaining significant underpinning knowledge towards the proposed part 1 assessment. They will not have that opportunity in terms of the SQQE.

**Question 18**

**Do you have any comments on these transitional arrangements?**

**Question 19**

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

There is so much work to be done, so many unanswered questions that setting a cut-off date is premature at this stage.

**Question 20**

**Do you consider that this development timetable is feasible?**

No. Pushing ahead at this stage could cause irreparable harm to the legal profession. We need far more clarity on the proposed assessments before any timetable can be set.



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HR-000171

4 March 2016

Dear Sirs

**Response of Freshfields Bruckhaus Deringer LLP to the SRA's consultation "Training for Tomorrow: Assessing Competence" (*the Consultation*)**

Freshfields Bruckhaus Deringer LLP (SRA ID 484861) (*Freshfields*) is an international law firm with over 2,500 lawyers in 28 offices around the world. The Freshfields London office employs approximately 600 lawyers and 160 trainee solicitors. We offer approximately 80 training contracts per year.

Many of our lawyers are solicitors admitted in England and Wales. We are happy to be identified as a respondent to the Consultation.

**Our overall view on the Consultation**

We agree with the SRA that a strong and effective system of legal education and training is one which sets a high standard; assures that standard rigorously and consistently; and enables the brightest and best to qualify. We want to recruit the most talented individuals, irrespective of their ethnicity, background, sexual orientation and any other protected characteristic. We also recognize and support the need – which underpins the SRA's proposals – to improve the diversity of the profession, and have developed our own programmes and employee networks as well as working with partner organisations, universities and schools, to address that need.

While we support the aims of the Consultation, we agree with Economics, Policy and Competition (*EPC*) that "the SRA has more work to do" before it can demonstrate that the proposals set out in the Consultation are likely to be fit for purpose.<sup>1</sup> The SRA is proposing a radical change to the route to qualification as a solicitor in England and Wales, and our view is that no decision regarding the implementation of the SQE should be made without careful

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<sup>1</sup> Indicative Economic Impacts Report (*IEIR*), 46.

consideration of the specific detail of the assessment model and the effect the change will have on the English legal system and its domestic and international reputation.

There are two points that, for us, are particularly critical:

- As both the IEIR and Alpha Plus acknowledge, the credibility of any new regime that is adopted is key. We agree with the IEIR that “[i]t is... essential that the new regime is both capable of ensuring consistency and the appropriate level of competence, and is also considered *credible* in doing so”.<sup>2</sup> Any changes must be introduced in a way that maintains the confidence of all stakeholders – consumers, clients, providers, firms, other legal systems – in English law and in English solicitors. The SRA should therefore adopt a precautionary approach, given the stakes.
- Law firms such as ours provide high-quality training to large numbers of trainees every year. We do so because we want the individuals we recruit to develop into lawyers who are capable of providing exceptional service to our clients. The areas of legal assistance required by those clients, and therefore the range of services we offer, are not the same as in many UK law firms. We think that it is important that the assessment contexts offered in Part 2 are sufficiently broad that they meet the needs of all UK law firms, including those firms (like ours) which currently provide the majority of England and Wales training contracts and, in particular, do not require firms to train individuals in areas they are not going to practice once qualified.

As currently stated, the SRA’s proposals lack detail in some key areas. In particular, the Consultation does not clearly set out what will be assessed, how it will be assessed and what will be expected of those looking to qualify. Without greater clarity on these matters, we cannot provide a definitive view on these proposals.

In many of the SRA’s questions, there is a presumption that the SQE will be implemented. We have answered the questions in the absence of understanding the substance of the SQE assessment model and its ability to meet the desired outcomes. Our views may change upon reviewing the assessment framework containing a sufficient level of detail to enable us understand the implications of the SQE for our clients, for our people and for our business.

**1. 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?**

*Objective one – 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*

- 1.1 We support the SRA’s first objective for ensuring consistent and comparable high quality standards at the point of admission. If an assessment can be designed in a way

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<sup>2</sup> IEIR, 25.

that can assess the various skills, competences and knowledge required at the point of qualification, consistency of standards at the point of admission should follow.<sup>3</sup>

- 1.2 It is not clear how such an assessment would be designed and, therefore, whether it will be effective in meeting the stated objectives. We have not been provided with sufficient detail about the SQE or sufficient evidence to support its ability to assess the relevant skills, competences and knowledge to enable us to agree to the proposition that the introduction of the SQE will meet this objective. In order to provide a meaningful response, we would need to review an assessment framework detailing the content of the SQE and how it will be assessed.

*Objective two - ensure that the most talented candidates can qualify as a solicitor, by encouraging the development of new and diverse pathways to qualification which are responsive to the changing legal services market and which remove artificial and unjustifiable barriers.*

- 1.3 We support the second objective in paragraph 10 of the Consultation and we encourage diversity at Freshfields and in the profession as a whole. However, the Consultation and the accompanying reports lack sufficient evidence to support the notion that the introduction of the SQE will meet the above objective for the following reasons:

- (a) Limited evidence is presented to suggest that the most talented candidates are not qualifying as solicitors under the current system.
- (b) It is not clear what artificial and unjustifiable barriers are being referred to and how these will be removed by the current proposal.
- (c) The effect that the proposed new assessment will have on providing flexible routes into the profession is uncertain.<sup>4</sup>
- (d) Whilst we note that the Alpha Plus report states that the proposed assessment will provide an opportunity for monitoring diversity and access more closely, we agree with its conclusion that the new assessment is unlikely to support or hinder increased diversity or access of any particular group.<sup>5</sup>

- 1.4 We have many schemes, initiatives and internal employee networks aimed at increasing gender, LGBT, social mobility and race and ethnicity diversity at the firm. The Freshfields Stephen Lawrence Scholarship Scheme (*the Scheme*) is one of our initiatives that is aligned to the diversity objectives in the Consultation. The Scheme seeks to address the disproportionate under-representation of black and mixed race males from low-income families in large commercial law firms. The Scheme combines deep thinking on what it takes to succeed in a top career and a bespoke development programme focussing on the gaps which frequently prevent those from

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<sup>3</sup> IEIR, 24.

<sup>4</sup> Alpha Plus Report, 17.

<sup>5</sup> Alpha Plus Report, 18.

less privileged backgrounds succeeding in a workplace environment like ours. There is thus a focus on engagement within the firm to evolve our culture, and with our clients who are committed to improving their diversity, and on direct connections with UK universities to explain and identify exceptional talent. This is in addition to our work with recruitment organisations that focus on candidates from diverse backgrounds.

- 1.5 We also have a work placement scheme which is aimed at raising aspiration, employability skills and knowledge of a law firm to school age children and others who meet the social mobility criteria. We have a long and deep relationship with Haggerston School in Hackney, where in addition to work placements, we award university study bursaries, provide school governors and work closely with the headmistress. We are also a founding member and board member of PRIME, the legal sector school age social mobility work experience initiative.
- 1.6 Our own experience tells us that the introduction of the SQE will not, by itself, lead to success in achieving the above objective. Our learnings show that targeting people at a young age, good career guidance, genuine career opportunities, pastoral support, availability of role models, openness within organisations to accepting people from diverse backgrounds, development programmes and meaningful engagement of and commitment from firms are the factors that can increase diversity within the profession.
2. **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?**
  - 2.1 Yes. If the SQE is implemented, we agree that it should assess the competences and knowledge set out in the Statement of Solicitor Competence and the Statement of Legal Knowledge, to the standard set out in the Threshold Standard.
  - 2.2 However, the proposed SQE model outlined in the Consultation is high level and lacks specific detail. We will need to review the assessment framework and relevant guidance detailing how the model will operate in practice before we can comment on the model's capability to test the competencies needed to be a solicitor.
  - 2.3 We share the concerns flagged in the Alpha Plus report about the proposed new assessment. In particular, we cannot be certain of the effectiveness of the proposed model in relation to assessing the Statement of Legal Knowledge until an assessment framework is developed detailing the content in full.<sup>6</sup> We also agree that the marking will be critical to the assessment's reliability and validity and note that we have not yet been provided with a marking scheme or framework.
  - 2.4 Whilst we accept that an OSCE style assessment may be appropriate for assessing certain oral skills, it appears that designing and implementing a successful OSCE in this context can be challenging and caution is required at the testing and

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<sup>6</sup> Alpha Plus Report, 36.



implementation stages. It is noted that further work is also needed to define the tasks that would most effectively assess the written competencies.

2.5 As is the case for question one above, in order to be able to give a meaningful answer to the question, we would need to review an assessment framework detailing the content of the SQE and how it will be assessed and marked.

**3. 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?**

3.1 Yes, if the SQE is implemented. Given that one of the SRA's key drivers for introducing the SQE is consistency, it would be counter intuitive to make provision for exceptions beyond those required by EU legislation.

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

(a) **offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?**

(b) **offering a broader number of contexts for the Part 2 assessment for candidates to choose from?**

(c) **focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?**

4.2 We support a broader range of contexts being offered. In our view, these need to include not only the law of organisations, but also other commercially-focussed contexts (e.g. Finance).

4.3 It is not possible for all Freshfields' trainees to obtain workplace experience in three of the five proposed contexts: probate, criminal litigation and property. We are also concerned that the five contexts currently proposed do not represent the breadth of work that we would expect candidates to undertake while training with us, because they are not reflective of the types of work that our clients ask us to do.

4.4 Currently, Freshfields' trainees are required to spend a minimum of three months in each of our Corporate, Dispute Resolution and Finance practice groups. They can choose to spend the remainder of their training contract in other practice groups (Tax, Real Estate etc.), in a different seat in one or more of the compulsory practice groups, or on secondment (client or overseas Freshfields office). We consider that the breadth of experience that our trainees obtain allows them to develop the skills that they need for a career as a solicitor working in an international law firm.

- 4.5 We therefore share the concern reportedly expressed by some firms consulted by EPC “regarding the need to train individuals in areas in order to pass the Part 2 test when they are not going to practice in these areas within their current employer”.<sup>7</sup>
- 4.6 To avoid the practical challenges of accommodating three of the five contexts currently proposed, the SRA should broaden the context offering in Part 2 of the SQE, for example to include a Finance context.
- 4.7 If the SRA does not broaden the contexts offered, this will result in additional training for candidates to prepare for an assessment in a context in which their employer cannot offer practical experience. This will come at a further cost to the firm and an unnecessary time commitment for the candidate, with no obvious benefit. It seems unreasonable for commercial firms to invest in training for their trainees on, for example, wills and probate, when it is very unlikely that their legal careers will ever require them to apply such knowledge.
- 4.8 Compliance with the Competence Statement, which is aligned to job role and context, acts as a safeguard once lawyers are qualified. If, for example, a corporate lawyer wants to become a property lawyer after qualification, that person would need to upskill to demonstrate that he/she satisfies the requirements set out in the Competence Statement in order to practise property law competently. As this regulatory safeguard is in place, it is not necessary to test candidates in contexts that have no relevance to the area of law they intend to practice.
- 4.9 The Consultation indicates that practical workplace experience in the relevant contexts will prepare candidates for Part 2. If the SRA does not broaden the contexts, there is a risk that:
- (a) candidates employed by firms that cannot offer practical experience in three of the five contexts will be at a disadvantage to those candidates who can obtain such experience; and
  - (b) the new model will indirectly disadvantage those firms who (as the IEIR acknowledges) are responsible for most training contracts,<sup>8</sup> but whose practice mix does not match the current five proposed contexts.
- 5. 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?**
- 5.1 Yes. If the SQE is implemented, Part 1 and Part 2 of the SQE should be set at graduate level at a minimum. It is important that entry to the profession remains at graduate level. As an international law firm with a large presence in England and Wales, we are particularly mindful of the UK’s reputation for legal services internationally and of the need to protect it. Many of our lawyers who qualify in

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<sup>7</sup> IEIR, 57.

<sup>8</sup> IEIR, 50.

England and Wales go on to qualify in other jurisdictions too, and as noted in the IEIR mutual recognition of qualifications in other legal systems may well depend on the standard being set at graduate level.<sup>9</sup>

5.2 The Consultation indicates that some form of workplace training will prepare candidates for the Part 2 assessment. The IEIR states that Part 2 will be set at the level of knowledge, skills and behaviour equivalent to the end of the Period of Recognised Training in the current system.<sup>10</sup> We ask the SRA to confirm if Part 2 will be set at a higher standard than Part 1, as we consider that our trainees are operating at a level higher than graduate level once they have undertaken their training with us.

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

6.1 We understand “pre-qualification workplace experience” to mean experience in a law firm supervised by solicitors qualified in England and Wales.

6.2 Yes. We would strongly oppose any proposal that would see the abolition of the training contract altogether, as the absence of a period of practical training presents a high risk of reduced quality and rigour. Such a move would also appear to run counter to the recognition of the importance of on-the-job training that underlies the apprenticeship regime to which the SRA is rightly so committed.

6.3 We consider a period of pre-qualification workplace experience to be an important and valuable part of intending solicitors’ training. We agree with the recommendation in the Alpha Plus report that a period of workplace experience should be a requirement to qualify as a solicitor in England and Wales.

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

7.1 We understand “pre-qualification workplace experience” to mean experience in a law firm supervised by solicitors qualified in England and Wales.

7.2 We agree with the recommendation in the Alpha Plus report that pre-qualification workplace experience should have a minimum set time. We consider that 18 months is a sufficient minimum time period. Requiring a 18 month minimum pre-qualification workplace experience time period adds an additional safeguard during the transition to the new regime and beyond and will help ensure stakeholders’ confidence in it.

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

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<sup>9</sup> IEIR, 64.

<sup>10</sup> IEIR, 21.

- 8.1 We understand “pre-qualification workplace experience” to mean experience in a law firm supervised by solicitors qualified in England and Wales.
- 8.2 See our answer to Question 7.
- 8.3 It follows that specifying a minimum time requirement will go some way to maintain public confidence in solicitors admitted during the time of changeover to the new system. The training contract is a unique and recognisable characteristic of the England and Wales legal system and removing it in favour of a work-based outcomes approach from the outset seems too drastic and an unnecessary risk. If the SRA did opt for an outcomes based approach and was minded to specify competences to be met during the period of pre-qualification workplace experience, we have concerns around how this would be assessed, and by whom. It is our view that the cost and time burden of assessing trainees against SRA-prescribed and -regulated competences should not fall with employers. We outline our position on this point further in the context of workplace assessment in our response to question 10 below.
- 9. Question 9: Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**
- 9.1 We agree that the SRA should recognise a wider range of workplace experience beyond experience obtained in a law firm, supervised by lawyers qualified in England and Wales, as this has the potential to increase access to, and diversity in, the profession.
- 9.2 Recognising a wider range of workplace experience may benefit some candidates, particularly those transferring from another career. It may be possible for a candidate to obtain relevant experience as a paralegal, and indeed in many other roles. One might expect a former police officer, or a medical practitioner, for example, to be able to demonstrate high levels of competency in interviewing skills and likely in many other areas too. We are keen, as a firm, to hire individuals from diverse backgrounds, and we regularly recruit candidates who have enjoyed other careers before they decided to turn to law.
- 9.3 As it seems likely that a period of workplace experience will be a pre-qualification requirement, the SRA will need to ensure high standards are maintained and regulate what workplace experience is appropriate, including the supervision required.
- 10. 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?**
- 10.1 In the absence of specific details regarding what the proposed workplace assessment component of the new regime will look like, it is difficult to respond to this question. Our general view is that it would be more appropriate to include any prescribed assessment of knowledge and skills in the SQE rather than in the workplace. We are concerned about the practical, time and cost implications of taking people out of the

business to participate in assessments. However, given the Alpha Plus report's clear recommendation that workplace assessment should be part of the proposed qualification process, we are open to considering the SRA's proposal upon receiving the detailed assessment framework.

- 10.2 Freshfields' trainees are required to keep a full record of their training. The trainees are formally appraised against a rigorous skills framework every three months. If the workplace assessment envisaged by the SRA could be easily incorporated into our current appraisal system, we would be open to it. However, we would not be supportive of time-consuming assessments prescribed and regulated by the SRA that will come at an additional cost to the firm and will inevitably result in an additional time burden for the partners and associates that supervise trainees. This is particularly true if the competencies being assessed do not reflect the work that candidates could be expected to do on qualification (see our answer to Question 4).
- 10.3 The SRA's primary justification for introducing the SQE is the lack of a consistent high standard at the point of qualification. The intention seems to be that it will be the responsibility of the trainee supervisors to assess prescribed competences and pass or fail candidates using their "professional judgement".<sup>11</sup> Although we are confident that we would have the systems in place to ensure compliance, it is inevitable that the standard of "professional judgement" will vary from firm to firm. If the SRA introduces a workplace assessment component, how will it ensure that candidates are assessed at a consistent high standard?
- 11. 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 1 and Part 2, to a specified performance standard?**
- 11.1 Yes. The Freshfields Training Principal signs off approximately 80 trainees annually as having completed their training and certifies them fit for admission. Accordingly, we have the expertise to enable us to assess trainee solicitors' competences. However, as stated in our response to questions 8 and 10 above, our general view is that it would be more appropriate to include any prescribed assessment of knowledge and skills in the SQE rather than in the workplace. Also, our ability to assess competences may of course depend on the range of contexts offered (see our answer to Question 4).
- 12. 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?**
- 12.1 As stated above, we do not think that firms should be required to administer and assess SRA prescribed and regulated pre-qualification workplace assessments. However, if the SRA was to implement a work-based assessment, guidance on the practical implementations and what can be expected in terms of auditing would be

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<sup>11</sup> Alpha Plus Report, 45.

welcome. It would be particularly important to clarify the manner of any assessment so that firms understand how candidates should prepare and be developed to achieve the standard required. This needs to be more than general guidance. For example, we would need specific example tests and assessor guidelines, as applicable.

**13. 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:**

- (a) **support the credibility of the assessment?**
- (b) **and/or protect consumers of legal services and student at least for a transitional period?**

13.2 We agree with the Alpha Plus report that solely relying on a new and untested assessment model that has not established its credibility is a “risky approach” and that, to mitigate the risks, the SRA should prescribe entry requirements in the form of a degree or relevant workplace experience to demonstrate that SQE candidates have reached a certain academic level.<sup>12</sup> Given the radical nature of the proposed changes, the SRA should adopt a risk-averse approach to safeguard the integrity of the qualification process, at least until the SQE has established its credibility. Whilst we support the SRA’s diversity objectives, and agree that removing a degree requirement may increase access to the profession, removing the safeguard of a degree requirement from the outset would be premature.

13.3 There is no comprehensive evidence to support a link between low quality legal advice and the current qualification requirements.<sup>13</sup> It is inevitable that change will bring some level of uncertainty within the profession; however there is no evidence to suggest that it will adversely affect the quality of legal services provided to consumers. If concerns regarding the integrity of the qualification route were raised in mainstream media, this could damage the profession’s global reputation in the eyes of consumers and the public. Maintaining the degree requirement during the phase-in period will go some way to mitigating the potential risk of any loss of public confidence and will give students a level of certainty..

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

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<sup>12</sup> Alpha Plus report, 54.

<sup>13</sup> IEIR, 18.

- 14.1 While we encourage and support diversity in the profession, we agree with Alpha Plus and IEIR's recommendation that the SRA should, during a transitional period, require all SQE candidates to have a degree. This will act as a safeguard while the SQE becomes established and help ensure the credibility of the new system.<sup>14</sup>
- 14.2 In due course, once the SQE's validity and credibility are established, we would support the SRA removing the mandatory degree requirement provided that (a) the standard for qualification as a solicitor is set at least at degree level (see our answer to Question 5) and (b) any candidate who has not received a university degree can demonstrate that he or she has developed equivalent experience through an alternative path (e.g. an apprenticeship or a sufficiently lengthy period in another career). Further consultation would be needed in relation to this second criterion.
- 14.3 Our view as expressed above is subject to the SRA confirming that removing the degree requirement would not inhibit the ability of solicitors qualified in England and Wales to qualify in other jurisdictions – a key concern for us that was also flagged in the IEIR.<sup>15</sup>
- 15. Question 15: Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**
- 15.1 We consider individual and comparative grades to be a useful recruitment tool. We ask the SRA to provide candidates with this information if the SQE is implemented.
- 16. Question 16: What information do you think it would be helpful for us to publish about:**
- (a) **overall candidate performance on the SQE?**
- (b) **training provider performance**
- 16.2 If the SQE is implemented, we would like to receive information on graded candidate performance and training provider performance.
- 17. Question 17: Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**
- 17.1 There is uncertainty as to how the education sector will respond to the SQE. It seems that some universities have an appetite to adapt to the SQE and will develop a "Part 1 ready" degree while other universities will maintain academic freedom and will not amend their syllabi to align them with the SQE.<sup>16</sup> Accordingly, it seems likely that an academic law degree where graduates will be required to sit Part 1 separately, and a vocational law degree which incorporates Part 1 of the SQE, will emerge.

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<sup>14</sup> IEIR and Alpha Plus Report.

<sup>15</sup> IEIR, 63.

<sup>16</sup> IEIR, 33.

17.2 The introduction of the SQE may create dual law degree pathways to qualification, option one being an academic degree, and option two being a vocational degree incorporating Part 1 which will inevitably be shorter and cheaper. This could be advantageous as it would give students more choice and it would give employers more variety when recruiting. However, academic standards for both pathways would need to be equivalent, and to be seen to be equivalent, in order to avoid a loss of credibility in the profession.

17.3 It is not clear from the Consultation or from the accompanying reports what the exact cost implication of the SQE will be for students, but the IEIR report indicates that the total cost of qualification will vary considerably by different routes.<sup>17</sup> It would have an adverse effect on the SRA's diversity and access agenda (which we support) if the cheaper route to qualification (the vocational degree) was not regarded as highly as the more expensive and time-consuming academic degree.

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

18.1 In principle, the transition arrangements seem sensible. However, we are likely to have more substantial comments when we have reviewed the SQE assessment framework which will provide us with sufficient detail regarding the system to which we are transitioning. It is important that students, graduates and trainees who are in the system when the SQE is introduced are not disadvantaged by the change in regime.

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

19.1 We discuss the feasibility of proposed timetable in our response to Question 20 below. If the SQE is introduced during the 2018/2019 academic year as planned, from our perspective, we do not foresee any challenges of having a 2025/26 cut-off date. However, we recognise that the practical implications of introducing the SQE are significantly higher for the education providers and accordingly, we support their requested timetable amendments, within reason. If the proposed timetable is extended, we ask that the cut-off date be amended accordingly. Unforeseen challenges may emerge upon review of the SQE assessment framework, so we may need to comment further on this in future consultations.

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

20.1 No. In particular, we strongly oppose the SRA's intention to make a decision on the introduction of the SQE in June 2016, in the absence of providing stakeholders with the opportunity to review and comment on the assessment framework.

20.2 We have concerns around the feasibility of a 2018/2019 live roll-out of the SQE. It is important that the risks associated with implementing a new regime are sufficiently mitigated. Timeline constraints should not be a barrier to ensuring the robust and rigorous design, development and testing of the SQE before it is implemented. In the

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<sup>17</sup> IEIR, 5.



event that the SQE is implemented, we ask that the timeframes allow sufficient time for:

- (a) firms to prepare for and implement changes, as the new regime is likely to have an impact on the firm's training programme and budget;
- (b) the education sector to plan for and adapt to the required changes to ensure that students are not disadvantaged; and
- (a) the SRA to develop, hone and test the SQE to ensure it is calibrated appropriately.

Yours faithfully

Freshfields Bruckhaus Deringer LLP

Gillian Pastuch - Sheffield Hallam University

## T4T - Assessing competence

### Consultation questionnaire form

This form is designed to be completed electronically—in MS Word. Please save it locally before and after completing it.

#### 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?

Yes in principle, but concerns around pathways to qualification remain. This is particularly due to the fact that removing the most common, prescribed route to qualification may in itself result in inconsistency of standards.

We have concerns as to whether tests conducted at a single point in time would be broad enough to test all competencies and all requisite knowledge required by solicitors. How will consistency be ensured?

The SQE will replace an existing system in which students' knowledge and skills are tested at a large number of interim assessment points - throughout the QLD and the LPC. Will the SQE really be as rigorous as the existing system? Will this really provide more consumer protection than the existing system?

Similarly, will the SQE really remove 'artificial and unjustifiable barriers' to the profession? We are concerned that there will be scope for new courses to be set up specifically to prepare candidates for the SQE, which may be comparable in price to the QLD and/or LPC but may not be eligible for student finance (loans). Therefore will financial barriers to accessing the profession really be removed, or if there is a risk that this issue may in fact be exacerbated?

It is noted that the wording of this question suggests apparent bias towards the introduction of the SQE, rather than any alternatives.

To request an alternative format please visit [www.sra.org.uk/contact-us](http://www.sra.org.uk/contact-us).

## 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?

More information is required on the proposed model assessment. Until a clear specimen assessment for both Part 1 and Part 2 can be provided, we struggle to see how this consultation question can be properly answered.

We note that it is proposed that Part 1 will consist of 'modularised assessments' which can be taken separately - but will a timeframe be specified within which these 'modularised assessments' must be taken? Whilst a criticism of the current QLD is, fairly, that students may learn contract law in the first year of their degree and then not actually see a real legal contract until 6 years later on qualification, depending on how long candidates are given to take the modularised assessments of the SQE, this unsatisfactory position may remain exactly the same.

It also appears that the subjects which are proposed to be covered by Part 1 are in essence identical to the core subjects on the existing QLD. Will 'computer based testing' (presumably MCQ testing) in these subjects really be more rigorous than the examinations and assessments that law students currently take in the course of a QLD?

Part of the rationale behind the proposed SQE appears to stem from the SRA's apparent concerns as to the consistency of law degrees. Such concerns are perhaps unfair and unwarranted on the basis that all QLDs go through rigorous internal and external moderation processes in relation to both assessment instruments and marking processes.

Notwithstanding that computer based testing is seemingly used in other professions (paragraph 39), we query what the public perception is likely to be of an assessment that includes elements of MCQs being the route to entry into a profession that is focussed on safeguarding the interests of clients and upholding the rule of law.

### **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?

If the SRA is determined that the SQE should be implemented then it makes sense for all intending solicitors to meet the same standard by passing the SQE.

However, there is a very real question mark as to whether there should be exemptions from the SQE for people who have passed a law degree. It must be borne in mind that a degree is a recognised qualification both in the UK and internationally. The SQE is not. The degree is already internationally recognised as evidencing the high standards of academic achievement that the SQE is seemingly aiming to ensure.

Whilst the SRA suggests that exemptions should not be granted because the SQE is 'assessing different competencies to those examined as part of a degree' (paragraph 45), it is not entirely clear how the SQE is going to assess different competencies than the QLD and LPC combined (given that the focus of assessment in a traditional QLD aligns closely with Part 1 of the proposed SQE, and assessment in the LPC closely aligns with the proposed Part 2).

## Question 4

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

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

We would suggest that option b) would be preferable here. We fail to see the purpose of, for example, assessing candidates who might be working in commercial law firms on criminal litigation. It seems appropriate to allow candidates to specialise in specific areas that will be of relevance to their careers. The alternative is that there is a risk of creating solicitors who have basic generalist knowledge of many areas of law, without having the specialist knowledge that they may need in the particular areas of law in which they intend to practice.

Option a) is too prescriptive - not everyone wishing to qualifying as a solicitor will work in reserved activities, or indeed in private practice and some or all of the 'reserved activities' may not, therefore, be relevant at all.

The SRA states (paragraph 47) that it recognises that 'not all firms can offer experience in all five (reserved) practice areas' and proposes that candidates can therefore be assessed in three of the five areas. However, we still query whether this is realistic.

For example, candidates looking to work in firms that specialised in criminal law are unlikely to ever need to know a great deal about property, probate, business law or civil litigation. Why should they therefore be assessed on two of these areas? Their firms may be unable to provide them with the requisite experience that they would undoubtedly require to pass Part 2 of the SQE, which means that candidates would therefore have to seek secondment at organisations which could provide them with such experience. Is that practical? What are the SRA's views on how, practically, that would work? The candidates would essentially be seeking secondments purely for the purposes of passing assessments in subjects that they will not thereafter practice.

Similarly, what would be the position for candidates working in areas which fall outside of these five areas, for example in family law or employment law? There are many firms that practise solely in these areas and employ a great number of paralegals who may ultimately wish to become solicitors; but under the SQE proposals they would need to find alternative work experience in three entirely new areas to be able to do so. We query whether this means that the SQE would truly open access to the profession.

## 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?

It is unclear what the SRA means by 'graduate level' when the SRA appears to be expressly suggesting in its proposals that a degree should not be a prerequisite to entry to the profession or to taking the SQE and qualifying as a solicitor. It is unclear what the SRA means by 'or equivalent'.

How will the SRA prevent candidates who are not at 'graduate level or equivalent' from taking (and passing) the SQE? Who will determine what 'graduate level or equivalent' is?

In addition, would prescribing that the SQE be at least at 'graduate level' risk jeopardising the SRA's intentions of widening access to the profession?

## Question 6

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

Workplace experience is invaluable in developing and demonstrating competence (as is evident from the training contract in the present system of qualification).

We are also conscious that it may be unfair or unrealistic to allow candidates to take and pass the SQE without having had work experience, or without having an offer of employment after the SQE.

Is there a risk that candidates may be able to pass the SQE and legitimately call themselves a solicitor, but be unable to find employment as a solicitor without first having a proven record in terms of work experience?

Further, if candidates pass the SQE but cannot find employment, would anything prevent them from effectively being able to set up their own practice from as soon as they pass the SQE? If not, whilst this would perhaps increase access to the profession, we would have grave concerns on whether the interests of consumers of legal services would be adequately protected. This may lead to people practising as solicitors simply on the basis of having the SQE without having any real experience. Solicitors are often dealing with matters of liberty, human rights and rights to a family life - it would be inappropriate to allow candidates to practice as solicitors in such fundamental areas without prior experience of those areas.

We also query what the position would be if, for example, a paralegal with many years of experience decided that they had sufficient experience to take (and pass) the SQE. On passing the test, the paralegal can call themselves a solicitor - but there is no obligation on their employer to employ them as such or to pay them as such.

## Question 7

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

Echoing the comments made above, for the purposes of consumer/public protection it would seem sensible for a minimum period of pre-qualification work experience to be prescribed.

This would also provide some form of continuity for employers - there is a risk otherwise that candidates could take paralegal positions at multiple firms, in different areas of law and for short periods of time simply to gain the experience necessary to pass the SQE. This is clearly also detrimental to the interests of clients, who benefit from continuity in terms of who deals with their legal issue.

In addition, this would provide more certainty for candidates for the SQE, in terms of knowing when they should be ready to take the SQE assessments. This may also encourage employers to recruit fairly and responsibly, ensuring that candidates' expectations are managed from the outset.



## **Question 8**

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

On the basis that the aim of the SQE is to seek to ensure consistency, if pre-examination work experience is to be prescribed by the SRA it would be logical for the SRA to also prescribe the minimum period of experience required and the competences that must be demonstrated during the period.

Leaving this to the discretion of individual employers will mean that consistency cannot be ensured, which would contradict the SRA's aims in proposing the introduction of the SQE.

This will also offer more certainty for would-be solicitors, in terms of knowing what is expected of them.

There is a question mark, however, as to how the SRA could meaningfully assess whether competences have been met.

## Question 9

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

Yes. During the course of their degrees, many students either elect to study modules that are clinical in nature and provide them with practical legal experience, or take part in extra-curricular pro bono advice clinics.

At this institution, students undertaking clinical modules are expected to comply with professional standards of client care, ethics and the SRA Code of Conduct throughout their time on the modules. Students are also taught and assessed in interviewing, file management, case management and client care, across many areas of law.

Given that these skills must be evidenced in Part 2 of the SQE, it is logical and fair that experiences at undergraduate level be considered and recognised as part of any prescribed period of pre-qualification workplace experience.

However, this may lead to an additional level of regulation by the SRA to ensure that the experiences that students are having at different institutions are consistent and valid as pre-qualification work 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?

Without having detail of what the SRA perceives the additional cost of regulation would be, it is difficult to answer this question. How would the SRA intend to meet this cost?

That said, on the basis that one of the SRA's key objectives is ensuring consistency, if pre-qualification work experience is to be prescribed by the SRA then the SRA must be prepared to take on the additional regulatory burden (and/or cost) that this generates.

## 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 1 and Part 2, to a specified performance standard?

This question is not presently directly relevant to us as a university.

However, we do employ practising solicitors on our teaching staff and would expect that if we were being asked to assess the competence of trainees, guidance would be provided to allow us to do that. Without such guidance, the consistency that the SRA is seemingly striving for could not be demonstrated.

We also have concerns as to how many legal sector employers would currently have the expertise (or indeed available time away from fee-earning work) to assess any 'competencies not capable of assessment in Part 1 and Part 2' of the SQE.

What competences is the SRA referring to in that regard? It appears to us that if the SQE is proposed to be the new route to qualification as a solicitor, surely the SQE should be capable of assessing ALL necessary competences of solicitors?

## **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?

Yes, but we also consider that monitoring by the SRA would be necessary to ensure consistency.

## 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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

a) Yes

b) Yes. The protection of both consumers and students is fundamental. Students must know what their reasonable expectations should be if following a particular pathway, and consumers must know that their solicitors have met a particular standard through following a recognised pathway to qualification.

## Question 14

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

Whilst we appreciate that solicitors do not currently have to hold a degree, it has been the case for very many years that non-graduate solicitors are the exception, with the majority of solicitors (particularly those who have qualified in recent years) having followed the traditional graduate route.

We are conscious that there may well be a public perception that solicitors should be graduates, or at least educated to degree standard. On the basis that the SRA is contemplating making the SQE equivalent to 'degree standard', the SRA will need to specify exactly what it considers this 'degree standard' will look like. The alternative is that the SRA could simply prescribe that a degree is a pre-requisite to qualification as a solicitor.

There have always been non-graduate routes to successful legal careers at high levels, such as CILEX. The new legal apprenticeships also offer an alternative route to a legal career. Is it necessary that all such routes can ultimately lead to qualification as a solicitor? By way of an analogy, there have always been careers available in the medical profession to non-graduates; but to become a doctor, a degree is required.

We question why different, non-graduate routes to qualification as a solicitor are considered to be required, when there are a plethora of other opportunities within the law open to non-graduates?

This is a particularly pertinent question given the way in which the legal sector is changing and diversifying at present. Whereas traditionally those people wishing to work in the legal sector would essentially have had a choice between the barrister and solicitor routes, far more opportunities now exist and even more are likely to exist in future. Why does the SRA seemingly consider that all routes must lead to qualification as a solicitor?

We would suggest that prescribing that solicitors must be graduates would ensure a degree of consistency and consumer confidence. If necessary a new limited 'end point assessment' after the degree and at the end of a period of pre-qualification training could be introduced to ensure even more consistency.

We are also conscious that the SQE will not necessarily make the legal profession more accessible or diverse. Would-be solicitors will still face costs of taking the necessary courses required for them to pass the SQE - and if they choose not to take a degree are likely to find that their funding options for taking those courses are very limited, as student finance would, presumably, not be available.

They will still face difficulties in getting into law firms. The latter of these issues is a

problem that is sadly still inherent in the legal profession. It is unclear how the SRA thinks that the SQE would be a 'quick fix' to this.



## **Question 15**

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

It is unclear what the purpose of this would be. The SRA's proposals are effectively to ensure that individuals who want to be able to call themselves 'solicitors' all meet a specific level of competence.

Therefore, either such individuals are competent (if they pass the SQE), or they are not (if they do not). Creating different degrees of 'competence' seems somewhat illogical.

## Question 16

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

Again, we question what the proposed purpose of this would be. Surely it should be the case that individuals are either 'competent' to be solicitors, or they are not. This 'competent'/'not yet competent' standard is the standard by which skills assessments on the current LPC are marked, and this works effectively.

What would be the effect on consumer confidence (and on the career prospects of new entrants to the profession) of effectively ranking solicitors based on how 'competent' they are?

Few other professions 'rank' new entrants to the profession in this way.

Of course, specifying a requirement that candidates for the SQE have a degree would mean that candidates could be 'ranked' at least to an extent before they take and pass the SQE, but our view is that the SQE itself should simply say whether the candidate is competent or not.

This also brings in a question of what the pass mark in the SQE for demonstrating competence would be? The pass rate for the LPC exams and skills assessments is 50%, but we query whether allowing solicitors to pass the SQE with a pass mark of 50% would really inspire consumer confidence.

We do consider that it will be important for some statistics about training providers, specifically pass/fail rates for the SQE, to be made available to potential candidates. This information is required to enable students to make informed decisions as to the provider that they use, and will ensure that their expectations are managed.

## **Question 17**

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

If the proposed introduction of the SQE is managed appropriately by the SRA, we do not consider that there would be any EDI impacts; particularly if the SQE is designed appropriately to take account of diversity - which appears to be a core aim of the SRA in proposing to introduce the SQE.

On the basis that the likely cost of studying for and taking the SQE is not yet known by the SRA, we query whether the introduction of the SQE will really widen access to the profession. Is there a risk that the costs will be equal to or exceed those of the LPC and PSC at present?

## **Question18**

Do you have any comments on these transitional arrangements?

No.

However, we note that the use of the phrase 'transitional arrangements' rather than 'proposed transitional arrangements' rather presumes that the introduction of the SQE is a foregone conclusion, notwithstanding any responses that may be received to this consultation.

## **Question 19**

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

None at present - but all queries raised about the proposed SQE throughout this response would need to be addressed before we could fully comment.

## **Question 20**

Do you consider that this development timetable is feasible?

Without knowing full details of the SQE we cannot comment.

**Thank you for completing the** Consultation questionnaire form.

Please save a copy of the completed form.

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SQA consultation  
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B1 1RN

## T4T - Assessing competence

### Consultation questionnaire form

This form is designed to be completed electronically—in MS Word. Please save it locally before and after completing it.

#### 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?

The question question assumes that the stated objectives are sound. "Encouraging the development of new and diverse pathways to qualification..." will not "ensure that the most talented candidates can qualify as a solicitor". If these proposals are implemented the results will be a large number of poorly trained and equipped solicitors who have "qualified" on the basis of an unlimited number of opportunities to pass 12 multiple-choice question - based knowledge tests and 12 skills tests. The profession will be grievously devalued.

The pathways to qualification should not be increased.

An appropriate common professional assessment for all intending solicitors would be desirable, if achievable. However, as the great majority of academic and other like contributions which I have read make clear, there are very considerable difficulties in devising such an assessment which is sufficiently rigorous and fair. In so far as the result would be likely to be computer-based multiple-choice true/false questions they could test only factual knowledge and be limited to situations with definite right/wrong answers. There would be no proper testing or assessment, by this method, of the much more important qualities of legal analysis and reasoning. In so far as other forms of assessment might be involved, I refer to my response to question 2.



## 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?

No.

I have had the advantage of reading the careful, reasoned and comprehensive Reply to this question of the Cardiff School of Law and Politics. I agree with it entirely. In the light of my 50 years' experience as a practising solicitor, Judge and in the delivery of legal services, both nationally and internationally (as indicated in Form T4T), I share the grave concerns expressed by practitioners and entirely endorse the comment, which echoes what is my principal concern: "The SRA might argue that these features improve access to the profession, but we would argue probably only to candidates who ought not to be solicitors. Concerns have been expressed by practitioners about dumbing down and that widening access should not be pursued at the expense of a diminution in standards."

Such a diminution in standards, in the service and safeguards provided to the public by the solicitors' profession and in its standing, both nationally and internationally, will be the inevitable result of what is so mistakenly proposed.

### **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?

No; and there should not in any event be an SQE in the form envisaged.

In general terms, what is necessary is that a person entitled to practise as a solicitor in England and Wales should be appropriately qualified. If a lawyer qualified in another jurisdiction meets that requirement he should be entitled to practise; or to "credits" in respect of those aspects where he is qualified. Similarly, as a general principle, if there has been appropriate attainment in a particular area, credit should be given for it. In this answer, I lay particular stress on the word "appropriate".

## Question 4

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

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

Questions such as "when did you stop beating your wife?" (of which this is the equivalent) do not merit serious consideration. At least the alternative of agreeing with none of them should be provided. A fundamental flaw in and highly regrettable feature of this "Consultation" is that it is not a true consultation at all, proceeding as the questions do on the basis of fixed, even though highly contentious, positions.

## 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?

I agree that the standard for qualification as a solicitor should be at least at graduate level (but not at the entirely unspecified "equivalent"). It should not be assessed through the proposed SQE. Such assessment should be at the point of qualification i.e. at one point in time, which the proposed SQE would not do, with its assessment over perhaps years.

## Question 6

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

Some form of workplace experience is essential; but only for those who wish actually to practise the law as solicitors.

The major problem under the present arrangements is the difficulty in obtaining a training contract. It should be possible to qualify as a "solicitor" (just as it is possible to qualify as a barrister) without being qualified to undertake actual practice of the law. Those who, having qualified as "solicitors", do not then go on to undertake a training contract or similar workplace experience would not be entitled to practise. But they would still have the qualification of "solicitor" in return for the time effort and money expended. Such a qualification would be useful in many fields other than the actual practice of the law.

Those who wished to practise would then have to undertake appropriate workplace experience in order to obtain a "Practising Certificate" and become "Practising Solicitors".

It appears that the SLA may be contemplating permitting a person to practise as a solicitor with no degree, no vocational course, no period of work-based training but simply on the basis of having passed a series of tests over an unlimited period of time. If this is so, were it not so serious and so contrary to the public interest apart from the interest of the solicitors' profession, it would be farcical.

## **Question 7**

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

Yes; and it should not be less than a period of two years. Furthermore, the training should be more rigorous and extensive than it currently can be and should be properly regulated and monitored.

## **Question 8**

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

No. A fixed time period should be retained in any event to provide certainty to all concerned. There would be no objection to providing guidance as to competences. However, if any system of "competences to be met", were to be introduced, serious issues would arise as to monitoring and assessment.

## Question 9

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

I would not wish to discourage such workplace experience. However, if (as I envisage) the workplace experience is to be the essential prerequisite for practising the law as a solicitor (as distinct from obtaining the qualification "solicitor") it will be essential for this work to be carried out with a suitable recognised practising law firm.



## **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?

Yes, it would enhance the quality of the process necessary for those who wish to practise. But it would not be without very significant difficulties, for example, cost, extra regulation and how and by whom the assessment is carried out .

## 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 1 and Part 2, to a specified performance standard?

I am not now an employer. From my memory of my years in practice, yes. However, I anticipate that the great majority of experienced practising solicitors would similarly feel that they have the necessary expertise.

I would prefer to see some external assessment process. If done purely "in-house", the quality of the assessment process might very well depend the ability, aptitude and experience of the assessor and possibly upon the size of the firm. There would also be possible issues of personal relationships as well as cost implications. What would happen if a trainee failed the assessment? Would the training contract then be prolonged to give him/her a further opportunity?.

## 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?

It would depend upon the nature and scope of the toolkit and resources. A training course or courses might be required in addition. However, real concerns as to "in-house" workplace assessment remain. At least some form of external monitoring/validation by an appropriately qualified and experienced body or organisation would be essential.

## 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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

Again, the assumption appears to be that the SQE is a done deal. There has been overwhelming hostility to the SQ E. There are fundamental objections to it, which it appears are simply being ignored. Again, the position is set out fully in the reply to this question by the Cardiff School of Law and Politics.

## Question 14

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

Emphatically, I do not agree.

Again, why is the question put in this form and not in the form, as it ought to be, "Should all solicitors be required to hold a degree?" Balance and objectivity, the essential hallmarks of a lawyer, are sadly absent in this "consultation".

Without any reservation or qualification whatsoever, contrary to what is being proposed, all solicitors should be required to hold a degree. It is of course at present possible in certain limited circumstances to achieve qualification without a degree. Those circumstances should not be enlarged. Indeed, the time should come when the profession is an entirely graduate profession.

It is simply beyond comprehension that, in times when university education is far more extensive; when degrees are now required for many other occupations; and when the SRA is allegedly concerned about public protection, it should now be proposing that a degree (preferably a law degree but not necessarily so) should not be the almost total norm for a solicitor, whether practising or not.

Over my professional lifetime, the standing of the solicitors' profession has been enhanced: firms have become larger, more expert with international practices in some cases; solicitors have earned entitlement to the rank of silk; also, as in my own case, have gone on to the Bench and at various levels, indeed in one case to the Supreme Court.

Our courts and legal profession, both barristers and solicitors, are widely admired throughout the world, as I know from my own experience. What will be the reaction to a non-degree profession, entrance to which can be obtained as is now proposed? And what about protection of the public?

To put it in the briefest terms: to obtain a place on a degree course requires a level of intellect, application and attainment; a university education then develops and inculcates ways of thinking and attitudes of mind of huge benefit. A law degree teaches one principles of the law and how to think like a lawyer..

All this is apparently to be thrown away in a "race to the bottom" by an allegedly responsible regulator.

## Question 15

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

Again, the question is predicated upon the assumption that the SQE will be introduced.

To address the issue raised, however: if, as is to be hoped, the great majority of students obtain degrees, their degree performance will be a much surer and much more acceptable indication to potential employers and others of ability and skill than the proposed examination. Hence, in these cases, such information will hardly matter. As to the others, how can any comparisons be meaningful between a candidate who qualifies at one sitting and another who eventually limps past the finishing line after having lost count of the number of attempts made?

## Question 16

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

Very little, since it would be of so little value.

## **Question 17**

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

Increased expense; richer and better connected students at an advantage over poorer counterparts because of the increased expense, unlimited attempts and lack of exemptions; development on an "upper and lower class" in the profession depending upon route to qualification; increased numbers unable to obtain training contracts and/or employment..



## **Question18**

Do you have any comments on these transitional arrangements?

No; save to say that I fervently hope that good sense will prevail so that none of this will come to pass.

## **Question 19**

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

Manifest unfairness. If there are to be various ways to qualification, candidates who have embarked on a particular way, obviously, in the interests of fairness and saving expense should be entitled to complete that way.

## **Question 20**

Do you consider that this development timetable is feasible?

It is to be hoped that good sense will prevail and that this whole proposal will be deposited where it properly belongs, so that the question will not arise

if unhappily the question does arise, it will be one for universities and other providers. It would be essential to ensure total clarity and certainty for everyone embarked on or contemplating becoming a solicitor.

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Regulation and Education  
The Cube  
199 Wharfside Street  
Birmingham  
B1 1RN

Halina Kazprowiak - Orrick, Herrington & Sutcliffe (Europe) LLP

## T4T - Assessing competence

### Consultation questionnaire form

This form is designed to be completed electronically—in MS Word. Please save it locally before and after completing it.

#### 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?

It is imperative that the SQE is capable of ensuring the quality and rigour needed for a strong and effective profession starting at the point of admission and without seeing further detail about the SQE (what exactly it will assess and how) it is difficult to answer this question.

We are looking for the exam to be set at a level whereby candidates are not able to pass without first having developed key practical competences in a workplace. Our reasoning for this is that we believe an important feature of the current qualification model is the development made by a trainee solicitor during their period of recognised training.

At this stage in the consultation process it is unclear what the financial impact will be and cost is always a consideration in the context of diversity and access to the profession. Assuming, as the SRA appears to, the removal of the need for the LPC to form part of the qualification route will automatically make qualifying as a solicitor less expensive does not take into account the potential need for candidates to take courses to prepare them for the Part 1 and Part 2 exams.

To request an alternative format please visit [www.sra.org.uk/contact-us](http://www.sra.org.uk/contact-us).

## **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?

This question is difficult to answer without having seen any example questions. We need comfort that Part 2 will 'simulate the real demands of practice', something which is, in our opinion, incredibly difficult to do in an assessment context. Questions will need to be set that test a candidate's thought process when applying the law. We believe that very detailed questions will be required to even begin to replicate the complexity and subtleties of the type of transactions a trainee solicitor would currently work on in practice.

### **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?

Yes.

## Question 4

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

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

Option a) is the most workable for commercial law firms such as ours.



## **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?

The Part 1 assessment should be 'graduate level' at a minimum. However, Part 2 should be higher (level 7) in order to go some way to replicating the equivalence of the current period of recognised training whereby trainee solicitors will typically have undertaken two years of work-based experience and training.

## Question 6

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

Yes. However, there needs to be clarity around what this would look like and whether it would follow the same format currently recognised by the SRA, which includes the PSC and typically two years of workplace experience. A question the SRA needs to answer is whether there be required skills standards that need to be achieved?

## Question 7

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

Yes it is essential. All newly qualified solicitors will then have had a fair opportunity to develop their skills, knowledge and experience in the workplace. A working environment is not something that can be taught and is different to reading anything in the classroom. Experiencing the pressures of clients and the internal demands of a law firm as a business allows individuals to be tested in terms of their suitability in such an environment.

What needs to be confirmed is what the SRA proposes this pre-qualification workplace experience to look like and how long it would be for? We would suggest that the minimum period ought to be at least one year. From an external perspective, clients need the reassurance that the solicitors acting for them have had pre-qualification workplace experience.

## **Question 8**

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

We would suggest that they do both.

## **Question 9**

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

Yes, provided the SRA continues to regulate the experience in question by continuing to authorise training organisations/individual solicitors as recognised training supervisors.



## **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?

Having workplace assessment would enhance the quality and rigour of the qualification process.

## **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 1 and Part 2, to a specified performance standard?

The design and format of the proposed assessment should build on what firms already do. With guidance from the SRA as to which competences we were to assess and the level to be achieved by trainee solicitors we would be able to test areas not covered by Part 1 and 2.



## 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?

The market would expect the SRA to provide comprehensive guidance and resources. The starting point needs to be to aim for a workplace assessment that firms can integrate in to their existing training/supervision model.

## 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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

Yes to both a and b.



## **Question 14**

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

We would like the profession to remain graduate level (level 6), rather than requiring solicitors to hold a degree.

## **Question 15**

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

We are unable to comment without understanding what the SRA sees as the benefit of doing so.

## Question 16

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

We are unable to comment at this stage due to a lack of information.

## **Question 17**

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

Although the consultation document highlights that by removing the LPC, the cost will be cheaper than the current process, it does not factor in the additional training costs which will be needed to support individuals intending to pass Part 1 and Part 2 of the SQE.

## **Question18**

Do you have any comments on these transitional arrangements?

There will need to be transitional arrangements put in place as the new qualification and assessment framework becomes clearer.



## Question 19

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

Not from an employer's perspective.

## Question 20

Do you consider that this development timetable is feasible?

The timetable seems unrealistic. As the SQE is described by the SRA in the consultation document as 'significantly more complex' than similar assessments such as the QLTS, it would seem more sensible to take the time needed to get this right than to rush it.

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## 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?*

No.

The introduction of the SQE raises a number of concerns, as follows:

a) The SRA clearly regards the SQE as a means to widen opportunity as the consultation document states *"A strong and respected legal profession is enhanced if unnecessary barriers to good candidates becoming solicitors, regardless of their backgrounds, are removed. The SQE will facilitate the development of more flexible pathways to qualification for those who are able to meet the robust standards of the assessment."* We are unconvinced that the SQE will achieve this effect. The main routes to qualification at present are either, a law degree together with LPC and a training contract, or a non-law degree plus CPE / GDL and LPC plus a training contract. Most intending solicitors are likely to continue to wish to be educated to degree level, not least to retain parity with other professional groups, and employers in the job market might insist on this, so the need for a degree is likely to continue. At paragraph 16 of the Consultation Document the SRA states that it could require specific qualifications as a pre-requisite to taking the SQE, meaning that applicants will need practical training in law such as an LPC equivalent. It is difficult to see how such a system will reduce costs for applicants who will have to pay for the SQE and potentially including additional attempts if unsuccessful, which will be more costly than the present approach to qualification.

The SRA has stated that:

*"...there is no standard basis on which to measure the quality of students who emerge from the education and training process. Some Legal Practice Course (LPC) providers have success rates in excess of 90%, while others are below 50%. Some undergraduate law schools require A and A\* A-level grades from entrants, others admit students with B, C and D grades:*

Given the diversity of qualifications held by students currently entering the profession it is difficult to reconcile this with the stated aim of the SQE to widen access to the profession. It is likely to be correct that students enter different institutions with a wide range of A Levels entry grades and go on to achieve the LPC; this is indicative of widening access to the profession. Many Universities are also now participating in programmes such as Pathways to Law and contextualised admissions processes, which aim to admit students from less advantaged backgrounds, often with lower A Level grades, who go on to achieve well at university and later enter the profession. There is no obvious reason why these graduates should be less competent than other solicitors.

b) Adopting the SQE is highly likely to result in candidates undertaking training courses to prepare for the assessment. No such facility currently exists, and since the scope of the training is unlikely to meet the educational standards provided by universities regulated by the QAA, it is probable that this training need would be met

by private, profit-making organisations. This is likely to increase costs and reduce the quality of education for students.

c) Recent statements from the SRA seem to indicate a preference not to impose entry requirements, or at least not at degree level. This has the potential to dilute the status of the solicitors' profession in comparison with other professions where degree level education is expected and appreciated. It is also likely to deter students from overseas from studying in the UK and applying to join the profession. It is true that it has been possible to qualify as a solicitor through routes such as CILEx rather than studying for a degree, but such routes have always been acknowledged as providing qualifications equivalent to degree level education.

d) Southampton Law School is particularly concerned at the potential divergence between the SRA and the Bar Standards Board, which seems likely at present to continue to require graduate entry. Students embarking on legal education and intending to work in the legal professions are often uncertain about which career pathway they will ultimately choose, consequently it is likely that most will continue to take a qualifying law degree. Students who choose to take a qualifying law degree will therefore need to be assessed twice, once on the degree and again on the SQE. Furthermore, rather than creating more flexible pathways to solicitors' qualification, the addition of the SQE will increase the costs for intending solicitors.

e) Law Schools are not equipped to focus their programmes towards the SQE outcomes and will encounter obvious pedagogic issues relating to "teaching to the test", particularly since it is known that perhaps 50% of students aim to enter careers in the legal profession. The QAA Subject Benchmark Statement for Law currently requires the teaching and assessment of wide-ranging academic content and universities therefore provide a wide choice of research led options in order to remain competitive in the market for students. Such students benefit from the opportunity to study a broad curriculum, and that opportunity could be diminished if Law Schools were to make the SQE the focus of their programmes.

f) Further concerns relate to the potential difficulties of funding the SQE since, as has been outlined by the Junior Lawyers Division, career development loans would not be available under banks' current rules for any non-mandatory training course. If introduced, the revised regime could deter rather than encourage intending solicitors from less privileged backgrounds.

## **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?*

No.

The proposed assessment is based on the Qualified Lawyers Transfer Scheme assessment aimed at lawyers who are already qualified in other jurisdictions and is designed to test a different type of applicant to those likely to be taking the SQE.

Law, CPE and CILEx graduates exhibit degree level attributes, having been assessed on a range of knowledge, skills and abilities at graduate level according to the QAA Law Subject Benchmark Statement, published in 2015. These are considerably broader than the attributes required of a competent solicitor and it is difficult to envisage that this could be assessed by the multiple choice or true / false questions in the proposed Part 1 of the SQE. Whilst it is clear that such tests are successfully used in other professions, such as medicine, in those professions a relevant degree is a pre-requisite.

### **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?*

No.

There should continue to be exemptions for entrants who have taken and passed appropriate assessments in other contexts, since such exemptions are long established in a number of professions. The alternative would simply add to the costs of qualification. Nevertheless, it seems to be suggested in the consultation that it might be necessary to grant exemptions to EU applicants with equivalent qualifications / experience, but this could result in inequity if, for instance, an EU national who has passed a UK Law degree was exempted whilst a UK national with the same qualification was not.

### **Question 4**

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

- *offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?*
- *offering a broader number of contexts for the Part 2 assessment for candidates to choose from?*
- *focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?*

No strong views

### **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?*

Yes. A graduate level qualification would demonstrate the necessary skills, attributes and intellectual rigour to undertake the complex and technical work required of a solicitor.

### **Question 6**

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

Yes. It is only during a period of workplace experience that both the pre-qualified (PQ) and the employer can assess whether the PQ is suited to the job.

This is essential to maintaining the reputation of the profession as well as the confidence of the public. This aspect of the current qualification positively differentiates solicitors from England and Wales from those who qualify in other jurisdictions.

The ability to successfully complete Part 2 of the SQE would seem to be difficult without this experience.

### **Question 7**

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

Yes. This should be at least 18- 24 months to maintain credibility and quality and to ensure that PQs have a rounded experience and are not specialising in one department without seeing the bigger picture.

### **Question 8**

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

No - see above. However, if the SRA were to specify the competences it will be necessary to determine how these are to be assessed and by whom.

### **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?*

Yes. However this may be expensive to implement and add to the costs for the candidates. It is also a matter of concern that some employers may think that working in, say, a law clinic does not give the sort of experience that may be required of, say, a corporate solicitor.

### **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?*

Possibly but it is difficult to judge without more detail.

### **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 1 and Part 2, to a specified performance standard?*

Not applicable.

### **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?*

Not applicable.

### **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?*

Yes, for the reasons given above.

#### **Question 14**

*Do you agree that not all solicitors should be required to hold a degree?*

We agree that all solicitors should have qualifications at least at graduate level, as is the case at present, for the reasons given above.

#### **Question 15**

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

Our understanding is that the SQE is designed to be a competence-level assessment, hence it would seem to indicate that a candidate is either competent or non-competent. It is difficult to see what benefit would be derived from providing candidates with this information.

#### **Question 16**

*What information do you think it would be helpful for us to publish about:*

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

Until the decision to proceed with the SQE has been taken we do not have a sufficiently clear understanding of the nature of the assessment.

#### **Question 17**

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

We have serious concerns about the potential impact on potential solicitors from less advantaged backgrounds, as outlined in our response to question 1. Evidence seems to show that this affects disproportionately certain BME groups.

**Question18**

*Do you have any comments on these transitional arrangements?*

Given the significant amount of uncertainty, these should be kept under review. The proposed arrangements will result in considerable confusion and uncertainty for both current and future students. This could adversely affect recruitment to law degrees and longer term to the profession.

**Question 19**

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

This is difficult to comment upon and will depend on when the new system is introduced.

**Question 20**

*Do you consider that this development timetable is feasible?*

The current timeframe will result in significant difficulties for most universities since the introduction and validation of new programmes, or significant amendments to programmes tends to be very lengthy, perhaps as long as 2-3 years.

## 2. Your identity

### 1. Surname

James

### 2. Forename(s)

Helen

### 3. Name of the firm or organisation where you work

University of Winchester

### 4. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.

Attribute my/our response and publish my/our name.

### 5. Please identify the capacity in which you are submitting a response. I am submitting a response... as an academic

Please enter the name of your institution.: University of Winchester

## 3.

### 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?

No.

The SQE route will not widen access to opportunity. Current routes to qualification are either a law degree followed by an LPC and a training contract or non law-degree plus CPE (GDL) followed by an LPC and a training contract. The majority of those intending to practice as solicitors remain likely to require education to degree level (indeed, the job market may insist on this) and it is likely that the vast majority will still undertake a degree.

The SRA envisages, at paragraph 16 of the Consultation Document, that it could require specific qualifications as a pre-requisite to taking the SQE. Applicants will then need some sort of training in practical law, so a course equivalent to the current LPC will still be needed. Applicants will additionally have to pay for the SQE, including a potentially unlimited number of further attempts if unsuccessful, so instead of reducing the cost of qualification, these proposals will increase it. It seems too that whilst the knowledge and skills required to take the SQE could be delivered within a three year degree, this would be at the expense of student choice and breadth of learning.

It is true that there may be a small number of individuals who will have gained knowledge and experience in other ways for whom the SQE could be a benefit, but they are already provided for under the current system, for example by recognition of CILEX qualifications and by the Equivalent Means Route. Whilst these statements may be correct - though no evidence is cited to support them -, they fail to show the full picture; for example, in comparing pass rates at LPC institutions, it is also necessary to factor in entry level qualifications. Level of achievement at A level is not determinant of competence as a solicitor. The SRA should be well aware that certain ethnic and other groups are known to show poorer performance at school. The Government's Statistical First Release on GCSE performance for 2013/14, pupils from a black background were the lowest performing group, and were significantly below the national average ([https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/399005/SFR06\\_2015\\_Text.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/399005/SFR06_2015_Text.pdf)). It may be that some Law Schools are doing an excellent job in providing opportunities to certain

disadvantaged groups, who then have the opportunity to shine in a University setting. In addition, many Universities are now offering places on an unconditional basis, which may have led, or lead in the future, to lower levels of attainment at A level. The Sutton Trust has published evidence which shows that the more selective Universities have a bias towards independent and selective schools: "Independent school pupils are more than twice as likely as pupils in comprehensive schools to be accepted into one of the most 30 highly selective universities: 48.2% of independent school pupils in England were accepted by these universities, compared with 18.0% of pupils in non selective state schools, and 47.6% in selective state schools." (<http://www.suttontrust.com/wp-content/uploads/2011/07/sutton-trust-he-destination-report-final.pdf>). Assumptions about the quality of solicitors, based on A level grades do a disservice to underprivileged young people and those Universities which are able to see past those grades, through the use of contextual data, to true potential.

A better test of whether the current system is providing appropriately educated and trained solicitors would be to measure the quality of the current cohort of admitted solicitors; and we note in this context that in the Office for Legal Complaints Annual Report for the year ended March 2015, the number of complaints received had shown a steady annual reduction from 22,350 in 2011-12 to 18,185 in 2014 - 15 (<http://www.legalombudsman.org.uk/wp-content/uploads/2014/09/Annual-Report-2014-15.pdf>).

Paragraph 23 of the Consultation states:

"The 2015 HEFCE consultation on standards and quality in Higher Education, states that current quality assurance mechanisms do not ensure consistency of standards across universities. HEFCE concludes: 'the current quality assessment system does not provide direct assurance about the standard of awards made to students, or their broad comparability.'"

However, it should be noted that the HEFCE Consultation went on to say:

25. "The proposals should not be seen to cast doubt on the ability of the current system to secure the reputation of the UK higher education system over recent years, although later in this document we note some concerns expressed during the discussion period about the continuing appropriateness of current arrangements for the future. Our purpose throughout has been to consider what kind of quality assessment arrangements will be necessary as we look towards 2025, rather than to review the effectiveness of the current approach. Throughout the discussions, we have been clear that preserving and indeed strengthening the reputation of the UK higher education system must be an essential component of thinking about future."

If the SQE were adopted, it is likely that candidates would wish to pay for training courses in order to prepare for this assessment. At present, it is unclear whether the SRA would wish to accredit / regulate such training entities. If they chose not to do so, we can envisage the rise of unscrupulous profit-motivated "crammer" style organisations. Pre-admission training is currently delivered almost exclusively by Universities, which are in the main not-for-profit organisations with a declared commitment to educational excellence, and which are closely regulated by the QAA. We are concerned that the current commitment to quality education and training would be diluted, to the detriment of students, in an unregulated environment.

Whilst according to the Consultation no decision has yet been made on entry requirements, statements made by senior officials at the SRA over the past few months suggest that there is a preference for having no entry requirements, or at least not at degree level. It is impossible to envisage a solicitors profession where there is no requirement for graduate level education and it is possible that the adoption of this approach would result in a) the brightest and best seeking alternative careers, where degree level education is appreciated and b) a diminution in the reputation of the England and Wales Solicitor 'brand', which will discourage the brightest, both at home and from overseas, from applying to join the profession. The Consultation paper makes much (paragraph 72) of the fact that it has never been a requirement that solicitors had to possess degrees, citing five year articles and the CILEx route as examples; "However, the solicitors' profession has never required all solicitors to have a degree. For many years, solicitors could qualify through a five-year period of articles. Solicitors who are non-graduates can still qualify through the CILEx route. Many solicitors who have qualified through these routes have enjoyed long and successful careers in demanding areas of practice".

What this fails to mention, however, is that in both those cases candidates had to (and still have to) take and pass assessments at degree equivalent level.

Most professions (nursing, midwifery, dentistry, medicine) in England and Wales have a requirement of degree level qualifications. The police are in the process of introducing this requirement. It would be ironic that an arresting officer has a degree level qualification and the defence lawyer does not!

Although the Bar Standards Board has yet to consult in detail, it seems clear that the Bar will continue to require a qualifying law degree. This could place logistical difficulties on Law Schools which are trying to cater for all student needs, but is more likely to have the effect that all school and college leavers who are interested in a career in the law will continue to take a qualifying law degree. This will defeat the SRA's stated objective of creating more flexible pathways to qualification and the addition of the SQE will add to the cost burden for intending solicitors. In addition, students who choose to take a qualifying law degree will be assessed twice, once on the degree and again on the SQE. This seems a waste of time and effort, and may result in additional cost for students taking refresher courses if their degree was completed some time previously.

6) Law Schools may feel under pressure to gear their programmes towards the SQE outcomes. Apart from the obvious pedagogic issues relating to "teaching to the test", many Law Schools (where only 50% or fewer students have the aim of becoming qualified lawyers) will be unwilling or unable to do this. Law Schools have to consider wider issues in devising their programmes, such as the research outputs of their staff, the provision of a wide choice of options in order to remain competitive in the market for students, and teaching and assessing the wider academic and skills outcomes outlined in the QAA Subject Benchmark Statement for Law. Students attending Law Schools who have chosen to maintain a broad curriculum may then have the additional expense of paying for education in subjects not included in their law degree.

I share concerns expressed by the Junior Lawyers Division, that career development loans would not be available under banks' current rules for any non-mandatory training course. If the revised regime is introduced, this could deter intending solicitors from less privileged backgrounds.

#### 4.

### **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?**

No.

Without sight of at least some sample assessments it is difficult to comment, but it seems that the proposed assessment is based on the Qualified Lawyers Transfer Scheme assessment. This is aimed at lawyers who are already qualified in other jurisdictions and it is therefore designed to test a different type of applicant to those likely to be taking the SQE.

Law / CPE / CILEx graduates at the moment have all had the opportunity to demonstrate their breadth of knowledge and application of the law by degree level assessments, which are specifically designed to test a range of knowledge, skills and abilities at graduate level. The QAA Law Subject Benchmark Statement, published in 2015, describes a law graduate thus:

A graduate of law with honours has demonstrated:

i) intellectual independence including ability to ask and answer cogent questions about law and legal systems, identify gaps in their own knowledge and acquire new knowledge, and engage in critical analysis and evaluation

ii) self-management, including an ability to reflect on their own learning, make effective use of feedback, a willingness to acknowledge and correct errors and an ability to work collaboratively

iii) awareness of principles and values of law and justice, and of ethics iv knowledge and understanding of theories, concepts, values, principles and rules of public and private laws within an institutional, social, national and global context v study in depth and context of substantive areas of law

vi) ability to conduct self-directed research including accurate identification of issue(s) which require researching, retrieval and evaluation of accurate, current and relevant information from a range of appropriate sources including primary legal sources

vii) ability to work with a range of data, including textual, numerical and statistical

viii) ability to recognise ambiguity and deal with uncertainty in law ix ability to produce a synthesis of relevant doctrinal and policy issues, presentation of a reasoned choice between alternative solutions and critical judgement of the merits of particular arguments

x) ability to apply knowledge and understanding to offer evidenced conclusions, addressing complex actual or hypothetical problems

xi) ability to communicate both orally and in writing, in relation to legal matters, including an ability to listen and respond to written and oral stimuli including questions and instructions

xii) engagement with their own personal and professional development, and academic integrity

These characteristics are not only desirable but essential characteristics in a competent solicitor. I am unconvinced that all of this can be assessed by the multiple choice or true / false questions in the proposed Part 1 of the SQE. The Consultation paper notes that such tests are already used in other professions to test high-order skills. However, what it does not say is that in those other professions (for example, medicine, Veterinary Science), a relevant degree is a pre-requisite.

5.

**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?**

No.

There should continue to be exemptions for entrants who have taken and passed appropriate assessments in other contexts. Failure to do so simply adds cost to the qualification process. Exemptions are already a well established feature in other professions - for example, accountancy.

The SRA accepts that it may be obliged to grant exemptions to EU applicants with equivalent qualifications / experience. This could lead to the situation where an EU national who has passed a UK Law degree would be exempted whilst a UK national with the same qualification would not.

6.

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

**Why...**

No strong views on any of these. Determination of these matters is an issue for the professions.

7.

**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?**

Yes.

An applicant who has not been able to achieve graduate level qualifications would be unlikely to have the necessary skills, attributes and qualities of mind to undertake the complex and technical work required of a solicitor.

8.

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

Yes

9.

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

Yes.

Whilst individuals learn and mature at different rates, there does need to be some minimum period of time specified. If there is no minimum requirement, there would need to be an assessment of what has been learned through work experience, which again could add cost to the process and erect further barriers that will stand in the way of widening access.

10.

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

No - see above.

If the SRA specifies competences, who checks that these have been achieved?

11.

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

Yes.

The current number of training contracts is insufficient to meet demand and there are a number of potential solicitors who are unable to qualify. Expanding the range of acceptable experience (provided it was in a legal context) would be of benefit to these students.

12.

**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?**

Possibly but little detail is given on this. In order to answer more fully I would wish to see detailed proposals.

13.

**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 1 and Part 2, to a specified performance standard?**

Not applicable.

14.

**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?**

Not applicable

15.

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?**

Yes, for the reasons already outlined above.

16. (untitled)

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

All Solicitors should have qualifications at graduate level. Anything less thoroughly demeans the profession.

17.

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

As the SQE is designed to be a competence - level assessment there is nothing to be served by providing this information to candidates.

18.

16.

**What information do you think it would it be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

This is not a question that can be validly answered unless and until a decision to proceed with the SQE has been taken and the nature of the assessment determined.

19.

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

As outlined in Q1, there have to be serious concerns about the potential impact on potential solicitors from less advantaged backgrounds. Evidence shows that this will affect disproportionately certain BME groups.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

Not at present

21.

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

Too numerous to mention

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

No.

Wholly unrealistic as nothing at the moment is certain. Universities, as recognised in the Consultation document, tend to have very lengthy lead in times (2/3 years) for the introduction of new programmes.



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Regulation and Education  
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By email: [consultation@sra.org.uk](mailto:consultation@sra.org.uk)

4 March 2016

**Response to SRA Consultation Paper, published 7 December 2015  
"Training for Tomorrow": Assessing Competence**

Herbert Smith Freehills LLP is an international law firm with 4,800 staff operating from 24 offices across the world. We are happy to be identified as a respondent to the consultation paper.

**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 do not agree. Our response to this question will be elaborated on in our responses to subsequent questions. In summary, we do not believe that the proposal would better meet the objective of ensuring consistent and comparable high quality standards at the point of entry to the profession.

In addition, we have concerns that the SQE will not encourage the development of diverse pathways to qualification as the SRA intends and anticipates. Indeed, in certain circumstances (see later responses), we fear that the introduction of the SQE would adversely affect diversity.

As we have stated in previous consultation responses, we do not consider that the objectives set out in paragraph 10 fully convey the extent of the relevant aims to which the SRA should have regard. Pursuant to Section 1 of the Legal Services Act 2007, the SRA is also under an obligation to give consideration to its other regulatory objectives, including to "... (d) protect and promote the interests of consumers; ...". We believe that the introduction of the SQE as it stands risks having a detrimental effect on this objective.

Much work has been done in recent years to look at the Qualifying Law Degree (QLD), Graduate Diploma in Law (GDL) and Legal Practice Course (LPC) in order to ensure that they meet the needs of the profession and consumers, as well as allowing sufficient flexibility to encourage diversity amongst those who take this path to qualification (noting that alternative pathways to qualification already exist). These assessments offer, in our opinion, rigour and an assurance of the academic quality that we would expect of a new entrant to the profession (when combined with the practical, on-the-job experience gained within the traditional period of training). Whilst we are in favour of ensuring that there are consistent and high standards for all qualifying solicitors, our experience is that the existing model generally meets this aim.

Our concern is that a move to the SQE, with the attendant disruption and costs for the profession (which will inevitably result in costs being passed on to consumers), will put current standards at

risk. It is difficult to quantify this risk precisely in response to the current consultation because of the lack of detail in the SRA's proposal concerning how the Part 1 and Part 2 assessments will run. However, there is little in the consultation paper to provide assurance that standards will be maintained at the point of admission under 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?**

No. As already stated above, the lack of detail about the assessment framework in the SRA's proposal makes it difficult to comment on whether the SQE will provide an effective test of the competences needed to be a solicitor. However, there are a number of points that can be made at this stage.

First, we see the one-size-fits-all proposed model of assessment for the SQE as a significant backwards step from the SRA's consultation of 23 February 2007. That consultation resulted in the SRA board allowing a more permissive approach by LPC course designers, creating flexibility for students and allowing law firms to select LPC courses which best met their needs and the needs of their clients because intending solicitors had the opportunity to acquire the knowledge that was most relevant to their future areas of practice whilst undertaking the LPC. In this regard, the removal of the LPC Stage 2 vocational elective stage from the SQE model will have a detrimental impact. For example, future solicitors who intend to join firms such as ours will not be able to have training in corporate transactions, debt finance and equity finance as part of their LPC, as they do now. If they do not cover these subjects as elective stages as part of the SQE, it will be necessary for them to study them separately before they commence work. This will increase the costs of training students such as these and potentially delay the date on which they would start to practice.

The significance of this point is not limited to firms such as ours; the ability to take some elective elements during the LPC has allowed solicitors from a wide range of practice areas to gain some specialist knowledge prior to commencing work, reflecting the fact that the profession is much more specialised than it used to be. In our view, this is a positive development.

Second, we are against the proposed use of multiple choice questions (MCQs) in Part 1 of the SQE. This is because:

- (1) MCQs do not reflect the nuances of legal practice, which is not a maths or science-based profession. We note that the evidence and research reviewed by AlphaPlus and the SRA only relates to maths or science-based professions – accountancy, dentistry and medical sciences.
- (2) MCQs do not assess written communication skills, English language skills, unprompted recall of information, thought process, problem-solving ability, high-level analytical skills, evidence-gathering ability, and the ability to write convincing arguments, all of which are important areas for solicitors.

Third, we are against an unlimited re-sit policy and would propose a more stringent two re-sit policy instead. This is because:

- (1) It brings into question whether a candidate who has taken multiple attempts to pass the SQE has the required standard of competence.
- (2) We are concerned that, as the only assessment at the point of qualification, an unlimited re-sit policy might encourage a practice of students "banking" passes in elements of the SQE over an extended period of time. This could mean that, at the point that the student finally passes all the required elements, his or her recollection of the early elements will have faded.
- (3) Given that the SQE will be centrally assessed, it is inevitable that there will be a cost associated with taking it. Allowing unlimited re-sits would allow students with better financial resources to have a better chance of passing. This undermines diversity.

### **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?**

No. There should be exemptions for some intending solicitors, particularly those with a QLD.

An advantage of completing a law degree rather than a non-law degree, from a student's point of view, is that it offers a full exemption from the academic stage of legal education and training. It therefore recognises the valuable foundation that a QLD provides to a future solicitor in terms of an academic and intellectually vigorous knowledge of the law. If exemptions are not allowed for those who have a QLD, there is a risk that students will see no discernible advantage in completing a law degree rather than a non-law degree.

We do not agree that the SRA should work closely with universities so that the latter can adopt the full Part 1 assessment or sub-components thereof as part of their offer. A university education should cover a broader range of skills than simply an education for Part 1 of the SQE, in particular as a study by the Higher Educational Statistics Authority in 2011 showed that only 45.8% of UK law graduates chose to work in the legal sector<sup>1</sup>. This reflects the fact that the academic study of law is of greater value than purely as a preparatory step for a particular vocation.

The SRA's desire to remove exemptions and their anticipation that some universities will adopt the full Part 1 assessment or sub-components thereof as part of their degree, creates a risk that students will be forced to decide which branch of the legal profession (i.e. solicitor, barrister, legal academic) they wish to enter at a much earlier date – essentially, when they apply for university. Someone who thinks they might want to be a barrister or a legal academic would most likely choose a traditional academic law degree that does not incorporate Part 1 teaching, because that would provide a stronger foundation for the chosen branch of their profession. However, if they subsequently change their mind during their undergraduate studies, they may find that their choice of degree course is less well suited to pursuing a training to become a solicitor.

In effect, the SRA is putting up a significant additional barrier to qualification for those students who are minded to study law at degree level because they will need to also need to be taught and

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<sup>1</sup> [https://www.hesa.ac.uk/index.php?option=com\\_studrec&Itemid=232&mnl=10019](https://www.hesa.ac.uk/index.php?option=com_studrec&Itemid=232&mnl=10019)

pass Part 1 of the SQE. Given that the QLD pathway to qualification is currently a significant one in terms of a proportion of the overall number of intending solicitors, this has the potential to have a detrimental impact on the overall costs of qualification and consequently on diversity.

We urge caution with respect to the SRA's intention to merge the QLTS assessment into the SQE. AlphaPlus has already pointed out that the QLTS has a different intake to the proposed SQE, as the former candidates are lawyers already qualified and experienced in their home countries. Using the QLTS as the model to design the SQE will not be appropriate.

#### **Question 4**

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

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?**
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?**
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?**

We agree with, and counsel for, Option (b).

We are concerned that many of the smaller firms will struggle with Option (a) as they will not be able to provide their intending solicitors with experience in at least three out of the five assessment contexts, as the SRA envisages in its proposal. We anticipate this would lead to fewer firms offering pre-qualification workplace experience – thus reducing access to the profession.

We ourselves will struggle to provide our intending solicitors with experience of at least three out of the five assessment contexts because we do not have large enough criminal litigation or wills and probate practices, and our Real Estate department is simply not big enough to enable every trainee at the firm to undertake a seat there over a two-year period. Other firms with large trainee intakes may face similar problems. We are therefore concerned that this would be a retrograde step, following the past moves to a more flexible period of training.

The other difficulty with Option (a) is that it fails to recognise the reality that many solicitors specialise from the point of qualification in a wider range of areas than those listed. Whilst some breadth of experience will always be important, we consider that intending solicitors should be able to prove competence in the context of those areas in which they will actually be practising post-qualification. A wider set of contexts would allow intending solicitors to study for, and prove competence, in a full range of contexts (reflecting the breadth of the modern profession), much as the current LPC does.

We believe that this flexibility will allow a wider range of firms to offer training to intending solicitors, thereby opening up the profession and increasing diversity.

#### **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?**

In principle, the overall standard should reflect that of solicitors at the point of qualification and therefore be above post-graduate level.

However, it is difficult to see how a single standard for Part 1 of the SQE could be set given that the SRA anticipates it will be modularised, so a student could take some modules while he/she is at Level 4, but other modules while he/she is at Level 5 or Level 6. We would like to know how the SRA intends to address this issue.

With respect to Part 2 of the SQE, if it is moved to the same time as the current LPC, it should be set at post-graduate level (i.e. level 7 in the Framework for Higher Education Qualifications). If Part 2 remains at the point of qualification, it should be set at higher than post-graduate level because under the current qualification regime, solicitors are admitted after two years of post-LPC work-based experience and training.

This question highlights the significant area of uncertainty and potential difficulty around timing for the assessment of Part 2. We are against Part 2 being assessed during any period of workplace experience. This will turn workplace experience into a period when study and work are integrated, adversely impacting the trainees' experience during this vital component of their development to become competent solicitors. We aim to provide trainees with as much exposure as possible to a range of varied and challenging work during their period of training. Taking trainees out of work to study for and take Part 2 assessments would be disruptive to the intending solicitor and their team and could detrimentally affect the quality of the trainee's experience (for example, by preventing him/her from completing a transaction/case because of the need to take study leave).

Consequently, many firms may find it more difficult to provide trainees with such a high quality of workplace experience. Smaller firms could face a disproportionate difficulty if their intending solicitors are out of the office for regular periods of time prior to qualification, in order to take Part 2 assessments.

Additionally, there may be increased uncertainty around the qualification process because there will be a time lag between newly qualified positions being offered by the firms and the trainees receiving the results of their SQE assessments, thereby getting confirmation that they will be admitted to practice.

These difficulties could result in a reduction in the number of firms which choose to train solicitors, reducing the number of training contracts and thus reducing access to the profession (with negative consequences for diversity).

We ask that the SRA looks at existing academic surveys of students who have combined study and employment and themselves rigorously survey individuals who have combined study and employment. It is not an option individuals generally choose if they have the option of full-time employment without study.

We would be in favour of Part 2 training and assessment taking place prior to the period of workplace experience, as it would ensure our intending solicitors begin their workplace experience with a strong foundation in the core business skills (i.e. interviewing, advocacy, negotiation etc.) that they would not otherwise have if Part 2 was at the point of qualification. Qualification should only take place following a workplace assessment, as referred to in Questions 10 – 12. This could be a robust assessment of the intending solicitors' competences at the point of qualification, undertaken by the firm.

### **Question 6**

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

Yes. We feel strongly that some elements of the SoSC cannot be validly and reliably taught or assessed in any way other than via observation in the context of workplace experience gained over an extended period of time. Other professions use workplace experience extensively. The importance of workplace experience, together with a proper structure for performance reviews and on-the-job feedback, should not be under-estimated.

We believe that an obligatory period of workplace training, similar to that which is currently part of the qualification process, is key to underpinning the confidence of consumers in the profession. Our existing two-year period of training is seen internationally as an important element in ensuring the high standard of solicitors in England and Wales, in view of our more limited academic requirements compared to some major overseas jurisdictions.

### **Question 7**

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

Yes. We consider that some form of minimum period is required. Otherwise, there will be a risk of inconsistency between the training at firms that require different periods of pre-qualification workplace experience. Given that one of the SRA's key objectives is to ensure consistent and comparable standards, a failure to specify a minimum time period of pre-qualification workplace experience would directly contravene this objective.

We consider that a minimum period of two years pre-qualification workplace experience is suitable. In our opinion, this is the appropriate amount of time for an intending solicitor to have sufficient experience in order to: (1) be able to make a considered decision as to their specialism, (2) gain the required level of competence in the necessary range of legal skills and knowledge, (3) gain know-how to inter-relate their learning from one practice area to another, and (4) develop a sound understanding of the importance of ethical considerations in a work context.

If the SRA does not specify a standard time period, we expect pressure may grow on firms to reduce the required period for pre-qualification experience as a recruitment tool, which could negatively affect standards in the absence of a robust skills assessment (which we do not believe the SQE can provide). It could also have a negative impact on smaller firms, which may take longer to provide an intending solicitor with the required breadth of workplace experience, meaning such firms would struggle to attract talent because of their longer pre-qualification training periods.

### **Question 8**

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

We think the SRA should specify both, which is the current model. Simply specifying the competences to be met creates difficulties in enforcing a consistent and comparable standard. In

addition, intending solicitors should have their competences tested over a period of time as that will better demonstrate a consistency of their standard.

If the SRA decides only to specify a minimum time period for pre-qualification workplace experience, we suggest that the model should also include the need for an intending solicitor to be "referred" by their legal employer as ready to take the final module of Part 2.

#### **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?**

In principle, we agree with this. However, the SRA should clearly define this "wider range" of pre-qualification work experience such that it is wide enough to include at least two years of practical experience in at least three distinct areas of law with a range of employers (akin to the present "equivalent means" regime), but narrow enough to exclude experience that would not be equivalent to the current training contract experience (i.e. non-legal, fewer practice areas, less supervision and review).

If the SRA intends to recognise a wider range of pre-qualification work experience than the current "equivalent means" process does, it will be even more important for the SRA to specify the competences to be met during pre-qualification workplace 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?**

Yes to both.

For the reasons already set out above, we believe that an element of workplace assessment is essential in relation to those skills that cannot be accurately assessed in an examination or simulated scenario. We would like the workplace assessment to be more flexible and would support steps to regulate the standard of training and more guidance on the levels of competence expected. We would support the SRA having some form of audit process to quality assure the workplace assessment. However, many firms already operate a robust training assessment process by way of formal performance reviews, training records etc. – whatever is introduced should recognise that and not simply impose another administrative pre-qualification burden on the firm and its people, including its intending solicitors, which will inevitably increase the cost to consumers.

#### **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 1 and Part 2, to a specified performance standard?**

We are confident that we would have the expertise to assess trainee solicitors' competence. Indeed, we do this at the moment under our current training process. Any workplace assessment should not be unnecessarily complex and time-consuming and the SRA should provide suitable guidance on what supervisors should be looking for.

### **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?**

It is difficult to provide meaningful comments on what other support might be required when we are uncertain about what the new workplace assessment would look like. The SRA should aim to design a workplace assessment that law firms are capable of integrating or adapting into their existing training and supervision model.

### **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:**

- a) support the credibility of the assessment?,**
- b) and/or protect consumers of legal services and students at least for a transitional period?**

Yes to all.

We consider that a degree or degree equivalent as an entry requirement for taking the SQE is important as it demonstrates:

- (1) academic skills such as high-level written and verbal communication skills, critical thinking, analytical ability,
- (2) the ability to work independently over a period of time,
- (3) motivation and self-reliance, and
- (4) an appreciation of intellectual curiosity, uncertainty, ambiguity and limits of knowledge.

Without the specification of entry requirements for the SQE, there is a risk that people who have not demonstrated ability in these areas could be coached to pass the SQE without truly having the competences it is designed to measure. Much will depend, of course, on the details of the assessments which we have not yet seen. Nevertheless, we perceive this as an area of risk that would decrease the confidence the consumer has in the quality of solicitors and damage the brand of solicitor of England and Wales in the international marketplace.

Other jurisdictions (e.g. New York) not only specify entry requirements for their SQE-equivalent exam, their entry requirements are a post-graduate law degree as opposed to an undergraduate law/non-law degree or degree-equivalent.

The existing routes to entry to the legal profession all require a Level 6 academic qualification as a minimum standard, whether through CILEx, apprenticeships, the QLD or the GDL. In addition, given that the number of school leavers going to university has increased to 47% in 2014<sup>2</sup> from less than 10% in 1970, the requirement of a degree or degree equivalent is not such a significant

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<sup>2</sup>[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/458034/HEIPR\\_PUBLICATION\\_2013-14.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/458034/HEIPR_PUBLICATION_2013-14.pdf)



barrier to entry to the profession as the SRA's proposal suggests. In any event, we remain supportive of the equivalent means pathway alongside this.

Another reason to keep the prescription of training pathways is to avoid the risk of creating a two-tier education system where a more highly-regarded route emerges as the gold standard with all others seen as somehow inferior.

Without prescribed or regulated training pathways, there is a greater danger that preparation courses will emerge that are driven by a "teaching to the test" approach, with the need to get students through the SQE being the single motivating factor rather than giving them the wider base in skills and knowledge that a good solicitor requires, as the current model does. We do not welcome a "teaching to the test" approach and our efforts with our bespoke LPC have consistently moved away from such an approach to ensure we are producing future solicitors who have a good understanding of a full range of legal issues.

#### **Question 14**

**Do you agree that not all solicitors should be required to hold a degree?**

This is a misleading question as the current Regulations do not require all solicitors to hold "a degree" and we support that. As set out in our response to Question 13, we consider that holding a degree or degree equivalent is important but this should be alongside alternative vocational programmes leading to a graduate level qualification (e.g. CILEx, apprenticeships). However, the relevant pathways (with or without a degree) should be regulated and prescribed – as they currently are.

#### **Question 15**

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

We consider that individuals could be given information about their individual performance on the SQE as a useful indicator of areas of strength and weakness. The technical expert advice the SRA commissioned from AlphaPlus concluded that it is possible to establish three or four grade boundaries in a way that is valid and reliable. Given that the objective the SRA hopes to achieve is a more rigorous, consistent and comparable high quality standard of assessment, we do not think the greater complexity and time-consuming nature of establishing valid and reliable three or four grade boundaries should be a reason not to do it.

#### **Question 16**

**What information do you think it would be helpful for us to publish about:**

- a) overall candidate performance on the SQE?**
- b) training provider performance?**

We do not see value in publishing information about overall candidate performance on the SQE. In our view, the examination is best left as an assessment of competence to practice as a solicitor rather than a means of grading performance or a recruitment tool.

We are against the publication of information about training providers' (i.e. law schools and SQE-preparatory course providers) performance as we anticipate that this could incentivise some providers to focus only on "teaching to the test" (in order to increase their pass levels), rather

than ensuring the courses cover a full legal education. Moreover, different institutions may have different focuses. For example, a university teaching a law degree – some of whose students go on to take the SQE – will have a different focus to a specialist provider whose course is aimed only at enabling students to pass the SQE. This raises a question about the value of comparing SQE pass-rates from students at both types of institution.

We recommend that the SRA considers how training providers can ensure equality of access and experience, for example, by publishing diversity statistics.

#### **Question 17**

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

We perceive a risk that the introduction of the SQE will negatively impact diversity because it will foster the creation of self-funded preparatory courses. For law graduates, they will face the additional costs of taking the academic elements of the Part 1 examination unless this is done as part of their degree. The complexities of integrating Part 2 around workplace experience may discourage some firms from training solicitors, thereby further increasing the most significant barrier to entry under the current system – the difficulties in getting a training contract. It is not apparent to us how the SRA's proposals will affect this fundamental issue.

In terms of costs, the SRA has stated that the new regime will be less expensive based on the assumption that the LPC will no longer be required. However, the SRA does not appear to have factored in the costs of the courses that will be required in place of the LPC to support Part 2; nor have they factored in the potential for new costs related to Part 1 preparatory courses. Even if the LPC is not required from a regulatory perspective, some form of training course for Part 1 and Part 2 would be required by the market. Such courses will need to be self-funded or funded via commercial loans.

In addition, we assume that the costs of setting and examining a centrally-assessed SQE will need to be included when considering the costs of qualification. We are therefore concerned that the new regime will be more expensive than the current one. A more costly new regime undermines rather than increases diversity.

The SRA should consider whether the assessment design, methods and arrangements (including re-sit policy) proposed for the SQE will discriminate against particular groups, and make alterations accordingly. A detailed consideration of the reasonable adjustments available for the oral assessments proposed for Part 2 will be necessary.

Allowing unlimited re-sits would allow those students with more financial resources to have a better chance of passing. This undermines rather than increases diversity.

With respect to Part 2 and Option (a), many firms will struggle to provide their intending solicitors with experience in at least three out of the five assessment contexts. We anticipate this would lead to fewer firms offering pre-qualification workplace experience – thus reducing access to the profession.

#### **Question 18**

**Do you have any comments on these transitional arrangements?**

**Question 19****What challenges do you foresee in having a cut-off date of 2025/26?****Question 20****Do you consider that this development timetable is feasible?**

For purposes of the transitional arrangements, students who are in the middle of completing a QLD or a GDL should be exempted from all of Part 1 of the SQE.

The development timetable is very tight and not feasible. The cut-off date of 2025/26 is too soon given the extent of disruption that the new regime could introduce.

The students and intending solicitors who are affected will require clear guidance and communication about the new regime prior to making their choices in relation to higher education. The transitional arrangements and the timetable do not appear to take this into account. As it is, many entrants do not have good sources of information regarding ways into the profession. The SRA has mentioned that many firms can continue doing what they are doing and the SQE will simply be an added layer on top. This will increase the complexity for existing students as they will have to consider the different training that is required by each different law firm.

There is insufficient time allocated between the design of the SQE and its introduction. Providers are unlikely to be able to design new courses in time for the 2018/2019 academic year if the framework assessment for the SQE will not be published before the end of this year. In addition, in the transition period providers will be continuing to provide support for candidates pursuing qualifications under the current system whilst designing new courses for the new regime. The timetable does not make sufficient provision for the time needed to take these difficulties into account.

There is insufficient time for the chosen assessment provider to fully pilot the SQE and build up an adequately large and suitable bank of questions.

The timeline does not set out a consultation on the draft Assessment Framework document. We and other law firms would definitely want to feedback on such a document and need time to do so.

The SRA will not only be developing an SQE but also the workplace assessment that would form part of the overall assessment of competence at the point of qualification. This has not been taken into account.

Lastly, the SRA has not factored in adequate time for law firms and other legal employers to make key decisions as to the impact on their businesses, which (as set out in our responses to the questions above) could be significant, and to change their processes accordingly.

**Yours faithfully,  
Herbert Smith Freehills LLP**

## **SOLE PRACTITIONERS GROUP RESPONSE TO SRA CONSULTATION DOCUMENT “ASSESSING COMPETENCE”**

The response of the Group in broad terms is that unless there is a fundamental problem for which a solution needs to be found, rather than a need to find a problem for the sake of correcting it, then the way forward is not to radically change the current system of the assessment of competence, but to improve on the current model.

Several members of the Executive of the Sole Practitioners Group and no doubt many sole practitioners themselves, benefited from the non-graduate entry qualification followed by Part One and Part Two. It required five years practical training.

Since the change to a requirement for a graduate entry qualification, further education has changed dramatically from a small minority of students going to university to a situation where nearly 50% of students take a degree. Accordingly a degree is clearly a prerequisite of entering any profession which purports to provide a high standard of service to the public. That is not to say that if, as has happened throughout the recent period, an entrant to the profession has worked in the law for a significant period of time and then transfers to training to be a solicitor, that that cannot continue to be a perfectly acceptable entry route.

However the view of the Sole Practitioners Group is that the overall high entry standards should not be reduced below degree level. It is appreciated that there is a suggestion that such qualifications vary but that is a situation that happens across all degree qualifications and there must be controls to ensure the degrees are of sufficient academic standard. If they are not, the SRA could presumably exclude any substandard degree as being of insufficient entry qualification.

The important factor is to continue to reassure the profession and the public that the qualification of “solicitor” carries a gold standard of academic qualification and professional competence. The academic qualification is to ensure that the knowledge of a solicitor covers, at least on entry, all aspects of law to be able to assess the requirements of the client and address them even though the solicitor may not be the right person to deal in detail with that particular requirement. The practical prequalification period is vital to enable a solicitor to train within the working environment to be able to follow the practice of others. This applies to any profession such as the medical profession and indeed to many trades.

If the proposal in this assessment consultation is that a prospective solicitor takes a unified basic common professional assessment without a pre-entry period of training, then that would be resisted by the Sole Practitioners Group on the following basis.

Firstly that the common professional assessment is not a concept which would sit easily with the public or employers, as opposed to the involvement of an entry degree qualification.

Secondly that it would be wrong for solicitors to commence their professional relationship with the public without having had a significant and realistic period of working training.

The dangers of a common professional assessment are that there will be political pressure on such an assessment to be reduced to a level which can be achieved by all aspiring entrants to the profession. In fact it will make the regulatory body much more susceptible to pressure from central government to reduce the professional requirements, with a view to reducing the value of the brand name of “solicitor”. This would be in line with the objective of

successive governments to reduce the quality of legal services in order to reduce the costs of those services.

If the entry qualification of degree standard continues to the outside the control of the SRA, with the exception of the SRA being able to exclude substandard degree qualifications, then it will not be possible for there to be political influence on standards such as a common professional assessment. That is not to say that the Sole Practitioners Group are against any improvements to professional standards or against any changes which permit as wide a group of entrants as possible from coming into the profession.

Having set out the Sole Practitioners Group approach to the consultation, the Group are wary of answering "multiple-choice questions" which, by being answered, give an implied acceptance of the premise upon which those questions are asked.

At the end of the consultation in one of the appendixes is a table of the challenges by third parties in the pre-consultation period with the SRA's response. The Group's response which is as above, can be amplified by commenting on the numerous challenges which have been raised during the testing phase and which the consultation paper seems to have assumed have been responded to in the "Response" column. The challenges and the consultations response are in italics and the Group's response to both are in bold.

<b>Question/challenge</b>	<b>Response</b>
<i>Case for change not made out: what is the problem we want to fix?</i>	<i>We have refined our rationale to make clear we have concerns both with the risk of inconsistent standards within HE and that we cannot measure consistency of standards across the range of pathways to qualification we currently specify.</i>
	<b>The answer to this is to ensure that the standards are as consistent as possible and it cannot be impossible for the SRA to monitor the standards of degrees rather than changing the whole system to one which is untried</b>
<i>Our proposal will be expensive.</i>	<i>We have modelled range of possible pathways to qualification under the new approach. All are cheaper than current model, except continuing with traditional route and introducing a common professional assessment on top</i>
	<b>The Group are not qualified to get into the question of expense but whichever route is taken is going to have a significant expense so that people need to have made an effort to be a solicitor</b>
<i>Our proposal will damage the solicitor brand because the common professional assessment has no credibility.</i>	<i>The credibility of the assessment is critical. Consumers don't know and don't care how the solicitor title is acquired and so the title "trumps" how it was acquired, including issues around consistency of current pathways. As regulator, the SRA must make sure that the reality behind the title is sound. Our</i>

*proposals are designed to ensure that.*

**This question is entirely valid. The phrase: “consumers don’t know and don’t care how the solicitors title is acquired” is not an accurate representation. At the moment consumers would believe that it will be based on a degree and training, but if they come to know that is based on a common professional assessment, which could at any stage be said to be subject to external influence or interference then the title of “solicitor” will diminish.**

*The proposed common professional assessment has no credibility because anyone can take it.*

*Setting eligibility requirements and introducing a common professional assessment are two separate considerations. We are exploring options around entry requirements for the assessment and expect to consult on a formal proposal in summer 2016.*

**This is a valid question and it has not been answered in the response**

*Our proposal has no credibility because it does not require intending solicitors to have a degree.*

*The solicitors' profession has never been an entirely graduate profession and there are many examples of solicitors without degrees operating at the highest levels. There is no empirical evidence that a degree is required.*

**The degree has been the basis of the professional qualification for many years. The five-year men, of which the writer is one, came from a time when the degree was not the standard tertiary professional qualification. Other existing non degree routes need to show an equivalent standard of training**

*The proposed common professional assessment has no credibility because it is not set at degree or equivalent level.*

*We know we will need to provide guidance about the level of difficulty of the assessment. This will make it clear that it is intended to replicate the level of difficulty of the current system.*

**The difficulty here is that the SRA is intending to provide guidance as to the difficulty of the assessment. As stated above the SRA is a quasi independent body but potentially not immune from political influence at any point in its existence which could reflect on the standard. The point of degrees is that they come from a multitude of sources which have the motive to increase the quality of their degrees in order to attract students**

*The proposed common professional assessment has no credibility because it includes MCTs.*

*There is a large body of research (and evidence of use of objective testing, including MCQs, in other high stakes professional assessments) which shows MCTs can be used to test higher level cognitive skills. MCTs would not be the only assessment tool.*

**MCTs – “Multiple-choice questions” – for those of us who did not take degrees. Whilst appropriate for a driving test, the Group find it hard to understand what place multiple-choice questions have in the provision of legal advice. Presumably if the correct answer is not included in the multiple-choice then the client does not get the correct advice.**

*Stakeholders are fearful that we may cease to continue to specify a period of recognised training (PRT), which they value and which they think contributes to solicitors’ international standing.*

*We have rightly needed to make sure that requiring a period of recognised training can be justified, given that it constitutes a significant restriction and barrier to access in the current system. The independent expert advice shows that workplace assessment of some of the competences is needed and that some form of workplace experience is needed to give the assessment credibility. We will explore regulatory options in the December consultation and consult on a proposal in mid-2016.*

**Question asked but not answered because it appears that it is being deferred to December 2016 to a further consultation. This is most unsatisfactory because a period of recognised training (PRT) is absolutely vital in our view as regards the training of a solicitor and this issue is integral to the proposals being put in this consultation. Therefore it is necessary that concrete proposals for PRT be put now and not deferred to December 2016. The PRT aspect of qualification of a solicitor is as important as the academic qualification aspect. They are the two sides of the same coin must be considered together, and to the extent of their not being considered together the proposals in this consultation are fundamentally defective because they are not complete.**

*Pre-qualification training experience is used by firms to train their trainees in the jobs the firms want them to do, which vary from sector to sector. So a standardised professional assessment at point of qualification will be misaligned with experience during the training contract.*

*This is a challenge for us because, unlike medical education for example, specialisation begins before qualification with the choice of training provider. At same time, entry confers entitlement to practise all reserved activities. Only a minority of trainee solicitors will gain pre-qualification experience across all the reserved activities. This creates a tension which is hard to resolve.*

*We will explore a range of options in the December consultation.*

**Question asked but answer deferred**

The questions from universities are technical and not answered in detail in this response but the fact of the questions raises the concerns of the group

In reply to the actual questions in so far as these are answered by the above the Group's responses are as follows

**Q1) 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?**

No

Part 1. Dislike idea of computer-based objective testing but like modular assessments.

Part 2. No such thing as a 'standardised client.'

**Q2) 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?**

The answer is no when compared with the existing degree and practice-based assessment, subject to it being harmonised so far as possible. On the basis of what has been said above this cannot be answered in the affirmative. If there is to be a common professional assessment then it should not be based on computer-based assessments.

**Q3) 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?**

Yes.

**Q4) With which of the stated options do you agree and why:**

- offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

Agree with 4(a ).

**Q5) 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?**

Yes, the standard for qualification as a solicitor should be set at least at graduate level or equivalent.

**Q6) Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Yes a form of pre-qualification workplace experience should continue to be required.



**Q7) Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

Yes, a minimum time period should be specified and it should not be a token or short period

**Q8) Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

No, the SRA should not specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period. A minimum standards of competences should be achieved at one time and not each competence achieved over a successive period of time.

**Q9) 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?**

Do not agree that the SRA should continue to recognise a wider range of pre-qualification workplace experience.

**Q10) 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?**

An element of workplace assessment will enhance the quality of the qualification process.

**Q11) 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 1 and Part 2, to a specified performance standard?**

Yes, sole practitioners would have the expertise to assess a trainee solicitors' competences.

**Q12) 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?**

A toolkit of guidance and resources would be particularly helpful to sole practitioners, who do not have the support of partners, to assess the required standard, although sole practitioners would have considerable experience of managing businesses because of their particular status.

**Q13) 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?

We do not agree with SQE proposal and therefore this question is not appropriate

**Q14) Do you agree that not all solicitors should be required to hold a degree?**

Agreed, in a case of entrants who have had lengthy previous experience of legal practice in other legal disciplines but not for those without that experience.

**Q15) Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

Yes, to the extent that they pass, gain merit or distinction.

**Q16) What information do you think it would be helpful for us to publish about:**

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

(a) see above.

(b) number of candidates who passed.

**Q17) Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

No.

**Q18) Do you have any comments on these transitional arrangements?**

No.

**Q19) What challenges do you foresee in having a cut-off date of 2025/26?**

No comment.

## **T4T - Assessing competence**

### **Consultation questionnaire form**

This form is designed to be completed electronically—in MS Word. Please save it locally before and after completing it.

#### **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?

## **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?

### **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?

## Question 4

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

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

## **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?

## **Question 6**

Do you agree that we should continue to require some form of 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?

In

## **Question 8**

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

## **Question 9**

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

## **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?

## **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 1 and Part 2, to a specified performance standard?

## **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?

## **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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

## **Question 14**

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



## **Question 15**

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

## Question 16

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

(b) I believe that evaluating a training provider's performance is not only impossible, but is potentially extremely deleterious to the delegates.

What criteria would be used? Presumably, the SRA would start by inputting statistics on race, country of origin, level of degree, institution attended, etc.. But then, how about the myriad of variables which must also be considered? How does one factor in study time, innate ability, facility on the computer, prior experience, method of study (alone vs. study group), and personal-style learning preferences (online vs. printed) ?

Just as there is no 'model delegate', there is no (nor should there be!), a 'model provider'. These sorts of determinations are best left to conventional market forces

## **Question 17**

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

## **Question18**

Do you have any comments on these transitional arrangements?

## **Question 19**

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

## **Question 20**

Do you consider that this development timetable is feasible?

**Thank you for completing the** Consultation questionnaire form.

Please save a copy of the completed form.

Please return it, along with your completed **About you form**, as an email attachment to [consultation@sra.org.uk](mailto:consultation@sra.org.uk), by **4 March 2016**.

Alternatively, print the completed form and submit it by post, along with a printed copy of your **About you form**, to

SQA consultation  
Solicitors Regulation Authority  
Regulation and Education  
The Cube  
199 Wharfside Street  
Birmingham  
B1 1RN

## RESPONSE BY CARDIFF + DISTRICT LAW SOCIETY

### To SRA SQE Consultation

3 March 2016

Questions	Responses
	<p><b>Opening comments :</b></p> <p>As a preliminary point we have some difficulty with the piecemeal nature of the SRA's approach to consultation. We have already had a consultation on continuing professional development and the Statement of Solicitor Competence is now in place. That Statement is relevant to the current consultation in that the competence of intending solicitors must presumably be assessed in line with the standard of competence that is expected of existing solicitors. We are now told there will be a further consultation on the development of more flexible pathways to qualification and also on pre-qualification work experience. The approach seems disjointed with the SRA's thinking evolving as it goes on. The question of pathways, the method of assessment of competence of intending solicitors and the role of pre-qualification work experience are inextricably linked and it is difficult to consider the individual parts in isolation.</p> <p>Whilst it is difficult to argue with the objectives set out in paragraph 10 it would seem that there is another unwritten objective – that of reducing barriers to entry so more candidates can qualify thereby increasing competition which is presumably seen as a good thing.</p>
<p><b>Question 1</b></p> <p>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?</p>	<p>No. Focusing on ensuring consistent and comparable high quality standards can be best and most easily met by the LPC and the SRA (or the Law Society - should they take over this responsibility) monitoring more closely the universities which teach the LPC so that it can</p>



be satisfied with the consistency of standards set by the course providers.

Further, to ensure continuing high standard the SRA (or the Law Society) should focus its attention on the quality of training given by those firms where it is concerned about the experience and training they provide to people who are undertaking a period of registered training (PRT).

We agree it is absolutely right to review the way in which solicitors qualify, to establish whether the system is still fit for purpose, particularly bearing in mind the changes that have been introduced to the various routes to qualification. However, the existence of new routes to qualification is not in itself a reason for change. We wholeheartedly agree that the most talented candidates should have the opportunity to qualify as solicitors - but it is for the new entrants to achieve the existing high quality standards and not for the bar to be lowered to allow them into the profession. We are concerned, however, at the SRA's piecemeal approach to its proposals which should be put together so that we can consider the full implications as against the objectives.

We believe that there remains a place for a qualifying law degree and an LPC. The LPC provides extremely valuable skills for our young trainee lawyers, and this must not be lost or diluted in order to accommodate new entrants. In practice we have noticed a distinct difference between those individuals who have completed the LPC and those who have not - the LPC graduates have shown themselves to be much better prepared.

We question whether there is a need for change when the Legal Education and Training Review found that the current system of legal education and training is fundamentally sound. There seem to be three reasons put forward in

support of an SQE :

(1) The quality of the profession

(2) consistency and the standard of training and  
(3) the cost of qualification.

As to quality, the SRA notes that in each of the last four years, 10% of firms paid a negligence claim. However, there is no evidence that newly qualified solicitors have been disproportionately negligent. The SRA also relies on the Compensation Fund having paid £23.8m to clients in 2014. This again is not evidence of any lack of training because the Compensation Fund compensates clients who have suffered loss from the criminal acts of solicitors. There is no evidence that the current system produces incompetent newly qualified solicitors or those with criminal tendencies.

As to the SRA's concerns over the consistency of rigour and marking of QLD and LPC, we consider that there is always likely to be a variance between universities. Some universities attract better students than others and some universities run bespoke LPCs. So this is in itself no cause for alarm. The SRA have produced no evidence of any other cause of inconsistency in results. We are not convinced by the justification for change or the unattributed quotes set out within the SRA's paper.

The SRA are concerned that cost of qualifying is limiting access to the profession, however we believe that SQE may in fact further limit access through increased cost. The SRA have not released any costings for the SQE and, during the roadshows, they have refused to give even an indication of the cost. However, we cannot imagine that it can be cheap option bearing in mind the nature of the course. Many do not consider that it can possibly be cheaper than the LPC and PSC. This concern is supported by the fact that the SQE is modelled on the QLTS, the test for overseas lawyers. The fee for the

	<p>QLTS assessment is around £5,000. The SQE has more assessments than the QLTS so it is likely to be more expensive. A number of institutions have created courses to help people to pass the QLTS which cost a few thousand pounds more. It is likely that the SQE will mirror this as we consider that students are very unlikely to take the SQE assessments without taking a preparatory course which will produce further cost. Since such courses are not validated by the SRA, as the LPC is, they and the providers will be unregulated; therefore we are left with an unregulated potentially more inconsistent training for our lawyers of tomorrow.</p> <p>It should also be borne in mind that the market is already driving down the cost of qualification. For example the LPC is being included within the three year undergraduate degree in a number of institutions, and there are also flexible options available enabling students to study the LPC part time and earn while they learn.</p> <p>Therefore, we do not believe that there is any evidence that the alleged drivers for change actually exist. We firmly believe that the LPC should remain in place, although with greater monitoring, to ensure standards and avoid damaging the brand of solicitor both in this country and abroad.</p>
<p><b>Question 2</b> 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?</p>	<p>No. The computer-based objective testing described in paragraph 40 does not resemble professional working experience. The virtue of questions of this kind is that they are easy (and quick) to mark and, if set carefully and accurately, they produce objectively correct answers. But this limits the scope and context of the questions because in practice there is not always a right and a wrong answer to every situation. The “<i>functioning legal knowledge</i>” assessments in Part 1 will therefore have to avoid such situations and will therefore be of</p>

limited value. Having said that, the proposed Part 1 assessments cover the 13 subjects contained in the statement of legal knowledge, which is sensible. However, since there will be considerable overlap between the Part 1 assessments and the subjects studied as part of a law degree (and the vast majority of candidates will continue to study for an undergraduate degree before beginning their period of workplace training), the Part 1 assessments are unnecessary for those students as they will already have been tested rigorously in those subjects.

At first glance the Part 2 practical legal skills assessments appear sensible, rigorous and thorough and an effective test of competence in the six skills. However, given the SRA's concern about the current cost of qualifying as a solicitor, it is perverse of the SRA to require such an expensive and intrusive set of twelve assessments which most candidates are likely to take during their PRT, assuming such a requirement will still apply. Is there any evidence that the Part 2 assessments are needed? If they are needed, it would be more sensible to incorporate the Part 2 assessment into a revised LPC. There is scope for this and doing so would improve the consistency of standards across LPC providers.

Candidates should be given a limited number of attempts to pass each of the 24 assessments. The rigour of the assessment is being diluted by permitting candidates to take one assessment at a time rather than a diet of assessments as has traditionally been required under the Solicitors' Final Examination and the Legal Practice Course. Further dilution, by allowing an unlimited number of opportunities to take each assessment, is unacceptable.

**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?

No. The only justification for not granting exemptions to candidates who have already passed assessments in the functioning legal knowledge subjects is to enable the SRA to gather statistics about every candidate who wishes to qualify as a solicitor. Clearly, from a statistical point of view, complete statistics are preferable to incomplete statistics. But in the real world, in which the Legal Services Board encourages the removal of barriers to cross-qualification between the various legal professions in this country, the policy of refusing to recognise assessments which candidates have passed en-route to such qualification is unreasonable and cannot be justified by the need for statistical purity. Furthermore, since the Part 1 assessments will duplicate the subject-matter of assessments which the majority of candidates will already have passed, the Part 1 assessments are wasteful as well as unnecessary, and mean as they do not recognise the past achievements of candidates.

We would support an exemption from Part 1 for students who had undertaken an undergraduate law degree/GDL.

Also, the number of intending solicitors who are entering the profession by alternative pathways e.g. CILEx, equivalent means and apprenticeships means that it should be possible to continue to accommodate these pathways alongside the more usual route of degree (plus GDL) and LPC. Perhaps all intending solicitors should have to pass Part 2 of the SQE regardless of the pathway they have chosen, but allowing exemptions for skills which have already been assessed within an LPC, plus requiring all intending solicitors to pass Part 1 if they haven't completed a qualifying law degree/GDL.

We also note that the SRA has in recent years been very keen on LPC providers offering

	<p>exemptions and accreditation for prior learning. Why then the opposition now to allowing exemptions from the SQE?</p> <p>The imposition of the SQE on students who have already passed assessments in the functioning legal knowledge subjects would be a classic example of an unnecessary, artificial and unjustifiable barrier to qualification.</p> <p>Not giving credit for prior learning could also have a detrimental impact on access to the profession. It will impact more upon less advantaged students who will not have financial resources to pay (or pay so easily) for the tests and for the crammer courses necessary to get through tests which will (in whole or in part) be assessing subjects that the students have already passed.</p>
<p><b>Question 4</b></p> <p>With which of the stated options do you agree and why:</p> <ul style="list-style-type: none"> <li>➤ offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?</li> <li>➤ offering a broader number of contexts for the Part 2 assessment for candidates to choose from?</li> <li>➤ focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?</li> </ul>	<p>On balance we favour option 2 because the importance of reserved activities is becoming less and less relevant in actual practice. Modern day solicitors undertake work in a wide variety of practice areas, particularly in commercial firms. It is impractical to focus the qualification assessment on reserved activities only when the work that many (if not most) candidates will go on to undertake in practice is much broader.</p>

**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?

The current educational requirement for all solicitors who qualify under the current system other than the QLTS route is set at level 7 of the Framework for Higher Education Qualifications (ie postgraduate diploma). It is not acceptable for this standard to be reduced to level 6 (ie bachelor's degrees). A reduction in the educational attainment required of solicitors will damage the international reputation of the badge of solicitor of England and Wales. In this connection it is pertinent to note that in many European and Commonwealth countries, as well as in the United States of America, most newly-qualified lawyers are required to hold two university degrees, one of which is in law.

In practice, more and more tasks are being undertaken by paralegals rather than qualified lawyers. Assuming that trend continues (and there is no reason to suggest that it will not) the role of the solicitor will change so that the more complex legal tasks are handled by solicitors. With that in mind it becomes even more imperative that the standard for qualification as a solicitor is at least to degree level.

It is nonsense to suggest that the skills developed through study on a three year law degree (or non-law degree plus the GDL) can be replaced by a multiple choice test without any consequential loss of standards.

**Question 6**

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

Yes. Pre-qualification workplace experience is absolutely essential in gaining competence as a solicitor. It forms a vital part of the process of qualification. In our experience, there is a vast difference between trainees at the beginning and the end of their training contract, as a consequence of the workplace experience gained. If the SRA were to remove the requirement for pre-qualification work experience then the profession would ensure that it continues by simply showing a

	<p>preference for employing candidates who have had previous paralegal experience.</p> <p>Properly structured, high quality and supervised pre-qualification work experience gives trainees an opportunity to learn skills in a practical environment that could never be replicated in a classroom setting. It also helps them to hone their client facing and communication skills, establish the areas of law that they have a particular aptitude for and may wish to specialise in and to understand the ethics and conduct that the profession demands.</p> <p>We believe that pre-qualification workplace experience is an essential part of the development of the skills required by a newly qualified solicitor. They must have sufficient time to develop and demonstrate their competence in those skills to ensure that standards are maintained and the status and brand of “solicitor” continues to have credibility at home and abroad.</p>
<p><b>Question 7</b>  Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?</p>	<p>Yes. Such is the importance of the pre-qualification experience in the development of solicitors that the SRA should not be tempted to remove or reduce the minimum period.</p> <p>Although the equivalent period is shorter than 2 years in many jurisdictions, the rigour of the academic stage in those jurisdictions is much greater and the longer minimum period of in England and Wales goes some way towards redressing this mismatch.</p> <p>A minimum period of 2 years’ represents six months in which to adjust to office life and working practices and 6 months’ work experience in each of three areas of practice. Trainees develop enormously over the course of the training period so any time period should be significant. However, the existing flexibility</p>



	<p>should remain which accommodates candidates who require time to count for time spent doing quality work as a paralegal – a new trainee straight from education, with little or no work experience, is a very different animal to a trainee who has already spent a period of time working as a paralegal. In some cases, the work undertaken by paralegal is at an equivalent or higher level than that undertaken by trainee and there should be a mechanism to recognise this.</p> <p>Trainees must be allowed the time to experience a range of practice areas and gain a good grounding and an understanding of the work of a solicitor and develop all of the relevant competencies.</p>
<p><b>Question 8</b> Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?</p>	<p>Both the competences and the time period are important if standards are to be maintained or even improved. If no competences are specified there will be little incentive on firms to train trainees on the broad range of skills required. No-one wants a return to the days when trainees were perceived as photocopying slaves or someone to make the tea. Employers need to invest in trainees and ensure that they receive the best training possible to make them fit for purpose.</p> <p>The advantage of a fixed period of PRT (subject to exemptions, as under the current system) is that it provides certainty to both employer and employee. The disadvantages to the more flexible model include the perception of unfairness if one candidate's PRT is shortened and another's is not and the consequent resentment that one candidate is favoured over another; the difficulty of planning when one doesn't know how many people are undergoing PRT at any particular time in the future and the consequent uncertainty affecting recruitment plans.</p>

	<p>If competences but not time periods are specified there would be a risk that solicitors will not have adequate time to become proficient in all the areas.</p>
<p><b>Question 9</b>  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?</p>	<p>We welcome the additional flexibility as long as the experience can be assessed for suitability purposes.</p> <p>The SRA has already permitted candidates to qualify via the “equivalent means” route which has introduced a significant degree of flexibility in the range of experience that can be recognised. We believe that this means of qualification should be continue.</p> <p>We must be able to recognise experience gained at the same time as studying (e.g. for students undertaking part-time courses especially the GDL and LPC) - this will go a long way towards rectifying some of the perceived barriers to entry to the profession for students coming from poorer backgrounds.</p>
<p><b>Question 10</b>  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?</p>	<p>Yes. Some of the elements of the Statement of Solicitor Competence, particularly sections C (Working with other people) and D (Managing themselves and their own work) can only be assessed through workplace assessment. See also the response to question 7.</p>
<p><b>Question 11</b>  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 1 and Part 2, to a specified performance standard?</p>	<p>Yes, most law firms have an immense amount of experience of recruiting trainees and training them and have a very clear understanding of the requirements of a newly qualified solicitor. Those trainees who do not meet the required standard are not retained on qualification.</p>

**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?

We consider that the consistency at the workplace training stage is crucial in ensuring quality standards. A toolkit of guidance and resources seems a sensible initiative and would be of particular importance to small and medium sized practices. The level and form of additional support would depend on what was contained in the toolkit, however online resources as has been provided for the new learning and development provisions, including the use of practical videos, have proved to be very helpful. Regional workshops and webinars would also assist.

**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?

We note that this will be the subject of another consultation in 2016. Aspiring solicitors should know what they need to do to qualify as a solicitor and the order in which they should do it - this information should be as clear and comprehensible as possible. The virtue of the current system of entry i.e. QLD + LPC + PRT or degree + GDL + LPC + PRT or CILEx + LPC or QLTS or legal apprenticeship is that there is a clear and defined structure to the qualifying process and each of the three stages to that process has a defined role (academic learning, vocational training and work-based training).

Abandoning this process on the basis that outcomes-focused regulation does not define pathways is unreasonably dogmatic and potentially irresponsible. The overwhelming majority of those who are going to have to choose which pathway to take to qualify will be between 16 - 20 years old. They need guidance rather than the freedom to choose between the merits of several pathways to qualification which will simply bewilder them.

It is astonishing that a regulator can ask whether its consultees consider that the regulation of training pathways or entry requirements is needed to protect consumers and students. Yes, of course it is.

Also, if you don't prescribe the pathways and simply say that candidates just have to pass the SQE (with a pass/fail) this will have a detrimental effect on standards as everyone gets dragged down to the lowest common denominator. That will have an adverse effect on the solicitor brand and does not do anything to protect consumers or students.

We consider that Option 1 on page 11 of the consultation paper (Continuing to prescribe a limited number of pathways to qualification) is the best option. However, we do not see those pathways as a means of supporting the credibility of the SQE. If the current pathways are retained then we see no useful purpose for the SQE, which will just add cost unnecessarily.

Unlike the SRA, we do not consider the current framework to be a danger to consumers. The SQE is simply not needed to protect consumers. The SRA's 'evidence base' is singularly unimpressive. At paragraph 30 of the consultation paper the SRA refers to the number of negligence claims in the past 4 years, the complaints upheld by the Legal Ombudsman in 2014-15 and the payments by the SRA Compensation Fund in 2013-14. There is nothing in those figures that logically suggests a fundamental flaw with the current system of qualification. To begin with, there are no comparator figures with earlier eras to suggest the situation is getting any worse due to the current system of qualification. For all the SRA know, the situation may be getting better due to the current system of qualification or improved supervision and risk management. Also, how many of the solicitors found negligent, or who have had complaints upheld against them, or whose conduct has led to the SRA Compensation Fund paying out, have qualified under the current system? How many of them have qualified under earlier regimes that predate the LPC? Recent reports in the

	<p>Law Society Gazette have focussed on solicitors that have been struck off who have been qualified for over 30 or 40 years, and who would have qualified under an older regime not unlike the one now proposed by the SRA.</p>
<p><b>Question 14</b> Do you agree that not all solicitors should be required to hold a degree?</p>	<p>Yes, subject to a clear message being given that a university degree is ordinarily a pre-requisite to become a solicitor. However, a degree should not be required in limited circumstances only, ie where the candidate has qualified through <u>either</u> the legal apprentice route <u>or</u> the CILEx route( both of which are set at level 6 of the Framework for Higher Education Qualifications and are therefore are equivalent to degree level) <u>plus</u> the LPC, which is set at level 7. The ‘non- graduate route’ should be the exception rather than the rule. However, it should be noted that (for example) the apprenticeships recently taken on by Mayer Brown will be of an excellent quality and that the training provided will be second to none.</p>
<p><b>Question 15</b> Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?</p>	<p>Two divergent views have emerged and are equally meritorious.</p> <p>1.Those from an academic background say ‘No’ because the purpose is to assess competence : it matters not how many marks a candidate scores provided they are adjudged to be competent. It might appear attractive to be able to track how well students from particular backgrounds or ethnicities perform on the SQE, and to track the relative performance of “providers”, but this is irrelevant to the purpose of the SQE. It would be expensive to compile and gather such statistics for each assessment (there are 24 assessments in total) and for the overall performance in the SQE (a 25<sup>th</sup> assessment). Furthermore, the statistics would not be directly comparable as (1) candidates can choose when to sit each assessment and (2) some assessments will be of greater rigour than</p>

	<p>others. Therefore the statistics would be of little benefit. On the contrary, they could be harmful as candidates might think that excellence (not competence) was being assessed. An obvious negative factor is this firms may offer jobs subject to candidates attaining a specific percentile score in the assessment which could lead to appeals or challenges to the marks given or (at worst) applications for judicial review for re-marks.</p> <p>2.Those from private practice say 'Yes' as this information is an essential requirement for potential employers. In the same way that University degrees are not all the same, a mandatory exam that simply gives a pass/fail result will be of little value for candidate selection purposes. Potential employers need to be able to identify the most able candidates.</p>
<p><b>Question 16</b>  <b>What information do you think it would it be helpful for us to publish about:</b></p> <ul style="list-style-type: none"> <li>➤ overall candidate performance on the SQE?</li> <li>➤ training provider performance?</li> </ul>	<p>As with Q15 above, the academics and private practitioners' views diverged.</p> <p>1.The <u>academics' view</u> is that such data is unhelpful and is likely to be misleading - the results in any one year will only be as good as the students and the assessments sat. Students need only to know they are competent : that is the purpose of the SQE. There is no regulatory reason for the SRA to publish information about either overall candidate or provider performance where it is satisfied that the candidates who passed the SQE are competent.</p> <p>2.The <u>practitioners' view</u> is that a potential</p>
	<p>employer's major concern will be to know how an individual candidate has performed on the SQE and how they compare with their peers : the individual performance data should therefore be provided/made available. As for the training provider, assuming all candidates are sitting the same exam (regardless of what study/courses they have undertaken) then the performance of the provider will be of little relevance to an employer. However, this information (on training providers' performance) will be of considerable interest to</p>

	<p>students, but the information will need to be treated with some caution and in context because it is likely that the best universities and GDL/LPC providers will only select the best students.</p>
<p><b>Question 17</b> Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?</p>	<p>We are not convinced that the SQE will make a positive impact on EDI. There is a broader issue at large with the whole of the education system to ensure that students from ethnic minority and poorer backgrounds have the opportunity to progress while at the other end of the process the profession will need to change its approach to recruitment. A firm that wants to recruit traditional private school educated candidates will be able to continue to do so regardless of the introduction of the SQE. Also, many firms already practice blind or contextual recruitment of trainees in an effort to recruit the best candidates regardless of background.</p> <p>The potential advantage of the SQE to EDI was mooted to be the cost savings. However, we are far from convinced that there will be a cost saving at all (see our answer to Q1) and no evidence has been produced to support this. We also, once again point out that there is already a degree of flexibility that particularly helps students coming from poorer backgrounds. Students are able to study for the LPC (and GDL) part time which enables them to work at the same time as studying. In addition institutions are now starting offer the LPC as an option during the 3 year undergraduate course. There is a danger, with the likely need for intensive post graduate preparatory courses , that the likely financial impact of these changes will disproportionately affect poorer students and cause a negative impact on EDI.</p>

<p><b>Question18</b> Do you have any comments on these transitional arrangements?</p>	<p>Please see the answer to question 20 regarding our concerns about the development timetable. We think that the timetable is far too tight. As a result, we think the transitional arrangements are not workable. As mentioned in the answer to question 20, there is considerable uncertainty for students, for school leavers, for careers advisors and for educators. It is very difficult to provide clear advice for students and potential students on their future education and training. Assuming a decision is made on the SQE this year (i.e. that the SRA sticks to its development timetable without slippage), we think it would be more appropriate if the transitional arrangements were extended so that students beginning a degree as late as September 2017 (or preferably September 2018) were able to continue to qualify under the existing system. This would include those school sixth form pupils currently considering what they wish to study at university and where they wish to study.</p>
<p><b>Question 19</b> What challenges do you foresee in having a cut-off date of 2025/26?</p>	<p>We understand that the SRA would like a cut-off date, but we do not see why students who have started one route to qualification should not be able to complete that route, whenever that may be. There has never been a shelf life for the LPC and the SRA has removed the shelf life of the qualifying law degree/GDL. Under the proposed system, candidates will be able to spread their assessments and their resits over an unlimited period of time. Why then should candidates who have taken degree/GDL and LPC exams under the current system be required to be re-assessed in those subjects and skills? What is the rationale for not having a time limit with one route but having a time limit with another? Again, this is likely to impact on less advantaged students with less access to law firms and would present a further barrier to access to the profession for them.</p>



**Question 20**

Do you consider that this development timetable is feasible?

No. The Legal Education and Training Review took longer than planned and there was more than one delay in its consultations as well as the delay in publishing its final report. Training for Tomorrow has also been afflicted by delay - this consultation was delayed by some 2 months. So it is realistic to expect further delays in the consultations to come.

The date for appointing the assessing institution in the summer of 2017 is vulnerable to slippage because of this. Even if the assessor was appointed then, it is highly unlikely that the processes of appointing question setters and external examiners, classifying the questions in ranges of difficulty, road-testing the questions, testing the skills assessments, hiring the actors, setting up the necessary arrangements for assessment regulations, extenuating circumstances, appeals, and liaising with the education providers and firms which offer PRT to ensure that they are ready to operate the new regime from September 2018 will be ready on time. The universities will need to write new courses which deliver to the statement of solicitor competence and these courses will need to be ready by September 2018, so it's not just the assessor who will have to be ready.

We understand from discussions with degree providers that law schools need a considerable period of time to develop new law degree curricula. Universities have internal validation processes to follow. Courses also have to be advertised and of the degree is aimed at sixth form students applying via the UCAS system, which means a long lead-in time. There are now strict CMA (Competition and Markets Authority) requirements regarding advertising and marketing degree courses. The shape of any new degree syllabus therefore has to be worked out a considerable time in advance of when students are enrolled. It is likely that any courses which are to be offered in September 2018 would need to go to internal validation in January 2017. We are already in late February 2016, a decision on the current consultation is

not due until June 2016. That may be later anyway, and this leaves scant time for more detail about the level of detail required by the SRA on the thirteen areas of legal knowledge. It is more than likely that there is insufficient time for law schools to develop new degrees in time, even assuming the SRA timetable does not slip, which it probably will. It would be better to plan for changes to take effect in 2019/20 or even 2020/21.

This is not a delaying tactic. What the SRA is proposing is such a fundamental change in the framework of legal education that changes have to be planned much further in the future than currently is the case. The SRA appears to have chosen an unduly optimistic timetable, perhaps fearful that any timetable set will slip. But the current timetable leads to much uncertainty to all concerned, not just for law degree providers, but also for prospective students, and those who have to advise them on their career options. Already, students currently in Year 1 of their degree will be affected by these changes. A more sensible approach would be to decide on all aspects of the framework and set a timetable so that no students currently in the system (or even school leavers choosing degree courses) had uncertainty about their path to a career in law.

Also, it should not be forgotten that there is nearly universal opposition to the SQE from stakeholders who have fed back to the SRA at various events they have staged since they announced their provisional preference for the SQE in the spring of 2015. If the SRA inflicts this assessment upon the profession despite this opposition and the SRA is afflicted by teething troubles, it will suffer enormous (and possibly fatal) damage to its reputation. The SRA cannot afford the SQE to fail. That is why the SRA will have to delay the implementation of the SQE by another year or two.



## 2. Your identity

### 1. Surname

Rowland

### 2. Forename(s)

Hugh

### 3. Name of the firm or organisation where you work

Criminal Law Solicitors Association

**4. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Attribute my/our response and publish my/our name.

**5. Please identify the capacity in which you are submitting a response. I am submitting a response... on behalf of a representative group**

Please enter the name of the group.: CLSA

## 3.

**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?**

It is fundamentally important that all aspiring solicitors are assessed against the same high standard of competence and that newly qualified solicitors should demonstrate a level of intellectual and analytical ability at least equivalent to that of a graduate. On the assumption that the solicitors qualifying examination will indeed, consistently and rigorously, require all intending applicants to demonstrate a high level of legal knowledge and practice skills equivalent at least to a graduate, there can be no objection to an overarching qualifying examination.

Qualification as a solicitor should be a clear indication that a certain standard has been reached and can be expected both in terms of intellectual ability and professionalism. We thoroughly endorse the sentiments set out in paragraph 29.

It is equally important that prospective employers can be assured of a certain standard of competence by the obtaining of the qualification.

## 4.

**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?**

Yes

## 5.

**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?**

Yes

## 6.

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

a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the

addition of the law of organisations?

#### Why...

These five assessment contexts comprise the basic knowledge which a solicitor should possess and which will inform his or her professional decisions as his or her career develops. It does not matter that the candidate does not intend to practise in that area.

7.

**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?**

Yes

8.

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

Yes.

Once the trainee has acquired the basic knowledge, the workplace experience allows that knowledge to be developed and guided in a professional workplace context.

9.

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

Yes and two years seems to us to be about right. There is already a mechanism in existence for allowing pre-contract experience to be taken into account and in appropriate cases shorten the time to qualification.

10.

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

Consideration should be given to requiring specified competencies to be met in addition to the minimum time period, not instead of the minimum time period. In that way, qualification standards are maintained and an employer can be assured as to both the length and the breadth of the experience of the trainee.

11.

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

There may be limited circumstances where pre-qualification experience not undertaken within a solicitor's practice could be entertained as contributing towards the minimum period. However, the range should only be widened with great care because there is intrinsic value to training within a professional environment in which, for instance, ethical considerations are constantly considered and debated.

12.

**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?**

No

13.

**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 1 and Part 2, to a specified performance standard?**

Many members of the CLSA are employers. It is increasingly difficult for them to offer training contracts if their practises are reliant on public funding. A requirement to participate in assessment would be a positive disincentive - both financially and in terms of time - to offer training contracts.

14.

**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?**

We refer you to the previous answer.

15.

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?**

Our response to this question is driven by the desire to see standards maintained. In addition, we are aware that those seeking to qualify as solicitors will be investing a substantial amount both "up front" and in terms of their future. They need to be satisfied that the training they are paying for provides them with the best chance of attaining the professional qualification. For that reason, it may be that the pathways - at least in the short to medium term and until a track record is established - should be both prescribed and regulated.

16. (untitled)

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

Yes.

Whilst a degree qualification at 2:1 or above remains a reasonable indicator of intellectual ability, all those in practice are aware of examples of excellence in their profession where the pathway to qualification was not through University.

The importance of the SQE will be to ensure that those putting themselves forward for examination have achieved a certain standard. Perhaps the easiest way of doing that would be through a degree but that should not prevent others from seeking to qualify if their circumstances have not permitted them to follow the classic route to qualification.

17.

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

Yes

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

We have no firm views on the nature of the information which might be provided but the aim of providing the information should be:

1. To allow a candidate to assess the training provider's capacity to provide training which stands the best chance of passing the SQE. That information need not be particularly sophisticated.
2. To ensure that an individual candidate's chances of securing future employment are not hindered by data published out of context. This will require careful thought.

19.

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

No

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

No

21.

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

None

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

We see no reason why not.

## 2. Your identity

### 1. Surname

Williams

### 2. Forename(s)

Ian

### 3. Name of the firm or organisation where you work

University College London

**4. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Attribute my/our response and publish my/our name.

**5. Please identify the capacity in which you are submitting a response. I am submitting a response... in another capacity**

Please specify: Academic at University College London and member of Notaries' Qualification Board

## 3.

**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?**

No. The proposed SQE suffers from some serious flaws:

(1) Overly prescriptive - the range of subject matter proposed to be covered is much broader than the current Foundation Subjects. If all of these topics are to be covered at graduate level, this will either crowd out other subjects from the curriculum of law degrees, the GDL and LPC or the duration of those qualifications will need to be much extended. Of the identified subjects I have taught at undergraduate level: wills and probate; property law; criminal law; torts; trusts and equitable wrongs. With the possible exception of wills and probate, it is already challenging to provide what universities consider to be an undergraduate level education while also providing education in other subjects (including other foundation subjects). Increasing the number of subjects to be provided at graduate level will only exacerbate this situation.

It is likely that universities will feel strong market pressures to provide a degree which covers all the foundation subjects. Prospective students, generally under 18 and perhaps not knowing any better (depending upon how the market develops) will assume this will provide better value for money. That will then crowd out other subjects, whether optional or compulsory, from degree syllabi. That would be very unfortunate. There are clear gaps in the SQE's coverage for solicitors in particular areas of practice. I am particularly concerned about the absence of family law and private international law, both of which are large, of incredible practical importance and intellectually difficult. The problem is not that those subjects are not on the list, but that the list is sufficiently long that they may become increasingly difficult to provide in legal education.

The risk of crowding out and the loss of education in particular fields is particularly acute given the well-known educational phenomenon of 'backwash', which identifies that assessments determine both teaching and (crucially) student's learning. If the SQE, run by the SRA, becomes the only route to qualification, then students will focus on passing the SQE, rather than other assessments. This is a well-documented and researched phenomenon and it is unfortunate I see no reference to it in the consultation.



(2) Inflexible - the serious risk is that by increasing the range of subjects which are required to be covered at graduate level, the SRA will reduce flexibility in legal education and actually prevent individuals entering the profession with expertise directed to the particular fields in which they wish to practice.

At present, law degrees provide some space for optional subjects and students typically choose these some time after starting their degree, sometimes after work experience. This enables students to make informed choices. For example, at UCL many of our students move on to City firms. Company Law, Commercial Law and Private International Law are consequently all popular options. Two of those subjects, which our students consider beneficial to their future practice, are not in the proposed SQE and the risk of crowding out may actually cause individuals to be less prepared for the particular practice they wish to undertake.

4.

**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?**

No.

(1) The model suggested for Part 1 appears similar to the QLTT. I am a member of the Notaries' Qualification Board of the Faculty Office of the Archbishop of Canterbury (the regulator for the notarial profession). After investigation, we decided not to accept the QLTT as evidence of competence, considering that it was too superficial.

(2) I am also the Course Director for the Notarial Practice Course at UCL, which requires aspiring notaries to complete examinations in subjects required under the Qualification Rules. We use computerised questions (principally short answer) as a learning method, supplemented by human review and interaction, but decided not to use such questions for assessment.

We considered that it was not possible meaningfully to assess the skills or knowledge required in complex areas of law in this way, at a level which would be recognised as 'graduate' level under the current qualifications framework in this country. MCQs can only really assess knowledge (and we use them for this purpose during the learning process), and then only basic knowledge. Even questions involving application in short answers are quite rough and ready. They cannot, for example, helpfully assess whether students understand that a particular area of law is actually uncertain or in a state of development. We supplement all of our computerised questions in learning with review by teaching staff to ensure these issues are addressed. The proposed SQE either overlooks or ignores these points.

The proposed SQE might be sufficient for determining that students have a certain level of core knowledge, but this is likely to be well below what is required to meet a 'graduate' standard and insufficient for practice in many instances. If that is the case, it is simply another layer of bureaucracy, rather than a serious benefit to the standards of the profession.

(3) In relation to Part 2, I am concerned that the SQE assessment 'standardised practical legal tasks, simulating the real demands of practice' will fail to reflect practice. The best decade or so have seen increasing flexibility in LPC provision to reflect the very different demands of practice for someone aspiring to work in a large international firm compared to someone hoping to provide more personalised services to individuals. The market for legal services is increasingly diverse. The SQE proposal seems to ignore that diversity, requiring potential solicitors to complete tasks which will likely entirely fail to reflect the real demands of the practice which that individual will face. This is an entirely foreseeable consequence of centralised regulation.

5.

**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?**

No.

The SRA has failed to identify a reason why experienced providers of graduate level education cannot be relied upon to assess the relevant subjects at that level (although I should note that I consider the current practice, of allowing a mark of 40% to demonstrate sufficient competence, as laughably low). Such providers are recognised in other fields, such as accountancy.

The claim made that the Statement of Solicitor Competence is assessing different competences to those in a degree has two problems:

- (i) It is more obviously relevant to the proposed Part 2 knowledge and competence, not Part 1;
- (ii) If the SSC assesses different competences, then it is not assessing at graduate level, something which is determined by the current UK Qualifications Framework. The idea that the SSC assesses different competences reveals the SRA does not consider the SSC to be assessing at graduate level, unless the SRA has its own in-house concept of graduate level. If the latter is correct, the SRA needs to be clear about what it considers to be graduate level.

The point about variability of academic standards - this can be addressed in manners which are less intrusive and less bureaucratic, both of which would therefore be more compliant with current trends in government thinking:

- (i) raise the required mark in Foundation Subjects to a minimum of 50% (which would then be above the minimum level required for a degree);
- (ii) consider the recruitment decisions of firms - when hiring, firms are presumably choosing well-qualified lawyers. If they are not, that would suggest that the firms are not recruiting in a suitably professional manner. That could be considered a breach of professional ethics;
- (iii) are there particular concerns about variability of standards at the bottom end of the marking scale? i.e., are some institutions passing people who should not pass? The SQE will only address this issue, by setting a floor for qualification. This is consequently the only relevant issue, rather than any perceived variability in upper marks or claimed 'grade inflation'. I do not see any evidence of this being presented by the SRA;
- (iv) the point made in para.55 of the consultation, that some subjects are assessed at Level 4 or 5 is misleading. The academic level of subjects studied in the first two years of a degree is no lower than that in the final year (at least in the universities at which I have worked: UCL and Cambridge) - we apply the same marking criteria and teach at the same level. Academic staff generally teach across the year groups and do not vary their standards on that basis.

A student leaving after the first year is only awarded a Certificate of Higher Education (a Level 4 qualification) not because the individual subject is not taught or assessed at Level 6, but because that student has not covered sufficient material to be regarded as achieving a degree standard in Law generally. Their knowledge of, contract law, for example, might be degree level, but the universities do not offer degrees solely in contract law.

I am concerned that this paragraph of the SRA's consultation suggests that the SRA does not understand how degree level education in England and Wales works and is trying to regulate based on inaccurate assumptions.

6.

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

**Why...**

No view here.

7.

**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?**

I agree that the standard for qualification as a solicitor should be at graduate level.

However, I do not consider that the SQE as proposed will assess at graduate level or equivalent.

8.

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

Yes.

9.

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

Broadly, yes. But see my answer to Q8.

10.

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

A focus on competences might be better, but if there were a switch to competences, I think the SRA would need to give a strong steer along the lines of 'we expect that candidates will be unlikely to have achieved sufficient competence in all the required fields in less than [X time]'. This would place the onus on candidates to show why they are exceptional.

I am concerned that some applicants who are good at selling themselves on paper might be able to apply sooner than they should - I suspect that the SRA does not have the resources fully to investigate all applications, so discouraging premature applications would be sensible.

11.

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

Yes, although if there is a shift to competences, it may be more difficult to assess this in relation to a range of employers.

12.

**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?**

This will certainly enhance the quality of the qualification process.

I am less sure it will justify the additional cost/burden.

I am also concerned that it may be difficult to achieve. If something like the current Training Contract model is maintained, some competences may not be very relevant to some seats. This might mean repeated reviews of particular candidates, which is a heavy burden. There is also the problem that a candidate might not be undertaking the most relevant work at a time scheduled for workplace assessment - this will depend upon the vagaries of practice. Because of the nature of junior lawyers' work, reviewing paperwork produced/similar will also be challenging - in large firms such work is often the product of many people working together, making it difficult to assess the competent of an individual.

13.

**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 1 and Part 2, to a specified performance**

**standard?**

n/a

14.

**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?**

n/a

15.

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?**

Given the doubts about whether the SQE is truly at graduate level, then specifying degree level qualifications would seem to be a good idea. Even if the SQE fails to assess at graduate level, it will then at least be clear that the individual has reached that standard.

16. (untitled)

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

A poorly phrased question (even ignoring the 'do you agree...' leading question format).

Not all solicitors should be required to hold a degree, but they should be required to be qualified to graduate level. I note that CILEX qualification only permits unsupervised practice in fields where an individual has attained a Level 6 (ie degree-level) qualification. As solicitors are permitted to practice unsupervised in all areas, they should be required to be held to at least that level, in a range of subjects.

However, and as before stated, the SQE as presented does not appear to assess at graduate level.

17.

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

The SQE seems to be presented as a pass/fail assessment. Performance beyond pass level is therefore irrelevant. Informing students who fail about how badly they have failed would potentially be useful in enabling them to determine whether it is sensible to continue trying to qualify.

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

Not clear.

There is also the difficulty of publishing information about 'training provider performance' when candidates may have attended more than one such provider. Much would depend upon implementation. For example, if candidates did not generally take any modules in the SQE until completing the LPC after a law degree, would information be published about both the degree and LPC providers or only one? Either option might be misleading, in that it could be difficult to determine where primary responsibility lay. This seems a likely scenario, given the inclusion of ethical questions throughout - these are covered at present on the LPC.

19.

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

The possibility of requiring a longer period of study may discourage applicants from disadvantaged backgrounds.

**20. (untitled)**

**18. Do you have any comments on these transitional arrangements?**

Much remains too vague/uncertain.

**21.**

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

No view.

**22. (untitled)**

**20. Do you consider that this development timetable is feasible?**

No - the SQE is so poorly explained and developed that it will not be possible for education providers to adapt to it in that time frame. It takes considerable time to change degree courses and the like.

**James Hand**

**T4T - Assessing competence**

**Consultation questionnaire form**

This form is designed to be completed electronically—in MS Word. Please save it locally before and after completing it.

To request an alternative format please visit [www.sra.org.uk/contact-us](http://www.sra.org.uk/contact-us).

## 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?

(This is intended to be a brief and personal response. I am in broad agreement with the longer responses by The Society of Legal Scholars, The Law Society and Prof Richard Moorhead among others. I have tried to use the online form but it crashed and contrary to the statement 'You can save a partial response online and complete it later' there appears to be no mechanism to retrieve a crashed form.)

No - the SQE could amount to an artificial and unjustifiable barriers if exemption is not allowed.

Undue weight is given to the statement 'the current quality assessment system does not provide direct assurance about the standard of awards made to students, or their broad comparability.' [23]. This ignores various comments about comparability (see the SLS response) and makes no mention of the outcome of the HEFCE consultation published the month before the SRA launched this consultation. 88% of respondents held that the future quality assurance system must provide reliable assurances about reasonable comparability (see e.g. [57] of HEFCE 2015/30). It is disingenuous to provide undue weight to a consultation comment and not pay any attention to the results of that consultation. This undermines the SRA's trust in the SRA's analysis - something compounded by presenting as quotations things which are not, as acknowledged in a footnote, verbatim quotes.

Mention is made of the Accountancy professions use of computer based assessment in secure conditions [40]. However, the various professional bodies allow some partial exemptions to degree holders. Requiring people to take the full SQE would lead to unnecessary expense and be duplicative (even if the level of the knowledge tested is different; the level of information presented regarding the SQE is disappointingly little as noted by other respondents). Allowing the MCQs to be taken in a modular format undermines the case for assessing day 1 knowledge of the substantive law. Exemptions of certain papers (as is the case with those exempted from some GDL papers) and as used in the Accounting profession would provide a more diverse entry and allow the degree providers to focus on other important topics as well as some of the essential legal knowledge and potentially skill assessments.

MCQs can be a useful assessment mechanism but they carry substantial risks. See the Bar's consultation re the Bar Aptitude Test and the Ethics BPTC module.

While the need to take reasonable adjustments is noted in the consultation, it is better not to need to make adjustments. As it stands and all the more so if there was a move toward lengthy pre-admission tests (beyond typical university length) these could be detrimental to sufferers of a number of conditions. It would be an unnecessary burden and likely deterrent to some.

## 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?

No - please see relevant parts of comments in Q.1.

Para 43 says 'Part 2 can only be taken when all elements of Part 1 have been passed. This is to prevent individuals from investing time and money working towards Part 2 when they are unlikely to be successful.' This could be an unnecessary restriction which could prevent innovation. While it may be a sensible general recommendation, depending how the qualification process develops some skills could be included within UG or PG courses (the consultation refers to firms providing - and struggling logistically and economically to provide - supporting experience [49] but as the assessment is by simulation there appears no reason why the learning may not be through simulation or, indeed, university clinic work).



### **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?

No - please see relevant parts of comments in Q.1.

## Question 4

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

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

If the aim is to help make people practice-ready and if means could be found to render it less expensive/complex than b); if it is to have a distinctive solicitor 'badge' - with further training in other areas outside the SQE - then a).

## 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?

Yes - graduate level or equivalent. That is to say the level of a graduate (and not that everything need be assessed at L6) and with due emphasis on equivalence (e.g. 'able to demonstrate considerable experience or exceptional ability in an academic, professional, business, or administrative field' (Academic Stage Handbook 14-15).

## **Question 6**

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

Yes for the reasons in the consultation.

## **Question 7**

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

Yes - possibly in conjunction with as opposed to an alternative to Question 8.

## **Question 8**

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

A time period or periods may be inherent in display of competences.

## Question 9

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

Yes.

## **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?

Yes - this would seem to be a corollary to the yeses above or otherwise their value is reduced.



## 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 1 and Part 2, to a specified performance standard?

n/a

## 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?

n/a

### **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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

Yes - not least as part of a partial exemption route for recognised law degree holders.

## **Question 14**

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

The profession should continue to consider itself as a degree holding profession but that does not mean all should hold a degree if they are of degree standard (i.e. able to demonstrate considerable experience or exceptional ability in an academic, professional, business, or administrative field' (Academic Stage Handbook 14-15).

## **Question 15**

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

It depends very much on the nature of the SQE and how the component elements compound. If it would be of use and value to the candidates, then yes.

## Question 16

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

It depends very much on the nature of the SQE and how the component elements compound. In principle, openness is good but if the results are misleading then perhaps the whole concept should be revisited.

## Question 17

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

The inability to combine the LPC replacement SQE with a PG degree should not be underestimated. Nor should the impact on disability (noted above) and social class/wealth re unlimited resits (it is curious that resits have been limited for years but are now proposed to be dispensed with). These comments apply even more strongly depending on the nature of the SQE and what the threshold standard is. If it is variable to restrict entry into the profession with a challenging target then that would have potentially greater EDI impacts. Likewise if there were to be a preferred training provider(s) linked to the assessment organisation that may have an impact particularly re wealth and location of provision.

## Question18

Do you have any comments on these transitional arrangements?

No



## **Question 19**

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

## **Question 20**

Do you consider that this development timetable is feasible?

More feasible if partial exemption for recognised law degree holders is made available.

**Thank you for completing the** Consultation questionnaire form.

Please save a copy of the completed form.

Please return it, along with your completed **About you form**, as an email attachment to [consultation@sra.org.uk](mailto:consultation@sra.org.uk), by **4 March 2016**.

Alternatively, print the completed form and submit it by post, along with a printed copy of your **About you form**, to

SQA consultation  
Solicitors Regulation Authority  
Regulation and Education  
The Cube  
199 Wharfside Street  
Birmingham  
B1 1RN

# Consultation - T4T assessing competence

Response ID:172 Data

## 2. Your identity

### 1. Surname

Hardy

### 2. Forename(s)

Jennifer

### 3. Name of the firm or organisation where you work

Bishop Akers & Co

**4. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Attribute my/our response and publish my/our name.

**5. Please identify the capacity in which you are submitting a response. I am submitting a response...  
on my own behalf as a solicitor in private practice**

## 3.

**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?**

In principle yes, but NOT as an addition to the LPC nor involving additional cost.

The accelerated LPC run by the University of Law at Moorgate is ABYSMAL and costs £15,000. It would be adding insult to injury for an SQE to be required at yet more cost, time and effort. The training SHOULD be fit for purpose in the first place. It most certainly is not at present.

## 4.

**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?**

Up to a point but I have never believed that advocacy is an essential component for a solicitor (rather than a barrister). I have been in practice for over 30 years and I NEVER intended to practise advocacy, absolutely hated any advocacy that I had to do in training, and have never used it since. This should be optional. The other skills/competences are more or less what is required now - it's just that they're badly taught!

## 5.

**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?**

Yes, absolutely, there should be no exemptions. It should be a level playing field.

## 6.

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

b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?

**Why...**

Well, there is no b) only a repeat of a) - good work here in checking your online form! However, have gone

back to the consultation paper and it is definitely b) - trainees need to be able to choose. One size does NOT fit all as is demonstrated by the delivery by the U of L of its accelerated LPC which is not fit for purpose

7.

**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?**

Yes. The "graduate" level has already dropped considerably and there are already some very dim lawyers out there which I think is jeopardising the future of the profession. Everyone seems intent on allowing anyone to practise law but only solicitors will get penalised for practising it badly. The profession badly needs MORE elitism in the best sense - people working at their very best - not less and to demonstrate its professionalism.

8.

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

Absolutely! Newly qualified solicitors are barely able to carry out work anyway. However, I do think that it should not be necessary to demonstrate skills in at least three work areas. I think that maybe the first year should be general, but after that, the trainee should be able to choose an area to specialise in - or continue with a more general training, if he or she wishes.

9.

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

YES! You are not seriously expecting that people will bother otherwise? One has to live in the real world.

10.

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

Both

11.

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

No - definitely not during a degree programme. With a range of employers, perhaps, provided that it is specific legal training, not learning how to comply with Health and Safety laws by cooking hamburgers thoroughly.

12.

**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?**

Nothing justifies the additional cost of qualifying as a lawyer which is already absolutely outrageous, especially with the very poor courses run by the University of Law. As for regulatory burden it is unclear whether you mean burden on the SRA - where it is its job - or burden on the trainee - or burden on the solicitor trainer. If the last two, noooooo - regulation is horribly unfair already. Competition is allowed from people with no qualification, no regulation, no insurance, often no education - but for solicitors who have bothered to qualify, it is a never-ending grind of compliance with wishy washy conduct requirements which can be applied just as the regulator sees fit in any particular situation.

13.

**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 1 and Part 2, to a specified performance standard?**

Well - I know when someone can do a job, or not. I know where their weaknesses are. I know whether it is

just a question of learning more (as it usually is). Whether I can articulate that in the jargon of today is debatable. I have never mastered the art of stating the bleedin' obvious, and I know that this is a big area of weakness for me. I just can't do it. So yes, I have the expertise to do it. I may not have the expertise to fill in a form explaining how I've done it.

14.

**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?**

Please don't introduce a workplace assessment :(

Guidance and resources usually just add layers of interpretation to something that should be straightforward.

Besides which, the work placement should take place BEFORE the SQE so the SQE should be sufficient assessment of achievement to the required standard.

15.

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?**

Yes. This is meant to be a PROFESSION and it's extremely hard work to be a good lawyer. It should not let people in by the back door.

16. (untitled)

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

Degrees have no particular value in themselves. Some of the best (older) lawyers I have come across have not had degrees - but they have served long apprenticeships - a minimum of five years. That sounds ok to me.

17.

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

If they want it, but not if they don't. I would have found this soul-destroying!

18.

16.

**What information do you think it would be helpful for us to publish about:**

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

What do you mean by training provider? If you mean the solicitor trainer - don't publish anything. It's far too diverse. If you mean institutions like the University of Law - yes, publish away. They're dreadful!! Terrible, terrible, terrible accelerated LPC (July 2015 intake)

19.

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

Now, there's that jargon again. I don't know what EDI means - sorry - have just looked it up and it means electronic data interchange. Quoi????

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

What transitional arrangements?

21.

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

I am not competent to answer this question

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

I have no idea

# Consultation - T4T assessing competence

Response ID:441 Data

## 2. Your identity

### 1. Surname

Knox

### 2. Forename(s)

Jenny

### 3. Name of the firm or organisation where you work

BPP Law School

**4. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Attribute my/our response and publish my/our name.

**5. Please identify the capacity in which you are submitting a response. I am submitting a response... in another capacity**

Please specify: On my own behalf as a non-practicing solicitor and law tutor

## 3.

**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?**

No- the SQE seems to create an additional barrier to those wishing to qualify. This seems unjust as the basis is an unproven causal link between the quality of current routes to solicitor qualification and client negligence claims.

## 4.

**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?**

No- I would query whether part 1 knowledge and understanding can be assessed solely by multiple choice style computer questions especially when solicitor competencies include developing writing and drafting skills.

## 5.

**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?**

No- this suggests that there is no value to doing a law degree as opposed to not doing a law degree. As you have suggested at paragraph 95 of the consultation document that those doing the GDL or QLD could get an exemption from the SQE for a limited period of time as part of transition arrangements, it would seem strange to take this exemption away at a later stage (as you have acknowledged the substitutability).

## 6.

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

a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?

Why...



I imagine this would be easier to manage for institutions and students, even if option b would be more useful for students, better reflecting the reality of their future practice as a solicitor.

7.

**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?**

yes

8.

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

yes

9.

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

yes

10.

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

No- though competencies alongside a minimum time frame would seem sensible.

11.

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

Yes- although I imagine this will be harder to administer for the SRA. Care should be taken to ensure the rules do not create a chilling effect on student vacation schemes, pro bono and volunteering work in legal contexts as they gain valuable insights into the profession through such work.

12.

**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?**

No- while good quality workplace assessment would enhance the qualification process, the additional cost and regulatory burden of this is not justified in my view. Practitioners are not qualified assessors and many will not have the time or training to do genuine workplace assessments. A toolkit would be the minimum practitioners would need to assist them with this process. However, I would suggest that consistency and fairness of workplace assessments would require that practitioners are sent on assessment training courses and get a qualification in this themselves. Practitioners should also then be subject to the kinds of internal and external moderation processes that educators are to quality assure the process.

13.

**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 1 and Part 2, to a specified performance standard?**

Not applicable

14.

**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?**

Not applicable

15.

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?**

Yes- while my overall position does not support the introduction of the SQE, if the SRA proceeds with the SQE, it would benefit from the status quo bolstering the untried and untested exam, at least for a transitional period. However, this could create a two tier training route to qualification with the LPC & SQE route being preferred by employers (as opposed to the non-LPC & SQE route), even if the SRA does not expressly require this. In turn the two-tier training route could undermine the equality and diversity aims of the project.

16. (untitled)

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

Yes (or degree equivalent qualification)

17.

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

No- as then we are not talking about competencies (pass/ fail) but degrees of knowledge and skill achievement. However, if this is not provided and students do not do the LPC prospective employers will find it difficult to compare students from the two routes (LPC & SQE and non-LPC & SQE). I would imagine faced with such difficulties the LPC & SQE candidate would be preferred by employers over the non-LPC & SQE candidate, all other things being equal (undermining the equality and diversity aims of the project).

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

Overall candidate performance

Examiners reports (common strengths and weakness of candidates)

Equality data e.g. break down of overall candidate performance by protected characteristics information (e.g. race, age, sex etc).

Training provider performance

Perhaps percentage of students that achieve a pass in the SQE on a yearly basis.

19.

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

I imagine that an additional negative equality and diversity impact of the SQE proposal could be the unintended creation of a two tier system of training:

- premium/ employer preferred: degree, LPC & SQE; and
- second class: alternative routes & SQE.

While the consultation document states that students can chose what I have referred to as the cheaper 'second class' version, their employment prospects may be adversely impacted by doing so. Overall, the SQE could lead to an additional barrier to qualification and higher cost of qualification.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

The transitional arrangements suggest that the QLD and GDL should grant students exemptions from the SQE (c/f consultation question and answer 3). It could be confusing for students and difficult for education providers to manage the transition while providing clear advice to students.

21.

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

Arrangements for part-time students and students deferring their studies would need to be properly factored in to this cut-off date.

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

No- At best you are giving education providers 18 months to develop a new course, as work cannot begin until the assessment framework document is received (January 2017) and the courses would presumably need to be ready to teach by September 2018. Getting high quality new materials drafted/ produced and staff familiar with the new courses within that timeframe (by say June 2018) to ensure quality delivery is not feasible. Education providers would be extremely cautious of developing new courses when the outcome of the consultations have not been finalised given there is potential for significant changes to the SQE until the final consultation outcomes are published.

## 2. Your identity

### 1. Surname

Phillips

### 2. Forename(s)

Jill Marie Moore

### 3. Name of the firm or organisation where you work

BPP University

### 4. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.

Attribute my/our response and publish my/our name.

### 5. Please identify the capacity in which you are submitting a response. I am submitting a response... on my own behalf as an employed solicitor

## 3.

### 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?

No I don't agree that the introduction of the SQE best meets the objectives set out in paragraph 10. A centralised assessment should achieve consistency and comparability but without more information (and sight of an example paper) I am not able to comment on whether the standard would be high. It seems to me that the standard will be lower since there will be no assessment in any of the elective subjects that are currently covered by the LPC. Additionally the English system already requires fewer qualifications for solicitors than many jurisdictions and these proposals seem to me to be a step in the wrong direction. I don't think that a centralised assessment will ensure that the most talented candidates can qualify as a solicitor as I think the students who can afford to pay for extra tuition and exam preparation courses will be best placed to do well on the centralised assessment. This will not necessarily be the most talented candidates.

## 4.

### 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?

No I don't agree that the SQE will provide an effective test. The first part of the SQE will be purely MCQs and I don't see how this can (on its own) effectively test the competences needed to be a solicitor. Although different assessment methods will be used in the second part, that part relates to the assessment of skills not legal knowledge. The SQE will test objective legal knowledge but this is not all that solicitors require. Solicitors have to apply the law to the facts of their clients' cases and whilst they need objective legal knowledge to do this they also need to be able to evaluate and analyse the law.

## 5.

### 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?

On one hand, in order to meet the SRA's objectives of consistency and comparability the answer to this question would have to be yes, all intending solicitors should be required to pass the SQE to qualify. As

soon as there are exemptions this defeats the purpose of having a centralised assessment in the first place. However, if candidates from other EU jurisdictions are going to have the benefit of exemptions, it doesn't seem fair not to allow candidates from non-EU jurisdictions to be exempt too.

6.

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

b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?

**Why...**

I think option b is the only one which is workable if Part 2 takes place after the period of recognised training due to the many different areas in which prospective solicitors will have been working. However, option b would make it very difficult to achieve the stated objective of consistency and comparability.

7.

**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?**

Yes I do agree but I don't see how this will be possible to achieve without requiring a degree or equivalent qualification.

8.

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

Yes, this is essential. Without it we would have people qualifying as solicitors on the basis of just some standardised tests. I can't think of any profession where it would be appropriate for someone to become qualified without pre-qualification workplace experience. However, I think the current system works as it is without requiring significant changes.

9.

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

Yes, absolutely.

10.

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

No, I don't think specified competences should replace a minimum time period. If the aim is to increase the standard of the solicitors profession, I think we need to have both specified competences and a minimum time period. Without a minimum time period there would be a risk of some candidates being signed off too quickly for commercial reasons.

11.

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

Possibly as this would increase access to the profession but care would need to be taken over how other experience is evaluated to ensure the high standards and consistency that are being sought could still be achieved.

12.

**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?**

I think that the additional cost and regulatory burden would not justify the benefit of this. I'm not sure how workplace assessment fits with the desire to ensure consistent standards.

13.

**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 1 and Part 2, to a specified performance standard?**

N/A

14.

**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?**

N/A

15.

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?**

Yes, I think both are needed to support the credibility of the assessment (and allow a high standard for that assessment) and the credibility of the English legal profession. My main concern with these proposals is that they appear to be reducing the level of qualification necessary to become a qualified solicitor and this would take us further away from legal professions in other jurisdictions. Another risk of introducing the SQE is that it will reduce the diversity of the profession. It may put off candidates from non-law degree backgrounds if they are unable to see a clear route to the profession.

16. (untitled)

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

No, I think that solicitors should be required to hold a degree, in line with other professions such as the medical profession. The UK already requires fewer qualifications to be a solicitor than the legal profession in many other countries and these proposals seem to be reducing the requirements further.

17.

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

No, although I imagine that candidates and firms will want this. I think it could put too much pressure on candidates and limit diversity within the profession if information about comparative performance is available. This would place too much emphasis on a test for which it will be possible for those with more funds to pay for additional tuition.

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

It is difficult to answer this without further information about the nature of the assessments and the grading system.

19.

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

I think that candidates with better financial backgrounds will be much better placed to attempt the SQE (as they will be in a better position to afford additional tuition and preparation courses) and this will disadvantage those from a weaker financial background.

I am not sure that use of a centralised MCQ assessment for Part 1 is appropriate as the only test of legal knowledge in the qualification process. This style of assessment suits some people more than others and will not necessarily result in the most talented candidates entering the profession.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

No

21.

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

It seems to be a long period to have both systems in place.

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

No, I think there are too many open questions for implementation to take place in 2018/19.

Jim Moser - CMS Cameron McKenna LLP

## **T4T - Assessing competence**

### Consultation questionnaire form

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## 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?

No, we do not agree that the introduction of SQE best meets these objectives.

We would need to see far greater detail of the SRA's proposals and the SQE before agreeing in principle to these changes. At the moment, we are being asked to endorse proposals in principle which lack any clear substance. This is unfortunate. It might be we could be more positive in our response if for instance we had: detailed proposals on the content of the SQE; clarity from the regulator that a substantial and regulated work experience/ traineeship remains part of the reforms; commitment by the regulator that some form/level of 'graduateness' - however achieved - would need to be demonstrated/present in candidates for the SQE and, clarity on how the SQE can adequately ensure the highest quality achieved through the current the degree/ LPC/ traineeship, .

In particular, this lack of substance leaves us uncertain on the following questions:

- The current route to qualification incorporates elements such as a degree, the LPC and the traineeship, which seek to ensure deep and high levels of knowledge skills and competence, appropriate to qualification into the profession. We would be greatly concerned that the SQE, even when defined in depth, could not alone replace these established steps to qualification.
- Connected to this, there is a danger that, in pursuit of consistency of qualification through the SQE, qualification will be at the lowest acceptable standard rather than at the highest aspirational standard.
- The QLTS is being consistently cited as a model for the future SQE. However, any future SQE would have to be of considerably greater weight and substance than the QLTS to be effective and realistic.

Further, on diversity and alternative routes to qualification issues:

- We are entirely and completely supportive of diversity and alternative route to qualification aims;
- We can see the advantage of a final gatekeeper qualification like the SQE to bring about a common reference point and understanding for these various routes; but
- We would be concerned that the introduction of the SQE will - with the inevitable additional preparation programmes which will no doubt be commercially introduced - simply increase the cost of qualification. Cost is always a factor in, and a potential bar to, diversity.

## **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?

No, we do not agree that the SQE as currently so described can be such an effective test. Again in relation to our response to Question 1, we would want considerably more detail on the SQE, assurances on the retention of a regulated traineeship/work experience element, and an explanation of the regulator's position on the 'graduateness' position of any candidate before answering this question more positively.

### **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?

Yes, we agree that if the SQE is introduced, in general, all those intending to be lawyers should be required to pass the exam(s). However, we anticipate that a wider group of exemptions/partial-exemptions will be needed/be desirable, assuming the SQE proposal is developed, to take account of certain qualifications and the experience of candidates.

## Question 4

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

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

We find it difficult to answer this question given the relative lack of certainty about various related matters eg whether there will be a regulatory requirement for work experience and what this will stipulate; eg the regulatorily-required experience of SQE candidates at any stage; etc. This relates to our previous answers. However, assuming a traineeship/work experience is a requirement a) might be the best option.

## **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?

No, we do not agree. If the SQE is to truly replace existing steps to qualification, logically it must be at a level well above graduate level. At the same time, we would want to see graduate-level attainment as part of the route to taking the SQE. Again, this rests on the detail of the SQE and the regulatory requirements for candidates to take the exam(s).

## Question 6

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

Yes, we strongly believe that this is essential, not only to ensure the quality of legal services to the public, but also to allow the SQE to be developed during this consultation phase and operate in practice. However, what such a period of work experience will be, and to what extent this will be regulated, are key points. It will be very important that, if the regulator pursues these proposals, the work experience element is developed in conjunction with members of the working profession.

## Question 7

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

Yes, we do think the SRA should control the length of such a period, which should relate to when a candidate is ready for the next stage e.g. passing SQE2. Accepting, as with the current traineeship, such a period will always be arbitrary - all individuals develop at different rates - we should not reject the current 2 year period, which is widely understood. If we are to move away from this we would have to consider carefully the effects on quality, etc. Again, the regulator must work with members of the working profession on this reform.

## **Question 8**

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

The question of regulated competences met during the period of work-based training should be explored as a next stage in these reforms. The position in Scotland is a good example of such a model, which has been tested and is working in practice. Could this replace at least in part the SQE Part 2?

However, there should still be a minimum regulated time period for work experience.



## Question 9

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

Yes, in principle this is an exciting and innovative possibility. For this to occur, we would like to see:

- the SRA continuing to regulate such work experience;
- a regulated time-period; and
- the possibility of competences being met, as outlined earlier. This would give an over-lying definition to what might be a variety of work 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?

Yes, some form of assessment linked to work-based experience/traineeship could be considered provided:

- such assessment was run under regulation by the employers;
- such assessment was effective, not overly complicated or expensive to implement and regulated at the correct level by the regulator; and
- the regulator provides sufficient guidance, training, pilot development etc., to allow employers to gain the knowledge to operate such an approach.

The success of such a proposal again depends on the detail, as with the SQE.

## 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 1 and Part 2, to a specified performance standard?

Yes, we do have some experience of this in qualifying our Scottish trainees, since the recent Scottish reforms. So again the Scottish model is a useful guide to this approach working in practice. Where we have skills gaps in such assessment, Scottish experience suggests that this can be trained and gained through practical application. In developing these proposals, the regulator should also consider how such a model will affect and possibly reduce the SQE through total or partial exemptions.

## **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?

See answer to Question 10.

## 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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

We consider that regulated pathways to taking the SQE are essential, and for both a. and b., and not for a transitional basis. We have already set out some of these views in previous answers. As the regulator states here and implies throughout this consultation - and indeed the regulator regards this as one of its main responsibilities - the key here is protection of consumers of legal services. Or, as recently discussed and agreed with the regulator, the key is quality.

Such regulated pathways need to encompass the existing and emerging routes to qualification and recognise the change that the establishment of the SQE will imply.

Such regulated pathways, as recently discussed with the regulator, need to include work-based experience and the concept of 'graduateness' or graduate level attainment.

As before, the key will be in the detail.

## **Question 14**

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

No, we agree that all solicitors in the course of qualifying, including when and if the SQE is introduced, should attain a graduate level. This would include those qualifying through existing and emerging routes. Our answers above deal further with this.

## **Question 15**

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

Yes - although this is again very much subject to the eventual detail of the SQE and the regulated pathway to taking the SQE - we consider this could be of use to candidates and employers. This is particularly true where there may be an absence in the reformed route to qualification of other comparative performance measures.

## Question 16

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

These details seem almost too distant to be considered at present and are very dependent on future development of other elements of the reform agenda e.g. content of the respective SQE papers; the regulated time-line for passing the SQE papers in relation to the commercial market for recruiting newly-qualified solicitors; etc..

Future employers may well want to see comparative candidate-performance figures, particularly for SQE1, if there is to be no regulated requirement for work-experience and/or achievement for entry to work experience, or other traditional comparative performance measures.



## **Question 17**

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

We are concerned that the introduction of the SQE will introduce new cost hurdles to qualifying as a solicitor. Even if preparatory courses, etc. for passing the SQE are not mandatory, they are probably a cost which would have to be incurred. This cost is may well be more than savings made from, for example the disappearance of the LPC.

## **Question18**

Do you have any comments on these transitional arrangements?

We consider these are workable in principle but need to know more about the actual changes before commenting in detail on the transition.

## **Question 19**

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

See our comments on overall timescale below.

## Question 20

Do you consider that this development timetable is feasible?

No, we do not consider the timescale is feasible. Given the size and import of the reforms implied by the consultation document, we need above all else to take the time to get these reforms right - whatever they eventually are. The currently time proposals are too short.

**Thank you for completing the** Consultation questionnaire form.

Please save a copy of the completed form.

Please return it, along with your completed **About you form**, as an email attachment to [consultation@sra.org.uk](mailto:consultation@sra.org.uk), by **4 March 2016**.

Alternatively, print the completed form and submit it by post, along with a printed copy of your **About you form**, to

SQA consultation  
Solicitors Regulation Authority  
Regulation and Education  
The Cube  
199 Wharfside Street  
Birmingham  
B1 1RN

## **T4T - Assessing competence**

### Consultation questionnaire form

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## 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?

Birmingham Law Society (BLS) wishes to express its concerns at the outset of its response to this consultation that it believes the SRA is extending its reach beyond its regulatory powers into controlling entry into the solicitors' profession, standards etc. We are extremely concerned that this consultation as well as other reviews ongoing e.g. the Separation of Powers, will fundamentally undermine the perceived independence and highly regarded standards of the solicitors' profession and the rule of law in England and Wales within the international context. Also, that the proposals put, if implemented, would seriously compromise the branding of the profession and adversely affect the continuing future economic prosperity to England and Wales obtained as a result of the globally acknowledged high quality legal service supplied by solicitors/legal firms within the international market.

BLS welcomes developments which ensure comparable high standards at the point of admission and ensure the most talented candidates can qualify by encouraging new and diverse pathways into the profession as the term solicitor should signify excellence, integrity and professionalism especially in the eyes of clients and society as a whole. We agree that any artificial and unjustifiable barriers to entry should be removed. We also support the idea of centralised assessments but we are concerned that there is not sufficient detail for us to be able to assert clear, knowledgeable and intelligent views. What is being proposed in this consultation is not sufficiently scoped out to enable anyone to say whether high standards, quality, increased diversity or comparability of pathways will be achieved without fuller detail.

We would propose that a better approach would be for the current system to be retained and improved, with the possibility of carefully managed centralised testing to ensure standards across the board.

As regards a higher standard being achieved because of the proposed assessment changes, BLS in respect of the Competency Statement Consultation expressed its view that the threshold standard for entrance into the profession was set at too low a threshold at level 3, and, therefore, we believe that rather than these new proposals increasing quality, they will actually reduce quality on entrance to the profession as the standards will be watered down in order to enable the flexibility of more pathways to becoming a solicitor.

The centralised assessments covering Part 1 and Part 2 will not increase standards. Part 1 is covering the academic stage by means of multiple choice questions (mcqs) and there is no need for a recognised programme of study via a law degree, or CPE equivalent or CILEX. This will open up crammer courses which will not raise the quality perception of the profession, in fact, quite the opposite. It will also not ensure quality providers or more talented candidates. We are not aware that the degree level stage requires a centralised assessment as we also want to ensure that 'trainees'/solicitors are individuals who are intellectually stretched, enquiring and thinking and creative individuals which we do not think will be achieved by this centralised Part 1 assessment.

Also, as no costing structure or examples have been made available by the SRA we

cannot say that this system will be less costly.



## 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?

The consultation includes very little detail beyond what has already been discussed. The assessments are referred to but there is no detail on how these will be managed or what they will look like. Many of the important elements, such as the requirement for pre-qualification work-experience and the assessment framework, are to be consulted on at a later date, if at all, which renders the majority of the questions put to be answered with limited detail of what is actually being proposed. Therefore, all questions are answered within this context.

When considering whether the proposals are sufficiently robust and appropriate for entry to the solicitor's profession the devil is in the detail and the detail is missing. Without being able to assess the whole, it is difficult to draw adequate conclusions and the SRA should refrain from making any definite decisions on the implementation of these proposals before the future planned consultations have been held and stakeholders have been able to respond to the full scope of them.

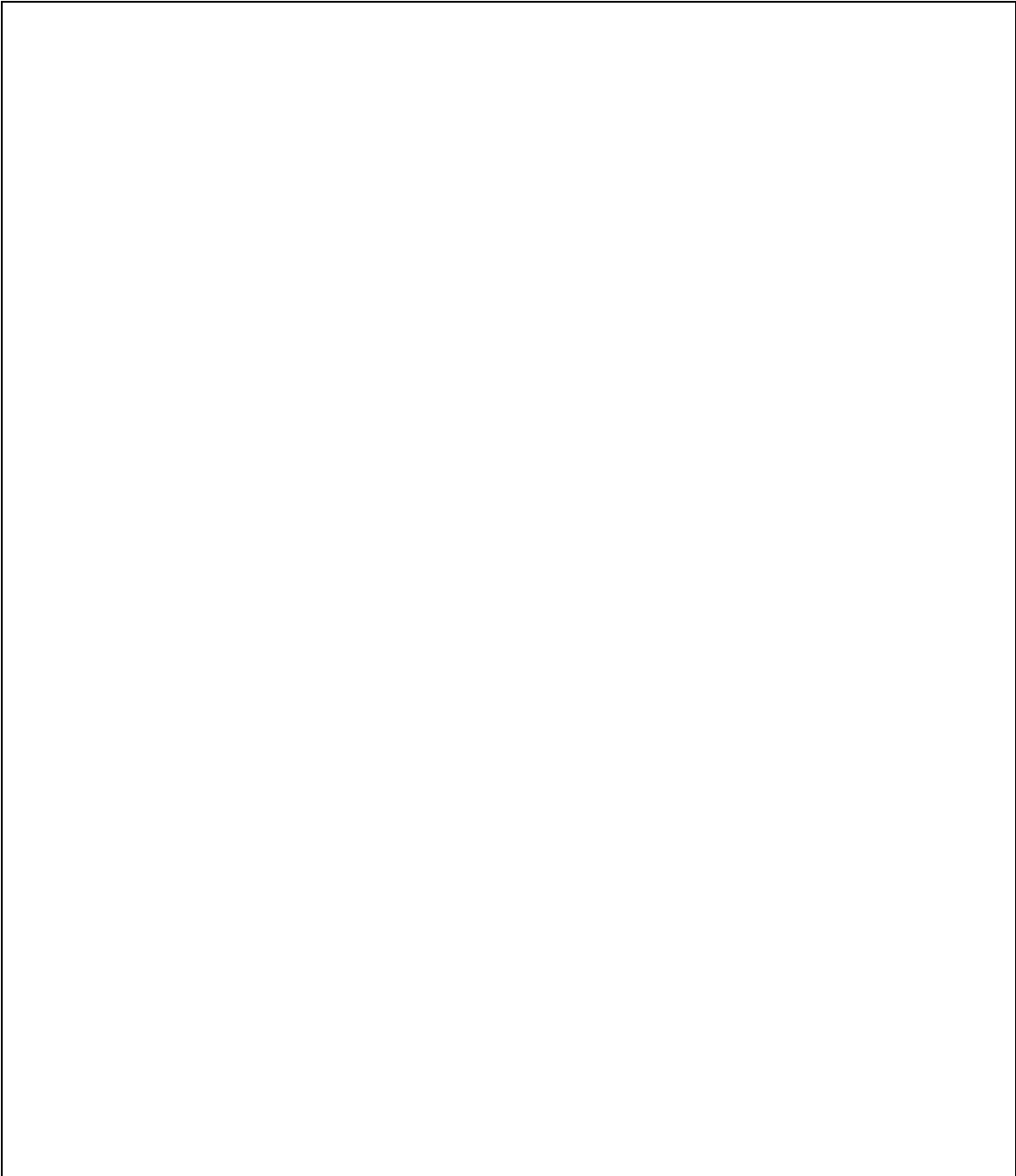
The ability to take the assessments without any restrictions on the number of times an assessment can be retaken, alongside the lack of time restrictions on the completion of all elements, brings into question the rigour and quality of this approach. It could lead to a situation where students can effectively 'bank' elements indefinitely, which they may have no familiarity with by the time they finally manage to qualify. It also means that familiarity with the assessment, question types or scenarios could enable students to gain higher marks than may have been the case on their abilities alone. This does not lead one to feel that standards will be raised but may be the contrary view.

Part 1 as explained in the answer to question 1 will not enable the expected skills of a solicitor to be tested but merely, knowledge questions via rote learning.

Part 2 assessments which are skills based and can be by legal tasks, case studies, role plays etc. will be resource intensive, costly and also sounds like the LPC. We cannot see why if the LPC needs improving which we can appreciate it may do so after 20 years of operation, why the good aspects are not retained and the areas requiring attention are improved. How can skills e.g. advocacy, interviewing be assessed by role play with sufficient equivalent assessment role play cases and sufficient personnel to ensure comparability and consistency of standard.

Also, for the role plays it is important that the non-student individuals taking part in the role playing are of the right standard with the right guidance to ensure consistency of assessment, otherwise, there is no comparability of standard.

We again would say that there is not sufficient evidence base provided for us to agree with the SQE Part 2 to be an effective test of competence needed to be a solicitor.



### 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?

It is felt that if all students undertake the centralised assessments there will be consistency. However, the reservations in 2. above indicate that it will be a lowering of standards.

To require all candidates to undertake the Part 1 and 2 assessments may appear acceptable. However, to offer no exemption from the assessments for those who have completed law degree or postgraduate diplomas in law would be costly and inefficient, as well as there being a real danger of overloading students with multiple assessments. This would create unnecessary cost rather than lightening the financial load. This would mean that students would have to sit assessments from their university as well as those from the SRA. We would suggest that degree modules could be accredited by the SRA and that these would enable the SRA to know that the necessary competencies had been achieved whilst enabling exemption.

## Question 4

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

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

a) above would not be acceptable as the reserved activities are too narrow in their subject coverage to test a trainee's ability or knowledge and wills and criminal law as part of the restricted areas are now only supplied by limited legal organisations, therefore, it would be 5 plus the law of organisations, including areas which a large number of delegate/trainees would have no knowledge of nor should they necessarily be required to do so. Also, the law of organisations is a broad area and again some trainees/delegates would have a focused and intense but limited knowledge.

b) A broader number of contexts would be better but still would be a problem as quite a number of individuals practice in niche areas. Would this be a fair and comparable test especially when based upon work based knowledge. However, out of the three this would be the best.

c) No, we do not agree with this option as we do not think that there will be comparability of areas to test delegates in when they are dealing with such a variety of topics as explained in a) above.

We do not think the options will give delegates from their work based learning the same level playing field for the assessments. At the moment the LPC is normally taken before work based learning of a meaningful fashion and students undertake a programme of study so that there is a level playing field but all 3 options above can create difficulties for the trainee/delegate and the legal organisation in which they are undertaking their work based experience. This again shows a lack of thinking through the impact and effect of changing the existing system and the volume and wide diversity of assessments required to test during and/or at the end of work based learning.

## **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?

We agree that if a Part 1 exists it should be at least at graduate level . However, Part 2 should be at a higher level i.e. masters level as the majority of the LPC is currently otherwise there is a dilution of quality. This will not raise standards or maintain standards which is supposed to be one of the objectives of these changes.

## Question 6

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

We strongly assert that there should be quality work place training to enable an individual to have the knowledge, experience, skills and competences to be able to hold themselves out as a solicitor. We would expect the training period to be 2 years as is the current position , and in some rare occasions because of previous experience, 18 months. Any shorter period would not give sufficient depth of knowledge to operate as a solicitor.

We take issue with the phrase ' some form of ' and the word 'experience'. Some form of indicates that it may not be sufficiently structured training and , therefore, could be misinterpreted. For the protection of the individual and the public, training should be at the right skills and competence level and should be formal structured training not merely work experience of a few days here or a week there, as we know it. We are concerned that a relaxed and unclear training period will lead to confusion and a lowering of standards. Therefore, we feel that the present system of training for 2 years should be retained.

## **Question 7**

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

As explained in 6 above we do think that the SRA should retain a minimum period of 2 years training in order to retain the integrity of the profession and its high standing not only in England and Wales but the international market where the english system of training is much admired and mirrored.





## Question 8

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

The SRA should give guidance as to the skills and competences required during the 2 year period especially to help smaller firms. The checklists need to be retained for firms for their protection and guidance and the SRA needs to ensure that guidance documentation is available . In order to ensure that standards are maintained the SRA as regulator should help firms to ensure the performance of 'trainees' is of the best quality. Large firms do have their own mechanisms in place but smaller firms need back up and assistance so that the public are provided with the best legal service.

## Question 9

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

It is important that any recognised training consists of meaningful substantive work which is of the level and quality we would require of a trainee in order to achieve the level of competence expected of a solicitor delivering legal services.

The workplace training should be work undertaken under the supervision of a solicitor for it to be acceptable. Small amounts of workplace training should not be recognised. The minimum should be a 3 months training period but we would also require the two year period not to be made up of small amounts acquired over a long period and we would prefer there to be a noticeable long period of training with one employer so that the development of skills and competencies can be ensured.

In order to ensure that the appropriate level is being assessed for the workplace training, the SRA should also give some thought as to the appropriate level at which a trainee should be working during this period. This could be achieved, in part, through the clear specification of competencies to be achieved, although guidance on the sorts of tasks and roles a trainee may undertake would also be welcome.

Unless the degree programme is a sandwich course and involves work as explained above we would not recognise 'work experience' during the degree as work of a substantive legal level acceptable to count towards training. Students studying on year 1 would not have the basic skills and unless at level 3 or 4 they have a years experience in a solicitors office of meaningful and certifiable legal work we would not agree to work experience during the degree being acceptable.

Also, pro bono work or CAB work alongside the degree or 'LPC' level of study we would not accept as meaningful legal experience to count towards training but we would consider, as we do now, work experience helpful in enabling an individual to have some experience of legal work. The training needs to be of sufficient length and depth to be meaningful legal training and, again, to ensure that there is not a two tier level of becoming a solicitor and that the consumer is protected as well as the standing of the profession.

## **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?

Without clear guidance and examples of cost and additional cost from the SRA we are not able to make an informed statement in relation to this question.

## 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 1 and Part 2, to a specified performance standard?

The SRA may need to set a benchmark level in relation to the 'softer skills' which we believe this question to be referring to. Again, it depends on the resources available to the firm. The larger firms will not have a problem as they have resources available. However, smaller firms may not have the time, resource and skill, therefore, such firms may decide to employ only an individual who is qualified or a non-qualified who they will not be able to take on at previously the 'trainee' level. This may affect diversity.

The SRA would need to produce guidance and benchmarking mechanisms to ensure a quality standard, otherwise, how could consistency of level be assumed.

## 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?

If workplace assessment were introduced a toolkit and resources would certainly need to be produced for quality and benchmarking purposes as explained in 11 above.

We cannot comment at this stage whether other support would be required as it will depend upon the quality of the information produced which does not exist. There would be a need for training to be available as some practitioners will not be familiar with all requirements , but again, we cannot say for certain as we cannot comment on unknown or unseen information.

## 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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

If the SQE was brought in and we are not agreeing that this should be the case as it is proposed, we would require it to be at graduate level as is currently the case to qualify as a solicitor, therefore, as a prerequisite a degree/GDL or the CILEX route or apprenticeship if at graduate level, is necessary to retain the integrity of the profession as we go forward and to protect the public.

Other professions such as doctors, osteopaths, nursing, require a degree/graduate level qualifications as a prerequisite as does the role of a barrister. The role of a solicitor is as intellectually challenging as that of a barrister or other professionals such as a doctor where a degree is the expectation for entrance.

To reiterate comments in relation to the above questions, the solicitor qualification needs to retain its branding globally. To have expectations below graduate level would affect the role of our solicitors and their work within the increasing international market and would impact on the economy.

## Question 14

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

Please see answer to 13 above where we expect the entrance requirement to be at graduate level. However, graduate level as the academic level requirement, is absolutely essential to maintain intellectual rigour in the profession and for profession to retain its dominant position in the international legal market. The high standing of the profession depends upon it retaining all the high level knowledge, skills and rigour

## **Question 15**

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

A candidate who sits any assessment should have feedback on their performance and if the SQE were in existence we would expect a candidate to receive their individual performance and comparative performance to enable them to assess how they have achieved, or if they were not successful, a clear indication of where they need to improve. This will enable them to determine whether to attempt again the assessment, otherwise individuals will spend money on retaking when their chances of success may be low.



## Question 16

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

As regards overall candidate performance this is important as we will need to know how candidates have performed in respect of each question to ascertain whether the assessment was fair or too easy or too difficult. We also would need to know how many candidates are passing, failing, resitting to enable us to assess whether this system is meeting benchmark requirements.

Also, training provider information is essential to enable candidates to make an informed decision..

We wish to point out that by answering these questions it should not be taken that we agree with the SQE in its entirety as set out in the documentatio.

## Question 17

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

As the SRA has not made available to us any costed out examples we are unable to say whether the cost will impact upon candidates and/or firms.

We would have welcomed a costing out of this new proposed system to compare with the existing system but none has been forthcoming. Therefore, cost may be an issue.

We are still concerned regarding the likely financial impact of these changes which would disproportionately affect poorer students. Part 1 and Part 2 proposed centralised examinations will almost certainly operate within a free market environment of intensive preparatory courses. These courses will not be covered by Student Finance England or Wales, as current required courses are, so will need to be self funded, or funded via commercial loans. This will have an impact upon poorer students who already have financial difficulties in meeting the costs of post-graduate education, both tuition and maintenance, and this would be an additional barrier

## Question18

Do you have any comments on these transitional arrangements?

As regards transitional arrangements, it is important that no student who is currently seeking to qualify by a designated recognised route should be adversely affected. For example, students who are in the process of completing a qualifying law degree should be given a waiver for Part 1 of the SQ, as currently, a qualifying law degree would be the acceptable academic qualifying stage.

## Question 19

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

The transitional arrangements should be worked through for each of the current ways to see if the cut off dates are viable for each route. This is particularly relevant for part-time courses and for CILEX as the duration of such programmes may include time out for illness, family reasons or exceptional circumstances. The SRA should plot out a non-typical student's timeline on such a pathway route .

## Question 20

Do you consider that this development timetable is feasible?

The timetable has challenges . A major one is the appointment of an assessment provider in 2017 and the setting of the assessments for 2018/19 academic year. This does not give a long enough time for the assessments to be created, for there to be sufficient number of questions available as well as a period to test their acceptability.

Also, we question whether there is enough time for providers to create acceptable quality courses if they need to change existing courses or create new courses.

The SQE must be credible and watertight in its first year and ongoing. If the time period is too tight and there are problems arising from the SQE when it starts then it, and the profession, as well as providers will lose their reputation .

It is important that sufficient time is given to enable students, universities, providers and , in particular, the profession to be able to clearly be aware of what is changing and how and to guide new entrants into the profession. Confusion will mean that we will lose good candidates who will enter other professions where the route to qualifying is not so obscure.

With reference to the Draft Assessment Framework document will we be consulted on this?. We would hope so and that sufficient time should be built into the timetable.

**Thank you for completing the** Consultation questionnaire form.

Please save a copy of the completed form.

Please return it, along with your completed **About you form**, as an email attachment to [consultation@sra.org.uk](mailto:consultation@sra.org.uk), by **4 March 2016**.

Alternatively, print the completed form and submit it by post, along with a printed copy of your **About you form**, to

SQA consultation  
Solicitors Regulation Authority  
Regulation and Education  
The Cube  
199 Wharfside Street  
Birmingham  
B1 1RN

## 2. Your identity

### 1. Surname

Iredale

### 2. Forename(s)

John Edward

### 3. Name of the firm or organisation where you work

City University London

**4. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Attribute my/our response and publish my/our name.

**5. Please identify the capacity in which you are submitting a response. I am submitting a response... in another capacity**

Please specify: In a personal capacity although I am a non-practising solicitor.

## 3.

**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?**

No.

## 4.

**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?**

No.

## 5.

**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?**

All intending solicitors should have to pass a suitably rigorous assessment. The current LPC and QLTS provide that. I am not convinced that the SQE and route to get to it will achieve the necessary standards of rigour required. Exemption, such as Bar to solicitor should remain as currently work well.

## 6.

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

c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

**Why...**

I would want to maintain the ability for students to choose specialist subjects in accordance with desired practice areas or firms.

## 7.

**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?**

Yes. Plus the profession should remain graduate only entry. It does not make sense to retreat from this 'gold standard' when successive governments have been stressing the importance of more young people obtaining degrees to enable them to contribute effectively in the workplace. Further, the international value of the qualification of solicitor will be devalued (in the eyes of foreign companies/consumers etc.) if it becomes non-graduate.

8.

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

Yes. To ensure that standards are maintained and that we are able to produce useful and effective trainee lawyers I would recommend a period of at least 18 months. I would allow up to 6 months' credit for relevant work experience obtained prior to law school training.

9.

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

Yes, I would set 18 months as discussed in previous answer.

10.

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

No. Such a proposal could threaten standards and reputation.

11.

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

Only to the extent that such work experience is sufficiently relevant, rigorous and in a legal environment.

12.

**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?**

I would not propose anything beyond that which currently exists.

13.

**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 1 and Part 2, to a specified performance standard?**

Not applicable; I am not an employer.

14.

**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?**

N/a.

15.

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?**

Yes.



16. (untitled)

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

No - see earlier answers. Non-graduates are increasingly at a disadvantage in the work place generally and with the opening up of higher education over the last 15+ years, it is not appropriate for a professionally qualified person to be a non-graduate.

17.

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

I don't see why not.

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

Any such information must be put in context ie there should also be figures on sex and race and details of universities attended prior to the SQE law school. I would also like to see details of destination firms where TCs/Period of Recognised Training has already been secured by the students. Otherwise, any such information would be meaningless as students would not be able to compare like with like. A student at a post 1992 university would need to know if they were comparing themselves with a large Oxbridge cohort.

19.

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

Difficult to say.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

Not currently.

21.

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

I am sorry but I have not thought that far ahead!

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

I am not sure that I can comment.

## 2. Your identity

### 1. Surname

Hodgson

### 2. Forename(s)

John

### 3. Name of the firm or organisation where you work

Nottingham Trent University

### 4. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.

Attribute my/our response and publish my/our name.

### 5. Please identify the capacity in which you are submitting a response. I am submitting a response... on behalf of a representative group

Please enter the name of the group.: Association of Law Teachers

## 3.

### 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?

The Association of Law Teachers is a learned society comprising several hundred legal academics with a particular interest in the legal education process. The majority are based in UK universities and other providers of higher education, but the membership also includes those involved in pre-degree law teaching and a significant number of international members.

We emphatically do not agree that the proposed SQE best meets the defined objectives, or indeed, in its current form, is capable of meeting them at all. We consider that it is premature to consider this form of assessment, or indeed any prescribed form, before a decision has been taken on the methods by which individuals will be able to qualify. There are a number of approaches to instructional design, but all agree that assessment must be aligned to the educational process which it is assessing.

Furthermore, the SRA consultation proceeds on an essentially false premise, which is that there are fundamental deficiencies in the present system of education, training and assessment which could be addressed by the SQE as proposed. It selectively cites the LETR and the QAA to support an argument that the current system of legal education and training is unacceptably inconsistent. In fact the overall conclusion of the LETR as expressed in the executive summary is broadly positive:

'The report recognises that the current LSET system provides, for the most part, a good standard of education and training enabling the development of the core knowledge and skills needed for practice across the range of regulated professions'.

The LETR does indeed make certain recommendations which are summarised in the executive summary including that it would be desirable to "enhance consistency of education and training through a more robust system of learning outcomes and standards, and increased standardisation of assessment." This is fleshed out in paragraph 4.108:

'Drawing on effective practice, standards ... should address a range of areas or domains relevant to

enhancing the consistency and quality of the learning experience and its outcomes: curriculum design and delivery; assessment strategy and processes; the management of teaching, learning and assessment; and the definition of each competence area and its learning outcomes. In addition to specifying broad criteria for each domain, it may be useful to highlight to providers the kind of evidence expected to demonstrate, or be indicative of, delivering the standard'.

Standardisation of assessment is then discussed. However, the detailed consideration of this focuses on increasing the consistency of the vocational and practical stages of legal education and training, and not the academic stage. It is dealt with in the remaining parts of Chapter 4 and in Chapter 5 of LETR. We entirely agree that separate consideration needs to be given to the various discrete phases of education and training.

It is of paramount importance that the title of solicitor is recognised, nationally and, perhaps more importantly, internationally, as a full professional qualification. The international expectation is that such qualifications will be at least at first degree level, i.e. in the UK at FHEQ Level 6, and they are normally at a higher level such as Masters degree or professional doctorate. The obvious means of demonstrating that the qualification is at this level is for it to consist of or incorporate a formal qualification at that level. It is of course entirely possible to devise a programme of education and training and associated assessments that demonstrate this by other means. It is however questionable what the utility of this is, since it is reinventing the wheel, multiplying unnecessary choice, with the potential for confusion, and there is no clear indication how it might address potentially valuable objectives such as diversity.

We find it incomprehensible that the SRA can contemplate a process of qualification as a solicitor which is not explicitly linked to these levels. We have grave concerns that the qualification would become devalued, and might not even be recognised internationally as a full legal professional qualification if the essential assessment mechanism is reduced to something resembling the SQE in its presently proposed form.

We do acknowledge, as does the LETR, that there is a clear distinction to be drawn between what is at present referred to as the academic stage of legal education, which involves the acquisition of knowledge of the various branches of law, the context in which law exists, and academic skills of research, writing, legal argument, analysis and synthesis and the subsequent stages of specifically vocational study. The academic stage may, but typically in current conditions does not, lead onto vocational study with a view to qualification. It is in general highly valued as an academic underpinning to a variety of career options where familiarity with law, regulation and legal transactions are required.

LETR acknowledges that, while most of the evidence they gathered suggested broad satisfaction with the academic stage of legal education, there were some concerns expressed over consistency of coverage of the "core" legal subjects as between institutions, and comparability of qualifications. It is difficult to judge from the report exactly how robust these criticisms are, and it is entirely possible that they are purely anecdotal and subjective. In any event there is an existing mechanism for specifying core content in the shape of the Joint Statement. It may be appropriate to revisit this, in the light of the work that has been done by the SRA and the BSB to define the day one outcomes and competencies for solicitors and barristers respectively, the recent reissue of the QAA Law Benchmark, and other developments in the law and legal environment since the Statement was last revised.

We acknowledge that greater concern was expressed over the fitness for purpose of the vocational and practical stages of legal education and training. If a period of work-based learning is to be retained as an integral part of the qualification process, which seems to be desired by all relevant stakeholders, it must be recognised that the diversity of providers, who are not primarily training organisations, and some of whom will lack the expertise and other resources to enable them to assess work-based learning rigorously, may mean that some form of centralised assessment along the lines of the proposed second stage of the SQE is appropriate. This would mirror current practice in the medical profession where exercises involving standardised patients are used to assess practical competence in the final assessments before registration.

As we have already remarked, it is a logical imperative to define the routes to qualification before seeking to specify the assessment of them. Essentially there are three distinct possible routes. The first is a linear route, equivalent to the current QLD followed by LPC followed by training contract. The second is a simultaneous route, represented by the emerging apprenticeship model where education to degree level by part-time study is blended with training based employment. It also encompasses the CILEx route, where an initial qualification covering a more restricted range of legal areas can be supplemented to achieve the necessary outcomes for a solicitor. The third is the transfer route whereby qualified lawyers from other jurisdictions demonstrate their aptitude for practice in the context of the English and Welsh solicitors' profession. Provision also has to be made for those who do not fall neatly into these categories, for example those with an existing professional qualification covering some legal areas, and those with international qualifications falling short of legal qualification, but which address some of the required outcomes.

The first two methods, in which the process of qualification as a solicitor must cover all the required elements are inevitably what might be described as a four dimensional process where the potential solicitor undergoes an educational process during the course of which s/he acquires a body of knowledge, a set of intellectual skills, and awareness of ethical issues in the legal professional context, and understanding of the processes and activities associated with their professional practice and the business and personal objectives of their clients.

The SQE in its proposed form, particularly the first part, would seem to impose an arbitrary three-dimensional assessment regime seeking to capture knowledge at a given point in time, and largely divorced from its context. We are aware that similar mechanisms are used in the QLTS, but would point out that those undergoing this qualification process are, by definition, already qualified as lawyers in another jurisdiction and have therefore already undergone the four dimensional educational process described above, albeit in a somewhat different context. It cannot be assumed that a procedure designed to ascertain that the would-be solicitor has sufficient familiarity with the basic concept of English law can be readily adapted to a fundamentally different purpose.

While we accept that it is possible to devise objective testing systems, such as multiple choice questions, which do not simply test a superficial knowledge and recall, and can test certain higher intellectual skills of analysis, such a test cannot address all the required outcomes. It is, for example ill adapted to assess research skills, written and oral communication skills and the more complex skills associated with analysis of a factual situation so as to identify and utilise relevant legal rules. It is therefore highly unlikely that those seeking to provide a broad-based, intellectually challenging legal education at first degree level will voluntarily incorporate substantial elements of the SQE, as currently conceived, in the assessment arrangements for their programmes.

This in turn creates further issues in relation to the impact of the SQE on diversity. In the first instance, if degrees do not incorporate the SQE, potential solicitors will need to prepare for and take the SQE as a separate stage in the qualification process. This will inevitably entail additional cost and serve as a deterrent to potential entrants from non-traditional backgrounds who lack the appropriate resources. Such entrants will also be at a disadvantage when considering what educational and training programme to follow in order to achieve their ambition of becoming solicitors. There will no doubt be organisations which will offer a course specifically designed to prepare candidates for the SQE, whether as a supplement to a degree or as a substitute for it. It is unclear to what extent solicitors' firms and other legal services providers will recognise the substitute courses in particular as having equivalent status to qualification by a law degree or recognised apprenticeship route. Potential entrants coming from social backgrounds where there is familiarity with the legal profession will be more able to evaluate the utility of particular routes to qualification than those from non-traditional backgrounds who lack personal, family or other social connections.

The only merit we can see in the proposed SQE is that, as with any centralised assessment, it does promise consistency. However consistency is a relatively minor concern, as evidenced by a careful reading of LETR, and the SRA has produced no additional evidence to suggest that inconsistency has resulted in any measurable disadvantage to consumers of legal services or any assessable risk of this occurring. For the reasons we have indicated it is unlikely to be an effective measure of many of the aspects of a solicitor's competence, and may very well impact adversely on diversity. The only respect in which any convincing case has been made for a centralised assessment is as the capstone at the point of entry, following completion of a period of work-based learning.

4.

**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?**

Here we would draw a sharp distinction between Part 1 and Part 2.

In relation to Part 1 we reiterate that this proposed method of assessment is fundamentally unfit for purpose. As we have indicated, we accept that computer-based objective testing can have a place in the overall assessment of degree level knowledge skills and competences. We do not consider that it can do so exclusively. It cannot assess the ability to research, and it does not assess communication skills. It is much better at assessing recall of knowledge, albeit to a high level of detail, than at assessing the ability to deploy knowledge contextually. It is essentially the equivalent of assessing a golfer on his ability to play a particular golf course with only one club in his golf bag.

The problem is compounded by the fact that the SRA did not accept any of the criticisms of the original specification of the Statement of Underpinning Legal Knowledge (SULK). As currently presented this is an incoherent and sprawling mass of legal topics, some of which can properly be regarded as foundational aspects of the study of law for any higher educational or vocational purpose, some of which relate to particular areas of practice and procedure undertaken by only a minority of solicitors, while others cover areas of substantive law of relevance only to a minority of solicitors. If the SRA proposal means what it appears to mean, intending solicitors will have to demonstrate their competence in all 13 areas of the SULK even though they have no intention of practising in areas to which many of them are relevant. This does not seem either necessary or proportionate. It is frankly incomprehensible why criminal litigation is included as a compulsory area when neither employment nor family law is included (and when it is not mandatory for Part 2). This aspect of the proposals appears to be based on the belief of the SRA that individual solicitors, as opposed to the entities in which they practice, are still generalists. This is not the case. The SQE Part 1 is far less capable of fully assessing knowledge and the application of knowledge in relation to the academic underpinnings of law than is a law degree or GDL. The SRA should recognise that from the moment when an intending solicitor is taken on either as an apprentice or as a graduate trainee he or she is being trained within the training organisation for a specific professional role in a particular practice area. This will inform the scope and nature of the training provided building on the 'academic' foundation.

The only rational and logical approach to the acquisition of the initial basic foundational knowledge of law in its various contexts and the ability to research and apply it is for the SRA to recognise a formal academic qualification at degree level, whether in the form of a law degree, a GDL, or the equivalent of a law degree comprised within an apprenticeship programme. We would however strongly advise that apprenticeship should incorporate a part-time or distance learning law degree as such, as this avoids the need to specify the alternative, and the risk that it will be seen as 'less eligible'.

Tying this stage of the qualification process explicitly to an academic level, while allowing considerable flexibility in the form of apprenticeship and graduate entry routes will ensure that the qualification retains its international recognition as a full legal professional qualification. We cannot see that the SQE Part 1 is likely to be regarded as, by itself, a suitable assurance that the individual is capable of functioning at the required level of a graduate professional in other major international jurisdictions. It may also not satisfy the

requirement for professional recognition within the EU system.

It is highly unlikely that degree providers will incorporate major elements of the SQE Part 1 in the assessment regime of their degree programmes. There are significant practical issues. How would the outcome of an SQE module be incorporated into the overall module result if it is not the sole assessment? Would the timing of SQE and degree assessment regimes be compatible? In the USA the standard legal education is a J.D. program, and this is then followed by a bar examination which typically takes the form of a computer-based assessment. This is however additional to the educational program, and insofar as preparation courses are needed for it, they represent an additional expense, and therefore a potential deterrent to able candidates of limited means. We do however accept that entry on to the SQE Part 2 or any preparation for it should not take place before the degree, or equivalent, has been obtained, and that this should be effectively policed.

Entirely different considerations apply to Part 2 of the SQE. We note that at this stage the SRA only intends to require candidates to cover three out of five contexts, although they still require both contentious and non-contentious contexts to be covered. Since a candidate does not have to offer criminal litigation at this stage, there is no conceivable justification for making it compulsory at the earlier stage. This is simply the most obvious example of the mismatch between the coverage of Part 1 and Part 2. The LETR deliberately declined to give detailed consideration to activity-based authorisation. This is explained in the executive summary

'The report does not recommend a move at this stage to greater activity-based authorisation, for reasons of potential cost and complexity, particularly within the present system of multiple regulators'.

We understand the reasons for this reticence, but it is unfortunately ill-advised. The position has already been reached when the solicitors' profession has become a bundle of overlapping professional specialisms. Entities may practise in a broader or narrower range of these specialisms, but individuals will practise in a narrow area, and since these areas are not rigorously defined, there is some latitude for movement by way of professional development. However, if a solicitor practising in the field of, say, commercial property were to decide to transfer to trademark law, he or she would in effect have to undergo a requalification process.

The current proposals for the SQE Part 2 fall significantly short of activity-based accreditation. They could however with advantage be further developed in that direction.

We envisage that employers of apprentices and graduate trainees will take progressively greater ownership of the courses and mechanisms by which the more practice related aspects of knowledge and skills are acquired. This will lead to training providers increasingly offering bespoke articulations of their courses. One key concern is the extent to which it is in the public interest (and the interest of the individuals concerned) to allow students to take courses preparatory to the SQE Part 2 otherwise than in the context of an existing 'training' contract (i.e. an apprenticeship or graduate traineeship). Successful completion of this stand alone course is unlikely to lead to placement with the larger law firms, but may lead to other opportunities. The crucial difficulty is that, if the SQE Part 2 is intended as a capstone, it will be testing what has been learned in the work based phase of training, which a course cannot replicate. This does of course have significant EDI implications.

We believe that there is scope for educational providers and training entities to develop a range of specific 'vocational' qualifications, which may well be more modular to allow delivery during the period of work-based learning, and also more tailored to different modes of practice.

We believe that there is a very strong consensus that qualification as a solicitor requires a period of work-based learning. The reality here is that the entity offering the work-based learning, assuming that it is looking to train those who will become its future fee earners, will have a clear understanding of which areas

of legal practice it wishes them to train, qualify and practise in. This will apply equally to those selected for apprenticeship schemes and for graduate training following the completion of a law degree/GDL. By accepting the position, the trainee is in effect agreeing to become a particular kind of solicitor. The SQE Part 2 could, and should, reflect this. This is simply a recognition that the solicitors' profession has become diverse, in the same way as the medical profession has become diverse. The current proposals go some way towards this, but do not appear to be specifically oriented towards recognition that a solicitor is qualified in a defined practice area.

5.

**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?**

No, for the reasons already stated we do not consider that the SQE Part 1 is remotely fit for purpose. We do accept that solicitor apprentices, and solicitors qualifying by the graduate entry route should be subjected to assessment at the same level, and with a coherent and consistent body of content, agreed by all stakeholders. We consider that the apprenticeship model ought normally to incorporate a part-time or distance learning degree. Those who are seeking to become professional lawyers by becoming solicitors ought to be subject to an entirely different procedure to those who are seeking to transfer from another legal profession. The situations are not in any material respect the same and cannot be dealt with by the same assessment regime. This is a blatant category error.

6.

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

b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?

**Why...**

As we have already indicated, we consider that the SQE Part 2 could be developed so as to allow for candidates to satisfy its requirements in relation to a much larger range of practice areas. Since very large numbers of solicitors do not practise in reserved areas, we do not see why the qualification process should be linked to this.

7.

**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?**

We agree that the qualification as solicitor should be at least at graduate level. In principle, given the nature of the qualification, and the international expectations in respect of a fully qualified lawyer, the SQE Part 2 standard should be FHEQ Level 7. Most LPC programs are currently set at that level, certainly so far as the elective elements are concerned, and a number explicitly incorporate an LLM qualification at Level 7.

8.

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

We have been impressed by the arguments presented by the profession in this respect. We consider that qualification as a lawyer is an essentially four dimensional process and an essential ingredient in this is exposure to actual practice in the form of work-based learning. We accept that this can take a variety of forms, but we are very firmly of the view that some work-based learning, or something very closely analogous, is essential. We are also of the view that this should be substantial, although it is the quality rather than the quantity of the experience which is important.

9.

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

We have indicated in our previous answer that we consider that the quality rather than the quantity of the

experience is most significant. Nevertheless, there does need to be some specification. We would not envisage that a total period of less than 18 months could provide a sufficient range and quality of work-based experience. We would however defer to the opinion of those who have been actively engaged in the provision of work-based learning, since our expertise is not in this particular aspect.

10.

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

The SRA is already specifying the competences. We consider it would not be appropriate to allow this to override the requirement for a minimum period of experience.

11.

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

We consider that is the quality rather than the quantity of such experience which is relevant. Since such experience is currently recognised, we see no reason to change this. One area in which some law schools have already undertaken significant innovation is in relation to pro bono activity. Indeed some law schools have already been authorised as legal services providers. Clearly experience obtained in this context is relevant and should be recognised. Other experience, if it is relevant, should also be recognised. It is the responsibility of the SRA to establish parameters and procedures in this respect.

12.

**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?**

This is a complicated question, and one where the expertise of the ALT can assist to a limited extent only. The diversity of work-based learning providers is such that only a proportion are likely to have the expertise and resources to carry out workplace assessment to a sufficiently rigorous standard. This may lead to problems in terms of equality of outcome. In the circumstances, it may be preferable to use the SQE Part 2 as the mechanism for assessing the effectiveness of the work-based learning element of training.

13.

**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 1 and Part 2, to a specified performance standard?**

Not Applicable

14.

**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?**

Not Applicable

15.

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?**

We would go considerably further than this. We consider that the prescription and regulation of pathways is of fundamental importance. As we have indicated, and leaving aside lawyers transferring in, who raise fundamentally different issues, there are essentially two ways of qualifying, which can be summarised as the apprenticeship and the graduate trainee route. Each should be specified, and in relation to the fundamental legal knowledge this should be specified as a law degree, a GDL or some close equivalent



specified in relation to the apprenticeship route. It is the qualification which needs credibility, not the assessment, which is an instrument, not an end in itself.

We are not convinced that this whole process is necessary in order to protect consumers of legal services, since we are not convinced there is any evidence that the existing routes to qualification produce practitioners who are incompetent to advise consumers of legal services. We are however convinced that prescription and regulation is necessary to protect students, and in particular to ensure that entrants from whatever background are not deterred, deflected or taken advantage of. There is a major danger that, if the SQE Part 1 is implemented, there will be a major issue arising from the offering of courses which will prepare for the SQE tests, but not provide a legal education. Naive students may be attracted to such courses without appreciating that they do not have any credibility with employers. This is capable of constituting a significant disadvantage.

## 16. (untitled)

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

We consider that all solicitors should be able to demonstrate that they are educated to at least degree level. This does not necessarily require that they hold a university degree as such. We agree that there may be routes to qualification which demonstrate the equivalence of a degree without a degree as such. One example of this is the CILEx route, which requires the student to pass a number of modules at degree level, including all the current foundation modules. A CILEx entrant does not have a degree, but is educated to degree level, and has extensive work-based experience.

While we consider it desirable that the academic content of an apprenticeship should be delivered by means of a part-time or distance learning degree, we accept that this need not be mandatory, although the academic content of the apprenticeship should at least be equivalent to a degree, or, possibly, the CILEx requirements.

We consider that there should be an up-to-date version of the Joint Statement, with greater emphasis on transferable intellectual skills, in particular transferable legal intellectual skills such as statutory interpretation, and the use of precedent. This would underpin degrees, the GDL and the 'non-degree' apprenticeship.

## 17.

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

Insofar as this relates to the SQE Part 1, we do not wish to comment, since we do not consider that this should be proceeded with. The nature of the SQE Part 2 is such that we would consider it inappropriate for feedback to be given. This would, inevitably, compromise the utility of the various exercises. They will clearly need to be refreshed on a regular basis, but if any feedback is given, this compromises the integrity of the testing material on future occasions.

## 18.

### 16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

This will depend on the nature of the providers and the provision. It is only if like is being compared with like that the data will be comparable, and therefore useful. Given the diversity of the profession, it is likely that providers of programmes specifically for intending solicitors will, as now, tailor their offering to particular areas, whether individual large firms, or 'high street' or 'commercial'. The student intake will vary considerably, as will the content of the programme. As a result, comparative data is unlikely to be helpful. The data might be valuable if there were a single programme with defined content and methodology, but

we think it highly unlikely that this will be the case, as it will not meet the needs of the market.

19.

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

We have already identified numerous substantial and critical impacts. We consider that those impacts are sufficient to undermine the arguments in favour, at least, of the SQE Part 1. We have indicated that we consider that the SQE Part 2 is at least potentially valuable, but that it requires significant further examination from the perspective of activity regulation. This may in turn produce further EDI impacts.

In particular, Annex 2 fails to recognise the extent to which these are costly assessments to administer and deliver. How would the cost be met? It is likely that the cost would ultimately fall on the individual student, thus contributing further to the damage this will do to diversity. Where individual prospective employers are willing to support students to whom they have offered training or employment the cost will ultimately fall on the consumer of legal services. Annex 2 relies on the reduction of cost implicit in ceasing to require an LPC. However, effective training in the interpersonal skills to be assessed by SQE2 is inherently expensive, requiring as it does reiterations of small-group work. Whilst there may be savings from the lack of prescription if there were no LPC these are unlikely to be as high as appears to be anticipated, since students or their employers will have to fund training in these areas.

What is more, whether or not overall savings are achieved, we would point out that it is a retrograde step to shift cost from a learning process which is recognised to be valuable to an assessment process, the value of which in preparing competent solicitors is as yet unproven.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

We consider that the timetable is challenging. Students are currently making career choices at any age from 13 onwards. Students then choose which subjects to study at GCSE, and then which subjects to study at A Level. They are being advised as to potential careers throughout this period. Their careers advisers are not necessarily entirely up-to-date. Students are already proceeding towards university entrance in 2016 and 2017 (and conceivably 2018 and 2019) on the assumption that a QLD is the primary entry point to the legal profession, and that a non-law degree followed by a GDL is a legitimate alternative. Universities have produced prospectuses for entry in years up to 2016 on the basis that a QLD is a crucial qualification for a solicitor. There is nothing to suggest at the moment to careers advisers in schools, sixth form and FE colleges that the fundamental basis of qualification as a solicitor is about to be changed. We consider that at least three years' notice needs to be given, and prominently promulgated, if a QLD is no longer to be the primary route into the solicitors' profession. The consultation paper does not really address the issue of expectations among students prior to enrolment on the LLB, and this is a significant omission. If new arrangements are introduced precipitately, there will be significant complaint on the part of those who have been planning their future on the basis of the existing arrangements. In particular the timescales are such that those starting their post school education in 2016 and 2017 should be able to do so on the basis of the existing rules, or the replacement rules, whichever are more advantageous to them. This should allow for completion of qualification under the existing regulations by 2025/6. It is however not entirely clear from the documentation exactly when the SRA envisages the new rules will apply.

21.

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

There will inevitably be candidates who are trailing. This is likely to be because of health and/or disability reasons, and such candidates may require reasonable adjustments to be made on the basis of their protected characteristic. The date specified is not an unreasonable one, but there will still need to be provision for exceptional circumstances.

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

Many aspects of it are extremely challenging. If the SRA assume that HEIs will incorporate SQE Part 1 into their degree assessment programmes, they will need to produce specimen examples for evaluation. Typically, the process for accommodating amendments to academic programmes requires at least a full academic year. If the amendments required constitute a fundamental restructuring of the degree course in question, a longer period is likely to be required. Since no specimens or examples have yet been made available, it is inconceivable that adjustments can be made for academic year 2016/2017. Adjustments could in principle be made for academic year 2017/2018, provided that the materials were available by the summer of 2016. This does however assume that these materials are in principle acceptable as a component of academic assessment, and that there are no further discussions, adjustments or amendments to be made. For the reasons we have outlined above, we doubt that many institutions will be anxious to incorporate SQE elements. This may produce further delays and uncertainties.



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4 March 2016

Dear Sirs

### **SQE Consultation - Bristol Law Society Response**

This letter is the official response of the Bristol Law Society ("BLS") to the SRA's Consultation regarding the introduction of a Solicitors Qualifying Examination ("SQE"). The text of this letter has been created collaboratively by members of the BLS Council on behalf of the wider membership of BLS.

Please note our general comments at the end of this letter, as well as the specific responses to the questions asked by the consultation document.

#### **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?

BLS recognises that there are a number of problems with the current pathways to qualification. We are particularly concerned by the inconsistency of results from LPC providers and the lack of moderation of LPC courses. In Bristol, the University of the West of England ("UWE"), The University of Law, and BPP all offer the LPC; each is understood to offer a challenging and rigorous education to prepare students for a career in practice. We recognise, however, that there are some institutions in other parts of the country which may not offer the same level of consistency.

BLS agrees that a more standardised assessment of abilities, undertaken at the point of admission/qualification, would meet the first of the two objectives set out in paragraph 10.

As for the second of the two objectives, BLS believes it is premature to comment but there is a great risk that the current proposal could worsen the situation rather than improve it. The detail of the proposed SQE exam (as well as, for example, the requirements to become eligible for the SQE) would determine the actual impact. Whilst the SQE could be helpful in achieving this aim, the introduction of the SQE could also create new barriers and reduce diversity in the profession.

It should be noted that some universities would likely pitch their law degrees in a more traditional direction (e.g. for aspiring barristers), whilst others would focus on preparing students for the SQE Part 1. This two-speed legal education cannot be in anyone's interests. This arrangement would also not do anything to enhance equality of opportunity, especially as there appears to be little in the current proposals which would persuade the largest firms to alter their present recruitment approach (recruiting candidates several years in advance, whilst they are students, and funding them through to qualification). As this is one of the biggest sources of inequality of access to the profession, and the present proposals appear unlikely to do anything to change this, introduction of the SQE may not achieve the stated objectives

Whilst the SQE might progress toward meeting the objectives, it might have the opposite effect. Until detailed proposals are published, it is too early to say.

### 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?

BLS believes that whilst the model appears sound, fundamental details remain outstanding which would determine whether it would provide an effective test.

Bristol's legal community involves a number of firms which focus on national and international commercial law, including some with great levels of specialisation. Equally, Bristol has a number of small private-client facing firms. Some of these firms may have such a narrow offering to clients that they would struggle to provide experience to aspiring solicitors in three of the five contexts of the Part 2 examination. Whilst many firms, especially the larger ones, would not find this difficult at all, others may. There do not appear to be any details in the consultation as to how firms, or aspiring solicitors, may be able to respond when faced with this situation.

There also remains a great deal of uncertainty regarding the suggestion of making the exams modular. What period of time would prospective students need to complete Part 1? How long would they have until beginning Part 2? How long until completing Part 2? Would they be able to "re-sit" a particular element multiple times? If so, how many times? (BLS believes that offering too many resit opportunities could dilute the point of the assessment whilst also limiting qualification to those who can afford the cost of repeated re-sits). Whilst there are many approaches which could be taken, as there is extremely limited detail in the consultation, BLS considers it premature to conclude whether this proposal is workable.

It is noted that there would be a large number of assessments required in Part 2. That is, any given student would be examined on six skills in two contexts, leading to twelve assessments. As there are five contexts available, this implies each candidate would effectively need to sit twelve out of thirty possible examinations in Part 2. Given that a large "question bank" would be required for each of these areas, which would need to be continuously refreshed, it appears there is a large administrative and logistical burden.

The cost of the SQE, to the profession at large but specifically to training providers, students, and the firms supporting future solicitors, must be considered carefully. It is understood that the QLTS, which operates a similar assessment structure, costs over £5,000 per candidate. The QLTS is also less complex than the present proposal. If this were added as an additional cost to the present scheme, this could have a significant impact on access into the profession. It is also not clear what other sources of funding may be available (e.g. would the Student Loan Company be able to support candidates?). Until more detail is available about this, BLS considers it would be premature to suggest this proposal is workable.

BLS believes many of the outstanding details would be fundamental to the success or failure of the SQE in achieving the stated aspirations.

### 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?

Subject to the various other issues regarding the SQE being resolved (see above and below), BLS agrees that as the main intention of the SQE is to ensure a consistency of ability and competence at the point of admission into the profession, there should be only very limited exemptions beyond those required by legislation or as part of transitional arrangements. BLS is not clear as to the impact of EU legislation in this regard or what arrangements may be in place regarding lawyers qualified in other parts of the UK.

Finally, as to transitional arrangements, BLS believes that students who began studying a Qualifying Law Degree under the existing system should - in any event - be able to continue their route to qualification under the present scheme. Any changes should take effect only for those students beginning a course after decisions about new pathways/ qualifications/examinations are published. As an absolute minimum these students should be given a waiver for Part 1 of the SQE as expressed in the current proposal.

#### Question 4

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

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

BLS believes it is premature to make a ternary decision based on the options presented. Further information is required as to the potential details.

BLS believes that a first draft of an Assessment Framework Document should be produced and explored, likely by way of formal consultation, before a meaningful answer to this question can be given.

#### 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?

BLS agrees that the standard should be set at least at the graduate level or equivalent. We would put emphasis on "or equivalent" as we recognise additional routes toward qualification have been developed in recent years and it is to be hoped that these may open pathways to non-traditional students, thereby creating more diversity for the profession.

It should be noted, however, that the requirement for a graduate degree presently provides an indication of academic success and knowledge. From the perspective of protecting the "brand" of solicitor, this must not be watered down. If people can be eligible to sit the SQE without a graduate degree, it is important that they also demonstrate their abilities are genuinely at an "equivalent" standard.

It is unclear from the present consultation if, whether, and how much of the SQE material may be taught within an undergraduate law degree. If some universities adopt an "SQE preparatory" model, whilst others maintain a more general law degree (to include, for example, those students wishing to become barristers), this would make delivery more complex for training providers and thus almost certainly increase the cost of qualification to students.

If undergraduate programmes were split into "SQE prep" and "other" law degrees, this would also serve to make many aspiring solicitors believe they must decide to pursue the profession as early as age 17, whilst still studying for A-level exams. This cannot be in the best interests of those individuals, the profession, or the public at large who buy legal services.

It is also unclear what impact the proposal would have on the LPC. That is, some providers (e.g. The University of Hertfordshire) have already indicated that they believe the SRA has decided to replace the LPC regardless of this consultation exercise. This begs the question, where will those skills be taught? If the SRA believes that this would be taught by law firms (other than the largest commercial firms, perhaps) then the SRA has greatly misunderstood the resources available to firms. That would, in any event, not be a workable scenario.

**Question 6**

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

Pre-qualification workplace experience is invaluable as there are a number of so-called "soft skills" which are important for a solicitor but fall outside the remit of legal knowledge or, indeed, the SRA's competence statement.

The amount of experience required, however, may vary greatly. Where a person had a previous career in business, for example, they may not need as much workplace experience as a person who has only ever been a student. As some people will have transferrable skills and abilities from other areas of life, so may require a lesser amount of time before qualification.

BLS believes that some period of pre-qualification workplace experience should remain a requirement but we endorse the idea of allowing flexibility, in particular as part of an overall review of the process of qualification.

**Question 7**

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

BLS understands that, in order to obtain the necessary skills to successfully pass Part 2 of the SQE, it is envisaged that most people would require a period in practice to gain the experience required. Accordingly, BLS would have no objection to setting a reasonable minimum period of experience required to sit the SQE exam.

However, it is recognised that different people may develop skills in different ways, and that not all workplace experiences are the same. For example, one person may develop the necessary experience in a single year in a well-organised training programme with a large employer, whilst another may spend several years as a paralegal but not be exposed to the same range of experience.

Consideration could be given, for example, to allowing candidates to self-certify their experience matches the skills and abilities in the areas to be assessed in Part 2. However, this would be open to abuse and the potential for wasted efforts and costs; many candidates may have expectations of the requirements which do not match the reality, leading to failed assessments. As below (see question 8 response), a competence-based experience requirement, rather than time-based, may be more appropriate.

BLS would invite the SRA to provide a more detailed proposal in this regard and conduct a further consultation process before making any such changes.

**Question 8**

Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time.

BLS believes this would be a sensible approach at a conceptual level. The difficulty, however, is ensuring consistency.

Some firms have highly organised training programmes and their feedback and assessments go far beyond the current minimum requirements for Trainee Solicitors. Meanwhile, other firms (especially smaller ones) are pressed for time and resource already, so any new requirement to assess competencies for unqualified staff would simply create a further burden. This may have the effect of removing those firms' participation from training up new solicitors, thereby creating new barriers to qualification.

If the process were not seen as creating new administrative requirements and imposing unmanageable burdens for small and medium firms, as well as individual candidates, this is a workable idea in principle. BLS would invite the SRA to provide a more detailed proposal and conduct a further consultation process before implementing any changes in this regard.

**Question 9**

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

As noted above, BLS recognises that individuals can gain relevant skills and abilities from a variety of types and lengths of workplace experience.

Before implementing any specific requirements, a further consultation should take place regarding the details of any proposals to recognise (and not recognise) specific types of 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?

BLS believes that adding additional burdens to individual firms may be untenable. As noted in our response to question 8 above, smaller firms in particular may be unable (or perhaps unwilling) to adequately implement this assessment process. This would lead to either a "rubber stamp" effect, immediately diluting the intention behind the assessment, or a refusal to participate in the assessment process (thereby removing routes to qualification).

In addition, if a wider range of experience is to be accepted, how can the SRA ensure that all such providers would participate in the relevant assessment process? For example, an individual could gain highly relevant experience working for a small business that does not normally offer legal training, per se. The individual would be developing skills and abilities in the workplace, but what level of burden would be placed on the employer for the one-off ability to certify the employee's experience?

BLS would invite the SRA to provide a more detailed proposal in this regard and conduct a further consultation process.

**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 1 and Part 2, to a specified performance standard?

Whilst this question is not applicable to the BLS itself, our members are employed by firms (and companies and other entities) which would give a variety of responses to this question.

Some BLS members would say "yes" whilst others would say "no".

**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?

BLS believes such a "toolkit of guidance and resources" would be a helpful start, but given the concerns that smaller firms (and other businesses) would have, we believe there is a risk of a fundamental problem if the administrative and logistic burden were too great.

**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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

BLS believes there is a risk that "cramming courses" may be offered to prepare students for the SQE exam. If the exams are modularised, new providers may introduce short-term courses to "cram" students' minds with the relevant information required for the examination (especially for Part 1) without having a thorough understanding of the



underlying materials and contexts. This is unfair to students and would be a dis-service to consumers of legal services.

BLS is in favour of maintaining a minimum training requirement/pathway to become eligible for the SQE. Whilst we accept that there may be new pathways to be created (e.g. more experiential and less academic), it is important to protect the credibility of the assessment and the profession as a whole that there is a minimum process observed. It may be appropriate to have a range of options available, each setting out varying minimums, but a further consultation would be required on the detail of any such proposals.

#### **Question 14**

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

As noted in the response to Question 5 above, BLS believes all solicitors should be required to have obtained either a degree or genuinely equivalent training and experience. As equivalency creates a large degree of subjectivity (i.e. what is "equivalent?"), there is an argument that a degree should be required. This is also potentially problematic for the public perception as lay people may notice, for example, that barristers require a law degree when solicitors do not.

Subject to appropriate safeguards and rigorous standards being upheld, BLS would be open to recognition of equivalent qualifications but the SRA is invited to produce further proposals in this regard and conduct a thorough consultation on the detail before implementing any changes.

#### **Question 15**

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

Whilst students/applicants should be given individual feedback about their performance where appropriate, this is not universal. Knowledge-based objective sections (i.e. Part 1 of the proposed SQE) may be more suitable for provision of comparative feedback. More subjective skills-based assessments are more problematic.

Drawbacks include the risk that employers could use this information out of context, for example seeking to only recruit those deemed the "best". It could also be used by students to re-sit, voluntarily, an element they passed simply in order to increase their "score". These types of problems could serve to create further barriers to entering the profession as well as potentially reduce diversity.

BLS would support giving basic comparative feedback on objective measures such as Part 1, but only general feedback for Part 2 (perhaps including recognition of limited tiers of higher levels of attainment, rather than a quantified score). In any event, given the risk, BLS would invite the SRA to provide a more detailed proposal and conduct a further consultation process before introducing any such feedback to the process.

#### **Question 16**

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

BLS believes basic statistics should be published about any SQE introduced, such as pass rates and rates of any higher recognition (e.g. "Merit" or "Commendation"). This should be broken down, at least initially, by subject areas in Part 1 and by both the skills and contexts in Part 2, to allow transparency as to where any SQE may require adjustment.

As to training provider performance, there is a great risk that limited pieces of data could be misunderstood by students and/or mis-used in marketing by providers. More importantly, there is too much unknown about the potential changes to requirements for training providers to accompany the introduction of the SQE. Accordingly, BLS would invite the SRA to provide a more detailed proposal in this regard and conduct a further consultation process before determining what information to publish.

In the event that the SRA decides not to introduce the SQE as currently envisaged, BLS would invite the SRA to provide a detailed proposal for exploring the problems with the current training pathways (for example, the wide variation in LPC results) and consult with stakeholders about options for publishing information about provider performance and/or other options to help standardise the training on offer.

**Question 17**

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

There is a great risk that adding additional layers of requirements to qualify would create new barriers which are most likely to impact those already under-represented. The fact that the SQE is envisaged to be a long and complicated process, with 30+ variations offered for Part 2 alone, suggests the cost to administer the examination would be significant.

BLS believes that the Assessment Framework Document should be published and potential providers invited to tender for the opportunity to run the assessment. Their proposals should be submitted to the profession for further consultation before making any decision to implement changes.

**Question 18**

Do you have any comments on these transitional arrangements?

Many students plan several years in advance. Many companies do likewise. The training providers also require a significant lead-time to adjust their material (not least as, for example, book publishers have a lead time for the materials used to teach). Accordingly, a change as fundamental as that being consulted must not be rushed.

Appropriate provision must be made for those studying/working part time to continue toward qualification on their present path, including anyone who set off on the path before the changes are introduced. The changes to CPD are, perhaps, reflective of a reasonable approach, as a period of overlap was allowed where solicitors could "opt into" the new system at their election, with a required date set well into the future.

BLS has two specific comments on transitional arrangements in any event. First, BLS believes that all students who embark on a Qualifying Law Degree under the present system (and pass it) should be given a waiver for at least Part 1 of the SQE, if not be allowed to complete qualification under the existing schemes. Second, BLS believes that further detail must be provided, including the Assessment Framework Document, and a further consultation undertaken regarding the details of any proposals before it is appropriate to even consider a timeline for any transition (see also the response to Question 20).

**Question 19**

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

As highlighted above, in several answers, there is too much unknown at this stage to say whether 2025/2026 is reasonable. Until the Assessment Framework Document and other details are understood, and a consultation undertaken about the detail of the proposal, it is premature to discuss a cut-off date.

**Question 20**

Do you consider that this development timetable is feasible?

BLS believes that the timetable is overly ambitious and, in some ways, backwards.

Firstly, introducing the SQE for the academic year 2018-2019 is far too soon. This would be completely unmanageable for training providers, for students, and for almost all of our member firms. At least two or three years, perhaps more, need to be added based on the present state of the proposals.

Secondly, the timetable appears to indicate that the introduction of an SQE and fundamental overhaul of the process to qualify (i.e. minimum academic and work experience requirements) is a foregone conclusion, with the consultation only in place to gain feedback on a few details.

Rather, there are fundamental questions outstanding regarding how these changes would work. Whilst it is possible that the SQE (and related changes to the training and qualification process) could be very helpful and beneficial, it is possible that the changes being discussed could be disastrous for the profession, for students, for law firms, for training providers, and for consumers of legal services.

BLS invites the SRA to conduct a further consultation process after publication of the Assessment Framework Document and, ideally, after detail is known from a preferred bidder regarding the assessment process (to include indicative costs). Until many, many more details are known, regarding the requirements before sitting the SQE, how the SQE would be structured, the timing, the cost, and various other aspects, it is simply premature to comment on whether the proposal is viable.

### **Summary and Conclusion**

BLS supports the ideals behind the present consultation. We agree that there are problems with the present system, including varying rigour to law degrees and LPCs, a highly variable training contract experience, as well as limited recognition of the value of experience such as paralegal work.

BLS is concerned to note that whilst the Legal Education & Training Review (LETR) concluded that the present training/qualification system is good although should have certain areas addressed, the proposals for an SQE outlined in the consultation document go far beyond this.

The SRA's current proposal amounts to a fundamental change to the entire process of qualification. Given the scope for creating problems where none presently exist, as highlighted above, it is not clear why the SRA has suggested an intention to make such a dramatic overhaul rather than implement the LETR suggestion to simply address areas of concern in the present system.

BLS does not accept that this consultation should be used to determine that the SQE must be introduced. BLS would invite the SRA to consider postponing making any decisions about the introduction of an SQE and to hold a new consultation, effectively "in the alternative" to the present SQE proposal, to explore what changes could be made to the present system of training and qualification more proportionately.

Notwithstanding the LETR conclusion and the point made immediately above, BLS believes there is not yet enough known about the SQE to determine whether it would work. As the colloquial expression goes, "the devil is in the detail" – until details of the proposal are published and examined by stakeholders, BLS believes it premature to commit to introducing the SQE.

BLS believes that by committing to introduce an SQE before the details are worked out, there would be a process set in motion that could not be stopped, even if none of the details are workable. This would be disastrous for BLS members, for the wider profession of solicitors, and ultimately for the consumers of legal services whom the SRA is required to protect.

BLS therefore invites the SRA to defer committing to introduce an SQE until, at the very least, a further round of consultation is carried out addressing the details explored above.

Yours sincerely



**John Moriarty**  
President

## 2. Your identity

### 1. Surname

Baird

### 2. Forename(s)

JPA

### 3. Name of the firm or organisation where you work

Retired

**4. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Attribute my/our response and publish my/our name.

**5. Please identify the capacity in which you are submitting a response. I am submitting a response... in another capacity**

Please specify: Retired solicitor

## 3.

**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?**

Q1. I agree with the principle. In my day (University of Liverpool 1970 – 73, College of Law 1973-74, articles 1974-76) there was sufficient confidence in the uniformity of standards across the different universities to allow the Law Society to rely on the Qualifying Law Degree as equivalent to the Law Society's Qualifying Examination Part I. It is clear from the consultation paper that such confidence no longer exists. I therefore agree it is necessary that the profession ensures a uniform standard.

I have concerns about the implementation of the new Part 1. Is it contemplated that the profession set and mark:

- the relevant papers in undergraduate law degrees?
- separate Part 1 examinations in the relevant subjects around the same time as the university undergraduate examinations in those subjects?
- a stand-alone Part 1 exam in all Part 1 subjects after graduation?

## 4.

**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?**

Yes.

## 5.

**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?**

Yes.

## 6.

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

c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

#### Why...

C is probably the least worse. The problem is that the SRA wants solicitors with the greatest range of experience, but firms want workers focused on the individual firm's business. It is inevitable that there will be considerable variations in the assessment of competence: there is no real comparison between say working out a theory of the case for a reinsurance claim which turns on cutting-edge equitable and commercial law concepts, and drafting estate accounts. That variation is regrettable, but is inevitable given that the work undertaken by solicitors can range from unskilled data inputting to abstract assimilation and synthesis. C at least recognises the problem, although will not solve it. In my opinion, the catch-all title "solicitor" is insufficiently specific for any practical purpose, and post-qualification training and titles should be required for practice.

7.

**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?**

Yes.

8.

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

I agree that people should not be allowed to practice as solicitors without at least two years' experience as trainees. I do not agree that time spent as a para-legal should be included in that time.

I am however sympathetic to the argument that some kind of title should be awarded to people who have a qualifying law degree and both Parts of the Solicitors Qualifying Examination, but who are unable to get a training contract or its equivalent, eg "Qualified para-legal" or "Part-qualified solicitor". Alternatively, boost the title of solicitor by titling those who have not only passed all the exams but also served their time as "Chartered solicitor" or "Solicitor authorised to practice".

9.

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

Yes.

10.

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

Yes, but recognise that this will be impossible to assess uniformly due to the huge variations in the kinds of work different solicitors undertake.

11.

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

I agree that employers should when assessing who to recruit. I do not think it should have any bearing on qualification as a solicitor, because of the variation.

12.

**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?**

Yes, assessment of what the trainee has learnt in the workplace is essential, although the assessments will vary considerably because of the range of work undertaken by different solicitors. But failing to assess at all

is pointless.

13.

**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 1 and Part 2, to a specified performance standard?**

No. It is wrong in principle for the employer to assess the trainee for qualification purposes. The employer should assess for the purpose of employment within the employing firm. The employer should have nothing to do with assessment for the purpose of qualification, as their doing so negates the principle of independent verification of competence.

14.

**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?**

A checklist or toolkit may well be helpful in directing the employer towards providing the experiences deemed necessary for qualification. But they should not be used by the employer for assessment of the trainee for qualification.

15.

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?**

No. Anyone who wishes to sit the SQE should be free to do so. However, the profession should control the content of the SQE, set it, and mark it, to the highest and most rigorous standards. No exemptions, no variations.

16. (untitled)

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

I agree that no solicitor should be required to hold a degree.

17.

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

Yes.

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

Candidates- where they rank compared to their total cohort.

Providers- percentage of first-time passes.

19.

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

The SQE should fail candidates who do not meet the required absolute standard. I do not agree with failing to a relative standard, eg the bottom 10% of a cohort automatically fails, even if they score well above the absolute passmark.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

The transitional arrangements are appropriate.

21.

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

None.

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

Feasible, yes. Appropriate, no. Universities should design their own courses without reference to the SEQ. The academic and the practical should be separate. Law degrees should confer no exemption for any part of the SQE. If universities or, better, professional schools wish to run separate post-graduate courses to prepare candidates for the SQE, fine. Just don't muddle those courses up with the undergraduate law degree.

## T4T - Assessing competence

### Consultation questionnaire form

This form is designed to be completed electronically—in MS Word. Please save it locally before and after completing it.

#### 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?

No.

We agree with the objectives of ensuring ‘consistent and comparable high quality standards at the point of admission’ as well as encouraging the ‘development of new and diverse pathways’, however this is not evidently secured by the proposed SQE. The knowledge to be assessed in Part I will substantially overlap with knowledge currently attained in Qualifying Law Degrees. There will therefore be highly wasteful duplication of cost and effort on the part of large numbers of law students. As will be pointed out below, we are also strongly of the view that the proposed computer-based assessment will be incapable of assessing ‘graduate-level’ competence. The proposal will therefore add to the costs of entry to the profession and create new barriers and inequities.

Inconsistency of standards at QLD stage would be much better addressed through more rigorous professional accreditation.



## 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?

No.

We remain unpersuaded that computer-based assessments can adequately assess the ability of a candidate to display the intellectual creativity in handling substantial bodies of knowledge required of a graduate. However detailed and comprehensive they may be, computer-based assessments require binary judgements of right/wrong or better/worse against pre-articulated text, and cannot assess the ability of candidates to express in their own words the reasons they have for making specific judgements. The position argued for by a candidate may be one that is difficult to support against the relevant source material, but we would want to give credit for serious and creative attempts to take such a position. This is why, beyond a very basic level, computer based forms of assessment are not used in Law Schools, and are not the sole form of assessment in the Law National Admissions Test.

University examinations assess both a knowledge base, and also more sophisticated competences such as comprehension, analysis, synthesis, critical evaluation and problem-solving. These require the demonstration of the capacity to judge and weigh legal material, as well as explaining independent positions articulated on the basis of that material. The basic knowledge component required for a pass mark at degree level could be tested by a computer based assessment, but for the reasons given above, the higher level skills could not. It is therefore highly unlikely that the SQE as proposed would meet the end of ensuring the intellectual standards of those entering the legal profession. The capacity to retain substantial knowledge of legal materials is only one small part of the competences that make a good lawyer. A good lawyer knows how to find legal materials, but not retain those materials. On our view, exclusively to valorise the capacity to retain knowledge as the core characteristic of a good lawyer is both archaic and odd.

The assessment proposed will inevitably be set at too basic a level to address the SRA's motivating concerns of inconsistency in degree-level standards. If the assessment is to fulfil its function of securing 'graduateness' in legal knowledge and skills, qualitative judgements will need to be made, which are much more demanding of candidates and in turn, much more resource-intensive. A more rigorous approach to the professional accreditation of existing providers is the obvious solution to this unavoidable nexus between standards and costs.

### 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?

No.

We think that there should be carefully tailored and properly validated exemptions for those who have passed similar assessments at an equivalent or higher level. This is particularly important, given the proposal that candidates may take the elements of the SQE on a modular basis over a period of time.

This way forward would also offer the greatest degree of flexibility in fulfilling professional standards, since it would allow intending solicitors to fulfil some, none or all of the Part I, or even Part II, requirements during their degree study. Those designing law degree programmes need to be at liberty to secure exemption from the most appropriate set of subjects, compatible with their other aims such as providing higher education in a 'liberal arts' discipline.

This flexibility is particularly important given that substantial numbers of our law graduates do not intend to qualify as solicitors in England and Wales. Our students are also called to the Bar and pursue legal careers in many other jurisdictions, as well as non-legal careers. The SRA cannot assume that higher education providers will simply adjust their curricula to prepare for the new SQE.

## Question 4

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

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

We have no strong view on this question, but have a mild preference for option 2, since this allows intending solicitors to make most use of any prior specialisation at degree level.

## 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?

Yes.

We would add that achieving 'graduate level' is best demonstrated, and will continue normally to be demonstrated, by attainment of an undergraduate honours degree. That is why any proposed changes must be integrated with the provision of higher education, and not duplicate assessment, creating unnecessary barriers to entry.

The suggestion in para. 56 of the consultation that the SQE will not be benchmarked to the FHEQ is deeply worrying, as it allows the SQE to escape the obligations associated with assessing the higher intellectual skills expected of graduates, and which we expect a qualified solicitor to be capable of demonstrating in a legal context.

We would remind the SRA that the current FHEQ statement of competence at graduate level is as follows:

Bachelor's degrees with honours are awarded to students who have demonstrated:

- a systematic understanding of key aspects of their field of study, including acquisition of coherent and detailed knowledge, at least some of which is at, or informed by, the forefront of defined aspects of a discipline;
- an ability to deploy accurately established techniques of analysis and enquiry within a discipline;
- conceptual understanding that enables the student:

to devise and sustain arguments, and/or to solve problems, using ideas and techniques, some of which are at the forefront of a discipline

to describe and comment upon particular aspects of current research, or equivalent advanced scholarship, in the discipline;

- an appreciation of the uncertainty, ambiguity and limits of knowledge
- the ability to manage their own learning, and to make use of scholarly reviews and primary sources (for example, refereed research articles and/or original materials appropriate to the discipline).

Typically, holders of the qualification will be able to:

- apply the methods and techniques that they have learned to review, consolidate, extend and apply their knowledge and understanding, and to initiate and carry out projects;

- critically evaluate arguments, assumptions, abstract concepts and data (that may be incomplete), to make judgements, and to frame appropriate questions to achieve a solution - or identify a range of solutions - to a problem;
- communicate information, ideas, problems and solutions to both specialist and non-specialist audiences.

And holders will have:

- the qualities and transferable skills necessary for employment requiring:  
the exercise of initiative and personal responsibility  
decision-making in complex and unpredictable contexts  
the learning ability needed to undertake appropriate further training of a professional or equivalent nature.

We would also remind the SRA of the 2015 Subject Benchmark Statement in Law, which can be taken as a description of 'graduateness' in a legal context:

A graduate of law with honours has demonstrated:

- (i) intellectual independence including ability to ask and answer cogent questions about law and legal systems, identify gaps in their own knowledge and acquire new knowledge, and engage in critical analysis and evaluation;
- (ii) self-management, including an ability to reflect on their own learning, make effective use of feedback, a willingness to acknowledge and correct errors and an ability to work collaboratively;
- (iii) awareness of principles and values of law and justice, and of ethics;
- (iv) knowledge and understanding of theories, concepts, values, principles and rules of public and private laws within an institutional, social, national and global context;
- (v) study in depth and context of substantive areas of law;
- (vi) ability to conduct self-directed research including accurate identification of issue(s) which require researching, retrieval and evaluation of accurate, current and relevant information from a range of appropriate sources including primary legal sources;
- (vii) ability to work with a range of data, including textual, numerical and statistical;
- (viii) ability to recognise ambiguity and deal with uncertainty in law;
- (ix) ability to produce a synthesis of relevant doctrinal and policy issues, presentation of a reasoned choice between alternative solutions and critical judgement of the merits of particular arguments;
- (x) ability to apply knowledge and understanding to offer evidenced conclusions,

addressing complex actual or hypothetical problems;

(xi) ability to communicate both orally and in writing, in relation to legal matters, including an ability to listen and respond to written and oral stimuli including questions and instructions;

(xii) engagement with their own personal and professional development, and academic integrity.

We suggest that the success or failure of the proposed SQE will turn on whether it can reliably assess these aspects of 'graduateness' in a legal context.

## Question 6

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

Yes.

## **Question 7**

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

We have no strong views on this question, but consider it very unlikely that competence can be secured without a minimum period of workplace experience.



## **Question 8**

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

A specification of competences will be useful in helping candidates prepare for qualification, but this should be in addition to, not as an alternative to a minimum time period.

## **Question 9**

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

Formalising the relevance of experience gained in advance of a post-SQE formal period of training risks further entrenching disadvantage in access to the profession and should be resisted.

## **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?

Yes.

## **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 1 and Part 2, to a specified performance standard?

Not applicable.

## 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?

Not applicable.

## 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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

It is questionable whether the SRA would have the evidential base to make judgments about the value of various pathways, even on a transitional basis before track records in preparing candidates for the SQE could be established. The fact that the Consultation Document sees the need for this reinforces the point we made in answer to Q1 above. The SRA should be engaging in more rigorous quality control of existing providers, which would in turn warrant retention of some concept of exempting qualifications.

## **Question 14**

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

We agree that a degree is not strictly necessary, although as indicated in our response to Q5 above, we think that a rigorous assessment of 'graduateness' as understood by the FHEQ and the Law Benchmark Statement (2015) is essential. We are convinced that a good honours law degree is the best way of demonstrating the requisite level of competence.

## Question 15

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

This question exposes the fundamental flaw with the proposal as an attempt to combine quality with diversity of access. If the SQE is simply pass/fail, it will be treated as a mere tick-box requirement for future employers and will have no impact on current recruitment practices. However, if scores and comparative performance are published, the cost will be substantially increased and, as the Consultation Document points out, better resourced candidates may be able to improve scores by retaking their assessments.

Even if comparative performance is publicised, we find it hard to see the value to candidates or their future employers of relative ability to retain detailed legal knowledge (or second-guess the pre-digested views of the assessment designer) as compared to the 'softer' but more significant skills such as ability to synthesise, explain and critique in one's own voice.

We therefore consider that such additional information is likely to be irrelevant and is better not provided at all.



## Question 16

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

It is not clear that the SRA will have access to 'training provider performance', since this assumes that candidates will be associated with a specific training provider at the time they attempt the assessment. It also assumes that the job of a 'training provider' is necessarily solely to prepare for the SQE. University Law Schools will have to consider carefully before taking on such a role. The logic of the proposals is that the connection between training provider and qualification is to be broken, with candidates being treated as independent individuals. That logic should be followed through.

## **Question 17**

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

We find it inconceivable that the proposal will not add to the costs of achieving Part I qualification. These may be off-set by savings at Part II, but regardless of that, costs could be substantially reduced by a properly-tailored exemption system for the elements of legal knowledge set out in Part I.

## **Question18**

Do you have any comments on these transitional arrangements?

These seem adequate from our point of view.

## Question 19

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

None.

## Question 20

Do you consider that this development timetable is feasible?

No. Although the decision in principle to introduce an SQE will be made in 2016, the statement of legal knowledge by itself is not detailed enough to design a curriculum (or for that matter assessment by an 'assessment organisation'). This level of detail will only become apparent during the development and testing of the SQE planned for 2017-2018. At least a whole academic year is needed after the finalising of model assessments to develop appropriate curricula. This points to an introduction date of 2019/2020 at the earliest.

There is a related point to be made about the legitimacy of the new SQE. As will be clear from our answers above, we are very sceptical that it can be designed in a way to assess 'graduateness', and we suspect that that scepticism is shared widely across legal higher education and the profession. The development of prototypical assessments will be a key element of securing the legitimacy of the new framework. We would argue strongly that sufficient time should be allocated to the development and trialling of any proposed assessment model before a decision in principle be made about whether the SQE is the right way forward for the profession.

**Thank you for completing the** Consultation questionnaire form.

Please save a copy of the completed form.

Please return it, along with your completed **About you form**, as an email attachment to [consultation@sra.org.uk](mailto:consultation@sra.org.uk), by **4 March 2016**.

Alternatively, print the completed form and submit it by post, along with a printed copy of your **About you form**, to

SQA consultation  
Solicitors Regulation Authority  
Regulation and Education  
The Cube  
199 Wharfside Street  
Birmingham  
B1 1RN

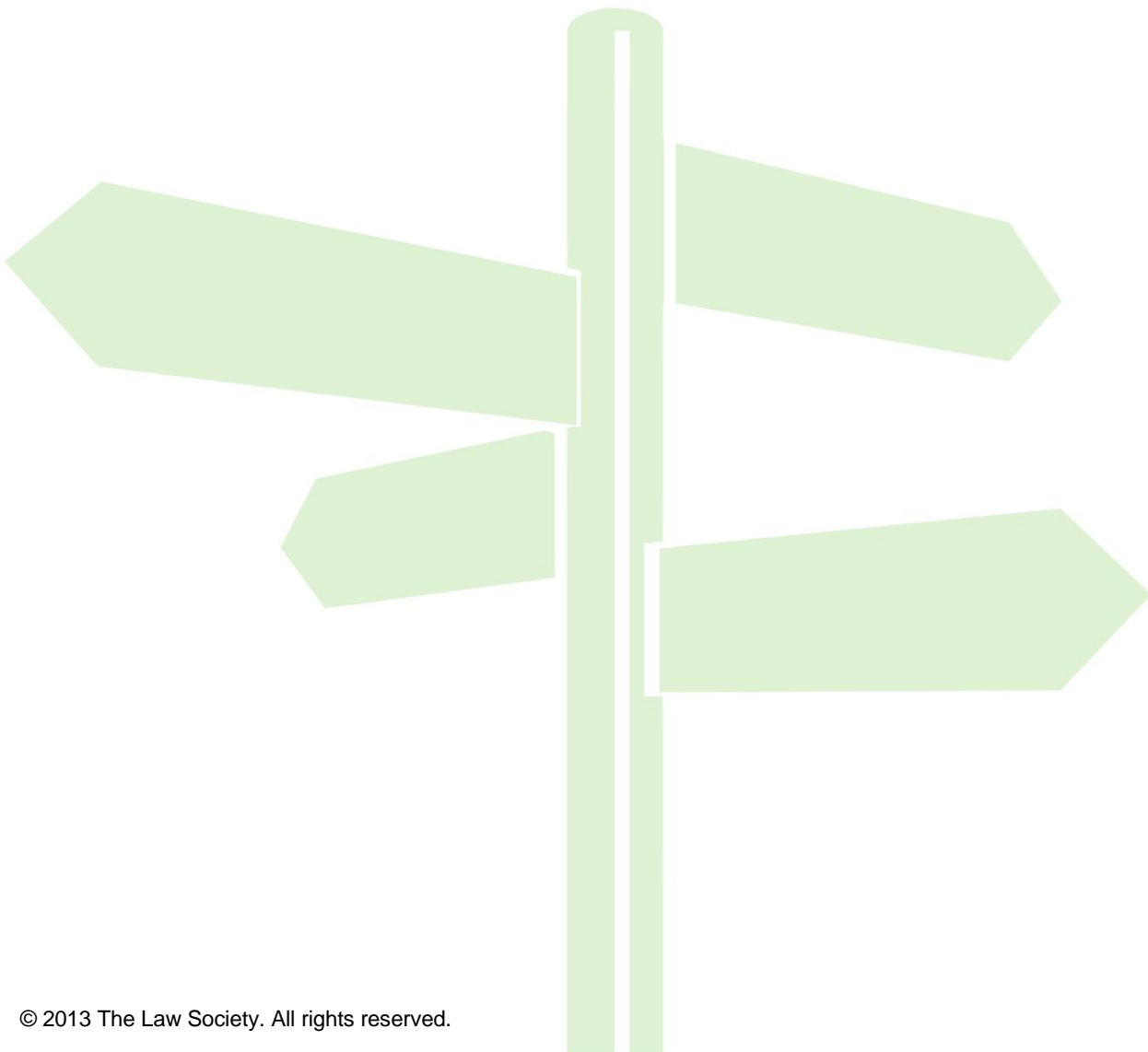


The Law Society

## **SRA Training for Tomorrow: Assessing competence**

Response of the Junior Lawyers Division of the Law Society

March 2016



# **SRA Training for Tomorrow: Assessing Competence**

## **Response of the Junior Lawyers Division of the Law Society to the SRA consultation Training for Tomorrow: Assessing Competence**

The Junior Lawyers Division (JLD) is a division of the Law Society of England and Wales. The JLD is one of the largest communities within the Law Society with over 70,000 members. Membership of the JLD is free and automatic for those within its membership group including LPC students, LPC graduates, trainee solicitors and solicitors one to five years PQE.

The JLD considers it appropriate to respond to this consultation in the interests of its members. Several local JLD groups wished to support our response with an additional statement, which we have appended to this consultation response.

We have very significant concerns as to the lack of detail surrounding key elements of the Solicitors Qualifying Examination (“SQE”). The SRA has correctly identified some of the issues with the existing system of qualification, in terms of the inconsistency of education and training, a perception of a “two tier” system, and arbitrary barriers to qualification that hinder social mobility, including both the cost of qualifying and recruitment trends. However, we do not consider that the proposals of the SRA in their current form address any of these issues, and could potentially exacerbate them.

The JLD is supportive, in theory, of a consistent centralised standard and recognises that there are limitations with the current system of education and training. However, we feel that the consultation has “skipped a step” in that it is not seeking views on either of Options 1 or 2 which were considered in addition to Option 3 as a result of consultation on the Statement of Solicitor Competence. The JLD finds it incomprehensible that the SRA would propose the biggest reform to solicitor education and training for many years, yet have failed to properly consult and seek the views of stakeholders in respect of all possible options. We appreciate that the consultation states that the options are not mutually exclusive; however in not actively seeking views on them it does signal that Option 3 is potentially a forgone conclusion and risks discrediting the consultation process.

The JLD wrote an open letter to the SRA in November 2015, prior to this consultation, briefly outlining some of our concerns. The SRA has not responded to our letter or, as far as we can tell, considered any of our concerns in writing its proposals. What’s more, the fact that guidance on how the legal apprentice route to qualification fits in with this new centralised qualification framework has already been published alongside government guidance to legal apprenticeships, leads us to believe that the SRA has already made its decision, notwithstanding the result of this consultation.

The JLD has considered each question asked by the SRA in the Consultation and provides its answer below.



## 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?**

As far as the SRA will be able to control the method and content of the SQE, the JLD agrees that it is one method of focusing regulatory effort more rigorously on consistency. There are obvious benefits to concentrating regulatory efforts on a single standard which candidates must satisfy at the point of entry, and the JLD is in favour in principle of increasing clarity and consistency. However, ensuring high standards at the point of admission is about much more than sitting a set of exams. Candidates must have been involved in a rigorous process of development prior to admission, which includes a combination of education and training. We understand that the SRA will consult on the level of work experience required at a later stage but we stress that regulatory resources must also focus on the quality of vocational training in order to ensure that there are both consistent and high quality standards for newly qualified (“NQ”) solicitors.

The JLD considers the removal of unjustifiable barriers to be vital to any reform to the system for qualification, and the one that is least likely to be met by the current proposal. The JLD is concerned about what has been omitted from the ‘barriers’ identified by the SRA, and considers that additional barriers will be created by the introduction of the SQE as currently proposed. In the response to this question we will focus on two artificial barriers: the cost of qualifying and access to periods of recognised training (“PORT”).

### Cost

The consultation document states that public funding is not available for the LPC, but this disregards the fact that post-graduate commercial funding is available. If the SRA removes the requirement of following prescribed pathways into the profession, the non-compulsory nature of any new preparatory course for the SQE means that they may not be eligible for these loans. This will put qualification beyond the reach of those who do not have the means to fund it privately, or are not being financed by their employer. This level of financial risk will be particularly unwelcome to candidates from low and middle-income backgrounds and thus will have a negative effect on social mobility as these candidates could be less likely to pass the SQE, and may also be seen as less attractive candidates without having completed a post-graduate course on their CV.

We would therefore ask the SRA to consider how to bridge this gap in funding, and to engage with financial institutions at an early stage to explore ways in which lower income individuals can fund their route to qualifying.

The SRA says that costs of any preparatory course will fall due to the non-compulsory nature of the course, however the consultation document acknowledges that this is entirely dependent on ‘employers, universities and training providers taking advantage of any new flexibilities’. Education providers will have to make a choice about what type of course(s) they are able to provide.

The JLD would like to see the evidence of this. The EDI Impact Assessment acknowledges that few universities will be willing to absorb the cost within the price of a degree.

What is far more likely, in the JLD's view, is that course providers will add the SQE content at an additional cost, or even as a separate course. Pre-1992 universities may not be willing to amend the content of their degrees, which potentially attract students from all over the world, to adapt to the new pathways. If this is the case and a student intends to obtain their qualifying law degree ("QLD") at such an institution, they will have to find additional funding if they want to undertake a preparatory course for the SQE itself.

Post-1992 universities may feel it more appropriate to compete by offering an SQE preparatory QLD. This could lead to a two-tier market in the Higher Education System.

If any preparatory courses are developed which are additional to the undergraduate degree (or equivalent level courses), then candidates will have to find the means to fund both this and the SQE assessment. Again, this creates a clear barrier that could prevent the best and the most able from qualifying.

Candidates will be forced to choose, at an even earlier point in their careers, which branch of the legal profession they wish to follow, as under the SRA proposals those who do not undertake a law degree could qualify as a solicitor but not as a barrister. If certain universities offer a more liberal arts degree instead of a traditional LLB and, so, aspiring solicitors taking the course have to find further funds to undertake a subsequent SQE preparatory course, this creates a barrier which does not exist for aspiring barristers. This will not facilitate the SRA's obligation to foster cross-qualification between professions and will lead to a perception that the route of becoming a solicitor is the "dumbed down" option. Further, many individuals do not know at the age of 18 whether they want to be a solicitor or a barrister, so the SRA's argument that there is no need for a degree is a red herring. Individuals are likely to still consider that they need one, in order to keep their options open.

#### Availability of PORT

The consultation rightly highlights access to PORT as a barrier to qualification. Equivalent Means has provided the potential for a fair and accessible means of entry for those individuals working in a similar capacity as a trainee. By removing the requirement for them to complete a PORT in circumstances in which a candidate can demonstrate that they have developed the same skills a trainee solicitor on a formalised PORT would have done over a similar period of time, they can still qualify as a solicitor.

The JLD would be very keen to see equivalent means maintained, if not the ethos and underlying principles of it, particularly when addressing the issue of workplace experience under the SQE.

However, although the requirement to complete a PORT does operate as a substantial bottleneck, it would be short-sighted to assume that removing the requirement to complete a PORT would achieve the goal of opening access to the profession.

If it were possible to qualify as a solicitor without first completing a PORT, or some other type of workplace experience, then qualification would occur on completion of the relevant course. The playing field would be levelled such that NQ solicitors are entering the market in their thousands, rather than LPC graduates, and the focus of the competition would shift to NQ jobs. The bottle neck would not disappear, it would simply move. Furthermore, consumers would be duly concerned if the legal professional they were engaging had little or no practical experience.

## **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?**

No.

At this stage is not clear exactly what the proposed model assessment is, therefore it is not possible to answer this question in the affirmative. The JLD considers that this question will only be appropriate once the further consultation on assessment methods is underway.

The JLD considers that the Functioning Legal Knowledge Assessment should not be examined by the use of objective testing alone. In particular, multiple choice questions are not, in the JLD's view, a thorough and robust assessment of knowledge.

For example, in a four option scenario, it may be possible to rule out two obviously incorrect choices immediately, leaving a fifty per cent chance of selecting the correct answer. This is further exacerbated by the fact that multiple attempts at the assessment are permitted. If, for example, the questions are only changed annually, but the assessment is attempted monthly, it will quickly become apparent which are the correct answers.

Although there are some areas of Legal Knowledge which may be suitable for objective testing (e.g. solicitors accounts), the process of drafting an answer to a question requires the candidate to demonstrate a high level of knowledge, awareness and understanding of the topic. It also further develops communication skills, the development of which has been remarked upon as lacking in the Legal Education and Training Review. It is the appropriate application of legal knowledge in a specific context that is important.

The JLD has particular concerns about the form of the model assessment. Whilst it is acknowledged that the SRA will be holding a further consultation on this issue, we wish to make two points at this stage (these are not exhaustive):

- *Unlimited assessments* - this raises serious concerns about the competency of the individual. In our view, it would be reasonable to expect the candidate to reach the required standard within a certain time frame. Candidates with the benefit of unlimited means will be able to make repeated attempts at the SQE and thus gain an advantage.
- *Qualified lawyer transfer scheme ("QLTS") used as an example of how the SQE could succeed in practice* – this is not an appropriate example, as where

an individual qualifies by QLTS, there is an established pathway in the candidates' qualifying country which they are required to follow first. The SQE is not suitable alone; it must have an underpinning basis.

Questions which the JLD considers it pertinent to address include the following:

- How long will each of Parts 1 and 2 be?
- Where will they be assessed?
- How much will it cost to take Part 1 and Part 2?
- Will candidates be able to split the cost?

### **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?**

If the SQE was sufficient in producing high quality solicitors, and on the basis that the JLD agrees that consistency should be increased, we agree, in principle that if the SRA's motivation for implementing the SQE is consistency then the only way to ensure that is for every aspiring solicitor to have sat the same examination.

In addition to the concerns raised at Question 2 above, the JLD considers that some form of graduate level and post-graduate study, combined with work experience, should be part of qualification, other than for lawyers qualified in other jurisdictions, but their pathways will already have been specified and achieved (we would support those individuals only having to take the SQE).

The possibility of cross qualification for legal executives and barristers should be carefully considered. If these individuals were exempt from all or part of the SQE, but both of those pathways continue to involve graduate and post graduate level study and a period of work experience, then a solicitors profession not including these elements could be perceived as the lower quality legal professionals.

In addition, the JLD are concerned that despite the SRA's assertions that only the only exemptions are those prescribed by EU law, the SRA have recently openly stated that they are now considering exemptions for those that are CILEX members and those at the Bar. It is concerning that the SRA appears to be making further decisions before the consultation has closed and they have received the responses from stakeholders.

### **Question 4**

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

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?**
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?**
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?**

The JLD considers that the central issue at stake is the demonstration of the skill, which should be applied universally irrespective of legal area. Since the SRA has highlighted that the standards are different across training contract providers, it seems logical to minimise this by setting a single standard in as many different contexts as possible.

We repeat our concerns surrounding the current lack of details of what these assessments will entail.

We feel that candidates should not be able to choose the context in which they are assessed. The choice should be pre-determined, therefore employers cannot be swayed by the candidates context choices in terms of how far these are aligned to their own areas of practice.

### **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?**

We know that graduate study provides intellectual rigour and discipline, both of which are qualities that are essential to the practice of law. By virtue of undertaking graduate-level study, the candidate matures emotionally and professionally during their period of study.

Further, the experience gained in undertaking a graduate level qualification, be that CILEX or a degree, requires the candidate to demonstrate critical thinking and the ability to study independently, both factors that are intrinsic to the role of a solicitor. We wish to make clear that when referring to “graduate level study” we mean both traditional degree courses and equivalent level courses such as CILEX. There are significant economic barriers to embarking on undergraduate study in England & Wales and for these reasons the JLD considers that level 6 or equivalent courses should be recognised.

In order to maintain the high standards and reputation of the solicitor profession the entrants should be of the highest academic ability. It is noted that currently, the Bar Council intends that a degree should remain a requirement for qualification as a Barrister. Furthermore, other industries such as nursing and the police are considering making a degree an entry requirement. Being educated to “graduate level” is an increasing pre-requisite to many professions, and it is incongruent that the SRA propose removing this requirement for solicitors. The JLD is concerned that this would reduce the confidence of consumers in the quality of solicitors.

### **Question 6**

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

Anecdotal evidence provided to us directly, and opinion from the profession as a whole, comes to the resounding conclusion that some element of work experience is necessary to qualify as a solicitor. The message cannot be clearer. Our members have told us that the completion of the training contract was when they ‘learned to be a solicitor’ and as such we consider workplace experience to be essential,

particularly as the consultation itself acknowledges that there are competencies which cannot be assessed by either Part 1 or Part 2 of the SQE.

However, although the requirement to complete a PORT does operate as a substantial bottleneck, it would be short-sighted to assume that removing the requirement to complete a PORT would achieve the goal of opening access to the profession.

If it was possible to qualify as a solicitor without first completing any kind of training contract, or some other type of workplace experience, then qualification would occur on completion of the relevant course. As we explained above, the market could be changed such that NQ's are entering it in their thousands, rather than LPC graduates, and the focus of the competition would shift to NQ jobs.

Consumer protection is one of the key roles of the SRA and the JLD would be concerned if the SRA were condoning people being admitted to the profession and calling themselves solicitors having little or no practical experience.

The SRA is right to acknowledge the issue of diversity in trainees/NQs compared to LPC graduates, but there are deep underlying reasons for this that cannot be resolved by the removal of a requirement to complete a PORT.

It also states that having a degree is not considered to be an essential requirement of becoming a solicitor. This position surely comes from the historical nature of training which meant that it was possible to qualify as a solicitor solely through work-based learning i.e. the workplace provided the knowledge so a degree was not required. Without a degree, and without any work placed learning, all that is left is self-study. The damage that would be caused to the reputation and quality of solicitors in England & Wales, if the requirement of graduate level education and practical experience was removed, is incalculable and would likely be irreversible.

There is a real risk that, if few understand exactly what you have to do to become a solicitor, the value of the qualification will be greatly diminished.

We would also go further than to say that some element of "work experience" must be included. We would like to see a positive obligation for training, and not just work experience. Properly regulated training is the best way to ensure that NQs of consistently high quality are produced. The "work experience" element must be more than just time spent.

## **Question 7**

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

The JLD agrees that a prescribed minimum is necessary, however this need not be limited to being completed at a specific stage provided that the necessary standards and competencies can be achieved. For example, if a candidate has significant prior experience, this should be capable of recognition. To this end, the equivalent means rationale is still relevant and it should not be removed completely. We suggest that there should be both a minimum time period of total work experience and that there be a minimum period of time spent in an area of law in order for that experience to be included. It would be nonsensical if, for example, a candidate could piece together

the requisite amount of work experience through a substantial number of placements of just a few weeks.

We suggest that a minimum of a 3-6 month period in a particular area of law would be appropriate, with this experience being recognised even if it was gained at different firms and we consider that the current requirement of gaining experience in at least three areas of law to be of value, providing both opportunities for trainees to gain experience in new areas of law, and also for them to develop their skills in different contexts. A long-stop could be applied so that the different periods all had to be accumulated within a particular time frame, subject to making reasonable adjustments for absences resulting from long term illness or maternity leave in accordance with the law.

### **Question 8**

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

The JLD considers it appropriate to specify both competencies and a minimum period of training. In our view, it would not be desirable for someone to be able to qualify as a solicitor immediately upon completion of academic study alone, but equally, any work experience must involve the active development of an individual's skills, and not just be "time spent".

At present, the two year period of the training contract can be of varying quality. Without any clear guidance or any real prospect of inspection, firms are left to their own devices and inconsistencies in the quality of the training of the solicitor can result.

It is desirable to allow differences in individual candidates to be recognised. Much as with equivalent means, if a candidate with extensive experience of working in a paralegal environment doing the same work as a trainee passes both Part 1 and Part 2, it seems nonsensical to expect them to complete a PORT also. It is anticipated that these examples will be in the minority however, and that many paralegals will need to complete some form of work experience in order to successfully pass Part 2. It is clear from our members that the variation in standards across firms allows for substantial discrepancies in the quality of training. This issue could be adequately addressed by the SRA now without the need for SQE by the SRA properly regulating training, however it is clearly going to form an important part of the assessment framework. We look forward to the SRA's later consultation on this element.

### **Question 9**

#### **Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

This response is predicated on the assumption that the Part 2 assessment will take place once the work experience element is completed, or is at least underway. If the competencies and their assessment methods are sufficiently standardised, then there should be no reason why a candidate cannot obtain their required period of work experience from a variety of organisations. Granted, different firms will assess the competencies in different contexts.

If the aim of the SQE is to remove artificial barriers then it seems logical to adopt this approach on the issue of work experience. However, the work experience must include legal work of sufficient quality which is properly supervised by a qualified solicitor of appropriate seniority.

#### **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?**

Yes. The JLD considers that an element of workplace assessment could go some way in raising the standards of training and, as we consider high quality training to be so important for reasons already specified, we consider this a necessary use of resources of both firms and the SRA.

The JLD would be concerned if the SRA were attempting to remove the obligation of regulating the level of practical training required to be given to aspiring solicitors.

#### **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 1 and Part 2, to a specified performance standard?**

N/a

#### **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?**

As the JLD is not an employer we do not consider it appropriate to provide a direct response to this question. However, given the SRA's stated aim of ensuring consistency of standards, we would welcome a toolkit of guidance and resources. At present, firms are left to their own devices to manage trainees' learning. If this is to be an effective part of the SQE, they need the appropriate materials to enable them to perform this function.

Inspection of firms by the SRA to ensure quality of training will be required and a helpline for trainees to call would also be useful. A toolkit would also assist trainee solicitors in understanding the kind of training which their firm should be giving to them, and could be used as a benchmark to seek further support which aids in an individual's development.

#### **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:**

- a. support the credibility of the assessment?,**



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

The JLD considers that prescription and regulation of training pathways is necessary for both (a) and (b), and that this extends beyond a transitional period.

As outlined above, an inability to clearly assess what is required to qualify as a solicitor is potentially extremely damaging to the profession. Consumers and future lawyers may be confused at the lack of certainty of how someone came to be qualified.

Annex 3 states that 'Consumers don't know and don't care how the Solicitor title is acquired and so the title trumps how it is acquired'. The JLD would be extremely keen to see the research/evidence of this, as we do not agree that consumers do not care about this. Consumers make assumptions as to the background of a solicitor and clients sometimes ask our members what "stage they're at". It could be the reason that they do not appear to care is because they assume that a solicitor has gone to university or law school, but they do not necessarily understand exactly what qualifying entails.

The specification of entry requirements for the SQE is essential for both (a) and (b), and in our view those entry requirements should be as specified at our response to Question 3.

If there are no entry requirements, then the perception that 'anyone can take it' will be incredibly damaging to the reputation of the profession, particularly initially when the rigour of the assessment is not proven. It will not be easy for consumers, competitors or employers to understand the route taken to become a solicitor and the perception that 'all I had to do was sit an exam' will be incredibly damaging to the reputation of the profession, regardless of whether or not it is true.

**Question 14**

**Do you agree that not all solicitors should be required to hold a degree?**

Yes, however the JLD considers it important that candidates are able to demonstrate that they have been educated to degree level, for example by completing the CILEX examinations or apprenticeship.

There has always been a degree-free route to qualification, and the JLD believes that this should remain the case as it is important for social mobility.

However, the historic degree-free routes still followed a specified programme of study, which had available published standards. It is possible for consumers and employers to look at the course content and understand what had to be covered. The JLD has not seen any evidence that this will cease to be the case. Employers in particular will want to understand a candidate's educational and practical experience prior to qualification.

**Question 15**

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

The JLD considers that information about individual performance will be beneficial to candidates, particularly where they are required to take re-sits. An understanding of previous performance will assist in preparing to re-take the assessment. We would certainly consider that publishing the number of resits would be beneficial to both candidates and employers, and might limit the advantage which more affluent candidates may have.

The SRA has stated that an objective of the SQE is to remove barriers to entry. If the SQE proceeds as proposed, it is argued, that candidates will be able to show that they are as good as those applicants from Oxbridge and Russell Group universities, because they have passed the exam.

Ignoring the fact that showing this will come too late in the recruitment stage for many firms (especially now that these decisions are made even earlier due to the SRA no longer being a signatory to the recruitment code of conduct), completion of a post-graduate course alone is unlikely to displace the esteem in which a QLD from certain institutions may be held.

It is implicit in the language used by the SRA in the consultation document that candidates will have to undergo some form of post-graduate study. The JLD agrees that this is likely and thus it underlies the majority of our concerns. In the absence of more rigorous practical training, firms are likely to require that candidates continue to pick up the expertise currently gained on the LPC prior to joining as an employee. In the absence of funding options outlined above, the way in which a candidates funds this course is of great concern to the JLD.

Furthermore, candidates may need to be able to demonstrate how they have performed in order to show their strength as an applicant to future or current employers. If they only receive a competent/not-competent mark for the SQE, then employers may need to trace back further in their academic history to identify differentiating factors, effectively leading back to square one. The JLD maintains that it is unjust to recruit a trainee solicitor or NQ based heavily on A-level grades achieved some years before during a student's teenage years. We agree with the comments at paragraph 84 of the consultation in this respect.

## **Question 16**

**What information do you think it would it be helpful for us to publish about:**

- a. overall candidate performance on the SQE?**
- b. training provider performance?**

Transparency is of paramount importance.

Once again the JLD considers it implicit by the inclusion of this question that candidates will have to follow some kind of preparatory course.

Statistics showing the various scores may aid the credibility of the assessment and the level of preparation provided by certain providers.

We would ask the SRA for clarification with respect to part b. Does 'training provider' in this context mean preparatory course or workplace assessment provider? Success

rates of the various course providers would be beneficial so that candidates can best determine where to part with the course fees.

It would be useful if the statistics encompassed whether or not a candidate took a preparatory course at all, so that candidates could assess the risk of 'going it alone' and attempting the Part 1 assessment after independent study.

The JLD would also strongly support the publishing of the performance of firms/organisations who run programmes (we imagine similar to a PORT) for the work experience element between Parts 1 and 2 of the SQE. If firms were required to release the percentage of their trainees who pass Part 2 as a result of their training, then we consider this is extremely likely to raise standards and protect trainee solicitors from exploitation. We are concerned that some organisations may hire individuals on a temporary contract on a promise that it will prepare them for the SQE Part 2, and then provide inadequate training, so the individual does not pass, and may lose their job as a result.

It would also increase competition between firms, as they will be able to market their training programmes using their SQE Part 2 pass data.

#### **Question 17**

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

Large international and City firms will continue to value candidates from particular institutions, and who have particular experience. Removing the current requirements will do nothing to influence this. However it will affect the ability of candidates from low socio-economic backgrounds to attend these institutions in the first place, due to the constraints placed on their ability to obtain funding as outlined in our response to Question 1.

At present, the firm providing the training contract has the final sign-off on the qualification of a trainee solicitor. The removal of this control may make firms focus even more closely on A level grades/UCAS points, first (or second) year undergraduate degree results and the completion of work experience when selecting candidates, because they will want to be even more certain in that candidate's ability to pass Part 2 of the SQE. This would potentially have a negative impact on social mobility, as those candidates from low and middle socio economic backgrounds are known to be disadvantaged by this approach to recruitment and their lesser ability to access informal work experience opportunities.

If the market behaves as the SRA hopes and includes SQE preparation as part of an undergraduate course at no additional cost, then the cost of qualification will become cheaper. However, this is dependent on firms and organisations acting in a certain way. Until the SRA shares its research and evidence with us, we cannot be convinced that this will be the expected result of any reform. The SRA cannot purport to have the ability to positively influence the legal market to enhance diversity and inclusions.

## **Question 18**

### **Do you have any comments on these transitional arrangements?**

Firstly, we would point out that if the motivation for the SQE is quality, then its implementation must not be rushed, and educational providers must be given ample time to write and implement courses which best prepare individuals for the SQE, so that money is not wasted on inadequate courses, which might mean “top-up” courses will be required.

We consider that the idea of candidates choosing which route to take may cause confusion as to which route is preferable for an individual. We would also point out that currently, many individuals paralegal for a number of years before obtaining a training contract, and then are recruited for the intake two years subsequent to their application.

It is also unclear how any transitional provisions might affect career changers and other legal professionals (legal executives and barristers who might want to cross-qualify).

We are strongly in favour of equivalent means remaining during the transitional period, particularly as the PORT may disappear in its present form as firms transition to their new training arrangements, meaning that LPC graduates would have no other means to qualify. We envisage that LPC graduates will not choose to move to the SQE route during this time, and so they must be able to use their legal work experience to qualify, where they have done a sufficiently high quality work.

## **Question 19**

### **What challenges do you foresee in having a cut-off date of 2025/26?**

We repeat our concerns in the response to question 18 above. We also consider that, if the implementation date is pushed back, so should the long-stop.

If the SRA is intending that students will have the opportunity to qualify without obtaining a degree, then it must follow that the implementation date must allow for a longstop date which is at least 7 years later. This is because anyone who has, possibly unnecessarily, invested in a university education on the assumption that this is the quickest and most straight forward way to becoming a qualified solicitor, should be allowed to continue on that pathway, with the benefit of a QLD offering the same exemption to the knowledge element of qualification as it does now. Given that students apply to university at the end of the first year of their A-levels, we have suggested this minimum timeframe, but would prefer it to be longer, given that it will take some time for the market, law firms, education providers, and aspiring solicitors, to properly understand what is expected of them.

Given that so many individuals now paralegal for a number of years prior to obtaining a PORT, it is not inconceivable that unqualified LPC graduates may still exist, particularly if an individual has taken a break after completing their LPC, perhaps for family or health reasons. We would not see these people discriminated against because they “missed the boat”, particularly as, as far as we know, the SRA has no way of tracing or contacting all LPC graduates to let them know of these restrictions, which we consider to be a significant reason why the take up of equivalent means has not been huge – many do not know about it or understand the process.

## **Question 20**

### **Do you consider that this development timetable is feasible?**

We do not consider that this question is suitable for a response until we understand the proposals in more detail. The SRA has not provided enough detail in order for us to respond.

## **Local Junior Lawyers Divisions groups - supporting statements**

### **Bristol Junior Lawyers Division**

We agree with the initial response of the Junior Lawyers' Division that the SRA has not conducted an appropriate level of pre-consultation public discussions before deciding that a centralised assessment of competence would be a suitable approach.

We agree that the current standards of training vary and a change could be appropriate to ensure that all newly qualified solicitors are trained to the same standards. The idea of a solicitor's qualification exam could work but much more detail is required about how this would work in practice.

The costs to qualifying are already high, what would the cost implications be for the centralised assessment of competence? Would commercial funding still be available?

The cost implications also have an impact on social mobility and it is important that the profession is diverse and has solicitors from all backgrounds. Would the solicitor's qualification exam decrease the current attainment gap? We have concerns that whilst one of the objectives behind the SQE is to enhance access and increase diversity, it may actually achieve the opposite. The largest commercial firms have the resources to invest in thorough training for their aspiring solicitors, but smaller and medium sized firms may not be able to offer the same opportunities. If the decision is made to implement the SQE and a timeframe set for deploying it, before proper consultations and details are determined, the risk is creating additional barriers to qualification for those who are already under-represented in the profession.

Before deciding if dramatic changes such as an SQE should be adopted, it is vital to determine how such changes would be implemented. Whilst we accept there is a need to ensure minimum competencies are met by all new solicitors, there is a risk that "change for the sake of change" could make the situation worse, causing problems for future solicitors, law firms, education providers, and most importantly for the public who purchase legal services.

There is a lack of detail in the current consultation from which a lot of questions arise.

The current proposal is not detailed enough for us to consider fully and we would welcome a further consultation period once there is a detailed and considered proposal.

## **Halifax & Huddersfield Junior Lawyers Division**

The Halifax & Huddersfield JLD (“H&H JLD”) represents junior lawyers (students, LPC graduates, trainee solicitors and solicitors up to 5 years PQE) throughout Kirklees and Calderdale.

The H&H JLD committee members are concerned about the implications of the SRA’s proposal for a centralised exam.

The H&H JLD are in support of the concerns raised by the Junior Lawyers Division in their response to this consultation.

To summarise, the H&H JLD is anxious that the SQE will not only jeopardise the integrity of the profession but also hinder social mobility. A lack of information has been provided to enable proper consideration of the SQE and whether it will effectively assess competence, although it is of concern that the SQE does not appear to require any prior education and/or work experience to enable an individual to qualify as a solicitor. There has also been a lack of detail as regards to the cost of the SQE and external funding.

The Halifax & Huddersfield JLD is supportive of a centralised examination in general.

## **South London Junior Lawyers Division**

The South London Junior Lawyers Division represents solicitors (up to 5 years PQE), trainees, paralegals and students who live, work or study in South London.

- What effect will the SQE have on the quality of newly qualified solicitors?

We have some concerns about the effect that the SQE will have on the quality of newly qualified solicitors. Removing the need for a qualifying law degree/ GDL and LPC could lead to prospective lawyers taking unregulated “crammer courses” in order to pass the SQE, without having developed the skills needed to be a competent solicitor.

- What is the importance of each of (a) the level of education required prior to taking the exam, and (b) the practical/work experience element of the proposal, and what should this entail?

It is very important that the reputation of the profession is upheld in any changes that are made to the routes to qualification. We believe that its reputation could be damaged if it is no longer seen as a “graduate profession” for which a degree (or equivalent) is required, especially given that a number of professions now require applicants to have a degree. The period of study during a degree and GDL/LPC is also important for personal development and the learning of key skills needed to be a solicitor.

The practical/ work experience element of the SRA’s proposals is also vitally important, as consensus tends to be that most people learn the skills that they need to become competent lawyers during their training contract. We believe that a period of at least two years’ work experience should be retained, although there

could be greater flexibility than the current training contract allows (e.g. removal of the need to complete experience in a contentious area).

- What effect will the proposals have on social mobility?

We believe that the proposals may have an unintended negative impact on social mobility. Firstly, it is possible that the new system will be more expensive for prospective lawyers, as it is likely that they will have to pay for a degree, some kind of SQE preparatory or crammer course, plus the SQE itself. Secondly, the ability to re-sit the SQE an unlimited number of times could lead to a situation where those who can afford to take the exam again will do so, which could have a negative impact on equal opportunities and diversity within the profession. There are also statistics to show that for judicial exams, for example, women and ethnic minorities and state school educated students are less likely to re-sit the exam if they fail than privately educated, middle class white males who will re-sit the exam as many times as it takes them to pass it. If the exam really is as difficult as the SRA is indicating it will be, this might mean that the fail rate for first attempts might be quite high and so women, minority groups and state educated individuals may be deterred from re-sitting the exam, thus reducing equality and diversity in the profession. Finally, there is a risk that a two-track system may emerge, with some solicitors who have qualified through a more “traditional” route (i.e. a degree, SQE preparatory course and a structured period of work experience) being more highly regarded than those who have qualified through an alternative route.

We do welcome the opportunity for those who may have worked as paralegal for a number of years, (potentially doing the work of a qualified solicitor), to qualify without the need to complete a training contract or further assessments. This is, however, already an option under the existing equivalent means route.

In summary, we do not believe that the proposed system will achieve higher standards in the legal profession any more so than the existing arrangements. A preferable method of improving standards would be to reform the current system so that there is greater consistency of performance across LPC and training contract providers. This could be achieved, for example, by instituting greater regulation and monitoring of institutions and law firms, and by setting a SRA written exam that is taken by all students at the end of the LPC.

### **Nottinghamshire Junior Lawyers Division**

The NJLD welcomes any change that will demonstrably bring about an improvement to the current system. However, in our view the current proposals by the SRA to dramatically overhaul the pathway to qualification and introduce the SQE will have the opposite effect to what it is intended i.e. it will result in a fall in the standard of individuals entering the profession, reduce social mobility and impact trust in the profession.

The current system requires solicitors at the point of qualification to have undergone several stages of academic and vocational studies (or equivalent means) followed by a period of workplace training. The SRA’s proposals to overhaul the system will result in the removal of all of these stages to be replaced with a single set of exams. The NJLD strongly opposes this. The NJLD is concerned that this will not only result in a significant reduction in the quality of solicitors’ entering the profession but also loss of consumer confidence in the

profession. The UK legal profession is one that is highly regarded internationally, and the proposed changes are also very likely to impact the reputation of the profession on an international level.

The NJLD is particularly concerned about the proposals to remove the period of workplace training. This element of the current route to qualification is, in our view, an extremely important part of the qualification process, without which the standard of solicitors entering the profession will certainly not be improved. Workplace training is the first time a future solicitor learns the skills needed to become a solicitor. The NJLD strongly believes that that training simply cannot be achieved by passing a set of exams.

The SRA has a responsibility to ensure that intending solicitors will be qualifying with the requisite skills to be able to compete on an equal footing in a competitive market and to ensure that legal education and training pre-qualification is as broad and as rigorous as possible. It is difficult to see how consumers can be protected if intending solicitors are not required to undertake a significant period of work based learning. The prospect of a 'solicitor' who has passed the SQE providing legal advice without having ever previously worked at a law firm, is a daunting thought indeed, and surely goes against the principles of "providing a proper standard of service to your clients" and "behaving in a way that maintains the trust the public places in you and in the provision of legal services".

The NJLD is also concerned that the huge amounts of work that has been done to increase social mobility within the profession will be undone as a result of these new proposals. The costs associated with the SQE are not at all clear. Undoubtedly the introduction of the SQE will result in the introduction of some form of SQE preparatory course which will need to be funded by candidates. The cost of the exam has not been detailed and furthermore it is our understanding that the SQE will fall outside the scope of eligibility for professional development loans, a luxury the LPC is afforded; in turn limiting access only to those in a position to self-fund. In addition, the courses are likely to be designed simply to enable students to pass exams, which under the current proposals, can be re-taken an unlimited number of times. Passing these exams will not guarantee a candidate employment and if the proposed changes come in to effect we will be faced with a situation where hundreds of candidates who are able to fund the preparatory course and exams have invested thousands of pounds to pass the exams, hold the title of "solicitor" but ultimately do not have employment. This also results in a diminution in the value of what is a protected job title. It will also exclude good candidates who do not have the means to fund the course and exams from being able to enter the profession.

We note that the approach proposed by the SRA ignores the primary findings of the Legal Education Training Review ("LETR"). Most notably, that the current system is broadly fine and fit for purpose and that small scale changes could bring about the required improvements. With many members of the NJLD having recently completed the current course of education and training, we support the LETR's findings and recommendations.

This response has been prepared by members of the NJLD committee who in turn represent the interests of over 200 legal professionals from a range of firms across Nottingham's legal sector, we unanimously, and strongly oppose the proposed changes in their current format.



## **Suffolk and North Essex Junior Lawyers Division**

The Suffolk and North Essex JLD is concerned about the effect that the SQE will have on the quality of newly qualified solicitors. Presently, newly qualified solicitors are typically educated to degree level before undertaking the GDL (if appropriate) and LPC. The period of recognised training is then the final stage of the qualification process, allowing the trainee solicitor to gain two years' practical experience. In practice, however, a trainee is also likely to have completed additional work experience placements, vacation schemes and, perhaps, gained experience as a Paralegal before beginning their period of recognised training.

We note that the SRA has stated that the SQE is likely to require an element of pre-qualification work experience, however there has been no consultation on, or indication of, what this would involve. We hope that it would be akin to the period of recognised training.

Additionally, the lack of a specified minimum educational level to be obtained (e.g. degree level) before undertaking the SQE is concerning. Especially considering the Bar Standard's Board consultation on the future training of the bar, which considers whether the degree classification needed to obtain a place on the bar vocational training course should be raised from a 2:2 to a 2:1.

We also understand that there is no limit on the number of times the SQE may be attempted which, again, is concerning and it may result in applicants learning how to pass the exam, rather than truly meeting the threshold requirement.

The proposal that an aspiring solicitor could take the SQE innumerate times without there being a minimum educational requirement, and presently without any concrete proposals for pre-qualification work experience, and become a newly qualified solicitor threatens the quality of members of our profession. This, in turn, threatens the reputation of our profession.

The Suffolk and North Essex JLD submit that it is important for newly qualified solicitors to have a minimum educational level, and an understanding of basic legal principles, both from a theoretical perspective and a practical perspective. Aside from the knowledge element, from a reputational perspective, it is important that our clients have trust in our knowledge and ability to do our job. This may not be the case if educational and practical thresholds are lowered.

We are also unsure how the SQE is capable of being passed without students having first undertaken a degree and/or some form of preparatory course. We are concerned that, in practice, even if there is no minimum educational standard, law firms will still require newly qualified solicitors to have attended a reputable university, to have gained a decent degree classification and to have completed an LPC-style preparatory course before taking the SQE. In which case, the introduction of the SQE is pointless. The SRA could instead have simply standardised the LPC.

The above would mean that the SQE would have a negative impact on social mobility. Aspiring solicitors would still have to find the funds to attend university, to complete an LPC-style course and, additionally, to pay a fee to take the SQE. This would make the route to qualification more expensive than, or at least as expensive as, it is now. Although attending university and completing a preparatory course would presumably be optional in theory, it is unlikely that law firms will be receptive to hiring a candidate who has only passed the SQE, compared to a candidate who is degree educated, has undertaken a preparatory course and passed the SQE. We are also concerned that a candidate attempting to pass the SQE without degree/LPC-style education would have to take the SQE more times before passing. Although the SRA has indicated unlimited attempts at taking the SQE, we assume law firms will draw adverse inferences from this and, even if they do not, the candidate would have to keep paying to take the SQE.

We also note that the envisaged cost of the SQE has not been confirmed, nor have proposals from the SRA as to how this may be funded by applicants. It appears unlikely that the current career development loans which can be used towards the LPC would cover the cost of the SQE. This, again, is a further barrier to social mobility, which would likely decrease diversity and prevent applicants who are not sponsored by a law firm or able to self-fund their studies from entering the profession.

The Suffolk and North Essex JLD is supportive of proposals that increase the quality, diversity and social mobility of our profession. Unfortunately, at present, the SQE does not appear to achieve this. We are concerned that the SQE would actually have the effect of negatively impacting upon the quality and diversity of our profession.

### **Leeds Junior Lawyers Division**

The Leeds branch of the Junior Lawyers Division of the Law Society of England and Wales (the '**Leeds JLD**') represents Legal Practice Course ('**LPC**') students, paralegals who have completed the LPC, trainee solicitors, and solicitors up to five years' PQE. With a membership of approximately 200 individuals, it is important that we represent our members in all matters likely to affect them either currently and / or in the future. The proposals surrounding the Training for Tomorrow scheme will have a significant impact on junior lawyers. Hence, we wish to make this additional statement as part of the national Junior Lawyers Division's submission on the new initiative.

Firstly, it is unclear to what extent junior lawyers have been involved in the development process. Indeed, neither the national JLD or Young Legal Aid Lawyers group were involved in the initial advances of the concept behind Training for Tomorrow and have only had limited involvement at these later stages. We kindly remind the SRA that trainee solicitors, newly-qualified solicitors and other junior solicitors are uniquely placed to identify those areas of practice which they do not feel their education / training has adequately prepared them for and where there are gaps. We hope that the SRA will better engage with junior lawyers in the development of the Assessment Framework – which in our view should have been released alongside the proposed Competence Statement and Threshold Standards. The Assessment Framework is the document which will give meaning to the generic terms laid out in the documents dealt with in this Consultation. In addition,

development of the Solicitors Qualifying Examination (the '**SQE**') should also be undertaken after clear engagement with junior lawyers.

Secondly, we query what effect the SQE will have on the quality of newly-qualified solicitors entering the profession. It is acknowledged that fewer than 1% of full-time students on the Graduate Diploma in Law ('**GDL**') fail and only 2% of those with training contracts are not admitted. In addition, new pathways to qualification (such as apprenticeships and 'equivalent means' training) are being introduced – overseen by a variety of providers. We see these as welcome developments, opening up the profession to applicants from varied backgrounds, but are aware of the differing perceptions about how such pathways and more traditional routes compare. A method is needed to ensure standards are consistent across all pathways and quality of output from all bodies / at the end of a training contract is maintained. However, we suggest that a further examination such as the SQE may be an arbitrary way to ensure this. In particular, it seems unlikely that the SQE will adequately demonstrate that newly-qualified solicitors all hold a similar level of intellectual and analytical ability, combined with a high-level of legal knowledge and the practical skills required. Successful attainment of the SQE will, arguably, just demonstrate competency at being able to pass an assessment and aptitude towards examination success – as opposed to successful skills as a lawyer. As part of the SQE assessment process, what is to be the importance of (a) the level of education required prior to taking the exam? And (b) the practical / work experience element of the proposal?

In addition, what will the practical / work experience element entail? Depending on how the latter element in particular is developed, it seems that those training in smaller or niche firms could be particularly disadvantaged or challenged in their successful completion of the SQE, simply by 'dint' of the fact that they have access to fewer opportunities within their firm. Correspondingly, those undertaking the practical element in-house or as general counsel will surely have to be offered differing routes / greater flexibility compared to those training within medium to large private practice entities.

The Leeds JLD feels it is unable to give a fully-formed view on the SQE proposals in particular when there are certain key questions unanswered and elements which remain undeveloped and unclear. For example:

- 1) What does failure to satisfy the SQE 'look like'? (For example, what are the level of competencies to be attained? Does failure in one element equate to failure of the entire SQE?)
- 2) Will there be a limitation on the number of re-sits of the SQE that can be undertaken? And / or a timeframe for re-sitting the examination stages?
- 3) Is there a validity period on the 'life' of any SQE? Or part thereof? (in particular, that may disadvantage those physically or financially unable to complete all the elements of the SQE within a particular time-frame).
- 4) Who is responsible for compliance with the SQE requirements (i.e. individual or firms)?
- 5) What are the sanctions for failure to comply?

Further, despite alternative access routes to the profession having proliferated in recent years, barriers to entry still remain. The cost of undertaking the GDL (where appropriate), the LPC, and sustaining oneself on minimal salaries during the training process can be extremely challenging for many. Further courses, assessment fees etc. appear likely to be required to prepare trainees for the SQE. This raises

concerns about unfairness for less affluent candidates, particularly as there does not seem to be any clear indication of the fees, resit provisions etc. This in turn suggests the SQE would do little to assist social mobility and wider access to the profession.

**March 2016**

Karen Scott - University College London

## **T4T - Assessing competence**

### Consultation questionnaire form

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## 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?

No.

We agree with and adopt the response of the Society of Legal Scholars dated 10 February 2016 ('the SLS response') to Q1.

We would add that we consider it impossible to provide an informed response to this question unless and until the SRA provides draft instruments of assessment for Parts 1 & 2 of the proposed SQE. The SRA states that the standard will be at Graduate level or equivalent but how can that be assessed at this stage?

We are also extremely concerned that the type of questions and mode of assessment being suggested (in so far as it is possible to assess them) do not, in our experience from offering distance/blended learning, actually reach the standards expected at Level 6 of the Qualifications Framework (degree level) (please see our response to Q2 for further explanation as to why the SQE is unlikely to meet standards of gradueness).

We are disappointed that the SRA has chosen not to take options 1 & 2 forward for consultation too. We consider that Option 2 (alternative routes to qualification) may be a better way to achieve the desired paragraph 10 outcomes, in conjunction with the current system that has served the profession well for many years and is respected nationally and internationally. Unfortunately, the SRA appears to have chosen to close that door.

We consider that it is likely that most employers will still require trainee solicitors to have a degree. We also anticipate that not all universities will incorporate the SQE (Part 1) into their degree programme, because to do so would be at the expense of the optional modules currently offered (see Q 3 response). These Universities are the ones likely to have the strongest reputations and performance in terms of students getting training contracts. Law students, especially those cushioned from the risk by wealthier backgrounds, will tend to favour these universities on the basis that their families or future employers will pay for an SQE qualifier or crammer course. Poorer and more risk averse students will face a choice between this and an SQE driven law degree with poorer prospects of employment. It is an invidious choice which risks harming progress on diversity rather than improving diversity.

Our position is that unless and until the SRA consults on all 3 options and provides the assessment information we consider necessary to evaluate option 3 that the consultation process is fundamentally flawed.



## 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?

No.

We agree with and adopt the SLS response to Q2.

We add and repeat that it is impossible to assess this question properly unless and until the SRA provides draft instruments of assessment. Moreover, we do not believe that the SRA can assess the answer to the question either, until it does so.

We are nonetheless happy to confidently predict, even in the absence of draft instruments of assessment, that the method of assessing will not provide an effective test of the competences needed to be a solicitor. We do not consider that the proposed method of assessment can adequately test application of legal knowledge. We would observe that clients do not give a solicitor 4 options to choose from or offer a true/false option etc. (see FN 38). They simply present the problem.

In terms of the desire for admission to the profession to be at the level of gradueness, this would require the SRA to be assured that students had reached Level 6, the descriptors for which provide that students must demonstrate, inter alia:

conceptual understanding that enables the student:

- to devise and sustain arguments, and/or to solve problems, using ideas and techniques, some of which are at the forefront of a discipline;
- to describe and comment upon particular aspects of current research, or equivalent advanced scholarship, in the discipline;
- an appreciation of the uncertainty, ambiguity and limits of knowledge;
- the ability to manage their own learning and to make use of scholarly reviews and primary sources (for example refereed research articles and/or original materials appropriate to the discipline).

We are confident that the proposed SQE will not assess, for example, the ability to comment upon particular aspects of current research, or whether a candidate can demonstrate an appreciation of the uncertainty, ambiguity and limits of knowledge.

We are also concerned that there is no time limit between Parts 1 & 2 of the SQE. There is therefore a risk that a candidate's legal knowledge would be significantly out of date by the time that they qualify.



### **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?

No.

We agree with and adopt the SLS response to Q3.

We add that it is, we consider, essential that the QLD is retained and that it provides a partial exemption from the SQE (Part 1). Doing otherwise will simply add to the burden on students who wish to qualify as solicitors. Many students will continue to study a QLD - those who decide to qualify as barristers or join other professions will proceed as now; those who decide to qualify as solicitors will be required to undertake an additional stage than that which is currently required. How that meets to the SRA stated objective of removing artificial and unjustified barriers is unclear.

We are also very concerned that if the QLD is no longer a requirement to qualify as a solicitor that some students will take crammer courses which will not equip them with the necessary knowledge and skills required to practice as a solicitor and that they will therefore not pass the SQE (if it is sufficiently rigorous which we cannot assess; if it is not that will damage the profession as a whole).

## Question 4

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

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

As the vast majority of solicitors' practice takes place outside, or only marginally related to, reserved activity, we think it unwise to build core knowledge requirements and skills assessments around reserved activities. Doing so significantly increases the learning of redundant knowledge and skills and inhibits (perhaps removes) space in the curriculum for innovation and evolution.

## **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?

As a law school with a student body, alumni and practitioner network which is global in scale, we are very conscious of the mutual importance of the reputation of both the profession and legal education.

If the profession wishes to retain its current status recognition in the global world, the qualification has to be, and be perceived as being, at or beyond graduate level. As we have not seen draft instruments of assessment, it is impossible to comment on whether the SQE will achieve that, beyond the anxieties we have already expressed.

## Question 6

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

Our instinct is that practice based experience is an important part of the learning process for trainee solicitors. We see the benefits of work based learning, which is one reason we support our clinical programmes. We see risks in relying too heavily on outcome based assessments of skills and knowledge and note with interest that the SRA appears more sensitive to these risks in the context of the debate about the future of training contracts than they do in terms of the future of legal education more generally.

## **Question 7**

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

## **Question 8**

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

## **Question 9**

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

## **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?



## **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 1 and Part 2, to a specified performance standard?

## **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?

## 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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

## **Question 14**

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

In the vast majority of cases, a degree should be required, as is currently the case.

## Question 15

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

More information about the assessment is needed to assess this. The SRA sets great store by the reliability and consistency of the new tests, but it is also apparent that this reliability and consistency is likely only to be assured at the pass-fail level (or if it is to be pushed further this is likely to be difficult and - we surmise from the consultation - expensive). There are thus difficult questions to be thought through about the benefits of more fine grained information vs its reliability. There is also the issue of how to contextualise the data. This is an area where the SRA would be wise to proceed with caution as it develops evidence and experience. It is a further illustration of the risks in imposing a very wide set of knowledge and skills assessments, particularly if this is done in a short time frame. More information about the assessment is needed to assess this.

## **Question 16**

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

See our response to question 15.

## **Question 17**

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

See our response to question 1.

## **Question18**

Do you have any comments on these transitional arrangements?

Too many unanswered questions.



## Question 19

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

Too many unanswered questions.

## **Question 20**

Do you consider that this development timetable is feasible?

Too many unanswered questions.

**Thank you for completing the** Consultation questionnaire form.

Please save a copy of the completed form.

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Alternatively, print the completed form and submit it by post, along with a printed copy of your **About you form**, to

SQA consultation  
Solicitors Regulation Authority  
Regulation and Education  
The Cube  
199 Wharfside Street  
Birmingham  
B1 1RN

Kate Cooper - Bristows LLP

## T4T - Assessing competence

### Consultation questionnaire form

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#### 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 cannot answer this question with any degree of certainty until we have a more detailed understanding of how the SQE will work in practice.

A key concern is around the fact that we do not know what impact the SQE will have on undergraduate and postgraduate law courses. In particular, how will the SQE assess knowledge requirements currently covered in the traditional Foundation Subjects (contract, tort, land, etc.).

Another consideration is the fact that whilst the assessment under the current QLD or GDL route is onerous and expensive, the proposed SQE Part 1 Functioning Legal Knowledge Assessment may be just as costly and burdensome for students, which is potentially detrimental to students from poorer backgrounds.

Whilst it is easy to see the attraction for the SRA of ensuring consistent and comparable standards, one of the key questions is whether the SQE will be capable of ensuring the 'quality' and 'rigour' needed for a strong and effective profession, starting at the point of admission. We have considered the implications of this in more detail in answer to questions 2 and 5.

To request an alternative format please visit [www.sra.org.uk/contact-us](http://www.sra.org.uk/contact-us).



## 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?

### Part 1 – Functioning Legal Knowledge Assessments

We have some concerns about the use of MCQ style questions (or similar) in Part 1 of the SQE exam as an effective test of the competences needed to be a solicitor. Why?

- Whilst MCQs have a proven track record under the current QLTS model as an effective means of testing the legal knowledge of a 'day 1 just competent solicitor', there is no evidence that the assessment of the knowledge requirements for a lawyer by MCQs or similar can in itself demonstrate that a person who passes that assessment possesses the skills and abilities of a postgraduate. We are concerned that MCQ style questions do not really test the skills and understanding of a graduate in the depth that we would expect for an intending solicitor (and therefore do not demonstrate achievement of at least a graduate standard).
  
- Even if we can overcome this fundamental issue, the success of the MCQ style questions will also depend upon the quality of the processes developed around question writing and standard setting procedures for level of difficulty / consistency.
  
- The information provided in the consultation document around Part 1 is relatively high level. Whilst we are directed to specific sections of the Statement of Competence/Statement of Legal Knowledge for guidance on what the test might cover, the areas are fairly broad. It is relatively straightforward to devise suitable objective questions around things like conduct and ethics. However, it would require careful thought and planning to devise questions of the right calibre and consistency around, for example, critical thinking and problem solving skills.

### Part 2 – Practical Legal Skills Assessments

In principle we support the suggested approach under Part 2 as an effective test of the competences needed to be a solicitor. So far as the oral skills are concerned, the proposal is broadly aligned with the OSCE model currently used to good effect in the QLTS exam.

However, what works for one assessment may not work for another – we have a few concerns about the proposed model:

- The model described for Part 2 is pretty high level. The difficulty with making high level points is that we cannot fully understand what Part 2 will look like and how it will actually work. It is potentially very complicated to design, deliver and administrate. The SRA would need to provide a lot more information to enable us to comment in an informed way.
- A good example of this is around how to ‘simulate the real demands of practice’. This type of simulation is potentially difficult to achieve in an assessment context using the OSCE model. Each assessment task is relatively short, involves a self contained issue and lacks the complexity / subtleties of the transactions a trainee would currently work on in practice.
- We think the OSCE style model may not be an effective means of assessing the ability of the candidates. We would want more information about the test itself in order to fully understand the implications of using it in this context.

### **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?

Insufficient information available to comment.



## Question 4

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

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

Insufficient information available to comment.

## 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?

Yes. The current system requires that prospective solicitors are assessed at post-graduate level (LPC). To ensure that the high standard of intellectual rigour required by the profession is maintained, it would seem sensible for the SQE to be benchmarked at this level as well.

In terms of how this approach might apply to Part 1 and Part 2:

Part 1: 'Graduate level' should be the minimum level for the Part 1. This would allow candidates to do more flexible programmes of study (not necessarily a degree) to acquire their graduate level qualifications (for example – CILEx or apprenticeships).

Part 2 should be set at a higher level than 'graduate level' if we are to retain anything approaching equivalence of standards. Under the current qualification system solicitors are admitted after 2 years of additional work-based experience and training and therefore become qualified above graduate level. If we set the standard for Part 2 at the level trainee solicitors currently reach when they qualify, it will be higher than the current LPC standard.

We have one area of concern around whether the SQE is capable of testing competence at the higher level. To some extent, this will depend upon the quality, rigour and integrity of the testing process, and how the test is designed. We understand that the SRA has not selected an assessing organisation yet and detailed information is not available about the test itself.

In our view, Part 2 is not enough by itself; we need to continue with the training contract model of 'on the job' learning (see answers to question 6, 7 and 8 for more details).

## Question 6

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

Yes. In our experience many students leave their postgraduate studies with little real sense of the workplace, because the academic stages of learning, including the LPC, do not prepare students for life as a practising solicitor. Whilst the LPC provides future trainees with some important practical skills and subject knowledge, it does not simulate the realities and demands of practice in a learning environment.

As a result, many new trainees enter the workplace on a very steep learning curve. The importance of the training contract, as a means to bridge the gap between studying the law and actually learning how to be a solicitor in practice, cannot be overstated. This tried and tested formula, which has long been a feature of the legal training landscape, enables trainees to develop to the point we consider them to be competent lawyers.

In practical terms, a trainee solicitor will experience the rigours of practice whilst remaining relatively protected from the responsibility of decision-making that goes with it. During their two years of training, they will gain a range of practical 'on the job' experience to develop the necessary technical knowledge and client service skills required in the profession. This is a powerful formula which prepares them well for their future careers as qualified lawyers and we would be concerned about any significant changes.

Our current trainees and NQs gave some insightful comments about the effectiveness of the training contract system:

'The training contract allows you to learn 'on the job' - there is only so much that pretend clients on the LPC can teach you. It is also a good system for allowing trainees to gradually take on additional responsibility as they progress, and at a rate appropriate to the individual.'

'There is nothing that comes close to learning on the job. Trainee Solicitors already have at least 5 years of higher education studying behind them. Many have more than that. Training on the job is a natural follow-on from that and we learn so much through seat rotations.'

'The current system addresses the amount of practical experience which I believe is necessary in order to qualify as a solicitor. Solicitors also cannot operate in their practice area in a vacuum and the seat rotation system works well in this regard.'

## Question 7

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

Yes. We would be reluctant to support an unspecified period. In our experience the two year period achieves the right balance between ensuring that a trainee receives a sufficient amount of practical training before qualifying and also gets to experience a variety of different practice areas (see answer 6 above).

We would be concerned about a possible adverse reaction from consumers and clients to any changes to the current system of 'on the job' training. The training contract is accepted by consumers and clients to be a valid method of qualification and as confirmation that solicitors at the point of admission have had an appropriate amount of experience on the job.

The current 'time served' approach works very well. It might be some time before the market trusts a truly 'outcomes' focused approach (see answer 8 below).

## Question 8

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

Answer to question 7 refers.

A model based upon meeting the competences is interesting and would enable a trainee to qualify as soon as they have satisfied the criteria but it would result in trainees qualifying at different times, rather than after a minimum period of time. Such a system would recognise that individuals develop at different rates; however, it may be complicated to administer and may not fit in easily with the requirements of the business (seat rotations and consistency and certainty around staffing cover in particular).

On balance, a minimum period (of two years) seems to be a better and more consistent approach. It may also be preferable to retain a minimum period of time in order to maintain trust and validate the process.

## Question 9

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

Yes: It could help widen access to the profession by, for example, recognising experience gained in a legal advice clinic, or whilst on a sandwich year during a degree. By allowing the education and voluntary sectors to provide lawyers with practical training, it could assist more individuals to qualify than the finite number of training contract opportunities the current framework consists of. This broadening of opportunities is a positive step for the profession but care needs to be taken to ensure that the opportunities are not so broad that there are no jobs for all of those qualifying.

On the flip side, however, there is a question here about regulation. If a wider range of work experience were to be recognised, to ensure consistency of standards it would need to be monitored or regulated in some way. For example during a sandwich year, one individual may spend the majority of their time doing basic admin tasks whereas another may undertake more technical work. As such guidance and regulation around work undertaken and supervision given would need to be put in place. This has the potential to be costly and difficult to administer and regulate.

## 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?

It is difficult to comment constructively without further information and a description of what a workplace assessment might look like. It has the potential to be costly to design and time-consuming to implement and administer. The added burden on Managers and L&D professionals may not justify the benefits of workplace assessment.

However, there is anecdotal evidence in the form of the success of the SRA's Worked Based Learning project which was piloted across a number of firms a few years ago. This worked on the basis of an intelligent e-portfolio enabling trainees to focus on their training, rather than the portfolio. It produced highly engaged trainees who took ownership of their development and was not unduly burdensome. A model like this could be successfully rolled out as part of the SQE.

## **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 1 and Part 2, to a specified performance standard?

Not known at this stage – insufficient information.



## **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?

Not known at this stage. It also depends on what is proposed for the tool kit.

## 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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

No view at this stage – awaiting further consultation.

## **Question 14**

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

We would want the profession to remain at graduate level. This does not necessitate an actual degree. Indeed, the current Regulations do not require all solicitors to hold a degree.

## **Question 15**

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

Not known at this stage.

## Question 16

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

Not known at this stage.

## **Question 17**

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

Not known at this stage.

## **Question18**

Do you have any comments on these transitional arrangements?

No view at this stage – awaiting further consultation.

## Question 19

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

No view



## Question 20

Do you consider that this development timetable is feasible?

No view

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SQA consultation  
Solicitors Regulation Authority  
Regulation and Education  
The Cube  
199 Wharfside Street  
Birmingham  
B1 1RN

**Response from Kent Law Society to the Solicitors Regulation Authority's  
Consultation "Training for Tomorrow: Assessing Competence"**

**Introducing a common professional assessment for intending solicitors: the Solicitors Qualifying Examination (SQE).**

**1. Question**

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

**Answer**

In principle, we can see the benefits of one single examination which all those qualifying as solicitors must pass in the context of there being numerous pathways these days to entrants to the profession. We are, however, concerned as to whether the introduction of the SQE would really achieve the SRA's objectives. The Legal Practice Course and the Professional Skills Course which trainee solicitors must take during their training contract are generally accepted as requiring a high degree of skill and preparing students well for entry into the profession. The experience of our members who are responsible for trainee solicitors is that those who have done well on the LPC and the PSC are able to quickly grasp the practical skills necessary for working as a solicitor in the workplace, rather than simply having academic knowledge (although academic knowledge is still important).

We are concerned that the SRA's proposals, which have a very short timeframe for introduction in 2018, are not comprehensively thought through and may dilute standards rather than improve them. In developed countries, England and Wales are seen as already having comparatively low standards for entry into the profession and it is important that this perception is not allowed to gain greater weight.

We are also concerned that the SRA proposes not to monitor or regulate the pathways down which students can progress before taking the SQE. The SRA has already ceased to monitor and regulate training courses and it is perceived that this has led to wild fluctuations in the standard of courses provided and the quality of students produced. The SRA's proposal may make things worse.

We are also concerned that, given the high regard in which the LPC is held, some firms may want their students to continue to take the LPC, even if the SQE was introduced. Candidates who pass both the LPC and SQE would inevitably be more highly regarded and consequently there is a risk here of creating a two tier system. We believe that consideration should be given to simply reforming the LPC to address the concerns which the SQE is supposed to address.

We are also concerned that the main reason for the introduction of the SQE is to reduce still further the SRA's workload and consequently has nothing to do with improving training standards in the profession.

**2. Question**

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?

### **Answer**

It is difficult to assess this, because the SRA's proposals are not sufficiently detailed to be able to determine this. In principle, the structure of the SQE appears to be satisfactory but there is not enough detail to be confident about this. We repeat the points above. The LPC and PSC are correctly perceived to require a high standard of competence and to generally equip trainee solicitors well for entry into the profession.

### **3. Question**

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 not exemptions beyond those required by EU legislation or as part as transitional arrangements?

### **Answer**

We agree with this. If the SQE is to be introduced and is to be a final test for all those wishing to enter the profession, whichever pathway they have chosen, clearly there must be no exemptions.

### **4. Question**

With which of the stated options do you agree and why?

- Offering a choice of 5 assessment contexts in part 2, those aligned to reserved activities, with the addition of the law of organisations?
- Offering a broader number of contexts for the part 2 assessment for candidates to choose from?
- Focusing the part 2 assessing on the reserved activities but recognising the differing legal areas in which these apply?

### **Answer**

We agree with the first option, offering a choice of 5 assessment contexts in part 2, those aligned to reserved activities, with the addition of the law of organisations.

### **5. Question**

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

### **Answer**

As the SQE is to replace, among other things, the LPC and the PSC, clearly it needs to be set at beyond graduate level. A student qualifying as a solicitor via the most traditional routes (a law degree and then the LPC/PSC or a degree followed the CPE/GDL and then the LPC/PSC) is expected to pass a difficult examination and tests which are clearly set at beyond graduate level. The SQE should therefore be assessed at a similar level.

6. **Question**

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

**Answer**

Yes. It would be entirely inappropriate for someone to be able to qualify as a solicitor without a satisfactory degree of pre-qualification workplace experience. Although the LPC and PSC are practically based, there is no substitute for a trainee solicitor (or someone qualifying by another pathway) to spend time to spend a significant amount of time in the workplace in order to gain experience and competence in the practical work which solicitors have to do for clients. This is not something that can simply be acquired by passing exams.

7. **Question**

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

**Answer**

Yes. The current requirement of at least two years under a training contract is appropriate and clearly the time period needs to be longer in the case of other students such as paralegals and apprentices who are not necessarily subject to the same rigours and exacting demands imposed on trainee solicitors, who are required to acquire practical experience in a number of areas of law and who have to be closely monitored and assessed within the firm.

8. **Question**

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

**Answer**

Yes. It is clearly not sufficient for the SRA to simply specify a minimum time period. The type of work done, the degree of responsibility and volume of work carried out varies considerably from one trainee solicitor to another and from one paralegal/apprentice to another. It is therefore necessary for someone trying to qualify as a solicitor not just to serve a minimum period of time but also to acquire sufficient competence. We would also like to add that it is extremely important that one of the competences tested is standards of English. It is the experience of those of our members who are responsible for trainee solicitors that their standards of English vary considerably. Working effectively as a solicitor requires a good grasp of English and in particular the ability to be able to draft statements of case, letters of claim, legal documents and so on clearly and without basic errors in spelling, punctuation and syntax. Although this may appear pedantic, it is not; poorly drafted English can and does result in misunderstandings in the meaning of a letter or legal document which can have serious consequences. Those of our members who are responsible for trainee solicitors sometimes have to deal with inadequate English in candidates who have been recruited on account of their high degree of intelligence, interest in law and determination to succeed but who lack satisfactory English skills because their school did not take the trouble to teach them English properly. It is extremely important that problems like this are picked up and the student given the opportunity and facilities to improve their English. It is the experience of our members that, with very bright and determined students, such problems can be overcome.

9. **Question**

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?

**Answer**

The position already is of course that a student can qualify as a solicitor through a number of routes other than the traditional training contract, for example, by qualifying as a legal executive first, or through paralegal work (we understand approximately 20 paralegals have qualified as solicitors so far via this path) or through formal apprenticeships. It is clear therefore, that this has already been done.

10. **Question**

Do you consider that including the workplace assessment would enhance the quality of the qualification process and that this justifies the additional costs and regulatory burden?

**Answer**

Workplace assessment is, as we have set out above, essential to the quality of the qualification process. Those trying to qualify as solicitors need regular monitoring, involving meetings and discussions of the type, volume and quality of work done in order to ensure that the trainee solicitor (or paralegal or apprentice) is developing the necessary skills to work as a competent solicitor.

11. **Question**

If you are an employer, would you feel that you would have the expertise to enable you to assess a trainee solicitor's competences, not capable of assessment in part 1 and part 2, to a specified performance standard?

**Answer**

Yes. Those of our members who are responsible for assessing trainee solicitors have acquired many years' experience in practice before taking on this role and are therefore aware of the practical skills necessary to perform effectively as a solicitor.

12. **Question**

If we were to introduce workplace assessment, would a tool kit of guidance and resources be sufficient to support you to assess them at the required standard? What else might be required?

**Answer**

No detail is given by the SRA as to what this "tool kit" would include. As we have stated above, what is most important to an employer assessing a trainee solicitor/apprentice/paralegal is years of experience of working productively and effectively

as a competent solicitor.

### 13. **Question**

Do you consider that the prescription or regulation of training pathways, or the specification of entry requirements for 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?

### **Answer**

As we have stated above, it is in our view regrettable that the SRA has, over the years, abandoned the regulation and monitoring of training pathways and it there seems little doubt that this had led to wildly varying standards in courses and the quality of students produced. That said, in principle we can see the advantage of establishing a rigorous and well thought out SQE examination (we should emphasise that the SRA is clearly some way off doing that) and allowing the market place to provide the courses necessary to enable students to pass the SQE.

### 14. **Question**

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

### **Answer**

We agree with this. It was only about 40 years ago that solicitors had to obtain a degree before qualifying and clearly there are still solicitors in practice who do not have degrees and yet became competent and well qualified solicitors through rigorous training contracts and subsequently passing the Law Society Finals. We accept therefore that a degree is not required, particularly given the greatly increased financial burden on law students these days and the need to try to keep these costs to the minimum.

### 15. **Question**

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

### **Answer**

We do agree with this. We think it is important in particular that candidates are given a grading of their performance. This could be achieved by either giving them either a pass, merit or distinction but we would not be against percentage marks being given out as is presently the case under the PSC. We do not think that a simple pass/fail is satisfactory, either for the candidate or for their employer. An accurate grading would also assist candidates who need to re-take the examination to identify their areas of weakness. It would also be useful to highlight to successful candidates in which particular areas they have particular aptitude, which may shape their plans as to areas in which they may wish to specialise.

16. **Question**

What information do you think it would be helpful for us to publish about:

- Overall candidate performance on the SQE?
- Training provider performance?

**Answer**

As we have indicated above, we do think it is important that as much performance information is available to employers as possible. This would give candidates an incentive to perform as well as they can, would provide training providers with the same incentive and would provide valuable information for employers.

17. **Question**

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

**Answer**

From the information provided by the SRA, we do not think that the introduction of the SQE would have any impact one way or the other in terms of equality. The ability of candidates to become solicitors through other pathways, such as a legal executive, paralegal or apprenticeship routes, is clearly important and must have a positive impact on equality issues. It is, however, difficult to assess precisely whether the SQE will have any impact, because no information is given in the consultation as to the cost of the SQE and so it is hard to determine whether it is likely to increase or reduce the cost to candidates. We should add that we take the view that it is not for the profession to conduct social engineering or to carry out affirmative action – this is a matter for government.

18. **Question**

Do you have any comments on these transitional arrangements?

**Answer**

Our main concern is that, while the date of 2025/2026 for the phasing out of the current system seems reasonable, the introduction of the SQE in 2018 – i.e in only 2 years' time – seems to us to be too tight a timeframe given what a substantial change this would be and given the fact that the SRA's proposals at this stage for the SQE are too vague and not precisely formulated. The consultation process needs to be lengthened and, if the SQE is to go ahead, the SRA should be aiming for an introduction date of 2020.

19. **Question**

What challenges do you foresee in having a cut off date of 2025/2026?

**Answer**

As stated above, the difficulty is the introduction of the SQE in 2018. On the basis, as we have suggested, that it is introduced in 2020, then that would put the cut off date back to 2027/2028.



20. **Question**

How do you consider that this development timetable is feasible?

**Answer**

As we have stated above, we believe that this is too tight a timeframe and we recommend the timeframe we have suggested above.

## 2. Your identity

### 1. Surname

James

### 2. Forename(s)

Kerry

### 3. Name of the firm or organisation where you work

Burges Salmon LLP

**4. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Attribute my/our response and publish my/our name.

**5. Please identify the capacity in which you are submitting a response. I am submitting a response... on behalf of my firm.**

Please enter your firm's name:: Burges Salmon LLP

## 3.

**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?**

Paragraph 10 states that the SRA will focus on "consistent and comparable high quality standards at the point of admission". Whether the SRA will be able to achieve this through the SQE will depend on what the SQE will assess and how. The consultation document is lacking in detail.

The SRA voices its concerns about the consistency of standards and results across universities and post-graduate course providers but variation is inevitable given the diversity of entrants and entry requirements. Other professions, including the medical and accountancy professions rely on HEFCE to uphold rigour. The university league tables provide students and employers with established methods of comparison. The SRA regulates LPC providers and used to monitor standards more directly. Our view is that the SQE is not necessary to achieve the standards the SRA seeks.

The SQE appears to be aimed at ensuring a consistent and comparable minimum standard, based on a competent/ not competent threshold. Our view is that this is not a high enough standard to protect the consumer or the reputation of the profession.

Paragraph 10 also sets out the SRA's objective of encouraging new and diverse pathways into the profession and removing artificial and unjustifiable barriers. We entirely support the development of diverse pathways and new entry routes but do not believe that this should be at the expense of removing existing pathways. We find that students graduating from the LPC are well-prepared for the PRT and the level of work expected of a trainee at the firm. The SRA assumes that the SQE will result in a more diverse profession but there is no evidence provided to support that assumption.

The SRA's main aim is to protect consumers. It expresses concern at the number of complaints that are upheld by the Legal Ombudsman and the money paid out by the SRA Compensation Fund. However, as stated in paragraph 30, there is no direct link between consumer detriment and the training new lawyers receive. There is no evidence that the current system produces incompetent newly qualified solicitors. The consumer may be better protected by stronger regulation of errant firms and more investigation of the practices and training of the lawyers within those firms.

## 4.

**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?**

The proposals in paragraphs 38 to 45 and in Annex 5 are lacking in detail. It is difficult to see how short standardised assessments can simulate the real demands of practice. Again, much depends on what the SQE would assess and how.

5.

**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?**

No. It is disproportionate and costly to require students to re-take assessments in subjects they have already passed. We believe exemptions should be allowed, particularly for Part 1.

6.

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

**Why...**

This is a challenging question. No option provides a valid assessment of competence. The choice of 3 out of the 5 practice areas aligned to the reserved activities represents a significant narrowing of the breadth of study that lawyers currently undergo. Their study and experience for Part 2 will be based on a subset of Stage 1 of the LPC – with some subjects omitted and no electives. Many firms, ours included, will find it difficult to provide trainees with experience that directly relates to the three contexts they choose for assessment. It is feasible to devise a work experience programme, but it will be artificial and bear little resemblance to the work they will do as a qualified lawyer in a corporate/ commercial law firm.

The training and work based learning that would emanate from these proposals is much less useful to the commercial/ corporate firm than the current LPC. It is this sector that offers most opportunities for new lawyers and it should not be ignored.

7.

**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?**

To protect the reputation of the profession, it would be dangerous to lower the current standard which requires at least 2 years of additional work-based learning and training post-graduate. A degree is not necessary but clear evidence of equivalence is needed.

Increasingly, other occupations such as nurses and social workers require graduate and post-graduate study. Internationally, the UK legal training may already be viewed as "light-touch" as many jurisdictions require longer training and/or require their lawyers to hold a Masters qualification.

Law has been a profession that attracts the brightest minds and it would be sad to see them choose alternatives.

8.

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

Yes. This is an important, defining characteristic of our training and a feature which should be retained.

9.

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

Yes. We would not feel that a lawyer is competent to practice without a minimum amount of time and experience of the work. The reputation of the profession would be entirely undermined if someone could be admitted after studying a short crammer course that allowed them to pass the SQE.

10.

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

No. We need both.

11.

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

Yes. Provided it is regulated. This could improve diversity.

12.

**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?**

This is a leading question.

If the SQE goes ahead, there should be work-based assessment as the Part 2s cannot assess the multi-faceted nature of key competences. Without it, the integrity of the qualification process would be undermined.

Does that undermine the SRA's quest for consistency – yes.

Would it be expensive – probably.

Would smaller firms be willing/ have the resources to do it – probably not.

Ultimately, will the new regime allow more employers to offer training to the point of admission – it is difficult to see how that can be the case.

13.

**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 1 and Part 2, to a specified performance standard?**

Yes. We already have systems to review learning logs. If there is a specific assessment we would need guidance but it should not be a problem. This will be a challenge for firms with fewer resources.

14.

**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?**

Yes. Clear definitions of the required standard would be needed.

How would consistency be regulated across firms?

15.

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?**

Yes. Agreed that a graduate level qualification should be required to sit Part 1. Part 1 plus work experience should be pre-requisites for Part 2.

16. (untitled)

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

Graduate level (at least) but not necessarily a degree.

17.

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

It is difficult to see the advantages of this and weigh up the potentially adverse impacts as to assessment costs.

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

It will be very difficult for candidates to work out the implications of choosing different pathways into the profession, particularly if they do not have access to advice. This could have a negative impact on diversity. Publishing pass rates might help students with selection of training provider. For most employers, this information will be of limited relevance.

19.

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

Please see answer to question 16. Our EDI concern is that the new regime will be confusing, leading students who are poorly advised to make ill-informed choices.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

The detail will be important. Introducing pre-qualification workplace experience in specific areas will mean considerable disruption to the business. We recruit at least 2 years in advance. It is important to give providers time to work out their new course offerings and then allow employers enough time to plan the business implications.

21.

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

No comment.

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

These are high stake changes and the impact will be enormous. The timetable looks ambitious, if not hasty, particularly given the current consultation in 2016 with anticipated development and testing in 2017 and implementation in 2018. A much longer lead time seems to be needed. (Is the profession being consulted about decisions that are already made?)

## 2. Your identity

### 1. Surname

Shestakovsky

### 2. Forename(s)

Konstantin

### 3. Name of the firm or organisation where you work

**4. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Attribute my/our response and publish my/our name.

**5. Please identify the capacity in which you are submitting a response. I am submitting a response... as a student studying for a qualifying law degree or legal practice course**

## 3.

**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?**

This is most probably true in relation to new potential solicitors who are going to qualify under the SQE but it may put LPC graduate at a disadvantage.

## 4.

**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?**

No, generally I disagree with the above. Presently, I do not see any difference between the proposed SQE and the current QLTS. The latter, in my opinion, is not the best way to effectively test the competence of future solicitors since the exam is too generic and easy to pass comparable to the classical route (law degree+LPC+Training contract).

In my opinion, in its current proposed form, SQE will enable most people to free-ride because it would be possible to master the exam techniques rather than improving professional skills.

## 5.

**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?**

Generally, I disagree with it. I think that LPC graduates and similar people (CiLEX, etc.) should be granted an exemption, at least partial because the current classical route (law degree+LPC and maybe other experiences) is more expensive, longer and much better in terms of improving professional skills.

## 6.

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

b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?

**Why...**

I am in favour of the option B because it enables candidates to select subjects they are interested in and are required by a law firm (in-house practice, legal department, etc.). In other words, it would me more

flexible to match SQE Part 2 with the LPC format.

I understand that it would be less consistent, however I believe SQE should not be rigid because the legal practice in England and Wales is very diverse and it would be inefficient to limit SQE to a couple of contexts.

7.

**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?**

I disagree. There are many people who do not have any degree for various personal reasons but it does not undermine their professional skills. I believe there should be an exemption (or perhaps some extra assessment) for those with non-legal background and/or work experience. Each individual should be assessed on a case-by-case basis.

8.

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

Generally, I agree with the statement. However, some exemptions should be introduced for candidates who already obtained a legal work experience via vac scheme, legal internship, etc.

9.

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

I am convinced that the current period (2 years) is enough to enable candidates to master all the skills necessary to become professionals.

10.

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

Of course, the most important is to meet competences rather than to spend a minimum time period.

11.

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

Yes, I agree.

12.

**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?**

In my experience, I consider the practical experience to be a vital part of the training process. I have been running a student society for a while during my LPC and I met many students who were not confident enough because they were not able to get any practical work experience.

13.

**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 1 and Part 2, to a specified performance standard?**

N/A

14.

**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?**

N/A

15.

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?**

I think generally there should be specifications of entry requirements for the SQE, however with certain exemptions (for example, for candidates without a degree but with a relevant work experience).

16. (untitled)

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

Yes, I agree with this statement.

17.

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

I think that candidates should be provided with such information but it should not be available publicly in details because at the moment many law firms do not even accept application from candidates who did not obtain all the results after the first attempt.

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

I think that you should publish both but not in details.

19.

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

As long as the cost for candidates to attempt SQE would be kept minimum (and possibly with grants available to candidates with low income, etc), it should not cause any negative EDI implications.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

The transitional arrangements look fair to me, however I would have added another transitional arrangement for those who completed LPC.

21.

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

I think the period is long enough and fair.

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

It is definitely an intense timetable but it looks feasible at this stage.



## 2. Your identity

### 1. Surname

Kwiatkowski

### 2. Forename(s)

Krzysztof

### 3. Name of the firm or organisation where you work

Currently I am qualifying towards LLB.

### 4. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.

Attribute my/our response and publish my/our name.

### 5. Please identify the capacity in which you are submitting a response. I am submitting a response... in another capacity

Please specify: as a final year LLB student who will be affected by the changes.

## 3.

### 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?

In principle, a standard exam such as SQE will be the best mean to meet those objectives.

However, the form and nature of the exam will in practice determine whether it meets those objectives. It is possible, with incorrect form of the SQE chosen, that its result will be that the aspiring solicitors will only develop the ability to pass the SQE instead of the actually desired skills and characteristics.

## 4.

### 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?

I do not agree with that statement.

The proposed part one of the SQE aims to cover material significantly beyond the scope of a standard QLD and LPC with their core modules (human rights, criminal evidence).

This will put students who have chosen and are currently studying subjects other than those (as is the case with cohort graduating in 2016) at an unanticipated and unfair disadvantage compared to those who have chosen the said subjects.

That is of significance as students from that year are likely (under current system) to be due to qualify as solicitors in 2018/19 when the SQE is due to be in place.

Furthermore, while it may be desired, due to the elasticity of practice resulting from it, to have both criminal and civil litigation knowledge it prevents aspiring solicitors who are determined to enter one side of the profession from more in depth exploration of their side of practice due to having to study litigation in the field which does not interest them.

As to Part 2 I do not have any suggestions or remarks.

## 5.

### 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?**

I do agree, as that is the purpose of the SQE, to standardise the profession. Therefore, only minimal (transitional and required under the UK's international obligations) exemptions should be granted.

6.

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

c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

**Why...**

As this model combines the advantages of the two previous ones minimising their disadvantages. Also this solution would address the issue of unnecessary burden of knowledge which will not be used in the career chosen by evidencing at least a degree of flexibility in the area of choice.

7.

**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?**

I do agree, as this reflects the expectations of competence presented by a solicitor both by people who employ one and those who wish to become one.

8.

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

I think that pre-qualification work experience is crucial, as actual work raises a lot of practical and differentiated issues which are not covered, due to the context, even in the vocational training as in LPC.

9.

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

The outcomes assumed to be gained in that time may very well be gained in another time scale, depending on aptness on the applicant and the nature of his position.

Different employers demand different skillsets and being e.g. a paralegal or trainee in firm A located in Somewhereville may allow the trainee to gain the skills required over a year, due to the market demand for particular type of work. A paralegal or a trainee in firm B located in Elsewhere may be, on the other hand, be able to gain the skills in three years e.g. as there is no possibility to gain a certain skill due to lack of demand for a service involving it in sufficient degree.

10.

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

Yes, it should.

This approach would allow the applicants to achieve them in accordance with their personal abilities, or with different employers. This would overcome an inflexible requirement which may fail to take into account market realities of fluctuating economy.

11.

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

I do agree.

This would shift the burden of evidencing the experience on the party interested and allow alternative pathways to the career to emerge. Furthermore it would, possibly, create an opportunity to a faster qualification to benefit of the individual in question, the employers' and society's.

It is possible that this approach would lead to emergence of Legal Aid clinics run by universities as a means in providing a part of the experience with an obvious perk to the society of better access to free legal advice.

12.

**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?**

I do consider this as an enhancement of the quality of the process.

Also, I believe that a cost efficient solution for the implementation of that is possible.

For instance, imposing a requirement of completing a portfolio prepared beforehand by the SRA to each candidate with one to four reviews with either an SRA officer or a certified in this respect professional (not necessarily an employer supervisor) may meet this end in a cost efficient manner.

13.

**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 1 and Part 2, to a specified performance standard?**

I am not an employer.

14.

**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?**

It may be sufficient, especially after some period of the SQE being in place.

Perhaps, a guidance conference/seminar, accessible both employers and the prospective/actual applicants, run once or twice a year would be a desired mean of support.

15.

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?**

Yes, I feel that prescribing or regulating the pathways will ensure the protection of students directly affected by introduction of the SQE, as they could be certain that they have chances of passing it.

16. (untitled)

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

I do not agree.

I believe that lack of this requirement diminishes the value of the degree and may lead to discouragement of prospective lawyers to enter a higher education.

17.

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

Yes, as this would give them information on what they should improve, if they are unsuccessful, or to what should they pay additional attention if their performance is one area differs from other areas.

Comparative performance will give them idea of the current market structure for job applicants and allow them to tailor their choices more carefully.

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

The pass rate of particular elements of parts 1 and 2 of the overall cohort of candidates.

Overall results of trainees from particular training providers in each module of each part.

This would result in prospective candidates knowing on which parts of the SQE they should focus more, and which providers offer the most effective training.

19.

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

No

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

The transitional arrangements for 2016 QLD graduates are capable of imposing an unfair burden of necessity of completing parts of Part 1 of SQE - criminal evidence and human rights if they have not chosen them as part of their degree. They are now in no position to change their choices of modules studied.

The only just solution, in my opinion, is to exempt, under the transitional provisions, all 2016 and previous QLD graduates from Part 1 of the SQE so they will not have to incur additional costs and take additional measures to rectify their education which would may be seen as even contrary to one of the basic principles of law, which SQE related regulations are, namely that law should not have a retrospective effect.

21.

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

None

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

Yes

# Consultation - T4T assessing competence

Response ID:209 Data

## 2. Your identity

### 1. Surname

Nyatsanza

### 2. Forename(s)

Kudakwashe

### 3. Name of the firm or organisation where you work

Shawbrook Bank Limited

**4. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Attribute my/our response and publish my/our name.

**5. Please identify the capacity in which you are submitting a response. I am submitting a response... as another legal professional**

Please specify:: Paralegal

## 3.

**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?**

I think that putting in place a one way approach for all trainees who would like to qualify as solicitors will prevent those from less fortunate backgrounds from entering the profession. The SRA is regarded as an equal opportunities organisation and in my view if that ideal is to continue this exam should not be introduced.

## 4.

**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?**

I do not agree as I think that the current process is rigorous enough for the qualifying of competent solicitors into the profession.

## 5.

**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?**

NO

## 6.

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

c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

**Why...**

This will ensure at least that only the areas of law which need greater assessment are assessed and makes the exam more relevant to practice.

## 7.

**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?**

Yes this is fine

**8.**

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

No, I believe this should be scrapped or rather still incorporated into the LPC or other qualification which is required already. Trainees seem to be very low paid due to the fact that there is no way around TC's despite most trainees having a lot of experience during the Law degree and LPC years.

**9.**

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

No

**10.**

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

Yes I believe this will be a better approach. Instead of trainees being tied down by time they can meet the requirements set and evidence it.

**11.**

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

Yes this will be a fantastic idea as most law students gain experience BEFORE finishing university. Some credit must be given to them for the experience undertaken.

**12.**

**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?**

Not really

**13.**

**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 1 and Part 2, to a specified performance standard?**

**14.**

**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?**

Yes this would be sufficient

**15.**

**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?**

NO

**16. (untitled)**

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

Yes

17.

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

Yes

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

19.

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

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

21.

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

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

## 2. Your identity

### 1. Surname

Mann

### 2. Forename(s)

Laurence

### 3. Name of the firm or organisation where you work

A. L. Hughes & Co.

**4. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Attribute my/our response and publish my/our name.

**5. Please identify the capacity in which you are submitting a response. I am submitting a response...  
on my own behalf as a solicitor in private practice**

## 3.

**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?**

Yes, if it is robust enough.

## 4.

**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?**

The details are quite sketchy but they cover most areas required.

## 5.

**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?**

Yes.

## 6.

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

a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?

**Why...**

The reserved activities are key ones.

## 7.

**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?**

Yes.

## 8.



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

Yes. This is essential and should be made longer.

**9.**

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

Yes.

**10.**

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

They should do both.

**11.**

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

No.

**12.**

**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?**

Yes.

**13.**

**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 1 and Part 2, to a specified performance standard?**

This should not be done "in house". It should be sorted out externally.

**14.**

**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?**

I don't agree that this should be done by employers.

**15.**

**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?**

Yes.

**16. (untitled)**

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

Yes.

**17.**

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

Yes.

**18.**

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

As much as possible.

19.

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

No.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

Not really.

21.

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

No.

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

Yes.

## 2. Your identity

### 1. Surname

Yoann

### 2. Forename(s)

Le Bihan

### 3. Name of the firm or organisation where you work

**4. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Attribute my/our response and publish my/our name.

**5. Please identify the capacity in which you are submitting a response. I am submitting a response... as a student studying for a qualifying law degree or legal practice course**

## 3.

**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?**

No. The current system is made to assess candidates based on their past experience and their own background. A student qualifying through a GDL after a non-law degree is likely to have acquired (differently) part of the knowledge of a student who started his training through a QLD and therefore does not need to be assessed in the same way. This difference in past experience and background is even more noticeable in the case of people qualifying via different routes (QLTS for experienced solicitors, apprenticeship, etc.)

Having a common set of outcomes for the profession should not make all diversity vanish and this common professional assessment might lead to an (even more) excessive standardisation of the profiles of qualified solicitors in the years to come.

## 4.

**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?**

Yes. The model assessment reflects the outcomes and the curriculum of a typical QLD+LPC or GDL+LPC study plan, just like the QLTS, so it does not raise any concern as regards the substance covered.

## 5.

**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?**

No. Students who invested time and money in their studies should be rewarded for the years spent studying a law degree / vocational course and the assessment by a recognised approved institution and be exempt from the requirement to pass the SQE.

If the SQE must lead to "comparable, high standards between different pathways", it becomes a kind of bar exam administered by the regulation authority, just as bar exams are administered by Boards of Examiners in most (if not all) US jurisdictions. However, the main difference between most US jurisdictions and England & Wales is that most US jurisdictions have no training contract requirements and successful bar takers are qualified directly upon passing the exam. In that context, having a common exam required from all applicants, regardless of their former studies without exemption is justified.

In England & Wales, requiring all applicants both to comply with a common exam (in most cases after having spent several years studying law at university level) and then a workplace experience is an excessive burden on the path to qualification.

A choice should be made between SQE and workplace experience but keeping both seems disproportionate and unjustifiably burdensome.

6.

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

a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?

**Why...**

This would better recognise the diversity of tasks and profiles of solicitors in the present market, while keeping focus on reserved activities.

7.

**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?**

Yes. The complexity of today's legal environment and the expectation of clients require that future solicitors now be at least at graduate level or equivalent.

8.

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

No. If the SQE is required for all applicants, regardless of their profile and background, this should be considered as a form of final qualification exam, just like the bar exam in most US jurisdictions (c.f. answer to question 3). Had students with a QLD or GDL been exempt from the SQE, keeping the pre-qualification workplace experience would have been justified.

9.

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

No. Outcome-focused assessment is more pragmatic if pre-qualification workplace experience has to remain a requirement. People have different levels of training, past personal and professional experience, and the time spent between the end of studies / SQE and complying with the outcomes varies from individual to individual. The SRA should rely on the feedback on outcomes for each individual regardless of the time spent on the workplace experience.

10.

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

Yes. If the pre-qualification workplace experience has to remain despite the SQE being required from all applicants, there should be a list of outcomes (similar to the areas tested on the SQE) to be complied with by all applicants, instead of a fixed time period for training.

11.

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

Yes. Relevant experience for the practice of law can be found in a variety of activities, regardless of the status of the applicant and the employers. Today's market relies on a diversity of student and professional backgrounds, which confer to the English legal sector its value. This diversity should be maintained and encouraged by recognising all sorts of professional experiences bringing additional relevant knowledge and skills to the applicant and supporting his or her acquisition of professional maturity.

12.

**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?**

No. Regulation is essential to the legal market but too much regulation is both expensive and counter-productive. Under the proposed scheme, an applicant would have been tested at school, during studies, through the SQE before qualification and would have had to comply with pre-qualification workplace experience. Adding an element of workplace assessment to that qualification process would be excessively burdensome, costly for the employer, and superfluous as this sort of assessment comes under the competency of the employer and, to some extent, the client. Work quality in practice can be regulated by the market itself, without need for official regulation.

13.

**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 1 and Part 2, to a specified performance standard?**

N/A

14.

**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?**

N/A

15.

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?**

Yes. Allowing anyone to take the exam would not recognise the skills and knowledge required to pass it and could lead to people learning how to pass the exam without focusing on the actual outcomes (any exam -- however clever and well-designed it is -- can be mastered in an artificial way), eventually harming consumers of legal services and the image of the professional as a whole. However, too rigidly prescribing training pathways would pose the risk of falling in the same position as before, without improvement. No more than mere specification of entry requirements based on the degree level and subjects covered should be stipulated.

16. (untitled)

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

No. In today's market, the expectations of clients and the requirements of the profession have dramatically evolved and what was usual -- and relevant -- to the market twenty or thirty years ago is no longer desirable. Preparing students for their work requires both academic / theoretical knowledge that can be acquired and/or tested efficiently only through a university degree and professional / practical experience. Even though, personally, I do not consider the current training contract requirement as proportionate and pragmatic enough, nor do I endorse the outcome-focused pre-qualification workplace experience as it is currently drafted (I would advocate for a more flexible assessment by the SRA itself -- for a fee -- of the relevance of past non-legal experience of the applicant), I think that the academic / theoretical stage of the qualification process should be mandatory and that all solicitors qualifying in the years to come should hold a relevant degree.

As a business consumer of legal services myself, I would not feel confident in instructing a young solicitor without a law degree.

17.

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

Yes. This information could prove useful for the candidate to assess his or her level and this is what happens in some US jurisdictions as well.

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

Overall candidate performance: Individual marks / grades for each assessment, individual rank, lowest and highest grades for each assessment, average mark / grade, number of passing candidates (with a separate percentage of first attempts).

Training provider performance: Average mark / grade of all candidates for each training provider, lowest and highest grades, number of passing candidates (with a separate percentage of first attempts).

The California State Bar offers similar statistics for both FYLSE and CBE ("Baby Bar" and the Bar Examination) and each training provider (in the 'Registered Unaccredited Law Schools' category) is required by regulation to provide relevant statistics to each prospective student. This proves extremely useful for students considering applying for a course. These statistics are available at <http://admissions.calbar.ca.gov/Examinations/Statistics.aspx>

19.

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

None.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

Under the current QLTS scheme, qualified lawyers from recognised jurisdictions are exempt from the multiple choice test (MCT) if they were awarded an LPC in the past five years, so that they only have to pass the Objective Structured Clinical Examination (OSCE). That exemption should remain under the transitional arrangements, so that an applicant who would have been awarded an LPC in the past 5 years would merely have to pass Part 2 of the SQE.

21.

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

The cut-off date seems realistic.

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

Training providers may struggle to be ready by 2018 to have proper curriculum available.

## LEEDS LAW SCHOOL SOLICITORS REGULATION AUTHORITY CONSULTATION RESPONSE

### Question 1

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

We have concerns about the SQE, especially in relation to the rationale for its introduction.

#### Pathways, QLD, and cost

It appears from the consultation document that part of the rationale for the introduction of the SQE is the facilitation of a greater number of pathways into the profession. It may be that the SQE will provide opportunities for a number of Individuals to enter the profession by means other than the more “traditional” route of QLD, LPC and training contract, or GDL, LPC and training contract, and this is to be commended, provided that appropriate standards are met.

However, it is our view that the majority of those wishing to enter the profession will want to do so by the traditional route, by undertaking a qualifying law degree/GDL, for reasons of intellectual and self development, and attractiveness to potential employers, who will want to be assured that individuals have the depth and breadth of legal knowledge.

Many legal education providers provide valuable opportunities for students to develop and enhance their employability skills and their attractiveness to potential employers. The law degree provides a great context for these activities, which help students from diverse backgrounds to gain the confidence they need to enter the profession.

It seems likely that the Bar Standard Board will continue to require that students undertake a qualifying law degree. If there is no requirement for a QLD for entry into the solicitors’ profession, but there is for the barristers’ profession, there could be confusion and inefficiency, as students may undertake a QLD, to ensure that their options remain open for each profession.

Whilst it is likely that most QLD providers will be able to adapt to a new regime, thought should be given to those many students who do not wish to enter the legal profession, but who want to enjoy a broad legal curriculum. The introduction of the SQE might result in degrees which are focussed on preparing students for the SQE, to the detriment of those who have no interest in qualifying as a solicitor in England and Wales.

There is also a cost implication in relation to the SQE which may not open up the profession. It may be that the SRA may require some pre-requisite qualifications for those wishing to undertake the SQE, and so there may be a need for courses to prepare candidates for the SQE, especially for the skills elements of the SQE. Indeed, many candidates will want to prepare for, and build up their confidence in advance of, the SQE. Whilst these courses will provide commercial opportunities for legal education providers, there will necessarily be a

cost to candidates. Additionally, it is presumed that there will be a fee levied on candidates for attempting the SQE.

Individuals currently have other means of entering the legal services market - CILEx, legal apprenticeships etc, and these routes do facilitate opportunity.

It is the view of Leeds Law School that the introduction of the SQE will not create more routes into the profession. Those other routes already exist. The qualifying law degree should remain as a requirement and the foundation of legal training, both for the benefit of students and employers, but also for the public as consumers of legal services.

### Consistency of standards

The SRA expresses concern about the consistency of standards in higher education, and this concern appears to be another factor in the rationale for change.

In our view there are two issues here:

Firstly, higher education providers operate under the HEFCE and QAA umbrellas. The SRA states in paragraph 23 of the consultation document that *“The 2015 HEFCE consultation on standard and quality in Higher Education states that current quality assurance mechanisms do not ensure consistency of standard across universities. HEFCE concluded: “the urgent quality assessment system does not provide direct assurance about the standard of awards made to students, or their broad comparability”*”.

Paragraph 25 of the HEFCE Consultation provides more context to the SRA’s statement in para 23 above:

*“25. The proposals should to be seen to cast doubt on the ability of the current system to secure the reputation of the UK higher education system over recent years, although later in this document we note some concerns expressed during the discussion period about the continuing appropriateness of current arrangements for the future. Our purpose throughout has been to consider what kind of quality assessment arrangements will be necessary as we look towards 2025, rather than to review the effectiveness of the current appropriate. Throughout the discussions, we have been clear that preserving and indeed strengthening the reputation of the UK higher education system must be an essential component of thinking about future arrangements.”*

Secondly, whilst we accept the theme of “light touch” regulation, it should be noted that in terms of the LPC, there used to be a sound quality assurance system operated by the SRA, which provided information to students and other stakeholders about the LPC courses across England and Wales. The system also provided important drivers for quality within LPC providers.

The SQE could be operated to assure consistency of standards across those successful in the assessments but we are not convinced that the current quality assurance system is a reason for the introduction of the SQE.



The introduction of the SQE might also result in unregulated providers of courses purporting to prepare candidates for the SQE. This would be to the detriment of students and other stakeholders.

We therefore remain unconvinced that the SQE will promote the objectives set out in paragraph 10. Indeed, the reputation of the solicitors' profession could be severely damaged, especially if the QLD is not longer a integral part of the qualification process.

## **Question 2**

**Do you agree that the proposed model assessment or 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?**

No, we do not agree with this statement.

The QAA Law Subject Benchmark Statement 2015 describes a law graduate as:

*“A graduate of law with honours has demonstrated:*

- 1. Intellectual independence including ability to ask and answer cogent questions about law and legal systems, identify gaps in their own knowledge and acquire new knowledge, and engage in critical analysis and evaluation*
- 2. Self-management, including an ability to reflect on their own learning, make effective use of feedback, a willingness to acknowledge and correct errors and an ability to work collaboratively*
- 3. Awareness of principles and values of law and justice, and of ethics v knowledge and understanding of theories, concepts, values, principles and rules of public and private laws within an institutional, social, national and global context v study in depth and context of substantive areas of law*
- 4. Ability to conduct self-directed research including accurate identification of issue(s) which require researching, retrieval and evaluation of accurate, current and relevant information from a range of appropriate sources including primary legal sources*
- 5. Ability to work with a range of data, including textual, numerical and statistical*
- 6. Ability to recognise ambiguity and deal with uncertainty in a and ability to produce a synthesis of relevant doctrinal and policy issues, presentation of a reasoned choice between alternative solutions and critical judgement of the merits of particular agreements*
- 7. Ability to apply knowledge and understanding to offer evidenced conclusions, addressing complex actual or hypothetical problems*
- 8. Ability to communicate both orally and in writing, in relation to legal matters, including an ability to listen and respond to written and oral stimuli including questions and instructions*
- 9. Engagement with their own personal and professional development, an academic integrity.*

It is not at all clear how Part 1 of the SQE will effectively assess these issues, most of which are essential for those practising as solicitors. It would seem to be a huge challenge to use MCQs and/or true/false questions to assess all of these attributes adequately and with integrity. We cannot see how the Part 1 of the SQE will be an improvement on the QLD/GDL. It would therefore seem sensible for the SRA to continue to require some form of academic qualification at graduate level. Part 1 of the SQE should be a graduate level (level 6).

### **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 exemption beyond those required by EU legislation, or as part of transitional arrangements?**

No, it is appropriate that individuals should continue to be able to apply for exemptions for assessments passed in other contexts. Otherwise there will be an increase in cost and effort.

### **Question 4**

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

- **Offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?**
- **Offering a broader number of contexts for the Part 2 assessment for candidates to choose from?**
- **Focus the Part 2 assessment on the reserved activities but recognising the different legal areas in which those apply?**

The first option would most nearly replicate the contexts in which most LPC students are assessed in the skills, but there would be merit in pursuing the second option which might give candidates more realistic scenarios based on their actual areas of practice. This option might also provide more confidence in the validity of the assessments as they would reflect the work undertaken by candidates.

### **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?**

Yes, it is essential that individuals wishing to qualify as solicitors in England and Wales have been able to demonstrate knowledge, skills and attributes at graduate level. Employers, clients and the public should be able to expect that entrants to the profession have achieved a graduate level qualification, so that they have the intellectual ability to deal with the challenges of practising as solicitors. Therefore we agree that Part 1 of the SQE should be at graduate level.

We are also of the view that there is merit in Part 2 of the SQE (or components of it) being at masters level or equivalent, as assessment at this level is more likely to be able to assess the practical and professional competences necessary for practice as a solicitor.

**Question 6**

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

Yes, it is essential that individuals are exposed to the real, commercial realities of solicitors' practice. Academic study can only go so far in preparing students for the legal services environment.

**Question 7**

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

Yes, specifying a minimum time period of pre-qualification workplace experience ensures that individuals have the time to mature and learn at different rates, and to be exposed to different specialisms.

**Question 8**

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

The SRA as a regulator is able to specify the competences to be met during the pre-qualification work experience, but this should be in addition to, not instead of, specifying a minimum time period.

**Question 9**

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

Yes, this would reflect the realities of the provision of legal services and the employment history of individuals.

**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?**

Yes, in principle, as this approach would be preferable to the current perceived "tick box" approach to the assessment of trainee solicitors' abilities at the end of the training contract.

**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 1 and Part 2, to a specified performance standard?**

Not applicable.

#### **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 require standard? What other support might be required?**

Not applicable.

#### **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?**

Yes, as explained in the responses to other questions.

#### **Question 14**

**Do you agree that not all solicitors should be required to hold a degree?**

Our position is that all solicitors should be able to demonstrate that they have a graduate level qualification, as explained in the responses to other questions. This may not mean that all aspiring solicitors should hold a university degree

#### **Question 15**

**Do you agree that we should provide candidates with information about their individual and comparative performances on the SQE?**

Yes, candidates should understand how they have performed. It is a reality that employers will also be interested in the performance of candidates.

#### **Question 16**

**What information do you think would be helpful for us to publish about:**

- **Overall candidate performance on the SQE?**
- **Training provider performance?**

It would be instructive to publish information about candidates' backgrounds and pre SQE qualifications.

It is difficult to provide views around the publication of information about training provider performance without knowing more about the assessment itself and the requirements (or not) about the regulation of providers.

#### **Question 17**

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

We have concerns about the potential impact on individuals from less advantaged backgrounds and from some minority groups. One obvious concern relates to the cost of the SQE. Additionally there is potential for confusion around the routes to qualification that some potential solicitors might be less well placed to address.

**Question 18**

**Do you have any comments on these transitional arrangements?**

The transitional arrangements seem sensible, but our concern is around ensuring that sufficient and effective information about the arrangements and options open to students are disseminated.

**Question 19**

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

There would have to be a cut off date, and this date seems reasonable. There will always be students who are, by reason of mitigating circumstances, moving more slowly through the system.

**Question 20**

**Do you consider that this development timetable is feasible?**

The main issue at the moment is uncertainty about the results of the consultation and the implementation of the SRA's plans. Providers need sufficient time to review any new qualification system; to review courses; develop new courses; and take those courses through approval processes. Insufficient time for these activities will result in courses which may not be of an appropriate standard or fit for purpose.

Leeds Law Society

## T4T - Assessing competence

### Consultation questionnaire form

This form is designed to be completed electronically—in MS Word. Please save it locally before and after completing it.

#### 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?**

It is unclear how the SQE will achieve these objectives, particularly given the lack of detail about the content, examination and cost of the tests and training courses.

##### Regulation

The form of the test has not been properly explained, and it appears that the desire to ensure uniformity may come at the expense of objective and thorough training. Multiple choice questions are unlikely to reflect the day to day working life of a solicitor, and any practical test risks being influenced by the subjectivity of the examiners.

Fast track courses may be created which would ensure that students could pass the exams quickly, but not retain the information after the exam, rather than an extended process of learning.

Whilst the desire for centralised testing is understandable, it seems that this could be achieved by updating and standardising the LPC rather than changing the entire qualification structure. Further, a limit to the validity of the LPC of, say, five years, could be added.

The Leeds Law Society does not consider that ease of regulation is a sufficient reason to change a system that has worked well for many years. If there are issues with institutions providing the QLD/GLD/LPC, the regulator has the option to impose regulation on these institutions, including limiting those allowed to offer such courses, and to ensure that appropriate courses include the areas the SRA consider essential.

##### Diversity and candidates

It has been shown that students from state schools perform better at university than privately educated students. By removing the requirement to attend university, it is possible that students from lower performing state schools will remain disadvantaged when applying for jobs as earlier academic achievements will still be judged.

To request an alternative format please visit [www.sra.org.uk/contact-us](http://www.sra.org.uk/contact-us).

In the transitional period and beyond, a majority of firms are still likely to require degrees from applicants. Students from wealthier backgrounds are likely to continue undertaking this stage in their education, and therefore will remain more likely to be employed at the larger and City firms.

Firms will continue to look at A Levels and GCSEs to ensure consistency in performance in applicants, and these grades will become of more importance if the requirement for a degree is removed as employers will look to tests that they understand.

It is also highly likely crammer courses will be created, enabling wealthier students to better prepare for the exams. It is difficult to see how changing the system post primary and secondary education will assist with diversity, given that it is generally issues.

## 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?**

### Part One

The lack of information provided makes it difficult to respond fully to this question. For example, how long will the exam be, over what period of time will the tests be taken and will they be modular.

Modular tests are likely to encourage cramming, which brings the diversity and standard issues already referenced. Information may not be retained and the possibility of the ability to resit would be an issue for employers (if there is no transparency). It is likely that any employers will want to know how many times a student has resat an exam.

There has also been no information on where the exams will be taken, and at what time of year. This will make applying for jobs and recruiting solicitors difficult if tests can only be taken at certain times and only once a year. However, frequent tests are likely to further increase costs (as each one has to be set with completely different questions).

If tests are to be taken online, rather than in an exam hall, for example, employers need to know that the potential for cheating has been dealt with and effectively reduced.

The type of questions will be important. Multiple choice questions seem simplistic, and unlikely to properly test a student's range of knowledge. However, if essay type answers are required, testing is more likely to become subjective and the questions are unlikely to reflect practice situations.

### Part Two

Again, it is not clear how this will be prepared and objectively marked. Will the role plays remain controlled by the SRA or tendered to private companies?

The proposal does not explain how role play situations will accurately reflect and test the skills required as a solicitor or the different types of clients that solicitors deal with. Again, the clients that solicitors in high street/criminal firms deal with are unlikely to be similar to those dealt with in commercial firms.

No detail has been provided regarding when these tests will be taken. If taken at the end of the 'work placement', then testing a wide range of information is unlikely to be of relevance to employers or candidates, particularly in this age of increased specialisation. There is also a risk that candidates will be underprepared for practice in the areas of law they intend to work in as a result of studying such a broad base.



This is particularly likely in niche areas such as banking and construction.

Further, if Part Two is taken at the end of a 'work placement', it will be difficult for firms to plan recruitment as the candidate may fail and be unable to take up the role offered. Currently, all the exams are usually completed prior to commencement of the training contract and, subject to performance during the training contract, recruitment can be planned.

### Overall

The test suggested covers wide areas of practice. This does not reflect the way most solicitors work today, or the substantial differences between commercial, high street, and criminal practice. The profession has evolved in the last 20 years and now there is increased specialisation from training contract stage. It may be more practical to have different tests reflecting this, which will be of more use to both student and employer.

It is agreed that Part One should be passed before Part Two can be undertaken, and there should be no exemptions to the tests.

### **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?**

In the event that the SQE is introduced, all practicing solicitors and lawyers should be required to pass the exam. There is little point in introducing the SQE if the aim is consistency if exemptions are created.

## Question 4

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

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

At present, the areas indicated are too wide for professional examination, particularly if no earlier formal study has been undertaken.

The difficulty in selecting the areas that should be tested reflects the issues inherent in trying to replace a minimum of six years of study and training with a test. The QDL/GDL covers a wide range of topics, and whilst these may not be used in practice dependent on where a solicitor trains, the background information is likely to be retained due to the nature of the study over several years. With the proposed SQE, this is unlikely to happen.

Following the degree and when a student takes the LPC, they are generally encouraged to choose either a private client or commercial law track which is often required by the firm where the student will be training. It is likely that employers will continue to require this, and if the test does not cover the areas they require in detail, they may need to create in-house courses.

Any test needs to reflect the reality of practice and employer requirements, or it will result in solicitors who may have passed the test but are unable to secure a job as they do not have knowledge in the areas required by firms in which they wish to work.

We asked members of the Leeds Law Society what they thought should be covered on the centralised test:

*“The core modules that exist now. Contract, tort, property, trusts, crime etc. I believe that the law is too diverse for one centralised test. However, I do think it should test everything if it were to go through.”*

*“Ethics. Legal basics, although not necessary in all areas. It is pointless requiring a commercial lawyer to understand family law. Verbal reasoning.”*

*“It should cover both the practical skills required to be a solicitor as well as legal knowledge”*

*“This question alone highlights what a bad idea the proposals are. There should be hundreds of things tested, which is achieved through the various modules on a degree/GDL and LPC”.*

*“Every single exam question posed during three year of a law degree and one year of the LPC should be on the test.”*

*“As the profession is so diverse, I think it is almost impossible to come up with a “one size fits all” list of topics”.*

*“Basics like spelling, grammar and punctuation. I am regularly shocked by the poor standard of written English on display at both my ‘own’ firm and in other places.”*

*“It would have to be over a number of days and cover a whole range of topics/areas of law as well as soft skills (though role play etc)...”*

*“Speaking, interacting with clients, drafting letters, time management, delegation. These are all vital areas which are developed during the period of recognised training, any solicitor entering the field without these would be severely hampered.”*

There are many respondents that were unable to answer this question as they were fundamentally against the proposed changes.

## 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?**

The Leeds Law Society strongly believes that solicitors should all be trained to a graduate level to protect the brand and maintain professional standards.

In a survey of our members, 60% of respondents felt the degree should be maintained, with a further 33% believing it should be retained with centralised marking.

There is an expectation that academically able students will attend university, and more people are attending university as a matter of course. Should a student wish to practice law without a degree, there are other viable options such as CILEx which enables them to do this.

Further, professions that did not traditionally require a degree, such as nursing and policing, now expect all new starters to be graduates. It seems odd that the legal profession, which is typically viewed as a very academic profession, should be taking the opposite approach.

It is important that standards remain high and that the public confidence and perception in the academic ability and skill of solicitors. There is already confusion over what a 'lawyer' and a 'paralegal' is and removing the academic requirement for solicitors is likely to make this worse.

Some comments from members of The Leeds Law Society:

*"The QLD is the foundation every solicitor should have"*

*"It shows candidates have sufficient interest in the subject matter and is a way of acquiring academic rigour and a sufficiently rounded knowledge base."*

*"Removing this requirement will lead to a dumbing down of the expertise of legal professionals."*

*"General background knowledge of the law is very important and assists with the esteem of the profession."*

*"A law degree is absolutely necessary for qualification into the legal profession as a solicitor."*

*"I do not think we should be 'dumbing down' the profession. Being a solicitor is more than just a job. There is an expectation from society as a whole that goes with the title. That is that you have received a certain level of training and education and that a person's case, work and even life (depending on the work) is safe within that person's hands... I think a good round knowledge of law is what makes a solicitor stand out as a profession. An expert in their field."*

## Question 6

### **Do you agree that we should continue to require some form of pre-qualification workplace experience?**

The Leeds Law Society consider that workplace experience is extremely important. Academic learning alone is not sufficient to produce the high standard of legal professionals that the public and the international community expects.

In our survey 65% of members wanted the training contract retained as is, with a further 29% agreeing that there should be centralised testing at the end of the contract.

The workplace training is the point at which solicitors learn the important practical and soft skills required to succeed in a legal career. People require training, and varying levels of supervision to develop properly.

Any workplace experience needs to be supervised properly and should be substantial and remain in the form currently required, i.e. two years training covering at least three areas of practice.

#### Some comments from the Leeds Law Society members:

*"I am not sure how easy it would be to test this centrally at the end of the training contract."*

*"The training contract offers trainees the opportunity to experience a number of departments within a firm and various types of law. To remove the training contract would mean losing this opportunity to make an informed decision about where they want to qualify and which area they are most suited to."*

*"It would be terrifying if someone passing a centralised test was suddenly qualified as a solicitor and able to give advice to people on matters of financial value or significant life events. A training contract allows professional development, a safety net and lets trainees try out different areas of law before committing to an area."*

*"The training contract is about practical application of what has been learned before, learning soft skills and starting [to] gain specialized knowledge in a few practice areas. All firms operate differently and every trainee will be exposed to different cases, different research tasks, different clients etc. Centralised testing would not be able to cater for the bespoke nature of the training contract."*

## Question 7

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

Yes this is very important. The two years in place now is an appropriate length for a "probationary period".

It does not necessarily have to be a training contract in the form it is now (with the cost of the additional compulsory training during the contract) but supervision is crucial and structure is needed so that firms and supervisors understand their obligations.

There is already an over supply of solicitors (which as things stand seems likely to continue). This will get worse if the training contract is removed and just two exams have to be passed to acquire the qualification. The job bottleneck will be moved from the LPC/training contract stage, where it is currently, to SQE/qualified job.

## Question 8

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

The SRA should specify both a minimum time period and the competences that must be met. The competences should be clear to enable supervisors to maintain standards.

A minimum period needs to be maintained to ensure that the trainee learns on the job, gets invaluable experience and increases the trainee's ability to meet the competencies. This is the only way the competencies can be reached, the best solicitors produced and the public protected.

The Leeds Law Society has previously surveyed its members on equivalent means qualification. No respondents thought that the period of training/working should be less than two years, with around 17% suggesting two years, 22% suggesting three years and 20% suggesting four years.

The Leeds Law Society therefore suggests that there should be minimum period of at least two years.



## Question 9

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

This might be difficult to police. There needs to be a standard for someone to be measured against. Careful thought needs to be given as to how this could be obtained - a range of employers could work if all the relevant areas are covered but who is going to judge the person against the competencies overall if they have worked in different places (with possibly different levels of supervision)?

If it was to be part of a degree course concern would be it might be too early for the student to get the most out of it (and would it be paid work)? As an employer what use would someone be who comes in for say 1 year in the middle of their degree and then goes back to university for more exams. This would result in disjointed and less effective training.

## 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?**

Yes it is vital. It is not possible for anyone to go straight into the job of solicitor without experience of working in a law firm/legal department.

The brand must be protected and the public must be protected. The student has to feel confident that they can do the job and certain steps have to be taken to ensure this (of which the workplace assessment is a vital part). The employer needs to have confidence in the preparation that has gone into ensuring the student is going to be an effective part of the business.

## 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 1 and Part 2, to a specified performance standard?**

Employers are able to do this, but structure and clear guidance is required to establish and interpret what the competencies required are and what might be classed as sufficient standards.

To ensure this, supervisors might need to go on courses, which further increases costs for firms.

## 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?**

In the event that the workplace had experience of supervising trainees in the past, this might be sufficient. However, new supervisors (including business such as ABS) may need to attend courses to assist them in fulfilling the requirements. This obviously would come with a cost and may dissuade companies from taking on trainees.

## 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:**

- a. support the credibility of the assessment?,**
- b. and/or protect consumers of legal services and students at least for a transitional period?**

We agree that this is required but we do not agree that it should be the SRA that determines who qualifies. Professional standards should be distinct from regulatory rules.

In the past, the SRA has not limited or regulated those offering both the QLD and the LPC. It is arguable that the provision of degrees and LPC by such a wide range of providers, who are not regulated, is what has led to an oversupply of students that are unable to obtain training contracts. Any change that happens to the training system should address this and the SRA should properly regulate at the very least the LPC providers.

The failure to control and maintain standards has led to students who are unlikely to obtain training contracts being taken advantage of and spending large sums of money on courses that are unlikely to assist in other careers.

## Question 14

### **Do you agree that not all solicitors should be required to hold a degree?**

As discussed above, it seems unusual that the legal profession would not require a degree as this becomes more commonplace in other, typically vocational, professions. The Leeds Law Society members' survey further confirms this.

A degree ensures a good level of background knowledge and a demonstration of academic rigour.

There are other options that entrants to the legal profession can undertake, including CILEx and apprenticeships, which do not require a degree. Given the increasing number of routes, the solicitor profession needs to define itself by its high standards, which includes the academic and graduate requirement.

## **Question 15**

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

Students will pass this information to their employers, who are likely to require this to ensure they are hiring the best candidates. This will be particularly important where students have not taken a degree and employers use this to rank applicants.

If students are able to resit exams, the feedback will be necessary to help them improve and address any issues. However, employers will want to know if resits have been undertaken.

## Question 16

**What information do you think it would be helpful for us to publish about:**

- a. overall candidate performance on the SQE?**
- b. training provider performance?**

If this is a reference to overall statistics then to ensure confidence and transparency in the system it is vital both are available.

There is information being revealed now about LPC providers which have shocked a number of solicitors (the number of institutions who provide the course, the variation in pass rates, that the providers set their own exams etc). This should not have happened but if something new is coming in then it is very important that exams are set centrally and marked centrally and that students and employers have information about how the providers have performed (by way of pass rates of their students etc). This will help the students decide if the course offered is fit for purpose and value for money and give the employers confidence in the preparation the student has had for the world of work.



## Question 17

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

There may be cost implications for the fees for taking the SQE and the crammer courses, which will inevitably appear that will disadvantage poorer students.

Firms may also be unwilling to fund the SQE for candidates who are unproven by degrees and other qualifications beyond A Level

Further, as it is likely that candidates from higher socio-economic classes will still attend university, there will be a two tier system that will disadvantage those from different backgrounds, particularly when applying to commercial firms.

Some comments from the Leeds Law Society's members:

*"I believe the profession will become less open, as firms will require a greater degree of qualification or recruit in-house."*

*"[This will] hinder social mobility as only those that could afford to do the optional course would take it and also the cost of the exam itself would put those from lower incomes at a disadvantage. In addition, the option to retake the exam at the same cost each time would be an advantage to those that have money."*

*"It will depend on the costs involved in centralised testing etc."*

*"There is a potential of increased diversity as the cost of the LPC is inaccessible to certain individuals without a training contract or loan. However, I believe increased diversity will come from grass roots programmes and firm opportunity rather than access to the LPC/period of training."*

*"Training contracts are offered with diversity in mind, university is wholly accessible with the current loan system."*

## **Question18**

### **Do you have any comments on these transitional arrangements?**

There are always going to be substantial issues in bringing in such wide ranging changes.

We note that you propose to commence the SQE from 2018/2019. Many commercial firms are already recruiting for 2018 and will continue to recruit two years in advance. There are also still a large number of candidates for training contracts who have already left legal education. This is likely to lead to substantial difficulties in assessing candidates when such different routes have been taken.

Any transitional periods need to be very clear to allow employers and candidates to understand how it will impact on recruitment.

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

This seems reasonable. The only concern would be for those who have already left legal training and not yet secured a training contract. However, if they are still unable to secure a training contract at that point, they are unlikely to and therefore will not be prejudiced.

This date will need to be changed if the SQE is introduced at a later date than proposed.

## **Question 20**

**Do you consider that this development timetable is feasible?**

The timetable seems very short. Further, dependent on the number of times over the year that the SQE can be taken, a large question bank will need to be created. This is likely to take a large amount of time (and increase the cost).

It is also key to bear in mind the recruitment system at larger firms, with many recruiting two years in advance. This is particularly important given that the SRA has stopped backing the trainee code and firms can hire students at any point.

**Thank you for completing the** Consultation questionnaire form.

Please save a copy of the completed form.

Please return it, along with your completed **About you form**, as an email attachment to [consultation@sra.org.uk](mailto:consultation@sra.org.uk), by **4 March 2016**.

Alternatively, print the completed form and submit it by post, along with a printed copy of your **About you form**, to

SQA consultation  
Solicitors Regulation Authority  
Regulation and Education  
The Cube  
199 Wharfside Street  
Birmingham  
B1 1RN

Kent Law School, University of Kent

## **T4T - Assessing competence**

### Consultation questionnaire form

This form is designed to be completed electronically—in MS Word. Please save it locally before and after completing it.

## 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?

No. The consultation document fails to explain in sufficient detail how the proposed model assesses competence consistently and to the required standard. No information is provided as to where the threshold might be set and how the required knowledge will be demonstrated. Indeed, stakeholders highlighted that it would be important to establish the credibility of the SQE, but the consultation document provides insufficient information for an assessment of that credibility to be made. We suggest that a threshold standard, rather than a consistent standard, is the appropriate model, and that the present system adequately caters for that need.

In aiming to set a 'consistent' standard, the model presupposes that there is a single type of solicitor, without recognising the diverse demands of different parts of the profession. The current model, and in particular the academic stage of training, recognises that there are different types of role within the profession and allows the development of creative and entrepreneurial legal skills. We therefore agree with the Heads of Schools response to the consultation, which says that they are not convinced that SQE will widen opportunity and, further, that the idea of cramming the knowledge and skills currently delivered in a three year degree into the proposed model will be at the expense of student choice and the breadth of knowledge on graduation. This would result in the devaluing of the current 'brand' of legal education in England and Wales, which is currently well regarded and recognised in many other jurisdictions.

Further, for the reasons set out below, it is a fallacy that the proposed model would allow greater diversity for entry to the profession.

Paragraph 10 fails to recognise that the biggest barrier to diversity is the fact that LPC providers a) charge very high fees and b) accept far more students than training contracts are available. Universities providing QLDs reflect a greater degree of diversity than the vocational stages of training. Employers also contribute to a lack of diversity in the profession as Oxbridge graduates tend to be favoured for jobs in high profile firms ([http://www.lawgazette.co.uk/news/oxbridge-alumni-run-the-magic-circle/5053877.article?utm\\_source=dispatch&utm\\_medium=email&utm\\_campaign=G AZ29022016](http://www.lawgazette.co.uk/news/oxbridge-alumni-run-the-magic-circle/5053877.article?utm_source=dispatch&utm_medium=email&utm_campaign=G AZ29022016)). It is unlikely that the proposed model will adequately alleviate such problems as the obstacles to access to the profession are most acute at the point of employment, not at either the academic or vocational stages of training.

If there are real concerns about consistency (which is not accepted), it suggests a need for greater SRA involvement at, and regulation of, the vocational stage of training leading to a common test and not necessarily a complete overhaul of the entire system. Indeed paragraph 25 highlighted the LPC as being a source of inconsistency, which again suggests a greater need for SRA threshold competencies at that level, and not throughout both the academic and vocational stages of training.

It is not appropriate to hold the current training regime responsible for consumer detriment in terms of complaints because (a) there is no evidence of a causal link; (b) there are a significant number of variables involved in any complaint and a full assessment of the relationship between complaint and (nature of) training need

would need to be identified and (c) any rise in the number of complaints (there is no suggestion that there has been) could reflect changing social expectations and attitudes as opposed to an increasingly flawed service. In any event, the proposed model does nothing to eliminate risk. The limited form of assessment that is proposed simply serves to ensure a certain level of knowledge, rather than ensuring that a prospective solicitor has the ability to research, think about and analyse issues. In fact, a rigid application of knowledge without context may be more likely to increase the risk to clients and lead to an increase in the number of complaints against practising solicitors.



## 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?

No. See answer to question 1 above. There is a lack of understanding about the diverse range of competences required to be a solicitor, and a simple test in the model proposed does not adequately assess the range of skills required. There are insufficient details contained within the consultation document to properly understand how competence will be obtained and assessed.

The blame for inconsistency in training provision appears to be placed with the diverse nature/number of training providers. Simply changing the assessment method does not remedy that issue.

Further, if the assessment method is, as appears to be suggested, by single examinations in each subject alone, there is a risk that training will simply become directed towards passing an exam rather than the holistic approach to legal education that currently exists. We also agree with the response of the Society of Legal Scholars, who noted that teaching to the proposed model would mean that there is unlikely to be much scope for teaching other important areas of law such as family law, employment law, legal theory, and social welfare law.

Throughout the current legal education process, legal knowledge is tested in many diverse ways: written assessment, examination, presentation, case work - each of which contributes to the broad range of skills required to be a solicitor. Such holistic approaches to assessment do not only develop a range of skills, but ensure that knowledge is not simply directed to 'how to pass an exam'. There is bound to be an adverse influence on the way that legal education is taught when it simply becomes about passing a particular set of tests; the model proposed is too reductive. Test models of the nature proposed assume that there can be a single correct answer to particular legal problems, but the very nature of a common law jurisdiction requires a skill set which includes legal research, the ability to recognise uncertainty in the law, interpretation and the ability to reflect on available courses (and causes) of action.

The current system allows students to develop the competences required to become a solicitor in several stages. Training providers expect trainees to be able to write clearly persuasively. Those prospective trainees with a degree will very likely have the advantage in job applications because they will have already developed the skill set required to enter the training contract market. As a result, there is potential for indirect discrimination to occur for those who have not chosen the degree route to qualification. This proposal is, therefore, highly unlikely to improve diversity or a consistent level of competency within the profession.

The footnotes to the relevant paragraph explain that objective testing “requires a candidate to choose or provide a response to questions whose correct answer is predetermined. This might include multiple choice questions, true-false questions, matching questions or assertion/reason questions”. Such an approach does not appropriately reflect the development of analysis and understanding of law that is presently required as part of the QLD/GDL route, and places those skills at significant

risk of being undermined as the tests becomes purely knowledge based. Notably, most professions (dentistry, medicine, nursing, veterinarians) require degree level qualifications. Therefore, the consultation paper's assertion that multiple choice/true or false questions are used to test high order skills in other professions is taken out of context and is accordingly somewhat misleading.

Elsewhere, the consultation document refers to competence meeting 'graduate standard' but the model proposed cannot test graduate level skills in the sustained way that the current system of legal education does. One of the benefits of the QLD/GDL route is that there is a diverse pattern of teaching and assessment patterns which not only cater to individual learning needs and styles, but also encourage students to analyse and apply the law in creative ways. Legal creativity cannot be learnt or tested via a standardised testing process such as the model proposes.

It is also of significant concern that the body who have tested the assessment method (Alpha Plus) is a company which also designs and provides such assessments. There appears to be a significant risk of bias in the findings, such that their reliability is undermined.

### **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?

No. There is a risk that talented lawyers from other jurisdictions will be dissuaded from transferring their professional qualifications to the English and Welsh system.

This also means that there is a risk that the SQE would operate in an indirectly discriminatory way.

We agree with the Heads of Schools response that there should continue to be exemptions for entrants who have passed appropriate assessments in other contexts.

## Question 4

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

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

Option b.

This option appears to ensure that those areas of law which do not traditionally provide high incomes will remain subject to testing to an appropriate standard. While the consultation document refers to option b providing a less consistent approach, it is important to recognise that different practise areas face different demands and therefore one would expect training to be different to reach an appropriate competence threshold. A 'one size fits all' does not sufficiently recognise the diverse nature of legal practise.

The consultation document fails to recognise that there is a difference between litigators and transactional solicitors, and the mind-set which is applied to the different areas of work. Training needs to be across both areas so that students/trainees are able to play to their strengths and understand the ways in which different areas of the profession work. Learning to write, argue, persuade in a sustained way and in an adaptable style is something which is not adequately provided for in the current proposed model, and has the potential to skew routes to qualification.

## 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?

Yes. The consultation document fails to state how assessment will be set at a 'consistently high standard'.

It is unclear how graduate level skills will be tested for those who are not entering the profession via the graduate route, particularly in terms of a prospective solicitor's ability to analyse legal problems effectively and use the law creatively. Again, therefore we agree with the Heads of Schools response that applicant who has not achieved graduate level qualifications would not have the necessary skills, attributes and qualities required to undertake the complex and technical work of a solicitor.

## Question 6

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

Yes. Workplace experience is key to trainees contextualising the academic and vocational stages of their legal education.

However, given that the SRA seems to be concerned about ensuring consistency at point of qualification, more thought needs to be given to how an appropriate level of workplace experience might be achieved. In order to encourage diversity, thought should be given to including relevant experience outside a solicitor's office.

## Question 7

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

Yes. If no time period is set, there is a risk that trainees will be unfairly pressurised to complete the pre-qualification workplace experience as quickly as possible. This will have an impact on the diversity of the profession and risks indirect discrimination to those with health difficulties and to those with caring responsibilities. Furthermore, such a lack of clarity is likely to increase inconsistent training practises.

We also agree with the Heads of Schools response that, if there were to be no minimum requirement, there would need to be an assessment of what had been learned through work experience – which would increase the cost of the process.

We further suggest that firms should be consulted in detail on this issue, as if there were no minimum time period solicitors firms might in any event be reluctant to offer shorter term contracts or, at the other end of the spectrum, open-ended training contracts. There might be a risk of open-ended contracts being used to exploit trainees. Furthermore, if solicitors' firms were required to bear the cost of a new system of assessment, this could be a disincentive to firms offering training contracts.





## **Question 8**

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

No, given that we believe a minimum training period is appropriate. We do however question who would assess the level of competence achieved and by what means – with potential costs implications.

## Question 9

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

Yes, particularly in light of the fact that the number of training contracts available does not meet demand on the part of those completing the LPC. Expanding the range of acceptable legal experience might, to some extent, help to widen access to the profession.

## **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?

We are unable to respond appropriately given that the question is poorly worded. In line with our answer at 8 above, workplace assessment MAY enhance the quality of the process depending on the assessment method.

We do not know what the additional regulatory cost/burden will be so it is impossible to say whether it is justified.

## **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 1 and Part 2, to a specified performance standard?

Not applicable

## **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?

Unsure. Training providers need to be consulted in detail on these proposals.

## 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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

Yes. We agree with the Society of Legal Scholars that a QLD/GDL should remain a part of the recognised pathway to qualification indefinitely.

## **Question 14**

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

No. The QLD/GDL route provides a broad range of legal knowledge which provides students with significant analytical abilities as well as the ability to cross reference areas of law in an in depth way. The academic stage of training is important in developing both the knowledge and skills to be applied at later stages of education and in practise. Again, we agree with the Society of Legal Scholars that all solicitors should have attained at least graduate level qualifications.

## **Question 15**

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

Until we know more about the proposed model and how it would operate, we cannot answer this question. Solicitor and student views should be sought on these issues.



## Question 16

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

There is insufficient information in the consultation document about how these matters will be assessed in order to offer an appropriately informed opinion.

## Question 17

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

Yes. See above.

The current system of diverse pathways to qualification and recognition of previous experience serves to increase diversity. Restricting qualification to a single method is likely to have a detrimental impact.

Furthermore, there is no indication of how much the proposed SQE process is likely to cost intending solicitors. It is possible that cost could remain a significant barrier to qualification. Funding issues are likely to remain a significant problem and consideration should be given to offering loans/bursaries etc.

Further, completion of the SQE would be no guarantee of greater employability and, for the reasons outlined above, SQE alone holders will be at a disadvantage compared to graduates who have passed the SQE. As stated above, the barriers to entering the profession are more formidable at the point of trying to obtain a training contract.

We would like to see a much more careful analysis of how SQE is likely to impact on diversity.

We agree with both the Heads of Schools and the Society of Legal Scholars that SQE actually has the potential to create more barriers to qualification.

Many universities and colleges have comprehensive systems to 'recruit' students from less advantaged backgrounds and to support them throughout their degree programme. Such students are likely to become at a greater disadvantage under the proposed system.

## **Question18**

Do you have any comments on these transitional arrangements?

No view. We note however that, particularly for undergraduates currently completing 4 year QLDs, significant consideration would need to be given to how the transitional arrangements would be managed.

## Question 19

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

No view

## **Question 20**

Do you consider that this development timetable is feasible?

No. There is insufficient information in the document about the assessment methods to assess the feasibility of the timetable. There are, however, likely to be significant difficulties given the level of uncertainty and the lengthy amount of time it takes for universities to introduce new programmes.

**Thank you for completing the** Consultation questionnaire form.

Please save a copy of the completed form.

Please return it, along with your completed **About you form**, as an email attachment to [consultation@sra.org.uk](mailto:consultation@sra.org.uk), by **4 March 2016**.

Alternatively, print the completed form and submit it by post, along with a printed copy of your **About you form**, to

SQA consultation  
Solicitors Regulation Authority  
Regulation and Education  
The Cube  
199 Wharfside Street  
Birmingham  
B1 1RN

## 2. Your identity

### 1. Surname

Bok

### 2. Forename(s)

Man-Ying

### 3. Name of the firm or organisation where you work

Linklaters LLP

**4. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Attribute my/our response and publish my/our name.

**5. Please identify the capacity in which you are submitting a response. I am submitting a response... as a student studying for a qualifying law degree or legal practice course**

## 3.

**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?**

Yes

## 4.

**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?**

No

## 5.

**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?**

Yes

## 6.

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

b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?

**Why...**

The work solicitors have to undertake on a daily basis has diversified in recent years and thus a broader range of skills should be assessed. Besides, not all solicitors are required to exercise all types of reserved activities in practice.

It might better suit the variety of needs of stakeholders and maximise flexibility if the SRA could offer an assessment which grants reserved-activities-specific licences.

## 7.

**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?**

Yes

8.

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

No, unless paralegal experience (hands-on experience in e.g., drafting and advising, NOT document review or bundling experience) is considered as valid for that purpose

9.

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

No

10.

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

Yes, absolutely. I have seen too many trainees sitting around twiddling their thumbs.

11.

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

Yes, it is sometimes beneficial to have work experience across different law firms. But I do not think experience obtained in too short a period, e.g., a few weeks in a vacation scheme, is going to be of much significance.

12.

**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?**

Yes. Besides, heavy burden should not be an excuse to evade duties to ensure quality of the qualification process.

13.

**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 1 and Part 2, to a specified performance standard?**

No.

14.

**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?**

Perhaps. A sample work/task portfolio might be more useful.

15.

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?**

No. It has only been creating a whole drama of bureaucracy and is not necessarily consistent across different qualifying routes.

16. (untitled)



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

Yes. I personally know some brilliant lawyers who do not hold a degree but are in fact better and more knowledgeable than many other degree-holders in their specialised field. From a consumer protection point of view, whether or not a lawyer holds a degree is irrelevant.

17.

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

No. The purpose of the SQE should be to assess the competence and not the competitiveness of the candidates. Providing comparative performance results will only end up being a tool to predict employability while it should have been a matter for the employers to assess for themselves.

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

No comment.

19.

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

Most likely positive. The social background, ethnicity, and financial status often determined the choice of career and the pathway a candidate can undertake. I can only foresee the SQE removing these barriers.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

No.

21.

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

A course provider might be in a better position to address this question. I personally find it reasonable.

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

Yes -- if not too rushed.

## **T4T - Assessing competence**

### Consultation questionnaire form

This form is designed to be completed electronically—in MS Word. Please save it locally before and after completing it.

## 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?

The Manchester Law School at Manchester Metropolitan University, as a provider of legal education and training at undergraduate and postgraduate level, has an interest in the training regime for individuals wishing to qualify as solicitors. This is the response of Manchester Law School to the Consultation on Assessing Competence by way of the proposed SQE.

Before going on to consider the specific questions posed by the Consultation Paper, we set out the context in which we provide this response. We are one of the largest Law Schools in the UK and deliver the full range of legal education courses, including the LLB, an LLB in Legal Practice, a GDL, LPC, BTPC and a range of postgraduate Masters courses, in addition to offering the legal services apprenticeships programme. We are the only legal provider in the Manchester area to offer courses for every stage of the legal profession. We have over 1300 students studying at undergraduate level and over 200 students studying on professional practice programmes. We are staffed by a team of over 75 academics, consisting of both practising and non-practising barristers and solicitors, academics, researchers, part time judges and tribunal chairs.

Generally, we welcome the opportunity to review the currency of legal education to ensure consistency of standards and the promotion of diversity and flexibility to accommodate the needs of students, training providers and the profession. Whilst we accept that there is a need for progress, we acknowledge the strengths of the current qualification framework and the fact that the Law degree as a route to qualification, in addition to the LPC qualification, is respected nationally and internationally. We would not wish to see any way forward which would put this reputation at risk. In this context we question the decision of the SRA to consult on only one of the three options they identify for their new approach to qualification. The SRA indicates that it has evaluated the three options but it has not provided evidence of its evaluation, nor in our view, is the summary contained in Annex 1 sufficient to discharge the duty of the SRA to enable consultees to participate meaningfully in the consultation. In *R (on the application of Moseley) v London Borough of Haringey* 2014 UKSC 56 which gave consideration to the duty of a local authority in when holding a consultation noted (at para 39) that for participation to be meaningful it requires that "consultees should be provided with information, not only about the draft scheme, but also with an outline of the realistic alternatives, and an indication of the main reasons for the ... adoption of the draft scheme". In that case, failing to provide information about alternatives meant the consultation was not fair. There is, in our view, an analogy to be drawn between the consultation process in that case and the instant SRA consultation.

However, as we are only being consulted on one option, our responses to the questions are as follows:

We applaud the the SRA's objective to "assure consistent and comparable high quality standards at the point of admission across all pathways to the qualification". This is aimed rightly in our view at protecting the public and preserving the reputation of the profession but we have significant doubts as to whether the introduction of an

SQE in the format proposed will achieve this goal.

Our concerns are:

- the SRA makes assumptions about the quality of current provision which is not necessarily supported by evidence. The HEFCE consultation referred to suggests a the "preserving and indeed strengthening the reputation of the UK higher education system must be an essential component of thinking about future arrangements" It does not support the SRA's case for wholesale reform
- there is no framework yet published to evaluate the standard of the SQE
- the SQE will be at graduate level but without reference to the levels of study specified in the QAA framework for graduate qualifications; successful SQE candidates will be deemed to have attained the equivalent to a level 6 qualification (LLB/GDL) for Part 1 and a level 7 qualification (LPC) on completion of the whole SQE but without reference to the QAA criteria for level 6 and 7. Whereas students now emerge with a qualification with a standard that is benchmarked and recognised, the SQE will be a very limited, sector specific qualification, the standard for which will be determined by the regulator rather than by the profession.
- the SQE contains no elective element so it requires demonstration of less knowledge at the point of entry to the profession than the current pathway.
- as the SQE can be attempted without limit as to the number of tries or over a duration of time, it will test legal knowledge and skills at the time of assessment and not competencies at the point of entry to the profession (a criticism which could be levelled at the present system but the SQE is aimed at correcting the problems of the present system)
- as the SRA will no longer regulate the provision of the professional qualification, there is a risk of the emergence of low quality, crammer courses, driven by commercial gain for the provider, focussing on how to pass the SQE rather than the competences required to practice as a solicitor. These are likely to be driven by commercial gain for the provider, and result in delivery by a workforce that is not qualified either as a solicitor or a teacher of higher education. There is no indication that the SRA will accredit or regulate providers (it seems unlikely that they would do so) and we are concerned that the current commitment to quality education and training would be diluted, to the detriment of students in such an environment.

The SRA acknowledges that the consultation is mainly focused on how the SQE can more rigorously assure performance standards (para 37) but it also envisages that the SQE may also enhance flexibility for entry to the profession and so improve diversity. We are not convinced that this laudable aim will be met via the SQE for a number of reasons:

- the SQE system may cause confusion for students; at present the process for qualification is simple and clear. Students know what they need to do and the order in which to do it. The complexity of the new system with multiple pathway may well make it more difficult for students to understand the route to qualifying potentially discouraging individuals from joining the profession rather than widening the talent pool.
- the SRA anticipates that higher education establishments will adapt their degree

courses but there is so much uncertainty about the content of the SQE that it will be some time before there are adapted degree on the market; again this is likely to create uncertainty and, once adapted degree courses are launched, it may well mean that students will have to decide at a much earlier stage than they do now whether to pursue a vocational course or an academic course.

- funding support will continue to be available only for the academic course; there are no costings yet for the SQE but as the SRA indicate that the SQE is to be modelled on the QLTS, which attracts a fee of around £5000, it seems likely that the SQE will be expensive, particularly as the SQE will contain more assessments than the QLTS, and as Part 2 involves the assessment of skills. The prejudice to the less well off will remain and possibly deepen if the response of the legal employment sector is to require a pass in the SQE as a pre-condition to employment.

- there is a risk of a two tier system developing with those who can afford it still choosing to take a degree to protect their position in the jobs market as they progress in their career.

## 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?

There are no draft assessments to evaluate whether the model will provide an effective test of the competences required. We are being asked to comment on process without information about content and we are concerned for example that a test using linked scenarios between questions would result in double jeopardy for candidates.

The SRA indicate that part 1 of the SQE will be based on the QLTS. This is used to primarily to test knowledge and competence of lawyers already qualified in another jurisdiction on distinct features of English law and practice. Most of those will already be graduates but the QLTS does not test 'graduateness' and there is no information about how that model would be adapted so that the SQE would test 'graduateness'.

The SQE is to be by way of computer based objective testing. We appreciate that MCQ methodologies requiring a 'single best answer' can test knowledge and application to a given scenario but there is no evidence provided that such a method will enable a candidate to demonstrate the higher level learning outcomes required by the QAA Benchmark Statement for Law or the generic undergraduate degree descriptor by which a graduate is expected to demonstrate an "appreciation of uncertainty, ambiguity and limitations of knowledge". These critical thinking skills are essential qualities of a solicitor. Whilst the consultation paper notes that such tests are already used in other professions it does not say that in those professions, e.g. medicine, a relevant degree is a pre-requisite.

The QAA Benchmark Statement for Law requires undergraduates to demonstrate skills outcomes which will not be required for Part 1 of the SQE. This includes the ability to respond to complex information and to communicate clearly. It is not clear how the SQE will test these skills, which are again essential qualities of a solicitor.

The current system requires students to draw on legal knowledge acquired during the academic stage for the purposes of passing the LPC. This enables students to demonstrate the ability to retain and process information and 'think on their feet'. There is no suggestion that such retention of information will be assessed under the SQE.

### 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?

For the reasons stated above we do not agree that the SQE is the best way to meet the objective of ensuring competence nor that the SQE can improve diversity.

The SRA's case here is to ensure consistency of standards. However, the reliance on one examination to demonstrate the required standard seems at odds with a move away from prescribed pathways to open, unchartered routes envisaged by the new scheme.

We are concerned that the requirement for all to pass the SQE would place a considerable burden on students who chose to take a law degree as they will then have to be assessed twice on Statement of Legal Knowledge topics. Given that the LETR found that the current system of legal education and training is essentially sound there does not seem to be any rationale for not permitting exemptions where the level of knowledge required has already been met by other means such as a law degree. Exemptions are a well established feature of other professions cited by the SRA such as accountancy.

If the SRA is concerned to raise standards, another approach would be to raise the passmark for any statement of legal knowledge topics in order to obtain an exemption.

If the SRA is obliged to grant exemptions to EU applicants with equivalent qualifications/experiences (as it concedes may well be the case) then it could find itself in a situation where an EU national who has a UK law degree would be exempted from some or all of the SQE whereas a UK national with the same qualification would not. That cannot be right nor is it fair.

## Question 4

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

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

We have no strong view as to the assessment context of Part 2 of the SQE. However, as not all solicitors nor all law firms practice in those reserved areas we are not convinced of the need for entrants to the profession to demonstrate the skills within those areas.

We can see disadvantage though in option b. We have already expressed concerns about the cost of administering Part 2. It is likely offering a broader number of context will increase the cost which will be passed on to students.

We are concerned that no information is offered about the expertise of those who would undertake these assessments nor about the content of these assessments.



## **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?

Yes but for the reasons stated in response to Question 2, we are concerned about how the SQE will assess this level.

We also question the need to redraw the current system whereby non graduates can enter the profession via the Cilex or apprenticeship route, delivery of which is already regulated.

## Question 6

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

Yes but without information about the content of such experience we can only make general observations. We do not think it is necessary for such experience to be part of a PRT. Our view is that it could include placement for example in law clinics and in paralegal positions. However, in order to protect the public there would need to be detailed consideration of how to evidence the achievement in the workplace (eg a portfolio of evidence) to ensure consistency of outcomes and high standard. In other words, it would require regulation to avoid the concerns that exist about the present system of an individual solicitor signing off a candidate as fit to practice. More information is needed about how the experience would be evidenced and assessed.

## Question 7

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

The experience gained in the workplace enables students to develop their skills and knowledge under the supervision of an experienced practitioner which helps to maintain the standards of the profession and in turn protects the public.

The present system has served the profession well and there is no information about what changes are proposed in terms of the minimum prescribed time or what experience should be gained. If there is to be a change to the present system, detailed measurable outcomes need to be given to the aims of the workplace experience so that the duration of the time period achieves its aims but does not exclude the less well off from entering the profession.

## **Question 8**

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

We believe that these competences should be specified so that high standards and consistency of outcome are maintained. However we do not view the specification of competencies and a minimum time period to be mutually exclusive. We cannot comment on the time period which might be needed without information about competencies.

## **Question 9**

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

Yes, as already stated, this could include law clinics, pro-bono experience, paralegal work.

## **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?

It is consistent with the SRA aim of ensuring consistent and high quality standards to include an element of workplace assessment in order to test competencies 'on the job'; it will address the concern that individual solicitors sign off entry to the profession. To this end we agree that workplace assessment will enhance the quality of the qualification process.

However unless there is an obligation for employers to pay individuals is the workplace then it will disadvantage the less well off.

## 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 1 and Part 2, to a specified performance standard?

not applicable

## **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?

Yes; without such guidance it would not be possible to achieve the consistency that the SRA is aiming for.



## 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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

The piecemeal approach to reform makes it difficult to respond to this question other than in general terms. In our view order to achieve consistency and high standards then some regulation both of entry requirements and training pathways is required both to support the credibility of any assessment for entry to the profession and to protect the public and students. This is currently achieved under the present system.

## Question 14

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

Yes, but it is already the case that not all solicitors are required to hold a degree and we are concerned that a conclusion is erroneously being drawn that QLDs fail to meet minimum standards of knowledge. The degree already tests part of the legal knowledge required in the proposed SQE. The HEFCE report referred to in the SRA consultation indicates that there may be a need to look at the continuing appropriateness of current quality assessment arrangements, rather than to review the effectiveness of the current approach. The case for wholesale replacement of the degree is not as strong as the SRA make out.

The SRA say that the case for not requiring a degree is underpinned by the case studies conducted into entry requirements in four professions. However these case studies are not published and the four professions referred to, namely, chartered accountants, dentists, lawyers in New York, USA and lawyers in New South Wales, Australia all seem to retain graduate entry as a principle route to qualification.

We are concerned that a wholesale move away from graduate entry is out of step with other professions, both those mentioned above, and others such as nursing and teaching.

We are also concerned that the Bar will retain the requirement for a QLD (at least a 2:2) but solicitors will not need to be graduates. This would suggest an undermining of one arm of the profession. It would certainly mean that transfer between the two parts of the profession will become more difficult which will further undermine equality and diversity in the legal profession as a whole.

Many firms have expressed concerns about damage to the reputation of the the profession if it is no longer perceived to be a graduate profession. We share those concerns.

It is also our view that law degrees attract students from a variety of backgrounds and interests being a graduate in law opens a number of opportunities in other sectors. The effect of replacing the law degree with a SQE may be to push students into vocational study at an early stage which may well reduce the pool of potential solicitors rather than widen it as students make choices which take them away from the professional route.

## **Question 15**

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

It would no doubt be welcomed by students who performed well but not those who did not. We would need to be convinced that there is a logical basis for attaching significance to different levels of achievement on the SQE and order to comment meaningfully on this, draft assessment documents need to be made available for scrutiny.

## Question 16

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

As the SRA have not made any proposals about how candidate performance will be measured, only a general comment can be made. It is our view that information should be made available to candidates about pass rates nationally and at each institution; this will help candidates decide whether to invest in the process and if so so, at which location. In order for this information to be meaningful and to monitor the effect on diversity and access to the profession, information should be published about the correlation between the background of candidates and their success rates.

## **Question 17**

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

Entrants from less wealthy backgrounds will be seriously disadvantaged for the reasons given in the answer to Question 1.

There is at present some flexibility to transfer between both branches of the profession from the base of a QLD. It will become more difficult for solicitors to convert to the bar if solicitors no longer need a QLD but barristers still do.

## Question18

Do you have any comments on these transitional arrangements?

We agree with the principles underpinning the approach to transition, namely that no one will have to repeat a stage of training which they have already completed. No information has been provided to explain why this cut off date is proposed, nor does there appear to have been any analysis of the effect this may have on those caught within transitional arrangements.

In relation para 95, we are concerned that:

- for those part way through the academic stage, the arbitrary cut off date of 2025/26 imposes an artificial time constraint which does not exist under the existing pathways (such a constraint having been removed by the SRA previously) nor under the SQE proposals. Those caught in this position are therefore prejudiced.

- for those part way through the vocational stage, there may be no real choice about the pathway to follow, particularly for those who are part way through an LPC but without having secured a contract for a period of recognised training. The numbers of firms offering such contracts is likely to shrink as the market responds to the changes towards workplace experience. Students then who are unable to secure a period of recognised training will be forced to 're-qualify' following the SQE route with all of the additional time and expense that it will involve. This is prejudicial to the vast majority of students who will not enter city firms that plan their recruitment well in advance.

## **Question 19**

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

see replies to question 18.

## Question 20

Do you consider that this development timetable is feasible?

No. It will pose significant challenges. The arrangements for assessment are very unclear and will remain so until 2017.18. Until the content of the assessment is known, it will be difficult to develop curriculum content. This will be compounded for HEIs wishing to issue a university award to SQE candidates as the content of such awards will have to be validated in accordance with QAA and institutional quality standards.



**Thank you for completing the** Consultation questionnaire form.

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Please return it, along with your completed **About you form**, as an email attachment to [consultation@sra.org.uk](mailto:consultation@sra.org.uk), by **4 March 2016**.

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Regulation and Education  
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199 Wharfside Street  
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B1 1RN

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## **T4T - Assessing competence**

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This form is designed to be completed electronically—in MS Word. Please save it locally before and after completing it.

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## 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?

By way of introduction, we wish it to be clear that Nottinghamshire Law Society are not averse to change where change will demonstrably bring about improvement. We are supportive of measures to improve consistency and comparability between the routes to qualification. We also support measures to increase social mobility, equality and diversity and to maintaining and improving consumer confidence in the profession by ensuring high standards of entry and high standards of legal education and training.

That said, the main problem we have identified with this consultation document is that it doesn't start off with any evidential base for the reforms e.g. that most negligent claims and/or interactions with the SRA are from new or recently qualified solicitors; it then wraps up its proposed changes in a cloak of better achieving equality and diversity and of raising standards and ensuring parity of qualification but the entire consultation does not provide detail or anything other than assertion of how these changes will deliver the improved quality and standard of newly qualifieds as well as better equality of opportunity.

This Society is also concerned that the format of the consultation paper will discourage responses by being unnecessarily complex and lengthy. In addition, the questions are too narrow in scope and therefore prevent open discussion and the opportunity to provide observations of a general nature.

We also note at this stage that the approach proposed by the SRA ignores the primary finding of the Legal Education Training Review (LETR). Namely, that the current system is broadly fine and fit for purpose and its recommendation that small scale changes could bring the required improvements.

Like the Law Society nationally, we support the idea that the Law Society should take responsibility for professional standards which includes entry into the profession and awarding the professional title of solicitor.

In response to the above question, we have the following observations:

A huge concern to the Society at the moment is the fact that despite clear warnings from LPC providers that candidates should have an offer of a training contract before incurring the cost of that course, somewhere round about 50% of those on the LPC are taking a chance. If the necessity for a training contract is removed then surely that position is going to get worse? Aren't more and more people going to enrol on courses teaching the SQE? Is not therefore the impact on these unfortunate students going to be worse because there will only ever be a finite number of places available within law firms? Will that improve or worsen the lot of poorer applicants?

We acknowledge that a centralised assessment may be appropriate in some form in conjunction with quality assured pathways to qualification. However, this Society opposes any system which could end up with people becoming solicitors with little or no mandatory education requirements at all and with little or no work experience in a legal environment. This Society believes that this would be extremely damaging to

both the profession and the public.

Being a professional and being a solicitor is not just about passing an exam. It is about common standards of behaviour, conduct and ethics which really and truly are only learned by keeping the company of other solicitors. That is the reason why there is currently a two year training contract and why one has to practise as an employed solicitor for three years after that before one can start one's own firm. You don't learn these behaviours from a book. The SRA outcomes need to be learnt in context.

Those graduating or passing the exam may get employment but it will be at the same paralegal level as at present and the fact that they be called solicitor will be neither here nor there and indeed will lead to a diminution of that status.

These proposals also run the risk of lowering, not improving standards. The depth and breadth of experience obtained during the training contract, which requires a rounded overview of a solicitor's practice, would be lost if entrants to the profession were largely based around an exam which is learned in the summer term and forgotten by the autumn term. One needs to learn about things such as the duty to the court, dealing respectfully and honestly with one's opponents, what to do when a client puts you in a compromising position and, probably most importantly of all, handling client money, in practice

This Society believes it would be detrimental to the profession and the consumer for the SRA to absolve itself from any regulatory responsibility in the involvement of the training required to qualify as a solicitor.

The removal of clear and/or authorised pathways to qualification will have a significant impact on both domestic and international reputation of the UK legal profession. We feel strongly that the findings of The Law Society's Report into the Global Competitiveness of the England and Wales Solicitor Qualification (July 2015), should not be ignored. This Report addresses the risks to our international reputation if the SRA's proposals come to fruition. In particular, that Report emphasises the importance of the training contract as maintaining the brand and reputation of the solicitor qualification. As one of the contributors to that Report put it "the regulator must take care of what the title means and the what standards are behind it. The international credibility of the qualification is at stake if this is threatened. If you erode the title, you erode English law as a commodity".

Rather than innovate legal education and training, there is a real risk that the introduction of the SQE will lead to 'crammer' courses designed solely to enable the candidate to pass the exam rather than preparing them to be solicitors. This risk is particularly acute in respect of the proposed SQE part 1. It is unlikely paragraph 10 will be achieved by ensuring that there are new and diverse pathways to qualification, as there is little incentive to innovate (such as the through apprenticeships or programmes such as the ones adopted by the accountancy model for example) if the potential student can simply choose a cramming course. With cost as a factor, it is unlikely that training courses designed to prepare students for a SQE will incorporate factors designed to improve overall employability nor is it likely to incorporate a broader knowledge base. Nottinghamshire Law Society would support a position where prescribed pathways can sit alongside space to innovate and create new pathways. .

## **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?

This is a difficult question to answer and assumes a simplicity and certainty that is not currently evident. Significantly, we do not know the form in which legal education and training will take prior to these assessments. We do not know whether the number of re-sits will be limited and, if so, to what number. We do not know what the time limits on the time taken to pass and/or between taking particular modules and ultimately passing the assessment will be. We do not know the detail of how these will be assessed or who candidates will be assessed by.

Employment law does not appear to be covered in either Part 1 or Part 2. This is an area of wide applicability and importance and we believe it is worthy of inclusion.

### **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?

We do not agree that all intending solicitors should be required to pass a SQE on the model currently proposed for the reasons outlined elsewhere in this response.

If exemptions can be achieved during a transitional stage then it is difficult to see why similar exemptions should not be permitted following a transitional stage in order to reduce the burden, including the financial burden, of aspiring solicitors. A model that would retain exemptions would be more flexible and more in line with the model for other professions, such as accountancy.

## Question 4

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

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

A combination of b) and c). Consideration should be given to a broader number of contexts e.g. employment, family, media and technology, company and commercial, construction and engineering, immigration, financial services, clinical negligence and PI. This would increase the practical relevance of a SQE and allow greater flexibility.

We note that this might be difficult for some firms to support, so is going to require some form of training. This has a costs impact and may therefore reduce the possibility that firms will recruit intending solicitors.

## **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?

Yes. It is imperative to protect the reputation and brand of solicitor that all of those achieving qualification have been assessed to graduate level or equivalent.

The Bar Standards Board has indicated that they will keep the undergraduate law degree as part of their route to entry. If this standard, or equivalent, was not maintained for solicitors it devalues the profession and would create disparity between the two professions with the real risk that solicitors would be viewed as inferior and less qualified.



## Question 6

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

Without a doubt. Furthermore, this Society believes that pre-qualification work based learning should be substantial and should be undertaken in a suitably regulated legal environment. In addition, work experience should be properly supervised by a solicitor. In view of the unique skills required to be a solicitor it is difficult to envisage how experience in other work environment could appropriately compare to qualify as a period of recognised work based learning.

This Society also believes that it would be preferable, and important, to retain a requirement to undertake vocational work experience in more than one practise area. This would help to ensure that intending solicitors improve their employability prospects upon qualification and prevent employers from taking advantage to suit their own business needs without regard to the needs of the individuals and, ultimately, consumers. We accept that this does not promote increased flexibility and as such would suggest that there is an opportunity to apply for an exemption from this requirement but that such an exemption only be granted where it is in the interest of the aspiring solicitor and consumers as opposed to the interest of an employer. For example, we envisage the scenario where someone has been a successful paralegal in a particular area for a number of years and wishes to qualify into that area.

The SRA has a responsibility to ensure that intending solicitors will be qualifying with the requisite skills to be able to compete on an equal footing in a competitive market and to ensure that legal education and training pre-qualification is as broad and as rigorous as possible. It is difficult to see how consumers can be protected if intending solicitors are not required to undertake a significant period of work based learning. Furthermore, if this was not a requirement, the solicitor brand would be significantly devalued.

A number of points we make at question 1 are also relevant to this issue, so we repeat them here for the sake of completeness:

Being a professional and being a solicitor is not just about passing an exam. It is about common standards of behaviour, conduct and ethics which really and truly are only learned by keeping the company of other solicitors. That is the reason why there is currently a two year training contract and why one has to practise as an employed solicitor for three years after that before one can start one's own firm. You don't learn these behaviours from a book. The SRA outcomes need to be learnt in context.

Those graduating or passing the exam may get employment but it will be at the same paralegal level as at present and the fact that they be called solicitor will be neither here nor there and indeed will lead to a diminution of that status.

These proposals also run the risk of lowering, not improving standards. The depth and breadth of experience obtained during the training contract, which requires a rounded overview of a solicitor's practice, would be lost if entrants to the profession

were largely based around an exam which is learned in the summer term and forgotten by the autumn term. One needs to learn about things such as the duty to the court, dealing respectfully and honestly with one's opponents, what to do when a client puts you in a compromising position and, probably most importantly of all, handling client money, in practice

This Society believes it would be detrimental to the profession and the consumer for the SRA to absolve itself from any regulatory responsibility in the involvement of the training required to qualify as a solicitor.

The removal of clear and/or authorised pathways to qualification will have a significant impact on both domestic and international reputation of the UK legal profession. We are strongly of the opinion that the findings of The Law Society's Report into the Global Competitiveness of the England and Wales Solicitor Qualification (July 2015), which addresses the risks to our international reputation if the SRA's proposals come to fruition, should not be ignored. In particular, that Report emphasises the importance of the training contract as maintaining the brand and reputation of the solicitor qualification. As one of the contributors to that Report put it "the regulator must take care of what the title means and the what standards are behind it. The international credibility of the qualification is at stake if this is threatened. If you erode the title, you erode English law as a commodity".

## **Question 7**

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

As stated above, the importance of work based learning should not be underestimated. As such, there should be a minimum time period coupled with requisite competencies to be achieved. There is simply no substitute for work based learning in a legal environment. Certain skills, knowledge and experience can only be gained by on the job learning.

## **Question 8**

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

As stated above, this Society thinks it should be a combination of both.

## Question 9

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

Whilst not wholly opposed to allowing some forms of alternative work experience to count towards a period of recognised training, there can be no substitute to skills learnt within a legal environment. We strongly believe that no-one should be able to qualify as a solicitor without a period of work experience undertaken in a suitably regulated legal environment.

The Society would support work experience undertaken as part of law degrees to count towards pre-qualification workplace experience.

We believe it is worth noting that Nottingham Trent University offers placement law degrees which are extremely successful and benefit both the employers and the aspiring solicitors and we as a Society are fortunate to have a successful placement scheme within our region. We would strongly advocate that such degrees that combine both academic and vocational learning are an extremely effective method of legal education and training and a model that works to ultimately produce high quality solicitors. Placement degrees also allow an opportunity for a student to ascertain whether a career in law is right for them before embarking on an expensive LPC course (and potentially expensive SQE and/or the courses that prepare for a SQE). This model also allows the student a period of paid employment to help towards financing their studies and increasing their employability..

It is noted that the Institute of Chartered Accountants in England & Wales (ICAEW) allows time during a sandwich year to count towards the professional requirement for technical work experience (subject to restrictions), there is no reason why a similar model could not be applied in the legal profession.

Whilst we are strongly supportive of legal work experience counting towards a period of recognised training, there must be assessment of competency within those periods of work experience. It is going to be difficult to show competency from periods of work experience alone without, for example, a portfolio (which is produced as part of a sandwich degree).

## **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?

Absolutely - see questions 6 - 9 above.

## 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 1 and Part 2, to a specified performance standard?

N/A

## 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?

Employers should be properly supported and given clear guidance and resources so that they know what is expected of them. They should have access to standardised templates and appraisal documentation and be given clear information on who they can contact to access additional support. Employers providing such training should be properly authorised and regulated to ensure that they are providing a high standard of work based training.

If there is going to be a requirement placed on the firms to ensure day one competence the firms need to know how to do this. We have some concerns about the burden that this will place on small firms in particular and it may be a disincentive to hiring those who are not qualified which may in turn have a diversity impact



## 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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

By not having clear pathways it will be very difficult for aspiring solicitors to make an informed choice as to what pathway to follow. By not prescribing pathways and/or by not regulating legal education and training providers then this could significantly weaken the standard and devalue the profession. Those from a poorer background may be forced to choose the lowest cost option and then find that money has been wasted as they are not adequately prepared for the SQE and/or for qualification. These students will therefore be disadvantaged and there will be no recourse available to them if they have received substandard training. They may also find it difficult to obtain employment, even having passed a SQE, as employers may still be looking towards the traditional routes and/ or require education and training to have been given by particular institutions as a pre-requisite to any offer of employment. Less well informed or advised students are at risk of being severely disadvantaged.

There is also a risk of employers being faced with a number of applicants who have all followed distinctly different pathways, with no clear and coherent information on the quality, breadth or depth of any of the courses undertaken. With no assurance of consistency we are concerned that employers will stick to what they know and that those students who have taken alternative routes to qualification will find themselves at a disadvantage to those who have followed something akin to the current routes to qualification.

It is noted that there is to be a further consultation on the issue of pre-entry requirements therefore a more informed and balanced view can be given once further information is known. What is of the utmost importance is the credibility and standard of the proposed SQE, the legal education and training required in preparation for it and the associated work based training. It is therefore important that any SQE be designed to be of a sufficiently high standard to be able to identify those that do not have the required intellectual capability and skills to be a successful solicitor.

What this Society is very clear on is that it is imperative that legal education and training needs to be of a high standard and suitably robust in order to protect the reputation of the profession and to protect consumers and be available in such a way so as not to negatively impact on equality and diversity. We also need to be able to confidently state to consumers and other jurisdictions that our system is suitably robust and achieves high quality standards.

The difficulty will be avoiding a two tier system - what must be achieved is that a particular route is not given less weight than an alternative route.

Note also the comments made at questions 12 and 15 in respect of equality and diversity. The findings of the Law Society's Global Competitiveness Report (July 2015) are also relevant here.

## **Question 14**

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

This Society is committed to equality and diversity and increasing social mobility. As such, it is important that there are routes to qualification that do not require a degree. However, it is equally important that these alternative routes are recognised as being equally robust and of a comparative standard to ensure that those taking a non-degree route are not disadvantaged and that a two-tier system is avoided. It is noted that the current system allows for qualification via the CILEx, equivalent means and apprenticeship routes, all of which do not require a degree.

## **Question 15**

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

It is felt that at this present time, there is insufficient information to answer this question particularly as the information available at present suggests that an SQE would be assessed on a competent/non competent basis. If it is to be competent/non competent then what information can be given about individual and comparative performance? If it is proposed that gradings/scores are to be given then these seems to be at odds with a competent/non-competent system.

We do have some initial concerns that these would become important factors for recruiters, encouraging students to re-sit to achieve higher marks and therefore putting students with less money at a disadvantage.

## Question 16

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

Further detail is needed to fully respond to this question, particularly with regard to point (a). In respect of (b) if the SRA presses ahead with the proposal not to regulate or authorise legal and education training providers, it is difficult to see how training provider performance can be accurately and objectively judged.

## Question 17

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

The Society is concerned that introduction of a SQE will actually increase the cost of legal education and training rather than decrease it. It is noted that it is not yet known how much the SQE will cost and training will be required to enable one to pass the SQE. In addition, we understand that there will be no Student Finance Loans available for the SQE which creates a further barrier for those from poorer backgrounds.

It is likely, and indeed has been identified by SRA research, that some employers will still require that intending solicitors follow the traditional route of degree and LPC. This risks creating a two tier system where only the more affluent candidates will be able to afford the 'gold standard' route and, as such, have an increased chance of passing the SQE, of obtaining work based learning opportunities, of achieving employment on qualification and/or better paid positions.

It is therefore not clear how the stated position of employers that they will require LPC and Degree will fit with the move towards the SQE – it seems that there will be a real dilemma for students, particularly if they are able to take SQE subjects at different points, where some firms may disfavour them for having done this, whereas other firms will be looking for SQE competencies as a recruitment requirement.

In addition, unlimited re-sits would create a bias towards more affluent candidates. Furthermore, unlimited re-sits do not sit comfortably with the objective to drive up the standards to enter the profession.

## **Question18**

Do you have any comments on these transitional arrangements?

We note that 'full transitional arrangements' are to be published later this year. In view of this and in view of the information as yet unknown it is premature to comment at this stage,

## **Question 19**

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

At present, there is too much information to be clarified to properly comment on this question.



## **Question 20**

Do you consider that this development timetable is feasible?

It is difficult to comment on feasibility in light of the number of unknowns and further information to be provided. Based on the current information, the proposed timetable can be best described as optimistic.

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## 3.

**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?**

The SQE would ensure consistent and comparable high quality standards at the point of admission. It would become easier to develop a number of different pathways; a broader range of people would have the opportunity to go down those pathways with a view to qualifying. In addition, the SQE would ensure the most talented candidates qualify as a solicitor. However, the SQE probably wouldn't promote diversity, as a replacement course for the LPC is likely to be necessary to prepare trainees for the SQE which could cost even more than the LPC. In particular, it might be unfair on less affluent candidates (or those with no contacts in the legal profession/access to careers advice), as there doesn't seem to be any plan to limit the number of resits an individual could choose to pay for.

## 4.

**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?**

Testing practical skills and knowledge to a depth beyond the LPC is certainly beneficial, as it would ensure the assessment of all solicitors, regardless of the pathway they have followed. The SQE places an emphasis on equivalent pathways, providing a common assessment for individuals who have a law degree or are being taught by alternative means.

## 5.

**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?**

Those who are wishing to practice in England & Wales who have studied and trained here or those from another jurisdiction should all sit the SQE. This will ensure consistency across the board. The aim of the SQE is to assess "all" persons who wish to qualify as a solicitor in the United Kingdom, regardless of the pathway they have followed (even if that pathway was abroad).

## 6.

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

a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?

**Why...**

This would probably be the fairest and most objective, however, to fulfil certain elements, candidates would still have to spend a certain amount of time in a law firm (which is almost going back a step, as the requirement of having to rely upon time in a law firm in order to qualify would still remain).

**7.**

**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?**

Yes, it is assumed that this is where the "equivalency" comes in, eg those who do not have degrees would need equivalent qualifications in order to qualify as a solicitor.

**8.**

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

Yes, definitely. Workplace experience is paramount to qualifying as a solicitor, as it enables you to put the skills you've learned during the academic stage into practice. However, there must be options for this experience to be gained in any organisations, not just law firms.

**9.**

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

No, people progress at different rates - achieving certain outcomes is fairer.

**10.**

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

Yes - that would mean more focus during the pre-qualification workplace experience. Once the skill is demonstrated, managers can sign off on it.

**11.**

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

Yes, as you acquire different skills from different employers.

**12.**

**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?**

Yes, especially if those seeking to qualify wish to stay with their current employers.

**13.**

**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 1 and Part 2, to a specified performance standard?**

With no in-house solicitors, our organisation would only be able to assess the non legal competencies.

**14.**

**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?**

External support for assessing legal competencies would be required and beneficial.

15.

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?**

Entry requirements would ensure that only competent candidates are accepted into the profession. The integrity of the profession is upheld by entry requirements. Recognition of a law degree or equivalent should remain part of a recognised pathway.

16. (untitled)

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

Yes, non-graduates should continue to be allowed entry into the profession. People should be able to show that they have achieved a graduate standard by other means (eg apprentices and legal executives).

17.

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

Yes, this would serve candidates well for their future careers - especially if the SRA considers achievement significant.

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

Both.

19.

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

As mentioned above, entrants with more resources may have an advantage - the SQE will make the process of qualifying difficult for students from poorer backgrounds and therefore, defeats one of the regulatory objectives. Despite this, the SQE has less impact on EDI than the previous method of qualification.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

Uncertain - these must be kept under review.

21.

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

No view at present.

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

No, given that arrangements for assessment remain rather unclear at present.

Martin McKay-Smith

## T4T - Assessing competence

### Consultation questionnaire form

This form is designed to be completed electronically—in MS Word. Please save it locally before and after completing it.

#### 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?

Yes

## 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?

Yes in principle, subject to considerations which cannot be adequately judged at this distance, as to the quality of the assessment organisation and its ability to accommodate the demanding agenda you have suggested. It appears to me that the part of the proposed process which should be reconsidered carefully is Part 1- the objective assessment tests which are designed to provide opportunities to test the candidates' ability to apply legal knowledge and process, using computer based techniques. Bearing in mind the potential abilities of the university degree and other routes to carry out this function to a plan which could be prescribed by the SRA, would it not be better and potentially less expensive to consider the restriction of the proposals to the common testing of SKILLS as set out in the Part 2 curriculum ? Ethics should in addition however form an important part of Part Two, in application to the skills tested throughout.

It seems to me that the issue being addressed is more to do with ensuring that a transparent and fair standard of skill consistent with the Statement of Legal Knowledge and the threshold standard is attained across all entrants to the profession irrespective of their pathway; the knowledge building and application aspects are not being questioned in the same way as the professional skill base - therefore my question as to whether a Part 1 as described needs to be added to what is already done in existing routes when the way is clear to reform those to suit what is needed to lead into Part 2 ?

### **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?

Yes, but subject to the suggestion in the previous paragraph



## Question 4

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

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

b] would be more aligned to the reality of practice where specialisation is required and expected early and whereby the type of work that the trainee is aiming at would be uppermost in their focus of development for assessment in Part 2.

If you go back to contentious and non contentious this is arguably a retrograde step and in CPS for example where I am Training Principal would require secondments to areas where the trainee was not inspired to work eventually and would militate against their best interests and those of the public who need a skilled lawyer in their chosen field of practice to emerge.

## **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?

Yes

## Question 6

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

Yes

## Question 7

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

No- currently in CPS we have the differing requirements of one years pupillage for barristers and two years for solicitors which tends to work against solicitors' prospects once they are employed by us as they qualify later yet are subject to the same expectations. As only six months can be deducted for previous experience, there is always a six month gap for a solicitor which cannot be made up no matter what might, objectively, put the two on an even footing. So, in my view it should not be dependent on time, but competence/experience/skills.

## **Question 8**

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

Yes -please see above

## Question 9

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

Yes

## 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?

I am not convinced that the addition of a work based assessment would be needed if the Training regime in an approved organisation were properly regulated, with supervision and oversight and appraisal done as it should be, against the background of the SQE as you propose, or even as I suggest, restricted to a beefed up Part 2 on skills.

I think the standardisation and transparency you seek would be in jeopardy because of subjectivity of employers and the inevitable variation in applied standards, even with toolkits.

## **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 1 and Part 2, to a specified performance standard?

Yes, but see remarks above. I am a Training Principal whose job is about development. Not all firms will have the same dedication to this in reality



## 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?

Training of at least a working day with comparative assessment case studies and assessment of candidates; too elaborate in my view.

## 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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

Yes, a and b

## Question 14

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

Yes

## **Question 15**

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

Yes

## Question 16

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

a and b

## **Question 17**

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

I think the expense as identified of the additional assessment will be a risk which is unknown currently; that the less advantaged will be more influenced by than others. This would be an unfortunate unintended consequence.

## Question18

Do you have any comments on these transitional arrangements?

No

## Question 19

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

None



## Question 20

Do you consider that this development timetable is feasible?

yes

**Thank you for completing the** Consultation questionnaire form.

Please save a copy of the completed form.

Please return it, along with your completed **About you form**, as an email attachment to [consultation@sra.org.uk](mailto:consultation@sra.org.uk), by **4 March 2016**.

Alternatively, print the completed form and submit it by post, along with a printed copy of your **About you form**, to

SQA consultation  
Solicitors Regulation Authority  
Regulation and Education  
The Cube  
199 Wharfside Street  
Birmingham  
B1 1RN

Michael Draper

## T4T - Assessing competence

### Consultation questionnaire form

This form is designed to be completed electronically—in MS Word. Please save it locally before and after completing it.

#### 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?

It MAY meet the objectives (risk of unknown or unforeseen consequences) but am not convinced that the proposed SQE will BEST meet the objectives

The current system of education and training is proven and successful and we know that it meets the objectives

## **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?

Without considering an actual model assessment and marking guidance this is very difficult to assess particularly when computer based assessment may not effectively assess transactional work as opposed to contextual knowledge - so think this unlikely

### **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?

No - there ought to be exemptions for the degree, GDL and LPC

## Question 4

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

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

a) and c) - the importance of the reserved activities and the law of organisations but acknowledging the different legal areas in which these apply

## **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?

No - it should be set at postgraduate level - the LPC is a postgraduate programme

## Question 6

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

Yes



## **Question 7**

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

Yes - would suggest 18 months

## **Question 8**

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

No - I would suggest that you need both specified competences and a minimum period of time

## Question 9

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

Yes

## 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?

No

## **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 1 and Part 2, to a specified performance standard?

not applicable

## 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?

not applicable

## 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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

Yes - irrespective of any transitional period this is absolutely required

## **Question 14**

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

No - to maintain credibility as a profession working within an International and multi layered jurisdictional environment solicitors must have at least an honours degree and a form of postgraduate qualification



## Question 15

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

No

## Question 16

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

a but not b

## Question 17

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

Uncertainty - without prescribed pathways those from 'widening access' backgrounds will be less likely to enter the profession - these students are naturally risk averse

Career development loans may not be available for training courses - cost will be a significant barrier

Student Loans through the Student Loan Company will be extended to postgraduate programmes with an award attached eg the LPC, LLM in Legal Practice but not to training courses

Some students will continue to follow a traditional route to qualification even if the SQE is introduced because they can afford to and will amass academic qualifications including LLM's which will be valued by employers as it helps to make the candidate distinctive putting those who simply attempt the SQE following a non accredited training course at a significant disadvantage

Currently providers are able to tailor content and assessments to the needs of those with a legitimate need for reasonable adjustments whilst respecting the competency framework - a computer based assessment may not be appropriate in many circumstances

## Question18

Do you have any comments on these transitional arrangements?

They are not long enough - A university will not be able to develop a programme of study until definitive requirements are known and then it will take an academic year for internal validation - 18/19 is too early as a starting point for transitional arrangements to commence

A person embarking on a degree with an expectation of going onto a LPC at the end of three years should be permitted to do so - there is guaranteed funding for this style of programme

## Question 19

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

too early - needs to be another five years ie 2030/31

## **Question 20**

Do you consider that this development timetable is feasible?

No - it needs to be longer

**Thank you for completing the** Consultation questionnaire form.

Please save a copy of the completed form.

Please return it, along with your completed **About you form**, as an email attachment to [consultation@sra.org.uk](mailto:consultation@sra.org.uk), by **4 March 2016**.

Alternatively, print the completed form and submit it by post, along with a printed copy of your **About you form**, to

SQA consultation  
Solicitors Regulation Authority  
Regulation and Education  
The Cube  
199 Wharfside Street  
Birmingham  
B1 1RN

## 2. Your identity

### 1. Surname

Rutstein

### 2. Forename(s)

Michael

### 3. Name of the firm or organisation where you work

BPP University

### 4. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.

Attribute my/our response and publish my/our name.

### 5. Please identify the capacity in which you are submitting a response. I am submitting a response... as another legal professional

Please specify:: Retired partner of law firm and now tutor at BPP teaching the LPC course

## 3.

### 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?

First. I would like to say that I think the wording of the questions in this consultation paper are unfortunate. I would have expected questions expressed in more neutral terms e.g. "What is your view about.....?" The way you have phrased your questions implies that the SRA view is right, that it has made its mind up about the way forward and third parties should concur with that view. It was this type of wording which a Scottish court threw out as biased in the recent Scottish referendum on independence when the initial question to be posed to voters was drafted. It was later replaced with a question expressed in neutral terms. I would expect a consultation process to be just that; to provide an honest and open minded debate about the best way to train new solicitors. Questions should not be skewered or give an impression that someone who disagrees with the SRA view is in the wrong and is being asked his or her view for the sake of formality.

Secondly, I hope it will be of interest to say a little about my background. I have been a partner for about 7 years in each of Dentons and Jones Days. In both firms, I was heavily involved in graduate recruitment and in vacation scheme assessments. I now teach the LPC course at BPP and hope I have an interesting and rather unique take on the SRA proposals in that I have significant experience in knowing in what large City of London law firms look for in recruits, their methods of recruitment and the standard of expertise and knowledge which these type of firms expect of their trainees when they start work.

My answer to your question is no. I think the existing system is fundamentally sound (with room for improvement) and I believe wholeheartedly in the maxim that "if it ain't broke, do n't fix it".

Standards may be at variance across the country but to say that this is a result of inconsistent training or exam standards does not follow. I think more research would need to be done to come to a reasoned view about inconsistency of standards. An obvious reason (which the SRA does not appear to take into account) is the different abilities of students. Most large firms send their students to BPP and the quality of these students is generally high. A high proportion of the students I teach at BPP (and those who attend the LP course at BPP) have training contracts. They have already been assessed by law firms and found to reach their entrance requirements. It is therefore to be expected that BPP results would be better than those



training centres where the majority of students have not succeeded in obtaining a training contract and are not sponsored by a law firm. I do not think it safe on the evidence that has been provided to come to the over dramatic conclusion that there is some underlying cause for concern on the difference in pass rates at different centres.

In any event, it is the SRA's responsibility to monitor training at the various training centres and it is surprising that, if standard have been below par in recent years, the SRA has done nothing to address the problem.

I would finish with a few words about diversity. I am a son of immigrants and am therefore first generation British in my family. I am the first lawyer in my family. I am grateful to this country for the excellent education opportunities which I have enjoyed at all stages of my life. I am deeply sensitive to barriers of entry in to the profession to those of ethnic minorities. I have served on diversity committees at both Dentons and Jones Day and I appreciate the challenge for large law firms to match their entrance requirements with candidates from educationally poor or disadvantaged backgrounds. However, I am impressed with the steps and resources that law firms are putting into this area and although more remains to be done, a lot has been done and most firms I know do have diversity initiatives and take diversity very seriously. I think the problem of diversity must be tackled at firm level with encouragement and advice from SRA and other bodies. This is happening and will continue to progress. Clients above all require it. The need for diversity must not be used, however, as a cloak to upset a training and assessment scheme which is fundamentally sound and where the benefit of change, to the extent it can be identified, is outweighed by the cost of change for sake of it .

4.

**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?**

No, I do not although this question is very hard to answer without seeing sample SQE papers. I think the most important point to be made here is that I do not think an assessment which relies heavily on multiple choice questions (MCQs) will prepare students for the rigours of the work place and will be a sufficient test which will give employers or the public confidence in the proposed SQE. We should be training our students to write long form answers to legal problems. That is how it works in law firms where real life problems have to be resolved and that is how it should work in the training we give to students and the assessment they take.

Trainee accountants and doctors do not work with words to the same extent as lawyers and although a MCQ heavy assessment might be sensible for other professions, I do not think it is the same with lawyers. To say that it does ignores the skills that lawyers need to use on a daily basis and draws a false comparison. We must not lose sight of the fact that lawyers are (or should be) wordsmiths and our training should give ample opportunity for students to use words, sentences and paragraphs in the same way as they would in the office and the assessment should do that as well. The current LPC assessment does that very well indeed.

Law firms want trainees who can think laterally and analytically, who can express themselves well and logically. Only long form questions can do this properly. There is a place for MCQs but they should be tail and not the dog. I fear that the SQE will be the metaphorical tail and will not give confidence to employers or the public about a candidate's standard of legal skills.

I do not like the proposed "one size fits all" of the proposed SQE. This takes us back to the sort of exam I had to take in the 1980s which was very much disliked by employers and students. Any assessment needs to be tailored to the needs of law firms and that means having a wide range of elective subjects. I did not have the benefit of these when I was taking my final exams and it is distressing to think that the new scheme would go back to those days. They bring back unloved memories. The profession has made vast strides in the delivery of legal education since then and we should not go back to anything that resemble

that unloved straight jacket of a system.

5.

**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?**

I do not agree with this. A student who has done extensive research or study in a particular area should be given credit and allowed an exemption in an appropriate case. Again, the SQE seems like a one size fits all, straightjacket approach with which I do not approve.

6.

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

b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?

**Why...**

I prefer b to allow for maximum flexibility so that candidates can best prepare for the law firm with which they have a training contract.

7.

**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?**

Yes but I do not agree with the assumption that candidates need not have a law and other recognised degree before taking an SRA approved exam. I consider that a rigorous academic training (whether law or non-law) is a necessary hurdle which all prospective lawyers should have undergone with success. I have had in my time in private practice worked with many lawyers from the US, France and Germany and am familiar with the very high standards of entry which the legal professions in those countries have set. All require university degrees (often in law). My suspicion is that they would look with some horror and disdain at the proposal to remove university academic qualifications from English professional standards.

8.

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

Yes.

9.

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

Yes.

10.

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

I do not have a view.

11.

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

I do not have a view.

12.

**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?**

I find this question impossible to answer as I do not agree with the SRA approach for change.

13.

**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 1 and Part 2, to a specified performance standard?**

Not applicable.

14.

**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?**

Not applicable.

15.

**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?**

I do not have a view.

16. (untitled)

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

I do not agree. See my answer to question 5.

17.

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

Yes (on the assumption that the new SQE is introduced but that is a proposal which I do not support).

18.

**16. What information do you think it would be helpful for us to publish about:**

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

I do not have a view.

19.

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

I do not have a view.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

No.

21.

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

I do not have a view.

22. (untitled)

20. Do you consider that this development timetable is feasible?

I doubt it.

## 2. Your identity

### 1. Surname

Heyes

### 2. Forename(s)

Nathan Mark

### 3. Name of the firm or organisation where you work

None

**4. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Attribute my/our response and publish my/our name.

**5. Please identify the capacity in which you are submitting a response. I am submitting a response... as a student studying for a qualifying law degree or legal practice course**

## 3.

**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?**

Yes I do

## 4.

**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?**

Yes

## 5.

**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?**

Yes

## 6.

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

b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?

**Why...**

Because some students wish to specialise, it would be unfair if they had to answer questions that were irrelevant to themselves. However, all candidates should answer questions based on the seven foundations of legal knowledge.

## 7.

**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?**

Yes

## 8.

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

Yes

**9.**

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

Yes. But it should be kept at a reasonable level. No more than two years and no less than one year.

**10.**

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

Unsure

**11.**

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

Yes, dependant upon the work undertaken during the placement.

**12.**

**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?**

Yes

**13.**

**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 1 and Part 2, to a specified performance standard?**

**14.**

**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?**

**15.**

**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?**

Yes

**16. (untitled)**

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

Yes. There are other pathways within which one can obtain enough legal knowledge to be a exemplary solicitor.

**17.**

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

Yes

**18.**

**16.**

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

General statistics and pass/fail rates

**19.**

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

**20. (untitled)**

**18. Do you have any comments on these transitional arrangements?**

**21.**

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

**22. (untitled)**

**20. Do you consider that this development timetable is feasible?**

Nicola Standley

## T4T - Assessing competence

### Consultation questionnaire form

This form is designed to be completed electronically—in MS Word. Please save it locally before and after completing it.

#### 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?

Other professions have a similar common professional assessment, and therefore I think it could potentially be a positive step forward. It is too easy for training principals to sign off unfit trainees as solicitors, and as a concept, this will undoubtedly bring more rigour into the profession. However, the lack of information provided as to what the SQE will entail makes it difficult to answer this question with confidence. What exactly will be assessed?

I appreciate how the SQE may help to diversify the profession, but considering the costs involved in implementing something that sounds more difficult and challenging than the QLTS, surely this will be passed on to those trying to qualify. Imposing a high cost to Part one and Part two will not diversify the profession, so this needs to be taken into consideration.



## **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?

The paper mentions simulating the real demands of practice - is it possible in reality for a test to do this? In reality, there are many factors that contribute to any given situation, making it complex and giving multiple things to consider. I would imagine the test would involve a self-contained issue, that can be studied for but wouldn't necessarily be a true reflection of a real case in a firm.

### **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?

If this is meant to be a centralised process, it seems contradictory to allow for exemptions - to do so would no longer make it central and a two-tier structure may come to light i.e. degree/non degree route, which is what this is meant to eradicate.

## Question 4

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

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

B - Offering only 5 assessment contexts will mean that a lot of firms will be unable to fulfil this, and it will cause all sorts of issues trying to manage secondments and swapping employees with other firms in order to satisfy this requirement. It may mean for some firms that they are not able to take on entry level employees, because they do not practice enough of the contexts stated by the SRA.

## 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?

I think the most important thing is for candidates to have experience, and not necessarily have a degree. My understanding of the SQE is to help diversify the workforce. with university fees on the rise, it wouldn't make sense for this to then be a stipulation for the SQE. i know many partners who do not have a degree but are excellent at their job.

## Question 6

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

Most definitely. i would feel very uncomfortable hiring an NQ if they had never stepped foot in the workplace, or had only very limited exposure whilst doing the SQE.

## Question 7

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

Yes, I think it would be very important to the quality of and NQ to have a minimum amount of work experience under their belt, alongside passing the SQE. If there is not a minimum period set, there would surely be a flood on NQs on the market as any graduate could begin the SQE. I think one year as an absolute minimum, ideally two.

## **Question 8**

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

I think a minimum time period and a set of competences combined would be the best option.

## **Question 9**

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

Yes, this would be beneficial in attracting those that have a good understanding of the law due to having solid workplace experience under their belts, but not necessarily a degree.



## **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?

Most definitely. the absence of workplace assessment would put a huge question mark over the quality of those who qualify via the SQE otherwise. I wouldn't trust to use a professional who had only learnt theory and had never had to apply their knowlesge in a real-life scenario

## **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 1 and Part 2, to a specified performance standard?

It's difficult to say as this has never been asked of us in a formal sense. Much guidance would need to be issued from the SRA in order to assess competencies. This would put extra burden on those who are supervising, as it will take up more time, and supervisors are fee earners themselves.

## 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?

It depends what will be included in the toolkit, and the quality of the guidance and resources. It would need to be able to integrate into what currently exists for trainees, or adapt this, so that we at least have the basics in place.

## 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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

I think the workplace training would support the credibility of the sqe and would help to protect consumers. entry level requirements may be better received to start with, although i personally don't agree with all students wishing to take up the SQE having to have obtained a degree.

## Question 14

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

Yes

## Question 15

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

I don't think this is necessary, and may not help with diversity at all, if those who come from a richer background, who have been able to pay for extra tuition etc, are then able to boast about getting a high score in comparison to someone who has had to study for it whilst holding down a full time job in order to pay to do the tests in the first place.

## Question 16

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

It may be helpful to rank overall training provider performance in regards to the percentage of students who pass. There has not been a need to have extra detail about candidate performance on the LPC, for instance, so I don't think this will be necessary part for SQE performance.

## **Question 17**

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

Cost will be a significant issue. If there will be a huge fee incurred to take the exams, you are not promoting diversity whatsoever, unless this could be tied into some form of a student loan, rather than a bank loan.



## **Question18**

Do you have any comments on these transitional arrangements?

The arrangements are quite vague, and we will only really be able to answer this question once there is more detail published over the coming months.

## Question 19

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

I cant see this would have a huge impact on us as a firm, as we would be able to make arrangements for the new processes well before 2025 should the SQE come into place.

## **Question 20**

Do you consider that this development timetable is feasible?

As this will be new, more complex than the QLTS and of a larger scale, I think it will be important to test it and get it right, rather than trying to rush to implement this asap.

**Thank you for completing the** Consultation questionnaire form.

Please save a copy of the completed form.

Please return it, along with your completed **About you form**, as an email attachment to [consultation@sra.org.uk](mailto:consultation@sra.org.uk), by **4 March 2016**.

Alternatively, print the completed form and submit it by post, along with a printed copy of your **About you form**, to

SQA consultation  
Solicitors Regulation Authority  
Regulation and Education  
The Cube  
199 Wharfside Street  
Birmingham  
B1 1RN

**This is a response to the SRA Consultation by Nigel Duncan in my personal capacity. I am Professor of Legal Education at City Law School, City University London.**

This response consists in large part of the response of the Association of Law Teachers, with which I agree and to which I made a minor contribution. It addresses each question. However, as well as adopting this response I wish to lay particular stress on two matters which the SRA should consider to avoid taking decisions that I regard as irrational.

1. It appears from recent communications that the cost of the SQE 1 and 2 will run into several thousand pounds. Annex 2 present this as unproblematic on the assumption that savings will be made by the removal of the requirement to undergo specific education or training courses. However, this is a false premise. Although there may be a small number of individuals who develop their knowledge and skills through apprenticeships or something analogous to the old 'five-year articles' they will always be a small minority. Most entrants to the profession will require education and training programmes to prepare themselves for the demands of practice. Most will require the security and status of a degree, so there will be no saving there. They will also require training to acquire the skills to be assessed in SQE2. Effective skills training requires a high staff:student ratio and it is unrealistic to expect that this can be provided at minimal cost. See ALT response to q. 17.

To take this step (even if some savings prove to be possible) involves a shift from funding learning to funding assessment. This is irrational. The SRA should be seeking ways of avoiding this, not necessarily by abandoning the SQEs (which, although untested and based on a model designed for qualified lawyers, not inexperienced students may prove to be of some value) but by providing exemptions for clearly-defined programmes which integrate learning and assessment in an educationally sound way.

2. The consultation document makes selective reference to the LETR report. However, one finding which has been widely accepted by all stakeholders is Recommendation 7: 'The learning outcomes at initial stages of LETR should include reference (as appropriate to the individual practitioner's role) to an understanding of the relationship between morality and law, the values underpinning the legal system, and the role of lawyers in relation to those values.' Unfortunately, the proposals in the consultation document undermine the prospects of that recommendation being implemented. By removing the possibility that a law degree provide the basis for completing the initial stage the opportunity to require that learning programmes address these issues is lost.

Although the consultation document refers to SQE1 assessing ethics and professional conduct, the assessment instrument proposed is incapable of assessing this in the qualitative way proposed by the LETR. The proposal that unflagged ethical dilemmas will be incorporated into problems does not help as multiple choice questions cannot satisfactorily assess outcomes in LETR Recommendation 7. There may be some assistance if they are incorporated into SQE2, but even this does not provide for assessing the outcomes in Recommendation 7 or the recommendation that this be part of the initial stage.

To ignore the most widely-supported recommendation of the LETR is also, in my view, irrational.

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The Association of Law Teachers is a learned society comprising several hundred legal academics with a particular interest in the legal education process. The majority are based in UK universities and other providers of higher education, but the membership also includes those involved in pre-degree law teaching and a significant number of international members.

**Q1 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 emphatically do not agree that the proposed SQE best meets the defined objectives, or indeed, in its current form, is capable of meeting them at all. We consider that it is premature to consider this form of assessment, or indeed any prescribed form, before a decision has been taken on the methods by which individuals will be able to qualify. There are a number of approaches to instructional design, but all agree that assessment must be aligned to the educational process which it is assessing.

Furthermore, the SRA consultation proceeds on an essentially false premise, which is that there are fundamental deficiencies in the present system of education, training and assessment which could be addressed by the SQE as proposed. It selectively cites the LETR and the QAA to support an argument that the current system of legal education and training is unacceptably inconsistent. In fact the overall conclusion of the LETR as expressed in the executive summary is broadly positive:

The report recognises that the current LSET system provides, for the most part, a good standard of education and training enabling the development of the core knowledge and skills needed for practice across the range of regulated professions.

The LETR does indeed make certain recommendations which are summarised in the executive summary including that it would be desirable to “enhance consistency of education and training through a more robust system of learning outcomes and standards, and increased standardisation of assessment.” This is fleshed out in paragraph 4.108:

Drawing on effective practice, standards ... should address a range of areas or domains relevant to enhancing the consistency and quality of the learning experience and its outcomes: curriculum design and delivery; assessment strategy and processes; the management of teaching, learning and assessment; and the definition of each competence area and its learning outcomes. In addition to specifying broad criteria for each domain, it may be useful to highlight to providers the kind of evidence expected to demonstrate, or be indicative of, delivering the standard.

Standardisation of assessment is then discussed. However, the detailed consideration of this focuses on increasing the consistency of the vocational and practical stages of legal education and training, and not the academic stage. It is dealt with in the remaining parts of Chapter 4 and in Chapter 5 of LETR.

We entirely agree that separate consideration needs to be given to the various discrete phases of education and training.

It is of paramount importance that the title of solicitor is recognised, nationally and, perhaps more importantly, internationally, as a full professional qualification. The international expectation is that such qualifications will be at least at first degree level, i.e. in the UK at FHEQ Level 6, and they are normally at a higher level such as Masters degree or professional doctorate. The obvious means of demonstrating that the qualification is at this level is for it to consist of or incorporate a formal qualification at that level. It is of course entirely possible to devise a programme of education and training and associated assessments that demonstrate this by other means. It is however questionable what the utility of this is, since it is reinventing the wheel, multiplying choice, with the potential for confusion, and there is no clear indication how it might address potentially valuable objectives such as diversity.

We find it incomprehensible that the SRA can contemplate a process of qualification as a solicitor which is not explicitly linked to these levels. We have grave concerns that the qualification would become devalued, and might not even be recognised internationally as a full legal professional qualification if the essential assessment mechanism is reduced to something resembling the SQE in its presently proposed form.

We do acknowledge, as does the LETR, that there is a clear distinction to be drawn between what is at present referred to as the academic stage of legal education, which involves the acquisition of knowledge of the various branches of law, the context in which law exists, and academic skills of research, writing, legal argument, analysis and synthesis and the subsequent stages of specifically vocational study. The academic stage may, but typically in current conditions does not, lead onto vocational study with a view to qualification. It is in general highly valued as an academic underpinning to a variety of career options where familiarity with law, regulation and legal transactions are required.

LETR acknowledges that, while most of the evidence they gathered suggested broad satisfaction with the academic stage of legal education, there were some concerns expressed over consistency of coverage of the "core" legal subjects as between institutions, and comparability of qualifications. It is difficult to judge from the report exactly how robust these criticisms are, and it is entirely possible that they are purely anecdotal and subjective. In any event there is an existing mechanism for specifying core content in the shape of the Joint Statement. It may be appropriate to revisit this, in the light of the work that has been done by the SRA and the BSB to define the day one outcomes and competencies for solicitors and barristers respectively, the recent reissue of the QAA Law Benchmark, and other developments in the law and legal environment since the Statement was last revised.

We acknowledge that greater concern was expressed over the fitness for purpose of the vocational and practical stages of legal education and training. If a period of work-based learning is to be retained as an integral part of the qualification process, which seems to be desired by all relevant stakeholders, it must be recognised that the diversity of providers, who are not primarily training organisations, and some of whom will lack the expertise and other resources to enable them to assess work-based learning rigorously, may mean that some form of centralised assessment along the lines of the proposed second stage of the SQE is appropriate. This would mirror current practice in the medical profession where exercises involving standardised patients are used to assess practical competence in the final assessments before registration.

As we have already remarked, it is a logical imperative to define the routes to qualification before seeking to specify the assessment of them. Essentially there are

three distinct possible routes. The first is a linear route, equivalent to the current QLD followed by LPC followed by training contract. The second is a simultaneous route, represented by the emerging apprenticeship model where education to degree level by part-time study is blended with training based employment. It also encompasses the CILEx route, where an initial qualification covering a more restricted range of legal areas can be supplemented to achieve the necessary outcomes for a solicitor. The third is the transfer route whereby qualified lawyers from other jurisdictions demonstrate their aptitude for practice in the context of the English and Welsh solicitors' profession. Provision also has to be made for those who do not fall neatly into these categories, for example those with an existing professional qualification covering some legal areas, and those with international qualifications falling short of legal qualification, but which address some of the required outcomes.

The first two methods, in which the process of qualification as a solicitor must cover all the required elements are inevitably what might be described as a four dimensional process where the potential solicitor undergoes an educational process during the course of which s/he acquires a body of knowledge, a set of intellectual skills, and awareness of ethical issues in the legal professional context, and understanding of the processes and activities associated with their professional practice and the business and personal objectives of their clients. The SQE in its proposed form, particularly the first part, would seem to impose an arbitrary three-dimensional assessment regime seeking to capture knowledge at a given point in time, and largely divorced from its context. We are aware that similar mechanisms are used in the QLTS, but would point out that those undergoing this qualification process are, by definition, already qualified as lawyers in another jurisdiction and have therefore already undergone the four dimensional educational process described above, albeit in a somewhat different context. It cannot be assumed that a procedure designed to ascertain that the would-be solicitor has sufficient familiarity with the basic concept of English law can be readily adapted to a fundamentally different purpose.

While we accept that it is possible to devise objective testing systems, such as multiple choice questions, which do not simply test a superficial knowledge and recall, and can test certain higher intellectual skills of analysis, such a test cannot address all the required outcomes. It is, for example ill adapted to assess research skills, written and oral communication skills and the more complex skills associated with analysis of a factual situation so as to identify and utilise relevant legal rules. It is therefore highly unlikely that those seeking to provide a broad-based, intellectually challenging legal education at first degree level will voluntarily incorporate substantial elements of the SQE, as currently conceived, in the assessment arrangements for their programmes.

This in turn creates further issues in relation to the impact of the SQE on diversity. In the first instance, if degrees do not incorporate the SQE, potential solicitors will need to prepare for and take the SQE as a separate stage in the qualification process. This will inevitably entail additional cost and serve as a deterrent to potential entrants from non-traditional backgrounds who lack the appropriate resources. Such entrants will also be at a disadvantage when considering what educational and training programme to follow in order to achieve their ambition of becoming solicitors. There will no doubt be organisations which will offer a course specifically designed to prepare candidates for the SQE, whether as a supplement to a degree or as a substitute for it. It is unclear to what extent solicitors' firms and other legal services providers will recognise the substitute courses in particular as having equivalent status to qualification by a law degree or recognised apprenticeship route. Potential entrants coming from social backgrounds where there is familiarity with the legal profession will be more able to evaluate the



utility of particular routes to qualification than those from non-traditional backgrounds who lack personal, family or other social connections.

The only merit we can see in the proposed SQE is that, as with any centralised assessment, it does promise consistency. However consistency is a relatively minor concern, as evidenced by a careful reading of LETR, and the SRA has produced no additional evidence to suggest that inconsistency has resulted in any measurable disadvantage to consumers of legal services or any assessable risk of this occurring. For the reasons we have indicated it is unlikely to be an effective measure of many of the aspects of a solicitor's competence, and may very well impact adversely on diversity. The only respect in which any convincing case has been made for a centralised assessment is as the capstone at the point of entry, following completion of a period of work-based learning.

**Q2 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?**

Here we would draw a sharp distinction between Part 1 and Part 2.

In relation to Part 1 we reiterate that this proposed method of assessment is fundamentally unfit for purpose. As we have indicated, we accept that computer-based objective testing can have a place in the overall assessment of degree level knowledge skills and competences. We do not consider that it can do so exclusively. It cannot assess the ability to research, and it does not assess communication skills. It is much better at assessing recall of knowledge, albeit to a high level of detail, than at assessing the ability to deploy knowledge contextually. It is essentially the equivalent of assessing a golfer on his ability to play a particular golf course with only one club in his golf bag.

The problem is compounded by the fact that the SRA did not accept any of the criticisms of the original specification of the Statement of Underpinning Legal Knowledge (SULK). As currently presented this is an incoherent and sprawling mass of legal topics, some of which can properly be regarded as foundational aspects of the study of law for any higher educational purpose, some of which relate to particular areas of practice and procedure undertaken by only a minority of solicitors, while others cover areas of substantive law which will be of relevance only to a minority of solicitors. If the SRA proposal means what it appears to mean, intending solicitors will have to demonstrate their competence in all 13 areas of the SULK even though they have no intention of practising in areas to which many of them are relevant. This does not seem either necessary or proportionate. It is frankly incomprehensible why criminal litigation is included as a compulsory area when neither employment nor family law is included. This aspect of the proposals appears to be based on the belief of the SRA that individual solicitors, as opposed to the entities in which they practice, are still generalists. This is not the case. The SQE Part 1 is far less capable of assessing knowledge and the application of knowledge in relation to the academic underpinnings of law than is a law degree or GDL. The SRA should recognise that from the moment when an intending solicitor is taken on either as an apprentice or as a graduate trainee he or she is being trained within the training organisation for a specific professional role in a particular practice area. This will inform the scope and nature of the training provided building on the 'academic' foundation.

The only rational and logical approach to the acquisition of the initial basic foundational knowledge of law in its various contexts and the ability to research and apply it is for the SRA to recognise a formal academic qualification at degree level, whether in the form of a law degree, a GDL, or the equivalent of a law degree comprised within an

apprenticeship programme. We would however strongly advise that apprenticeship should incorporate a part-time or distance learning law degree as such, as this avoids the need to specify the alternative, and the risk that it will be seen as 'less eligible'.

Tying this stage of the qualification process explicitly to an academic level, while allowing considerable flexibility in the form of apprenticeship and graduate entry routes will ensure that the qualification retains its international recognition as a full legal professional qualification. We cannot see that the SQE Part 1 is likely to be regarded as, by itself, a suitable assurance that the individual is capable of functioning at the required level of a graduate professional in other major international jurisdictions. It may also not satisfy the requirement for professional recognition within the EU system.

It is highly unlikely that degree providers will incorporate major elements of the SQE Part 1 in the assessment regime of their degree programmes. There are significant practical issues. How would the outcome of an SQE module be incorporated into the overall module result if it is not the sole assessment? Would the timing of SQE and degree assessment regimes be compatible? In the USA the standard legal education is a J.D. program, and this is then followed by a bar examination which typically takes the form of a computer-based assessment. This is however additional to the educational program, and insofar as preparation courses are needed for it, they represent an additional expense, and therefore a potential deterrent to able candidates of limited means. We do however accept that entry on to the SQE Part 2 or any preparation for it should not take place before the degree, or equivalent, has been obtained, and that this should be effectively policed.

Entirely different considerations apply to Part 2 of the SQE. We note that at this stage the SRA only intends to require candidates to cover three out of five contexts, although they still require both contentious and non-contentious contexts to be covered. Since a candidate does not have to offer criminal litigation at this stage, there is no conceivable justification for making it compulsory at the earlier stage. This is simply the most obvious example of the mismatch between the coverage of Part 1 and Part 2. The LETR deliberately declined to give detailed consideration to activity-based authorisation. This is explained in the executive summary

The report does not recommend a move at this stage to greater activity-based authorisation, for reasons of potential cost and complexity, particularly within the present system of multiple regulators.

We understand the reasons for this reticence, but it is unfortunately ill-advised. The position has already been reached when the solicitors' profession has become a bundle of overlapping professional specialisms. Entities may practise in a broader or narrower range of these specialisms, but individuals will practise in a narrow area, and since these areas are not rigorously defined, there is some latitude for movement by way of professional development. However, if a solicitor practising in the field of, say, commercial property were to decide to transfer to trademark law, he or she would in effect have to undergo a requalification process.

The current proposals for the SQE Part 2 fall significantly short of activity-based accreditation. They could however with advantage be further developed in that direction.

We envisage that employers of apprentices and graduate trainees will take progressively greater ownership of the courses and mechanisms by which the more practice related aspects of knowledge and skills are acquired. This will lead to training providers increasingly offering bespoke articulations of their courses. One key concern is the extent to which it is in the public interest (and the interest of the individuals concerned) to allow students to take courses preparatory to the SQE Part 2 otherwise than in the

context of an existing 'training' contract (i.e. an apprenticeship or graduate traineeship). Successful completion of this stand alone course is unlikely to lead to placement with the larger law firms, but may lead to other opportunities. The crucial difficulty is that, if the SQE Part 2 is intended as a capstone, it will be testing what has been learned in the work based phase of training, which a course cannot replicate. This does of course have significant EDI implications.

We believe that there is scope for educational providers and training entities to develop a range of specific 'vocational' qualifications, which may well be more modular to allow delivery during the period of work-based learning, and also more tailored to different modes of practice

We believe that there is a very strong consensus that qualification as a solicitor requires a period of work-based learning. The reality here is that the entity offering the work-based learning, assuming that it is looking to train those who will become its future fee earners, will have a clear understanding of which areas of legal practice it wishes them to train, qualify and practise in. This will apply equally to those selected for apprenticeship schemes and for graduate training following the completion of a law degree/GDL. By accepting the position, the trainee is in effect agreeing to become a particular kind of solicitor. The SQE Part 2 could, and should, reflect this. This is simply a recognition that the solicitors' profession has become diverse, in the same way as the medical profession has become diverse. The current proposals go some way towards this, but do not appear to be specifically oriented towards recognition that a solicitor is qualified in a defined practice area.

**Q3 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?**

No, for the reasons already stated we do not consider that the SQE Part 1 is remotely fit for purpose. We do accept that solicitor apprentices, and solicitors qualifying by the graduate entry route should be subjected to assessment at the same level, and with a coherent and consistent body of content, agreed by all stakeholders. We consider that the apprenticeship model ought normally to incorporate a part-time or distance learning degree. Those who are seeking to become professional lawyers by becoming solicitors ought to be subject to an entirely different procedure to those who are seeking to transfer from another legal profession. The situations are not in any material respect the same and cannot be dealt with by the same assessment regime. This is a blatant category error.

**Q4 With which of the stated options do you agree and why:**

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

## **Why...**

As we have already indicated, we consider that the SQE Part 2 could be developed so as to allow for candidates to satisfy its requirements in relation to a much larger range of practice areas. Since very large numbers of solicitors do not practise in reserved areas, we do not see why the qualification process should be linked to this.

### **Q5 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?**

We agree that the qualification as solicitor should be at least at graduate level. In principle, given the nature of the qualification, and the international expectations in respect of a fully qualified lawyer, the SQE Part 2 standard should be FHEQ Level 7. Most LPC programs are currently set at that level, certainly so far as the elective elements are concerned, and a number explicitly incorporate an LLM qualification at Level 7.

### **Q6 Do you agree that we should continue to require some form of pre-qualification workplace experience?**

We have been impressed by the arguments presented by the profession in this respect. We consider that qualification as a lawyer is an essentially four dimensional process and an essential ingredient in this is exposure to actual practice in the form of work-based learning. We accept that this can take a variety of forms, but we are very firmly of the view that some work-based learning, or something very closely analogous, is essential. We are also of the view that this should be substantial, although it is the quality rather than the quantity of the experience which is important.

### **Q7 Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

We have indicated in our previous answer that we consider that the quality rather than the quantity of the experience is most significant. Nevertheless, there does need to be some specification. We would not envisage that a total period of less than 18 months could provide a sufficient range and quality of work-based experience. We would however defer to the opinion of those who have been actively engaged in the provision of work-based learning, since our expertise is not in this particular aspect.

### **Q8 Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

The SRA is already specifying the competences. We consider it would not be appropriate to allow this to override the requirement for a period of experience.

### **Q9 Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

We consider that it is the quality rather than the quantity of such experience which is relevant. Since such experience is currently recognised, we see no reason to change this. One area in which some law schools have already undertaken significant innovation

is in relation to pro bono activity. Indeed some law schools have already been authorised as legal services providers. Clearly experience obtained in this context is relevant and should be recognised. Other experience, if it is relevant, should also be recognised. It is the responsibility of the SRA to establish parameters and procedures in this respect.

**Q10 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?**

This is a complicated question, and one where the expertise of the ALT can assist to a limited extent only. The diversity of work-based learning providers is such that only a proportion are likely to have the expertise and resources to carry out workplace assessment to a sufficiently rigorous standard. This may lead to problems in terms of equality of outcome. In the circumstances, it may be preferable to use the SQE Part 2 as the mechanism for assessing the effectiveness of the work-based learning element of training.

**Q11 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 1 and Part 2, to a specified performance standard?**

Not Applicable

**Q12 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?**

Not Applicable

**Q13 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?**

We would go considerably further than this. We consider that the prescription and regulation of pathways is of fundamental importance. As we have indicated, and leaving aside lawyers transferring in, who raise fundamentally different issues, there are essentially two ways of qualifying, which can be summarised as the apprenticeship and the graduate trainee route. Each should be specified, and in relation to the fundamental legal knowledge this should be specified as a law degree, a GDL or some close equivalent specified in relation to the apprenticeship route.

We are not convinced that this is necessary in order to protect consumers of legal services, since we are not convinced there is any evidence that the existing routes to qualification produce practitioners who are incompetent to advise consumers of legal services. We are however convinced that is necessary to protect students, and in particular to ensure that entrants from whatever background are not deterred or deflected. There is a major danger that, if the SQE Part 1 is implemented, there will be a

major issue arising from the offering of courses which will prepare for the SQE tests, but not provide a legal education. Naive students may be attracted to such courses without appreciating that they do not have any credibility with employers. This is capable of constituting a significant disadvantage.

**Q14 Do you agree that not all solicitors should be required to hold a degree?**

We consider that all solicitors should be able to demonstrate that they are educated to at least degree level. This does not necessarily require that they hold a university degree as such. We agree that there may be routes to qualification which demonstrate the equivalence of a degree without a degree as such. One example of this is the CILEx route, which requires the student to pass a number of modules at degree level, including all the current foundation modules. A CILEx entrant does not have a degree, but is educated to degree level, and has extensive work-based experience.

While we consider it desirable that the academic content of an apprenticeship should be delivered by means of a part-time or distance learning degree, we accept that this need not be mandatory, although the academic content of the apprenticeship should at least be equivalent to a degree, or, possibly, the CILEx requirements.

We consider that there should be an up-to-date version of the Joint Statement, with greater emphasis on transferable intellectual skills, in particular transferable legal intellectual skills such as statutory interpretation, and the use of precedent. This would underpin degrees, the GDL and the 'non-degree' apprenticeship.

**Q15 Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

Insofar as this relates to the SQE Part 1, we do not wish to comment, since we do not consider that this should be proceeded with. The nature of the SQE Part 2 is such that we would consider it inappropriate for feedback to be given. This would, inevitably, compromise the utility of the various exercises. They will clearly need to be refreshed on a regular basis, but if feedback is given, this compromises the integrity of the testing material on future occasions.

**Q16 What information do you think it would be helpful for us to publish about:**

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

This will depend on the nature of the providers and the provision. It is only if like is being compared with like that the data will be comparable, and therefore useful. Given the diversity of the profession, it is likely that providers of programmes specifically for intending solicitors will, as now, tailor their offering to particular areas, whether individual large firms, or 'high street' or 'commercial'. The student intake will vary considerably, as will the content of the programme. As a result, comparative data is unlikely to be helpful. The data might be valuable if there were a single programme with defined content and methodology, but we think it highly unlikely that this will be the case, as it will not meet the needs of the market.

**Q17 Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

We have already identified numerous substantial and critical impacts. We consider that those impacts are sufficient to undermine the arguments in favour, at least, of the SQE Part 1. We have indicated that we consider that the SQE Part 2 is at least potentially valuable, but that it requires significant further examination from the perspective of activity regulation. This may in turn produce further EDI impacts.

In particular, Annex 2 fails to recognise the extent to which these are costly assessments to administer and deliver. How would the cost be met? It is likely that the cost would ultimately fall on the individual student, thus contributing further to the damage this will do to diversity. Where individual prospective employers are willing to support students to whom they have offered training or employment the cost will ultimately fall on the consumer of legal services. Annex 2 relies on the reduction of cost implicit in ceasing to require an LPC. However, effective training in the interpersonal skills to be assessed by SQE2 is inherently expensive, requiring as it does reiterations of small-group work. Whilst there may be savings from the lack of prescription if there were no LPC these are unlikely to be as high as appears to be anticipated, since students or their employers will have to fund training in these areas.

What is more, whether or not overall savings are achieved, we would point out that it is a retrograde step to shift cost from a learning process which is recognised to be valuable to an assessment process, the value of which in preparing competent solicitors is as yet unproven.

**Q18 Do you have any comments on these transitional arrangements?**

We consider that the timetable is challenging. Students are currently making career choices at any age from 13 onwards. Students then choose which subjects to study at GCSE, and then which subjects to study at A Level. They are being advised as to potential careers throughout this period. Their careers advisers are not necessarily entirely up-to-date. Students are already proceeding towards university entrance in 2016 and 2017 (and conceivably 2018 and 2019) on the assumption that a QLD is the primary entry point to the legal profession, and that a non-law degree followed by a GDL is a legitimate alternative. Universities have produced prospectuses for entry in years up to 2016 on the basis that a QLD is a crucial qualification for a solicitor. There is nothing to suggest at the moment to careers advisers in schools, sixth form and FE colleges that the fundamental basis of qualification as a solicitor is about to be changed. We consider that at least three years' notice needs to be given, and prominently promulgated, if a QLD is no longer to be the primary route into the solicitors' profession. The consultation paper does not really address the issue of expectations among students prior to enrolment on the LLB, and this is a significant omission. If new arrangements are introduced precipitately, there will be significant complaint on the part of those who have been planning their future on the basis of the existing arrangements. In particular the timescales are such that those starting their post school education in 2016 and 2017 should be able to do so on the basis of the existing rules, or the replacement rules, whichever are more advantageous to them. This should allow for completion of qualification under the existing regulations by 2025/6. It is however not entirely clear from the documentation exactly when the SRA envisages the new rules will apply.

**Q19 What challenges do you foresee in having a cut-off date of 2025/26?**

There will inevitably be candidates who are trailing. This is likely to be because of health and/or disability reasons, and such candidates may require reasonable adjustments to be made on the basis of their protected characteristic. The date specified is not an unreasonable one, but there will still need to be provision for exceptional circumstances.

**Q20 Do you consider that this development timetable is feasible?**

Many aspects of it are extremely challenging. If the SRA assume that HEIs will incorporate SQE Part 1 into their degree assessment programmes, they will need to produce specimen examples for evaluation. Typically, the process for accommodating amendments to academic programmes requires at least a full academic year. If the amendments required constitute a fundamental restructuring of the degree course in question, a longer period is likely to be required. Since no specimens or examples have yet been made available, it is inconceivable that adjustments can be made for academic year 2016/2017. Adjustments could in principle be made for academic year 2017/2018, provided that the materials were available by the summer of 2016. This does however assume that these materials are in principle acceptable as a component of academic assessment, and that there are no further discussions, adjustments or amendments to be made. For the reasons we have outlined above, we doubt that many institutions will be anxious to incorporate SQE elements. This may produce further delays and uncertainties.

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**Response to the Solicitors Regulation Authority Consultation Paper ‘Training for Tomorrow: Assessing Competence’**

Northumbria Law School is a provider of undergraduate and postgraduate programmes, including the Graduate Diploma in Law and the Legal Practice Course. In addition, our MLaw exempting degree is leading the way in innovative professional education in England and Wales, offering both a qualifying law degree and Masters level qualification with exemption from the Legal Practice Course over an integrated four year period. Our educational philosophy is that the theory and practice of law are best studied together rather than in isolation. This enables students to develop as fully rounded professionals, able to understand and practise the law on behalf of clients but also appreciating the impact of the law on society.

Our exempting degree has provided access to students who might otherwise have been deterred from entering the profession by reason of the cost of training. By taking our MLaw degree, students can obtain funding by means of student loans which will cover the cost of the study of both the undergraduate and LPC elements of their degree. We believe that this mode of study is the best working example of a means of legal practice training that truly fosters diversity.

At the heart of the exempting degree is our Student Law Office (SLO) live client clinical module, where in the fourth year students spend approximately 40% of the course acting for real clients under the supervision of qualified lawyers, as a compulsory and assessed part of their studies. Our LPC students are also offered the option of undertaking part of their studies in the SLO. The SLO is nationally and internationally respected for clinical legal education. It was recognised by the Queen’s Anniversary Prize for Higher and Further Education for outstanding community work. The Queen’s Anniversary Prize is the highest form of national recognition for higher and further education open to a UK academic institution, and is given in recognition of work judged to be of outstanding excellence and with positive impact. Undertaking pro bono legal advice and representation in the SLO enables students to gain practical experience of working in the legal profession, serving real clients with real legal problems. Study in the SLO also encourages students to understand the value of providing pro bono services to members of the public and to understand the challenge of access to justice more generally.

It is against the backdrop of our experience that we now provide our response to this consultation paper.

**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?***

No. We do not accept the contention that there is “no standard basis on which to measure the quality of students who emerge from the education and training process”. Universities are regulated by the Quality Assurance Agency for Higher Education (QAA), an independent body and, as the SRA notes, university law courses must comply with a set framework.

The SRA cites a statement by HEFCE that “the current quality assessment system does not provide direct assurance about the standard of awards made to students, or their broad comparability”. This statement has been taken out of context. The point being made was that the quality assessment alone does not provide assurance about the standard of awards. The same HEFCE report went on to say that “the proposals should not be seen to cast doubt on the ability of the current system to secure the reputation of the UK higher education system over recent years”, although later in this document we note some concerns expressed during the discussion period about the continuing appropriateness of current arrangements for the future.

The SRA also relies upon the statistics that are cited in the Foreword to this Consultation. The source of these statistics has not been given but, in any event, it is irresponsible of the SRA to quote (and apparently rely upon and extrapolate from) basic descriptive statistics such as these without having properly interrogated or analysed the data on which they are based.

The SQE would not meet the first objective of ensuring high quality standards at the point of admission. It will incentivise education and training providers to introduce “crammer courses” and to “teach to the test”. The test itself will identify the students who are best at passing computer-based tests (which it appears means multiple choice questions and true/false questions), rather than the best students. We say more about the test in response to question 2, below. Moving to workplace assessment will not ensure consistency and comparability. We say more about this in response to question 12, below.

We cannot see how the SQE is concomitant with the second objective of enabling people to enter the profession in more and diverse ways. There are currently a number of ways in which a person can qualify as a solicitor. The SRA’s proposals would take these options away and replace them with a single method of entry (the SQE).

Furthermore, in relation to objective 2, we query the SRA’s contention that the SQE will be a cheaper option. Employers are likely to require applicants to have degrees even if this is not ultimately an SRA requirement. It is unlikely that a law degree will contain all of the knowledge and practical elements that will be tested by Part 1 and Part 2 of the SQE. If it were to do so, this would significantly restrict student choice and prevent assessment of the wider outcomes that are enshrined in the QAA Subject Benchmark Statement for Law. If a law degree did not contain training for all elements of the SQE, a candidate would have to undertake and pay for a law degree, followed by training to prepare them for the SQE, plus pay for the SQE itself. If unsuccessful in an element of the SQE, a candidate will presumably have to pay to re-sit that element (whereas a law student currently has the opportunity to re-sit a limited number of times included in their fees). It is difficult to imagine that this will be any cheaper than the current requirement of a degree followed by an LPC.

The SQE could benefit someone who has gained skills and experience in other ways, but someone in this position could be accommodated within the current system by, for example, the equivalent means provisions or the CILEX route to qualification.

Students who come from a non-law background are particularly likely to be disadvantaged by the current proposals. At present, someone with a degree in a different discipline can take the GDL before proceeding to the LPC or BPTC. The sort of course that providers are likely to design to prepare law graduates for the SQE would not be sufficient for someone without a degree in law and it seems unlikely that there would be sufficient numbers of students to make it viable for institutions to develop such a course. (The main advantage to many institutions in running the GDL at present, is that students will go on to study the LPC or BPTC at the same institution. If the LPC were to disappear, it is unlikely that an equivalent course to prepare students without a law degree for the SQE would be financially viable).

Similarly, we are concerned that the SRA is proceeding with its proposals in isolation from the BSB. The effect may be to force students into making a very early choice between the solicitors' and barristers' professions. This disadvantages students from poorer backgrounds, who are less likely to have the contacts, knowledge of the profession, or financial support to be able, for example, to undertake periods of work experience to enable them to make an informed choice about which profession to target.

## **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?***

No. On the basis of the limited information that is provided about what the SQE might look like, the exams are not an effective test of what makes a good solicitor. It is suggested that the SQE will be a computer-based test, and this appears to mean that it will involve multiple choice tests and questions requiring a true/false answer. Such an assessment may test a students' ability to memorise information and answer questions on issues about which the law is clear, but it does not test complex cognitive skills. For example, a computer-based test cannot assess the ability to retain information, the ability to challenge the premises of an argument, the ability to formulate one's own counter-arguments, or the ability to persuade – all of which solicitors are required to do on a daily basis in practice. The SQE would also not test writing skills, which were specifically referred to by the LETR as a concern. Using Miller's competency pyramid, assessment should move beyond 'knows' and 'knows how' to the higher levels, 'shows how' and finally 'does'. The types of testing proposed seem unlikely to achieve this, appearing to focus on the ability to memorise information and answer written questions.

These essentially were the reasons for abandoning the previous Law Society 'finals': "What was the point of memorising laws which were neither relevant nor likely to be extant for more than 5-10 years of practice?...[R]ather than know great tracts of law, it is more important that they are equipped with the ability to research the law, to understand their clients' needs, to draft legal documents, to negotiate on behalf of their clients, and to advocate their clients' cases." (Sherr, A.

'Professional Legal Training' (1992) 19(1) Journal of Law and Society 163–173,  
<http://doi.org/10.2307/1410035>)

We note that the centralised assessments that were developed for students on the Bar Professional Training Course have been controversial. The questions themselves have been challenged by institutions and external examiners, and our own external examiners have stated that the assessments do not replicate practice. We would oppose any assumption that the use of centralised multiple choice questions creates a standardisation that makes them in any way more valid than the existing methods of assessment. In the field of assessment of medical training, there is a widely accepted body of research arguing that reliability and validity are not conditional on objectivity and standardisation: "We should not be deluded into thinking that as long as we see to it that our assessment toolbox exclusively contains structured and standardised instruments, the reliability of our measurements will automatically be guaranteed." (Van der Vleuten, C. et al 'Assessing Professional Competence' (2005) 39 Medical Education 309-317)

In our experience, authentic learning environments are popular with both students and employers because they better replicate practice. Stakeholders, including students, would not welcome less sophisticated end point assessments.

### **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 transnational arrangements?***

No. Students who have studied Part 1 subjects at degree level should be exempt from those parts of the SQE. This would promote the objective of diverse pathways to qualification. As the SRA recognises, solicitors' firms may require law degrees. To refuse to allow exemption on this basis creates a risk that students will have to study those subjects again in order to sit the SQE, and will thereby incur additional costs/time. We note that some of the professions that were the subject of case studies on which the SRA's proposals are based (e.g. accountancy) allow accreditation for prior learning.

### **Question 4**

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

- a) Offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?***
- b) Offering a broader number of contexts for the Part 2 assessment for candidates to choose from?***
- c) Focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?***

We do not agree with any of the above options for the reasons set out in our replies to questions 1 and 2, above.

#### **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?***

Yes. It is essential for the reputation of the profession, both nationally and internationally, that it is regarded as a graduate profession. It is true that not all solicitors have degrees, but those that do not have demonstrated equivalence (e.g. qualification via the CILEX route). The Consultation refers to the fact that, for many years, solicitors could qualify through a five-year period of articles. We note that the SRA is not now proposing anything akin to a five-year period of articles. Rather they envisage a single assessment (possibly in two parts) that can be taken by anyone, potentially accompanied by an unspecified period of workplace experience. Furthermore, even during articles candidates had to pass assessments at degree level.

The Consultation purports to recognise the importance of solicitors having the higher level cognitive skills that are associated with being a graduate. However, it goes on to say that it is not appropriate to map the SQE to the FHEQ. The SRA's understanding of "graduate level or equivalent standard" is not explained in the Consultation. We query how the possession of graduate level skills is to be assessed and demonstrated if not by reference to the FHEQ.

As explained above, we think a major difficulty is that computer-based testing is simply incapable of effectively assessing the wide range of skills and knowledge that is required by the FHEQ.

#### **Question 6**

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

Yes. At Northumbria Law School we offer a four year integrated Masters programme which encompasses the QLD and LPC. We require all students on our MLaw exempting degree programme to participate in a legal advice and representation scheme in our Student Law Office as part of their academic and professional development. It is our experience that, during this clinical experience, some students decide that they no longer want to enter the solicitors' profession. The Student Law Office modules require students to interact with real clients, confront the practical reality that many aspects of the law are uncertain, and exercise their professional judgement, in an authentic learning environment. Every year we have students, who may be very academically able, but discover that they lack the skills required for practice. It will simply not be possible to assess this, or for candidates to discover this, without a requisite period of 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?***

Yes. We are unable to comment on what that period should be without knowing more detail about the proposals for the SQE. If, as we fear, the SQE is unable to properly assess all of the skills that a newly qualified solicitor ought to have, a longer period of workplace experience may be desirable.

#### **Question 8**

***Should the SRA specify the competences to be met during prequalification workplace experience, instead of specifying a minimum time period?***

No. The SRA should specify competencies to be met *as well as* a minimum time period. It will not be possible to demonstrate the competencies that all qualified solicitors should have via the SQE alone (see above). Unless the necessary competencies can be demonstrated in another context (i.e. through workplace experience), clients will be put at risk.

#### **Question 9**

***Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers.***

Yes. The recognition of a wider range of prequalification workplace experience would help to meet the objective of encouraging the development of new and diverse pathways to qualification and removing potential barriers to entry to the profession. We submit that relevant and high-quality workplace experience obtained during a degree programme should be recognised. For example, workplace experience in a clinical/pro bono setting, such as in Northumbria Law School's Student Law Office, ought to count towards the requisite period of workplace learning (which we believe should be of a fixed minimum duration, see above), particularly in light of the fact that the proposed move to SQEs will make workplace experience vital. We do not think the categories of workplace experience should be closed. What is important is the quality of the workplace experience and its ability to expose candidates to relevant activities and to monitor and assess their performance, for example by way of a portfolio.

#### **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?***

Yes. As explained above, it is our view that the SQE cannot possibly assess all of the skills and competencies required of a qualified solicitor. To ensure that clients' interests are not put at risk, it is essential that workplace experience be assessed. We have considerable experience and expertise in workplace assessment, particularly through our Student Law Office, in which we use portfolios to

assess competence to practice. We note that in the medical profession, which is one of the case studies upon which the SRA bases its proposals, doctors are both paid and trained to assess trainees. Northumbria Law School has experience in a number of assessment methods drawn from the medical model, including the use of standardised clients, problem based learning, and work based learning with assessment of competencies through portfolio.

#### **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 1 and Part 2, to a specified performance standard?***

At Northumbria Law School, both trainee and qualified solicitors are employed to support our Student Law Office clinical programme. We are confident that we have the expertise to assess competencies of trainee solicitors, but this is largely because of our dual role as both an employer and a provider of legal education, and our concomitant experience in varied assessment methodologies. As stated above we also have existing experience in work based learning and assessment, through our previous pilot on a 5 year qualifying degree, as well as the current 4 year MLaw degree. Through our expertise as educators we have an appreciation of levels of competence, assessment methodologies and moderation processes, which is not necessarily the case for those outside educational institutions. We are therefore not confident that other legal service providers would have the necessary expertise or motivation to assess competencies. Our experience of practitioners joining our teaching teams is that this is not necessarily a skill they have developed while in practice.

#### **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?***

The SRA suggests that its proposals are necessary to ensure the consistency and rigour of assessment for solicitors. If workplace assessment is to meet these aims, we do not see how a toolkit of guidance, which we presume would consist of online tools and resources, would be sufficient to support employers to assess to the required standard. In particular, we cannot see how a toolkit alone could ensure consistency of standards as between employers. The Consultation criticises higher education institutions for being inconsistent and cites the number of QLD and LPC providers. Under the SRA's proposals, there would be many, many more employers conducting workplace assessments and it is frankly impossible to see how consistency could possibly be assured. Universities are subject to QAA process, which are extremely robust, and we are experienced in assessing students. It is our view that, without specialised training, employers should not be assessing candidates.

### **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?***
- ***protect consumers of legal services and students at least for a transitional period?***

Yes. To ensure consistency and protect students and their future clients, training pathways should be prescribed and regulated. To permit otherwise would allow the very situation the SRA claims to want to avoid: unregulated providers developing “crammer courses” for the SQE with no means of ensuring that the standards of such courses are satisfactory, or ensuring that students are properly prepared both for the SQE and for practice. This proposal also has equality and diversity implications as poorer students could be forced on to cheaper courses. While there is no problem with this per se, if such courses were unregulated and of poor quality, this would hinder the opening up of access to the profession that the SRA claims to want to create.

### **Question 14**

***Do you agree that not all solicitors should be required to hold a degree?***

Not all solicitors are required to hold a degree at present, so we cannot see the relevance of this question. However, we believe the possession of a degree should be the norm, as it is now. It is important for the status of the profession, both nationally and internationally, and for the protection of clients, that all solicitors have the skills and abilities of a graduate. The best way for a candidate to demonstrate this is by the possession of an undergraduate degree.

### **Question 15**

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

In the absence of more detail about the content and form of the SQE, and whether/how workplace experience will fit in, we feel unable to answer this question.

### **Question 16**

***What information do you think it would be helpful for us to publish about:***

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

In the absence of more detail about the content and form of the SQE, and whether/how workplace experience will fit in, we feel unable to answer this question. In addition, the meaning of “training



provider” is unclear. Is this intended, for example, to include employers who may be involved in workplace assessment?

**Question 17**

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

We note that a full equality and diversity impact assessment has not been carried out. In particular, there appears to have been no consideration of the likely effect of these proposals on those with full time jobs and/or families, people with learning difficulties, or people with disabilities. We would also welcome a full assessment because, as explained above, we do not believe that the SQE will be the cheaper alternative that the SRA contends. Nor do we believe that it will have the effect of widening access to the profession for minority groups, as there is no evidence to suggest that the SQE will have the ability to influence firms’ recruitment policies.

**Question 18**

***Do you have any comments on these transitional arrangements?***

The present situation is enormously unsettling for students, which is only likely to hinder diversity. The transitional arrangements are insufficiently clear to address this issue.

**Question 19**

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

The cut-off date of 2025/26 is obviously dependent on the date at which an SQE is introduced. For the reasons set out below, we do not think the timetable for the introduction of the SQE is realistic. This may consequently cause problems for a cut-off date of 2025/26.

**Question 20**

***Do you consider that this development timetable is feasible?***

No. The timeframe is aggressive and unrealistic. It does not allow for proper testing of the SQE itself. The lack of detail provided means that education and training providers do not have the necessary information and understanding to be able to properly design programmes to meet candidates’ needs. Students will suffer as a result.

**Nottingham Law School**

**T4T Consultation Response  
Document**

**24<sup>th</sup> February 2016**

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# T4T Consultation Response Document

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## Introduction

We are grateful for an opportunity to comment on the proposed SQE. In preparing this document we have had the benefit of drawing on the expertise of staff who have taught and led the LLB and Legal Practice Course (LPC), practised as solicitors, served as external examiners, and led and designed LLB courses and the LPC. As a full service law school, we are acutely aware of the challenges law students face and the need to ensure these challenges are met. We also recognise the importance of ensuring the public are served by a legal profession who are fully competent in all aspects of their role.

It is in the public interest that the diverse nature of society is reflected in the legal profession and judiciary. Providing legal services will always be a competitive profession, but it is vital for the future of the profession that individuals compete on ability and that no able candidate is prevented from succeeding because of their social, ethnic or personal background. We have expressed our opinions, where appropriate, on what we see as the potential risks and benefits of the SQE and changes to the pathways to qualification. Many of these are based on our own perceptions.

It is in the interests of the economy that the solicitors' profession in this jurisdiction is regarded as excellent. It means that London and other regional cities are seen as centres to litigate and conduct commerce. There are a number of factors which contribute to this: the large number of international students who study to qualify as solicitors, the gravitas of law as an academic discipline and the reputation of institutions for delivering high quality legal education. We would urge that any restructuring does not undermine these objectives.

In respect of the law degree, in summary, we support the retention of the undergraduate law degree with the core subjects as currently defined. We believe there is a need for some consistency between institutions as to what subjects are covered on the LLB in the core modules.

In respect of the vocational course we believe the key to reducing the cost of the course is a reduction in the regulatory regime to enable providers to explore alternative and innovative modes of delivery and use their resources with maximum efficiency. We do feel there is a role for the regulator in ensuring a consistency in the outline of the course to ensure that all courses are regarded fairly by external stakeholders and to ensure providers do not simply offer a cheap model with no value for money attached to it.

In respect of a period of work based learning we suggest that a change to the way learning is assessed may have positive consequences for the public and diversity in the profession.

The Legal Education and Training Review research phase concluded that the current system of legal training is fundamentally sound and we would urge the SRA to consider alternatives to the introduction of the SQE.

Finally we would say that the most effective means of reducing cost is through the operation of economies of scale. These economies can be better achieved by ensuring

that where possible commonalities of training with other areas of the profession exist. We urge all the regulators to ensure that routes to qualification do not diverge to such an extent that these commonalities cannot be explored and developed. If this divergence occurs diversity will suffer, the professions will suffer and the public will suffer.

**Professor J.E. Griffiths-Baker, LL.B., LL.M., Ph.D.**

**Dean of Nottingham Law School,**

**Helen Hudson**

**Head of Post Graduate Professional Courses**

**On behalf of Nottingham Law School.**

## 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 welcome the objectives of focussing regulatory effort more rigorously than at present and ensuring the most talented candidates can qualify as a solicitor. Present regulation is less rigorous than used to be the case before the disbanding of the JASB, the reduction in monitoring visits by the SRA for the LPC, and the abandonment of SRA appointed external examiners.

The SRA's assumption about the consistency of the current provision needs to be challenged. It is to be expected that providers of legal education at all levels would have differing results. A simple review of pass rates does not provide a full picture as the contextual data needs to be looked at. For example, pass rates on the LPC vary between providers and this could be for a variety of understandable reasons such as candidates' entry qualifications, social group or ethnic background. In any event it is arguable whether or not a common professional assessment will provide a solution to the perceived concerns about consistency and comparability.

We should aspire to the highest levels of consistency and comparability but not at the loss of innovation and creativity. It could be argued that a common professional examination will lead providers to design courses that 'teach to the assessment' at the cost of more innovative and creative teaching and learning that would set a benchmark for legal training worldwide. The question is whether courses designed to ensure that students pass the SQE will also prepare them to be good lawyers?

We would argue that a return to a 'one size fits all' course design solely aimed at getting as many candidates through a common assessment as possible is to be avoided but is inevitable when the assessment is the sole gateway to qualification. Educators will understandably direct resources to teaching what is on the assessment as they will be judged on their students' SQE results - is that what makes them competent practitioners? Pressure on training providers to get good SQE results is likely to have an impact on admission processes, which in turn has the effect of negatively impacting diversity. Legal education training providers will lose the ability to take students who are likely to be excellent practitioners. The consequence may be to shut some students out of legal education altogether.

Whilst we fully support the SRA's objective to open accessibility to the profession further, we remain unconvinced that a common professional assessment is the best way. We want to see the most talented candidates continue to qualify, no matter which pathway they take, but a lot depends on whether the assessment tool is:

- a. Reliable;
- b. Valid (educationally);
- c. Feasible;
- d. Fair;
- e. Placed at the right point(s); and

f. Effective in assessing competence.

The type of assessment being proposed by the SRA will only assess candidates on a given day; it will be a snapshot of competence to pass an assessment, not a consideration and assessment of competencies. If the common assessment is the sole gateway to qualification then the talent will be to pass the assessment not necessarily prove competence in other ways.

From what we can establish, the proposed common assessment will not assess some elements of the Statement of Solicitor Competence at all (A2, A3, D1, D2, D3). If this is the case, then the SRA would not be assessing a range of competence defined by the statement, but a smaller subsidiary range of competences ("Competence -1").

The SQE may not assess other aspects of the Statement of Solicitor Competence either. It is hard to see, for example, how the assessment of C3 in the SQE will assess a candidate's ability to supervise the work of others. To revert to an earlier point made, clearly assessment of some elements of the Statement of Solicitor Competence in the SQE is by a single snapshot which does not necessarily capture day-to-day performance or those activities which take time to carry out (e.g. reporting on progress effectively over the length of a transaction). It is, therefore, unclear whether the elements of the Statement of Solicitor Competence that will be assessed in the SQE have been selected because they are easier to assess, or because they pose the greatest risk to competent practice.

In terms of removing artificial and unjustifiable barriers to qualification we are concerned that the SQE will in fact add to the cost of qualification and in so doing be a further barrier to entry into the profession. It seems likely that employers will require a degree or its equivalent plus a form of LPC training. Employers are clear that those students who have undertaken the LPC are more useful and valuable in the workplace than those who have not, being able to undertake tasks from the commencement of their employment. If students decide not to do an LPC course their employability will potentially be affected as they will be of less value in practice. In addition to this, there will be costs involved in taking the SQE which creates issues of access. The cost of producing and administering the SQE is likely to be substantial: one only has to look at the cost of the QLTS to see this. Moreover, candidates for the SQE will no doubt undertake pre-assessment courses which will increase the cost of qualification. We are concerned that rather than reducing cost and access to the profession, the introduction of the SQE will have the opposite effect.

## 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?**

The assessment tools proposed for the SQE are:

- a. Part 1: computer-based objective testing, assessing the application of knowledge and legal processes.

- b. Part 2: standardised practical legal tasks simulating the real demands of practice. Oral skills assessed through live role plays involving standardised clients. Written skills assessed through computer-based applied tasks and case studies.

Regarding the assessment tool for Part 1, we accept that computer-based objective testing is used effectively in other professions to test higher order skills. However, we would like to see a model illustrating how that tool would work in the specific context of the solicitors' profession. It is difficult to envisage how a tool designed to assess diagnostic analysis of the human body on the one hand, or company accounts on the other, would translate to the context of applying legal knowledge and process where a number of options may be available to the client. It would be a radical departure from current assessment methods and would require embedding in undergraduate courses (as we believe it is in other professional pathways) in order to prepare students effectively.

We would also be concerned if linked scenarios were used between questions since there might be a real risk of 'double-jeopardy' creating a sense of unfairness amongst candidates.

At present, open questions can be designed to assess legal knowledge very effectively at Level 6. It is difficult to see how the SRA's objective to also set the SQE at Level 6 can be achieved in quite the same way using computer-based objective testing involving closed questions and the supply of optional answers. We have concerns that the training of candidates for Part 1 assessment would inevitably centre around how to pass that assessment (i.e. how to interpret MCQs and identify a correct answer from a range of deflectors).

With regard to the Part 2 assessment tools, is the computer-based written skills assessment simply a word-processed piece of work (possibly marked online) or a series of MCQs? We don't see any issues regarding the former other than security, collaboration, collusion, and plagiarism. However, MCQs would not in our opinion be an effective assessment of written skills for obvious reasons. The other issue is what resources will be available to candidates taking Part 2. If the assessment is to test competencies developed during a period of work-based learning then an open book assessment with candidates having access to online resources which replicate practice would seem the most appropriate approach to take.

The SRA's wish to set the SQE at Level 6 is admirable but with the proposed model it is difficult to see how some Level 6 descriptors could be met. For instance: intellectual independence; ability to identify gaps in students' own knowledge and acquire new knowledge; self-management, including an ability to reflect on one's own learning and make effective use of feedback; an ability to work collaboratively; ability to produce a synthesis of relevant doctrinal and policy issues; engagement with one's own personal and professional development.

Admittedly, it is difficult to form a view without knowing whether there will be some prescription of pathways prior to assessment and to which level. If there are prescribed pathways, it is likely that a significant number of students would continue to study for a law degree or equivalent. The SQE by itself may not be able to match



certain degree level descriptors and there would be duplication of assessment, thus increasing the overall assessment burden and cost for law students.

As for structure, the model envisages a modular approach with a total of 16 'functioning knowledge areas' (FKAs) and 6 'practical legal skills'. The model also envisages that students will be permitted an unrestricted number of attempts at the module assessments. Generic modules might be appropriate where candidates are undecided or need to keep their options open. However, for those who have secured employment it would be desirable to offer some options. The 'one size fits all' approach does not allow candidates to tailor the modules they undertake to the area of practice they intend to follow. In particular, whilst it is acknowledged that knowledge of criminal law is an important foundation for all solicitors, we would query the necessity for all candidates to be assessed in criminal litigation and evidence. This has become a niche area of practice and only a minority would require detailed knowledge and understanding of this area.

The content of both Part 1 and Part 2 is almost identical to the current prescribed content for the QLD and the LPC. It is not clear whether Solicitors' and/or Business Accounts would remain assessable. We would suggest that certainly the former at least should be part of the SQE and point to the fact that Solicitors' Accounts was taken out of the prescribed LPC content, only to be reinstated amidst concerns about the increase in solicitors' negligence claims.

We would welcome the reintroduction of negotiation as an assessable skill although a more flexible model might allow candidates to undertake an assessment more focused on mediation/ADR as fitted their career pathway.

Regarding the timing of the assessments, it is difficult to reconcile the statement that the model will allow modularised assessments that can be taken separately with the objective to ensure competence at the point of qualification. What if those assessments are taken over a number of years? How can we be sure that competence is maintained until the very point of qualification?

Without specific details of the SQE assessment scope, process and infrastructure it is difficult to comment further.

### **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?**

There must be exemptions for those candidates who will be part of transitional arrangements since to do otherwise would devalue the training they have undertaken as part of the current regulations. It would also require further expense that many would consider unacceptable.

Beyond the transitional arrangements, any exemptions would surely be on the basis of the SQE learning outcomes having already been met, otherwise there seems to be no

objective justification for allowing exemptions if one of the prime objectives of the SQE is to ensure consistent standards. Evidence that SQE learning outcomes had already been met would rely on APL (Accreditation of Prior Learning). APL could be either:

- a. APCL (APL based on certified (or certificated) learning - a formal course in a different jurisdiction or in another context); or
- b. APEL (APL based on experiential learning - learning achieved through experience, rather than on a formal course).

APCL, as mentioned, would cover solicitor apprentices and lawyers qualified in other jurisdictions but it might also cover those candidates already qualified in other legal service professions in England and Wales (barristers, legal executives, etc.).

APEL would cover those candidates whose status is not necessarily based on accredited qualifications but is based on experience instead (paralegals for instance).

APL is accepted as a central element of all competency-based assessments and therefore it would be difficult for the SRA to ignore. To ignore APL might also leave the way open for challenges by candidates based on restrictive practice.

#### **Question 4**

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

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?**
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?**
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?**

Option (b) would most accurately reflect the feedback that we are receiving from employers regarding candidates' suitability for employment.

In the current LPC pathway students are able to learn, practise and develop skills before they undertake workplace training and in the context of practice areas. Whilst broad-based knowledge and appreciation of different practice areas is valuable, some degree of flexibility and the ability to tailor one's own personal development (rather than a one size fits all offer) has to be preferable.

#### **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?**

Yes, we agree. As stated in our answer to Question 2, we think it is highly unlikely that the style of assessment currently proposed for the SQE would, by itself, allow candidates to demonstrate level 6 attributes.

There is a danger in confusing substantive knowledge of content with the skills and attributes of what it is to be a 'graduate'. The QAA Law Benchmark Statement does not really focus upon the detail of the substantive law content, but rather what graduates can be expected to do with such knowledge. If the SQE is to be set at level 6 then it is these skills and attributes which it has to address.

A more legitimate rationale for requiring students to undertake the SQE could be to ensure currency of legal knowledge. Typically many of the Foundation Subjects are undertaken in the first two years of undergraduate legal study, and knowledge is in need of refreshment by the time students begin the vocational stage of training. Well-designed LPC courses reinforce 'assumed knowledge' in so far as they relate to the Core Practice Areas, but there would be a case for ensuring a consistent level of knowledge at this stage. Some form of central assessment could be justifiable and useful at this stage, to address the variations in curriculum focus at undergraduate level. Such an assessment could be knowledge based and would not need to be at level 6.

### **Question 6**

#### **Do you agree that we should continue to require some form of pre-qualification workplace experience?**

The qualification of a solicitor should not be limited to a classroom environment.. Learning skills and competencies in a meaningful work environment is part of the journey to becoming a solicitor. Throughout such a workplace experience an individual develops deeper skills to allow them to advise a client independently with confidence upon qualification.

The workplace experience, however, must be meaningful. The form of workplace experience must be supportive and informative. Simulated environments could be provided by legal education providers to replicate the workplace. This would address the issues of those candidates without access to the real workplace and those firms who are unable to provide the relevant experience or a supportive and informative environment. There is precedent for this in the way some of the larger law firms have had to resort to simulation to satisfy requirements about litigation in the current training contract. Real or simulated, candidates should have the opportunity to develop the knowledge and skills required of a solicitor in a realistic and integrated way.

### **Question 7**

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

Rather than minimum periods being prescribed, we feel that the focus should firmly be upon the achievement of stated learning outcomes. If the SRA considers that the statement of a time period is helpful to candidates, employers, and the public to indicate a level of required experience, then that time period should be indicative rather than prescriptive. To make the time period prescriptive may be deemed by

some as placing a barrier to qualification in the way of those exceptional candidates who can gain the relevant experience but in a shorter timeframe.

### **Question 8**

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

Yes, rather than minimum periods being prescribed, we feel that the focus should firmly be upon the achievement of stated learning outcomes. It will be essential that the assessment criteria for a central examination is aligned to the learning outcomes of any period of work based learning if the SQE is to be taken after a period of work-based learning to assess competencies developed during this phase of training.

### **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?**

It is the quality of the pre -qualification work place experience that is essential in maintaining an acceptable professional environment. There is no fundamental objection in a candidate gaining such experience during a degree programme provided that such experience is carefully monitored by the SRA to ensure it is of an appropriate standard. Difficulties may arise with the workplace assessment and who will take on the responsibility for this if a range of employers are involved. One solution would be to have an education provider as the central point for assessment of pre-qualification work 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?**

The Legal Education Training Review (LETR) research report recommended (Recommendation 14):

“LSET structures which allow different levels or stages (in particular formal education and periods of supervised practice) to take place concurrently should be encouraged where they do not already exist. It should not be mandated. Sequential LSET structures, where formal education is completed before starting supervised practice, should also be permitted where appropriate. In either case, consistency between what is learned in formal education and what is learned in the workplace is encouraged, and facilitated by the setting of ‘day one’ outcomes.

This recommendation follows from the preference for a mixed economy. The LETR research data demonstrated a strong interest in enabling further experimentation and more flexible pathways, but insufficient confidence in the

advantages of a more integrated approach to make it the norm. It was also recognised that blending would create additional costs for smaller entities, and possibly drive them out of the training market. Where integration takes place, work towards consistency between classroom and practice-based activity should be undertaken.”

Furthermore, Recommendation 15 stated:

“Definitions of minimum or normal periods of supervised practice should be reviewed in order to ensure that individuals are able to qualify or proceed into independent practice at the point of satisfying the required day one outcomes. Arrangements for periods of supervised practice should also be reviewed to remove unnecessary restrictions on training environments and organisations and to facilitate additional opportunities for qualification or independent practice.

The aim of this recommendation is to permit greater flexibility with respect to periods of supervised practice, particularly, but not exclusively, for solicitors and barristers. This will assist in reducing the bottleneck around training in those professions, and also help to ensure that employers and training organisations have the ability to train individuals in a way that suits their needs and those of their clients. The logic of an outcomes approach suggests that an individual should be ‘signed off’ at the point they are judged competent, rather than on the basis of time served. Equally, there are risks with the removal of time periods, and with the specification of minima, which may rapidly become a new standard. One approach may be to address these risks through appropriate guidance on review against outcomes, allowing for reduction in the normal period of training, rather than a specified minimum as such. Conversely, proper evaluation against outcomes may (and should) lead to an extension of the training period, or termination in appropriate circumstances.”

We are in agreement that an element of workplace assessment will enhance the quality of the qualification process but that assessment should be against learning outcomes met rather than time being served.

We would urge the SRA to review the work-based learning pilot which could be adapted to assess work-based learning. The original pilot sought to assess the whole period of the training contract but could be redesigned to assess competencies not otherwise assessed by the SQE.

### **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 1 and Part 2, to a specified performance standard?**

Not applicable

### **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?**

A toolkit and guidance would be helpful. The SRA could draw on the resources developed for the work-based learning project.

### **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:**

- a) support the credibility of the assessment? and/or**
- b) protect consumers of legal services and students at least for a transitional period?**

We believe that those people interested in becoming a solicitor, and those people employing solicitors or consuming legal services, desire clear and transparent pathways which indicate a clear and approved journey to qualification. Would-be solicitors will want to understand the criteria for qualification and how those criteria can be met; not just how they will be assessed but also how they can reach the point when they are ready to be assessed. Legal education providers (and we think employers too) also desire clear and transparent pathways that allow flexibility and innovation to provide the best training experience. Prescribing the pathways would provide this and if we retain the "equivalent means" route, this will give flexibility and enhance equality and diversity.

As other professions are increasingly requiring a degree for entry, it is detrimental to the solicitors' profession to remove the need for a degree or its equivalent and LPC. The impact on the reputation of the solicitors' profession both at home and internationally should not be underestimated.

The current routes to qualification are clear for both aspiring solicitors, employers and legal education providers. To remove these pathways will lead to confusion for all.

### **Question 14**

**Do you agree that not all solicitors should be required to hold a degree?**

This may be indicative of a route to qualification but should not be prescriptive. Accreditation in this context relies on degree awarding powers yet it may be possible that in the future someone could evidence the achievement of Level 6 learning outcomes in other ways, some of them even self-taught or tutored by non-accredited organisations.

### **Question 15**

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

We do agree because constructive feedback is an essential element of development and there also needs to be transparency in the assessment process in order to promote confidence and trust.

### **Question 16**

**What information do you think it would be helpful for us to publish about:**

- a) overall candidate performance on the SQE?**
- b) training provider performance?**

Transparency is a key element in attaining trust and confidence. This information will be available and therefore it should be published.

We agree with the LETR research phase Recommendation 24 which stated:

“Providers of legal education (including private providers) should be required to publish diversity data for their professional or vocational courses, Qualifying Law Degrees and Graduate Diplomas in Law and their equivalents.

This should include data on examination sittings and performance for those professions which do not regulate course providers. Where at all possible, data should distinguish between home and international students/trainees.”

### **Question 17**

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

There are a number of EDI issues which may arise out of these proposals and which could have a detrimental effect on the standing of the profession.

1) Cost. It is argued that the overall cost of these assessments is likely to be cheaper than the current traditional training pathway and the SRA have, without full justification argued the sum of £12 500 difference. It is difficult to reconcile this with the information that we have to date. If a comparison is made with the QLTS assessment, which does not involve as many assessments, then there is cause for concern. At the moment the cost to sit the Examination is £4188. This is on the basis of one MCT and a limited number of OSCE assessments. The cost today of 'premium' tuition for these examinations is £3880. We think that, because of the extent of the material to be covered in the MCTs, the subjects should be 'modularised' and a series of tests undertaken, a process that may increase the cost. The costs only need to increase by a relatively small amount before the argument for the alleged savings with the new assessments is undermined. Furthermore, the tuition for both the MCT and the OSCE is offered on a sliding scale with a price tag to match. If similar forms of tuition were to be available under these proposals, serious EDI issues immediately arise.

Further, the Alpha + group in its Report on these proposals recognised that “unlimited attempts will favour certain affluent or funded peers”. The report went on to propose that the SRA should consider funding support for those who would otherwise be unable to re-sit. This does not seem to be a feasible notion.

The new proposed form of assessments are unlikely to fall within the new Government Loan schemes for part time study. The ability to apply for these if studying for an LLM LPC was a clear break-through for addressing several of the EDI barriers that had existed in relation to funding for the LPC.

Students who cannot afford training courses, or who are otherwise ambition-rich but time-poor due to family responsibilities, are likely to be disadvantaged. Students impacted in this way tend to be non-majority students. If non-majority candidates fail the SQE and/or fail to retake this will potentially have an impact on clients as non-majority lawyers tend to service non-majority clients therefore denying these clients access to justice. Historically underrepresented communities need lawyers who, in culturally sensitive ways ,can provide access to justice.

## 2) Entry into the Profession

The inclusion of a workplace assessment may not immediately affect EDI issues but we think that introducing workplace assessments to be undertaken by the firms themselves may close the door to opportunities to certain candidates. Whilst larger firms may be prepared to devote the time and money to undertake and pay for such investment, smaller firms may consider that the time and cost implications do not justify taking on those aspiring to be a solicitor.

## 3) Progression

We think that the new assessment regime should address the issue of progression within the profession once a candidate qualifies.

### **Question 18**

#### **Do you have any comments on these transitional arrangements?**

Students who have embarked on a qualifying law degree should be given exemption from Part 1 of the SQE. These students will have commenced their degree on the understanding that they would be given exemptions from stages of training and this should be honoured.

### **Question 19**

#### **What challenges do you foresee in having a cut-off date of 2025/26?**

It will further affect the credibility of the current qualification routes.



## **Question 20**

### **Do you consider that this development timetable is feasible?**

The proposals reflect a major upheaval in legal education. There seems to be a consensus amongst various interested parties that, to date, the whole procedure has not incorporated a realistic timescale to collate all issues and address all concerns. The proposed development timetable appears to lack the time needed. There is no opportunity for reflection, amendment or discussion. The reports commissioned by the SRA advocate caution and the necessity not to act hastily. The Alpha+ Report states that a comprehensive set of support materials needs to be published well in advance and suggests up to 18 months. This SQE timescale does not appear to reflect that advice.

Without an adequate lead-in period, students in the education system will be unable to consider and weigh up the pros and cons of the various pathways now being advocated. Schools, careers advisers and universities will have little opportunity to identify which system is appropriate for which type of student.

## **Nottingham Law Society**

### **T4T - Assessing competence**

#### **Consultation questionnaire form**

This form is designed to be completed electronically—in MS Word. Please save it locally before and after completing it.

## 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?

By way of introduction, we wish it to be clear that Nottinghamshire Law Society are not averse to change where change will demonstrably bring about improvement. We are supportive of measures to improve consistency and comparability between the routes to qualification. We also support measures to increase social mobility, equality and diversity and to maintaining and improving consumer confidence in the profession by ensuring high standards of entry and high standards of legal education and training.

That said, the main problem we have identified with this consultation document is that it doesn't start off with any evidential base for the reforms e.g. that most negligent claims and/or interactions with the SRA are from new or recently qualified solicitors; it then wraps up its proposed changes in a cloak of better achieving equality and diversity and of raising standards and ensuring parity of qualification but the entire consultation does not provide detail or anything other than assertion of how these changes will deliver the improved quality and standard of newly qualifieds as well as better equality of opportunity.

This Society is also concerned that the format of the consultation paper will discourage responses by being unnecessarily complex and lengthy. In addition, the questions are too narrow in scope and therefore prevent open discussion and the opportunity to provide observations of a general nature.

We also note at this stage that the approach proposed by the SRA ignores the primary finding of the Legal Education Training Review (LETR). Namely, that the current system is broadly fine and fit for purpose and its recommendation that small scale changes could bring the required improvements.

Like the Law Society nationally, we support the idea that the Law Society should take responsibility for professional standards which includes entry into the profession and awarding the professional title of solicitor.

In response to the above question, we have the following observations:

A huge concern to the Society at the moment is the fact that despite clear warnings from LPC providers that candidates should have an offer of a training contract before incurring the cost of that course, somewhere round about 50% of those on the LPC are taking a chance. If the necessity for a training contract is removed then surely that position is going to get worse? Aren't more and more people going to enrol on courses teaching the SQE? Is not therefore the impact on these unfortunate students going to be worse because there will only ever be a finite number of places available within law firms? Will that improve or worsen the lot of poorer applicants?

We acknowledge that a centralised assessment may be appropriate in some form in conjunction with quality assured pathways to qualification. However, this Society opposes any system which could end up with people becoming solicitors with little or no mandatory education requirements at all and with little or no work experience in a legal environment. This Society believes that this would be extremely damaging to

both the profession and the public.

Being a professional and being a solicitor is not just about passing an exam. It is about common standards of behaviour, conduct and ethics which really and truly are only learned by keeping the company of other solicitors. That is the reason why there is currently a two year training contract and why one has to practise as an employed solicitor for three years after that before one can start one's own firm. You don't learn these behaviours from a book. The SRA outcomes need to be learnt in context.

Those graduating or passing the exam may get employment but it will be at the same paralegal level as at present and the fact that they be called solicitor will be neither here nor there and indeed will lead to a diminution of that status.

These proposals also run the risk of lowering, not improving standards. The depth and breadth of experience obtained during the training contract, which requires a rounded overview of a solicitor's practice, would be lost if entrants to the profession were largely based around an exam which is learned in the summer term and forgotten by the autumn term. One needs to learn about things such as the duty to the court, dealing respectfully and honestly with one's opponents, what to do when a client puts you in a compromising position and, probably most importantly of all, handling client money, in practice

This Society believes it would detrimental to the profession and the consumer for the SRA to absolve itself from any regulatory responsibility in the involvement of the training required to qualify as a solicitor.

The removal of clear and/or authorised pathways to qualification will have a significant impact on both domestic and international reputation of the UK legal profession. We feel strongly that the findings of The Law Society's Report into the Global Competitiveness of the England and Wales Solicitor Qualification (July 2015), should not be ignored. This Report addresses the risks to our international reputation if the SRAs proposals come to fruition. In particular, that Report emphasises the importance of the training contract as maintaining the brand and reputation of the solicitor qualification. As one of the contributors to that Report put it "the regulator must take care of what the title means and the what standards are behind it. The international credibility of the qualification is at stake if this is threatened. If you erode the title, you erode English law as a commodity".

Rather than innovate legal education and training, there is a real risk that the introduction of the SQE will lead to 'crammer' courses designed solely to enable the candidate to pass the exam rather than preparing them to be solicitors. This risk is particularly acute in respect of the proposed SQE part 1. It is unlikely paragraph 10 will be achieved by ensuring that there are new and diverse pathways to qualification, as there is little incentive to innovate (such as the through apprenticeships or programmes such as the ones adopted by the accountancy model for example) if the potential student can simply choose a cramming course. With cost as a factor, it is unlikely that training courses designed to prepare students for a SQE will incorporate factors designed to improve overall employability nor is it likely to incorporate a broader knowledge base. Nottinghamshire Law Society would support a position where prescribed pathways can sit alongside space to innovate and create new pathways. .

## **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?

This is a difficult question to answer and assumes a simplicity and certainty that is not currently evident. Significantly, we do not know the form in which legal education and training will take prior to these assessments. We do not know whether the number of re-sits will be limited and, if so, to what number. We do not know what the time limits on the time taken to pass and/or between taking particular modules and ultimately passing the assessment will be. We do not know the detail of how these will be assessed or who candidates will be assessed by.

Employment law does not appear to be covered in either Part 1 or Part 2. This is an area of wide applicability and importance and we believe it is worthy of inclusion.

### **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?

We do not agree that all intending solicitors should be required to pass a SQE on the model currently proposed for the reasons outlined elsewhere in this response.

If exemptions can be achieved during a transitional stage then it is difficult to see why similar exemptions should not be permitted following a transitional stage in order to reduce the burden, including the financial burden, of aspiring solicitors. A model that would retain exemptions would be more flexible and more in line with the model for other professions, such as accountancy.

## Question 4

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

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

A combination of b) and c). Consideration should be given to a broader number of contexts e.g. employment, family, media and technology, company and commercial, construction and engineering, immigration, financial services, clinical negligence and PI. This would increase the practical relevance of a SQE and allow greater flexibility.

We note that this might be difficult for some firms to support, so is going to require some form of training. This has a costs impact and may therefore reduce the possibility that firms will recruit intending solicitors.

## **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?

Yes. It is imperative to protect the reputation and brand of solicitor that all of those achieving qualification have been assessed to graduate level or equivalent.

The Bar Standards Board has indicated that they will keep the undergraduate law degree as part of their route to entry. If this standard, or equivalent, was not maintained for solicitors it devalues the profession and would create disparity between the two professions with the real risk that solicitors would be viewed as inferior and less qualified.



## Question 6

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

Without a doubt. Furthermore, this Society believes that pre-qualification work based learning should be substantial and should be undertaken in a suitably regulated legal environment. In addition, work experience should be properly supervised by a solicitor. In view of the unique skills required to be a solicitor it is difficult to envisage how experience in other work environment could appropriately compare to qualify as a period of recognised work based learning.

This Society also believes that it would be preferable, and important, to retain a requirement to undertake vocational work experience in more than one practise area. This would help to ensure that intending solicitors improve their employability prospects upon qualification and prevent employers from taking advantage to suit their own business needs without regard to the needs of the individuals and, ultimately, consumers. We accept that this does not promote increased flexibility and as such would suggest that there is an opportunity to apply for an exemption from this requirement but that such an exemption only be granted where it is in the interest of the aspiring solicitor and consumers as opposed to the interest of an employer. For example, we envisage the scenario where someone has been a successful paralegal in a particular area for a number of years and wishes to qualify into that area.

The SRA has a responsibility to ensure that intending solicitors will be qualifying with the requisite skills to be able to compete on an equal footing in a competitive market and to ensure that legal education and training pre-qualification is as broad and as rigorous as possible. It is difficult to see how consumers can be protected if intending solicitors are not required to undertake a significant period of work based learning. Furthermore, if this was not a requirement, the solicitor brand would be significantly devalued.

A number of points we make at question 1 are also relevant to this issue, so we repeat them here for the sake of completeness:

Being a professional and being a solicitor is not just about passing an exam. It is about common standards of behaviour, conduct and ethics which really and truly are only learned by keeping the company of other solicitors. That is the reason why there is currently a two year training contract and why one has to practise as an employed solicitor for three years after that before one can start one's own firm. You don't learn these behaviours from a book. The SRA outcomes need to be learnt in context.

Those graduating or passing the exam may get employment but it will be at the same paralegal level as at present and the fact that they be called solicitor will be neither here nor there and indeed will lead to a diminution of that status.

These proposals also run the risk of lowering, not improving standards. The depth and breadth of experience obtained during the training contract, which requires a rounded overview of a solicitor's practice, would be lost if entrants to the profession

were largely based around an exam which is learned in the summer term and forgotten by the autumn term. One needs to learn about things such as the duty to the court, dealing respectfully and honestly with one's opponents, what to do when a client puts you in a compromising position and, probably most importantly of all, handling client money, in practice

This Society believes it would be detrimental to the profession and the consumer for the SRA to absolve itself from any regulatory responsibility in the involvement of the training required to qualify as a solicitor.

The removal of clear and/or authorised pathways to qualification will have a significant impact on both domestic and international reputation of the UK legal profession. We are strongly of the opinion that the findings of The Law Society's Report into the Global Competitiveness of the England and Wales Solicitor Qualification (July 2015), which addresses the risks to our international reputation if the SRA's proposals come to fruition, should not be ignored. In particular, that Report emphasises the importance of the training contract as maintaining the brand and reputation of the solicitor qualification. As one of the contributors to that Report put it "the regulator must take care of what the title means and the what standards are behind it. The international credibility of the qualification is at stake if this is threatened. If you erode the title, you erode English law as a commodity".

## Question 7

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

As stated above, the importance of work based learning should not be underestimated. As such, there should be a minimum time period coupled with requisite competencies to be achieved. There is simply no substitute for work based learning in a legal environment. Certain skills, knowledge and experience can only be gained by on the job learning.

## **Question 8**

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

As stated above, this Society thinks it should be a combination of both.

## Question 9

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

Whilst not wholly opposed to allowing some forms of alternative work experience to count towards a period of recognised training, there can be no substitute to skills learnt within a legal environment. We strongly believe that no-one should be able to qualify as a solicitor without a period of work experience undertaken in a suitably regulated legal environment.

The Society would support work experience undertaken as part of law degrees to count towards pre-qualification workplace experience.

We believe it is worth noting that Nottingham Trent University offers placement law degrees which are extremely successful and benefit both the employers and the aspiring solicitors and we as a Society are fortunate to have a successful placement scheme within our region. We would strongly advocate that such degrees that combine both academic and vocational learning are an extremely effective method of legal education and training and a model that works to ultimately produce high quality solicitors. Placement degrees also allow an opportunity for a student to ascertain whether a career in law is right for them before embarking on an expensive LPC course (and potentially expensive SQE and/or the courses that prepare for a SQE). This model also allows the student a period of paid employment to help towards financing their studies and increasing their employability..

It is noted that the Institute of Chartered Accountants in England & Wales (ICAEW) allows time during a sandwich year to count towards the professional requirement for technical work experience (subject to restrictions), there is no reason why a similar model could not be applied in the legal profession.

Whilst we are strongly supportive of legal work experience counting towards a period of recognised training, there must be assessment of competency within those periods of work experience. It is going to be difficult to show competency from periods of work experience alone without, for example, a portfolio (which is produced as part of a sandwich degree).

## **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?

Absolutely - see questions 6 - 9 above.

## 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 1 and Part 2, to a specified performance standard?

N/A

## 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?

Employers should be properly supported and given clear guidance and resources so that they know what is expected of them. They should have access to standardised templates and appraisal documentation and be given clear information on who they can contact to access additional support. Employers providing such training should be properly authorised and regulated to ensure that they are providing a high standard of work based training.

If there is going to be a requirement placed on the firms to ensure day one competence the firms need to know how to do this. We have some concerns about the burden that this will place on small firms in particular and it may be a disincentive to hiring those who are not qualified which may in turn have a diversity impact



## 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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

By not having clear pathways it will be very difficult for aspiring solicitors to make an informed choice as to what pathway to follow. By not prescribing pathways and/or by not regulating legal education and training providers then this could significantly weaken the standard and devalue the profession. Those from a poorer background may be forced to choose the lowest cost option and then find that money has been wasted as they are not adequately prepared for the SQE and/or for qualification. These students will therefore be disadvantaged and there will be no recourse available to them if they have received substandard training. They may also find it difficult to obtain employment, even having passed a SQE, as employers may still be looking towards the traditional routes and/ or require education and training to have been given by particular institutions as a pre-requisite to any offer of employment. Less well informed or advised students are at risk of being severely disadvantaged.

There is also a risk of employers being faced with a number of applicants who have all followed distinctly different pathways, with no clear and coherent information on the quality, breadth or depth of any of the courses undertaken. With no assurance of consistency we are concerned that employers will stick to what they know and that those students who have taken alternative routes to qualification will find themselves at a disadvantage to those who have followed something akin to the current routes to qualification.

It is noted that there is to be a further consultation on the issue of pre-entry requirements therefore a more informed and balanced view can be given once further information is known. What is of the utmost importance is the credibility and standard of the proposed SQE, the legal education and training required in preparation for it and the associated work based training. It is therefore important that any SQE be designed to be of a sufficiently high standard to be able to identify those that do not have the required intellectual capability and skills to be a successful solicitor.

What this Society is very clear on is that it is imperative that legal education and training needs to be of a high standard and suitably robust in order to protect the reputation of the profession and to protect consumers and be available in such a way so as not to negatively impact on equality and diversity. We also need to be able to confidently state to consumers and other jurisdictions that our system is suitably robust and achieves high quality standards.

The difficulty will be avoiding a two tier system - what must be achieved is that a particular route is not given less weight than an alternative route.

Note also the comments made at questions 12 and 15 in respect of equality and diversity. The findings of the Law Society's Global Competitiveness Report (July 2015) are also relevant here.

## Question 14

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

This Society is committed to equality and diversity and increasing social mobility. As such, it is important that there are routes to qualification that do not require a degree. However, it is equally important that these alternative routes are recognised as being equally robust and of a comparative standard to ensure that those taking a non-degree route are not disadvantaged and that a two-tier system is avoided. It is noted that the current system allows for qualification via the CILEx, equivalent means and apprenticeship routes, all of which do not require a degree.

## Question 15

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

It is felt that at this present time, there is insufficient information to answer this question particularly as the information available at present suggests that an SQE would be assessed on a competent/non competent basis. If it is to be competent/non competent then what information can be given about individual and comparative performance? If it is proposed that gradings/scores are to be given then these seems to be at odds with a competent/non-competent system.

We do have some initial concerns that these would become important factors for recruiters, encouraging students to re-sit to achieve higher marks and therefore putting students with less money at a disadvantage.

## Question 16

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

Further detail is needed to fully respond to this question, particularly with regard to point (a). In respect of (b) if the SRA presses ahead with the proposal not to regulate or authorise legal and education training providers, it is difficult to see how training provider performance can be accurately and objectively judged.

## Question 17

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

The Society is concerned that introduction of a SQE will actually increase the cost of legal education and training rather than decrease it. It is noted that it is not yet known how much the SQE will cost and training will be required to enable one to pass the SQE. In addition, we understand that there will be no Student Finance Loans available for the SQE which creates a further barrier for those from poorer backgrounds.

It is likely, and indeed has been identified by SRA research, that some employers will still require that intending solicitors follow the traditional route of degree and LPC. This risks creating a two tier system where only the more affluent candidates will be able to afford the 'gold standard' route and, as such, have an increased chance of passing the SQE, of obtaining work based learning opportunities, of achieving employment on qualification and/or better paid positions.

It is therefore not clear how the stated position of employers that they will require LPC and Degree will fit with the move towards the SQE – it seems that there will be a real dilemma for students, particularly if they are able to take SQE subjects at different points, where some firms may disfavour them for having done this, whereas other firms will be looking for SQE competencies as a recruitment requirement.

In addition, unlimited re-sits would create a bias towards more affluent candidates. Furthermore, unlimited re-sits do not sit comfortably with the objective to drive up the standards to enter the profession.

## **Question18**

Do you have any comments on these transitional arrangements?

We note that 'full transitional arrangements' are to be published later this year. In view of this and in view of the information as yet unknown it is premature to comment at this stage,

## **Question 19**

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

At present, there is too much information to be clarified to properly comment on this question.



## **Question 20**

Do you consider that this development timetable is feasible?

It is difficult to comment on feasibility in light of the number of unknowns and further information to be provided. Based on the current information, the proposed timetable can be best described as optimistic.

**Thank you for completing the** Consultation questionnaire form.

Please save a copy of the completed form.

Please return it, along with your completed **About you form**, as an email attachment to [consultation@sra.org.uk](mailto:consultation@sra.org.uk), by **4 March 2016**.

Alternatively, print the completed form and submit it by post, along with a printed copy of your **About you form**, to

SQA consultation  
Solicitors Regulation Authority  
Regulation and Education  
The Cube  
199 Wharfside Street  
Birmingham  
B1 1RN

# Consultation - T4T assessing competence

Response ID:505 Data

## 2. Your identity

### 1. Surname

Catley

### 2. Forename(s)

Paul

### 3. Name of the firm or organisation where you work

Open University

**4. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Attribute my/our response and publish my/our name.

**5. Please identify the capacity in which you are submitting a response. I am submitting a response... as an academic**

Please enter the name of your institution.: Open University

## 3.

**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?**

No

Whilst I agree with the aim that: "A strong and respected legal profession is enhanced if unnecessary barriers to good candidates becoming solicitors, regardless of their backgrounds, are removed" I do not believe that the SQE will help to achieve this.

Similarly, I support the aim to "ensure that the most talented candidates can qualify as a solicitor," However, I do not see the SQE as assisting in that aim. At present the most talented candidates 'can' qualify - the problem is that the most talented candidates often do not gain training contracts. Having worked for over 25 years in both old and new university law schools I have seen that those who gain training contracts are not necessarily the best candidates, but are too often those who went to certain schools, those who went to certain universities, those with contacts within the profession, those who excelled at 'A' level rather than those who excelled later, those able to afford to take four years to complete the academic stage of training (i.e. a non-law degree followed by the CPE) and those with the money behind them to take on unpaid or relatively poorly paid work experience in law firms). The introduction of the SQE would I fear just change another barrier to entry - currently students without the promise of a training contract have to decide whether to invest the money in taking the LPC; post SQE these students will have to decide whether to pay for a crammer course to prepare for the SQE and/or to take low paid work in a legal office (assuming it is available to them) to get practical experience. It is well known that those from poorer backgrounds tend to be more debt averse than those from richer backgrounds. The SQE will therefore present a financial barrier in the same way as the LPC does currently. At the end, having foregone earnings that they could otherwise have made and/or paid the cost of a crammer course + the cost of the SQE, they may have proved themselves competent, but this will not necessarily translate into a job. They will still face potential discrimination based on their background and prior education.

The apprenticeship route offers an alternative route, but this is not contingent on the SQE and it is not clear how it offers opportunities not presently offered through CILEX.

4.

**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?**

Without seeing more detail it is impossible to answer this question with confidence. The method proposed has potential merit, but whether it will achieve its aims is unclear.

However, Part 2 of the test looks as if it will be expensive to run. If the test proves to be expensive then this will be a barrier to entry.

Additionally those taking the test will either need to gain work experience in these areas in order to prepare for the assessment or they will need to be trained. Accessing such work experience is likely to prove difficult for candidates from disadvantaged backgrounds who because of poor early years' schooling may not have been able to demonstrate their true potential at 16 or 18. These candidates are also more likely to lack contacts to gain such work experience. If such candidates are then forced towards the training route they will face a cost barrier. Training students effectively - particularly for Part 2 will be expensive - it is not a compulsory course so career development loans are unlikely to be available. There will also, seemingly, be no regulation of this training element (unlike the LPC). There is therefore a risk that poor quality training courses will proliferate and that the groups who the changes are intended to assist will be further disadvantaged.

5.

**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?**

The response of the Heads of UK Law Schools (CHULS) on this point raises serious concerns which I share.

I would make the following additional points:

The fact that there would be exemptions required by EU legislation means that the claim that all solicitors have to pass the SQE could not be made.

If the proposal was that all existing and prospective solicitors had to pass the SQE then that would have merit. Being able to say of a solicitors that once, possibly many years earlier, they were competent appears to me to afford very little reassurance to the public.

However, I remain unconvinced of a decision made early in the SRA's approach to LETR which is that a solicitor should have to be competent in all areas. I believe that solicitors and all who give legal advice should be competent in those areas in which they practice. I remain unpersuaded as to why solicitors should have to prove competence in areas in which they do not practice. I would prefer an approach that required everyone who gave paid legal advice to prove their competence in that area of law prior to being allowed to give such advice and that there should be a requirement to prove competence on a regular (perhaps three or five yearly basis thereafter).

6.

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

c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

**Why...**

My preferred answer is : "none of the above".

I think that prospective solicitors (and continuing solicitors - see earlier answers) should only have to prove competence in those areas in which they practice.

7.

**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?**

Yes.

I think it is very important for the reputation of the profession that it continue to be seen as a graduate profession. If the SRA present the profession as a profession for which you do not need to be a graduate it will lower the profession in the eyes of the public and prospective entrants. Law firms operating on the international market will over time be seriously disadvantaged if England and Wales become known as the one jurisdiction where lawyers are not necessarily graduates.

The non-graduate Legal Executive route into the profession has existed for many years, but it has remained a relatively uncommon route into the profession. As other jobs which were previously non-graduate move to being graduate entry (such as nursing or increasingly the police) to position the solicitors' profession as a non-graduate entry profession would be a disastrous mistake.

If the reality continues to be that law firms will focus recruitment on graduates then pretending that there are other routes to entry into the profession will be misleading and create false hopes in prospective entrants who try to pursue these alternative routes - only to find that in reality they do not exist.

8.

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

No.

If the test is able to do what you claim - i.e. evidence of competence - then pre-qualification workplace experience is unnecessary. Imposing a requirement for pre-qualification workplace experience would be an unnecessary barrier to entry.

Many prospective candidates may seek to achieve competence through pre-qualification workplace experience, but this should not be a requirement. Also defining pre-qualification workplace experience would be difficult - would it only cover working for a law firm, would it include working for organisations such as CAB or undertaking pro bono work?

9.

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

In the light of my answer to question 6 - the answer has to be no.

10.

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

Questions 7 and 8 assume a specific answer to question 6. Completing these questions starts to raise questions in my mind as to whether the answer to question 6 has already been predetermined and that the consultation is only for show. I hope this is not the case.

In case it is not obvious my answer to question 8 is that the SRA should not specify the competencies to be met during pre-qualification workplace experience, the SRA should not specify a minimum time period for pre-qualification workplace experience and going back to question 6 there should not be a requirement for pre-qualification workplace experience.

11.

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

No.

For the reasons given earlier - if the test can test competence then there is no need to look at prior experience wherever obtained. Requiring pre-qualification experience is a barrier to entry.

The more these questions are posed (i.e. questions 7-9) - the more it appears that those proposing this route do not actually have faith in the SQE.

12.

**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?**

No.

Including an element of workplace assessment will fundamentally change the process. It will move from a proposal where the SQE is being proposed as a means of testing competence to a proposal where the SQE is just part of an assessment of competence (with the clear subtext that the SQE is not to be relied on as a test of competence).

In a sense it will be a move back to the days of law degree followed by law society finals followed by articles. The SQE will replace the LSF as a national test; it will just be a more modern skills based alternative. It will also, doubtless be much more expensive - a cost which will presumably be passed on to the candidate (a barrier to entry). Articles will be there in the form of the pre-qualification work experience element. One significant change will be that the work experience will now be before SQE rather than after LSF. No minimum pay rate for pre-qualification experience is suggested, however, unless employers are surprisingly generous it might be anticipated that pay rates for unqualified staff will be less than pay rates are for current part qualified staff (i.e. current pay rates for those working as trainee solicitors having passed the LPC). For students from poorer backgrounds articles or traineeships at least held out the prospect of better earnings to come as in general terms one just needed to complete the period before one moved on to work (and earn) as a solicitor. For students from poorer backgrounds the pre-qualification workplace experience does not hold out the prospect of a job at the end; it holds out the prospect of a series of tests and then if they are all passed the possibility of applying for a job.

From an employer's perspective employing someone as a trainee may not have meant that you would automatically offer that person a post on completion of the training period, but if business was good and the person worked well such progression was very likely. The new system will require employers to spend time training the person in the pre-qualification period, but whether you can rely on them moving on to become a solicitor will depend on that individual's proving to be competent when tested at the end of the pre-qualification training period. This provides the employer with much less certainty and much less reason to train those wishing to become solicitors.

Employers may well decide that employing paralegals is much more attractive than employing those seeking to become solicitors. Many have already come to this conclusion. The proposed changes, particularly if they include a pre-qualification training period, are likely to encourage more employers to opt for paralegals rather than those seeking to become solicitors.

13.

**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 1 and Part 2, to a specified performance standard?**

I am not in practice as a solicitor.

However, I would comment that I would have grave doubts about an assessment regime which allowed employers to determine whether their staff were competent. I would, for example, choose to go to a hospital

where the doctors and nurses had passed either national exams or had qualified through assessments by for example an organisation accredited by the QAA. I would not choose to go to a hospital where the hospital determined which of its staff should be deemed competent.

14.

**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?**

See question 11 - I am not an employer.

I also do not believe that workplace assessment has a role in the proposed scheme. I have worked with employers to assess competence - it can be done, but it should never replace more rigorous assessment.

15.

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?**

I believe that for the credibility of the assessment and ultimately the credibility of the profession it is necessary to specify entry requirements for the SQE.

Whilst it would be simple to require a degree I believe that in order to reduce barriers to entry then it should be pitched as a degree or equivalent. I think that candidates without degrees should be free to demonstrate how their other qualifications and/or experience equates to a degree - such assessment should be on a case by case basis, but certain guidance could be devised to assist candidates and assessors.

I think that the question of the prescription or regulation of training pathways is problematic. I believe that students / candidates should be protected from unscrupulous organisations who may see the provision of crammer or longer courses focussed on teaching to the exam as a lucrative opportunity. Operating outside the university sector these providers would not require QAA or any approval and would not be subject to any checks. Some might be good, but the risk is that others would not be. If they gained a poor reputation then fairly or not that poor reputation would reflect badly on the SRA and the profession generally.

A further issue would relate to the robustness of the SQE. If trainers could teach to the test enabling those they teach to know just enough to pass; there is a serious danger that consumers would receive sub standard legal services. Likewise, employers would be unable to differentiate on the basis of the SQE those with good general legal knowledge and skills and those who have a very limited skill set and very limited knowledge but which was sufficient to meet the SQE requirements.

Hopefully teachers will not be able to teach to the test, but this seems unlikely. Without more detail about the SQE it is not possible to be clear on this.

16. (untitled)

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

This is the current position. I would not want those existing solicitors who are competent, but do not have a degree to be prevented from continuing to practice.

However, for the reputation of the profession I believe that it is vital that the profession be perceived as a graduate entry profession. Positioning the profession as a non-graduate entry profession would deter many well qualified, highly competent students. Quickly students would perceive solicitors as being a low status occupation, not worthy of their aspirations. As more and more jobs become graduate entry for a profession to move in the opposite direction would be bizarre and most undesirable. Law firms would find it harder to

attract good graduates. They might in the short term attract some good students with lower level qualifications, but in time these students would be likely to look elsewhere. The apprenticeship route could attract a few talented individuals, but across the country and in all sectors of the jobs market we have employers complaining that they cannot attract enough high quality apprentices - there is no reason to believe that the legal profession would be different.

As stated in response to an earlier question the standard requirement should be for a degree or equivalent.

If the SRA seriously wants to support those from disadvantaged backgrounds entering the legal profession the message that the requirement is a law degree or equivalent would be a good message to promulgate. This would direct students who want to become solicitors to the study of law, rather than the added cost of needing to learn law later for part 1 of the SQE having previously incurred debts whilst studying another subject.

17.

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

Yes. Definitely. Even though it runs counter, in some ways, to the idea that the test is one of competence - which should, arguably, simply conclude competent or not yet competent

Knowing how well they did is very important for those who fail. They need to know how near they were to success in order to decide to invest further time and money on retaking the test.

In terms of widening opportunities a huge step forward that could be achieved by the national SQE would be to rank all individuals on the basis of their scores. This would not counter all the arguably unfair advantages that some candidates had received (e.g. better schooling, financial support to gain useful experience, personal coaching for the exams), but it would help counter some perceived advantages (e.g. student X must be better because he went to a "better" university or the "right" school).

Employers claim that they find it difficult to differentiate students on the basis of degree classification and use this as a reason to turn to 'A' level grades instead. This approach tends to favour those with more privileged backgrounds and discriminate against those with less advantages or who develop later. Providing the SQE scores would enable a more meritocratic approach to recruitment to develop and if the SQE was really good at determining competence would be very relevant.

However, designing tests focussed on determining competence is different to designing tests focussed on determining relative performance. This is probably less of an issue with regard to Part 1, but would probably be more problematic in Part 2.

Assessment on the basis of ranking candidates against all other candidates would, almost certainly, increase the pressure felt by candidates and might mean some did not perform as well as they would otherwise. However, as a means of levelling the playing field it seems a good way forward.

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

Overall candidate performance - yes - and probably also for each part as some employers may be more concerned about performance in certain parts.

Training provider performance - not sure - in principle yes, but I think it should have some measure of the



'quality' (at least in terms of prior qualifications) of their intake.

19.

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

If there is ranking of those who pass the SQE I think it could have very positive EDI impacts (see previous answer).

If there is a requirement that candidates acquire pre-qualification work experience I think this will have negative EDI impacts.

If the SQE is particularly expensive I think this will have negative EDI impacts.

If the SQE can be done on a modular basis over time I think this will have positive EDI impacts.

If poor unregulated trainers move into the market then I fear that this will have negative EDI impacts.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

Part-time students typically take six years to complete their degree. If they embark on a law degree believing that it is the academic stage of training and then find that there is no longer an academic stage of training then those students will feel aggrieved. Therefore the route on which students embark should remain open for them provided that they continue to progress at their anticipated speed of progress. This does not preclude alternative routes being opened in parallel. Therefore whenever the SRA makes its decision as to any changed route to the profession allowance should be made for all students who have started their journey on an alternative route.

Therefore supposing that the SRA make a decision in 2017 to introduce the SQE, then whatever the date for actual first offering of the SQE the old route should persist for all continuing students. If such a student had just started a part-time degree that would mean continuing with the old system running in parallel until about 2025.

21.

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

I think this is correct so long as the decision to introduce was made in the first half of 2018. If it was made in the second half of 2018 I think the cut-off date should be 2026/27.

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

It all depends on whether the proposed SQE is fit for purpose. Assuming that it is, yes.

# Consultation - T4T assessing competence

Response ID:184 Data

## 2. Your identity

### 1. Surname

Downing

### 2. Forename(s)

Paul

### 3. Name of the firm or organisation where you work

**4. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Attribute my/our response and publish my/our name.

**5. Please identify the capacity in which you are submitting a response. I am submitting a response... as a member of the public**

## 3.

**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?**

No.

The large City firms should be self regulating as they have far higher standards than the SRA

## 4.

**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?**

No

## 5.

**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?**

No

## 6.

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

**Why...**

None why have you not given this option?

## 7.

**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?**

The SQE should not be introduced

## 8.

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

Of course. You need proper training

9.

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

Of course

10.

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

Of course

11.

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

No

12.

**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?**

Take out the regulatory cost

13.

**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 1 and Part 2, to a specified performance standard?**

Who else can do this

14.

**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?**

No the SRA should not be involved

15.

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?**

No

16. (untitled)

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

No

17.

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

I'm now getting bored

18.

16.

**What information do you think it would be helpful for us to publish about:**

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

Abolish the SQE

**19.**

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

What is an EDI

**20. (untitled)**

**18. Do you have any comments on these transitional arrangements?**

Abolish the SRA. It has proved ineffective

**21.**

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

None

**22. (untitled)**

**20. Do you consider that this development timetable is feasible?**

# Consultation - T4T assessing competence

Response ID:220 Data

## 2. Your identity

### 1. Surname

Scholey

### 2. Forename(s)

Paul

### 3. Name of the firm or organisation where you work

Morrish Solicitors LLP

**4. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Attribute my/our response and publish my/our name.

**5. Please identify the capacity in which you are submitting a response. I am submitting a response... on behalf of my firm.**

Please enter your firm's name:: Morrish Solicitors LLP

## 3.

**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?**

No. We believe that the existing framework is adequate (though not perfect), and that adding what will amount to an additional hurdle will make it simply more difficult and more expensive to qualify. The market controls Solicitor quality: employers do not retain bad solicitors, and clients do not use them.

## 4.

**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?**

No. We are against the idea of a SQE.

## 5.

**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?**

See above.

## 6.

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

b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?

**Why...**

We are against the SQE, but this seems the most practical approach if there is to be one.

## 7.

**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?**

Yes. In most cases a Solicitor will benefit from the critical thinking faculty encouraged in undergraduates.

8.

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

Absolutely. The training contract - or something similar - is essential. And 2 years is a sensible duration for it.

9.

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

Yes. 2 years. It works pretty well.

10.

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

They are already specified, aren't they, in terms of the training contract? The system in that respect works already. It should be extended if there are other types of experience than TCs allowed.

11.

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

No. Ideally it should be a training contract. We produce excellent lawyers, 99% of whom are either retained by us or start work elsewhere immediately upon qualification. The system works, don't try to fix what isn't broken.

12.

**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?**

No. There's enough unnecessary regulation. Our trainees will do no better for more.

13.

**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 1 and Part 2, to a specified performance standard?**

Not sure.

14.

**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?**

Possibly. Training might be needed. Which would mean more time and expense and isn't necessary - see our comments, above.

15.

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?**

Yes. The current system largely seems to produce good lawyers - and as we say above, the market controls the bad. Is it really thought that another exam or a little more regulation will revolutionise the quality of lawyers? We doubt it. Do any more doctors fail to qualify than solicitors, we wonder?

16. (untitled)

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

No. All should hold a degree.

**17.**

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

If there must be one, then yes, that would follow.

**18.**

**16.**

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

No comment.

**19.**

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

No comment.

**20. (untitled)**

**18. Do you have any comments on these transitional arrangements?**

no.

**21.**

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

No comment.

**22. (untitled)**

**20. Do you consider that this development timetable is feasible?**

Unlikely.

## Paul Seath - Bates Wells Braithwaite

### T4T - Assessing competence

#### Consultation questionnaire form

This form is designed to be completed electronically—in MS Word. Please save it locally before and after completing it.

#### 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?

The introduction of a standardised examination across the profession will assist in providing consistency at the point of qualification.

However, it is debatable whether the 'high quality standards' will be as high as current standards. There may be a levelling down and up to reach a middle ground.

Care will be needed to ensure the costs are lower than at present, otherwise it will increase, not decrease barriers.



## 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?

Concerns regarding the test are:

- What is a 'standardised client'? How will the test prepare an individual for the challenges of dealing with the diverse range of clients that they will meet in practice?
- The test will need to be supported with workplace experience - a computer based test alone would not be an appropriate way of assessing someone's competency to practice as they will be lacking essential skills that can only be gained through practical experience.
- If an individual is studying alongside work, will they get the benefit of experience that individuals completing a full time training contract will get?
- Will students prepare to pass the SQE rather than being genuinely competent across all areas?
- Again, there could be a levelling down in standards.

### **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?

Yes, if the SQE does what questions 1 & 2 envisage but if it does not it would add little.

It would though add unnecessary cost to lawyers qualified in other jurisdictions.

## Question 4

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

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

The answer to this will wholly depend on what pre-qualification workplace experience will be required before sitting the assessment.

## **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?

Degree level at the very least. However, if part 2 of the SQE will be set at the level of an individual who has completed their training contract that will be above degree level. If this is so (which would be sensible), how will the individual get this extended knowledge in the absence of the LPC and a set structure for work based learning? Will it be expected that firms will provide this additional training themselves? If so, how will they be supported to do so?

## Question 6

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

Yes - workplace learning is essential to the development and learning pre-qualification. There are skills that are obtained through the training contract that are difficult to teach e.g. client management and communication.

Also, if an individual has not had the benefit of spending time in practice then how will they be able to form an opinion as to where they wish to qualify/ specialise?

In short, pre-qualification workplace experience is critical.

## Question 7

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

Yes - otherwise firms will set their own standards leading to inconsistency across the profession. This in turn could act as a barrier for those wishing to move between firms if one firm requires a longer length of experience in comparison to another.

Also, planning recruitment will be logistically much more difficult. Currently firms can plan their newly qualified hires in line with the end of the training contract but with individuals able to qualify at any time this will be a challenge for departmental planning.

## **Question 8**

Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?

Ideally, both a minimum time period and competences should be specified by the SRA to ensure consistency and to provide a more rigorous assessment of individuals wishing to qualify.

## Question 9

Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?

During a degree programme - There may be a risk that those working part time while studying will not have the breadth and depth of exposure as would be the case during full time dedicated training based employment e.g. are fee earners unwilling to get part timers involved in complex and lengthy cases

Range of employers - Yes, but again, important to specify how long you should spend in each place. Recognition of previous work experience is something already done through the alternative route to qualification and this is something we support our Paralegals in pursuing.

The difficulty though with allowing a range of employers will be ensuring consistent standards and assessment. Less of an issue if by range of employers you mean a range of law firms.



## **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?

Yes - there is a huge amount that cannot be taught in a classroom. The practical experience, exposure to clients and the shadowing of senior fee earners is invaluable experience needed pre-qualification.

## **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 1 and Part 2, to a specified performance standard?

Yes. Arguably only an experienced Solicitor can do this. This is what happens currently when Trainee Solicitors are signed off by the Training Principal.

## **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?

Yes a toolkit would be beneficial. Training should also be provided for all training providers.

## 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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

Yes.

## **Question 14**

Do you agree that not all solicitors should be required to hold a degree?

Need that basic level of learning and the skills obtained through study e.g. research skills, time management etc. It is possible to gain this through a degree or equivalent.

## **Question 15**

Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?

Yes - this data would also be beneficial for employers, assuming these are graded as opposed to pass/fail.

## **Question 16**

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

Please see question 15.

## **Question 17**

Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?

The proposal may move the current barriers rather than remove them - will facilitate an increase in the number of people able to qualify, but this will just shift the bottleneck we are currently experiencing - rather than having an oversupply of graduates looking for a training contract, we will instead have an oversupply of qualified solicitors looking for NQ roles.



## **Question18**

Do you have any comments on these transitional arrangements?

Need more information on what workplace experience will be required.

## **Question 19**

What challenges do you foresee in having a cut-off date of 2025/26?

Too difficult to predict at present.

## **Question 20**

Do you consider that this development timetable is feasible?

More details on proposal required to be able to comment.

**Thank you for completing the** Consultation questionnaire form.

Please save a copy of the completed form.

Please return it, along with your completed **About you form**, as an email attachment to [consultation@sra.org.uk](mailto:consultation@sra.org.uk), by **4 March 2016**.

Alternatively, print the completed form and submit it by post, along with a printed copy of your **About you form**, to

SQA consultation  
Solicitors Regulation Authority  
Regulation and Education  
The Cube  
199 Wharfside Street  
Birmingham  
B1 1RN

Paulo Karat

## **T4T - Assessing competence**

### Consultation questionnaire form

This form is designed to be completed electronically—in MS Word. Please save it locally before and after completing it.

## 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?

It is easy to see the attraction for the SRA of ensuring consistent and comparable standards but the key question is whether the SQE will be capable of ensuring the 'quality' and 'rigour' needed for a strong and effective profession (as per the regulatory objectives in the Legal Services Act), starting at the point of admission. A key feature of the current qualification model is the development of a solicitor's competence via a period of recognised training (for most, a two year 'training contract'). The SRA assumes in the Consultation document that the SQE will be an exam that a candidate will not be able to pass without having first developed their core practical competences in the work place. This is a big assumption, and based on my experience implies that it will be a significantly more challenging exam than the current QLTS.

As such, whether the SQE will be able to achieve the stated objectives around high standards of quality will depend on what the SQE will assess, and how. To date, we have seen very little detail about the SQE, which makes it difficult to answer this question with any degree of certainty. We are being asked to support a high level idea rather than a concrete set of proposals. An inherent tension in this context is that the SQE will be an assessment for testing minimum standards based on a 'competent' / 'not competent' threshold. Ensuring consistent and comparable minimum standards is not the same as ensuring consistent and comparable high standards. So a risk with the SQE in isolation is that we ensure consistency but lower the standard required at the point of admission.

Whether the SQE will facilitate diversity is questionable: the AlphaPlus Report (eg at page 17) raises doubts about this, saying there are too many variables at this stage to predict the effect of the SQE on flexibility / access. Cost is always a consideration in the context of diversity and access and the new SQE will introduce costs (both the examination itself and the associated costs of examination preparation / training courses) and it remains to be seen how these will compare with the costs of the current qualification pathways. The SRA assumes that the new qualification and training regime underpinned by the SQE would be less expensive - but on the assumption that the LPC would not be required. However, whilst the LPC would cease to be a prescribed regulatory construct, it is not clear whether the SRA has factored in to its cost assumptions the course(s) that would be required to take its place to support the Part 2, and likewise the new costs that would inevitably arise in a new Part 1 preparation course market. We can already see this dynamic at play in the prep course market for the QLTS.

## 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?

The SRA is backing the SQE as being capable of identifying / testing whether someone is competent to be a solicitor. The 'model' described in paragraphs 38 to 45 is very high level so it is difficult to see what it is about the SQE that will, for example, deliver on the SRA's assertion that the standardised practical assessments in Part 2 will "simulate the real demands of practice". This is a key issue - can the SQE assessment model achieve this in a way that is proportionate? Simulating the real demands of practice is very much easier said than done in an assessment context. It is doubtful whether QLTS OSCEs (the closest comparison we have to the proposed SQE Part 2) would be recognised by the profession as achieving this as each assessment task (or 'station') is short, involves a self-contained issue and lacks the complexity / subtleties of the transactions a trainee would currently be expected to work on in practice.

### **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?

If there is to be a central SQE with its stated objectives of ensuring consistency and comparability at the point of admission, it would seem contradictory to continue to provide exemptions. The most obvious exemptions would be for candidates who have passed modules in a law degree or equivalent, allowing them not to sit the corresponding element of the Part 1 assessment - but this one presumes is exactly what the SRA is looking to avoid with the SQE.



## Question 4

With which of the stated options do you agree and why:

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

It is very difficult to answer this question based on the information provided (paras 47 to 52 of the Consultation document). An inherent problem / limitation with the SQE is that, given the diversity of legal practice even at the point of admission, it cannot possibly assess solicitor competence contextually in areas of practice that all firms / employers would be confident they can provide experience in. In this context the SRA suggests in the Consultation document that option (b) would be unworkable and costly (which must surely be right) and option (c) is rather vague, on the face of it appearing to be a compromise between option (a) and (b) but sufficiently sketchy that I do not pretend to understand it or its merits.

This leads the SRA down option (a), a compromise where it is proposing to allow firms / candidates to choose 3 from 5 possible assessment contexts: Property, Wills & Probate, Criminal Litigation, Civil Litigation and 'The Law of Organisations'. This is an interesting compromise as the current QLTS OSCEs have elements of assessment in all 5 contexts. Some firms may be able to offer 3 out of 5 areas - the most obvious being Business, Property and Civil Litigation for a 'typical' commercial firm. But firms are increasingly 'atypical' and many will struggle with this. There is an assumption by the SRA that experience in these areas would help the candidate pass the assessment - in which case, is this fair on candidates who can't get that experience during their training? Even where candidates are able to gain substantive experience in 3 of the 5 areas, it is naïve to assume that they would be in a position to sit the Part 2 without significant exam preparation (and its associated time and cost). The 5 'contexts' are very broad and it is by no means certain that a candidate, even where they have had practical experience in one of those contexts, would be exposed to and then be able to absorb and reproduce 'on demand' the particular knowledge elements that may form the basis of their particular Part 2 assessment on the day. For many employers, the reality will be that they will give their trainees experience which bears little if any similarity with the 3 contexts they will choose for assessment. As such, it appears inevitable that employers / candidates will reach for external support to ensure they pass the assessment.

Given the diversity and specialisms of modern legal practice, a more employer-friendly approach would be to have the Part 2 completed before they take the trainee into the firm to begin their work-based training but this appears to have been discounted by the SRA as it is concerned to ensure that the Part 2 is the final, definitive element of 'end point' assessment.

In light of the above, option (a) is the 'best' compromise the SRA is currently able to offer, but one that candidates / employers will find challenging and yet doesn't require candidates to be assessed in the context of all the regulatory reserved areas.

## 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?

In order to ensure comparable high standards to those generally achieved under the current QTR, the SQE will need to assess at a level significantly higher than graduate level in relation to Part 2.

Based on my discussions in the market, there appears to be consensus that whilst undertaking a degree will continue to be the norm, having to have 'a degree' as such is a red herring: what is important is to ensure that entry into the profession remains at least at 'graduate level' at the academic stage, having undertaken a programme of academic legal study benchmarked against Level 6. There appears to be little opposition to allowing candidates to do more flexible programmes of study to acquire their graduate-level qualifications (for example as per the CILEx route and the Trailblazer Apprenticeship). However, whilst 'graduate level' must be the minimum level for Part 1, the level required for Part 2 should logically be higher if we are to retain anything approaching equivalence of standards as per the current QTR where solicitors are admitted after 2 years of additional work-based experience and training. Would the SQE in isolation be capable of testing competence at this kind of level? There must be significant doubts about this. In this context, the most obvious support for the SQE would be a robust element of work-based experience with some work-based assessment.

## **Question 6**

Do you agree that we should continue to require some form of pre-qualification workplace experience?

Yes. This is a defining characteristic of our current qualification system and should remain a key feature of any new QTR.

## Question 7

Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?

Yes. In theory, if a candidate is 'ready', they're ready, irrespective of the amount of time spent on the job. However, there is a tension here between theory and reality. In reality, the 'market' (i.e. employers) may want a minimum period of experience in order to satisfy them that solicitors at the point of admission have had a minimum amount of time and experience on the job. It may be some time before the market trusts a 100% 'outcomes' focused without an element of 'time-served'. This also goes to the issue of 'face' validity - that the qualification is not just valid but is accepted as valid by key stakeholders including for example consumers / clients who would expect a fully qualified solicitor to have had a minimum period of experience on the job. What that period should be is up for debate - whatever figure is chosen will be to some extent be arbitrary. My experience of supervising trainees in practice, and seeing them develop over time as a Training Principal, suggests to me that the minimum period ought to be 1 year at the very least. However, based on my experience most need longer to develop and demonstrate that they are consistently at the required level, and this often begins to 'crystallise' at around 18 months.

## **Question 8**

Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?

No. See comments under Question 7. In theory, an assessment of workplace experience could remove the need to specify a minimum time period but in reality a minimum time period is advisable in order to ensure trust and 'face validity' in the qualification process, whilst also recognising the value of a period of workplace training in the development of the competences the SRA is ultimately trying to ensure and assess.

## Question 9

Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?

This could be very beneficial provided the SRA continues to concern itself with (ie regulate) the experience in question, for example by continuing to authorise training organisations and/or authorising individual solicitors as recognised training supervisors (in this context, the LETR's suggestion that there should be more emphasis on supervisor training is worth considering / revisiting). I see no reason in principle, for example, why experience in a legal advice clinic, or whilst on secondment / sandwich year during a degree, should not count towards an individual's practical legal experience provided they are being given appropriate work in an appropriate legal environment supervised by lawyers fit for the role (in this context, the LETR's suggestion that there should be more emphasis on supervisor training is worth considering / revisiting). It is this, rather than the SQE itself, which could open the door wider to access to the profession, allowing the education and voluntary sectors to provide lawyers with the practical training which eludes so many given the finite number of training contract opportunities the current framework / market can support.

## 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?

This is a very leading question, inviting stakeholders to respond negatively. It is clear from the AlphaPlus report that the absence of a workplace assessment would raise significant questions about the integrity of the qualification process if the SRA opted for an SQE-only assessment route. A workplace assessment would enhance the quality and rigour of the qualification process, but it would be crucial to design that assessment sensibly and proportionately. It would be very easy to design a very expensive and time consuming workplace assessment, but this does not have to be the case. I was heavily involved in the SRA's Work Based Learning pilot (2008 - 2010) supporting Freeths LLP via the 'first generation' version of our Online Mentor platform as their intelligent e-portfolio. This enabled trainees to focus on their learning from their training experiences first and foremost, rather than the disconnected task of constructing a portfolio for assessment purposes, allowing them to easily capture and tag experience against the relevant outcomes which could then be signed-off by supervisors as part of the existing supervision and mid/end of seat review process. The pilot went well and it was not seen as unduly burdensome - and it produced highly engaged trainees who took ownership of their development. In the absence of further information and a description of what workplace assessment might look like, employers will be understandably concerned about what this may entail in terms of cost and 'burden' but, again, the devil will be in the detail (much as it is for the SQE itself).

## **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 1 and Part 2, to a specified performance standard?

N/A as not an employer.



## **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?

N/A as not an employer.

## 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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

Yes.

## **Question 14**

Do you agree that not all solicitors should be required to hold a degree?

See answer to Question 5.

## Question 15

Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?

There are a couple of considerations (at least) here: one is diversity - the SRA thinks this could help diversity by enabling good candidates to 'shine' irrespective of their background; but this assumes a level playing field going into the SQE whereas in reality candidates from poorer backgrounds may not be in a position to obtain or afford the kind of support that will become available in the market and would help get them placed higher in the rankings. These considerations are picked up by AlphaPlus, who also point out that even if this did provide diversity benefits (which is in question) the ability to rank candidates' relative performance in the context of an assessment which would otherwise focus on the 'competent' / 'not competent' threshold (as per the current QLTS) would introduce additional complexity into the SQE with potentially adverse impacts as to costs and assessment consistency.

## Question 16

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

N/A as not an employer

## Question 17

Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?

Cost is a significant issue and the SRA's assumptions (see paras 87 to 93) appear to rest on the basis that the SQE would be more expensive only if we retained something akin to the LPC but would be cheaper than the current qualification regime if we didn't. However, this is naïve because even if the LPC was not required from a regulatory perspective, some form of training course, both for Part 1 and Part 2, would be required by the market. The SRA could argue that it would not 'prescribe' this but it would nonetheless be a de facto part of the overall cost (as is the case with QLTS, where the cost of the MCT and OSCEs themselves are only part of the picture - in addition, candidates routinely book onto training / prep courses offered on the open market before sitting the assessments).

## **Question18**

Do you have any comments on these transitional arrangements?

Difficult to comment - we don't yet know what we would be transitioning to.

## Question 19

What challenges do you foresee in having a cut-off date of 2025/26?

Presumably, the very long cut-off date is about catering for the last of the 'special cases' (part-time candidates, dealing with time limits on resits for particular assessments, and so on). The transition is likely to create challenges for the current providers who will be asked to move away from the existing regime / courses whilst still providing support for candidates pursuing qualifications under the current system. The de facto cut-off date is likely to be much shorter for employers / firms recruiting from mainstream channels.



## Question 20

Do you consider that this development timetable is feasible?

This timetable seems ambitious at best, and potentially reckless at worst. If the SRA were in a position to, in effect, 'copy and paste' from QLTS, then it would be more feasible. But the SQE described in this Consultation is significantly more complex (and larger in scale) than the QLTS and the SRA is also now being challenged to develop a workplace assessment within the mix. These are high stakes changes with significant potential impacts for key stakeholders - it would seem more appropriate to take the time needed to get this right than to do it quickly.

**Thank you for completing the** Consultation questionnaire form.

Please save a copy of the completed form.

Please return it, along with your completed **About you form**, as an email attachment to [consultation@sra.org.uk](mailto:consultation@sra.org.uk), by **4 March 2016**.

Alternatively, print the completed form and submit it by post, along with a printed copy of your **About you form**, to

SQA consultation  
Solicitors Regulation Authority  
Regulation and Education  
The Cube  
199 Wharfside Street  
Birmingham  
B1 1RN

## **SRA Consultation on Training for Tomorrow: Assessing Competence: Response of the School of Law, University of Nottingham.**

### **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 do not agree. Given that the overwhelming majority of students taking the SQE will be undergraduates or graduates, there is likely to be a significant additional burden on students preparing themselves for the examination. This will make the process of qualifying more difficult for students from less affluent backgrounds.

We accept that some Law Schools may attempt to provide complete coverage of the SQE Part 1 knowledge in a Law degree, with the SQE assessments running in parallel. In this case, the only additional expense would be the fees paid to the SRA for the assessments. However, there is so much content in part 1 of the SQE that students studying such a degree would have little room for studying anything else (assuming degrees were three years long). This might lead to some Universities offering four year degrees (with the added expense for students) or to Universities simply expecting students to study SQE subjects outside the degree with the extra expense for students that would involve.

There is a need for some realism about what firms will demand. The overwhelming probability is that firms will still want to recruit graduates and there is a danger that aspiring solicitors will be misled into pursuing routes, at potentially significant expense, that will not prepare them adequately for their chosen career. As the Law Society Gazette observed: "none of those interviewed believe it will be a cheaper process".

### **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 do not agree. In our judgement, the SRA proposal does not make sense. It is quite correct to say that those entering the profession should be of postgraduate standard.

However, there is no way that an SQE of the type proposed can possibly offer assurance of that. There is plenty of research on higher-level learning outcomes and the QAA benchmark for graduates itself states that a bachelors' [note, not postgraduate] degree is awarded to students "who have demonstrated... an appreciation of uncertainty, ambiguity and limits of knowledge."

The SQE is based on the examination used to test the basic knowledge of lawyers transferring from other jurisdictions. They in no way test graduate skills and understanding. Of course, they would not be expected to, as such transferring lawyers will, almost inevitably, be graduates. There are disciplines that use multiple choice questions as part of an assessment, but in conjunction with other more rigorous forms of assessment. They are not, and cannot be, used to demonstrate graduate or postgraduate-level skills and knowledge.

The SQE as currently conceived would lead to a lowering of standards and reduce the standing of the solicitors' profession.

### **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?***

We do not agree. There should continue to be exemptions for those who have passed the foundation subjects, which can be taken as evidence that students have demonstrated the relevant knowledge and understanding.

The SRA should note that in the HEFCE document: *Future approaches to quality assessment in England, Wales and Northern Ireland* HEFCE did not say that current quality assurance mechanisms do not ensure consistency of standards across universities as the SRA asserts. Indeed, it said: "we are **not** advocating a shift away from the autonomy of degree awarding bodies to set and maintain standards. Nor are we proposing the development of either a national curriculum or a national student examination" (para 23).

The SRA states that some Foundation Subjects are studied at Level 4, some at Level 5 and some at Level 6, as part of an undergraduate Law degree that is finally awarded at Level 6, (or indeed at Level 7 as part of a postgraduate qualification). But it has never to our knowledge been suggested that it is inappropriate in any way for the final

assessment of a degree to take account of marks achieved in previous years (usually just the second and final years).

#### **Question 4**

***With which of the stated options do you agree and why:***

- ***offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?***
- ***offering a broader number of contexts for the Part 2 assessment for candidates to choose from?***
- ***focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?***

We do not have a strong view.

#### **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?***

As we have said, we agree that a solicitor should be able to demonstrate the standard of at least graduate level (indeed, it should be postgraduate level). The most appropriate way to ensure this in relation to academic subjects is through possession of a law degree or a degree in another subject plus a qualification akin to the GDL.

#### **Question 6**

***Do you agree that we should continue to require some form of pre-qualification workplace experience?***

Yes.

#### **Question 7**

***Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?***

Yes.

#### **Question 8**

***Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?***

We have no strong view.

#### **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?***

Yes.

#### **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?***

Yes.

#### **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 1 and Part 2, to a specified performance standard?***

N/A.

#### **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?***

N/A.

### **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?***

Yes, with recognition of a law degree and other degree plus GDL or equivalent remaining part of such a recognised pathway.

### **Question 14**

***Do you agree that not all solicitors should be required to hold a degree?***

We believe that all solicitors should have attained a graduate/postgraduate standard, and that holding a Law degree or non-Law degree plus GDL is by far the best way of demonstrating this. There will be cases where someone can demonstrate graduate standard by other means but the SQE part one will patently not demonstrate this. At present, there are routes (apprenticeships/CILEx/QLTS) which are treated as having equivalence and provided they demonstrate relevant graduate and postgraduate competences they should remain.

### **Question 15**

***Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?***

We have no strong view.

### **Question 16**

***What information do you think it would it be helpful for us to publish about:***

- ***overall candidate performance on the SQE?***
- ***training provider performance?***

We have no strong view.

### **Question 17**

***Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?***

We have explained above why we believe that less affluent students are likely to be disadvantaged by the proposed changes.

Another factor to consider is the divergence that is emerging between the SRA and the BSB. This is regrettable as it may lead to potential entrants having to make decisions about future careers at a very early stage and study to the detriment of both professions and the students themselves.

### **Question18**

***Do you have any comments on these transitional arrangements?***

No.

### **Question 19**

***What challenges do you foresee in having a cut-off date of 2025/26?***

We have no strong view.

### **Question 20**

***Do you consider that this development timetable is feasible?***

We have serious misgivings about this.





Peter Jordan

## T4T - Assessing competence

### Consultation questionnaire form

This form is designed to be completed electronically—in MS Word. Please save it locally before and after completing it.

#### Introduction

By way of background I am a retired solicitor who spent approximately 20 years in private practice, Legal Aid (Area 4) and Indemnity Insurance (SIF) followed by 20 years as a University law lecturer (LLB, GDL, LPC, LLM). I have also been an external examiner for academic and professional courses and involved in the design, delivery and assessment of both academic and professional law programmes both in England and Wales and two other common law jurisdictions.

Other past and current roles include President of the North Staffordshire Law Society, an SCB/OSS complaints handler and a CLT speaker. I am currently an SRA Training Contract Monitor and Equivalent Means applications assessor. In relation to my SRA role I am the longest serving monitor and have conducted over 300 visits and delivered training courses for training principals for the Law Society. I have participated in both public and SRA focussed sessions relating to the T4T proposals and was also involved in the evaluation of the WBL pilot project.

I therefore have considerable knowledge and experience in particular in relation to this aspect of the vocational training stage and also with regard to academic course delivery and quality assurance.

I have similar concerns to those expressed in a number of other quarters in relation to the piecemeal approach to these proposals and the significant absence of essential detail on which to provide a meaningful response. I am also of the view that the current system has much to commend it and that rather than a substantial change of approach updating of the current system would be a more appropriate way forward. In relation to my own areas of expertise relating to the period of recognised training I am of the view that in particular clearer guidance on the requirements, a default model for training to assist smaller firms, improved training records and appraisal models and SRA delivered or approved support programmes (similar to those provided previously by the Law Society) should be provided. There are also good practice examples from the WBL pilot of means by which more effective monitoring of both content and competence can be achieved in relation to supervision, training records and appraisal. I am also concerned about the apparent lack of any effective monitoring by the SRA of current periods of recognised training. The cut off period for the present regime whatever the outcome of the current consultation make these issues of immediate relevance in any event.

To request an alternative format please visit [www.sra.org.uk/contact-us](http://www.sra.org.uk/contact-us).

## 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?*

I fully endorse the views expressed by the Law Society in their February 2016 response to the current consultation. I fully endorse the views expressed by the Law Society in their February 2016 response to the current consultation. I would also add the following additional observations:

1. This is in many respects a reversion to the old Solicitors Final examinations Part 1 and Part 11 and to a more limited extent to the centrally assessed LSF. These were replaced by the LPC due to different but similar concerns about the effectiveness of a centrally assessed examination in properly equipping and assessing solicitors for the demands of practice and concerns over a knowledge based examination rather than developing practice skills. To what extent has the SRA considered the literature in relation to the disadvantages of such a system when seeking to revert to such a approach?
2. The Solicitors Final examinations system also spurned additional courses concentrating on “cramming” to pass such as those provided by Desmond Dunphy for students of lesser ability adding to the costs of qualification and questionably the quality of such applicants.
3. The proposed examination as indicated in the Market Sounding Exercise paper dated 5 February appears to be of more limited scope than the current methods of assessment across the existing training pathways. It accordingly runs the risk of insufficiently developing and assessing candidates skills and knowledge and failing to maintain the respect currently afforded by other jurisdictions to the present qualification.
4. Whilst simplistically a central assessed single provider based approach is likely to provide greater consistency of outcome that does not necessarily imply higher quality. It is noted that the Market Sounding Exercise appears to be addressed to the very organisations that the consultation paper appears to criticise in relation to their current assessment and quality assurance mechanisms. These would appear to be the only organisations likely to be able to supply the necessary assessment setting, marking and administrative support for an SQE. It is difficult to see therefore how this will necessarily provide the desired outcome and an outsourcing of the process will still require input from the SRA in monitoring the performance of the chosen supplier.
5. A single supplier will also remove the current cross fertilisation of ideas and ‘best practice’ improvements offered by a diverse supplier base. I would also anticipate in the longer term a shortage of suitably qualified and experienced examination setters and markers following a reduction in teaching staff engaged in and experienced in ‘legal professional course’ assessment and delivery as a result of these proposals.

## 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?*

I fully endorse the views expressed by the Law Society in their February 2016 response to the current consultation. I would also add the following additional observations:

1. Both undergraduate awards and postgraduate academic and professional awards involve both developmental learning and formative and summative assessment through examination and coursework. Current legal awards leading to the solicitor qualification in order to ensure a sufficient assessment coverage involve a significantly greater degree of assessment than that proposed in the consultation document despite reductions by many Universities in the extent of summative assessment. It is difficult to see how the level of assessment proposed in the current consultation and the Market Sounding Exercise can alone provide an effective test of the competences needed to be a solicitor having regard to the breadth and depth of knowledge and skills required.
2. The examination proposed cannot alone provide sufficient and reliable assessment of the application of skills and knowledge required for practice nor more importantly the practical application and development of the necessary skills and knowledge in an actual as opposed to a simulated environment (please refer to my monitoring report on a simulated litigation programme proposed by a City provider)

### 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?*

I fully endorse the views expressed by the Law Society in their February 2016 response to the current consultation. I would also add the following additional observations:

1. Other jurisdictions with which I have been involved (Sri Lanka, Trinidad and Jamaica) recognise to differing extents for their home students different stages of the current qualification (LLB, GDL, LPC) as meeting all or part of their own professional pathways. These provisions also assist our own home applicants in relation to transfer into these jurisdictions by way of exemptions in whole or part. I would see the current proposals as potentially affecting the recognition in whole or part of such applicants and in particular those who had followed no other route than the SQE.
2. I also more specifically endorse the view expressed by the Law Society that the SRA “...underestimates the conservative nature of academia ...” and that “... degrees offer more than the first step on the rung to becoming a solicitor...”. My own experience of LLB reviews and evaluation of course and assessment design recognise a clear tension between teaching staff on the ‘academic/research side’ and those more closely involved on ‘professional side’ such as the LPC. Further UCAS statistics demonstrate some 24,000 students studying pure law programmes, far in excess of those able or necessarily interested in pursuing the solicitor qualification. In any event law modules also contribute to other awards further increasing the percentage of students not seeking entry to the legal profession who need to be into account by Universities when designing undergraduate programmes.

## Question 4

*With which of the stated options do you agree and why:*

- a) *offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?*
- b) *offering a broader number of contexts for the Part 2 assessment for candidates to choose from?*
- c) *focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?*

I fully endorse the views expressed by the Law Society in their February 2016 response to the current consultation. I would also add the following additional observations:

1. It is noted that 50% of Webinar attendees on 22/02/2016 also supported Option a).
2. It would appear that a) is the only viable option available within the limited assessment regime proposed in the Market Sounding Exercise to even start to offer sufficient coverage and in order to deliver the cost benefits sought..

## 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?*

I fully endorse the views expressed by the Law Society in their February 2016 response to the current consultation. I would also add the following additional observations:

1. This is also essential to provide any chance that the qualification is recognised within most other jurisdictions. Certainly within the jurisdictions with which I have been involved this is the case and both required not only a degree level but a QLD equivalence.

## Question 6

*Do you agree that we should continue to require some form of pre-qualification workplace experience?*

I fully endorse the views expressed by the Law Society in their February 2016 response to the current consultation. I would also add the following additional observations:

1. It is noted that the overwhelming majority of delegates to the Webinar on 22/02/2016 supported some form of pre-qualification experience with nearly 78% strongly agreeing.
2. My own experience from the monitoring of over 300 firms and the delivery of courses to Training Principals and local Law Societies is that the training period is perceived as essential. It also enables firms to meet their obligations under the Solicitors Code of Conduct and in relation to their PII providers.
3. The WBL pilot provided some useful models for the delivery and assessment of work based learning as does the ILEX route and Equivalent Means route. Views expressed previously by Training Contract Monitors through their bi annual meetings and by the Training Annual Report (both long abandoned) and from training courses (which enabled training principals to share best practice) and journal articles (also long abandoned) together with feedback from monitoring reports also assisted in ensuring an effective pre-qualification workplace experience. Whilst not perfect I do not recognise the concerns expressed in the consultation document about the recognised training period in respect of content and assessment (signing off at the end of the period) as a fair reflection. The concerns could be easily addressed as suggested in my introduction. My own experience is that most firms were and are able to provide very good work based training but lacked effective and clear guidance and benchmarks against which to measure their performance.
4. Equivalent Means Applications provide further opportunities to develop an effective portfolio system for experiential learning and evaluation of WBL
5. Removal of an effective period of WBL would devalue the qualification in the eyes of many jurisdictions.

## Question 7

*Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?*

I fully endorse the views expressed by the Law Society in their February 2016 response to the current consultation. I would also add the following additional observations:

1. Time served alone is insufficient. What matters is what is undertaken in such time period – depth, breadth and development of law, practice and procedure to a competent standard. To achieve this 2 years is just about right. My own experience is that this is just about right and I recall one firm that effectively required a 3 year training contract!
2. Greater clarity is required as to what is required in this respect. Training Contract Monitors have repeatedly expressed concern over the terminology utilised in respect of contentious and non contentious experience and sought clear guidance both for themselves and firms over this and other terminology. This is also required in any event for Equivalent Means.
3. If three areas are to be maintained clearer guidance is also required in respect of “distinct areas of English and Welsh law” as sought on many occasions. This is also required in any event for Equivalent Means.
4. I would agree that 3 months in any one distinct area is an absolute minimum and it should be clear that this is full time equivalent, excludes holidays, covering a breadth and depth of work and properly evaluated and appraised. This is also required in any event for Equivalent Means.



## Question 8

*Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?*

I fully endorse the views expressed by the Law Society in their February 2016 response to the current consultation. I would also add the following additional observations:

1. The need provide a default model and effective guidance to firms is in my view at the heart of an effective WBL programme. I am aware of some excellent models which could be adopted from the WBL pilot and monitored firms which would greatly assist smaller firms in demonstrating the effective training which they already provide.

## Question 9

*Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?*

I fully endorse the views expressed by the Law Society in their February 2016 response to the current consultation. I would also add the following additional observations:

1. In principle yes but difficulties in seeking to embrace a wider range of experience are apparent from secondments and time to count in relation to periods of recognised training and in relation to a wider range of employers in relation to Equivalent means where the applicant is not directly supervised by a solicitor or equivalent.
2. Further difficulties arise in relation to the level of experience required to effectively supervise eg PQE in specific practice area
3. Difficulties also arise in relation to the evidence required to support such experience. Appraisal alone is insufficient in my view unless specifically aligned to the competency outcomes. It is accordingly imperative in relation to this point and those above that clear guidelines are developed as to suitability of experience in relation to level and content and suitability of supervisor and in relation to the supporting evidence required.
4. Personally I would not regard simulated experience or experience in a degree programme unless clearly supervised as above as sufficient and in most cases the period of time (unless a sandwich type course) would be insufficient in any event.

## 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?*

I fully endorse the views expressed by the Law Society in their February 2016 response to the current consultation. I would also add the following additional observations:

1. It is noted that the overwhelming majority of delegates to the Webinar on 22/02/2016 supported some form of pre-qualification experience with nearly 78% strongly agreeing. Implicitly they in my view accepted that any additional cost would be justified.
2. It is my understanding that the cost of the Education and Training Unit in the management and monitoring of WBL was not significantly great in relation to the achieved outcomes and benefits.

## 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 1 and Part 2, to a specified performance standard?*

N/A

## 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?*

I fully endorse the views expressed by the Law Society in their February 2016 response to the current consultation. I would also add the following additional observations:

1. I consider this essential and have always supported the concept of a default model from which departure can be justified. My own experience from monitoring also shows that problems generally arose from a failure to understand properly what was required rather than a wilful desire to bend or evade the regulations.
2. Further I consider that clear policy statements are required and have myself encountered absence of clear direction and am aware of firms who have sought clarification but none has been forthcoming. I am aware that this is a concern of other monitors
3. There are good models which could be utilised from the WBL pilot projects.

## 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:*

- a. *support the credibility of the assessment?,*
- b. *and/or protect consumers of legal services and students at least for a transitional period?*

I fully endorse the views expressed by the Law Society in their February 2016 response to the current consultation. I would also add the following additional observations:

## Question 14

*Do you agree that not all solicitors should be required to hold a degree?*

I fully endorse the views expressed by the Law Society in their February 2016 response to the current consultation. I would also add the following additional observations:

1. Some of the best supervisors in my experience have qualified via the ILEX route and I have also experienced many good lawyers (including my own partners) who qualified under the old Solicitors Part 1 and Part II examinations

## Question 15

*Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?*

I fully endorse the views expressed by the Law Society in their February 2016 response to the current consultation. I would also add the following additional observations:

1. If any element of WBL is retained in particular and in any event in view of the fact that the SQE is the culmination of the training experience I doubt whether comparative performance or grading would have much if any impact on employers as other examination performance and/or references are more likely to be effective indicators of aptitude and ability. Accordingly any benefit and/or disadvantage to candidates would be minimal and would not justify the considerable cost of establishing the essential required systems recognised in the Law Society response.

## Question 16

*What information do you think it would be helpful for us to publish about:*

- a. *overall candidate performance on the SQE?*
- b. *training provider performance?*

I fully endorse the views expressed by the Law Society in their February 2016 response to the current consultation and my observations in relation to Question 15 above

## **Question 17**

*Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?*

I fully endorse the views expressed by the Law Society in their February 2016 response to the current consultation. In particular my own experience as a mentor and/or personal tutor to many students is that those with lesser ability frequently and often wrongly seek to improve their CV by embarking on additional and costly courses which invariably do little to improve their prospects. Whilst personal ambition is laudable realistic evaluation of prospects and appropriate guidance is also essential.

I doubt therefore that the proposals will do much to improve opportunity and to seek to completely redesign a system to benefit a disadvantaged few whilst laudable as an objective is in my opinion unjustified and will in any event continue to thwart the majority of the target candidates.

## **Question18**

*Do you have any comments on these transitional arrangements?*

I fully endorse the views expressed by the Law Society in their February 2016 response to the current consultation. I would also add that in view of the considerable time which will elapse before the complete extinguishment of the current system it is essential that in the meantime the SRA provide proper guidance and support in relation to the current system and robust monitoring thereof.

## Question 19

*What challenges do you foresee in having a cut-off date of 2025/26?*

I fully endorse the views expressed by the Law Society in their February 2016 response to the current consultation.

## Question 20

*Do you consider that this development timetable is feasible?*

I fully endorse the views expressed by the Law Society in their February 2016 response to the current consultation.

**Thank you for completing the** Consultation questionnaire form.

Please save a copy of the completed form.

Please return it, along with your completed **About you form**, as an email attachment to [consultation@sra.org.uk](mailto:consultation@sra.org.uk), by **4 March 2016**.

Alternatively, print the completed form and submit it by post, along with a printed copy of your **About you form**, to

SQA consultation  
Solicitors Regulation Authority  
Regulation and Education  
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199 Wharfside Street  
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Peter Turner - Faculty of Law, University of Cambridge

## **T4T - Assessing competence**

### Consultation questionnaire form

This form is designed to be completed electronically—in MS Word. Please save it locally before and after completing it.

## 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?

If a direct answer to this question is required, then we would answer it 'No'.

However, we respectfully suggest that the question is misconceived.

First, the objectives stated in paragraph 10 should not be the only, or even the only main, objectives of the SRA. English law and English lawyers are renowned because English lawyers view the law as a learned profession. For the same reason, English legal institutions, including the judiciary, are renowned the world over. Indeed, these qualities bring considerable numbers of clients to English shores seeking legal advice and English methods and institutions through which to transact and resolve their disputes. Skilled work is essential to good lawyering, but law is not merely a skilled profession. The brilliant success of English law owes much to the cultivation and maintenance of legal learning over prolonged periods of time. Although no mention of these qualities is made in the consultation paper, we respectfully suggest that the continued cultivation and maintenance of a learned profession ought to be an express objective of the SRA. It complements other important objectives held by the SRA. By focusing on such matters as (mere) "competence", however, the SRA not only suggests to the public that the law is not a learned profession, but that it is not even a highly skilled one.

Secondly, question 1 is worded so as to be self-fulfilling. It asks whether the introduction of the SQE best meets the objectives set out in paragraph 10. However, the objectives set out in paragraph 10 already assume that the SQE will be adopted. Thus, paragraph 10 openly informs the reader that it states the SRA's "objectives for the new mechanism for assessing competence prior to qualification". The first objective also assumes that the SQE will be adopted in saying that the SRA wishes to focus its "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". Question 1 is self-fulfilling because the only way of pursuing and attaining such an objective in relation to "the new mechanism for assessing competence prior to qualification" is by adopting that new mechanism, namely the SQE. In other words, the question appears to have no purpose because it appears to indicate that the SRA has already decided that it will introduce the SQE, even though the consultation paper purports to seek others' opinions on whether the SQE ought to be introduced - or not.

We respectfully agree with the submission with the Society of Legal Scholars in relation to other aspects of question 1.



## 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?

In large part, the answer to this question must be 'No'.

Though the SRA wishes to feel confident in assuring the public of solicitors' "high quality standards", those standards cannot reliably be tested by means of the sorts of "objective testing" mentioned in paragraphs 38-45 and Annexure 5. These are said to be "objective" in that they "require a candidate to choose or provide a response to questions whose correct answer is predetermined".

It can be accepted that basic legal knowledge - that is, knowledge of facts about the law - can be tested in this way. However, the SRA could not assure "high quality standards" by merely warranting that a solicitor correctly answered questions about basic legal facts. In comparison with the evaluation of students' work that is routine in the study of degree courses, the use of multiple choice questions with predetermined answers - and, presumably, marking by a computer - is a weak tool by which to seek to assess quality.

High quality can only be assessed by means of qualitative assessment. This is not to say that judging a person's legal knowledge and skills is merely subjective; it is not. However, a person's quality as a lawyer can only be judged through qualitative assessment. Predetermined answers and multiple choice questions may be easy to use, but they are a crude and unreliable way of attempting to assess quality. For the same reasons, while basic legal skills can be tested well enough by multiple choice questions with predetermined answers, "high quality standards" also cannot be reliably tested in the way envisaged by the SRA.

If Part 2 of the SQE (or, indeed, any part of it) were to be marked by people rather than by computer, the SRA's desired consistency could only be achieved if the people marking the test were completely consistent in their marking. The larger the test, and the greater the number of markers used, the harder it would be to achieve that consistency. This is acknowledged by the SRA in paragraph 85, where it is said that "designing an assessment which ranks candidates according to a score rather than a pass/fail ... has the potential to be less reliable" than telling the candidates whether they have passed or failed. If the testing could be truly "objective", then this problem would not arise.

We find it hard to avoid the conclusion that this question reveals a basic inconsistency in the SRA's position. On the one hand, the SRA wishes to assure the public of the high quality standards of solicitors admitted to practice in England and Wales. On the other hand, the proposed forms of testing will not in fact test for high quality. Given that degree courses in law do in fact employ forms of testing apt to test for high quality - namely, repeated qualitative assessment - we suggest that it would be contrary to reason to give no exemptions to graduates who hold an undergraduate law degree.

As to HEFCE's concerns about the variability of academic standards in different

institutions that provide higher education, we maintain the view that we expressed to the Bar Standards Board in response to its recent consultation, "The Future of Training for the Bar: Academic, Vocational and Professional Stages of Training". As we said in our response to the BSB (dated 20 October 2015), we are not in a position to know whether poor teaching of law is delivered in other higher education institutions. If it is, however, a proper response would be to remedy the shortcomings of those institutions. At best, the problems of those shortcomings would only be removed very indirectly and slowly by removing exemptions. A more direct and transparent response is to be preferred: address the shortcomings (if they exist) of teaching in the particular institutions in question.

### 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 answer is 'No'.

The SRA's stated reasons for concluding that no exemptions from the SQE should be granted beyond those required by EU legislation are weak. For instance, the first reason is that the "competences ... examined as part of a degree" differ from those in the SRA's Statement of Solicitor Competence. This exaggerates the position. It is true that, in order to be a competent solicitor, a person will require certain skills that are not or may not be widely taught in degree courses in our experience. Dealing with clients is one example. However, it is false to assume that the "competences" of solicitors and the "competences" taught in degree courses are mutually exclusive, as the SRA seems to suggest. For instance, learning to think flexibly and creatively is central to any good degree course as well as to professional legal work. There are many further examples of overlap.

We wish to mention one perception of the study of law at university which we sometimes encounter and always disagree with: the perception that university teachers want to form their students into their own mould, as academics, and not have their students become (tarnished) practising lawyers. This perception is captured in a synthetic quotation between paragraphs 71 and 72, which is attributed to a teacher in a Russell Group university: "We teach students to do what we do - i.e. to become legal academics, not to be a professional lawyer." University teachers who want to form their students into academics rather than practising lawyers are rare. Rather, we teach our students in the view that the law is indeed a learned profession. As the best solicitors, barristers and judges constantly show, there is no division between the practical application of the law (in whatever setting) and an intellectual understanding and appreciation of the task at hand. It is this which we seek to instil and to cultivate in our students. For those reasons, too, we disagree with the first of the SRA's reasons for concluding that there should be no exemptions from the SQE beyond those required by EU law.

As to other aspects of this question, we respectfully agree with the response of the Society of Legal Scholars to question 3.

## Question 4

With which of the stated options do you agree and why:

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

We wish to express no view in response to this question about "contexts" or topics.

## **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?

Yes. However, like the Society of Legal Scholars, we think this is only feasible if a person holds (i) a degree in law or (ii) a degree in another subject along with the Graduate Diploma in Law or an equivalent qualification or achievement.



## **Question 6**

Do you agree that we should continue to require some form of pre-qualification workplace experience?

Yes. As we stress in our answers to questions 1 and 3, good lawyers possess knowledge, understanding and skills to a high level. Experience of legal practice is, we think, essential to the formation of an intending lawyer, including intending solicitors.

## **Question 7**

Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?

Yes. To state no minimum time would at best produce uncertainty and at worst would be abused.

## **Question 8**

Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?

No. It is reasonable to expect that at least a minimum period of pre-qualification workplace experience is needed in order for an intending solicitor to acquire certain skills. If the SRA were to specify the "competences" to be met during this period, then it could do so in addition to specifying a minimum period of pre-qualification workplace experience. However, it would not be sensible to specify the "competences" instead of specifying a minimum time period.

## **Question 9**

Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?

We wish to express no view in response to this question.

## **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?

We wish to express no view in response to this question.

## **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 1 and Part 2, to a specified performance standard?

Not applicable.

## 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?

Not applicable.

## 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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

Yes, in relation to both (a) and (b).

If the SQE were to be introduced, the public could have no confidence in it if there were no prescription or regulation of the ways in which people train to become solicitors. We agree that the prescription or regulation should not be too great. However, experience suggests that, for any skilled occupation (let alone a learned profession), there are unsuitable and suitable means of training. The prescription or regulation should reflect that fact.

Given the long, successful experience of prescribing a degree course - especially a degree course in law - as an approved "training pathway", and the continuing value of such degrees (which the SRA recognises (paragraph 72)), we firmly believe that a degree course ought to remain one approved "training pathway". As pointed out in our answer to question 2, any shortcomings in the education provided by any higher education institution ought to be addressed directly, not by (as the saying goes) throwing out the baby with the bathwater.



## **Question 14**

Do you agree that not all solicitors should be required to hold a degree?

We respectfully adopt the answer of the Society of Legal Scholars to this question. In summary, in the vast majority of cases, it is essential that solicitors should hold a degree.

## **Question 15**

Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?

Our answer to question 2 expresses our doubts as to the proposed forms of assessment. If those doubts are well founded, then the scores of candidates who take the SQE would be uninformative: they would not relate to any, or significant, evaluative assessment - even though evaluation is of the essence of quality. Indeed, there is a risk that candidates who pass the SQE with knowledge of basic legal facts will be able to mislead members of the public into thinking that they not only know some basic legal facts, but are accomplished, learned and skilled.

## Question 16

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

Given that little information is currently available about the nature of the SQE, it would be premature to offer an opinion in response to this question.

## Question 17

Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?

We respectfully agree with the response of the Society of Legal Scholars to this question.

A further point may be added. Even if the introduction of the SQE were to have no additional positive or negative effects on equality, diversity and inclusion, care should be taken before basing decisions about whether and how to introduce the SQE on questionable analyses of data or on uninformative data. For instance, in our experience the large City of London firms are admirably, and entirely properly, keen to recruit able students irrespective of their racial background and other irrelevant characteristics. While we in no way doubt the statistics quoted (for example in paragraph 58), the SRA is properly cautious in stating that those figures show what merely "may" be the case. The under-representation, for example, of racial minorities in particular sectors is, as we are sure the SRA is aware, a result of complex causes. Thus, we are less than confident (for example) that the current requirement of a training contract is an independent constraint on the diversity of the profession. Even if it were, the keenness among firms to recruit able students that represent a cross-section of society also needs to be kept in mind.

## **Question18**

Do you have any comments on these transitional arrangements?

We do not, except to note that the arrangements would call for revision if the plans themselves change.

## **Question 19**

What challenges do you foresee in having a cut-off date of 2025/26?

At present we think it would be premature to offer an opinion in response to this question.

## **Question 20**

Do you consider that this development timetable is feasible?

It is difficult to judge whether the timetable is feasible given that the SRA itself will not know e.g. what further work might turn out to be needed in light of the responses to the consultation.

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Alternatively, print the completed form and submit it by post, along with a printed copy of your **About you form**, to

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Solicitors Regulation Authority  
Regulation and Education  
The Cube  
199 Wharfside Street  
Birmingham  
B1 1RN



# Consultation - T4T assessing competence

Response ID:116 Data

## 2. Your identity

### 1. Surname

Tan

### 2. Forename(s)

Phoebe Shi Yi

### 3. Name of the firm or organisation where you work

**4. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Attribute my/our response and publish my/our name.

**5. Please identify the capacity in which you are submitting a response. I am submitting a response... as a member of the public**

## 3.

**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?**

Yes

## 4.

**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?**

Yes

## 5.

**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?**

Yes

## 6.

**4. With which of the stated options do you agree and why:**

a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?

**Why...**

Its the most effective way to access a trainee solicitor

## 7.

**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?**

Yes. But only graduate level - no restriction based on grades as long as a degree is achieved.

## 8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

No. The law industry as of now is a closed industry - being required to obtain work experience in order to qualify but not given any actual opportunity to gain such work experience prior to that is nothing short of absurd

9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

Not necessary at all

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

Yes

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

Yes definitely.

12.

**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?**

No

13.

**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 1 and Part 2, to a specified performance standard?**

Yes

14.

**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?**

Yes

15.

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?**

Yes needed for both.

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

Yes

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

Yes

18.

16.

What information do you think it would be helpful for us to publish about:

overall candidate performance on the SQE?

training provider performance?

Yes

19.

17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?

Mostly positive

20. (untitled)

18. Do you have any comments on these transitional arrangements?

No

21.

19. What challenges do you foresee in having a cut-off date of 2025/26?

None

22. (untitled)

20. Do you consider that this development timetable is feasible?

Yes

Puneet Tahim - Lathan & Watkins

## **T4T - Assessing competence**

### Consultation questionnaire form

This form is designed to be completed electronically—in MS Word. Please save it locally before and after completing it.

To request an alternative format please visit [www.sra.org.uk/contact-us](http://www.sra.org.uk/contact-us).

## 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?

It is challenging to provide a full, considered response to this as no detail has been provided on the academic requirements, regulated training period or depth/breadth of learning for the SQE. There is also no real detail provided on what and how the SQE will assess, save to say that a narrow range of contexts being considered for Part 2 of the SQE. These contexts focus on areas of the law which do not reflect how a large proportion of solicitors will practice once qualified.

We can only assume that the SQE will be testing minimum standards based on a pass/fail (i.e. competent/not competent) model, which may well be consistent, but may also call into question the standard required at the point of admission as the SQE will reduce the breadth of knowledge required by candidates.

With regards to diversity, the AlphaPlus report suggests that the SQE is unlikely to support or hinder increased diversity of any particular minority groups and there are currently too many variables to comment on the effect of the SQE on access to the legal profession. Ultimately, a centralised assessment will not remove issues around educational background and social disadvantage. Having unlimited re-sits may also allow those students who can afford it, to play the system and will be unfair to students who do not have the financial resources to fund numerous resits.

Having more flexibility / more pathways potentially creates confusion for entrants to the profession and this is likely to impact those students who do not have access to information and advice on the relative merits of the various pathways and the subsequent consequences for their future careers.

Additionally, even if the SQE does not ultimately require entrant to the profession to be educated to the current standard, a standard will emerge with many firms continuing to set high academic standards thus creating a two tier training system.

The lack of detail currently provided on the requirements for one to sit the SQE means that we are also unable to predict the impact on costs. Whilst the SRA may assume that the costs would be less expensive with the removal of the need for a degree/GDL/LPC it is not clear whether any courses would be required in its place and what the potential costs of these might be. Additionally we do not agree that the SQE, without the requirement for supporting work place experience and work-based assessment best meets the objectives set out in Paragraph 10.

Without further clarity around how the SQE will ensure the quality and rigour needed for an effective and capable solicitor it is impossible to agree with its introduction as a means to meet the objectives as outlined in paragraph 10 or as a way to strengthen the profession. It is our belief that the introduction of the SQE (as a replacement to the current training process, as opposed to as an addition) will do more harm to the profession than good.

## 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 do not agree that the proposed model assessment will provide an effective test of the competences needed to be a solicitor. From the information provided it would appear that the closest comparable exam is the QLTS OSCE and we would not recognise this in isolation as an effective test of the competences needed as each simulated task is short, often a singular issue that lacks the complexities/nuances of the situations that a trainee would experience in practice. Additionally multiple choice questions cannot fully/properly assess application of the law, nor do they allow candidates to demonstrate an understanding of the nuances and uncertainties that play a large part in professional practice.

The statement of legal knowledge does not appear to be reflective of modern practice. Legal knowledge appears to be tested in a single, multiple choice test and practical abilities are to be tested in a limited way which would not allow for the testing of high level skills, such as written communication, critical thinking and analysis. The limited examination techniques suggested by the SRA will not be able to effectively examine all of the skills and abilities needed in practice.

Additionally the lack of clarity around the requirements (academic and work place experience) also leads to our belief that the proposed model assessment would not be an effective test of the competences needed to be a solicitor.

### **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?

If the aim of the SQE is to ensure consistency and allow E&W qualified solicitors to be compared and judged at the point of admission, then to allow exemptions would be contradictory.

However, with little clarity on the requirements there is an inherent difficulty in answering this as we may end up in a situation where someone completes an undergraduate law degree which is then partially repeated in part one of the proposed SQE. Students should be given credit where they have invested time and money in relevant qualifications, to not allow exemptions will likely increase costs for the individual. Additionally, there has been no information given on the treatment of special cases (such as qualified barrister or Scottish qualified lawyers).

## Question 4

With which of the stated options do you agree and why:

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

As a large commercial firm, we are not confident that any of the above options are appropriate for us. Of the five possible assessment contexts we would only be able to offer experience in two of the five areas. If we were forced to pick a preference, then option b would best suit our needs. However, there are a number of concerns around this as, if the assumption is that Part 2 will be the 'end point' assessment, then experience in these areas will undoubtedly help candidates pass the assessment. If that is the case, then it will be unfair on those who cannot get that experience. In the event that firms are unable to provide substantive exposure to/experience in the context they are likely to ask for support to ensure their trainees pass the assessment. Firms / in-house teams will be expected to bear the costs and the disruption of sending trainees on courses that will provide little value to their experience and future 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?

Yes. It is imperative that entry to the profession remains at least at 'graduate level'. However if 'graduate level' is the minimum standard for part 1, then the level for part 2 must be higher and must be the equivalent of current standards (a post-graduate course, two years' work-based experience and further training). The various stages of the SQE must be mapped out to the highest standard currently required. At present, a question mark remains as to whether the SQE would be able to test competence at this level to the same extent/depth.

## **Question 6**

Do you agree that we should continue to require some form of pre-qualification workplace experience?

Yes, and this should be regulated and defined by the SRA. Workplace experience is essential to the profession. A system that only requires a professional to pass a basic assessment undermines that profession.

## Question 7

Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?

Yes, all other professions have a required period of workplace experience and law should not be the exception. A minimum time period is required to prevent a race to the bottom, any defined period of pre-qualification workplace experience should preserve the current aims of workplace experience/period of recognised training. A minimum time period ensures protection for our clients/the public and consistency.

## **Question 8**

Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?

The SRA should set both, without a minimum time period and set competences, some employers may rush to sign the candidate off quickly for some reason which impact on the quality of the profession and bring risks to the public/clients.

## **Question 9**

Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?

As long as the SRA regulates which experience is relevant/recognised we agree that the a wider range of pre-qualification workplace experience should be recognised. However if this happens then the regulation of specified competencies and a minimum time period become even more critical to ensuring consistency.

## **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?

As per the AlphaPlus report, the absence of workplace assessment would call into question the integrity of the qualification process. There is no argument against workplace assessment from an employer or client/consumer perspective.

Good supervision, training, management and assessment of trainee solicitors is already undertaken at most City firms, which suggests that as long as the assessment is reasonable and proportional it would not be unduly costly or burdensome.

## **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 1 and Part 2, to a specified performance standard?

At present firms/supervisors are asked to assess trainees competences on a regular basis, therefore we feel confident that with an appropriate framework and guidelines from the SRA we would have the expertise to assess trainee solicitors' competences.

## **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?

It is impossible to answer this without any details on what toolkit/guidance or resources might be provided.



## 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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

Yes, they are needed at all times, not just for a transitional period for the following reasons:

- An unregulated training scheme/programme/assessment will not be considered credible for a professional qualification.
- Without regulation it may end up being profit driven rather than educationally driven, leading to the emergence of 'crammer courses'.
- It is likely that City firms, who offer the majority of training contracts currently, will want training that equivalent to the current system, whereas self-funding students may not wish to follow this same (likely more costly) route, and may not realise the impact on their careers, thus creating a two tier system.
- This could lead to reputational issues for the profession when compared to overseas legal qualifications and in terms of how the profession is viewed by consumers.

At a time when the profession is becoming increasingly commoditised, particularly in the mid-market, introducing a system that potentially calls into question the standards required to enter the legal sector is potentially damaging and harmful to the profession. People/clients will not be willing to pay for legal advice if they feel their lawyers have not had to go through a rigorous and credible assessment and qualification process.

## Question 14

Do you agree that not all solicitors should be required to hold a degree?

The wording of this question is misleading. Degrees are an important part of the process to qualification; however we are all aware that in some cases currently a person can qualify by achieving graduate standard through other means (level six/seven apprenticeships/legal executives/lawyers qualified in other jurisdictions). These cases are currently small in number, highlighting the importance of a degree. The degree is also important in the context of international recognition (for example the New York Bar does not recognise the GDL as being equivalent to a law degree), as having a system that lacks the requirement to hold a degree/degree level equivalent may be damaging to the international reputation of the profession.

In addition, inconsistencies in standards between university degrees are not unique to the UK and yet it is hard to find any major jurisdiction (whether under civil law or common law) that does not require a law degree to qualify which again would suggest that the removal of the requirement for a degree would affect the international standing of the profession.

It is also worth noting that other professions in the country, such as nursing and the police force, are moving towards graduate entry requirements.

## Question 15

Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?

There are benefits and risks associated with this. If the aim is to help diversity and the idea is that the SQE will have a competent / not competent outcome (as its modelled on the current QLTS), introducing rankings (which is what comparative performance would be) adds unnecessary complications, and potentially costs, and those from disadvantaged background are less likely to be in the position to afford additional support to get them placed higher in rankings.

However, this may be the only way that candidates can distinguish themselves from one-and-other, and firms may find it useful as part of their assessment processes.

## Question 16

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

This depends on the nature of the assessments and the requirements associated with the SQE. As outlined in question 15, candidate rankings may be useful.

With regards to training provider performance, the usefulness of this information largely depends on how providers are to be judged.

## **Question 17**

Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?

As per our response to previous questions, the SRA's assumptions on costs appear unrealistic in that the market are likely to require some form of additional training/study which would result in costs. This may also lead to a two tier training system, which again puts students from poorer backgrounds at a disadvantage.

Additionally if perspective lawyers are able to sit the tests numerous time, this may favour those who can afford additional support/to re-take the test.

## **Question18**

Do you have any comments on these transitional arrangements?

None, other than to say that if changes of this nature are made then provisions will need to be made for those in the transitional period.

## Question 19

What challenges do you foresee in having a cut-off date of 2025/26?

There is a need for a cut-off date at this distance to cater for those candidates who fall outside of the current standard process (e.g. part-time candidates). Challenges as a result of this are likely to be created for course providers as they will be asked to provide for both the new system and support those still pursuing qualifications under the current system.

From a firm perspective, if any changes made as a result of this consultation come into effect in 2018, then the cut-off date for us is likely to be a few years earlier.

It will be easier to address this question once we have clarity on the way forward.

## Question 20

Do you consider that this development timetable is feasible?

The timetable presented in the consultation is overly ambitious, and given the complexities of the proposed changes appears somewhat reckless as it focusses on those aspects of the process that the SRA will lead. It does not consider the abilities of the profession (including firms, universities, training providers etc.) to be ready for the introduction of the SQE. Given the likely need for workplace assessment which the SRA will need to develop, alongside the creation of new examinations and academic assessments, the timetable is not feasible.



**Thank you for completing the** Consultation questionnaire form.

Please save a copy of the completed form.

Please return it, along with your completed **About you form**, as an email attachment to [consultation@sra.org.uk](mailto:consultation@sra.org.uk), by **4 March 2016**.

Alternatively, print the completed form and submit it by post, along with a printed copy of your **About you form**, to

SQA consultation  
Solicitors Regulation Authority  
Regulation and Education  
The Cube  
199 Wharfside Street  
Birmingham  
B1 1RN

QLTS Law School

## T4T - Assessing competence

### Consultation questionnaire form

This form is designed to be completed electronically—in MS Word. Please save it locally before and after completing it.

#### 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?

Yes, however careful attention must be given to the various pathways as not all aspiring solicitors have the same background and previous legal experience.

In addition, the two objectives specified at paragraph 10 seem to be contradictory; the first seeks a way of creating a single method of assessing aspiring solicitors, to ensure a uniform standard is met, while the second seeks to create a diverse set of pathways for becoming a solicitor, and to avoid unnecessary barriers which may block the path of some talented candidates. It would seem that the creation of a common professional assessment may in fact diminish the appeal of the pathways which are designed to attract those candidates with lesser means to follow the more traditional route, as it will add an extra, significant layer of expense.

## 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?

Generally, yes, but it seems that Part I will examine legal areas that will also be tested on Part II, such as civil and criminal litigation, wills and probate, business law and practice and property law (reserved activities). This may place a higher burden on examinees than necessary as it is not clear why there is a duplication of content in the syllabus. More consideration should be given as to whether some or all of these areas can be tested on Part II only, similar to the current structure of the QLTS assessments, in which civil and criminal litigation, and wills and probate, are not part of the MCT, and only theoretical aspects of business law and property law are tested on the MCT whilst practical aspects are examined on the OSCE. This kind of allocation could achieve the objective of the SRA Competence Statement without unnecessary and artificial barriers.

In addition, the SRA Statement of Legal Knowledge is broader than the MCT syllabus as reflected in Day One Outcomes A (several areas will be added to the MCT syllabus – probate, civil and criminal litigation). While this is an understandable outcome of the Training for Tomorrow initiative, we understand that the functioning knowledge test and the practical assessment components will be modularised and individual modules can be taken over time. This may imply that in order to facilitate such modularity, the scope of the exams (especially Part I) will be much more comprehensive and complex compared to the current MCT assessment. We understand that the same standards must be met by both domestic and foreign applicants at the point of admission, however we are concerned that the proposed SQE assessments will create a substantial burden and accessibility issues and will impact significantly the number of assessment takers from overseas.

We believe that in order to ensure that the QLTS remains attractive, and to maintain the status of English law globally and the competitiveness of the England and Wales solicitor qualification, it is essential to continue to offer a fast track route or pathway for foreign lawyers, which would be based on a compressed version of the SQE assessments (and still be part as the SQE as a designated route). This kind of compressed version of assessments, such as the current QLTS, will be much more adaptive to foreign lawyers and could still be taken in other locations outside the UK (it is not clear at all if this will continue to be the case under the new SQE).

### 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?

As a QLTS training provider dealing almost exclusively with foreign lawyers, we do have major concerns with the impact the proposed scheme might have on overseas lawyers and the expansion of English law globally.

We believe the consultation does not address properly or take into account considerations which would greatly affect foreign lawyers.

The QLTS is unique and somewhat distinct from its rival, the New York Bar Exam, as it is a specially designated route for foreign lawyers and is promoted accordingly in the international legal marketplace. The uniqueness of the programme helps to a great extent to position the QLTS as a standalone opportunity for international lawyers to qualify as English solicitors. This, as a result, attracts a greater number of lawyers who pursue this route. To our understanding, the new SQE proposal abolishes the separate route or pathway for foreign lawyers and merges the scheme with the domestic route to qualification. In our opinion, it is imperative to maintain a separate qualification pathway for foreign lawyers, while at the same time continue to keep the highest standards expected of candidates taking the QLTS assessments. It is widely agreed that this goal has been achieved by the QLTS which is regarded as a robust and high stake examination compared to the current domestic route.

We feel that there is a significant risk that the removal of this specific pathway for foreign lawyers will not only reduce its attractiveness and adversely affect the number of foreign lawyers choosing to qualify as solicitors of England and Wales vs New York, but it will also erode the influence of English law on global legal transactions.

Research by QMUL has shown that English law is the governing law most frequently used in arbitrations by 40% of the companies surveyed, followed by New York State law with 17%. The availability of the QLTS in general helps to maintain the perception of English law as the law of choice in the international legal marketplace.

## Question 4

With which of the stated options do you agree and why:

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

We think option A is the most flexible and covers the necessary legal areas expected of a newly qualified solicitor.

## **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?

Yes, as long as the standards on the point of admission are satisfactory and represent the knowledge, understanding and legal skills of a qualified solicitor.

## Question 6

Do you agree that we should continue to require some form of pre-qualification workplace experience?

The SRA should require some form of workplace experience from certain intending solicitors, however not from foreign lawyers.

The qualification route for foreign lawyers has gone through major changes since 2008. Initially, when the QLTT was still in force, the SRA put in place a requirement of two years of experience (with supervision) on any candidate taking the exams. This reduced the number of transferees dramatically. Then the QLTS was brought into force in 2010, and introduced three assessments (MCT, OSCE and TLST). The purpose of the practical exams was to replace the experience requirement as it was almost impossible for foreign lawyers to fulfill this requirement for obvious reasons.

The SQE consultation suggests that all solicitors will most likely need to meet a pre-qualification workplace experience regardless of the pathway they have followed. There is no reference to the QLTS on this respect. We believe that if foreign lawyers will be required to complete a work-based experience this will essentially and practically eliminate the QLTS or the pathway for foreign lawyers to qualify as English solicitors. Introducing a workplace-based requirement will push the transfer scheme years back and stand against the progress that has recently been made by the removal of the barriers to entry (e.g. abolition of the certificate of eligibility and English language test). It is very clear that foreign lawyers will not be able to meet any workplace-based requirement. This may be due to visa or work permit requirements, unrealistic expectation to leave their day-to-day practice and move to the UK, family commitments, and so on. Similar and other barriers will still exist even if the workplace-based requirement could be fulfilled outside the UK.

We therefore believe that the fact that foreign lawyers are already admitted to practise in another jurisdiction must be taken into account when considering the pre-qualification requirements. A possible solution could be recognising a law degree and qualification as a lawyer in another jurisdiction as equivalent to the workplace-based requirement, meaning that foreign qualified lawyers will be exempt from that requirement.

In fact, the SRA already determined at the time the QLTS consultation was conducted a few years ago that evidence provided to the SRA through a work experience requirement is of variable quality and very difficult to verify, whereas the OSCE is robust and reliable outcomes-focused form of assessment which shows the SRA what an applicant can actually do.

Further, introducing work-based experience requirements on foreign lawyers will undermine the SRA's equality duty by placing artificial barriers to enter the profession based on geographical location or origin of the candidate, which will adversely affect those who are not of British nationality or origin.

We feel this is a self-explanatory issue, which as mentioned above, has already been discussed and decided by the SRA not long ago. Therefore, it is not clear why the

position has supposedly changed.



## **Question 7**

Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?

If such an experience requirement is introduced with respect to domestic candidates, then we think it is necessary also to specify a minimum time period that must be met at the end of that period.

## **Question 8**

Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?

No. We think that it will be very difficult to objectively determine if such competences have been met during pre-qualification workplace.

## Question 9

Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?

Yes.

## **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?

Yes, to some extent, although it is not clear what would be the difference between the apprenticeship and the new route if both are based on 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 1 and Part 2, to a specified performance standard?

## **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?

## 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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

We think if the proposed assessments are rigorous and reliable, then the regulation of training pathways is less important. However, the SRA must still prescribe pathways intended for foreign lawyers and apprentices.

## Question 14

Do you agree that not all solicitors should be required to hold a degree?

The SQE proposal suggests that an academic degree may not be required as a condition to be admitted as a solicitor. We think it may undermine the confidence of the public in the legal profession. While it is acceptable that some people can qualify as solicitors without an academic degree, and historically some leading solicitors have been non-graduates, this should be the exception, not the rule, for a modern profession. It also poses the risk of undermining the integrity of the solicitor brand internationally, when compared to its counterparts in other OECD jurisdictions, against whom the existing qualification pathway could perhaps already be considered less challenging.

This also raises a question as to the eligibility of foreign lawyers or even foreign nationals intending to become solicitors. If basically almost everyone can simply take the SQE assessments without meeting any academic requirements, why should the SRA recognise jurisdictions and professional titles of foreign lawyers at all? What purpose would it serve? According to the SQE proposal, it appears that any person from any country without any legal background could take the SQE, which is obviously not going to increase the public confidence in the legal profession.



## **Question 15**

Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?

Yes, candidates should get their score and where they are positioned compared to the cohort as a whole.

## Question 16

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

Overall candidates' performance such as pass mark, pass rates, and areas of strength and weakness should be published.

As to training providers' performance, it is not clear how the SRA could publish such data in an objective manner. For example:

1. How will the information be collated from candidates as to whether or not they have taken a preparation course, and then whether they have passed or failed? How this information will be verified and validated?
2. If a candidate has failed, how it will be determined if it was due to lack of proper preparation or as a result of the low quality of the training providers' courses?
3. If a person has passed and not used the material supplied by the training provider, how this is going to be determined? Will the training provider get the credit nonetheless?
4. What would be the case if a person has signed up with two providers?
5. How will the SRA maintain a reliable and sustainable database of candidates and training providers' performance?

By way of example, the training market in the US for the New York Bar Exam is very developed, diversified and competitive, without any specification or regulation by the New York State Board of Law Examiners.

In addition, publishing comparison tables of training providers' performance runs the risk of encouraging training providers to focus purely on test success, rather than producing high quality solicitors. It could also encourage training providers to be extra selective regarding the students they accept on to their courses, which will stymie the SRA's push for diversity.

## Question 17

Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?

In the consultation that preceded the launch of the QLTS in 2010 the SRA proposed that the sole assessment organisation should not be able to provide QLTS training courses. This was to help ensure the integrity of the scheme and to prevent the single provider from having any undue advantage over other training providers. The experience with the QLTS shows that this objective has been achieved through this 'separation of powers' with Kaplan being the assessment provider solely focused on the development and delivery of the assessments, and on the other hand there are organisations offering training courses. The SQE consultation, however, is silent on this point, albeit we assume that when the tender concerning the selection of the assessment provider will be conducted, there will be a clear restriction and prohibition on the assessment provider offering training.

As mentioned earlier, we believe that the focus on the SQE consultation was given primarily to domestic candidates' routes, without thinking carefully about the implications the new centralised assessments might have on foreign lawyers.

## **Question18**

Do you have any comments on these transitional arrangements?

## **Question 19**

What challenges do you foresee in having a cut-off date of 2025/26?

We think that a cut-off date of 2025/26 is reasonable.

## Question 20

Do you consider that this development timetable is feasible?

Yes

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Please save a copy of the completed form.

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Alternatively, print the completed form and submit it by post, along with a printed copy of your **About you form**, to

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Regulation and Education  
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## TRAVERS SMITH RESPONSE TO SRA CONSULTATION ON THE PROPOSED SQE

This is Travers Smith's response to the SRA's consultation of 7 December 2015, **Training for Tomorrow: assessing competence**.

Travers Smith is a City law firm with approximately 350 fee earners, of whom 48 (at the time of writing) are trainees. We typically recruit 25 trainees per year, of whom on average, 94% stay with the firm on qualification. The firm is a leading corporate law firm and within that context, what can be called full service. Our trainees currently rotate every 6 months during their PRT.

Travers Smith fully endorses the response to the consultation submitted by the CLLS Training Committee. The comments made in this response should be read in conjunction with those provided by the CLLS Training Committee in its consultation response.

***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 [of the consultation]?***

No. We agree that a common assessment, regardless of the pathway to qualification, is an effective means of achieving consistent and comparable standards at the point of admission, but *only* in relation to the specific knowledge and skills assessed as part of the SQE. Based on the limited information given about the course content and assessment framework, we disagree that the SQE on its own will provide assurance of rigorously high standards.

**SQE as the single point of access to qualification:** Our overriding concern is that the proposed new SQE framework is heavily reliant on the SQE itself, given the uncertainty over the SRA's plans for the future of workplace training (the PRT) and academic entry requirements for the SQE. By contrast, the current system involves different assessments of different aspects of legal knowledge and skills developed over a period of time. If the SQE is going to be the single point of access to qualification, it is critical that it is set at a sufficiently high standard, and encompasses all of the knowledge and skills expected of a solicitor at the point of qualification. We are deeply concerned that if the SQE is the single point of entry, candidates are taught to pass the SQE but not to develop wider legal knowledge and skills, which cannot possibly result in higher standards than we currently have.

Whilst the consultation suggests that the aim is that the SQE is set at post-graduate level, it is impossible to judge the rigour of the SQE without more information on course content beyond the very basic list of topics in the Statement of Legal Knowledge (draft syllabuses) and more detail on the assessment framework. In short, we are unable to approve the proposed SQE framework, even in principle, until the details have been fully developed and the wider issues of the future of the PRT and the SRA's plans for academic entry requirements resolved.

From a standards perspective, we are also concerned that there is an assumption that some universities will incorporate SQE1 into their law degrees, which may prejudice the depth of learning acquired by undergraduates. We are also aware, as noted in our response to Q17, that there are some universities who will resist doing so, in part to preserve academic freedom and rigour, and in part to ensure that they do not discourage students aiming for the Bar.



**Negative impact on workplace experience:** Assuming that some form of pre-admission workplace training is retained, the fact that the SQE2 can only be attempted at the point of admission but that the LPC in its current form will fall away implies that law firms may be recruiting trainees straight out of university (or from an SQE1 course) without any of the vocational training currently built into the LPC. This will impact adversely on the quality of work law firms are able to allocate to trainees.

It is also regrettable that the work that training providers have put into developing tailored, enhanced LPC courses in conjunction with employers to ensure the LPC represents the reality of modern legal practice may be lost. The LPC electives enable our trainees to "hit the ground running" when they come to us.

To resolve concerns around the variability in standards applied in LPC courses and by employers offering the PRT, our preference would be to focus the reforms on an enhanced, centrally set or regulated LPC (reflecting the enhancements referred to above) which all intending solicitors should pass (other than those attempting QLTS), regardless of their route to qualification – **prior to** the PRT for graduates, or prior to admission for those qualifying via the apprenticeship or equivalence routes. In addition to maintaining high quality work during the PRT, it would resolve some of the practical difficulties we perceive with a pre-admission test for trainees. For example:

- Under the proposed SQE model, law firms will, presumably, have to either prepare their trainees for the SQE2 or allow them study leave to enable candidates to attend external preparatory courses for the SQE2. We anticipate that many law firms will want to outsource SQE2 preparation, although without a detailed SQE syllabus, it is difficult to assess how much law firm trainee training programmes would need to be adapted to the SQE requirements.
- If candidates are to be allowed some form of study leave, we have concerns as to how this will fit around a typical work schedule. Our trainees work a very full day and are heavily involved in, and relied upon for, client work from Day 1. This is an essential part of their training and preparation for qualification as a solicitor. It would be disruptive for trainees to repeatedly take time out for study leave and could result in the allocation of more peripheral, less demanding tasks to trainees. This would have a detrimental effect on their training. It would also prejudice their ability to see a matter through to its conclusion and in its entirety. It would also adversely affect the depth of understanding trainees obtain of different areas of practice and make it more difficult for them to select the right specialisation when they qualify.
- If trainees are expected to prepare for the SQE in their own time, again we are concerned that it is impractical to expect trainees to combine study for the SQE2 with a full working day.
- The suggested contexts for SQE2 may not reflect range of experience and practice areas likely to be relevant to trainees in City firms – see response to Q4, which does not present a problem at QLD/GDL/LPC level since the training takes place before the PRT. With a pre-admission test, there is a risk that not all legal practice will be able to provide adequate training and experience in the contexts required for the SQE2.

***Question 2: Do you agree that the proposed model assessment for the SQE described in paragraphs 39-45 and in Annex 5 will provide an effective test of the competences needed to be a solicitor?***

No, we disagree. It is difficult to respond fully without further detail on the assessment framework but based on the limited information given in the consultation, as a matter of principle, we are particularly concerned about the reliance on multi-choice questions. Whilst MCQs as a means of assessment may be sufficient for testing aspects of legal knowledge (as noted in the AlphaPlus report, but subject to verification of the full content of the SQE1), MCQs do not reflect the reality of the work of a solicitor. We cannot envisage how MCQs can adequately assess a candidate's ability to identify and critically assess all relevant legal issues arising from a given scenario, construct and develop arguments and counter-arguments in relation to those issues, give appropriate weight to them and translate their conclusions into succinct advice which is suitable for delivery to a client.

We note that SQE2 is intended to assess some of the skills required in order to apply legal knowledge effectively in a range of practical contexts and that SQE2 will involve written and oral tests. This is already the function of the LPC. However, the LPC is currently a stepping stone to the PRT where trainees are forced to apply their knowledge and skills to real-life situations which they may not have previously encountered at the academic stage of training, and to develop communication and other personal and professional skills which cannot be adequately tested in an exam environment. In isolation, we doubt that either the LPC or the SQE2, even assuming it is set at a level higher than the current LPC, can adequately assess the full range of knowledge and skills required of a good solicitor in practice, as reflected in the SRA's competence statement. This is recognised by AlphaPlus in their technical evaluation.

Furthermore, we think the oft-cited comparison between the QLTS (which adopts a similar model) and the SQE is misconceived since overseas lawyers sitting the QLTS are already qualified in their own jurisdictions and will have undergone rigorous legal education and training leading up to that qualification, followed by, in many cases, substantial experience in legal practice.

***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?***

No, we disagree. We see no reason in principle why there should not be exemptions from elements of both SQE1 and SQE2 (given that they are modular) to reflect study which has been completed and assessed to an appropriate level as part of a qualifying law degree. To do otherwise would be duplicative in terms of both cost and time. Similarly, during the transitional phase, we believe that students who have successfully completed GDL and/or LPC course should be granted appropriate exemptions from the SQE.

***Question 4: With which of the stated options do you agree and why:***

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?***
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?***
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?***

We are strongly in favour of option b). The problem is the timing of in depth study of the reserved activities.

Although the reserved activities have grown up piecemeal, we do not disagree that training on the reserved activities should form an essential part of legal education and training at an earlier stage. Nor do we disagree that the law of organisations (corporate law) should also be included since it is

the bedrock of our own legal practice and that of most City firms. We would support a model of legal education and training which ensured that solicitors acquire and maintain a good basic knowledge of core areas such as contract law, and are not permitted to specialise too early in their careers.

However, the difficulty with a focus on reserved activities in a structure based around assessment *at the point of qualification*, assuming this happens after a period of workplace experience, is that workplace experience will often be focussed on specialisms within the reserved activities, e.g. commercial property rather than residential property. This presents less of a problem with the LPC route since the LPC is completed prior to the PRT, and as noted elsewhere in our response, LPC providers have worked with employers to ensure the LPC reflects the reality of modern legal practice.

A focus on the reserved activities during the period of workplace experience would require trainees to spend valuable time out of the workplace attempting to regain knowledge of areas which are irrelevant to their practice, and will seriously detract from the learning and development trainees undertake, and the on the job experience they gain during that period.

***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?***

It is inconceivable to us that entry to the profession should not require graduate or graduate-level academic qualification.

We are strongly of the view that higher education provides an opportunity for students to mature on a personal level, and develop analytical and research skills, regardless of their discipline.

We believe that failure to prescribe graduate level entry requirements will have a negative impact on the perception of the English legal profession at home and abroad and will compare unfavourably with other jurisdictions (e.g the New York Bar) and other professions. The SRA's proposals also seem to be at odds with the Bar's ongoing review of academic requirements for entry to the Bar, and its suggestion that it may require a minimum 2:1 degree, which may engender a 2-tier profession. As noted in the EPC report, removing the regulated status of the QLD could prejudice the number of international students at British universities (they currently make up 25% of QLD courses) and the standing of advice provided by English law firms.

Our understanding is that the academic standard to which the SQE is set will not be benchmarked against FHEQ standards. We find it difficult to see how the SRA can justify the claim that the SQE will be set at higher than graduate level without reference to FHEQ standards and the lack of benchmarking adds to the uncertainty over the intended academic standard for the SQE.

***Question 6: Do you agree that we should continue to require some form of pre-qualification workplace experience?***

It is also inconceivable to us that the prescribed routes to qualification should not involve some period of work-based training. Workplace training or experience forms an essential part of all of the current pathways to qualification. It is in our view imperative to retain a prescribed minimum period of workplace experience and, as noted in our response to Q2 (and by AlphaPlus), without it, intending solicitors will be unable to meet elements of the Threshold Standard in the Competence Statement. For example, the standards requiring solicitors to (i) achieve an acceptable standard routinely for straightforward tasks, and (ii) use experience to check information provided and to form judgements about possible courses of action and ways forward both seem predicated on the

individual having completed a period of workplace experience and/or an assessment over a period of time.

***Question 7: Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?***

Yes. Otherwise, there is a risk that market forces could result in a race to the bottom. Our experience is that 2 years is the right period and is the minimum time period for the average trainee to acquire the necessary knowledge, skills, maturity and judgement required before he/she can hold him or herself out as a qualified solicitor.

Any prescribed minimum period should also take account of the time out trainees may need to prepare to sit the SQE2.

***Question 8: Should the SRA specify the competences to be met during the pre-qualification workplace experience instead of specifying the minimum time period?***

To a degree, the SRA has already specified those competences at a very high level in the Threshold Standard, but as noted below in our response to Q12, we think it would be helpful if the SRA produced detailed guidance for employers on their supervisory role in ensuring that trainees meet those competences and giving examples of the evidence they should be seeking in order to demonstrate that they have done so. We do not regard this as an adequate alternative to specifying a minimum time period.

***Question 9: Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?***

To do so would risk diluting the aim of harmonised, centrally monitored standards, but if the SRA is prepared to continue to regulate and authorise all providers of workplace experience or educational providers, we do not object in principle to this suggestion.

***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?***

We agree that trainees need to be monitored and supervised during their PRT and that under the Competence Statement/Threshold Standard model, employers will be responsible for assessing whether trainees have met the competences required of them at the pre-admission stage. Some form of assessment is a logical follow-on from the observation made elsewhere in this response that important aspects of the learning and skills of a good solicitor cannot be tested by the SQE or any other exam-based assessment. However, our trainees already receive a comprehensive programme of high quality training during their PRT, they are closely supervised and monitored, and an informal assessment of their knowledge and skills is carried out at each appraisal and finally as part of the decision to offer them employment (or not) at the end of the PRT.

We already recognise that the workplace assessment we carry out on trainees must reflect the requirements of the Threshold Standard, as a minimum. To the extent that the SRA has a more formal workplace assessment in mind, employers should be given full details to enable them to assess the practicality, cost and resourcing implications of the proposed assessment.

***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 1 and Part 2, to a specified performance standard?***

Yes, with the help of the toolkit referred to in Q12.

**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 may be required?**

We think such a toolkit would be useful, particularly since the Competence Statement and Threshold Standard are newly introduced and lacking in the level of detail we would need to determine whether an individual meets the requirements.

**Question 13: Do you consider that the prescription or regulation of training pathways, or the specification of entry requirements to the SQE, are needed in order to:**

- a) support the credibility of the assessment?**
- b) and/or protect consumers of legal services and students at least for a transitional period?**

Yes. We find it very worrying that courses and course providers will potentially be completely unregulated, resulting in varying standards and unfairness on less well-informed candidates opting for courses which do not adequately prepare them for the SQE or, more fundamentally, for practice.

We do not see the rationale for continuing to prescribe training pathways and authorise courses and providers only for a transitional period whilst the SQE establishes credibility and in this respect we disagree with the recommendation of AlphaPlus. The SQE could very swiftly lose that credibility if, following the transitional period, the quality, breadth and depth of SQE preparation courses began to be eroded. Some of our concerns over the SQE as the single point of access could be alleviated by the SRA's continued involvement in monitoring and authorising the quality of training courses and ensuring that market forces do not result in the proliferation of (cheap) crammer courses which teach candidates to pass an MCQ-style test and add very little to the candidates' wider knowledge or skills. Such courses would be one-dimensional and would inevitably result in poorer quality and would not prepare trainees for entry to the profession.

**Question 14: Do you agree that not all solicitors should be required to hold a degree?**

Yes. We have supported the apprenticeship and CILEx/ equivalence routes which have existed for some time and would continue to do so, provided those routes were properly regulated.

**Question 15: Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

It would be useful for employers to have access to information about the individual's performance on the SQE for the purposes of making decisions about their future employment with the firm, and if a candidate fails the SQE but is allowed to re-sit, those areas where additional training is needed. For the same reason, we can see merit in having a graded SQE rather than simply a pass/fail.

Having said that, the unlimited re-sit policy is potentially detrimental to perception of high standards in the profession. If the SQE is the single gateway to qualification, it would be worrying if a person were allowed to practice having scraped a pass after several attempts. Multiple re-sits are also potentially disruptive to legal practice (assuming the continuation of workplace experience), as well as unfair for candidates who do not have means to fund further training for a re-sit, or who find it difficult to obtain employment having funded multiple re-sits.

**Question 16: What information do you think it would be helpful for us to publish about:**

- a) overall candidate performance on the SQE?**
- b) training provider performance?**

As noted in relation to Q15, information on individual candidate performance (including in the context of overall performance) would be helpful for employers and for students. Statistics in relation to training provider performance *on their own* may give a misleading impression of their course quality and standards, since they may be very good at teaching students to pass the SQE but that is not the same thing as turning out students who will become good solicitors.

**Question 17: Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

It is our understanding, from speaking to some universities, that they will not adjust their existing undergraduate courses to cater for SQE1. Undergraduates at universities who adopt this approach may take SQE1 during their university vacations but the likelihood is that they will do so after graduation. Students (or employers) will be required to meet the additional cost of top-up courses or opt for university courses, which may or may not be the most suitable or robust academically, purely on the basis of whether they tick the SQE1 box or not. The additional cost involved in top-up courses may impact adversely on diversity where that cost is not met by an employer.

The SRA's suggestion that it would no longer prescribe academic entry requirements is likely to cause employers to retrench and promote a tendency to recruit from universities with a proven track record of high academic standards; in turn this is likely to reduce diversity rather than improve it and will increase the risk of a two-tier profession.

Whilst we support efforts to promote diversity in the legal profession, we are aware that there is already considerable over-supply of candidates for training contracts, and that there is a natural limitation on the number of jobs available on qualification, so we would not be in favour of reforms which increased the number of students incurring substantial amounts of debt with no prospect of a job at the end of their legal education.

**Question 18: Do you have any comments on these transitional arrangements?**

It is difficult to comment at this stage without full disclosure of the SRA's plans for the future of the PRT. The key for us as an employer is that the changes are introduced with sufficient time to enable us to prepare fully for the new regime, including reviewing our graduate recruitment processes and timetable, the provision of external training and how we build that around workplace experience and training, our internal trainee training programmes, and our staffing generally to accommodate the possibility of trainees arriving for work without having completed any vocational training at all.

**Question 19: What challenges do you foresee in having a cut-off date of 2025/26?**

See answer to Q18 above.

**Question 20: Do you consider that this development timetable is feasible?**

There is clearly a huge amount more work to be done to develop these proposals to the degree necessary to gain the trust and confidence of the profession and the public. As such we think the timetable is very ambitious.

## 2. Your identity

### 1. Surname

Yates

### 2. Forename(s)

Rebecca

### 3. Name of the firm or organisation where you work

BPP University

### 4. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.

Attribute my/our response and publish my/our name.

### 5. Please identify the capacity in which you are submitting a response. I am submitting a response... in another capacity

Please specify: personal capacity

## 3.

### 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?

No I do not believe that the objectives will be met in paragraph 10 by the introduction of a SQE. In relation to the consistent standards the LPC outcomes are proscribed and taught by all providers and as such already achieve a consistent benchmark for those seeking to qualify as a solicitor and ensures that prospective employers can assume a level of understanding and knowledge and skills training when selecting trainees/staff. There is no known problem with the current method of teaching and assessing legal knowledge and skills.

The diversity sought will in fact be hindered by the SQE many law firms will still want trainees with a degree and equivalent training that reflects the content of the LPC and so those candidates who can afford to pay for this will be at a distinct advantage and so the diversity pool will shrink. I am from a mixed ethnic background and qualified through ilex exemptions and then completed the LPC. The quality and high standards and benchmark of the LPC provided a level playing field for me and does so for others in the job market and as a skills set provides a wide breadth of training and an opportunity to specialise through electives. This will be removed by the introduction of the SQE.

In terms of the SRA feeling satisfied of the comparable standards between providers the SRA could re-introduce the inspections regime and this would mean that those seeking to qualify as a solicitor would not have to bear the brunt of the cost. The SQE is likely to be an expensive additional cost to those seeking to enter the profession. Candidates will still need to be educated to degree level to be attractive to law firms and the firms are still likely to want some similar level of training offered by the LPC and then the additional cost of the centrally set exams will be expensive and reduce diversity. Equally those who are tempted to take the cheapest route are likely to be at a grave disadvantage in the job market.

There are already a number of flexible pathways into the profession. Diversity should be addressed in relation to aspiration and encouraging education, not in removing the need for the higher levels of education.

In addressing the troubling point of many women qualifying into the profession and yet not being represented equally senior positions in law firms is not addressed by the introduction of the SQE . This issue of diversity is to be addressed within law firms .

It seems odd that as a profession we are actually seeking to reduce the need for a high level of training and and the need for a recognised degree when other professions are doing the reverse and nurses are required to be educated to degree level.

4.

**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?**

No I do not. Practising law requires higher level problem solving and application of the law and is not met by MCQ testing. Solicitors need to be able to apply logic and justify their advice and actions being trained to pass an MCQ test does not achieve this. MCQ testing will put students who have some learning disabilities at a disadvantage. This type of test does not adequately and rigorously test knowledge and understanding.

In relation to the part 2 assessment this is likely to be far removed from when the candidate actually studied law and may not reflect their actual practice area so this will then attract an additional cost to the candidate in refresher courses and additional training.

The current system provides training in the skills before students enter the work place this is the right point at which training should take place to ensure they have competent entry level standards. Again employers would be reluctant to employ a trainee with no basic skills training.

The fact that the test can taken as many times as the candidate can pay for it would again drive down standards, allow those with sufficient funds endless attempts and is wrong in principle. Students currently are able to take each exam three times after which they fail and it is often the case that those candidates were unsuitable for the profession.

It is right that students can redo stage 1 of the LPC and I would generally advise against this unless there was a good reason why the student failed stage one and usually only if it was one subject in particular rather than overall weakness in the candidate.

5.

**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?**

It would seem unfair that no exemptions would apply and is creating an unnecessary and expensive hurdle for those who want to enter the profession. The current system works well and appropriate exemptions can be granted and it is fair to be able to do this. Often those seeking exemptions come from less traditional back grounds and again it would drive up costs and reduce access and diversity in the profession.

6.

**4. With which of the stated options do you agree and why:**

b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?

**Why...**

If the assessments are to reflect the work that the candidate has been doing over the two year period then this option would be best but of course this would be expensive and drive up costs

7.

**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?**

This is unclear and will lead to confusion. The level of the assessment should of course be set at graduate level and be set around a fixed standard of higher education standards so that it can be measurably equivalent .

8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Yes it is extremely important that solicitors gain supervised experience. There is no information that the current system of training is not working. The fact that most trainees are signed off is a sign that the system works as the students have by that stage completed their degree, LPC and a rigorous two year training.

9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

Yes this provides consistency across the profession and the trainees know what is expected. This also maintains high standards and public confidence in the profession.

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

This moves the onus on to employers and they may struggle to manage this as well as training and in addition surely this would add to the SRA concerns about consistency. In addition how would this be tested and measured and is it really serving a purpose to introduce this.

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

Pre qualification work needs to be relevant work that is supervised . It is right that it should be recognised and this will help diversity in the profession.

12.

**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?**

This will again drive up costs and given the proposed testing at point of entry for stage 2 I would say this is not necessary.

13.

**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 1 and Part 2, to a specified performance standard?**

not applicable

14.

**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?**

not applicable

15.

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?**

If the SQE is brought in then it would seem sensible to have pathways to entry so that there is clarity for the public.

**16. (untitled)**

**14. Do you agree that not all solicitors should be required to hold a degree?**

Not all solicitors currently need to hold a degree, I am one of them . I do think that for aspiring solicitors in the job market they do need a degree and not having one can put them at a disadvantage at an early stage in their career.

In addition the holding of the degree is required in most professions and jobs it would reduce the standing of the profession for those holding the office of a solicitor not to be educated to degree level. It would maintain public confidence in the profession that all qualified solicitors should hold a degree or the equivalent

**17.**

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

If the SRA wish to introduce grading then this would surely go against the spirit of the SQE.

Those who fail should as with any academic assessment be entitled to feedback. Given the nature of the test being MCQ based it would be difficult to the candidates to identify their particular weakness and improve in a material way.

**18.**

**16.**

**What information do you think it would it be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

It is difficult to see what benefit would be gained from this. Providers of preparation course will prepare students to pass the test rather than prepare them for life in practice . The current education and testing regime properly educates and trains future solicitors so that they are ready to join the profession rather than prep to pass an exam.

**19.**

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

Yes there will be added expence. There will be confusion and uncertainty as to how to qualify as solicitor. Those from disadvantaged backgrounds but aspire to join the profession will be put off by the expense and uncertainty . Those with poor advice often from more disadvantaged backgrounds will seek the cheapest route which will clearly put them at a disadvantage when it comes to jobs . Law firms will still seek out the students who have a demonstrable strong academic background and this will leave those who have relied on crammer courses to pass the test having wasted their money.

Another consequence is that many may chose to reject a career in law as it may lose its standing with the public, become more expensive and no longer be an aspirational career. Those individuals who are from disadvantaged backgrounds may well take their talent elsewhere and the profession as a whole may suffer.

**20. (untitled)**

**18. Do you have any comments on these transitional arrangements?**

There will be confusion in the marketplace and the employers are likely to place little value on the SQE and rely on the earlier academic credentials when it comes to recruitment , the SQE will be an added expense rather than a measure of performance and ability.

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

Uncertainty in the market and a loss of talent

The LPC will maintain value and those qualifying by another route may well be seen as inferior by prospective employers.

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

no

Richard Album - Legal Education and Training Group (LETG)

## **T4T - Assessing competence**

### Consultation questionnaire form

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To request an alternative format please visit [www.sra.org.uk/contact-us](http://www.sra.org.uk/contact-us).

## 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?

No.

The SQE would not be likely to achieve the 'high quality standards' referred to in paragraph 10 which would render any consistency and comparability irrelevant.

The SQE1 is intended to assess knowledge and - crucially - the ability to use knowledge, principally via online MCQs. Whilst these can be an effective measure of factual knowledge, they are less effective at assessing application of knowledge and the other problem solving elements that currently comprise the QLD/GDL.

It is also not clear that skills can ever truly be judged to a sufficient standard by assessment alone, as would be the case for SQE2. Without knowing how SQE2 and the proposed workplace experience would interlink - and what it will look like, it is impossible to say whether the SQE could 'best' meet the objective to ensure high quality standards.

It is also difficult to see how true consistency could be achieved on the skills assessment for SQE2. It would not be the same as the relatively few people who undertake OSCEs on the QLTS run by one provider. It would involve several thousand candidates each year every year necessarily involving hundreds of live skills assessors in different locations at different times.

The SQE would also be unlikely to remove the 'artificial and unjustifiable barriers' referenced in paragraph 10. It would probably make it more not less expensive to qualify as a solicitor than under the current system.

LETG Members are interested in maintaining the highest standards of legal knowledge and practice, not in policing minimum standards. We do not therefore have an issue with the concept of the SQE, but the lack of clear entry requirements or detail on workplace experience make it impossible to agree that it will meet the paragraph 10 objectives.

## **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?

No.

The proposed model assessment for the SQE described will not test enough of the competencies needed to be a solicitor sufficiently rigorously to provide an effective test.

It will test a snapshot of certain competencies only.

### **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?

No.

The proposed SQE does not provide an adequate test for those yet to qualify.

On the other hand, it would be too onerous and not proportionate for those already qualified in another jurisdiction.

## Question 4

With which of the stated options do you agree and why:

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

It is not possible to answer this question without knowing more detail on the content and nature of Part 1 and, more significantly, more detail on the nature of the pre-qualification workplace experience that will sit alongside the Part 2.



## **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?

No.

It should be well above graduate level. As it is currently and also in other jurisdictions, it should be post-graduate level +.

## **Question 6**

Do you agree that we should continue to require some form of pre-qualification workplace experience?

Yes.

This is a key component in ensuring high quality standards at point of qualification and in protecting the public.

## Question 7

Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?

Yes.

Many skills /competencies only develop over time, as does maturity and decision-making. This requires a minimum period of time (even though individuals will develop at different speeds). Measuring competences alone is insufficient.

## **Question 8**

Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?

No.

It may be helpful to specify competencies to be met during pre-qualification workplace experience, but alongside not instead of a minimum time period.

## **Question 9**

Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?

Not instead of work experience in a law firm or legal service environment.

Other workplace experience could be taken into account alongside this, e.g. communication skills developed in another environment, but not in its place. As long as the final sign-off of quality is done based on experience in a legal workplace.

## **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?

Workplace assessment is the only true way of assessing skills competencies. The 'work portfolio' approach used during parts of the Work-based Learning pilot was very effective in that regard.

We would therefore support workplace assessment along similar lines if the burden in time and cost is manageable. If not, a minimum prescribed time-period is the best alternative.

## 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 1 and Part 2, to a specified performance standard?

Yes.

An experienced solicitor understands the nature of the job - and therefore how to assess competence - better than anyone.

However it is important that the authorisation process for firms and individuals to be able to take trainees be thorough and rigorous to ensure this is case and that it is undertaken in practice for every employer.

## 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?

No. A toolkit alone would not be sufficient.

The LETR recommended compulsory training for supervisors of trainees. That was an excellent proposal and should be adopted and become a core criteria (monitored by the SRA) for authorisation to take trainee solicitors. It could include training for Training Principals and Grad Recruitment teams (where they exist) as well.

It is also key that competency statements and other documentation needs to be written in a clear way and be sufficiently promoted and supported. SRA documentation often requires quite a lot of thought and consideration to grasp - which makes it challenging for students, trainees and busy fee earner supervisors to engage with.



## 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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

Yes.

Having no entry requirements to the SQE undermines the 'brand' of solicitor both internationally and at home. It creates the possibility - however unlikely - of underqualified individuals qualifying by managing to pass the assessment without sufficient knowledge and skills to carry out the job.

Assessing competence alone is not sufficient to protect consumers and students as it would lead to a decline in standards.

The QLD/GDL, LPC and PSC do not exist as assessment mechanisms. The knowledge and skills developed during the courses themselves are a - perhaps the - key component. The assessments then act as a means of confirmation that the candidate is competent in a selected number of areas. The real learning has taken place through the period of the course though, not just in prep for exams.

## **Question 14**

Do you agree that not all solicitors should be required to hold a degree?

Yes.

However qualification should be above graduate level - see Q5 above.

## **Question 15**

Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?

LETG Member firms do not have a common view on this.

There are good arguments for SQE2 (as a skills assessment) being competent/not competent.

There are equally good reasons why SQE1 (as a knowledge assessment) should be graded.

Some members felt that it was important that there was consistency in the way SQE1 and SQE2 are assessed however.

## Question 16

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

See response to Q15.

If grading is the approach taken, then the data should be published in full. This would be a very useful tool for students, regulatory bodies, legal employers and consumers of legal services alike. It could be an opportunity, for example, to rate legal training providers.

## Question 17

Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?

Yes.

(1) We anticipate that the current proposal would add cost - perhaps significantly - to the qualification process. The cost of the SQE (including prep courses and assessments) if compared to the QLTS would likely be very high.

(2) The proposals would increase the division between those sponsored by firms and those not. Sponsored candidates would not only have all courses and assessment costs paid for them, but also be likely to receive additional teaching and guidance to support them through the qualification process.

(3) The proposals would also increase the advantage of those able to pay for preparation courses through private means and have access through family or other contacts to additional workplace and other experience.

(4) The failure to specify paths makes it harder not easier for those from 'non-traditional' backgrounds to qualify. It creates uncertainty as how to go about qualification and difficulties re funding and access to experience.

On the positive side;

(5) The proposal could lead to innovative and new services being developed by those unable to secure sponsorship or jobs through the traditional means.

## **Question18**

Do you have any comments on these transitional arrangements?

It is difficult to comment until much more detail is know about the assessments and the period of workplace experience.

## **Question 19**

What challenges do you foresee in having a cut-off date of 2025/26?

Not possible to comment.

## **Question 20**

Do you consider that this development timetable is feasible?

It seems on first impression to be tight but, again, it is difficult to comment without more detail.



**Thank you for completing the** Consultation questionnaire form.

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Please return it, along with your completed **About you form**, as an email attachment to [consultation@sra.org.uk](mailto:consultation@sra.org.uk), by **4 March 2016**.

Alternatively, print the completed form and submit it by post, along with a printed copy of your **About you form**, to

SQA consultation  
Solicitors Regulation Authority  
Regulation and Education  
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Richard Hyde

## **T4T - Assessing competence**

### Consultation questionnaire form

This form is designed to be completed electronically—in MS Word. Please save it locally before and after completing it.

## 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?

No.

Objective one talks about ensuring "high quality standards" at the point of admission. The SQE, and particularly SQE part 1 is not likely to ensure "high quality standards." The SQE does not address higher level learning outcomes, and therefore is unlikely to lead to "high quality" outcomes in the eyes of the profession. In such cases, it is likely that the majority of recruiters are likely to require further proof, beyond the SQE, that students are of "high quality," which may have a damaging effect on the diversity objectives of the SRA, with students from widening participation backgrounds disproportionately taking the perceived quicker route of the SQE, but, because of their lack of further markers of "high quality" such as degrees or courses which mirror the function of the LPC.

Objective two talks about the development of new and diverse pathways. The adoption of the SQE is likely to de facto lead to a linier pathway involving preparatory courses for the SQE. The mandatory nature of the SQE means that the development of pathways offering methods of assessing competence at a level equivalent to the SQE, but through other methods, are likely to be stunted. the development of diverse pathways has happened in other professional sectors, including the development of partnerships between professional bodies, professional firms and academia, without the necessity for the imposition of a single test of competence. The likelihood of the development of experiential methods of learning, and the accompanying assessment of competence, is inhibited, with all pathways leading to a single point. The SQE could exist as one pathway, along with more traditional and more innovative pathways.

Further, the focus on a single test is likely to give rise to an industry focusing on preparation for the SQE. Such courses are likely to be disproportionately available to better off students, meaning that talented students from widening participation backgrounds will be disadvantaged.

## 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?

No.

The SQE may be one method of testing the prescribed competencies, but it has weaknesses

First, it is not clear that competence must be assessed through the SQE. If competence could be demonstrated by previous academic study or professional experience it is not clear why it should not be. The SRA clearly considers that competence could be demonstrated by academic study or previous experience, as it provides for exemptions in the transitional period. Of course, the content of courses that grant exemption may have to be prescribed, but this does not present insurmountable difficulties for professional bodies in other areas, who are able to accredit exemptioning modules and degrees as part of a pathway to competence. Further, the burden of demonstrating competence could be placed on students and/or providers, with a limited oversight function of the SRA. There would not be a need for the SRA to interfere with the contents of a degree.

Second, the SQE will not address all the competencies set out in the competence statement. Therefore it cannot provide an effective test of all the competencies necessary to be a solicitor. Something further is required. This is likely to be a period of structured work experience.

Third, there is no assessment which requires aspiring solicitors to put together all their Part 1 knowledge. This must be the goal, linking to the need for solicitors to identify issues (Competence Statement A4(c)), rather than simply to retain knowledge. Whilst this ability may be tested in SQE part 2, the need for a overarching assessment of competence which includes achievement of higher learning outcomes, along the lines of the case study examination that forms part of the ACA. It is this competence, rather than simply testing knowledge, that should be part of the SQE, with exemptions granted for knowledge gained through other means, such as an undergraduate degree.

### **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?

No. the SQE should be one route to demonstrating competence. Other methods should be available including demonstrating competence based on academic study, previous practice in another jurisdiction or work experience. Multiple pathways to competence should be encouraged, allowing the widest possible means of access for competent aspiring solicitors.

At the very least, aspiring solicitors should be able to exempt themselves from SQE elements based on academic achievement (particularly important for part 1). Work experience (including work experience within another jurisdiction) should be sufficient to give exemption to parts of SQE part 2.

## Question 4

With which of the stated options do you agree and why:

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

(b). 'Solicitor' is a brand, and its holders can do much more than the reserved activities. The holders of the solicitor title do not just act in the reserved areas, so their competence should be assessed more widely.

## 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?

Yes. Solicitors should remain a graduate level profession. This does not mean all solicitors must be graduates, but that they should have the competencies and abilities that a graduate level education would afford them. Benchmark statements, such as those produced by the QAA, show what a graduate looks like. A solicitor should have these attributes. However, these attributes could be evidenced from prior work experience, apprenticeship and other qualifications. However, it is anticipated that the majority of the profession would show these attributes through a degree.

## **Question 6**

Do you agree that we should continue to require some form of pre-qualification workplace experience?

Yes. This is necessary to demonstrate competence in certain areas of the competence statement (including, but not limited to, A3(c); C2(j); C3 generally; D2(a)).



## Question 7

Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?

No view

## **Question 8**

Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?

No view, but prefer a mixture - a minimum period, but no qualification without competence.

## **Question 9**

Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?

Yes - time spent on sandwich placements should count towards the period of structure work experience provided that the aspiring solicitor can use it to demonstrate competence. This would mirror the situation of accountancy profession bodies.

## 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?

Yes

## 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 1 and Part 2, to a specified performance standard?

N/A

## 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?

No view

## 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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

Yes. Prescription of pathways provides advice to students on the ways that they can qualify. If there is no prescription it may be that students will take pathways that are unattractive to firms, and this has the potential to lead to a situation where students progress down a pathway, but find that it is not valued in the market and they are unable to obtain employment.

Specification of entry requirements (undergraduate degree; apprenticeship; period of structured work experience) is likely to ensure that consumer perception is that the solicitors profession remains a graduate-level one, populated by highly skilled and educated professionals. A perception that "anyone can become a solicitor" has the potential to damage the standing of the profession, both nationally and internationally. Specification of entry requirements will combat any potential for damage.

## **Question 14**

Do you agree that not all solicitors should be required to hold a degree?

The current status quo, that solicitors have ways of qualifying without a degree should be maintained. However, one of the best ways to demonstrate competencies (particularly those assessed in SQE Part I) is to be a graduate of a law degree, and this should be recognised. Further, graduateness is an important quality hallmark, and should remain as an important part of the profession, which would suggest that a degree is an important pathway into the profession, and should be one of the specified entry requirements for taking the SQE.



## **Question 15**

Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?

If the goal is to assess competency the results of the SQE should be delivered on a competent/not competent basis. Anything different has the potential to lead to an arms race, where candidate retake the test multiple times to achieve a high score in the hopes of securing a job. This will favour wealthier candidates, who will be able to expend the time and money need to retake the test to improve their score.

## Question 16

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

No view

## Question 17

Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?

If the SQE leads to the development of expensive cramming courses it is likely that the introduction of the SQE will have a negative impact on students from less financially advantaged backgrounds. This will be particularly acute if the SQE is graded beyond competent/non-competent and recruiters require both excellent SQE Part I scores and undergraduate/post-graduate education. Students who are less able to afford these will be at a disadvantage.

## **Question18**

Do you have any comments on these transitional arrangements?

## **Question 19**

What challenges do you foresee in having a cut-off date of 2025/26?

Students undertaking part-time degree, or who have severe extenuating circumstances may be disadvantaged by the cut off date. The SRA should make provision for students with extenuating circumstances beyond 2025/26

## **Question 20**

Do you consider that this development timetable is feasible?

The development timetable seems very tight given the need to comprehensively redesign legal education, particularly when the SQE is not likely to be in a live pilot phase until a date after much of this redesign has taken place, meaning that educational institutions may be shooting at a moving target.

**Thank you for completing the** Consultation questionnaire form.

Please save a copy of the completed form.

Please return it, along with your completed **About you form**, as an email attachment to [consultation@sra.org.uk](mailto:consultation@sra.org.uk), by **4 March 2016**.

Alternatively, print the completed form and submit it by post, along with a printed copy of your **About you form**, to

SQA consultation  
Solicitors Regulation Authority  
Regulation and Education  
The Cube  
199 Wharfside Street  
Birmingham  
B1 1RN

Richard M Kirkham

## **T4T - Assessing competence**

### Consultation questionnaire form

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## 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?

No.

My answer to this question and the next will be much longer than for the others.

There may be merit in centralising some aspects of the legal qualification process, but these aspects should be chosen wisely and for clearly understood and thought-through reasons.

a) The attempt to secure, through centralisation, 'high quality standards' of the sophisticated nuances of the art of lawyering is a highly risky one. There must be a very real danger that it will lead to a dumbing down of the resultant assessment (as evidenced by the emphasis on electronic tests), favouritism towards assessing knowledge that can easily be described (and hence an encouragement towards rote-learning), and a tendency towards focussing assessment on discrete areas of knowledge for testing which under-represent the sheer diversity (and constant updating) of law in operation today. All of these inherent features of centralisation go totally against the aspiration for high quality standards.

By contrast, for all the criticisms that can be legitimately made of the current structure of undergraduate law degrees, they do, in the main, succeed in fostering a broader appreciation and depth of the rule of law which tests quality to a high standard.

b) At one stage the focus of the SRA was on day one competence to practise. And yet, stage 1 of the SQE is now to be assessable at points much earlier in the process. It is widely accepted that by the time a student practises the law most of what they have learnt, in terms of detailed knowledge of the law, will have been forgotten. So this goal will not be furthered either by the SQE.

c) As for the belief that this regulatory approach will widen participation, the focus of the problem is unfortunately misplaced. Access for all, to professional careers, is a challenge in all professions, and most sectors of our society. Plausibly, the costs involved in legal training currently is a key barrier, but the new proposals provide an unconvincing argument for a better solution. Entry into the legal profession may become easier for non-degree applicants. But it can be anticipated that many legal firms will be looking for a wider evidence base for recruitment than passing the SRA's SQE. Amongst this evidence base, it can be anticipated that they will be looking for evidence of the attainment of skills sets and quality of intellectual reasoning that university degrees provide. This likelihood is in part because leading law firms are made up of staff with degrees themselves, but also because many universities are currently midway through a process of upgrading their offering to

make them more relevant for the professional world.

The result, therefore, will be that for most branches of the legal profession, students of the future will have to pass (a) SQEs and (b) obtain a degree, plus pursue various additional extra-curricula activity that allow them to showcase their talents and character to future employers. To pass the SQEs, students would be unwise not to prepare through various training courses. Some degree programmes may within them offer bespoke training programmes for the SQEs, thereby giving the impression of 'killing two birds with one stone'. But given the degree of prescription involved in the SQEs it will be difficult to design a degree programme that both delivered robust SQE training and offered the 'critical thought' outcomes that a quality degree programme could provide. The suspicion must be that the market place will split into SQE focussed degree programmes and more traditional liberal degree programmes. This diversity in provision is a good thing, but it already exists and already embeds a split in opportunity for students from poorer backgrounds. It is difficult, therefore, to see how, the current proposals will do anything to change the current situation regarding diversity of entry into the profession

d) The only aspect of the goals that we can confidently predict will be achieved is comparability. But if this comes at the cost of a worthwhile test, then it is an over-rated goal if it otherwise destroys the fabric of a successful model of legal education. As suggested above, however well designed, it is unlikely that the SQE will be seen as much more than an entry requirement – a tick in the box – because its centralisation, limited ambition, main mode of test and separation from the training programme, will all make it very difficult to challenge students to high standards.

It is hard to be polite about the SQE proposals as currently presented. In the face of almost universally negative reaction from the academic community, it will be tempting for the SRA to write off my voice as further evidence of protectionism. But such an approach would reveal a worrying dogmatism. The current state of the legal profession may not be perfect, but nor is it fundamentally flawed. The legal sector remains one of the country's greatest success stories - and the part of legal education and providers of legal education in that success, should not be underestimated. Nor are legal education providers necessarily resistant to change and innovation. A number of universities have invested considerable energy in upgrading their products in recent years, in part because they have been pressurised to do so by the pressures of the market. This is a process which has included some bold initiatives.

If anything, this process of change in the university sector has occurred despite the restrictions of the regulatory structure imposed by the legal profession. Yet now, whilst proclaiming a desire to de-regulate, the SRA is constructing an even more onerous set of regulatory requirements for under-analysed reasons and without due care for the consequences for legal education. This is dangerous short-term thinking – as a healthy and vibrant legal education sector is a valuable resource for the legal sector as a whole. The SRA (and the legal profession as a whole) should have an interest in making the best use of this sector, at the same time as delivering its core goals.

This positive partnership between the SRA and legal education providers can be continued for mutual best interest. By contrast, the centralism involved in the current SRA plan is a dangerous plan for the legal sector for a number of reasons. One of which is the limited and confined knowledge that that organisation will develop.

As AlphaPlus have written in their report for the SRA (December 2015):

'If a single assessment organisation is selected ... there is no obvious advantage in the assessment organisation updating item banks and skills assessments. Indeed there is every incentive in not making changes to ensure validity and accuracy of the existing system, thus processes for updating and change needs to be built into the contractual model. An assessment organisation may have little expertise in looking at future trends in the legal service market. Unless carefully managed the assessment model could drive or lag the market resulting in dissatisfaction from stakeholders.'  
(p.80)

What this implies is that the SRA need to be much more sophisticated in their approach and recognise the weak points in the centralisation plan before it is too late. I can't put it better than your own consultancy advice provided by AlphaPlus - recommendation 19:

'Although there is an argument to be made that developing 'the right assessment' would mean that there is no longer a need for setting entry requirements (because only competent candidates could pass the assessment and candidates who are not competent would not be able to pass), we believe this is a risky approach which places a huge burden on the assessments. Our recommendation is that an entry requirement should be set in terms of a relevant degree or equivalent, or relevant work experience. This may only be required in the early stages of the new assessment, as it becomes established.'



## 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?

No

The paper produce by Alpha Plus is an excellent piece of work, and I would intrepret it as subtly explaining why the SQE won't work well if applied across the entire domain of the competences that are valued (eg pp.32-34) and if the overall goal is to promote quality. As Alpha Plus points out:

'The attraction of the proposed centralised assessment system is that it is open to candidates who have prepared via numerous different routes. This very feature seems likely to us to risk an increase in the number of attempts to pass without gaining the true competence compared to the current system, i.e. the flexibility could lead to providers or candidates who attempt to find the easiest routes to qualification' (p. 52-3).

In particular, for the model to work the detail will have to be tightly confined and structured to a much greater degree than is provided for in the current competence statement. But here is the fundamental flaw - the detail of the legal system and its processes cannot be so easily structured without simultaneously destroying a proper conception of how law operates. Such an approach may be appropriate with other professions which epistimologically are based on agreeable foundations of knowledge and widely agreed and stable understandings of what knowledge is important, eg medicine and dentistry. But law is ever changing, is incredibly diverse and subject to profound differences of opinion on meaning on even the basic fundamentals. The foundations of knowledge in the current 'Joint Statement' represent an incredibly loose and fairly meaningless compromise, and have probably only survived so long as they have because of the inherent discretion as to content within it.

This misconception of comparing the nature of the foundations of legal knowledge with that in medicine, or even accountancy, is why the SRA should be wary of accepting the claims that 'higher-order' skills can be suitably assessed in the legal arena through multiple-choice assessments. To establish depth and higher order skills through this approach would require considerable selectivity of subject-matter. But to reduce legal complexity to a highly structured narrow vision of law will in turn promote narrow-minded lawyers, for no clear purpose. It will also create the very real danger of a narrow selection of people (whoever is chosen to create the tests) dictating a particular narrow vision of law, one which will be much more difficult to update as the law ever constantly evolves. As Richard Moorhead has recently put it:

'It also seems likely, on our current state of knowledge about the assessment mechanisms and the approach, that the SQE will drive a prioritisation of a limited kind of knowledge (and a particularly legal kind of knowledge) over the crucial elements that a high quality legal education could provide: understanding law in context; critical thinking; and innovation in thought about law. In particular, the more the SRA defines, the less space for innovation there is. This is a plea, and to be

honest I am sufficiently worried about the SRA's proposals to be genuinely pleading, for a dramatically more proportionate approach.'  
(<https://lawyerwatch.wordpress.com>)

But additionally, at the same time, the current Foundations of Knowledge in the SRA plan cover a wide range of areas. This broad remit will by itself place very real limits on the quality of insight that can be secured through SQE tests and the accompanying study.

There is another knowledge-based problem with the SQE. These tests will have to be studied for by the students. This will require training. In turn the trainers will need to be notified by the SQE controllers of the topics being covered etc. All of which builds in delay in the system in terms of keeping the content up to date and relevant. Flexibility will be lost in the process, with a very real risk that students will be being assessed on material upwards of 1 year old. Is that good value? Again, the AlphaPlus makes the point well:

'If a single assessment organisation is selected (see Section 9.2) there is no obvious advantage in the assessment organisation updating item banks and skills assessments. Indeed there is every incentive in not making changes to ensure validity and accuracy of the existing system, thus processes for updating and change needs to be built into the contractual model. An assessment organisation may have little expertise in looking at future trends in the legal service market. Unless carefully managed the assessment model could drive or lag the market resulting in dissatisfaction from stakeholders.' (p.78)

I will not comment so much on stage 2, except to say that once the assessment process is mapped out like this it becomes increasingly difficult to understand why it is that the SRA want to break the existing model as opposed to refining it. This observation though does though indicate a best way forward.

Some of the best elements of the AlphaPlus paper (and the ideas contained within it) could surely be integrated into a refined LPC model. Given that the legal skills being tested at Stage 2 are relatively timeless (as updated by changes in technology etc), the standard objections to the centralisation of knowledge do not apply here. Further, it will be much easier to provide legal education providers with consistent (and relevant) guidance on what is being expected. A dialogue between providers and assessors would be much more likely to develop at Stage 2 – than at the new Stage 1, where providers will probably develop a healthy degree of cynicism about the 'knowledge' choices being made by the assessors.

I fear though that the SRA have boxed themselves into a dangerous corner, which may prevent some of the good ideas within it from being realised and/or cause considerable stress and hardship amongst those people that this scheme is apparently supposed to benefit.

Again, the SRA's own consultants, Alpha Plus, have hit the nail on the head. They have described the SRA's approach as follows:

'Although there is an argument to be made that developing 'the right assessment' would mean that there is no longer a need for setting entry requirements (because only competent candidates could pass the assessment and candidates who are not competent would not be able to pass), we believe this is a risky approach which places a huge burden on the assessments. Our recommendation is that an entry

requirement should be set in terms of a relevant degree or equivalent, or relevant work experience. This may only be required in the early stages of the new assessment, as it becomes established.' (p.54)

### **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?

No comment



## Question 4

With which of the stated options do you agree and why:

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

No comment

## **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?

Yes

## Question 6

Do you agree that we should continue to require some form of pre-qualification workplace experience?

Yes

## Question 7

Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?

Yes

## **Question 8**

Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?

No comment

## **Question 9**

Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?

No comment

## **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?

No comment

## 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 1 and Part 2, to a specified performance standard?

N/A



## 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?

No comment

## 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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

a. Yes

b. Yes

## Question 14

Do you agree that not all solicitors should be required to hold a degree?

Yes

## **Question 15**

Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?

No comment

## Question 16

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

No comment

## **Question 17**

Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?

No comment

## Question18

Do you have any comments on these transitional arrangements?

I am not really sure what the primary consideration of the SRA is - but if it includes care for the student then this timetable seems much too ambitious and intimidating. How can students currently midway through the system adjust their plans for this new form of regulating their access? Ideally, a point in time should be chosen which minimises the surprise for new entrants. One way to do this would be to consider the process as a 2 step enterprise to give students more time to adjust their plans. Current students (or even current 17/18 year olds) can't adjust their plans because they probably know very little about these proposals. At the first stage, (possibly 2018 or 2019), the current LPC would be replaced by the new order, whilst a clear flag would be left that a new SQE Legal Knowledge exam was to be introduced. At the second stage the new SQE Legal Knowledge exam would be introduced (possibly 2020/21). This would also give legal education providers an opportunity to plan for the adjustments, something I think it would be reckless for the SRA to ignore.

## Question 19

What challenges do you foresee in having a cut-off date of 2025/26?

No comment



## **Question 20**

Do you consider that this development timetable is feasible?

Not as it is presently constructed

**Thank you for completing the** Consultation questionnaire form.

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Alternatively, print the completed form and submit it by post, along with a printed copy of your **About you form**, to

SQA consultation  
Solicitors Regulation Authority  
Regulation and Education  
The Cube  
199 Wharfside Street  
Birmingham  
B1 1RN

Richard Nelson LLP

## **T4T - Assessing competence**

### Consultation questionnaire form

This form is designed to be completed electronically—in MS Word. Please save it locally before and after completing it.

## 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?

RNLLP agrees that the objectives for the new mechanism for assessing competence prior to qualification should be to focus 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; and to ensure that the most talented candidates can qualify as a solicitor, by encouraging the development of new and diverse pathways to qualification which are responsive to the changing legal services market and which remove artificial and unjustifiable barriers.

RNLLP can also see that opening up new ways to enter into the profession for those who are able to demonstrate sufficient knowledge, experience and skill in alignment to the Statement of Solicitor Competence, Statement of Legal Knowledge and Threshold Standard will also increase social mobility, equality and diversity in the profession.

Any new system which objectively maintains continuity in high standards and quality of training for entry into the profession will not only protect but increase consumer confidence and (international) reputation of the profession.

However, RNLLP is not in agreement that the SQE should completely replace the current pathways to qualification. Change may be needed to achieve the SRA's objective but we do not agree that this can only be achieved by a complete overhaul of the current training regime.

At the time of writing the consultation, 104 institutions were offering Qualifying Law Degrees; 33 were offering the GDL; and 26 were offering the LPC, with over 2,000 firms offering traineeships. The consultation paper refers to the lack of a common basis for assessing the quality of output from these bodies, or at the end of the training, as a reason for the need to introduce a new uniform assessment. However, by seeking a complete replacement to the current structure, the SRA has ignored the primary finding of the Legal Education Training Review (LETR) that the current system is broadly fine and fit for purpose and its recommendation that small scale changes could bring the required improvements.

The RNLLP therefore acknowledges that a centralised assessment may be appropriate but only in conjunction with existing and established pathways to qualification but strongly oppose any system which could end up with people becoming solicitors with little or no mandatory education requirements at all and with little or no work experience in a legal environment. RNLLP believes that this would be extremely damaging to both the profession and the public.

RNLLP provides comment to this consultation paper in so far as it agrees with the general principle that a centralised assessment would be beneficial but is unable to go much further and provide full and final comment in light of the fact that this consultation paper lacks the necessary details of the system being proposed with many of the major factors still to be decided and to become the the subject of further and separate consultation papers in 2016. To this extent, it is considered that this

consultation is premature.

## **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?

RNLLP is unable to make a final and full comment on the proposed model assessment of the proposed SQE. There are certain significant factors which have not yet been considered, such as eligibility requirements and no guidance has been provided as to the level of difficulty of the assessment.

There is a real concern that the structure of the assessments, and in particular part 1 of the proposed assessment would encourage educational training to move towards courses specifically designed to obtain a pass for the students and thus lose the overall aim and objective of developing the skills required which are required to maintain the high standards and reputation of the profession. In other words, 'crammer' courses designed solely to enable the candidate to pass the exam rather than preparing them to be solicitors.

### **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?

Yes.

## Question 4

With which of the stated options do you agree and why:

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

None of the above options offer the best solution. RNLLP is of the view that the range of options should not be too restrictive and should certainly not be restricted to reserved activities.



## **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?

The standard for qualification to be assessed through SQE must be set to at least graduate level to protect the reputation and brand of solicitor

## Question 6

Do you agree that we should continue to require some form of pre-qualification workplace experience?

This is essential. Work- place experience pre-qualification introduces the skills, know how and general conduct which is required to assess whether a person is suitably equipped and able to enter the profession as a solicitor. If this is removed as a requirement, there is a real risk that the proposals will damage the profession by lowering standards.

## **Question 7**

Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?

There should be a minimum period of pre-qualification workplace experience at least equivalent to the current training contract length (2 years).

## **Question 8**

Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?

It needs to be both.

## Question 9

Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?

If alternative work experience is to count towards training, it must be suitable, properly supervised, documented and assessed.

If the scope of the authorised training is to allow for experience within a non-legal environment, it must only be taken into consideration if it can be illustrated as being relevant to the legal field and there must be strict criteria and stringent objective assessment to ensure that the experience can be accepted in the process. This may carry with it extra burden and cost to the assessment procedure.

However, all candidates must undertake a considerable period of work experience within the legal field.

## **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?

Yes - see 6 - 9 above.

## **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 1 and Part 2, to a specified performance standard?

## 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?

This will be useful. However, in light of the fact that further proposals on pre-qualification work experience will be the subject of a further consultation paper in 2016, and in absence of what such a toolkit will contain (i.e. the required standard has not yet been identified), then it is impossible at this stage to ascertain whether this will be sufficient.

A balance also needs to be struck between providing the correct level of guidance/requirements on the employer without deterring them from engaging with this process.



## 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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

There needs to be clear pathways and these will need to be properly regulated. Otherwise, standards could easily drop instead of improve. Ultimately, this would also be beneficial to the employer who will be able to assess suitability of future employees when considering their past experience/ education within a clear and defined system.

It is noted that there is to be a further consultation on the issue of pre-entry requirements therefore a more informed and balanced view can be given once further information is known.

## **Question 14**

Do you agree that not all solicitors should be required to hold a degree?

As with the current system, not all solicitors should be required to hold a degree. However, as stated above in this consultation, to ensure that high standards are achieved and maintained, and to avoid a two-tier system evolving, then any alternative route must be shown to be of a comparative standard.

## **Question 15**

Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?

As the level of difficulty of the assessment has not been set, it is difficult to offer opinion as to whether candidates should be provided with information about their individual and comparative performance on the SQE. There is however a concern that if the candidates were to be marked and provided with a range of marks, then these will be used as a main tool by future employers in the recruitment exercise (i.e. not only a pass but a pass with a certain mark). This may become particularly relevant if there are no clear and structured pathways or a wide range of pathways taken by potential employees.

## Question 16

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

As above, as the level of difficulty of the assessment has not been set, it is difficult to offer opinion as to whether it would be helpful to publish overall candidate performance save for the concerns set out above equally apply.

If the SRA proposes not to regulate or authorise legal and education training providers (which RNLLP is strongly against), then how can it propose to ascertain training provider performance?

## Question 17

Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?

RNLLP is of the view that the proposals will add cost to the system which may deter some; this cost will mainly fall upon the candidate but there will also be a cost to the employers (eg. workplace assessment/ supervision/training).

Although the proposals are aimed at opening up the profession and at the same time raising or at least maintaining the standard and reputation of the profession, it may actually ultimately act as a deterrent for some wishing to enter the profession and replace known and established training pathways with a range of (unregulated) educational pathways which will damage the reputation, lower standards and increase numbers in an already flooded educational market.

## **Question18**

Do you have any comments on these transitional arrangements?

We note that 'full transitional arrangements' are to be published later this year. In view of this and in view of the information as yet unknown it is premature to comment at this stage,

## **Question 19**

What challenges do you foresee in having a cut-off date of 2025/26?

At present, there is too much information yet to be clarified and set out for discussion in separate consultation papers in 2016 to properly comment on this question at this stage.

## **Question 20**

Do you consider that this development timetable is feasible?

RNLLP is unable to comment at this stage as it has not been placed in an informed position. Once all consultations relating to the SQE have been published so that all the criteria to consider can be ascertained, this question can be revisited.



**Thank you for completing the** Consultation questionnaire form.

Please save a copy of the completed form.

Please return it, along with your completed **About you form**, as an email attachment to [consultation@sra.org.uk](mailto:consultation@sra.org.uk), by **4 March 2016**.

Alternatively, print the completed form and submit it by post, along with a printed copy of your **About you form**, to

SQA consultation  
Solicitors Regulation Authority  
Regulation and Education  
The Cube  
199 Wharfside Street  
Birmingham  
B1 1RN

Richard Taylor - Society of Legal Scholars

## **T4T - Assessing competence**

### Consultation questionnaire form

This form is designed to be completed electronically—in MS Word. Please save it locally before and after completing it.

## 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?

No. It will not be possible to assess this matter until detailed decisions are reached on the nature of the assessment of knowledge, in particular of those aspects of the knowledge requirements currently covered in the Foundation Subjects, the vast majority of which are carried forward into the SQE (these are referred to hereafter as the “Foundation Subjects Knowledge”). If this turns out to be as demanding for students as the assessment of those subjects is at present as part of a Qualifying Law Degree or GDL, then the additional burden on students in terms of additional time and cost is likely to be significant. This will make the process of qualifying more difficult for students from poorer backgrounds and thus defeat one of the regulatory objectives. The SRA statement that the whole of the assessment for the SQE should be at least graduate level implies that it will indeed be demanding, a matter discussed further in the answer to Question 2.

A possible response is that Law Schools may choose to provide complete coverage of the SQE Part 1 knowledge in a Law degree, with the SQE assessments running in parallel. The only additional expense would be the fees paid to the SRA for the assessments. It seems that the SRA would welcome that position. If so it would be hoping that the market will deliver, in response to student demand, Law degrees whose entire curriculum would be driven by the requirements of legal knowledge as prescribed by the SRA. There are so many SQE Part 1 subjects that if all were to be delivered properly in a three year Law degree programme, it is difficult to see there would be any room for any other options. So students studying such a programme would have no time for such subjects as Employment Law, Family Law, Public International Law, Private International Law, Social Welfare Law and Legal Theory to name but a few. It is impossible to predict how many Law Schools would follow that route. Some may well take the view that they are not prepared to see their curriculum dictated (de facto) by the SRA. This would be in the knowledge that their students would need to study some SQE Part 1 subjects outside the Law degree and on the assumption that they would still be able to recruit excellent students on that basis. The more that is the case, the greater are the additional burdens that will be imposed on students by the proposed SRA arrangements.

## 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?

No. The proposed model assessment for the SQE on its own cannot demonstrate achievement of the required competences at at least graduate level.

There is a fundamental flaw at the heart of the current proposals. The document rightly says that entrants to the profession (after completing SQE Part 2) should be of postgraduate standard but refuses to accept the possession of a postgraduate or undergraduate degree as any evidence that that standard has to any extent been achieved. The result is that the only assessment relied upon to guarantee a postgraduate standard is the SQE itself. There is no evidence that the assessment of the knowledge requirements for a lawyer by multiple choice or true/false questions can in itself demonstrate that a person who passes that assessment possesses the skills and abilities of a graduate or postgraduate. We refer here in particular to the higher level learning outcomes identified in Bloom's taxonomy – Analysis, Evaluation and Synthesis (see 2.4(ix) of the Law Subject Benchmark and point 4 of the QAA generic bachelors' degree descriptor "a bachelors' degree is awarded to students who have demonstrated... an appreciation of uncertainty, ambiguity and limits of knowledge") The MCQs used to test transferring lawyers test basic knowledge but they manifestly do not test the skills and understanding of a graduate. Indeed they do not need to as the vast majority of qualified lawyers around the world are required by their professional bodies to be graduates. The current MCQs on, say Tort, could not properly be used as the only method to assess the knowledge and understanding of a first year undergraduate in that subject. They do, however, demonstrate an up to date knowledge of the basics where the law is clear.

It may accordingly be that what the SRA has in mind as regards the knowledge element, given its reliance as a model on the Transfer Test MCQs, is simply ensuring up to date knowledge of the basics of the required subjects. This would be less demanding and burdensome for students but it would self-evidently not demonstrate achievement of at least a graduate standard.



### 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?

No. There should continue to be exemptions for entrants who have studied the Foundation Subjects Knowledge and indeed any other elements of the SQE Part 1 knowledge in accordance with the prescribed requirements. Exemptions are permitted on such a basis by other professions such as accountancy. It would be for consideration whether additional assurance might properly be required in respect of subjects studied at the equivalent of Level 4 that a pass mark of 50 is required for professional purposes.

Is there a case for requiring all the required knowledge, including Foundation Subjects Knowledge, to be assessed in one centrally assessed examination, with no exemptions?

The reasons given in the Consultation Document at para 45 are:

1. The SQE is aligned to our Statement of Solicitor Competence, and is assessing different competences to those examined as part of a degree;
2. This would limit our ability to ensure comparable, high standards between different pathways;
3. It would fail to recognise the concerns about the variability of academic standards expressed by HEFCE and others; and
4. It would make the SQE a less reliable assessment.

These arguments do not justify the refusal to permit exemptions in respect of Foundation Subjects Knowledge and any other SQE Part 1 subjects actually studied as part of the degree in accordance with SQE requirements:

Reason 1. The competence in question is essentially the same: knowledge and understanding of the subject in question.

Reason 2. There would be sufficient to ensure comparability through a centralised assessment of any remaining required areas of knowledge and the SQE Part 2 legal skills.

Reason 3. HEFCE has put forward proposals for strengthening arrangements for quality assessment in the light of concerns that have been raised over comparability of standards. It also said (para 25 of Future approaches to quality assessment in England, Wales and Northern Ireland: Consultation): “The proposals should not be seen to cast doubt on the ability of the current system to secure the reputation of the UK higher education system over recent years”. It accordingly did not say that “current quality assurance mechanisms do not ensure consistency of standards across universities”, the view misleadingly attributed to it at para 23 of the Consultation Document. At para 81 HEFCE also said: “It is important to note that as

funding bodies we are not advocating a shift away from the autonomy of degree awarding bodies to set and maintain standards. Nor are we proposing the development of either a national curriculum or a national student examination. Far from it. Rather, we are seeking to develop established elements of the wider quality assurance system so that clearer assurances can be provided to students, governments and other stakeholders on the issues that matter to them.”

No HE system can guarantee directly exact comparability of standards without such centralised assessments, which would be enormously damaging to UK Higher Education in stifling creativity and diversity in provision. The fact that there is a case for some strengthening in arrangements does not justify the conclusion apparently reached by the SRA that no weight at all can be attached to quality assessment processes in Universities either now, or as they might be changed as a result of HEFCE’s current exercise. Other professional bodies have not taken that view.

A further point is this. The press concerns over grade inflation (mentioned by HEFCE at para 79 of its Consultation Document) is focused on the proportion of 2/1s and 1sts. It is difficult to see how this is of regulatory interest to the SRA. There is no evidence that consumer interests have been or could be prejudiced by uncertainties on this question.

Reason 4. The question is not whether allowing exemption makes the assessment “less reliable”. It is whether arrangements that allowed for exemptions could provide sufficient assurance for regulatory purposes. It is submitted that they clearly could.

A further point made by the SRA at para 55 relates to Levels of Study within the QAA’s Framework for higher education qualifications in England, Wales and Northern Ireland (FHEQ). The point is made that some Foundation Subjects are studied at Level 4, some at Level 5 and some at Level 6, as part of an undergraduate Law degree that is finally awarded at Level 6, (or indeed at Level 7 as part of a postgraduate qualification).. This is true to the extent that an award made to a student who leaves after successful completion of the first year of a three year undergraduate degree would normally be awarded a Certificate of Higher Education, which is located at Level 4 in the Framework. However, it has never been suggested that it is wrong in principle or misleading for employers for the final assessment of a degree to take account of marks achieved in previous years (usually just the second year of a three year programme in addition to the third). And yet the student obtains a Level 6 award. There is also not the slightest evidence that the interests of consumers have been prejudiced by the fact that some subjects required for qualification as a solicitor have hitherto been studied at Levels 4, 5 and 6. If there were evidenced concerns on this point, then it would be open to the professional bodies to impose a higher pass mark, say 50 for professional subjects studied, say, at level 4.

## Question 4

With which of the stated options do you agree and why:

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

No view.



## **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?

Yes. This is only workable if possession of a law degree or a degree in another subject plus something like the present GDL is accepted as some evidence that this has been achieved.

## Question 6

Do you agree that we should continue to require some form of pre-qualification workplace experience?

Yes.

## Question 7

Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?

Yes

## Question 8

Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?

No view

## Question 9

Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?

Yes

## 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?

Yes

## **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 1 and Part 2, to a specified performance standard?

Not applicable.

## 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?

Not applicable.



## 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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

Yes, for the reasons given above. Recognition of a law degree should remain part of a recognised pathway indefinitely.

## Question 14

Do you agree that not all solicitors should be required to hold a degree?

This is a poorly worded and potentially misleading question. The present position gets this right. There should be no downplaying of the importance of a degree. All solicitors should have attained a graduate/postgraduate standard. The possession of a Law degree or non-Law degree plus GDL is by far the best way of doing this. It may be that in a small number of cases (e.g. apprenticeships or legal executives or foreign lawyers) people will be able to show they have achieved a graduate standard by other means. In the vast majority of cases, it is essential that solicitors should have a degree.

## **Question 15**

Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?

If it can be demonstrated that there is a rational basis for attaching significance to different levels of achievement on the SQE then yes. Otherwise no.

## Question 16

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

This depends on the nature of the assessments, which remains unclear. See above.

## **Question 17**

Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?

Entrants from less wealthy backgrounds will be seriously disadvantaged for the reasons given in the answer to Question 1.

## **Question18**

Do you have any comments on these transitional arrangements?

Given all the uncertainties, these must be kept under review.

## Question 19

What challenges do you foresee in having a cut-off date of 2025/26?

No view.

## **Question 20**

Do you consider that this development timetable is feasible?

No, given that at the time of writing the arrangements for assessment remain very unclear.



**Thank you for completing the** Consultation questionnaire form.

Please save a copy of the completed form.

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Alternatively, print the completed form and submit it by post, along with a printed copy of your **About you form**, to

SQA consultation  
Solicitors Regulation Authority  
Regulation and Education  
The Cube  
199 Wharfside Street  
Birmingham  
B1 1RN

# Consultation - T4T assessing competence

Response ID:70 Data

## 2. Your identity

### 1. Surname

salami

### 2. Forename(s)

saami

### 3. Name of the firm or organisation where you work

contact lawyers

**4. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Attribute my/our response and publish my/our name.

**5. Please identify the capacity in which you are submitting a response. I am submitting a response... as a student studying for a qualifying law degree or legal practice course**

## 3.

**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?**

yes

## 4.

**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?**

yes

## 5.

**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?**

yes

## 6.

**4. With which of the stated options do you agree and why:**

c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

**Why...**

More Expert

## 7.

**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?**

yes

## 8.

6. Do you agree that we should continue to require some form of pre-qualification workplace experience?

yes

9.

7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?

yes

10.

8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?

yes

11.

9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?

yes

12.

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?

yes

13.

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 1 and Part 2, to a specified performance standard?

yes

14.

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?

yes

15.

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?

yes

16. (untitled)

14. Do you agree that not all solicitors should be required to hold a degree?

yes

17.

15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?

yes

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

Yes, Positive Impacts

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

to provide high quality legal services with integrity, professionalism and respect for our clients and the community. to become one of the most sought-after providers of legal services in the region.

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

yes

## **0.0 Introduction:**

0.1: This response is a personal one, and contains examples which are from personal experience.

0.2: My background in legal education began in 2003 at the former College of Law where I was employed as Supervising Solicitor in the Legal Advice Centre in Store Street, Bloomsbury, London. I was the first solicitor employed solely to practice in an educational institution without also giving lectures. This means that I have been closely involved in clinical legal education for the last 13 years.

0.3: I was Director of Pro Bono for the whole of the College of Law between 2005 and 2008, and in 2012 I joined London South Bank University where I currently practice in the Legal Advice Clinic.<sup>1</sup>

0.4: Whilst at the College of Law I participated in summer schools run with the Sutton Trust Pathways to Law programme. I am a trustee of the Law Society Charity and supporter of the Law Society's Diversity Access Scheme.

0.5: Clinical legal education enables students to experience legal practice and to develop their legal skills in a safe environment where they are fully supervised and encouraged to develop reflective practice in order to acquire the habit which enable them to continue to develop as legal practitioners throughout their careers.

0.6: I have participated in discussions, focus groups, conferences and seminars over the 13 years in which I have come to recognise a community of dedicated educationalists and legal trainers who are committed to training and educating future lawyers to the highest possible standards.

0.7: I regard the SRA training and education section as being part of that community, but I disagree with many of the proposals for change, whilst I accept that the SRA's intention is to set the standard for assessment at a level which assures the high quality required for practice as a solicitor.

0.8: In my role of Vice President of the Federation of European Bar Associations (FBE) I am able to participate in many discussions and debates across Europe and I am able to comment on the adverse perception of the international legal community on the impact the proposals may have on the reputation of the legal profession of England & Wales.

## **Consultation questions**

### **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?*

1.1: I do not doubt that the objectives of assuring consistent and comparable high quality standards for qualification need rigorous focus in order to ensure that barriers are removed and new and diverse routes to qualification are responsive to the changing legal services market. However, I do not agree that the introduction of the SQE will achieve this

1.2: Introducing greater flexibility so that the common routes of the Qualifying Law Degree or the Graduate Diploma in Law are no longer the generally accepted route and creating the SQE to be

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<sup>1</sup> Please see the Appendix for information about the student population of London South Bank University.

taken at the end of any route, including without degree level study in law, will diminish the academic education of future solicitors.

1.3: I believe that the SQE could work against diversity, as they will be employers who will only recruit from the academically qualified students because they value the QLD, the PGDL and the LPC. Those students who do not wish to incur the fees for the QLD, PGDL or LPC and decide to sit the SQE hoping that their experience in prior work will enable them to pass the SQE, may find a layer of discrimination because they have not attained the academic stage.

1.4: Employers may fall back on recruitment practices such as recruiting from Russell Group and the older traditional universities, overlooking the newer universities where the student population is more diverse.

1.5: Candidates who focus on the SQE may decide that they will enrol in a “crammer” course which will train them for passing the exam. I believe that this method of qualification will not allow candidates the time to develop the rigorous problem solving skills, together with the knowledge and understanding of the law that the QLD, PGDL and LPC offer.

1.6: Candidates who have already sat and passed the QLD, or the PGDL and the LPC will then be examined again and have to pay again to do so.

1.7: When the LPC was introduced it was a new way of teaching and learning, very different from the Law Society Finals, which consisted of 9 exams. The introduction of greater practical exercises and the opportunity in many Universities and other LPC providers for students to undertake Clinical Legal Education was a huge improvement.

1.8: The practical approach to problem solving with real clients not only helps students to develop their legal skills but also enables their knowledge and understanding of the law to develop in context. The added bonus is that clinical legal education provides free legal services to members of the public who cannot afford to pay.

1.9: Those Universities and LPC providers who have established and maintained legal clinics such as University of Northumbria, University of Kent, BPP, University of Law, and London South Bank University among many others have changed the teaching and learning of the legal profession. There is a risk that the introduction of the SQE may undermine the provision of the QLD and the clinical route, one which combines academic study with practical experience at the earliest possible stage. The aim of reducing the cost of qualifying by allowing candidates to sit the SQE without a period of academic study may jeopardise the high quality combined routes.

## **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?*

2.1: You say that the assessment model for the SQE can provide a rigorous and fair mechanism to test intending solicitors and that feedback from stakeholders and recommendations from independent experts have enabled us to develop and refine the proposals. I participated in one of the stakeholder sessions, and on that day there was considerable concern expressed and opposition to the SQE was clear among the participants. I believed that on the strength of the session you would have dropped the proposal for the SQE.

2.2: You say that the assessment methods are already widely used and tested in the context of other high stakes professional assessments and that it will enable you to use best examination practice to

identify and select those candidates who can demonstrate the high standards required to qualify as a solicitor. These methods are already used in existing examinations and tests, for example during the LPC, standard clients for filmed interviews. I firmly believe that a well supervised training contract will provide a better method of assessment.

2.3: It is the training contract where each candidate is assessed by their supervisor that needs some development and refining, rather than the creation of another layer post training contract. I believe that it is valuable for each candidate to be assessed by the supervisor who has seen the development of the candidate and is able to assess their capacity and their ethos, especially in matters such as ethics, which is possible during a prolonged period working with the candidate during the training contract. What is needed in order to enhance fairness is training for supervisors, certification and monitoring of training contracts and to provide the guidelines proposed.

2.4: The use of computer-based objective testing, in secure conditions, to assess the application of legal knowledge may lose the advantages of assessments as used at present. It is proposed that multiple choice questions, true-false questions, matching questions or assertion/ reason questions could be used. This may not allow for candidates to demonstrate their use of legal language, their command of the English language and their familiarity with professional conventions in language. It also sounds expensive. Standardisation does sound as if it is rigid, and leaves little room for creative thinking, and imagination.

2.5: The modularisation of the tests, which can be taken over time is intended to enable the tests to be capable of integration with other education and training programmes. I agree with the aim of enabling candidates to combine study and work as they progress to qualification. This can be done at present by the candidates who opt for the part time LPC, and who combine work and study.

2.6: It is proposed to allow candidates to sit the Part 1 tests as many times as they wish until they pass. This could mean a considerable time lapse between the time the knowledge was acquired and when the SQE is finally passed, and the candidate may have out of date knowledge, meaning failure or the need to study updates, either through a "crammer" and incurring expense, or on a "do-it-yourself" basis, with the risk of further failure.

2.7: There has been a trend away from general practice towards specialisation in recent years. On qualification the candidate may be starting work in their chosen area of law. The SQE does not test their knowledge or competence for a specific area of law which they will practice. At present when a candidate completes their two years of the training contract, they will apply for posts within the firm, and firms who retain their trainees will be able to assess the candidates knowledge for the area of law in which they will practice as a newly qualified solicitor. This is preferable to a general test proposed in the SQE.

### **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?*

3.1: I do not agree that requiring all candidates to pass the SQE without any exemptions will achieve fairness. The QLTS enables lawyers qualified in other jurisdictions to demonstrate competence in English law, in addition to their existing qualifications and experience. I do not agree that the SQE is necessary for this sector.

3.2: The apprentice route is still new, and sounds similar to the old 5 year articles route, and the Part 1 and Part 2 exams of the past. If the apprentice route is similar to the CILex route then the candidates should be able to qualify through CILex Fellowship and the LPC. This would ensure that candidates sit the knowledge exams while working and achieve competences through their supervised work.

3.3: I believe that the QLD should be retained and the SQE is not an effective way to improve assessment.

3.4: I believe that all intending solicitors should have a fairer system of assessment within the current structure of QLD, vocational training and two-year period of workplace learning. This entails the SRA providing a greater degree of regulation of providers in order to ensure a more uniform standard of assessment.

3.5: I believe there should be exemptions if the SQE goes ahead. So for example, the QLD should provide sufficient education for exemption from Part 1 (legal knowledge) together with the LPC providing sufficient vocational training for exemption from the rest of Part 1.

#### **Question 4**

*With which of the stated options do you agree and why:*

- *offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?*
- *offering a broader number of contexts for the Part 2 assessment for candidates to choose from?*
- *focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?*

4.1: As I do not agree with the SQE, I find it difficult to answer this question.

4.2: I believe that because the SQE will change the time dimension for the candidates to demonstrate their knowledge and competences it is less likely to produce the candidates we believe to be needed for the profession. The need to demonstrate their knowledge in the SQE rather than at different stages militates the progressive gaining of knowledge in building blocks.

4.3: The development of learning among our future solicitors through building up their knowledge, understanding and legal skills is based on building blocks which start in year one of the QLD. Assessment throughout the academic stage, the vocational stage and formative assessment by an experience supervisor during the training contract is more effective than the SQE method of assessment at the end of the whatever route the candidate chooses.

4.4: For those candidates who complete the QLD, or PGDL and LPC and have born the cost of those course, they will have to pay again for the SQE, increasing cost and making it even more expensive for those who do not come from well off backgrounds.

#### **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?*



5.1: I strongly believe that the qualification for solicitor should be assessed at postgraduate level. The solicitor's profession should be recognised for high level qualification, ensuring the reputation of solicitors.

5.2: If the Bar is perceived as the graduate profession and barristers are required to hold a degree at the highest level (a First or an Upper Second) then this will be to the detriment of solicitors. In some jurisdictions the division between legal advisors and advocates is marked. There is a risk that the international reputation of the solicitors' profession will be damaged if the standard is not set at post graduate level.

5.3: Qualification should include vocational and practical training. A period of work based learning under the supervision of an experienced solicitor is essential for the protection of the public, and in order to ensure the highest standards of the profession.

5.4: There has been publicity about the concerns of city solicitors that if the solicitors' profession is no longer regarded as a graduate profession there will damage to the international reputation of solicitors.

5.5: The HEFCE Report makes clear that preserving and strengthening the reputation of the UK higher education system must be an essential part of future arrangements.

#### **Question 6**

*Do you agree that we should continue to require some form of pre-qualification workplace experience?*

6.1: Yes, I agree very strongly. It is not only essential, but it would be unusual in the extreme to allow qualification without workplace experience.

6.2: Pre-qualification supervised workplace experience is absolutely essential for the protection of the public and the reputation of the profession.

#### **Question 7**

*Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?*

7.1: Yes, it is necessary for the SRA to specify a minimum two period of pre-qualification workplace experience under the supervision of experienced solicitors. I believe that the SRA should devise training for supervisors to enable the assessment of trainees to be more standardised.

#### **Question 8**

*Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?*

8.1: I do not believe that these should be suggested as alternatives.

8.2: The competences should be attained over a period of time which ensures that the candidates are as competent as they can be in two years. Even two years leaves newly qualified solicitors with a need to work within a team where they can consult more experienced colleagues.

8.3: There is no evidence to suggest that the competences can be obtained in a shorter period. Where a candidate has practical experience prior to the education and training period, for example in the case of a person with ten years' experience of advice, case work and representation in a Law

Centre welfare rights unit (my own case), there may be a case to be made for time to count in order to reduce the period to eighteen months. To cite my own case, I decided that I wanted the benefit of the full two years' articles as there was so much to learn.

8.4: It is sometimes the case that eager candidates do not recognise the full extent of what is needed to educate and train a newly qualified solicitor. My experience of supervising trainee solicitors has involved ensuring that while a candidate's confidence grows they are also aware of how much more there is to learn, and that seeking help is as important as achieving competences.

### **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?*

9.1: Yes, I agree that there is a wide range of pre-qualification work experience that should be considered.

9.2: However, I am firmly of the view that this should be in a legal context, supervised, assessed and should count for only a small part of the period of the two year's supervised workplace experienced.

9.3: There is a great deal of difference between students' clinical experience during the QLD, and para legal experience post degree and post vocational training. I have a great deal of experience of placing students in solicitors' firms for work experience as part of their QLD or in pro bono schemes and clinical experience during the QLD or LPC. I do not regard this experience as sufficient to count for time to be reduced from the two-year period.

9.4: Those Universities who offer clinical experience to their undergraduate students, including London South Bank University, where I work, do so in order to enhance the quality of the learning experience and to develop students' knowledge and understanding of the law, and to develop legal skills at the earliest possible stage.

### **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?*

10.1: Yes, I strongly agree that there should be workplace assessment. I understand the concerns that at present there is a great deal of variation of workplace assessment, and this is not only unfair but does not enable regulation of standards of assessment.

10.2: The additional cost in certifying supervisors who are trained to a standard level for the assessment of candidates would be justified. This would enable a greater certainty that candidates achieve the uniform standard of competences.

### **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 1 and Part 2, to a specified performance standard?*

11.1: I have supervised and assessed trainee solicitors over the years and I feel I do have the expertise to assess candidates' competences.

11.2: In order to achieve fairness and consistency I believe that there should be training and certification of supervisors of trainee solicitors.

#### **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?*

12.1: Yes, a toolkit of guidance will be essential. I also believe that training and certification of supervisors would be an important resource. Not all supervisors of trainee solicitors understand how to ensure a good and sufficient training experience and it is recognised that variations are unfair.

#### **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 re a transitional period?*

13.1: I do not agree with the SQE, however if it is introduced then prescription and regulation of training requirements and specification of entry requirements are needed to achieve both these objectives.

#### **Question 14**

*Do you agree that not all solicitors should be required to hold a degree?*

No. The only exemptions should be those who are trained through Cilex, and achieve Fellowship through their training and experience. Those who undertake qualification through an apprenticeship route should be required to have the equivalent of degree level training as block or sandwich day release.

#### **Question 15**

*Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?*

15.1: I do not agree with the SQE, however I agree that feedback is always useful. This feedback will come at a cost, which will increase the cost of the SQE, making it even less attractive and attainable for those candidates from financially poor backgrounds.

#### **Question 16**

*What information do you think it would be helpful for us to publish about:*

- *overall candidate performance on the SQE?*
- *training provider performance?*

16.1: I do not agree with the SQE.

16.2: If the SQE is introduced then I believe that information about both should be published, as the more information future candidates receive the better.

16.3: However, if this leads to league tables there is a risk that providers will teach their students purely for the SQE, losing the rigorous academic qualities which help to produce excellent solicitors.

### **Question 17**

*Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?*

17.1: The cost of legal education and training is one of the barriers that militates against opening the profession to the recruitment of candidates from a more diverse background. The initiatives such as the Law Society's Diversity Access Scheme, The Sutton Trust Pathways to Law and coaching and mentoring programmes aimed at candidates from a more diverse background have pioneered programmes that address social mobility and widening access.

17.2 It is not certain yet what the SQE will cost, or what the cost of "crammer" course will cost and so it is not possible to say whether the proposals will be able to reduce costs and make legal education and training more affordable. However, since I strongly believe that the QLD/PGDL and LPC should be retained, then paying again for the SQE will militate against widening access for those who cannot afford to pay.

17.3 Since some candidates with more money will be able to pay for numerous attempts at the SQE, it militates those who can afford to pay for and sit the SQE just once.

17.4 It is essential to have an independent assessment of the equal opportunity impact of the SQE.

### **Question 18**

*Do you have any comments on these transitional arrangements?*

No.

### **Question 19**

*What challenges do you foresee in having a cut-off date of 2025/26?*

Any period with a future cut-off date will disrupt the education and training of future candidates as providers work towards a new system.

### **Question 20**

*Do you consider that this development timetable is feasible?*

I have no comments to make on the timetable.

### **Appendix**

About London South Bank University:

- A high proportion of LSBU students are recruited from 4 neighbouring boroughs, which have high levels of social deprivation: Lambeth, Southwark, Lewisham and Wandsworth
- Historically, approx. 25% of our students have received free school meals, showing social deprivation
- We are in the top 30% of all universities for adding value to a student; i.e. comparing a student's individual degree results with their entry qualification, to show how effective teaching is
- 57% of LSBU students are female; 52% of students come from an ethnic minority

Regarding the Law department:

- Last year, 40% of students gained a First or 2:1 degree, a figure that has been gradually increasing year on year since 2012. This is partly as a result of more opportunities for hands-on learning; e.g. there are 80 places for 100 students in year 2 to work at LSBU's Legal Advice Clinic or at Lambeth County Court Help Desk
- 76% identify as Black Minority Ethnic (BME) or other. A higher proportion (approx. 90%) are the 1<sup>st</sup> generation of university student within their family
- The majority aspire to be solicitors but find that their background is a disadvantage during recruitment
- Prospects for BME students getting a training contract is very low for these students after completion of LPC and they need placements and work experience in law firms to increase their employability
- The Law department has introduced a compulsory module entitled 'Working in the Law' so that students get an idea of the realities of becoming legal practitioners

**Professor Sara Chandler QC (Hon)**

Sarah Littlemore - Weightmans LLP

## T4T - Assessing competence

### Consultation questionnaire form

This form is designed to be completed electronically—in MS Word. Please save it locally before and after completing it.

#### 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?

Yes, as it will provide consistency and comparability in terms of academic requirements. Whether this will be of a high standard will depend on the quality of assessment, and we believe that the SQE should be set at level 7 for this reason. The SQE must be sufficiently challenging so that it acts as a quality filter regardless of academic background.

## **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?

It is impossible to assess in detail a generic list. However, assuming that they are subcategorised to the same level as the current practice skills standards, the only addition would be information technology competences.

All of these would also need to be demonstrated in work-based experience.

### **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?

Yes there should be no exceptions if we are to achieve our objective of a common professional assessment for all qualifying solicitors.



## Question 4

With which of the stated options do you agree and why:

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

We prefer option a, and we agree that there should be a minimum requirement of 3 out of 5 of these assessment contexts. This provides continuity and alignment with the current requirements for a period of recognised training.

## **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?

Level 6 is the appropriate entry point to the SQE and level 7 at the exit/completion of the course, as with the current LPC.

## **Question 6**

Do you agree that we should continue to require some form of pre-qualification workplace experience?

Yes, this is absolutely essential. Ideally this will be a requirement before the completion of stage 2, so that the competencies are tested after gaining work based experience.

## **Question 7**

Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?

Yes, ideally this will be at least 24 months and could not be any less than 18 months.

## **Question 8**

Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?

Both are required to ensure doubled looped learning.

## **Question 9**

Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?

Yes, but only if it is gained in an equivalent profession. If the experience is gained during the completion of academic studies, such as part of a degree course, it would require confirmation on what constitutes eligible experience such as an appropriate weighting of credits, supervision and time spent (such as working within a law clinic at a university). We recommend that no less than 30 days would count.

## **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?

Yes, if you are setting competencies then they should be assessed in the workplace also. If consistency is an aim, then this is essential.

## **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 1 and Part 2, to a specified performance standard?

Yes, as a large national firm we do hold the expertise to do this, Local law societies could assist to develop an approach for smaller firms who may not have the resources to do this in-house.



## **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?

Yes. Training and guidance would be required including explanations and examples of what the desired competencies look like in a work environment. A designated contact at the SRA for advice would also be useful.

## 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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

Yes, it must be a qualification equivalent to level 6 such as a degree, CILEx or apprenticeship.

## **Question 14**

Do you agree that not all solicitors should be required to hold a degree?

Yes, as it is at present. Pathways to the profession need to be diverse and open.

## **Question 15**

Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?

Yes, after part one they should be provided with a score and part 2 we recommend to be classified as 'competent' or 'not yet competent'.

## Question 16

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

Number of people who have taken the exam and the proportion who have passed. This information in relation to diversity statistics would also be useful.

What about contextualisation in terms of performance from a diversity point of view - as with recruitment ?

Information on the total number of students who have studied with training providers and their pass rates would also be useful for when students are making a choice of who to train with and for law firms when recruiting .

## **Question 17**

Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?

It is difficult to say at this stage.

It may lead to more competitive pricing from training providers due to lack of regulation such as currently exists with the LPC.

## **Question18**

Do you have any comments on these transitional arrangements?

Clearly, we will need transitional arrangements. The information in the Consultation about these arrangements makes sense but is also vague in part because we don't yet know exactly what we are transitioning to.

## **Question 19**

What challenges do you foresee in having a cut-off date of 2025/26?

Need to raise awareness with students (before degree level) of the changes to a long established process to ensure that they are able to make an informed decision about their academic choices and pathways.



## Question 20

Do you consider that this development timetable is feasible?

Yes,

**Thank you for completing the** Consultation questionnaire form.

Please save a copy of the completed form.

Please return it, along with your completed **About you form**, as an email attachment to [consultation@sra.org.uk](mailto:consultation@sra.org.uk), by **4 March 2016**.

Alternatively, print the completed form and submit it by post, along with a printed copy of your **About you form**, to

SQA consultation  
Solicitors Regulation Authority  
Regulation and Education  
The Cube  
199 Wharfside Street  
Birmingham  
B1 1RN

## 2. Your identity

### 1. Surname

Hughes

### 2. Forename(s)

Sarah Lucy

### 3. Name of the firm or organisation where you work

Anthony Gold Solicitors

**4. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Attribute my/our response and publish my/our name.

**5. Please identify the capacity in which you are submitting a response. I am submitting a response... on behalf of a local law society**

Please enter the name of the society.: South London Law Society

## 3.

**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 do not agree that the SQE meets the objectives set out in paragraph 10. It does not ensure more rigorous regulation or ensure the most talented candidates qualify. The introduction of this SQE, and the cost of the same, may lead students to try and minimise costs by opting for unregulated courses instead of the regulated and academically challenging law degree followed by LPC, or non-law degree followed by GDL and LPC. For those who wish to use the degree/GDL/LPC route, the cost of then also having to do the SQE may be prohibitive and may prevent the most talented candidates qualifying if they cannot afford to do so.

## 4.

**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 do not agree that the SQE will provide an effective test of the competences needed to be a solicitor. The areas covered by SQE parts 1 and 2 are all key areas of skill, knowledge and expertise required of a solicitor. However, we take the view that these are skills best learned and tested through the existing model, with the law degree/non law degree + GDL being used to ensure a strong academic knowledge of the law and the LPC being used to assess the candidates competence in the 6 areas identified in Part 2 and develop the skills needed for practice. The Professional Skills Course then acts as a way of building upon this knowledge and the skills learned during the LPC, and enables candidates to gain key practical knowledge for applying to their work they are doing as a trainee solicitor. In our view the best way of testing the competences needed to be a solicitor is to ensure greater regulation and monitoring of academic institutions and law firms and to incorporate SRA standard testing into the existing Professional Skills Course, rather than the introduction of a SQE and dispensing with the need for a graduate degree and GDL/LPC.

## 5.

**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?**

We agree that all solicitors qualified in another jurisdiction should be required to pass exams to ensure they have the equivalent knowledge, experience, and expertise to enable them to practice as a solicitor in England and Wales. However, we believe the existing system adequately caters for this.

6.

**4. With which of the stated options do you agree and why:**

a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?

**Why...**

There should be the opportunity to choose from a wide range of assessment contexts, with the choice including both the reserved activities and the law of the organisation in which the candidate has chosen to undergo their training. This will ensure that their training is tailored to the type of law firm in which they are working, and may well want to work in the future, but that they also have undergone assessments within the reserved activities to gain the transferable skills necessary.

7.

**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?**

We agree that it should be set at least at graduate level or equivalent, because we believe that the Qualifying Law Degree should be retained as part of any changes going forwards. However, we think that requiring candidates to do the Qualifying Law Degree, which will most likely be followed by the GDL/LPC route, and then the SQE is overly onerous. This is why we fall in favour of maintaining the existing Qualifying Law Degree route, as opposed to the suggested SQE route. Otherwise this may well lead to a double burden, double cost, and potential delay between the Qualifying Law Degree and the SQE Part 1. Instead, we think there should be more regulation over the Professional Skills Course, tailored in line with the SQE Part 2, as there is considerable differences between the way in which different firms/candidates use the existing Professional Skills Course. Some big city firms will send their trainees on a two week course at the start of their training contract, which covers the entire Professional Skills Course at the outset. Other firms leave it to the discretion of their trainee as to when each course should be completed during their two year training contract. We welcome the opportunity for the SRA to ensure consistently high standards upon qualification but we feel this is best achieved through a revision of the existing Professional Skills Course, rather than dispensing with the need for a Qualifying Law Degree and offering an alternative SQE route instead.

8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

We absolutely agree with this and believe it is essential for any candidate to gain at least two years of pre-qualification workplace experience. We believe the current two year training programme gives candidates the ability to apply the knowledge and skills they have learned during the academic stages of their training and to gain real experience in different areas of law, to help shape their career decisions going forwards. However, we feel there could be more flexibility in this, with the ability to extend/shorten the time frame required in light of previous/other experience and/or to enable longer/shorter periods in each 'seat' and an ability to choose whether to focus solely on contentious or non contentious work.

9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

We think that it is necessary to specify a minimum time period of pre-qualification workplace experience. We agree with the current minimum of two years, as we feel it gives the opportunity to gain experience in more than one area of law and to build upon the skills learned in a range of contexts. We feel this is

essential pre-qualification workplace experience. However, we believe that there should be more flexibility within the current system to enable the 'time to count' option to further reduce the time required by some candidates, for example those who have worked as a paralegal for several years.

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

We think that there should be an element of both, as the time required to gain the necessary competencies may vary between firms/areas of law depending on the experience which each candidate is exposed to. However, again we believe this is best assessed using the existing system with a revision of the Professional Skills Course in line with SRA competency requirements.

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

We agree that a wider range of pre-qualification workplace experience should be recognised. However, we think this should be subject to certain time limits to ensure that any such experience isn't out of date/redundant due to the passage of time. We also think that any such work experience should require a certification as to the experience gained in order for it to count.

12.

**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?**

We do agree that an element of workplace assessment will enhance the quality of the qualification process. However, we do not agree that the SQE proposals achieve this and we do not think that the cost and regulatory burden involved in implementing the SQE proposals are justified. Instead, we think that workplace assessment should take place through revisions and further regulation of the existing Professional Skills Course.

13.

**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 1 and Part 2, to a specified performance standard?**

We are not an Employer, but many of our members are. We feel that those responsible for candidates during their training should be able to assess their trainee solicitors' competence through the quality of work they produce and the way in which they demonstrate the skills learned and developed during the course of their training. A pre-qualification workplace experience such as a training contract should give the employers the insight they need to be able to assess these competencies.

14.

**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?**

We think this would be useful to ensure that the criteria used to assess competency is regulated by the SRA. We also think there should be enhanced accountability placed on the Professional Skills Course providers and a consistent dialogue between these providers and law firms. In our view this would remove the need for the SQE if these providers were regulated by the SRA.

15.

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?**

We are of the view that there should be prescription and regulation of training pathways and there should be specific entry requirements for the SQE, and not just for a transitional period. We remain firmly of the view that the need for a Qualifying Law Degree should not be removed. This is key to the upholding the reputation of the profession. However, we question the need for the SQE in addition to the traditional route which we feel should be maintained.

**16. (untitled)**

**14. Do you agree that not all solicitors should be required to hold a degree?**

We agree that there are those without a degree who have enjoyed long and successful legal careers, such as those who have qualified through CILEx, and that this should remain an option. However, we think it is an important that if a SQE is introduced then a Qualifying Law Degree should be a requirement. We are therefore of the view that the system currently in place, up to the Professional Skills course, does not require revision.

**17.**

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

If this new system is to be put in place then we think that candidates should receive information about their individual and comparative performance but that this should not just be limited to pass/fail but include score information.

**18.**

**16.**

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

We think it would be helpful to publish pass/fail and score rates, together with the statistics for the different categories to be identified. Training provider performance is to be regulated and information published as to the success rate of their attendees, so as to ensure that all providers maintain a consistent standard.

**19.**

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

We do see that the proposed SQE could lead to those who are unable to afford the graduate route being able to access the legal profession more easily. However, we are very concerned that the SQE system and the dispensing of the need for the Qualifying Law Degree/GDL/LPC, combined with the fact that the latter will still be an option many will choose if they can afford to do so, will lead to a system where those who have taken the traditional graduate route will be seen as more highly regarded within the legal profession than those who haven't and that those who can afford to re-sit the SQE a number of times will be at an advantage compared to those who can only afford to do it once. This disparity is exacerbated further when considering those who could afford to take the traditional route followed by a number of re-sits, compared to those who can only afford to take the SQE once.

**20. (untitled)**

**18. Do you have any comments on these transitional arrangements?**

We have no comments on these transitional arrangements save that we think those part way through the QLD or GDL should also have the option of continuing with the traditional route, having already chosen to take the graduate path.

**21.**

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

We foresee challenges for those who may be studying part time over a longer period of time whilst working, who may still be part way through the traditional route when the changes are enforced and may then be left having to switch to the SQE having incurred the cost of but having not completed their part time study/qualifications.

## 22. (untitled)

### **20. Do you consider that this development timetable is feasible?**

We think it optimistic that the new regulations will come into effect in 2018 and would suggest a longer consultation/implementation period for the reasons given in our response and the concerns we have raised.

Scott Storch - York Law School, University of York

## **T4T - Assessing competence**

### Consultation questionnaire form

This form is designed to be completed electronically—in MS Word. Please save it locally before and after completing it.



## 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?

A common professional assessment has, given its "common" nature, the potential to enable the SRA to meet the first objective in paragraph 10, in terms of assuring consistency and comparability of standards at the point of admission. The concept of a common professional assessment is a feature of many professions. However, the particular quality standards that can be achieved and the suggestion that these might be more rigorous than at present are difficult to assess without greater clarity as to the format and specific demands of the SQE (on which see further below).

We support the second objective in terms of its aims to remove barriers to qualification, and to encourage innovation in education. However, if the SRA is to focus only on competence on qualification and no longer specify pathways to qualification (including prerequisites to taking the SQE), then, from a regulatory viewpoint, there will be no pathways to qualification. A pathway suggests steps and if there are no defined steps up to the SQE and qualification, there are no pathways, at least in the regulatory sense. There will, of course, be market-defined pathways: these will emerge mainly through market forces, with employers, HE and other legal education providers having an impact. The risks here are:

1. The pathways are so numerous that they are ill-defined, which will most likely affect adversely those the SRA is seeking to attract to the profession (those who may have less access to information and guidance).
2. The largest employers continue to define a "golden route", which would mean, in practical terms, a very similar system to that in place at present, with an additional assessment and concomitant additional costs (again, likely to affect adversely those for whom the SRA is seeking to remove barriers). Such market-defined pathways, which we believe would be highly likely to emerge, would pose a real threat to the SRA's intention to remove barriers to entry. That is, whilst the introduction of the SQE might involve the removal of technical barriers, the risk is of a practical outcome that actually increases the number of steps and stages.



## 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?

At present, a definitive answer cannot be provided because of the lack of definition of the SQEs, and the fact that questions of prerequisites to the SQE and work-based experiences have yet to be answered. The following comments can, however, be made:

1. Currently, in the UK, and in other jurisdictions, professional qualification requires law at a graduate level evidenced by some form of appropriate qualification, e.g, LLB or graduate diploma. Professional standards and assessments are then developed on the basis that such qualifications are prerequisites to taking professional exams. The SRA is yet to determine whether qualifications or equivalent means of demonstrating legal "graduateness" (in the broadest sense of the term) have to be in place before taking the SQEs. If they are, then the SQEs could function - in some senses like the QLTS - as an assurance mechanism, provided they are of an appropriate design and at an appropriate threshold. If not, then it is questionable that the SQEs can function as the sole measurement and assessment of many of the required solicitor competences.

Clarity as to both the concept and level of "graduateness" is also, we submit, important in the context of international recognition. A representative of our institution recently had a conversation with the head of the Canadian accreditation body to this effect, and we would expect that this would be a common issue for all international accreditation bodies.

2. It is difficult to define the required level of legal knowledge required. The SRA is not aligning this to recognised degree levels (e.g., level 6 for LLB, or level 7 for Masters). It has referred to a graduate level but has developed its own threshold levels. It has also referred to the QLTS as a possible model. It is questionable, looking at the sample questions used in the latter assessment, whether these are at a graduate level or indeed meet the SRA threshold description\*. Application of law is intended to take into account - as per the competence statement - clients' circumstances and needs. The current sample questions do not appear to meet this requirement. It is therefore difficult, without a clear statement as to - and preferably examples - the format of knowledge assessment, to make a full assessment of the SRA's proposals.

[\*-Given the QLTS is for qualified solicitors from other jurisdictions, the latter will have required graduateness and relevant legal experience. The comparatively simple questions that are used can therefore assess comparatively simple knowledge and application of legal principles with a level of assurance as to graduate and, indeed, professional competence. This assurance, without alternative prerequisites, could not be provided solely by SQEs in the format of the current QLTS questions.]

3. In terms of the stated knowledge requirements, the current statement appears to be a combination of the current QLD requirements plus LPC stage 1. Should this be the case, then, if the breadth, depth and level of knowledge is that currently achieved

by the two latter programmes, the SQEs cannot provide an effective test of competence. The legal knowledge and understanding which is the outcome of a QLD is a sophisticated construct, which involves critical evaluation of legal principles, analysis of complex fact patterns, evaluation of possible causes of action and remedies, and application of the law within these complex scenarios. These intellectual skills are, within higher education, at the core of the concept of "graduateness" (see above). These cannot be assessed simply by scenario-based MCQs and so it appears that the SQE does not intend to assess the legal knowledge and understanding currently the subject of the QLD. If this is the case, i.e., the QLD equivalent will not be the legal knowledge and understanding required, then the SRA needs to define more clearly, preferably demonstrating the differences between what was expected to be assessed within a QLD and what is expected to be assessed by the SQE. This will then allow a definitive answer to be given to this question.

4. It is difficult to define the required level of legal skills required. The SRA has said that the SQEs skills level should be that required at qualification (i.e., based on the current framework), 2 years beyond LPC, taking into account 2 years of experience and feedback in practice. In addition, in the context of skills acquisition, understanding the importance of why social and professional interactions take the forms they do, and having an awareness of skills in a complex and changing cultural environment is a process. It is questionable whether a single assessment with one or two skills performances can capture this context and assess this understanding. Again, as detail is limited (e.g., the SRA has not published examples of the type of assessment proposed), it is not clear how rigorous and therefore effective these assessments will be. Similarly it is not clear how they will differ from those on the LPC, which have been subject to criticism since their earliest days in terms of creating an assessment rather than a skills acquisition focus amongst students (e.g., Brayne, *The Law Teacher*, Vol.28 (3) 1994).

5. We question whether legal ethics can be evaluated by MCQs or even standardised client assessments: ethics need to be challenged and interrogated. The former forms of assessment are limited to assuring knowledge of and ability to apply Codes of Conduct. If this is the intention, then this should be more clearly stated.

### **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?

See comment in square brackets in response to Question 2 regarding differences between QLTS examinees and non-qualified examinees. Unless there are prerequisites which would align non-qualified examinees with QLTS examinees, then it is questionable whether the actual standards of those who would pass the SQE would be comparable.

The current equivalent means alternatives to the academic, vocational and period of recognised training stages allow for effective exemption. In addition, other professions, such as accountancy, provide for exemptions (appropriate pass marks having been set at, e.g, UG level) from elements of professional assessment. Once the SRA knowledge and skills requirements are fully defined, it would be difficult to see why such exemptions should not be available to those who could evidence (either individually or through taking recognised qualifications) equivalent knowledge and skills. The availability of such exemptions could also contribute towards the achievement of the SRA's objective set out in para 10, in encouraging new and diverse pathways to qualification.

## Question 4

With which of the stated options do you agree and why:

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

Given that the Statement of Professional Competence is couched in terms of "detailed knowledge and understanding of their field(s) of work", then the stated option (b) would seem to be the only option which could assess the required competences in context. The other options could result in assessing candidates above a level they required in areas of practice outwith their fields of work.

## **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?

Yes. If exemptions are not to be made available for relevant undergraduate and/or postgraduate qualifications, and the SQE is not going to be directly aligned to a recognised QAA level, then the SRA must explicitly define and clearly demonstrate what will be meant by "equivalent" to graduate level. The proposed SQE will not assess the current equivalent graduate level intellectual skills (described at point 3 of our answer to Q2).

## Question 6

Do you agree that we should continue to require some form of pre-qualification workplace experience?

Yes. There are a number of competences - most of sections C, D and, very arguably, B7 - that could not be assessed without such experience.



## **Question 7**

Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?

Yes - informed by the profession as to a minimum period of time within which the competences referred to in the answer to Question 6 above can be achieved to the required threshold standard.

## **Question 8**

Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?

No - see answer to Question 7.

## **Question 9**

Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?

Yes - provided that such recognition is only given in respect of the achievement of the competencies referred to in the answer to Question 6.

## **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?

Yes - see answer to question 6. It will be required to assure those competencies have been achieved.

## **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 1 and Part 2, to a specified performance standard?

Whilst not a legal services employer, we do have a flourishing Law Clinic. This provides an opportunity for experiential learning, which has the potential to provide the means for both development and assessment of the work-based competences referred to in the question. We would have the expertise to assess these competences to a specified performance standard.

## 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?

This would be sufficient in terms of supporting assessment. In terms of other "support", it would be assumed that there would be some form of quality assurance and monitoring of such workplace assessment, to ensure consistency of assessment of prospective solicitors.

## 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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

Yes to both (and, in respect of (b), not just for a transitional period) - for the reasons stated above.

## **Question 14**

Do you agree that not all solicitors should be required to hold a degree?

All solicitors should be required to hold a degree or, as at present, be able to demonstrate by equivalent means comparable competences. A requirement of holding at least one degree is a standard requirement for qualification in most major jurisdictions around the world. In addition, see comments on "graduateness" in Q2.



## **Question 15**

Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?

If the SRA's role is to focus regulatory effort to assure rigorously that a threshold has been met, then query whether this role should extend to providing information beyond this.

## Question 16

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

Following Q15, it should be simply related, in both cases, to data on: (a) % achievement of threshold: and (b) % failing to achieve threshold.

## **Question 17**

Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?

Potential disadvantages to those from less wealthy backgrounds should additional costs arise from the SQEs and the need to take preparation programmes, in addition to qualifications such as degrees and LPCs/LLMs which the majority of employers are likely to continue to require as prerequisites to recruitment.

Potential disadvantages to students less able to access information and guidance, should the SQEs result in less clarity as to pathways to qualification

## **Question18**

Do you have any comments on these transitional arrangements?

Depends on outcome of consultation but also needs to take into account response to Question 20 in terms of being able to offer options to students.

## **Question 19**

What challenges do you foresee in having a cut-off date of 2025/26?

No firm view at present - would depend on outcome of consultation on prerequisites and workplace experience/assessment requirements.

## Question 20

Do you consider that this development timetable is feasible?

Most HE providers require a minimum 2 years to enable concept, approval, marketing, applications, design and implementation for any new programme developments. Given the lack of clarity as to the precise format and level of SQEs, the current timetable is not feasible in terms of HE providers being able to respond to the SRA's stated desire for new pathways to be developed. The timetable can only start from a point at which full, exemplified detail is provided on the physical, substantive nature of the SQEs.

**Thank you for completing the** Consultation questionnaire form.

Please save a copy of the completed form.

Please return it, along with your completed **About you form**, as an email attachment to [consultation@sra.org.uk](mailto:consultation@sra.org.uk), by **4 March 2016**.

Alternatively, print the completed form and submit it by post, along with a printed copy of your **About you form**, to

SQA consultation  
Solicitors Regulation Authority  
Regulation and Education  
The Cube  
199 Wharfside Street  
Birmingham  
B1 1RN

## T4T - Assessing competence

### Consultation questionnaire form

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#### 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?

It is impossible to answer anything but no to this question at this stage for the following reasons:

1. Whilst the introduction of a centralised assessment as part of a route to qualification could meet the objectives set out in paragraph 10, I do not have sufficient detail of the SQE at this stage to say whether it will or will not. The proposals for what the SQE is intended to achieve are laudable but ambitious and I have yet to see whether an SQE can be designed that achieves them.
2. I do not know whether there will be other requirements in addition to the SQE as part of the route to qualification such as a period of work based learning. I do not consider that the SQE alone would achieve the objectives.
3. If the entry to the SQE is not set at a degree level or equivalent, which is benchmarked to an appropriate descriptor such as the FHEQ, there is no guarantee that it will assure consistently high standards.
4. There is no evidence that the SQE as proposed will ensure that the most talented candidates can qualify as a solicitor by encouraging the development of new and diverse pathways to qualification. In fact, the AlphaPlus report raises doubts about this, saying there are too many variables at this stage to predict the effect of the SQE on flexibility/access. In addition I am not convinced that this will provide a cheaper route to qualification given the likely cost of the exam and the necessity of training for it.

To request an alternative format please visit [www.sra.org.uk/contact-us](http://www.sra.org.uk/contact-us).



## 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?

I am obliged to answer no to this question since I do not have sufficient detail of the SQE and whether there will be any accompanying element in the route to qualification.

As for the proposed Part 1 - I do not consider that computer-based objective testing is sufficiently rigorous to assess a candidate's legal knowledge.

As regards the proposed Part 2:

- It is hard to envisage how all these skills can be assessed sufficiently rigorously through live role-plays and computer based tasks to ensure that the candidate is truly competent in these areas.
- The areas of practice chosen as the 5 contexts are not applicable to all firms. Expertise in these areas will not necessarily equip a solicitor for practice in certain areas of law. It will also make it difficult for firms who cannot provide any experience in these areas since their candidates will be at a disadvantage.
- Some of the competences required of a solicitor cannot be adequately assessed in an examination and are better suited to assessment in the workplace.
- I question why, having dispensed with the need to have a contentious seat in the training contract, the SRA is now proposing a requirement for a contentious context.

Whilst I can see that for some candidates being able to take modularised assessments over time will be an advantage, I do not see this as an advantage to law firms. It will make it very hard for them to take candidates through a route to qualification or, indeed, to assess any route they have taken beforehand.

### **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?

Again we do not have sufficient information to answer this question.

## Question 4

With which of the stated options do you agree and why:

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

Not all law firms practice in even three out of five of the assessment contexts offered. I believe that this would put candidates from those firms or who wish to join those firms at a disadvantage.

I therefore agree with option b).

## **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?

Yes. The standard for qualification should certainly be set at least at graduate level or equivalent. Graduate level or equivalent should be assessed in the context of the framework for higher education qualifications or a similar standard.

I agree that the standard for the Part 2 assessment should be comparable to the level trainee solicitors currently reach by point of qualification, and therefore higher than the current LPC standard.

## **Question 6**

Do you agree that we should continue to require some form of pre-qualification workplace experience?

Yes, I agree very strongly that a period of pre-qualification workplace experience should be required.

## Question 7

Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?

Yes.

## **Question 8**

Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?

No. I do not consider that it would be workable for candidates to have variable periods of workplace experience. Part of the benefit of the training contract is the breadth of experience gained not just the competencies acquired.

## **Question 9**

Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?

Yes but the SRA will have to make sure that the experience is relevant and equivalent to the experience currently gained in a training contract.



## **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?

Yes. I do not consider that the SQE alone would be sufficient to ensure the competence of a solicitor.

I believe it will be possible for workplace assessment to take place and most firms currently do some form of assessment during the training contract. It should be quite possible for this to be done without additional cost and regulatory burden.

## **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 1 and Part 2, to a specified performance standard?

There is no reason why employers should not have this expertise. My Firm already assesses its trainees during their training contracts.

## **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?

Yes provided the toolkit of guidance and resources is of good quality. Some training for assessors may also be useful.

## 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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

Yes.

## **Question 14**

Do you agree that not all solicitors should be required to hold a degree?

Yes. I consider that there should be alternative pathways to qualification as a solicitor which do not require a degree. However, this should only be the case if the standard for qualification is set at least at graduate level or equivalent.

## **Question 15**

Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?

Yes. I consider that the SQE should be graded to motivate candidates to perform well.

## Question 16

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

It would be helpful for overall candidate performance on the SQE to be graded and for the numbers within each grade to be made public.

If no training route is specified or monitored by the SRA, then information about the results candidates achieve from different training providers will assist future candidates/employers in their choice of training provider.

## Question 17

Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?

Yes, as follows:

1. There is no guarantee that the proposed SQE route will be cheaper than the current route to qualification. There is therefore no guarantee that disadvantaged candidates have more access to the profession through the SQE route to qualification.
2. The fact that candidates can take the SQE as many times as they wish will favour those who have the means to do this.
3. The fact that no training route is specified will favour those candidates who are sponsored by employers. There is a risk that other candidates will take cheaper crammer courses to get through the exam which will not be of benefit to them either in obtaining employment as a solicitor or in their future careers.



## **Question18**

Do you have any comments on these transitional arrangements?

In principle the time limits proposed for the transitional arrangements seem reasonable, but this will of course depend on what we are transitioning to.

## Question 19

What challenges do you foresee in having a cut-off date of 2025/26?

I foresee that there will be challenges for providers who will, for a period of time, have to run courses for the old and new routes to qualification. As employers, firms like mine will not be adversely challenged since it will be likely to require a similar route to qualification to the existing one.

## **Question 20**

Do you consider that this development timetable is feasible?

No - these ideas are not yet developed enough to comply with the timetable and I believe that the SRA should re-think its entire proposal.

**Thank you for completing the** Consultation questionnaire form.

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SQA consultation  
Solicitors Regulation Authority  
Regulation and Education  
The Cube  
199 Wharfside Street  
Birmingham  
B1 1RN

Simon Timothy Harker - Government Legal Service

## T4T - Assessing competence

### Consultation questionnaire form

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#### 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?

It is difficult to say whether option 3 will deliver the SRA's objectives without knowing the outcomes of the SRA's forthcoming consultations in 2016 on the SQE's entry requirements and pre-qualification work experience.

What the Government Legal Service (GLS) would want the SQE to be is a trusted mark of professional competence, so that we can be confident that someone who is badged as a solicitor has been tested rigorously against the required competences and skills.

The GLS wants the reform of the qualification process to be consistent with the principles of merit, impartiality and diversity which underpin recruitment to the Civil Service. In principle and subject to the above, the idea of a number of pathways with a common and consistent standard of entry based on merit is something that the GLS would support.

## **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?

The 5 contexts are too narrowly focused on traditional High Street practices and have limited relevance to large parts of the profession. The GLS also has concerns about the requirement to cover 3 of the 5 contexts covered by the Part 2 assessment as GLS trainees will not have gained experience in 3 of the different 'contexts'.

In principle, to have a two part test standardised to ensure competency in both legal knowledge and skills is to be welcomed but without proper details of the content of these proposed tests, it is difficult to give a GLS assessment of whether they would work in an effective manner. Part 2 of the proposed assessment also does not appear to take into account the different ways that solicitors, and in particular in-house solicitors, work.

### **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?

Yes. However, once the details of the content of the assessment are known, this question should be looked at again.

## Question 4

With which of the stated options do you agree and why:

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

The GLS' business needs would be best met by option b). For example, the Government Legal Department's largest litigation teams are employment and immigration and many of the advisory seats are also not within the 5 contexts. The GLS would be one of the employers that might struggle to provide all of its trainees with supporting experience for 3 of the 5 assessment contexts (as required by option a). Given the number of trainees across the GLS, it would also be difficult to find secondments.

The SRA places much emphasis on "reserved activities" and the need to do this is questioned in circumstances when many solicitors, and in particular solicitors in the GLS, never undertake them. The reference to "wills and probate" seem particularly out of place as many solicitors do not deal in those areas save in relation to trusts and taxation.



## **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?

Yes.

## Question 6

Do you agree that we should continue to require some form of pre-qualification workplace experience?

Yes.

## Question 7

Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?

Yes.

The Government Legal Department (GLD) and HM Revenue & Customs (HMRC) have established training programmes for both solicitors and barristers which cover a two year period for both, albeit that its pupil barristers will be qualified after one year. This is partly to ensure consistency with the training contract undertaken by trainee solicitors but importantly, it is also a reflection of those departments' views that, given the particular demands placed on their lawyers, a 2 year training period allows for a greater breadth of experiences.

Please note that the GLS Bar Network's response to the BSB's consultation on training for the Bar stated the following, which may also apply to trainee solicitors:

In particular, and in contrast to those areas of self-employed practice where a barrister is encouraged to specialise at a relatively early stage in their career, GLD and HMRC pupils will be expected to have grounding in the entire range of legal work undertaken by their department. This approach is not shared by the Department for Business, Innovation & Skills (BIS), who differ from the other departments in having a prosecutions team, which allows pupils and newly qualified barristers to focus in a particular area.

## **Question 8**

Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?

If the SRA wishes to achieve consistently high standards across the profession, this would be best met by specifying both the competences to be achieved and the time period required.

## Question 9

Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?

It is difficult to give a proper assessment without proper details of the type of work or range of employers that would be acceptable to demonstrate the range of competence. It is difficult to say why not, in principle; other work experience should not count towards pre-qualification workplace experience for solicitors. Trainees in the Government Legal Department receive training which is specific to the business of government and that is why the 2 year training contract is mandatory for everybody.

However it is essential that any prequalification work place experience such as that provided by Universities and other providers are set up so that the service delivered is to proper clients who are either fee paying themselves or the fees are paid by someone else on their behalf. Any other arrangement would not provide either the experience or the depth of knowledge that should be recognised as pre-qualification workplace 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?

Yes.

In this connection it should be noted that currently GLS trainees work under the close supervision of an experienced lawyer and their progress is formally assessed every 3 months.

## **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 1 and Part 2, to a specified performance standard?

Given that the GLS recruitment and appraisal criteria are aligned to Civil Service competences, it would not be difficult for the GLS to also assess trainee solicitors against the SRA's required competences, provided the GLS was given precise details of what was required.

## **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?

We would welcome a proper toolkit and guidance as to the nature and requirements of workplace assessments. The GLS has long moderated the progress of trainees to what it would consider to be consistently high standards throughout.



## 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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

Yes.

## **Question 14**

Do you agree that not all solicitors should be required to hold a degree?

Yes but they should have reached an equivalent academic level.

## Question 15

Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?

Not necessarily. It is of fundamental importance to government that entry to the Civil Service continues to be on the basis of merit, with selection by fair and open competition which respects equality and diversity.

The GLS selection process is competency-based. This means that the GLS has identified the competences and skills that legal trainees and lawyers in the government legal profession require and tests for these competences and skills throughout the selection process. It is, therefore, unlikely that the GLS would take the candidate's SQE performance into account.

It is difficult to see how providing candidates with individual and comparative performance assists with EDI impacts or why more than a 'pass' or 'fail' is required.

## Question 16

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

Training provider performance, in terms of pass rates, would assist trainees generally to enable them to best select the training provider.

## **Question 17**

Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?

The GLS' recruitment and appraisal processes have been designed with diversity in mind. It is hoped that there would be a similar focus in the design and delivery of the SQE.

## Question18

Do you have any comments on these transitional arrangements?

No

## Question 19

What challenges do you foresee in having a cut-off date of 2025/26?

There are some transitional arrangements for those that are part-way through the LPC, PSC etc with exemptions for parts of the SQE; however full guidance is to be developed on how the new regulations will compare to current requirements. Therefore, there is little that can be said at this stage except that candidates should not be made to sit the SQE if it would mean duplicating what they have already done simply due to an artificial cut off date.

## **Question 20**

Do you consider that this development timetable is feasible?

Seven years appears to be a very long time but it does enable the profession to be fully appraised of what to expect in the future. As can be seen, the timetable includes further consultations and its feasibility will depend on the outcome of those consultations. The GLS recruits 2 to 3 years ahead of starting a training contract and therefore in practice it is 4 years ahead of practice. This practice, common with other employers, needs to be factored into the transitional arrangements.



**Thank you for completing the** Consultation questionnaire form.

Please save a copy of the completed form.

Please return it, along with your completed **About you form**, as an email attachment to [consultation@sra.org.uk](mailto:consultation@sra.org.uk), by **4 March 2016**.

Alternatively, print the completed form and submit it by post, along with a printed copy of your **About you form**, to

SQA consultation  
Solicitors Regulation Authority  
Regulation and Education  
The Cube  
199 Wharfside Street  
Birmingham  
B1 1RN

## 2. Your identity

### 1. Surname

Walker-Roberts

### 2. Forename(s)

Steven

### 3. Name of the firm or organisation where you work

**4. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Attribute my/our response and publish my/our name.

**5. Please identify the capacity in which you are submitting a response. I am submitting a response... as a student studying for a qualifying law degree or legal practice course**

## 3.

**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?**

Yes, the Solicitors Qualifying Exam offers all prospective solicitors an opportunity to enter the profession regardless of their socioeconomic background. The SQE also removes some of the commercial barriers which might prevent aspiring solicitors from certain backgrounds entering the profession, perhaps in part due to the expensive LPC. Equally, if an aspiring solicitor is talented enough and competent to take the SQE, then this should be supported from the earliest stage. In summary, a single benchmark could ensure that all aspiring solicitors, regardless of their route to qualification, meet the same standard for competency without unnecessary barriers to entering practice whilst assuring high standards for the profession.

## 4.

**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?**

Yes. Unlike the current qualification framework, existing solicitors are not tested satisfactorily on their ability to carry out the tasks they face in day-to-day professional legal work. Consequently, there is a wide gap in the skills range between solicitors depending on their training route, which firm they worked at, which university they attended and essentially what their socioeconomic status is. Invariably, this includes access to the notorious training contract. Essentially some aspiring lawyers are guaranteed qualification upon acceptance of a training contract, provided they complete the period of recognised training, even if they are not actually good solicitors. In addition, the framework for qualification including a training contract means entry to the profession is entirely commercially controlled (mostly by law firms in private practice).

## 5.

**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?**

A number of students are now choosing to qualify in other jurisdictions to prove their competence, before then applying to transfer to the UK as a qualified lawyer. It is interesting therefore that we have a training contract route whatsoever because very talented lawyers are entering the profession by qualifying abroad and transferring their qualification to the UK SRA. This is irrefutable evidence that the traditional route to qualification and the standards of students across routes to qualification are controversial.

However, the QLTS should remain if the SRA plans to require a period of recognised training if this is not required in other jurisdictions to be qualified. The SRA would then effectively be preventing every qualified lawyer from practising in this country unless they have a training contract. The overriding effect would be that nobody would want to practice in England and Wales.

6.

**4. With which of the stated options do you agree and why:**

a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?

**Why...**

Aspiring solicitors need to be tested on the full breadth of legal knowledge required in Part 2 for their competence to be irrefutable.

7.

**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?**

No.

The idea of the SQE is to assess solicitors from all training routes to see whether they all measure up to the same standards. If you require all solicitors to be graduates, no aspiring solicitor can qualify through equivalent means without having a degree. Under the current regulations, a student can qualify via equivalent means without a law degree providing they can show the SRA they meet the standards required via a portfolio assessment. The whole idea of having the SQE is that it examines the standards of all lawyers admitted to the Roll. There would be no point in having the SQE if it is not going to live up to that policy objective for lawyers across all training routes. It would also be pointless if the SRA is going to remove one important pathway to diversity in the profession.

8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

No.

Lawyers all across the world in various jurisdictions are able to become competent advocates without pre-qualification workplace experience. In recognition of not only qualified overseas lawyers, but aspiring solicitors with the required talent and competence, it would be senseless to require them to carry out a period of recognised training when they already have the required competence. It would in effect be denying the rigour of all other jurisdictions which do not require PQWE.

It should also be drawn on that the pre-qualification work experience is mostly, if not entirely, commercially controlled. The openness and diversity of these firms in accepting aspiring solicitors from diverse backgrounds is heavily disputed and controversial.

Not only that, the personal legal services market is dying due to legal aid cuts and the future of the personal legal services market is likely to rest on the pro bono work of aspiring solicitors, which is not currently recognised as PQWE and cannot lawfully be undertaken without supervision from an authorised person. The future shape of the personal legal services market is likely to be independent practitioners in the pro bono sector building a personal brand to take on more complicated and funded cases independently or as part of a practice. Without this it will not be financially feasible for aspiring solicitors to become lawyers in personal legal services, nor for personal legal services firms to continue to exist beyond a stifled supply of traditionally private work such as probate and land law (both still suffering the effects of past economic crisis).

Whilst the SRA needs a way of assessing competence, it needs to be far, far more flexible in how it assesses work experience because otherwise there will be a massive shortage of solicitors outside of commercial law.

PQWE should only at all remain if it is far more flexible and is not subject to commercial control. For example it should take the structure of an NVQ for which individual pieces of work could be assessed through pro bono or other work during a degree programme (leading to immediate qualification on graduation). There should also be the option that if a certain component of the SQE is taken, PQWE is waived entirely.

The existing waivers on PQWE must remain for qualified overseas lawyers, otherwise there is likely to be stagnation.

9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

No. As discussed in the previous answer, PQWE wards off candidates from diverse backgrounds because it requires aspiring lawyers to be from a white middle-class background. To be eligible to join most commercial training contracts, aspiring lawyers must be able to dine and network with individuals they simply do not have access to in their socioeconomic group. Keeping a minimum period of PQWE is therefore a serious deterrent to diversity and only ensures that the solicitors profession remains mostly white middle-class British.

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

If the PQWE is to remain, this is probably the best approach to be taken. However, the standards of competence needs to be assessed flexibly in order to foster the appropriate level of diversity within the profession.

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

Yes. Many skills obtained during a degree programme (law or otherwise), during vacations schemes/work experience and through non-legal employers are essential transferable skills which are assessed in duplication. Providing aspiring lawyers with a way of recognising these transferable skills, perhaps in a portfolio format could mean that aspiring solicitors start to build the necessary evidence of competence before they even commence their law degree or equivalent.

12.

**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?**

Not really. It provides limited on-the-spot evidence which could be polished for when the SRA arrives. A portfolio format would be more appropriate as this is difficult to fake or to succeed by way of one-hit wonder. A workplace assessment is disproportionate and only provides the image that the SRA favours legal employers. Solicitors should not have to secure employment to qualify.

13.

**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 1 and Part 2, to a specified performance standard?**

14.

**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?**

15.

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?**

The SQE should be similar to the bar exams in the United States where the entry requirements are very minimal so that the greatest diversity in the profession is adopted. There should of course be prescriptions as to age and the level of academic study (or equivalent) obtained up until that point. However, the whole point of having a central exam is to rid students of the requirement for an expensive LPC course and provide alternatives to the tradition PQWE route to qualification. If aspiring solicitors do choose a traditional route, they are all at least being tested to the same standard as with the QLTS and foreign lawyers. This would be the only proper way of protecting consumers and providing them value for money in the legal market.

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

I agree as set out in previous answers. Aspiring solicitors might be able to prove that they have achieved the required competency through other means and in order to foster diversity, this should be a route of qualification.

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

Yes, this would help candidates improve and identify quality gaps between institutions, training routes and employers. It would therefore have the effect of raising standards within the profession over time.

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

A relative performance ratio and key performance indicators in respect of each group so that aspiring solicitors and the public can be confident.

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

Unless PQWE is abolished, the SQE will do little to improve diversity except remove the requirement for the LPC and therefore an expensive barrier to candidates for the SQE from disadvantaged socioeconomic backgrounds. The only route for overcoming this for these groups presently is to: obtain a scholarship, obtain a training contract in a sponsoring commercial law firm or obtain a place on an LPC via the Law Society's Diversity Access Scheme. That is a staggering financial barrier.

PQWE is an additional barrier because it requires all aspiring lawyers to have a job in the legal marketplace before being able to practice. The result is that pro bono is an impossibility in an age where legal aid is slowly being eliminated, resulting in members of the public representing themselves because there are no lawyers who are allowed or for whom it is feasible to represent them. For example, students

are not authorised persons and existing practitioners have to make money and therefore commit minimal time to pro bono legal work.

PQWE is a commercially-controlled disaster waiting to happen and so is a strongly negative EDI impact for aspiring lawyers and members of the public.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

Not all students will qualify by then and some may be caught in a trap during the transitional provisions period.

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

Yes.

## 2. Your identity

### 1. Surname

Cooper

### 2. Forename(s)

Susan

### 3. Name of the firm or organisation where you work

Accutrainee Limited

**4. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Attribute my/our response and publish my/our name.

**5. Please identify the capacity in which you are submitting a response. I am submitting a response...  
on my own behalf as an employed solicitor**

## 3.

**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?**

The consultation paper refers back to 3 options identified in the 2014 consultation on the Statement of Solicitor Competence. Whilst the SRA makes a strong case for Option 3: Developing a centralised assessment (the SQE) in this consultation, it is not so clear how and why the other two options have been discarded at this stage in the process without what appears to be equal amounts of analysis. Clear potential advantages have been set out for SQE with regards to meeting the objectives in paragraph 10 but general negative sweeping statements have been made against options 1 and 2 summarised in Annex 1 which we are asked to accept on what appears to be the SRA's say so.

I do agree that the concept of a centralised assessment could meet the objectives of paragraph 10 and I would agree that there could be advantages to this method. However, given the level of detail we currently have available, it is impossible for the profession to sensibly offer an opinion on its effectiveness in this context. At present we are being asked to comment on outcomes when we don't know what will precede the SQE or have greater detail on what the SQE will entail, how it will be tested, we are told it will assess the necessary competencies.

To put in the context of the medical profession, one could see how a centralised exam could very well delivery consistency, high standards and ensure the most talented individuals qualify but if that same exam were required without any prescribed academic route or work based learning and training, I certainly wouldn't want that medical professional operating on me! I think the same is true for solicitors and that the public would expect certain minimum requirements. Similarly, would a parent want their child taught in class by a teacher who may have scored top marks in an exam but can't actually control a class room of students where no work based training has been required to assess this?

Finally, it is worth noting that at page 47 of the consultation, para 30, the SRA acknowledges that "Without the final detail of the assessment framework for the SQE, it is not possible to be conclusive regarding the expected cost of the SQE itself." However, in this consultation, without detail of the assessment framework the profession is being asked whether one option over others will best meet the required objectives.

## 4.

**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?**

Given the information we have at present, I believe it can to a degree but there are certain competencies where it is extremely difficult to see how this can be achieved. For example,

Ethical questions (flagged or unflagged) will be expected by candidates. This will not be a real life situation and it's highly likely that courses to pass the SQE will offer markers to candidates to recognise these. Furthermore, how a candidate reacts in an exam to deliver a model answer is not necessary how they will react in real life. There will be many other factors at play.

It will not be possible to simulate 'the real demands of practice' no matter how sophisticated a test. Furthermore, testing will take place over short periods rather than over longer time periods to ascertain how an individual copes.

These can be assessed during a prescribed period of work based learning which in conjunction with an exam would be more robust approach.

5.

**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?**

In light of the objectives set out in paragraph 10, this would seem to be a sensible approach where the decision is made to use a centralised assessment.

6.

**4. With which of the stated options do you agree and why:**

b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?

**Why...**

I definitely agree that skills should be tested in more than one context to demonstrate the transferability of skills (para 48) and that a proportion should be focused on reserved activities. If the Part 2 skills assessment is not balanced correctly in terms of number of practice areas and contexts, qualification will end up being more restrictive and could introduce new barriers to entry which the SRA is so against.

The SRA's arguments and preferences here are very confusing. Unfortunately, through the equivalent means route to qualification, the SRA is already currently offering the badge of 'solicitor' to individuals even if they have absolutely no training or experience whatsoever of reserved activities. And yet the SRA asks, "Should the Part 2 assessments be focused on the reserved activities?" or in paragraph 50 in arguing against a wider range of assessment contexts, the SRA suggests that this will result in assessments less clearly focussed on the reserved activities. However, the SRA recently advised a paralegal to qualify via the equivalent means route even though she is the only person in her organisation with a legal background as the work she is doing is purely unreserved. There appears to be a mismatch here.

Candidates and employers need to be given the opportunity to explore and focus on different areas which suit their business needs and career ambitions and this will require greater flexibility of the assessment process.

Given some of the quotes given on page 20 of the consultation, perhaps this is something the professional does not realise.

7.

**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?**

No.

Arguably Part 1 can be but Part 2 should be set at a much higher level as set out in paras 55 and 56. Setting the SQE at graduate level will be a big step backwards and suggests a reduction in the levels of quality and competencies expected.

An uplift in Parts 1 and 2 would require greater control and regulation over what happens between these two assessments.

Setting the SQE at least at graduate level will result in people qualifying who are only at graduate level which is certainly not what is in place now.

This question can be answered more accurately when we have more information on the whole assessment framework.

8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Yes. Undoubtedly.

Furthermore, the workplace experience should be regulated. The current model as it stands would be greatly enhanced if there was a higher degree of regulation from the SRA.

I have seen and heard little if any evidence of why we would remove this requirement given the industry's (both UK and global) high regard for the period of work based training and the impact it has on the quality of our qualified professionals.

Arguments which point to other qualification processes such as in the USA do not compare like for like and pay little attention to the current status and perceived quality of those qualification processes.

It will not possible for individuals to properly satisfy the competency framework and/or adhere to the statement of solicitor competence without gaining real life experience in the work place which crucially is observed, supervised and monitored by experienced professionals.

I am firmly of the view that the general public expect their 'qualified' advisers to have at the very least gained some real-life experience (in much the same way as other client facing professions such as doctors and teachers) and that their skills and competencies aren't entirely based on how well they answer exam questions or case studies.

9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

Yes. Absolutely.

The current period of 2 years works well and gives individuals the time needed to develop and demonstrate the necessary skills and competencies. It also gives stakeholders clarity and certainty.

Without a specified period, the reality is that decisions on periods of work based learning will start to be influenced by other factors such as the needs of the business or the personal circumstances of an individual.

If we are striving for consistency, candidates should be required to complete the same period of work based training. The current reductions using 'time to count' work well but there needs to be clear guidelines in place to determine when this can and should be used provided the level of work is appropriate but more importantly, provided the level of supervision, guidance and development is what you would expect to see during a period of recognised training.

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

The SRA should do both and be prepared to regulate it.

The objectives under paragraph 10 refer to focussing 'our regulatory effort more rigorously than at present'.

It is time for the SRA to regulate more not less. It is the SRA's role to ensure that the qualification process is not and does not become a box ticking exercise and that individuals and organisations will be held accountable.

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

There would be advantages to this but there needs to be clear guidelines in place as to what constitutes pre-qualification workplace experience. The focus should be on experiencing RELEVANT work experience as well as learning and development under the supervision and guidance of an expert with regular feedback. Not, for example, a summer intern's role which consisted of answering the phone and making coffee.

12.

**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?**

Very possibly but it is difficult to say at this stage without further information on the format and what this would entail.

Without further information it is impossible to judge what any additional costs or regulatory burdens would be.

13.

**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 1 and Part 2, to a specified performance standard?**

Yes

14.

**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?**

Yes.

A toolkit would be useful to support consistency across the profession.

15.

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?**

Yes, absolutely on all accounts.

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

This has been proven but those who have qualified in this way have been required to demonstrate over long periods of time that they have the necessary skills and knowledge both through testing and work based experience.

Without meaning to sound cynical, they did not secure qualification by answering some multiple choice questions and conducting role plays alone.

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

Yes

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

The concern with providing training provider performance is that the providers who perform better will continually increase their fees which in turn will have a negative impact on diversity.

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

There should be a finite number of times a student is permitted to take the SQE. Otherwise students with deeper pockets would be able to take the test more times and increase their chances of success.

Likewise, market demands will mean that those offering the most successful crammer courses (and that is what we will be facing) will charge more again resulting in those with deeper pockets being given an unfair advantage.

An obvious advantage of the SQE is that it will offer employers much greater visibility and certainty in comparing candidates based on their academic ability.

Under this section of the consultation paper I would like to question a statement made several times by the SRA as it suggests not specifying pathways would somehow miraculously "result in training providers developing new and innovative training at lower cost". It is unclear how this assumption is made and what the evidence is for it? Likewise in Annex 1 in support for option 3, the SRA states that flexibility would be targeted and proportionate and could "permit flexibility and innovation of pathways, depending on decisions about entry requirements".

By not specifying pathways, we greatly increase the risk of a two-tier system as mentioned in para 54.

The SRA appears to be unreasonably terrified of barriers to entry. Discriminating barriers to entry should of course in all cases be strenuously fought and broken down but this should not be confusing with bottlenecks to entry. As an individual who works solely in this area of our profession, I strongly believe that the lack of available training contracts is a result of market needs (or lack thereof), not a desire to keep

particular groups out of the profession. That is just not the case. What the SQE might do is improve the way in which candidates face employers on a more equal footing but I do not see how removing the requirement for pre-qualification work place experience will enhance inequality of opportunity.

If we are to continue to have a sought after profession where we attract the best talent then a bottleneck is essential. The reality is that some people will be disappointed which is ok, provided that decisions are made based on an individual's abilities and nothing else.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

All stakeholders must be given time to prepare and adjust. Currently the timetable looks optimistic (particularly in the early parts) given the amount of work which needs to be carried out.



# Training for Tomorrow – Assessing Competence

A response by  
The Chartered Institute of Legal Executives

4 March 2016

## For further details

Should you require any  
further information,  
please contact;

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Director of Education  
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March 2016

## **ABOUT CILEx**

The Chartered Institute of Legal Executives (CILEx) is the professional association and governing body for Chartered Legal Executives, other legal practitioners and paralegals. CILEx represents around 20,000 members, which includes approximately 7,500 fully qualified Chartered Legal Executive lawyers. CILEx is also a nationally recognised Awarding Organisation, regulated by the Office of the Qualifications and Examinations Regulation (Ofqual) and Qualifications Wales.

CILEx has reviewed the information contained within the consultation documentation, has considered the questions posed and provided responses to these questions.

### **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?

Paragraph 10 of the consultation document sets out 2 objectives:

1. To focus on consistent and comparable high standards of all admitted to the solicitors' roll at the point of admission, and
2. To ensure the most able applicants can be admitted to the solicitors' roll, irrespective of background and method of training - ensuring that qualification as a solicitor meets the changing legal services market and removes barriers to qualification.

The SQE is a form of centralised assessment, designed to ensure that all applicants are assessed against the same outcomes and to the same standard irrespective of underpinning training. The consultation indicates that the SQE will be made up of knowledge, skills and competences which map to the competence framework, statement of knowledge and possibly a period of work based training.

Therefore, the SQE has been designed to meet outcome 1 as set out in paragraph 10, as all applicants will be required to demonstrate the same level of knowledge, skills and competence, irrespective of the method used to develop these requirements.

It is noted that the SQE also has the potential to contribute to the SRA obligations to meet the regulatory objectives; in particular to the protection of the public in the delivery of legal services, through ensuring a consistent and objective standard of competence of those admitted to the roll, provided the tests are sufficiently broad to reflect the authorisation attained through admission.

Whether the SQE as currently drafted will be able to ensure that the most talented applicants are able to be admitted to the roll, irrespective of training, equality and diversity characteristics and social background remains to be seen. The use of centralised knowledge testing has been modularised to fit with teaching requirements on the LL.B, therefore these elements can be banked over a period of time, presumably there will be an additional charge to sit the centrally assessed knowledge tests and this will add a cost to the the undergraduate degree, if this is the method of training chosen to complete the requirements - and it is likely that this will continue to be the most common approach, as it keeps open the options of young people to pursue alternative careers either within or outside of the legal profession. This has the potential to create a financial barrier to qualification at a time when the undergraduate may not have decided that the solicitors profession is their goal. However, if the modules are not taken at the time of study, but delayed, there is the potential to create the need for additional training in order to meet the knowledge requirements for Part 1 of the SQE, which again may result in a financial barrier.

A possible alternative may be to consider the development of a more sophisticated method of accreditation of prior learning (APL), which may address the lack of comparability of undergraduate degrees, without creating the need for additional centralised assessments, where candidates have followed this method of meeting the requirements of the regulator.

Another outcome stated in the objectives relates to creating responsiveness to the changing legal services market. However, it is not clear from the consultation how the SQE intends to achieve this, particularly as the SQE appears to contain the same knowledge, skills and competences currently required for qualification.

Finally, the proposed retention of a period of work based training prior to qualification has the potential to limit the liberalisation of qualification, depending on the requirements of this element of the SQE. The most significant current limitation of the route to qualification as a solicitor, in terms of barriers to the most talented applicants, is the limited availability of training contracts and the new requirements do not change this.

## **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?

The proposed model of assessment is:

1. A knowledge test, covering a wide range of legal knowledge and ethical issues required to practice as an effective solicitor, as set out in the statement of knowledge.
2. Practical legal skills assessments which cover the key skills required to be an effective solicitor in at least 3 different areas, with a minimum of one contentious and one non-contentious area and each skill tested at least twice. These skills have been identified from the statement of competence previously defined.

The tests as set out have the potential to ensure that applicants have demonstrated the necessary requirements set out in the knowledge and competence frameworks previously defined and consulted upon by the SRA.

### **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?

The proposed SQE is designed to introduce an objective assessment of knowledge, skills and competence, irrespective of the route to admission.

It is proposed that there will be no limit on resits, which has the potential to impact negatively on those unable to repeatedly resit to improve performance owing to costs.

It appears from the consultation that there will be no time limit for completion of the tests and this is considered to have a positive impact on equality, diversity and social mobility.

In addition, the assessment will be common across all training routes, however it is not clear from the documentation whether the restrictions which apply to the Trailblazer apprenticeship, in terms of time limits for sitting Part 2 of the SQE will also apply to other training routes. If this is not the case, then other training routes may put non-apprentices at an advantage, as they will not be time-limited on successful completion of the pre-admission tests.

The tests have the potential to ensure that all applicants demonstrate the same level of knowledge, skills and competence irrespective of route to qualification. Therefore, on the surface, the tests will ensure a common minimum standard has been achieved by applicants prior to admission to the solicitors roll.



It is agreed that the introduction of exemptions would limit the effectiveness of the SQE as a common standard for admission, a central objective of the introduction of the SQE.

However, the lack of exemption means that there is the potential for applicants to be over-assessed, particularly where applicants have followed the traditional training route and to introduce additional costs which could create financial barriers to qualification, which in turn could lead to a reduction rather than an increase in those from more diverse backgrounds being able to qualify as solicitors.

As stated in question 1, a more sophisticated approach to APL may be better able to deliver some of the stated aims of the SQE, without the risks of repeated assessment of knowledge, skills and competence.

There is no evidence in the consultation of the consideration of possible alternatives to the SQE which have been considered as a mechanism to ensure a common standard of assessment prior to admission, and it would be interesting to understand the research undertaken into the reliability of such alternative mechanisms.

#### **Question 4**

With which of the stated options do you agree and why:

- offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

There are 3 options presented to provide the relevant skills tests to complete Part 2 of the SQE as set out above. CILEx offers no opinion as to which method would be most appropriate to demonstrate the necessary skills and competences to be suitable to be admitted to the solicitors roll, beyond noting that the test should ensure full competence commensurate with the authorisations held by qualified solicitors.

However, in terms of assessment and comparability, the more choices available to individuals in achieving the qualification outcomes will make the assessment potentially more expensive and less comparable across areas of practice.

It is noted that, in the consultation, there is an indication that success in this test will be enhanced through having practical, work-based experience of the areas chosen. It is assumed therefore that this part of the SQE will be taken after a period of work place experience has been obtained. The requirement to undertake at least 3 different elements from the 5 identified will presumably require the co-operation of the employer to enable an individual to complete experience in these different areas and therefore this part of the SQE may mean that the ability to perform well in these tests will depend on employer co-operation. It is hard to see therefore, how this will ensure that the ability to qualify as a solicitor will be liberalised in the way that is envisaged in the objectives set out in question 1, as this will mean that those following a traineeship of some form will be at an advantage over those who have been unable to secure such training but are working in the legal sector in a different role, such as paralegal.

### **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?

The definition of 'graduate' presumably means at least Level 6, as this is the level achieved at the point of graduation from an undergraduate course of study. The final CILEx qualifications are set and assessed at this level in order to ensure that Chartered Legal Executives are able to demonstrate the necessary intellectual ability to become a qualified lawyer and therefore, CILEx agrees that knowledge requirements should be set and assessed at Level 6 and that this intellectual ability can be demonstrated without following an undergraduate course of study.

However, this does not take account of the fact that during an undergraduate course of study, individuals complete modules set and assessed at both Levels 4 and 5. Many LL.Bs currently set and assess the foundations of legal knowledge (which make up a number of the knowledge components of the new framework) at Levels 4 and 5. In order to be successful in a test at Level 6 there will be a need to ensure that the courses of training prepare applicants to meet the complexity requirements at Level 6, which are by definition more complex than the requirements for either Level 4 or Level 5.

Any assessment should be able to demonstrate that it is valid, reliable and fit for purpose - this includes the level at which it is set and assessed. As previously stated there is a risk of over-assessment of candidates who have already been adequately tested through other

qualifications. In addition, to set and assess all knowledge and skills to the same level may not be appropriate.

The volume of knowledge required to complete Part 1 of the SQE is such that much of a degree (or other method of knowledge development) would be taken up with the accumulation of this knowledge to the required level.

These issues also have the potential to create training factories which churn out individuals who can pass tests at this level, rather than developing knowledge and the ability to apply it over a period of time.

Individuals currently choose to study for a law degree for a number of reasons, and even those who set out to become solicitors may change their aspirations during their undergraduate study. The requirements of the SQE may limit these options for individuals who instead embark on training which is designed to ensure that they are able to pass the SQE tests well, rather than creating a rounded 'graduate' on completion of the qualification who retains options for their future career.

## **Question 6**

Do you agree that we should continue to require some form of pre-qualification workplace experience?

In order to qualify as a Chartered Legal Executive, individuals must demonstrate at least 3 years of qualifying employment. This requirement goes beyond simply working in a legal workplace and ensures that individuals seeking admission have developed the necessary practical experience to meet the Day One Outcomes. This is assessed through individuals demonstrating that they have been able to meet each of the outcomes required of a newly qualified Chartered Legal Executive. Therefore, CILEx agrees that a period of workplace experience is essential to developing the necessary skills and competences to practice as an effective lawyer.

The consultation documentation indicates that Part 2 of the SQE is designed to assess the competence of the applicants to a consistent standard and that the ability to pass this part of the test will be enhanced through workplace experience. This has the potential to put some applicants at an advantage over others and in turn to limit the effectiveness of the SQE in ensuring that the most talented applicants are admitted to the roll, irrespective of characteristics and background. This is because success is likely to be linked to the ability to secure the most effective and supported workplace experience.

Therefore, in order to ensure that this potential barrier is not re-introduced as part of the SQE, care will have to be taken to ensure that any requirements for workplace experience does not inadvertently impact disproportionately on applicants from particular backgrounds.

### **Question 7**

Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?

This depends on the purpose of the workplace training. If it is an essential pre-requisite to being able to develop the necessary competences to meet the requirements of Part 2 of the SQE or to meet outcomes not able to be demonstrated through the SQE, then it is likely that there will need to be a minimum time period required in order to gain that necessary experience to meet the competence requirements. If this is the case, then the outcomes from the workplace experience will need to be clearly stated and prescribed to ensure that individuals can be assured that the workplace experience on which they seek to rely will allow them to demonstrate the requirement through Part 2 of the SQE, as time served alone is a crude measure of success.

If however, it is possible to be successful in Part 2 of the SQE without a period of workplace experience or otherwise gain admission, then a time-served element and indeed workplace experience at all, would be largely superfluous.

### **Question 8**

Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?

Again , this depends on the purpose of the workplace experience, as stated above.

It is noted that the consultation states that not all competences can be demonstrated through Part 2 of the SQE and therefore the SRA could use these competences to set the outcomes of the pre-qualification workplace experience. This is likely to necessitate that the workplace experience will only be able to developed once potential applicants have developed sufficient knowledge and skills to be able to demonstrate these competences effectively in the workplace and therefore will need to take place later in the training process. In order to do this however, there will need to be assessment of these competences over and above

Part 2 of the SQE, probably in situ, and this is likely to further increase the cost of qualification. In addition, this is also likely to perpetuate the barrier of obtaining the necessary pre-qualification workplace training required to be demonstrated prior to admission and will require the co-operation of employers in supporting qualification as a solicitor.

### **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?

CILEx agrees that any relevant workplace experience which enables applicants to demonstrate that they have met the stipulated outcomes required from the workplace experience should be able to be recognised as meeting workplace experience requirements.

However, there may be practical issues which arise from this, including how individuals will demonstrate that they have met any stipulated outcomes, the cost of providing this evidence and who would bear this cost, particularly where this experience has been developed in a number of workplaces. In order to retain the consistency and high standards which the introduction of the SQE is designed to bring to admission, there would need to be prescriptive requirements in terms of both outcomes and assessment of this element.

### **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?

If the requirement to undertake a period of pre-qualification workplace experience is essential to demonstrate that applicants have met necessary outcomes as set out in the competence framework, then this would be an element required prior to admission as a solicitor and therefore the assessment costs and regulatory burden created would be justified to ensure that every individual admitted to the roll is fully competent.

It is noted that the introduction of the SQE is intended to replace all other routes as evidence of competence for admission as a solicitor. This replacement includes all currently recognised exemptions available. However, the need for pre-qualification work experience could be demonstrated in a number of ways and the SRA is asked to consider recognising work experience gained and assessed through a variety of methods and providers.

### **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 1 and Part 2, to a specified performance standard?

N/A

### **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?

N/A

### **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?

The intention of the SQE is that it stands alone as a centralised set of assessments required to demonstrate the necessary knowledge, skills and competences required of a newly qualified solicitor. Therefore, the credibility of the assessment comes from its objective assessment, irrespective of the route to admission. As such the prescription of training provision to support meeting the requirements would not be required and in fact would go against the underpinning reasoning for the introduction of the assessment, which is to ensure that all those admitted to the roll have met a common standard irrespective of the chosen route to qualification. This objective assessment is also likely to ensure the continued and enhanced protection of consumers of legal services through the introduction of a common minimum standard of competence prior to admission.

However, the period of training required and the rigour needed from that training is likely to be such, that in order to protect students who may not have the necessary knowledge to choose appropriate training, could pave the way for sub-standard training provision which

would not adequately prepare individuals to meet these rigorous requirements and lead to costly errors of judgement in embarking on unregulated training programmes. This would be especially true of those individuals making choices on training provision who may not have experience of entering the legal profession and those who are less able to access the best quality training through the prohibitive costs. Therefore, lack of prescription around training provision could have a significant negative impact on those who share protected characteristics or come from a disadvantaged background.

#### **Question 14**

Do you agree that not all solicitors should be required to hold a degree?

Yes, CILEx offers a non-degree route to qualification as a lawyer and the requirement for a degree is a proxy for demonstrating a minimum standard of intellectual ability. However, it is possible to show this without having completed an undergraduate degree.

#### **Question 15**

Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?

The SQE is being designed to demonstrate that an individual has met a minimum level of competence required for admission and therefore as a regulatory tool, the SQE should demonstrate that an individual is either competent or not competent against the outcomes stipulated in the competence framework and knowledge statement. From a regulatory perspective, there would be no requirement to share this information with the candidate.

However, performance on the SQE would provide the candidate with evidence of their abilities against the framework and would, for those who have performed best in the test, provide them with an additional selling point when seeking employment.

There is a risk though, that performance in the SQE could be enhanced through purchasing additional training and/or being able to pay for additional resits to raise the level of performance in the SQE and as a result this could have a negative impact on equality, diversity and social mobility measures of success post SQE.

#### **Question 16**

What information do you think it would be helpful for us to publish about:

- overall candidate performance on the SQE?
- training provider performance?

For the reasons set out above, CILEx considers that caution should be exercised in releasing candidate performance.

However, training provider performance will, over time, enable candidates to make choices on training provision, based on candidate performance on the SQE. It is also necessary to exercise caution here though, as candidate performance could be related to factors other than the quality of training provision, such as historic differences arising from the background of the individual candidates, including educational background. This could have unintended consequences, making the highest performing training providers more desirable, driving up costs of accessing the best provision and therefore impacting negatively on those with protected characteristics and from disadvantaged backgrounds.

#### **Question 17**

Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?

A number of potential impacts have been identified through the responses to this consultation, including the possible negative impacts of introducing prescriptive pre-qualification workplace experience as part of the SQE, cost of training and assessment and publication of outcomes both to individual candidates and of training providers.

#### **Question18**

Do you have any comments on these transitional arrangements?

No.

#### **Question 19**

What challenges do you foresee in having a cut-off date of 2025/26?

Not answered.

#### **Question 20**



Do you consider that this development timetable is feasible?

Not answered



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**Response to the SRA Consultation Paper, “Training for Tomorrow: Assessing Competence”  
from the City of Westminster & Holborn Law Society (“CWHLs”)**

**Submitted by the CWHLs Education and Training Sub-committee,  
Chair: Melissa Hardee**

**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?**

No. We endorse the comments made in the response of the Society of Legal Scholars. We also query whether the objectives set out in paragraph 10 are in fact the correct objectives for the SRA, and we do not believe that the reasons argued by the SRA in the consultation paper as justification for the SQE are valid, and that it is within the SRA’s power to address issues of consistency of standards without the need for introducing a centralised SQE. We also believe that it is not possible to agree to a proposal to introduce a centralised SQE without knowing what the process will be leading up to the SQE. The introduction of a centralised SQE, as with any change to the legal education and training framework, should be as part of a coherent articulated pathway of training and development, with the SQE delivering assurance of competence not already delivered along that pathway. Without knowing what the pathway leading to the SQE will be, it is not possible – or reasonable – to agree to the introduction of 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?**

No. We endorse the comments made in the response of the Society of Legal Scholars, specifically that the proposed model assessment for the SQE on its own cannot demonstrate achievement of the required competencies at least at graduate level, and that assessment of the knowledge requirements for a lawyer by multiple choice or true/false questions can in itself demonstrate that a person who passes that assessment possesses the skills and abilities of a graduate or postgraduate.

**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?**

In principle, if the SQE is introduced, we would agree that all intending solicitors, including solicitor apprentices and lawyers qualified in another jurisdiction, should be required to pass the SQE to qualify. In terms of exemptions, we believe that a law degree or a non-law degree plus the Common Professional Examination (CPE) or Graduate Diploma in Law (GDL) should justify exemption from Part 1 Functioning Legal Knowledge Assessments. However, we do not agree with the introduction of the SQE in the first place. We also endorse the comments made by the SLS in its response to the consultation.

**Question 4**

**With which of the stated options do you agree and why:**

- **offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?**
- **offering a broader number of contexts for the Part 2 assessment for candidates to choose from?**
- **focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?**

We believe that each of these options is misconceived, and that setting contexts is in any way a more rigorous and reliable test, given the fundamental flaws (see responses to Questions 1, 2 and 3 above) in the SQE.

**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?**

No. This is a diminution in standards, since many LPCs are taught at M-level. The standard set should be M-level. We also believe that the standard should be aligned with the QAA's Framework for higher education qualifications in England, Wales and Northern Ireland (FHEQ), and that the SRA's reasons for not doing so are unconvincing.

**Question 6**

**Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Yes. The reasons given in the consultation paper do not justify any change to the existing Period of Recognised Training.

**Question 7**

**Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

Yes. The reasons given in the consultation paper do not justify any change to the existing Period of Recognised Training.

**Question 8**

**Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

The SRA should specify the competences to be met during pre-qualification workplace experience in addition to specifying a minimum time period.

#### **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?**

No. The idea that any pre-qualification experience obtained (save for certain paralegal experience – but only in very limited circumstances), is consistent and equivalent to that during a PRT is misconceived. Generally speaking, working as a paralegal is not subject to the same level of supervision and training as under a PRT, and will not provide the breadth of exposure to English and Welsh law that is required under a PRT. The SRA appears to assume that anyone who wishes to qualify as a solicitor should be able to do so, whether or not they meet the required standards and whether or not there are places available in the profession for the number of people who wish to enter the profession.

#### **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?**

No. An element of workplace assessment would not enhance the quality of the qualification process if training and supervision are already required for work-place experience, as they are under the PRT. The requirement would also impose a disproportionate cost and regulatory burden for questionable benefit.

#### **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 1 and Part 2, to a specified performance standard?**

Some of our members would but most probably would not.

#### **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?**

If the toolkit of guidance is of a similar standard to that of the Continuing Competence toolkit then it would not. In any case, we do not believe that workplace assessment is appropriate or justified.

#### **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?**

The prescription and regulation of training pathways are essential to the quality assurance of the solicitor qualification. They are also essential to ensure parity and equal opportunity for all candidates wishing to enter the profession. The SRA is wrong in thinking that removal of prescription will create

greater opportunity. We believe the opposite is true, and that, by not prescribing pathways, access will be reduced.

For the same reason that prescription and regulation of training pathways are essential to the quality assurance of the solicitor qualification, prescription and regulation of training pathways are essential to protect consumers of legal services and students. This should not just be for a transitional period.

#### **Question 14**

**Do you agree that not all solicitors should be required to hold a degree?**

No. All solicitors coming into the profession now should be required to hold a degree, unless they have qualified by way of qualification as a Chartered Legal Executive. The SRA's argument at para 72 is misconceived and self-serving. The five year period of articles was available at a time when one-to-one supervision was more easily available, and substantive knowledge was still required to be developed and assessed. The knowledge of an articled clerk at the end of the five years was intended to be commensurate with someone who had done a law degree. Similarly with the CILEx route to qualification. Both are exceptions to the norm of the requirement of a degree. Just because exceptions may be recognised does not justify denying the norm. Not to require a degree because equivalence is accepted in certain exceptional situations is faulty reasoning, and also demonstrates a lack of understanding of the value and quality of the Solicitor qualification.

#### **Question 15**

**Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

If the SQE is implemented, then the SRA's objectives, as set out in para 84 of providing objective evidence of the quality of a candidate and their suitability to be a solicitor would not be achieved without candidates having information about their individual and comparative performance on the SQE. However, we believe this would make the SQE extremely complex and expensive. It is also questionable whether the marking of such an assessment would be reliable.

#### **Question 16**

**What information do you think it would be helpful for us to publish about:**

- **overall candidate performance on the SQE?**
- **training provider performance?**

Neither. We also believe that publishing information about training provider performance will drive a culture of crammer courses aimed at getting a candidate through the assessment, rather than courses and programmes designed to develop competence. A training provider with a high level of passes is no assurance of the competence of the candidates from the course; only of their assessment technique which enables them to pass.

#### **Question 17**

**Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

We believe that if the SRA decides to introduce the SQE and then removes prescription of pathways to qualification, this would have a detrimental effect on EDI, and would put many candidates from disadvantaged and non-traditional backgrounds at a distinct disadvantage. We also believe that the SRA is incorrect in its assumptions that the SQE would reduce the costs of qualification: we believe the SQE itself would be expensive, based on experience with the QLTS. Further, if the SRA removes

prescription of the law degree and LPC, the gap will need to be filled by other courses, with no control over the fees for such courses.

**Question 18**

**Do you have any comments on these transitional arrangements?**

As stated in our response to Question 3 above, we believe that a law degree or a non-law degree plus the Common Professional Examination (CPE) or Graduate Diploma in Law (GDL) should entitle exemption from Part 1 of the SQE, should it be introduced.

**Question 19**

**What challenges do you foresee in having a cut-off date of 2025/26?**

This would depend on whether the SRA continues to prescribe pathways to the SQE or not, should the SQE be introduced.

**Question 20**

**Do you consider that this development timetable is feasible?**

No. We believe it is very rushed.



The Law Society

# **SRA Training for Tomorrow: Assessing competence**

Response of the Law Society of England and Wales

February 2016



## **Training for Tomorrow: Assessing competence**

### **A response from the Law Society of England and Wales**

**February 2016**

#### **Introduction**

The Law Society ("The Society") is the representative body for over 165,000 solicitors in England and Wales. It presents the policy of its Council made on behalf of the solicitors' profession as a whole, to regulators, Government and others. It also works closely with stakeholders to improve access to justice for consumers.

On 7 December the SRA released a consultation looking at how the Competence Statement for solicitors (which sets out a level of competence against skills and legal knowledge) will be assessed for entry to the profession. The proposals from the SRA centre around a series of centralised assessments for knowledge and skills, possibly without any pre-requisites for education or training or regulated pathways to qualification, bar the possibility of some form of work-based experience.

In September 2015 the Law Society responded to the SRA's engagement activities on this topic, setting out serious concerns regarding the proposals and the Society's preference for enhancement to the current route to entry, and highlighting that the SRA was yet to undertake an Equality Impact Assessment (EIA). The SRA has addressed some of these concerns in this formal consultation paper.

This consultation is the first of two, the second of which is planned for summer 2016 and will look at entry requirements for the assessments and requirements for pre-qualification work experience in more detail. The current consultation paper looks to explore these issues but not to make any decisions as yet.

Having been closely involved in the pre-consultation engagement, it is disappointing to see that this consultation includes little detail beyond what has already been discussed. The assessments are referred to but there is no detail on how these will be managed or what they will look like. Many of the important elements, such as the requirement for pre-qualification work-experience and the assessment framework, are to be consulted on at a later date, if at all, which renders this consultation only another piece of the overall puzzle.

When considering whether the proposals are sufficiently robust and appropriate for entry to the solicitor's profession the devil is in the detail and the detail is missing. Without being able to assess the whole, it is difficult to draw adequate conclusions and the SRA should refrain from making any definite decisions on the implementation of these proposals before the future planned consultations have been held and stakeholders have been able to respond to the full scope of them.

The SRA has obligations relating to the regulatory objectives, as outlined in section 1 of the Legal Services Act (2007) to:

- (a) protect and promote the public interest;
- (b) support the constitutional principle of the rule of law;
- (c) improve access to justice;
- (d) protect and promote the interests of consumers;



- (e) promote competition in the provision of services within subsection (2);
- (f) encourage an independent, strong, diverse and effective legal profession;
- (g) increase public understanding of the citizen's legal rights and duties;
- (h) promote and maintain adherence to the professional principles.

The Law Society would welcome the SRA's explanation of which of these objectives they are seeking to further with the proposals contained in this consultation paper and how they believe they will do so. The consultation paper seems to deal with only two of these objectives (c and f), and on one of them, to encourage an independent, strong, diverse and effective legal profession, what is proposed may have the opposite effect, in fact weakening the profession. It should be remembered that outcomes focused regulation is a technique, not an objective.

The Law Society also notes that although the SRA has stated that it is addressing concerns raised by the Legal Education and Training Review (LETR), it has ignored the headline from that review, which is that the current system is good, but requires certain updates. The proposals from the SRA go far beyond this.

#### **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?**

The Law Society supports a properly thought out and appropriately scoped centralised assessment, which would be of benefit in ensuring that a common minimum standards for entry is assured and it is appropriate that the SRA has identified this as an objective for these changes. Some form of centralised assessment should be incorporated into the current system but assessment alone seems insufficient to ensure the quality of the legal education and training completed and the experience undertaken by those who seek to enter the solicitor's profession. A centralised assessment process that seeks to cover every aspect of the competence statement is unrealistically ambitious and objectively unnecessary.

The Law Society opposes any system which could end up with people becoming solicitors with no mandatory higher education requirement at all, either tertiary or vocational such as CILEx. The Society believes that this would be extremely damaging to the profession and the public. The Society would instead propose that the current system of legal education and training could be updated to include measures that would offer assurances of the standards attained prior to qualification.

The Society cannot agree that the introduction of the SQE will meet the second objective set out. The SRA acknowledge that their proposals will do little to diversify pathways to qualification without providers of legal education and training overhauling their offerings. In fact, the Society believes that the lack of specified pathways to qualification will have a negative impact on those seeking to enter the profession where they do not have access to good sources of information regarding the requirements for the SQE and the expectations of employers around legal education and training. It is likely that some very good candidates will follow pathways that will not deliver the required training as non-regulated providers are allowed to enter the market.

## **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?**

The report by Alpha Plus states that the "aim of the proposed assessment model is to accept competent candidates into the profession, and to turn away candidates who are not competent. An assessment, if it is the right assessment, may be able to achieve this, but it is a risky approach for a new assessment which has yet to establish its credibility". Without an assessment framework it is impossible to truly validate the SQE and assess whether it will provide an effective test of the competencies. The details given in this consultation document do not address the depth or breadth of knowledge and skills that will be assessed.

While the Law Society has in principle accepted the proposal for centralised common assessment as a means of addressing concerns about potential differential in standards and coverage between legal educators, the Society wishes to note its continuing concerns about the potential risk that a centralised assessment process, as the sole element of academic knowledge, will undermine academic quality. Centralised assessments often naturally gravitate to areas of assessment which are less complex and where there is a shared agreement on the correct answer. It is also inevitable that, rather than exploring the full range of legal issues, students (and potentially their teachers) become focussed in their studies purely on those matters which are of direct relevance to the centralised assessment. These two in combination risk producing an assessment which is pitched at a shared lowest common denominator – rather than one which ensures that future solicitors have the intellectual understanding of law which enables them to protect the public interest and the interests of consumers in particular.

The lack of restrictions on the number of times an assessment can be retaken, alongside the lack of time restrictions on the completion of all elements, does not seem to be a robust approach. It could lead to a situation where students can effectively 'bank' elements indefinitely, which they may have no familiarity with by the time they finally manage to qualify. It also means that familiarity with the assessment, question types or scenarios could enable students to gain higher marks than may have been the case on their abilities alone.

The Law Society does not believe that it can be the case that unlimited retakes, without time constraints for the completion of all elements, can be considered a robust form of assessment of those competent to practise. Such a system also discriminates unduly in favour of those candidates who can fund repeated re-takes. Any assessment methodology must be consistent with equality and diversity objectives to encourage a diverse profession. The idea of unlimited retakes is also completely at odds with the concept that the exam will be at degree level. In the current pathways to qualification there are limits on retakes and this is an important element of demonstrating ability at that level.

The SRA's own research suggests that not all elements of the Competency Statement are assessable through the two stages of proposed assessments, which will impact on the effectiveness of them. Some form of practical assessment, on client interviewing skills, for instance, may be applicable. However, it is the view of the Law Society that many of the skills demonstrated throughout the training stage can be best assessed through ongoing observation, perhaps backed up with portfolio

evidence or in-work assessments by training supervisors. This is especially the case where being able to demonstrate skills coherently and consistently is concerned.

### **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?**

All those wishing to enter the solicitor's profession should be required to show that they have attained the same minimum level of knowledge and skills. The SQE does, in fact, seem more closely attuned to the current QLTS, and will seemingly provide a thorough test of the abilities of those who are already qualified in another jurisdiction. However, for the purposes of domestic entry to the profession, the SQE is insufficient, as detailed above.

The Law Society can foresee issues with cross-border arrangements, particularly where the SRA has voiced its intention not to grant waivers for those from other UK jurisdictions. This may present problems with the movement and co-operation between solicitors and those in, for example, Scotland and Northern Ireland. The Society would support exemptions where sensible, as are currently the case with the QLTS.

To offer no exemption from the assessments for those who have completed law degrees or postgraduate diplomas in law would be costly and inefficient, as well as there being a real danger of overloading students with multiple assessments. At least in the short term, students will be forced into assessments from their university as well as those from the SRA. The SRA's suggestion, throughout the engagement process, that universities will fall into line with the SRA's assessments underestimates the conservative nature of academia and ignores entirely that undergraduate law degrees offer more than the first step on the rung to becoming a solicitor, albeit that this is a key consideration for many students. Surely it should be possible for a particular university module to be accredited by the SRA and so support a candidate in achieving their professional objectives, whilst also assuring the SRA of the necessary competencies.

The LSB's 2014 statutory guidance states under outcome 1 that "regulators (should) act to facilitate easier movement between the professions, during training, at the point of qualification and beyond". The insistence from the SRA that there will be no qualifying element to a law degree essentially forces students to choose which profession they wish to enter at a much earlier date. Indeed, if the SRA are correct in their assumption that some universities will alter their courses to meet the requirements of the SQE, then students may be forced to decide when they apply for university which profession to aim for.

The Law Society also believes that this approach may represent issues further down the road, with a lack of future proofing against any potential changes that may occur within the sector, restricting movement between branches of the profession.

### **Question 4**

**With which of the stated options do you agree and why:**

**a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?**

**b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?**

**c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?**

Of the proposed options, option A seems to best align with the requirements for entry to the profession, in reference to the reserved areas, without being needlessly expensive, or onerous to administer. It should also allow for a greater level of consistency to be maintained across the differing scenarios than with the other options, something which is essential for the success of the SRA's proposed assessment of this stage.

### **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?**

It seems entirely reasonable to set a minimum common standard for entry to the profession and the Law Society supports the SRA's intention to do so. However, without mapping this common standard against the current standards of legal knowledge (Level 6/ degree level), it is impossible to be assured that the new standard will not represent a lowering of standards. The Society understands that such mapping is not possible as the level descriptors are for a course, and the SRA is proposing no such course, only a series of examinations.

It is difficult to understand how, on the one hand, the SRA can claim vehemently that there is no degree standard, so there must be change to legal education and training and there can be no waivers for the law degree or GDL under the new system, but can still, on the other hand, claim, without any evidence, that the standard of the assessments will be degree standard.

The standard for any route to entry has long required a level 6 academic qualification, as set out by the Qualifications and Credit Framework, as a minimum standard, with higher standards then achieved through the Legal Practice Course and the period of training, in whichever form it may take. The existing routes to entry all meet this requirement, whether through CILEx, apprenticeships or the qualifying law degree, in fact apprenticeships can incorporate the award of a law degree. Level 6 qualifications recognise a specialist high level knowledge of an area of work or study to enable the use of an individual's own ideas and research in response to complex problems and situations. Learning at this level involves the achievement of a high level of professional knowledge and is appropriate for people working as knowledge-based professionals or in professional management positions. This description expresses clearly why such a level of attainment should be a prerequisite for qualification as a solicitor.

The Society also strongly supports the importance of tertiary education in terms of the cognitive training it provides and the way in which it equips people with the ability to work throughout their career as solicitors, taking onboard changes in law and practice. This ability to adapt and fold new developments into the existing scope of their knowledge and skills is something which might not accrue to someone who was educated solely or primarily to pass the relatively narrow exams that are proposed. The nursing profession now has a graduate requirement in recognition of the necessary level at which nurses perform and the police are looking at the possibility

of a graduate route, in recognition of the knowledge and skills officers are expected to demonstrate. Against this backdrop, and that of other professions such as accountants where there are multiple routes, but a graduate route is one of them, to have no graduate level route for entry at all would be a retrograde move out of step with other professions.

It is unclear from the timetable set out within the consultations, whether there will be the opportunity to comment on the Assessment Framework document proposed at paragraph 57. Given the areas that this document will cover - including the structure and design of the assessments and the level of difficulty of the assessments, amongst others - it seems essential that stakeholders are given the opportunity to feed back to the SRA.

### **Question 6**

#### **Do you agree that we should continue to require some form of pre-qualification workplace experience?**

A substantial period of work-based training, in a legal environment, under the supervision of a solicitor, is essential to gaining competence as a solicitor. A trainee can only demonstrate fully that they are able to apply knowledge, skills, and professional judgement consistently within their working environment, by having learnt to apply these same elements in that environment. The Law Society's view is that it is unthinkable that a solicitor could qualify without having undergone a period of supervised work-based experience. It is also important that students have gained the necessary legal knowledge and vocational skills prior to beginning their work-based learning, in order to ensure that it is of the requisite value.

Research by academics, such as Eraut, makes it clear that a substantial part of learning in the early stages of a solicitor's career takes place through work undertaken with learning as a by-product. This shows that work-based training is more than just an "important rite of passage" for all trainees, as the consultation document asserts, it gives trainees an opportunity to learn different types of skills and acquire a different type of knowledge that are completely distinct to anything they may learn in the classroom. It provides an opportunity to learn in a safe environment, to make mistakes and have them corrected, and to really test what an individual has an aptitude for. Unless the time to be spent in the workplace prior to qualification is properly defined, structured and quality assured, it may be seriously devalued.

Research carried out by the Law Society shows that a very small proportion of firms feel that the removal of a formal training period would have a positive impact on their ability to operate their business. Survey data indicated that 46% of firms take on trainees, with a higher proportion of larger firms taking on trainees than smaller firms. Overall, only 7% of firms felt that there would be a positive impact, set against 66% who felt there would be a negative impact. The Law Society would suggest that the SRA should ensure that it fully investigates the potential for negative repercussions from the removal of the formal period of training to ensure that solicitors' businesses are not adversely affected as a result.

As the consultation paper sets out in paragraph 60, evidence from the SRA's own assessment experts is that "some form of pre-qualification workplace experience has a significant role to play in assuring both the credibility of the new approach to qualification and of the solicitor brand". It also notes at paragraph 63 that some elements of the Competence Statement, which are not able to be assessed through

the two-staged proposed SQE, must be assessed, and could best be done so during the pre-qualification workplace experience. This form of assessment through workplace observation would improve the robustness and validity of the overall assessment of competence.

#### **Question 7**

**Do you consider it necessary for the SRA to specify a minimum time period of prequalification workplace experience for candidates?**

The Law Society understands that this question will be discussed in more detail in a follow up consultation in the summer. Therefore this section represents the Society's initial views on the subject, which it is hoped the SRA will consider when developing more detailed proposals. It should be borne in mind that compared to overseas jurisdictions, England and Wales already has shorter formal education and training requirements and the training period, of two years, is seen as shoring up this deficiency and is very well respected internationally.

For the purposes of work-based learning, the Law Society believes there should be a specified minimum time required, and that this time required should be substantial; indeed it is the shared experience of many professionals that the current requirement for two years training is good and this should be taken into consideration. It is essential that newly qualified solicitors are au fait with the workings of the business of law, the environment and other professionals, as well as having had ample time to develop and demonstrate their competence at the range of skills required.

#### **Question 8**

**Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

It seems obvious and essential that the SRA should specify both the competencies that must be met during the period of pre-qualification workplace experience, as well as the time period deemed to be necessary for the development of these competencies. This would aid those seeking to enter the profession, as well as those providing the workplace experience, in undertaking appropriate training for both those elements to be assessed through workplace observations, as well as those assessed through stage 2 of the SQE.

#### **Question 9**

**Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

It is acceptable to recognise a wider range of experience, so long as this experience has taken place within a legal environment, under the supervision of a solicitor, for a reasonable period of time. The Law Society would suggest that there would need to be requirements for this though. For example, there should be a minimum time period for any experience to be counted; 3 months seems a suitable minimum, and the bulk of the experience required, two years ideally, as set out above, should be completed in a continuous period, with one supervisor. It would be unmanageable and unproductive to the development and demonstration of competence to allow entrants to the profession to complete their pre-qualification workplace experience in small chunks, built up over an indefinite amount of time.

The SRA should also give some thought as to the appropriate level at which a trainee should be working during this period. This could be achieved, in part, through the clear specification of competencies to be achieved, although guidance on the sorts of tasks and roles a trainee may undertake would also be welcome.

#### **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?**

It is essential that workplace assessment is included in the overall SQE assessments, as set out within the consultation document. It is unacceptable to suggest that some of the competencies identified as essential for a solicitor are not assessed simply because the SRA cannot fit them into the two-stage assessments they have proposed.

It is not clear what the additional costs will be in real terms, or whether the employers will feel that they are able to administer these assessments within the course of their usual training. Without further detail it is impossible to offer any definite opinion on the costs vs benefits of such an element being included.

It is accepted that the portfolio model which the SRA looked into as part of the work-based learning pilots, was time consuming. However, this was designed to assess the entirety of the student's experience gained over the two-year training contract. If this proposed element was designed to pick up only the competencies not assessed through the SQE, then it would certainly be less onerous and could be of considerable value. The Law Society is aware that CILEx currently utilises a formal of centralised assessment of portfolios for some of its qualifications. If this is something that can work in this context, the SRA could investigate using something similar.

#### **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 1 and Part 2, to a specified performance standard?**

N/A

#### **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?**

The Law Society would encourage the SRA to provide guidance wherever possible in order to support the profession, and those seeking to enter the profession, with adapting to the new scheme, in whatever form it eventually takes. The recent toolkit for continuing competence provides much useful information and the forms that solicitors can download are a good way of judging how the process is design to work.

In addition to this the Law Society would no doubt fulfil its role in supporting its members through practice notes and other pieces of guidance, as well as webinars and other support as appropriate.

### **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:**

- a. support the credibility of the assessment?,**
- b. and/or protect consumers of legal services and students at least for a transitional period?**

The Law Society continues to support the prescription of pathways to entry and believes it will support the credibility of the assessment and protect consumers and students, not only for the transitional period. It is not sufficient for the SRA to state that they do not consider it to be their role, as regulator, to manage these aspects any longer. The SRA is responsible for those entering the profession, in ensuring not just the mark they can achieve in a series of assessments, but also the quality of the legal education and training they have undertaken. The SRA must also ensure (as per the Legal Services Act) that the quality of service to the future consumer, and the upholding of the legal justice system, is maintained or improved. The focus therefore needs to be on having confidence that any assessment regime gives an accurate picture of the ability of the solicitor to deliver legal services in future at the requisite level. The point of entry snapshot that these proposed assessments will deliver cannot do this. It is therefore necessary for the regulation to look behind these assessments and consider the learning journey of those seeking to enter the profession, as well as their ultimate point of entry performance.

The Society believes that the current regime is capable of adapting to meet demand, as has been seen with the 'equivalent means' provisions, whereby potential entrants can show that they have met the requirements for entry in ways other than those specified by the SRA, and in the recent approval of the apprenticeship route. The legal education and training system in England and Wales is very highly regarded internationally, particularly in respect of the training contract, as recent research by the Law Society into global competitiveness (please see Annex A) has shown. It seems counterproductive, in the pursuit of securing standards, to destroy a system which works well.

The Law Society's preferred approach would be to build on current assessment procedures, whilst having regard to the content of the Competence Statement and new routes into the profession. New assessment processes should be introduced only where necessary, to ensure that the skills and knowledge required by the Competence Statement are covered to a consistent standard for all new entrants. In line with this, the SRA should consider restricting entry to the second stage of the SQE to those who hold a degree level qualification. The first stage of the SQE, it is understood, would most likely be taken in stages throughout the length of a candidate's legal education.

This set up should then be revisited at regular intervals, every five years say, and reviewed to ensure that the principles of a secure standard for entry as well as the credibility of the assessment and the protection of consumers and students are met, whilst identifying ways in which processes or requirements could be removed where they are unnecessary for meeting these requirements. The SRA does this with the Red Tape Challenges currently and this could fall in line with this work.



#### **Question 14**

##### **Do you agree that not all solicitors should be required to hold a degree?**

Solicitors have never been required to hold a degree and there should be no requirement for them to have to do so. However, as stated in our response to question 5, there should be a degree level qualification requirement, which can be acquired through a degree, CILEx and the new legal apprenticeships. There is currently a good balance between different pathways into the profession and the attainment of a high level of legal knowledge. The current academic rigour underpins the commercial success of the profession, providing the first of the necessary building blocks for qualifying as a solicitor. Removing the requirement for a graduate level course could exacerbate the gaps that exist between the current pathways into the profession. Tertiary education addresses many of the deficiencies some students may have upon leaving school, due to varying quality of education providers.

It is also important to consider the solicitor's profession in the context of other professions in the UK. Increasingly professions, such as nursing and the police, are looking at requiring a degree level qualification, not just an assessment, from their members. Whilst the Law Society has always supported multiple pathways into the profession, it is necessary that qualifications at a degree level form part of these pathways, in order to assure standards and the reputation of the profession, both domestically and internationally, in addition to the proposed assessments through the SQE.

#### **Question 15**

##### **Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

The SQE as proposed is designed to assess the competence of those wishing to enter the profession, not to state relative levels of excellence. The Competence Statement on which the SQE is based is also designed around competence, rather than excellence. It therefore seems logical to have a pass or fail mark, or at most a small range of 'grades' that can be attained, rather than individual ranking of candidates.

Ranking individually would also be needlessly expensive and would likely, as suggested in the consultation paper, be of advantage to those who can afford to re-sit individual assessments to boost their score. This would undermine any possibility that the SQE results may overshadow the individual institutions a candidate had attended. It is also worth considering that a high proportion of training is done within big, or 'City' firms, who recruit during the undergraduate degree to a large extent. Therefore the ranking on the SQE would be irrelevant to this sector, which is one of the areas where social mobility could be considered to be lacking.

It is the considered opinion of the Law Society's experts from universities that ranking students would likely lead to an increase in the number of requests for additional support to sit the assessments. Deciding which of these requests should be met would be a huge administrative task. Universities are better able to manage these requests as they have some familiarity with students and how they fare in assessment conditions, but an assessment provider as suggested by the SRA would have no such familiarity to aid decision making.

The other factor that would cause expense would be the need for an appeals process to allow students to appeal both decisions made about any support requested, but also more generally to appeal their marks and ranking. An assessment of this nature is highly unlikely to be sufficiently precise to make allow calibration to precise marks, doubly so if the assessment can be taken multiple times.

#### **Question 16**

**What information do you think it would be helpful for us to publish about:**

**a. overall candidate performance on the SQE?**

**b. training provider performance?**

It would be useful to provide pass mark data, for example, the percentage of passes and fails, or, if graded, the percentage of candidates at each grade. This could then be monitored year on year to assure standards over time. If the SRA commissions more than one organisation to provide assessments, such data could also be used to assure the comparability of standards across providers.

It would not be appropriate to provide information as regards individual training providers as the intention is to have no preparatory course for the SQE; it would therefore be unfair to tie course providers, whose courses may be for other purposes than the narrow confines of the SQE, to the SQE results of their former students.

#### **Question 17**

**Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

The Law Society is pleased to see that the SRA has addressed concerns regarding the accessibility of the assessments that will make up the SQE and that it is committed to ensuring that reasonable adjustments can be made. It remains to be seen whether the SRA have really grasped the complexities of this issue though.

Universities and colleges have in place expensive and comprehensive systems to support such students, and have the advantage of working with them across many years, so are uniquely well placed to know what support is appropriate and when support is not appropriate because of its potential impact on academic standards. A single central assessment organisation will find this challenging.

However, the Law Society remains concerned regarding the likely financial impact of these changes which would disproportionately affect poorer students. Both stages of proposed centralised examinations will almost certainly operate within a free market environment of intensive preparatory courses. These courses will not be covered by Student Finance England or Wales, as current required courses are, so will need to be self funded, or funded via commercial loans. Poorer students already struggle to meet the costs of post-graduate education, both tuition and maintenance, and this would be an additional barrier.

The counter argument put forward by the SRA that students have financial choice as they are not required to undertake university or post-graduate education at all, ignores the fact that many poorer students benefit immensely from university education. The opportunities for improvement in written, verbal, team-working and other valuable skills would not be available to them otherwise, nor would the valuable contacts they will need for gaining work experience or training opportunities. Whilst there are currently other routes into the profession, these are still seen as secondary to the graduate route and the SRA's proposals run the risk of exacerbating this situation and creating an even greater diversity problem than currently exists.

It is disingenuous to suggest that the cost of entry to the profession will be lower under the SQE than currently, so long as students forego the LPC. The skills and vocational training that the LPC provides will have to be picked up elsewhere. This may be through crammer courses or through the extension of other existing courses. It seems sensible to assume that neither of these options will be free though. It is also presumptuous to draw this sort of conclusion when the costs of the SQE are, as yet, unknown and an assessment provider is yet to be appointed.

The stated aim of this proposed revision to assessment is as part of the widening participation approach to legal qualification. This aim is laudable and right. However, the SQE alone does not correlate with a widening of opportunity for many students. The specific and narrow exam skills inherent to such a regime; the costs implications for students; and the possible downward effect on universities' teaching programmes negate any perceived benefit. If implemented, this proposal will further contribute to the regression in social mobility within the profession recently reported by the Commission on Social Mobility and Child Poverty Commission chaired by Alan Milburn.

Less well informed students, those without access to the profession or good sources of information may pick a course which allows them to pass the SQE, but which is not seen as a suitable education for employers. Alternatively, students may incur large amounts of debt undertaking prestigious university law courses, only to find that they are not prepared for the SQE and need to attend crammer courses, at no doubt more cost. This will be a huge issue for those without financial support.

#### **Question 18**

**Do you have any comments on these transitional arrangements?**

For the purposes of the transitional arrangements, students who are in the process of completing a qualifying law degree should be given a waiver for the entirety of the part 1 assessments of the SQE. The course they embark on, in good faith, offers an exemption from the academic stage of legal education and training and this should be upheld.

#### **Question 19**

**What challenges do you foresee in having a cut-off date of 2025/26?**

The SRA should consider all the possible options for the current routes to entry; for example, queries have been raised regarding the time it takes to complete a part-time law degree and whether those embarking on this course would have sufficient time to complete their studies ahead of the cut-off date. There are also queries regarding the time taken to complete certain CILEx courses and the waivers that would be applicable for these candidates.

#### **Question 20**

**Do you consider that this development timetable is feasible?**

The timetable laid out in the consultation document seems unnecessarily rushed, which seems likely to have a negative impact on the unfolding of the necessary alterations in legal education and training required to support any new system of assessment brought in by the regulator. As the SRA does not expect to appoint an assessment organisation until summer 2017, it is hasty to suggest that the SQE

could be rolled out in the 2018/19 academic year. This does not give sufficient time for the assessment providers to fully pilot the assessments and build up a suitable bank of questions, or for the providers of legal education and training to develop courses to support these assessments. This process takes 18 months, in line with the Competition and Marketing Authority's requirements. This is likely to hugely disadvantage those sitting the first few years of the assessments.

The timetable also sets out the publication date for the draft Assessment Framework document, but does not clearly state whether there will be a consultation on this. As set out above, it is important, considering what this document will cover; that stakeholders are given the time to consider this document and that time should be built into the timetable for this to be done.

The consultation document suggests that a quicker timetable will avoid a long period of uncertainty, however, if the SRA were to put a clear schedule out publicly, with accompanying guidance, there would be less uncertainty than would likely arise from forcing change at a faster pace, without due consideration of the necessary factors.

It is essential that whatever form these assessments take, they be right first time. It would be hugely damaging to the SQE, the SRA and the profession as a whole if this were to be seen as a failure. It would be better to spend more time in development and be assured of the ability of the assessment to deliver, than to rigidly stick to an unrealistic timetable and run this risk.

Tobias Latham

## **T4T - Assessing competence**

### Consultation questionnaire form

This form is designed to be completed electronically—in MS Word. Please save it locally before and after completing it.

## 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?

No.

The SQE will result in 'teaching to the test' which will result in less rounded solicitors. The course I teach concentrates on the skills required for practice rather than the assessment at the end of the course. It has been specifically designed this way and such design will be lost under the new system. The ability to specialise during training, as the students I teach do, will also be lost.

The SQE is a missed opportunity to create varied pathways into the profession. Being a solicitor gives one the right to practice in a broad and diverse range of areas. As a result all solicitors are now specialists. Therefore training providers ought to be permitted to develop specialist paths to qualification. For example, the job of a high street criminal solicitor is completely different to that of a solicitor in a magic circle law firm. It is therefore nonsensical to set a standard test to cover the whole of the profession.

The SQE risks creating a 'race to the bottom'. Students (and some firms) will seek out the most expedient and cheapest way to 'jump the hurdle' of the SQE. The introduction of the SQE will result in the creation of a new artificial barrier to qualification - something the SRA would explicitly like to avoid. Furthermore the SQE also risks creating 'clone lawyers' as all solicitors will be required to undertake identical assessments. This cannot be a positive outcome for such a diverse profession.

Feedback I have received from students and law firms suggests that flexibility is key. The ability to create a tailored course of preparation such as the course I teach (the A&O MA (LPC with Business) which incorporates the precedents and methods of Allen & Overy into the LPC and also includes business modules) may be hindered under the new structure. As paragraph 24 of the consultation document notes: "...the LPC has become more diverse, with different length courses, different forms of assessment, varied contexts and firm specific training." This is a good thing because the profession is so varied. The SQE will seek to hinder all of this valuable work.

The removal of elective subject coverage under the SQE model further damages the diverse and flexible development of the profession by distilling legal training into an inappropriate 'one-size-fits-all' model. Law Schools will feel compelled to offer courses comprised solely of the material needed to pass the SQE. Valuable subjects will fall by the wayside as the curriculum of Law Schools and training providers become homogenised.

For these reasons I support Option 2 discussed in paragraph 11 of the consultation document. I do not support Option 3.

## 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?

No. The proposed model assessment for the SQE cannot provide an effective test of the competences needed to be a solicitor.

"Objective testing" alone (as described in Annex 5 of the consultation document) cannot demonstrate that a candidate who passes such an assessment is competent to become a solicitor. All such testing can do is identify a basic understanding of current undisputed legal principles. The higher order methodologies required to be an effective solicitor cannot be assessed using objective testing.

It is the learning of a subject rather than the assessment that matters. The SQE will concentrate matters on the assessment. Whilst all methods of assessment are, to some extent, imperfect, I firmly believe that the current blend of long form questions and MCQs provided to students that recreate realistic legal scenarios are a better method of assessing students than objective testing.

The proposed assessment will result in candidates spending much less time being assessed which also means they will have much less time to show law firms and training providers where their skills lie. Instead they will be subjected to a one shot objective memory test. I do not agree with this proposal.

### **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?

No. Exemptions ought to exist as they do today. It does not make sense that a qualified solicitor from a respected jurisdiction ought to undertake a full SQE in order to practice in England & Wales when that solicitor will necessarily have had to demonstrate their ability in assessments in their home jurisdiction.

Whilst it would be a resource intensive undertaking, it would be possible for the SRA to undertake a benchmarking exercise where judgements could be made about which global qualifications the SRA considers to be commensurate to the SQE.



## Question 4

With which of the stated options do you agree and why:

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

I support option (b) for the reasons relating to the diversity of the profession that I discuss in my response to question 1. Many solicitors will never deal with the majority of the five assessment contexts in practice so it seems nonsensical to ask candidates to be examined on them multiple times.

## **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?

Yes however this cannot be satisfied by the SQE alone even if this is set a graduate level (whatever that may mean). The process of learning during a degree is the most valuable aspect of becoming a graduate. This aspect is what ought to be maintained.

## **Question 6**

Do you agree that we should continue to require some form of pre-qualification workplace experience?

Yes. Work place learning is essential to enable candidates to gain experience of what it is like to be a solicitor in a real work environment.

## Question 7

Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?

Yes. A minimum time period provides consistency.

The SRA pose various questions in paragraph 62 of the consultation document all of which risk a 'race to the bottom' as discussed above. If there is no minimum time period candidates will try to satisfy the requirements as quickly as possible without taking the time to fully benefit from the pre-qualification experience.

## **Question 8**

Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?

No. The competences are too varied and difficult to assess consistently and this would introduce a risk that some employers may sign off candidates too soon in order to conclude the candidates training as early as possible.

## **Question 9**

Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?

Yes.

## **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?

No. The additional cost and regulatory burden would be too great due to the varied nature of the profession as discussed in my response to question 1.

## **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 1 and Part 2, to a specified performance standard?

Not applicable.



## 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?

Not applicable.

### **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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

Yes. Prescribed and regulated training pathways build credibility and confidence in the profession. However it is important that such pathways are flexible enough to accommodate the diverse nature of the profession. Hence my support for Option 2 as discussed in question 1.

## **Question 14**

Do you agree that not all solicitors should be required to hold a degree?

Yes however the vast majority of solicitors ought to hold a degree. The current position is satisfactory. Most solicitors hold a degree and the importance of this should not be brought into question. There are a small number of cases in which it will be appropriate for people without degrees to become solicitors as is the case today.

## **Question 15**

Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?

Yes. There will be a natural desire from candidates to be provided with information about their individual and comparative performance. Firms will also want to access this information to compare candidates.

## Question 16

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

This question is difficult to answer without knowing what the SQE will look like. As much useful information as possible ought to be published to ensure transparency.

## Question 17

Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?

Yes.

Many firms offer what are effectively scholarships to undertake the GDL and LPC. This structure may be threatened under a new regime which may put some students at a disadvantage.

Establishing an SQE will inevitably result in the provision of courses that 'teach-to-the-test'. These could become an additional financial burden upon candidates and a further barrier to entry to the profession.

## Question18

Do you have any comments on these transitional arrangements?

No.

## **Question 19**

What challenges do you foresee in having a cut-off date of 2025/26?

Any change will cause some uncertainty for candidates undertaking the assessments at a time of transition. It is important that any transition is managed carefully and that candidates do not feel that their achievements are undervalued during a time of change.



## **Question 20**

Do you consider that this development timetable is feasible?

The timetable is very ambitious considering the scale of change proposed.

**Thank you for completing the** Consultation questionnaire form.

Please save a copy of the completed form.

Please return it, along with your completed **About you form**, as an email attachment to [consultation@sra.org.uk](mailto:consultation@sra.org.uk), by **4 March 2016**.

Alternatively, print the completed form and submit it by post, along with a printed copy of your **About you form**, to

SQA consultation  
Solicitors Regulation Authority  
Regulation and Education  
The Cube  
199 Wharfside Street  
Birmingham  
B1 1RN

Toby Stephens - Holman Fenwick Willan LLP

## **T4T - Assessing competence**

### Consultation questionnaire form

This form is designed to be completed electronically—in MS Word. Please save it locally before and after completing it.

To request an alternative format please visit [www.sra.org.uk/contact-us](http://www.sra.org.uk/contact-us).

## 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?

No.

We agree that there should be consistency across the profession to the extent that there needs to be a base standard. However, we agree with the formal response provided by BPP Law School (our preferred supplier for the GDL/LPC) which is that the starting point for this question is wrong. This question assumes that there is currently no basis for ensuring a consistent entry standard to the profession. We disagree. We think that the introduction of the SQE would cause more problems than it solves.

Also:

We are concerned that the SQE could give rise to crammer style courses that have little depth in comparison to the thorough and detailed learning environments currently facilitated by the GDL/ LPC.

We have serious reservations about the proposal for the SQE to be set at graduate level. We do not know of any other jurisdictions where a degree (or equivalent qualification) is not an essential requirement of qualification. We are worried about potential watering down of the legal profession and its credibility - especially on the global stage.

We accept the point that there needs to be consistency across the progression with regards to a common qualification standard; however, we are not sure whether imposing such a drastic change to the current system of qualification is the best way to go about this. Could the SRA not have looked at ways to better regulate under the current arrangement (e.g option 1 of stage 1 of the consultation).

We also consider that there is a risk that many firms will retain the requirement to hold a degree and undertake the GDL/ LPC (or similar qualifications). As we see it, the SRA's proposal therefore risks creating a "two tier" system of starkly differing quality.

The CiLEX route already offers alternative paths to the profession. A SQE which can be taken multiple times may favour those with the funds to take multiple retakes, undermining the diversity argument.

## 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?

No.

We would need to see the full SQE framework and syllabus in order to comment fully on this.

The proposed model assessment would seem to test only a snapshot of the required competencies.

We do not therefore believe that the SQE will meet the requirements of our business and as a result we will need to put in place additional safeguards to maintain the standards that we expect of our professionals. The SQE would therefore represent an additional hurdle to our own programme of legal education. This in itself would add additional costs to the system.

We remain unconvinced that the SQE will cover the same breadth and depth of learning/ knowledge as the current LPC. The fact that knowledge will be tested through multiple choice questions leads us to doubt this. We need our lawyers to be academically rigorous and we are alarmed to see that the SQE exams do not include any form of essay based/ long answer questions. Critical reasoning and analysis are central to our profession.

We do not feel that the contexts for skills' testing fully reflect modern day commercial legal practice. Furthermore the LPC already covers the core skills which can only be developed in practice in any event.

We are extremely worried by the proposal to allow the SQE to be resat multiple times. Not only would this favour those with the finances to do so, but it could also have negative repercussions on quality and standards.

We feel strongly that the professional training should include a workplace learning requirement of at least 2 years.

### **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?

No.

We do not believe that the SQE is fit for purpose. However, as an international law firm we would be concerned that making all persons intent on qualifying as a solicitor take the SQE will provoke reciprocal requirements in other jurisdictions.

As the legal industry is increasingly an "export market" we would advocate greater care is taken in assessing the competencies of individual classes of intending solicitors so as to develop only those tests necessary for each group.

## Question 4

With which of the stated options do you agree and why:

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

It is not possible to answer this question adequately without further information.

On the basis of the limited information available, we favour b, i.e a range of contexts, and firms/ individuals being able to pick those contexts that are best suited to them. However if there are a wide choice of contexts on offer it would become difficult to guarantee consistency.

As it is anticipated that these assessments will be conducted whilst the individuals are working within a firm we see that there may be difficulties in providing sufficient exposure to the limited contexts set in Part 2 (i.e the day job may be too specialised to support all 5 contexts). This may lead to additional costs for commercial firms or to commercial firms having to 'second' intending solicitors to high street firms who can provide sufficient exposure.

We share BPP's concerns on this issue namely "as the SRA has removed any skills' training from part 1 of the SQE, under the proposed system students will have had no formal training on drafting or advocacy or any of the skills when they start the period of work based learning. How does the SRA envisage students acquiring the necessary skills." This to us is a problem.

## 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?

No.

Our view is that any change is unnecessary. However we strongly believe that the standards for entry into the profession should be maintained at the current highest level - i.e postgraduate, in order to maintain standards and to keep our profession in line with barristers, lawyers in other jurisdictions and indeed other professions. It is difficult to see how the SQE could do this, as it does not seem capable of replicating the rigour of current assessments.



## Question 6

Do you agree that we should continue to require some form of pre-qualification workplace experience?

Yes - absolutely.

Trainees develop key skills and confidence levels under the current period of recognised training. There is a vast difference between the competence of a first seat trainee, and competence levels of a trainee at the end of the training period. Sufficient time and care is needed to train a prospective lawyer to think and act competently and independently. If trainees are not given the time and support to develop their skills this may put clients at risk.

Furthermore we consider that it is essential to a trainee's development that they experience a variety of disciplines within the context of their training experience in order for them to become more rounded professional advisors.

We consider the proposal that qualification is moved to work based assessment of competence as problematic - not least because there is a real risk that firms will push their trainees through assessment in order to capitalise on a higher charge out rate, rather than allow those trainees the time needed to develop the essential skills.

## Question 7

Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?

Yes.

We think that the 2 year period should absolutely be retained. Anything less does not allow for sufficient development of the range of skills which can be demanded of a modern day practitioner.

Furthermore we want the SRA to properly consider the international competition faced by the profession. Any drop in professional standards will afford other jurisdictions professional advantage.

## Question 8

Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?

No.

As per our response to Q6, without a minimum time period we perceive there to be a real risk that firms will push their trainees through assessment in order to capitalise on a higher charge out rate, rather than allow those trainees the time needed to develop the essential skills.

We also believe, as in most professions, that the professional body (in our case the Law Society) should set entry requirements into the profession and that the SRA should regulate those professionals thereafter.

## **Question 9**

Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?

We do not believe that there is any substitute for workplace experience in a law firm, or properly certified training establishment, such as an in-house legal team.

Any other workplace experience should be relevant, of comparable quality and limited to 25% of the workplace based training period.

## 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?

Workplace assessment could be an option, but the SRA workplace learning pilot (2008 - 11) suggested that this form of assessment was costly and time consuming. We therefore believe that this would be impractical and unworkable. The pilot also indicated that there could be consistency issues - the very issue that these proposals are designed to address.

Any increase in regulation and associated cost will drive firms away from this process and again risk competition from overseas.

City firms already put a lot of effort into training, supervising and managing trainees. Making this more burdensome may lead firms to move away from recruiting trainees altogether, and instead to recruiting larger numbers of paralegals or unqualified legal staff, for whom there is not the same "red tape".

## 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 1 and Part 2, to a specified performance standard?

Yes.

We already put a lot of time, money and resource into training our trainees, and our Training Principal currently has the responsibility of signing off on competence. We are therefore already performing an element of self regulation, which we take very seriously and we believe that we are best placed to assess the competencies of solicitors intent on practicing in our fields of expertise.

Further, those in practice recognise and adapt to the ever-changing requirements of our clients very quickly. Changes to regulation, teaching and learning objectives take much more time to implement.

## 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?

No.

This will be dependent on what the assessment requires, and what the toolkit contains. Further information is required. However, we anticipate wholly different requirements to those anticipated by the SRA, which will inevitably increase costs to us as a business.

## 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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

We do not support the introduction of the SQE. However, pathways to the profession- whatever they may be- are required to provide clarity and build credibility.

Whilst we accept that the quality of the tuition and the standards of the GDL/ LPC courses are variable, they do provide defined, clear paths into the profession and it is our view that all of the providers meet the basic standard. We are concerned that the SQE could give rise to the emergence of unregulated crammer courses which may be profit rather than educationally driven.

The law is a rigorous and demanding profession so we need confidence that any courses created to support passing the SQE would be as detailed/ thorough as the GDL/ LPC.

Re entry requirements, the SRA should consider the fact that commercial firms will most likely continue to select and recruit graduates because of the rigours of working at the cutting-edge of the law. If the SQE does not have entry requirements but law firms do this could give rise to a two tier profession.



## **Question 14**

Do you agree that not all solicitors should be required to hold a degree?

We think that our clients would expect their legal advisers to be graduates (or equivalent) due to the complex nature of work being undertaken. Many overseas jurisdictions require legal adviser to be graduates (US model). Both of these points support requiring solicitors to hold a degree (or equivalent qualification).

We recognise the need to promote social mobility, but we had understood that apprenticeships were designed for the same purpose.

## **Question 15**

Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?

Any grading would be useful for both firms and individuals, but this risks a stratification of candidates rather than adopting minimum standards and a single consistent approach - which further suggests to us that the SQE is an ill conceived idea.

Providing comparative data relies on the essential premise of the SQE being a useful, effective and thorough measure of competence and at present we have serious reservations.

## Question 16

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

It would be useful to show candidates their overall scores on the tests in relation to others, and also their employers if they have sponsored the course/ exam, but we do not believe that results should be published any wider.

Publishing training provider performance would be interesting, but there are a number of outside factors involved which could make these results problematic to interpret. For example if the SQE requires individuals to attend formal training courses, clearly the institutions used to deliver these courses would be a factor in performance. Also if firms don't have the capacity to offer training in all of the required assessment contexts this may put some individuals at an unfair disadvantage, and devalue the overall performance statistics.

If the SRA do not prescribe pathways there would be an unregulated market and it would be very difficult to collect any meaningful data at all.

## Question 17

Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?

The SQE could result in a two tier profession e.g postgraduates employed by city firms, and graduate level lawyers.

If the training market is deregulated, cheap, low quality courses could arise. There are reputational issues to consider in relation to this, and this also poses inherent risks to students in an already overcrowded job market (i.e some courses may be low quality, and students could be more/less employable than others as a result).

Unlimited resits favour students with the funds to do so.

Again, we agree with BPP that without specified pathways to the SQE there is potential for confusion about how to qualify as a solicitor which will mean that those without good access to quality careers advice will be disadvantaged.

How would the SQE work for non-law students? Might firms choose to recruit law students over non-law students, therefore restricting diversity? Presently it is difficult to see how a firm would manage a non-law student through the SQE and workbased learning and the costs and timeframes associated with doing this are vague.

Many firms (ourselves included) are already independently altering their recruitment processes to adjust for socio-economic factors and there have been inroads in this area.

## **Question18**

Do you have any comments on these transitional arrangements?

It is too premature to discuss transitional arrangements before we have certainty on what we are transitioning to.

We are already recruiting on the basis of the 2014 Regs and have supplier arrangements in place for the GDL/LPC. Any transitional arrangements will need to be for a sufficient period to enable us to comply with our current obligations.

## **Question 19**

What challenges do you foresee in having a cut-off date of 2025/26?

Without further information it is difficult to comment.

## Question 20

Do you consider that this development timetable is feasible?

These proposals represent a huge shift from the 2014 training regulations. If the proposed changes are made then firms will need to completely overhaul their approach to training lawyers, and to graduate recruitment, We will need to look at the costs involved, how to manage a training programme that requires individuals to be undertaking exams at different times, and our resourcing requirements and staffing levels. Major changes will need to be made to the way that we recruit and develop trainees, and the structures that firms' have in place: at present the SRA do not acknowledge this in their development plans.

By way of summary we do not support the SRA's proposals. We believe the SQE is ill conceived and there is a likelihood of a reduction in standards, coupled with increased regulation and costs - the worst of both worlds.

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Alternatively, print the completed form and submit it by post, along with a printed copy of your **About you form**, to

SQA consultation  
Solicitors Regulation Authority  
Regulation and Education  
The Cube  
199 Wharfside Street  
Birmingham  
B1 1RN



## T4T - Assessing competence

**These are the responses from the Devon & Somerset Law Society's Education & Training Sub-Committee**

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?

Broadly, Yes.

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?

Broadly YES, subject to the necessity for the Assessment to be at degree-level, even though that route may not be prescribed for entry.

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?

Generally YES. A comprehensive and rigorous Assessment should be a common requirement for all entrants.

4. With which of the stated options do you agree and why:

- (X) a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- ( ) b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- ( ) c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

Why...

Option 1 offers a common and comprehensive assessment without the need for variables and options. Easier to administer. Further refinement should be made available post-qualification.

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?

YES, even though the possession of a degree should not be made compulsory.

6. Do you agree that we should continue to require some form of pre-qualification workplace experience?

YES, as it is in part in such places that the subtlety and nuances of actually being a lawyer are inculcated and enhanced. We would further suggest that the period of workplace experience should be partly satisfied before, and partly after, attempting Part 2 of the SQE.

7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?

YES, we would suggest a minimum period of 12 months should be required BEFORE Part 2 of the SQE is attempted.

8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?

YES, though this would be a difficult thing to measure and to assess, both for the SRA and for employers. Submission of an adequate, reflective workplace record should be sufficient, or even leaving it to the employer's workplace appraisal and performance management systems.

9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?

We agree that a wider range of experience should be recognised, but only experience with recognised employers, undertaking relevant work, should be recognised. We do not agree that credit should be given to degree-programme experience.

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?

No, save that a portion of the workplace requirement must be served prior to taking Part 2 of the SQE.

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 1 and Part 2, to a specified performance standard?

Not applicable

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?

Not applicable

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?

We do NOT consider that any form of prescription is necessary of a training pathway, provided the rigour of the Assessment is adequate. It is consistent with diversity to require the successful attempt of the Assessment without requiring any preliminary pathway or entry requirements to it.

14. Do you agree that not all solicitors should be required to hold a degree?

YES

15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?

Individual - YES Comparative – YES.

16. What information do you think it would be helpful for us to publish about:

- overall candidate performance on the SQE?
- training provider performance?

Overall candidate performance - YES Training provider performance - NO, unless the SRA wishes to prescribe or endorse particular routes or pathways

17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?

A reduction in the cost of qualification will prove to be beneficial, ensuring that those of competence are admitted, rather than simply those with means. Difficulties may still be experienced, however, but it is hard to see how such difficulties can be avoided in the absence of financial support.

18. Do you have any comments on these transitional arrangements?

No

19. What challenges do you foresee in having a cut-off date of 2025/26?

None

20. Do you consider that this development timetable is feasible?

YES

**Response of University of East Anglia Law School to the SRA Consultation paper  
*Training for Tomorrow: Assessing Competence (7 Dec 2015)***

**By email to [consultation@sra.org.uk](mailto:consultation@sra.org.uk)  
Deadline for submission 4 March 2016  
School contact: Polly Morgan/Owen Warnock**

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**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 have no objection in principle with the idea of a single qualifying examination per se, but the nature of the assessment proposed is fundamentally flawed.

It is interesting that given the concern about access it is noteworthy that in box 2 annex 3 the route that is cheaper is to replace the LPC with a common professional assessment and keep the other elements unchanged. This approach would have the merit of ensuring that the competence level on professional skills is assessed to on a national standardised basis, while not making extensive unnecessary changes to the knowledge or academic components.

We welcome the modularisation so students can be assessed on a knowledge element after they study it; it is also vital that they can be taken prior to the period of workplace training. In most cases those seeking to qualify will make the best progress in their workplace training - because they will be more useful - if they have completed all or most of the knowledge training before their workplace training. It is important that the new system does not create additional barriers and expense and so it is vital that those students taking law degrees can sit the SQE exam for each legal subject at about the same time as the university exam in the same subject (otherwise they will face the cost of revision courses and further study time for revising when they could be earning). So, the dates for the assessments must not conflict with the university exam dates. However, even if this were achieved this double assessment will remain a significant disadvantage of the proposal to remove the QLD because the vacations, when the SQE test will have to take place, are an important time for students to earn money and if students cannot earn because of the need to do the SQE then this has access issues. The proposed 3 assessment periods must not interfere with student employment, vacation schemes and university assessments. Solicitors' firms vacation scheme are vital for students seeking training contracts - especially students from non-professional backgrounds seeking to join the large and prestigious commercial law firms.

Although modularisation has the benefit of being able to be synched with when students do the necessary academic studies on that foundation subject, it is highly undesirable from an academic standpoint for us to teach to the SQE not only because of its dearth of critical thinking but also because of the effect on students who have not yet chosen their future career. Only half of our graduates go onto a legal career and increasingly students are coming to us in the first year either decided against law, or keeping their options open. If the Bar goes a different route to the SRA it will become almost impossible for us to address everyone's requirements. We would also need considerable detail in what was proposed to be assessed. The listing of foundational subjects is by no means sufficiently detailed. For example, it requires us to teach property and specifies the legal areas but does not specify what if any practical or procedural tasks are to be required of students in 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?*

The AlphaPlus Report cited in support at footnote 39 of the consultation document **does not** in fact support the statement that the proposed assessment method can test higher order skills. The phrase 'higher order skills' is not used in the AlphaPlus Report and in fact

- At page 13 they say that while the proposed assessment model "may be able to achieve" the aim of accepting only competent candidates into the profession, it "is a risky approach for a new assessment which has yet to establish its credibility".
- At page 11 of the Report, they suggest that critical skills **cannot** be assessed by the proposed parts 1 and part 2 assessments and that a more formal assessment of certain competences should be introduced in addition to Parts 1 and 2.

In fact, there is research showing that MCQs can test higher order skills but it is all in the drafting of them. Moreover, to gain reliable results as to ability students need to answer a very significant number of questions. There are costs associated with making the SQE effective. There is therefore a risk that it will be ineffective.

The AlphaPlus Report also identifies that a risk inherent in the proposed assessment format is that people will be trained to pass computer tests without truly having the competencies that the assessment is trained to measure. This is a general issue with multiple choice assessments.

The Report also says at paragraph 13 that the risk can be minimised by having a preliminary degree which assesses critical thinking, or significant law firm experience (p. 13) as this means that 'the candidates have been able to work independently over a period of time, and reached a certain academic level'. This is in fact an argument in favour of the route that the SRA has identified as less expensive: of retaining the QLD/GSL but then having a common professional examination. Clearly a route for non-graduates must be made available but CILEX and legal apprenticeship provide obvious vehicles for that.

Critical thinking is the tool which enables solicitors to understand new areas of law and respond to case tactics effectively. The proposals do not address this fundamental legal skill. The SQE will create a tick box approach to rote learning - learning for assessment - rather than learning how to learn for the future. It is also fundamentally different to the approach of the Bar, which seeks 'knowledge and understanding of the basic concepts and principles of public and private law within an institutional, social, theoretical and transnational context'. The SQE is academically and vocationally weaker than the current system and will position solicitors as academically inferior to the bar.

### **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?*

Whatever system is adopted for assessing ability and competence immediately prior to admission should apply to all candidates.

### **Question 4**

*With which of the stated options do you agree and why:*

*a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?*

*b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?*

*c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?*

We would support b) as the preferred option, as it allows students to demonstrate skills within the context of an area they may intend to practise permanently. There are significant areas of practice which many candidates will be moving into and in which many of them will have undertaken much of the work experience and it is right and proper to help them develop these skills in those areas. We think c) is too narrow and overly complex. Option a) forces people to re-learn areas that may have no continuing relevance to them. The SQE is intended to be taken at the end

of any prescribed period of workplace training (if the SRA prescribes such training, as seems likely). Accordingly, the SQE may come some time after students have begun to specialise. If students take the SQE at the end of a period of training they will benefit from knowing the area in which they specialise and gain benefit from being assessed on the skills and knowledge crucial to that area. There is obviously less benefit in that if the students take the SQE as they go along.

### **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?*

At a minimum the SQE should be at graduate level because students taking the 'traditional' route will have reached graduate level several years before. After a period of further vocational study and workplace training we should expect more of them.

Of course, it is unclear whether the proposed test will be able to assess graduate level (or higher) thinking at all.

### **Question 6**

*Do you agree that we should continue to require some form of pre-qualification workplace experience?*

Yes, we consider this essential. Indeed it is hard to see how anyone could meet the day one competences without this.

### **Question 7**

*Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?*

Yes. A specified period will be more likely to result in a minimum level of competency. Employers may otherwise simply sign people off as competent (for another firm to take on) who have no significant experience at the right level.

### **Question 8**

*Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?*

We believe that both competences and a minimum period should be required. Specification in this way protects trainees from being used for low level administrative work as cheap labour and ensures, as much as possible, that they get appropriate training.

### **Question 9**

*Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?*

In principle, subject to quality and nature of the workplace 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?*

This reintroduces the variation of assessment standards that you are seeking to dispense with. It also introduces issues around fairness, diversity/inclusion etc. Workplace assessment would be undertaken by the employers of the candidates concerned, who would have consider financial and personal investment in the success of their candidates so there could be no assurance for the general public that these assessment would be done objectively and to a high standard. The role plays proposed are a more robust method of assessment. That said, it is hard to see how a student would reach the day one outcomes without either significant skills training or a period of workplace assessment.

#### **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 1 and Part 2, to a specified performance standard?*

The respondents from this school have both been training principals. We believe that we could assess trainees' competence. However, our reservations about this, as set out in our responses to questions 7 and 10, still apply.

#### **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?*

We agree with the statement that 'Pre-qualification training experience is used by firms to train their trainees in the jobs the firms want them to do, which vary from sector to sector. So a standardised professional assessment at point of qualification will be misaligned with experience during the training contract'. However, this can be resolved by a 'marking scheme' that clearly outlined expectations. This would have the benefit of minimising differences across firms – the variation in standards that you wish to avoid. It also communicates clearly to both firms and trainees what is expected of them.



**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:*

*a. support the credibility of the assessment?,*

*b. and/or protect consumers of legal services and students at least for a transitional period?*

It is very striking that this issue has been raised. It is clearly a core concern of the experts commissioned by the SRA to review the proposal – see the passages we have referred to in answer to Question 2 above. In short, AlphaPlus say that reliance on the SQE alone is risky and that they have doubts about the use of multiple choice questions to assess higher order lawyers' skills. We share those concerns. In our view, as practitioners as well as legal academics, there is a substantial risk that these proposals will lead to a generation solicitors who have learnt "yes/no" answers for a wide range of legal issues but who are weak, and unconfident, in actually working out complex legal situations and advising clients and arguing cogently on behalf of clients in relation to complex legal matters. It is noteworthy that the Bar is not considering the MCQ route for assessing knowledge and legal competence. It is surely no part of the SRA's remit to remove the competitive strength of the Bar's main competitor.

So the challenge is to retain the value of degree-level education *and methods of assessment* whilst not excluding those who chose not to read for a degree. The obvious solution is to retain the QLD/GDL and to undertake knowledge testing of the small number of candidates who do not take degrees by more traditional legal exams – a limited expense because of the small numbers and a much cheaper exercise than creating an enormous bank of MCQ questions. The question bank would need to be large enough to provide sample sufficient for teachers and students, and several sets to be used randomly for the thrice-yearly tests. They would have to be novel to avoid students merely learning the answers rather than learning the law to enable them to provide answers.

**Question 14**

*Do you agree that not all solicitors should be required to hold a degree?*

We agree. Some of the most impressive lawyers we know are non graduates.

**Question 15**

*Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?*

We believe that there are two good reasons to explain their individual performances. 1) it enables students who have failed to determine whether they are capable at all of passing in the future or whether they should give up; and 2) if the result is merely pass/fail then there will be thousands of candidates who have passed so that in order to choose which will be the lucky ones to be offered training contacts employers will seek other ways to determine who the best candidates are. They may well look to issues such as university name and marks, which rather defeats the object of a widening participation strategy.

### **Question 16**

*What information do you think it would be helpful for us to publish about:*

- a. overall candidate performance on the SQE?*
- b. training provider performance?*

We do not object to it. In respect of b), this should take the form of value-added information. We do wonder however who among universities will consider themselves to be SQE training providers, as we do not wish the content of our modules to be tailored to passing a multiple-choice exam, not least because of the significant percentage of law students not wanting to enter the legal profession, but also for pedagogic reasons.

### **Question 17**

*Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?*

While we agree with the SRA that the proposed modular structure will enable individuals to combine work and study more easily, those who do not need to undertake paid employment alongside their studies will be in a better position, given that the SQE would not be fundable by student loans any additional assessment creates additional cost.

The suggestion that the SQE should be assessed on a pass/fail basis means that employers will look to prior education to distinguish between candidates. So as a widening participation tool the SQE is insufficient unless specific marks are released.

As the AlphaPlus report notes, 'if test results become more differentiated then this may perpetuate unfairness in the system, by allowing candidates with more resources to pay for additional support and training, and for additional re-sits to pass or improve their score or grades thereby leading to higher results.' We are concerned that well-off students will be able to fund multiple re-sits and potentially improve their marks if the SRA releases specific marks. We note that the SRA has come to no decision as yet as to whether to permit this. While any cut-off in the number of permitted assessments would be arbitrary, as AlphaPlus identifies, that is still the lesser of two evils when compared to the advantage that well-off or sponsored students would gain. While we believe there should be resit opportunities, we would limit those and not permit them at all to improve a mark where a student

has passed the SQE. However, we would limit reassessment in preference to a simple pass/fail model.

The SRA writes that 'Stakeholders expressed the view that different assessment methods can be biased in favour of different groups. For example, it is often said that multiple choice questions (MCQs) favour men/boys.' The SRA's commissioned research (the AlphaPlus report p. 18) identifies that 'there is some evidence that multiple choice tests can be biased towards certain groups of candidates, although this evidence is not conclusive. As there is no conclusive evidence in this regard, we do not believe it is an area of concern'. However, these assertions conflate the different protected groups. For example, there is evidence that MCQs do indeed favour men/boys even though there may be less conclusive evidence in other demographic groups. Resolving that issue once you have reviewed past marks does not help those candidates already affected by inequalities in the design of the test they have already taken.

There is also evidence that MCQs do not engage students in long-term retention of learning. In that sense, a student could be day one competent but lack the abilities necessary to have continuing competence.

### **Question 18**

*Do you have any comments on these transitional arrangements?*

See Q 20

### **Question 19**

*What challenges do you foresee in having a cut-off date of 2025/26?*

See Q20

### **Question 20**

*Do you consider that this development timetable is feasible?*

We (law schools) need at least a year to prepare after the point when we know both exactly what the new regulations are *and* a full set of sample questions have been made available. Our 2017 entry prospectus went to print a few months ago. We cannot have a cohort for whom the new rules apply where we don't know what the arrangements are going to be. Students need to know before they make their UCAS applications and universities and colleges need time to prepare the courses.

## 2. Your identity

### 1. Surname

Millington

### 2. Forename(s)

Philip

### 3. Name of the firm or organisation where you work

University of the West of England

### 4. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.

Attribute my/our response and publish my/our name.

### 5. Please identify the capacity in which you are submitting a response. I am submitting a response... as an academic

Please enter the name of your institution.: this is the response of the University of the West of England

## 3.

### 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?

Introduction of a SQE as a common professional assessment of all intending solicitors, would almost certainly result in increased divergences in the training pathways followed by those intending to pursue a legal career as a solicitor or barrister. We consider there would have been considerable merit in the SRA and BSB working together towards development of a common pathway of legal education/training, within which specialisation towards either profession would be made in the latter part of any educational/vocational training process. Such flexibility in the legal education process would align more appropriately with the anticipated change in the way in which legal services will be provided in the future; whilst also providing greater flexibility and opportunity for those intending to pursue a legal career but uncertain as to the direction that career might take. This would have potential benefits for all, but particularly those from disadvantaged/atypical backgrounds.

Returning to the specifics of the question, it is not possible to fully and properly answer it without greater detail concerning the precise nature of the SQE. The SRA have indicated that precise details of the SQE will not be published until sometime after this consultation exercise has concluded.

At present it would appear the SRA has no intention of consulting about its detailed proposals for the SQE assessment. This regrettably negates much of the potential benefit which could derive from this consultation exercise. The SRA is urged to revisit this whole consultation process once the details of the proposed SQE have been published in December 2016.

We therefore cannot agree that the SQE, as a largely abstract concept, can necessarily "assure consistent and comparable high quality standards at the point of admission across all pathways to qualification".

Nevertheless, we do endorse the SRA's goal of a more rigorous, consistent and comparable assessment of high quality standards at the point of admission to the Roll.

We concur with the SRA's concern about the variability of academic standards and assessment rigour

between different providers of the QLD, GDL and LPC. We agree there needs to be higher standards and consistency of standards – which an appropriate and sufficiently rigorous SQE should achieve.

We also agree that in the absence of any uniformly applied and monitored standards regarding periods of recognised training, there cannot be certainty as to a uniformity of standard attained through workplace training prior to Admission to the Roll. Again, a sufficiently rigorous SQE has the potential to address this concern.

We do not agree that the introduction of an SQE would necessarily "ensure that the most talented candidates can qualify as a solicitor".

Again, it is impossible to respond meaningfully to this question without having greater detail of the proposed SQE.

But, even in abstract, we would suggest that not all those who pass the SQE would necessarily be the most talented candidates seeking qualification as a solicitor. They may be those best placed – particularly financially – to obtain the necessary training (including through their school education) to pass the test. Likewise, there may be very talented potential solicitors, who do not have access (whether financially or for other reasons) to a necessary process of training/education which would allow them to successfully pass the SQE, particularly mindful of the SRA's goals of raising standards and (quite appropriately) making the process of qualification as a solicitor a more rigorous and challenging one.

4.

**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?**

The brief description of the proposed SQE Assessment Model described in paragraph 38 – 45 and in Annex 5 is insufficiently detailed to respond. In the circumstances, we cannot agree that the proposed model will provide an effective test of the competencies needed to be a solicitor.

We would however make the following general observations on the Part 1 element of the SQE:

- We are surprised by the announcement that the Part 1 tests would not necessarily be taken at the point of qualification. We thought this was the purpose of the SQE, to facilitate "at the point of qualification the common professional assessment of all intending solicitors" .
- Moreover, the suggestion that elements of the Part 1 tests could be taken alongside the study of particular academic subjects during a degree or other program, would not align with the SRA's stated objective that prospective solicitors would be assessed on problems without the relevant legal context being flagged (i.e., they would have to identify that a contract problem is a contract problem without the assessment/question being labelled as such).
- We are not convinced that the MCQ basis of assessment will necessarily ensure those qualifying as solicitors have attained the high academic standards required. While MCQ assessments form part of the process of assessing special competencies in other professions, we do not believe such MCQ assessments are the sole basis of assessing academic/knowledge competencies in those professions. In other professions there will have been a process of degree studies and assessment by other means prior to undertaking professional MCQ examinations.
- While non-MCQ assessments would increase the cost of an SQE, they would enable greater evaluation of a candidate's ability to analyse and formulate argument. Even the best crafted MCQ questions cannot do this.
- Although an MCQ basis of assessment is utilised in the QLTS, this is to assess whether those who have

trained and practised in another jurisdiction should be admitted to the Roll. It is therefore utilising an assessment process for a very different (and much smaller) group, in comparison to the majority who currently seek admission to the Roll.

We have some concerns about proposals not to have a set pass mark.

- It should be possible for banks of MCQ questions to be set, which will ensure compatibility of assessment rigour year-on-year.

- If there were variable pass rates in the SQE year-on-year this should not be a matter of concern. This may not be attributable to variability of question rigour : rather a consequence of a greater proportion of candidates in one particular year simply not being good enough to pass the test and be admitted as a Solicitor.

- This may be particularly marked in the early years of the SQE, if it leads to a sudden surge in the numbers seeking admission through the SQE route (if, depending upon transition arrangements, they are eligible to do so).

We also consider that the MCQ focus of the proposed Part 1 could result in those seeking admission to the Roll, embarking upon a process of legal education/training which is solely focused on passing the SQE; and which does not sufficiently develop their legal skills and knowledge, in comparison to the way in which skills and knowledge will be developed through existing pathways of academic/vocational education and training. This may adversely impact upon candidates prospects of passing the SQE, or even if they pass, succeeding in practice.

5.

**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?**

On the assumption that a suitable and appropriately rigorous SQE fit for purpose has been introduced, then yes

6.

**4. With which of the stated options do you agree and why:**

b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?

**Why...**

We do not agree that there should be linkage between the Part 2 assessments and the reserved activities.

- Although the ability to undertake Reserved Activities is a consequence of admission to the Roll, in modern-day practice much Reserved Activity work will be undertaken by paralegals/legal clerks/trainee solicitors under the supervision of qualified Solicitors.

- Moreover, a significant proportion of work undertaken by qualified solicitors is not Reserved Activity

- Therefore, we do not consider it appropriate to align the skills competencies of prospectively qualified solicitors with Reserved Activities within the Solicitors Profession.

- We consider that the skill itself is the key thing to be assessed, and this can be effectively done in any legal context. This should not be more complex or expensive to administer, or generate inconsistencies in the standards achieved in the Part 2 assessments.

- Moreover, there could be challenges for individuals obtaining the requisite amount of workplace experience which may be necessary to pass a Part 2 test in the context of Reserved Activity. Opportunities to undertake Reserved Activity in legal practice may be limited (even in just 3 of the 5 Areas of Reserved Activity).

- There can be no guarantee that limited opportunities to undertake Reserved Activity in many law businesses can be addressed by opportunities for reciprocal arrangements being offered by certain legal employers. Employers of those not undertaking Reserved Activity work, may be reluctant to release employees to other businesses; there may be a limited number of employers who are able to offer reciprocal arrangements.

- Limiting the context of the Part 2 tests in the Reserved Activities appears inconsistent with one of the SRA's stated objectives of introducing the SQE : to generate greater flexibility and pathways towards qualification (including from a diversity and access perspective).

Therefore, we consider that the Part 2 skills assessments should be set in the context of any area of legal knowledge (not necessarily limited to the subjects assessed in Part 1). This would allow candidates to be assessed in their competencies in legal skills which may align most closely with their practice experience (important in the context of diversity/ for those who may train within a specialist/niche practice area).

7.

**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?**

Yes: on the assumption that the SQE would set a more rigorous and higher benchmark for qualification as a solicitor in comparison to the current pathways to qualification (which will usually be degree/GDL/LPC/period of recognised training plus PSC: or equivalent) then the SQE standard should arguably be set at Masters level.

8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Again, it is not really possible to answer this question in the absence of greater detail concerning the precise nature of the SQE, Part 2.

The existing pathways towards qualification as a solicitor (whether through the traditional pathway of degree/GDL/LPC/PRC plus PSC; or utilising equipment means pathways) involve the prospective solicitor embarking upon an academic and vocational journey; through which they acquire and develop their legal knowledge and skills over a period of time. While isolated examples might be seized upon to suggest existing pathways has resulted in the qualification of a tiny minority not appropriately qualified for admission to the Roll, in the vast majority of cases this process has been the bedrock of the academic and vocational journey for those progressing to a career in the solicitors' profession.

There could therefore be understandable concern that a SQE assessing academic/vocational competencies at the point of admission, could result in prospective solicitors embarking upon intensive cramming courses, which facilitate a process of superficial learning sufficient to pass the SQE; but which do not engage the learner and more fully develop the knowledge and skills required for legal practice.

This would give credence to arguments that they should be some form of prequalification workplace experience (together with a minimum level of academic education/training): so that the SQE exists to assess the qualification competencies of those who have gone through pre-qualification workplace experience (and a formalised academic process of training); rather than a test which can be undertaken and passed without candidates having gone through prequalification workplace experience (nor embarked upon a process of academic education/training which develops their key legal skills as well as providing them with key legal knowledge).

However, assuming Part 2 was a suitably comprehensive and rigorous test of qualification competences, it should be impossible for a candidate to pass without having undertaken workplace experience which would give them the necessary competencies and ability to pass the test.

On the assumption of an appropriate SQE having been introduced, prequalification workplace experience becomes less of a prerequisite to qualification, more of a necessity in order to pass the SQE.

If candidates could pass the SQE having undertaken crammer courses and qualify as a solicitor having not undertaken prequalification workplace experience, this would suggest the SQE has not been set at an appropriate and sufficiently rigorous level.

9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

For reasons given above, on the assumption the SQE was an appropriate and sufficiently comprehensive /rigorous, test (and in particular did not assess candidates in a superficial manner) prequalification workplace experience would be a necessity in order to acquire the relevant skills and knowledge to pass Part 2 of the SQE.

The amount of prequalification workplace experience might vary between candidates, depending upon the time taken to acquire the requisite skills, knowledge and experience to pass Part 2.

However, it should not of itself be a necessary prerequisite to qualification. Does this not defeat one of the stated main objectives of introducing the SQE?

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

Again, this should not be necessary if Part 2 of the SQE was an appropriate and sufficiently comprehensive/rigorous process of testing.

Moreover, introducing a set of competencies to be measured during workplace experience but not through the SQE, would surely generate the very concerns of the SRA regarding variability of current period of workplace learning, which is one of its fundamental planks to justify introduction of the SQE

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

For reasons given in answers to previous questions, on the assumption of an appropriate and suitably comprehensive/rigorous SQE, prequalification work experience would be a means by which candidates acquire the knowledge and expertise to pass Part 2, rather than being a prerequisite to qualification.

We were concerned by the suggestion that while the new examination is being established there should be some form of pre-entry requirement in addition to the SQE to provide "safeguards". Either the SRA has confidence in its new means of assessing whether an individual should be admitted to the Roll, or it does not (and in which case, it should not proceed with the SQE as a means of determining the question of admission).

12.

**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?**

An element of regulated workplace assessment would seem to generate the very concerns of the SRA



regarding consistency of standards during workplace training: unless that assessment was to be undertaken by the same independent assessor of the SQE, rather than by employers, to ensure consistency and rigour of standards

At para 63, the SRA suggests there are some competences which cannot be assessed through the SQE: we would suggest the SRA revisit this presumption, and consider how those competencies could be assessed through an element of the SQE (perhaps requiring a candidate to undergo an interview with an assessor to test them on such matters).

Otherwise, if there is to be an element of workplace assessment that will simply generate the very concerns which the SRA has in relation to the existing process of Recognised Training – a lack of benchmark for firms in respect of the performance standards expected of trainees; variations in standards at the end of the training contract with training principles assessing the standard differently

Ultimately, this seems contrary to the stated purpose of the SQE: (paragraph 28 of the consultation document) "a mechanism to assess candidates from all pathways on a comparable basis at the point of qualification ... the common professional assessment of all intending solicitors provides that"

13.

**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 1 and Part 2, to a specified performance standard?**

14.

**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?**

15.

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?**

Assuming an appropriate and sufficiently comprehensive/rigorous SQE, it should not be necessary for there to be prescribed training pathways or other entry requirements for the SQE.

However, it is highly likely that particular pathways of education/training would be necessary to provide most candidates with the requisite knowledge, skills and experience in order to pass Part 1 and Part 2 of the SQE.

(An alternative view is that there should be prescribed training pathways/entry requirements which must be undertaken prior to candidates undertaking the SQE – subject to mechanisms to grant exemptions, akin to the current Equivalent Means processes. This might result in many law students continuing with the degree/GPL/LPC/PRC pathway and with the SQE being a further and final layer of assessment of all the skills and competencies previously assessed on that pathway. However, that would both add additional cost to the existing training regime; and also may be seen as contrary to the SRA's desire to create more flexible pathways towards qualification as a Solicitor)

Assuming the SQE is an appropriate and sufficiently comprehensive/rigorous process of assessment, it should not be possible for candidates to pass the test and qualify as solicitors if they are not competent to do so and otherwise a danger to the consumers of legal service.

Nevertheless, this does require an appropriate and sufficiently comprehensive/rigorous SQE assessment, which ensures that those qualifying as solicitors are competent to undertake that role and discharge their responsibilities associated with it; rather than having attained a qualification through a process of crammed/rote learning, which allows them to pass a test.

We repeat our earlier concern of the perceived need for some form of additional safeguards during a transitional period when the SQE is introduced. Either the SRA has confidence in the SQE (in which case additional safeguards would not be required) or it does not (in which case the SQE should not be introduced)

## 16. (untitled)

### **14. Do you agree that not all solicitors should be required to hold a degree?**

On the assumption of an appropriate and sufficiently comprehensive/rigorous SQE, holding a degree should not be a pre-requisite qualification; but, undergoing a process of higher education – in particular legal education – will no doubt be necessary for the majority of candidates if they are to pass the SQE.

We would reiterate what we said earlier, namely that the SQE should, at the very least be at graduate level, and arguably at Masters level.

## 17.

### **15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

Publication of information about individual and comparative performance on the SQE may be helpful to support candidates who have undertaken, but failed, the SQE and who are contemplating whether to attempt it again; or to those yet to embark upon the SQA but seeking a benchmark of the level of qualifications/experience held by those who have passed.

However, this would need to be more than an anonymous list of marks obtained in the different elements of SQE of those who have/are not qualified; we would suggest it would also need to include details of each candidate's background, educational qualifications, workplace experience etc

## 18.

### 16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

It would be helpful to candidates who have failed the SQE, or who are contemplating taking it, to be able to see a list of all individual candidate marks and to be aware of the pass/fail rate in each element/part/overall (in particular, if the SRA is to implement its stated intention of making the qualification process more rigorous, which would result in numbers of candidates failing the SQE). This would hopefully generate a degree of realism in the minds of some as to whether they should resit the SQE having failed, or embark upon a process of study in the first place in the hope of passing.

However, it would be difficult to publish meaningful data on the performance of training providers; in particular, as the SRA anticipates that the SQE could result in a whole range of different pathways towards passing the SQE/qualification and the establishment of a whole range of training/educational offerings to those seeking to pass the SQE.

For example:

- Of those candidates who study an undergraduate degree, supplemented by some form of further education/training, how is it possible to attribute their success in Part 1 by reference to their degree provider or the provider of the education/training they undertook in preparation for the SQE?

- Of those candidates who undertake some form of bespoke course in preparation for the SQE, how is it possible to attribute their success by reference to that course or prior undergraduate study?

- The quality of an institution's training may not be reflected in its performance statistics: particularly institutions recruiting large numbers of strong candidates.

We consider that the only meaningful comparative analysis of provider performance would be if it was possible to objectively and consistently grade 'added value' attained through any program of education and training; but that would require such in-depth analysis of each individual pathway towards taking the SQE (including somehow objectively measuring previous qualifications and experience) to render this an impossible task

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

In theory, the introduction of an SQE, and the removal of predetermined pathways (e.g. degree/LPC/period of recognised training plus PSC) could have a positive effect to facilitate alternative means of qualifying as a solicitor and broadening the diversity of the profession.

However, this assumes that those taking the SQE without going through a traditional pathway of academic and vocational legal education followed by a period of recognised training, would pass the SQE. In particular, if the SQE is as rigorous as the SRA suggested it will be, the ability of a candidate to pass may very well depend upon the quality of their academic/vocational education and access to a period of workplace learning.

Moreover, if a period of workplace learning is an additional prerequisite to qualification, then exactly the same perceived barriers to qualification would exist (para 58 of the consultation document "in a system where there is an oversupply of QLD and LPC places, who gets a traineeship determines who qualifies as a solicitor").

A further unknown is the cost to a candidate of undertaking the SQE: this (together with the cost of bespoke "SQE focused" training) may negate cost savings of not embarking upon traditional pathways of the academic/vocational legal education and undertaking periods of recognised training which may not be well remunerated. For those contemplating traditional pathways of legal education/training, the cost of undertaking the SQE could generate a further barrier to a legal career.

Even if an individual is able to pass the SQE without recourse to more traditional means of academic/vocational legal education and workplace training, this does not guarantee them employment as a solicitor. What will the position be if legal employers look beyond the SQE and solicitor qualification in determining who they should employ?

Could there be the development of a two tier qualification status: those who pass the SQE toiling away online through Wikipedia, - plus 10 years of graft in a paralegal factory on the one hand; and those with a law degree, vocational training course plus workplace learning on the other?

Moreover, the existence of the SQE route may encourage some to spend considerable amounts of money undertaking training in an unrealistic attempt to pass an SQE; or result in them acquiring a qualification which will be of little use to them if they cannot find employment as a solicitor.

Ultimately barriers to qualification for those from certain socio-economic, ethnic, gender or disability backgrounds are not going to change through the introduction of the SQE. While the SRA suggests that a controlled process of assessment would allow them to "shine a light on any differences in achievement

across particular groups" they are not going to be in a position to change levels of achievement, unless variable standards are set for those coming from different socio-economic/ethnic/gender/disability backgrounds.

## 20. (untitled)

### **18. Do you have any comments on these transitional arrangements?**

We would agree that anyone who has embarked upon any element of the existing pathway to qualification prior to the introduction of the SQE, should be entitled to complete their process of legal training under the old regime and cannot be required to undertake any element of the SQE.

Mindful that there is no limit currently placed upon law graduates commencing the LPC, would there be a continuing need to provide LPC programmes for law graduates yet to commence the LPC prior to introduction of the SQE?

A further transitional consideration is the position of those who have yet to qualify who have an LLB/GPL/LPC qualification and some element of legal workplace experience.

Would they be required to complete their progression to qualification in accordance with existing regulation? Or would they be eligible to undertake part of/all the SQE and qualify if they pass?

## 21.

### **19. What challenges do you foresee in having a cut-off date of 2025/26?**

See above:there is currently no time limit requiring an individual to complete qualification as a solicitor within any certain period of completing their degree or LPC.

Can any cut-off date be justified for those who have commenced any part of their legal education/training before introduction of the SQE?

## 22. (untitled)

### **20. Do you consider that this development timetable is feasible?**

No.

The SRA itself acknowledges that it may take 2- 3 years to develop new courses which appropriately prepare delegates for the SQE. Even if full details of the SQE were made available now, it would be extremely challenging for any provider to establish suitable educational/training programmes prior to 2020, to be undertaken by those seeking to pass the SQE.

## **Training for Tomorrow: Assessing Competence**

### **Consultation response from University of Wolverhampton Law School**

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 agree that the introduction of the SQE would meet the objectives set out in the first bullet point in paragraph 10.

We have concerns as to whether the introduction of the SQE would ensure that the most talented candidates access the profession. The insertion of a modular examination system that could sit outside of a prescribed course could present problems of financing the assessment. At present, students can access a variety of loans to support their studies. If students are not required to attend a specified mode of study and/or are required to pay to sit a number of assessments for the SQE, it may not be possible to obtain loan funding to support this. This would prevent or delay access to the assessment, and in turn the profession.

Question 2: 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?

The proposed model of assessment raises concerns as to the depth and rigour of assessment for prospective solicitors.

Part 1 appears to cover the compulsory subject matter currently covered by the Qualifying Law Degree and Stage 1 of the Legal Practice Course, without the skills. The current proposal is that these 13 areas be covered by a series of between 3 and 5 modular assessments, which would be tested through computer-based objective testing assessing the application of knowledge and legal processes. We are concerned that this assessment regime would not allow a suitable breadth or depth of subject knowledge to be tested. For example, students taking Business Law and Practice on the Legal Practice Course would take at least one assessment of at least three hours to assess competence in this subject area. Under the proposed Part 1 assessment, candidates would attempt this subject as part of a package with other

topics, thereby reducing significantly the time for assessment, and therefore the scope of content that could be assessed.

In contrast, the proposed Part 2 assessment appears to over-assess the skills, with each of the six skills to be assessed twice. Experience of overseeing the various incarnations of the Legal Practice Course over the past twenty years, previously led the SRA away from multiple examination of multiple skills. In addition, it is not clear why the skill of negotiation which was previously abandoned is to be re-introduced. There is also some concern that the skills are proposed to be assessed at the point of qualification, but in practice areas not related to those prospective solicitors have trained in or are seeking to qualify into.

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?

Yes

Question 4: With which of the stated options do you agree and why:

a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?

b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?

c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

We consider the second option, 'offering a broader number of contexts for the Part 2 assessment for candidates to choose from,' to be most appropriate. As stated in the answer to Question 2 above, it may be more appropriate for these to align to the candidates' chosen areas of practice.

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?

Yes. There is, however, some confusion as to whether all of the SQE would be set at graduate level, as it has been suggested in presentations that students could attempt modules throughout an undergraduate degree programme, suggesting that some elements would not be assessed at graduate level. This would need to be clarified.

Question 6: Do you agree that we should continue to require some form of pre-qualification workplace experience?

Yes, we believe that pre-qualification work experience is important. It is important to set up a clear structure as to how this would be measured and what candidates would need to do to rely on previous work experience, for example that undertaken during a period of study.

Question 7: Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?

Yes, though it is important that time-served is not, in itself, the only requirement. The quality of the workplace experience is important. Combination with a competency requirement may assist this.

Question 8: Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?

Yes. See the answer to Question 7.

Question 9: Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?

Yes, subject to meeting certain competencies, given the wide variety of experience that may be included.

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?

The use of workplace assessment would raise questions with regard to the method of assessment and consistency of provision across a large and diverse range of employers. This would appear to be contrary to the rationale for introducing the SQE.

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 1 and Part 2, to a specified performance standard?

N/A

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?

N/A

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?
- protect consumers of legal services and students at least for a transitional period?

The prescription of training pathways that lead to the SQE appears not to be consistent with the objectives set out in paragraph 10 of the Consultation. A level of regulation of providers or guidance as to the content of courses would be sensible to ensure that programmes can be designed that best prepare students for the SQE.

More information with regard to proposed entry requirements for the SQE needs to be provided to enable this to be considered. Any such entry requirements would need to be consistent with the objectives set out in paragraph 10 of the Consultation.



Question 14: Do you agree that not all solicitors should be required to hold a degree?

A suitably designed undergraduate degree programme is likely to remain the best preparation for a significant number of prospective solicitors. It is sensible, especially in light of the objectives set out in paragraph 10 of the Consultation, that not all solicitors be required to hold a degree, though this is likely to be the exception rather than the norm if the SQE is to be assessed at graduate level or equivalent.

Question 15: Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?

Candidates should be given information about their performance in the SQE. This would, *inter alia*, enable them to evaluate their performance and would also be of interest to employers.

Question 16: What information do you think it would be helpful for us to publish about:

- a) overall candidate performance on the SQE?
- b) training provider performance?

Publication of overall candidate performance on the SQE would assist candidates in understanding the requirements of the SQE and employers in understanding the relative skills of applicants.

The publication of training provider performance needs careful consideration to ensure that it is representative. There are a number of situations where a candidate's performance may not bear correlation to the provider's performance, given that eligibility to attempt the SQE does not appear to be linked to course enrolment. For example:

- If a candidate need not attempt all or any elements of the SQE whilst enrolled on a course, they may choose to attempt the SQE assessments at a later time. Their performance in the SQE may not be indicative of the performance of the training provider, given the time between study and assessment.

- Conversely, if a candidate takes an undergraduate degree designed to prepare them for the SQE, but chooses not to attempt the SQE during that course, they could later enrol on a further short course with another provider as a refresher. In this case, thought needs to be given to which provider would be credited with the candidate's performance.

Therefore, if the SQE can be taken independently of a training provider, in contrast to the current system, training provider performance would be more difficult to assess.

Question 17: Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?

There is a concern that the structure of the SQE, with a number of assessments that sit outside of a prescribed course, would impose additional cost on candidates. It is not certain that funding would be available to candidates to take these assessments, which may present a barrier to entry.

The SQE will need to be able to accommodate reasonable adjustments for students, where necessary. A centralised assessment regime would ensure that these were provided consistently.

Question 18: Do you have any comments on these transitional arrangements?

None

Question 19: What challenges do you foresee in having a cut-off date of 2025/26?

There are a number of potential challenges raised by the cut-off date for current qualification routes of 2025-26. The number and gravity of these depend on the extent to which course provision is prescribed and differs from the current regime. From the perspective of a training provider, these include:

- When provision of current courses, particularly the Legal Practice Course, should end;

- Providing continued support for students enrolled on the Legal Practice Course, who have outstanding assessments to complete within the prescribed maximum study period;
- Producing, hosting and marking assessments on the Legal Practice Course for the remainder of students' maximum study periods, when the Course is not being offered to new students;
- Retaining, and in turn recruiting, external examiners for the Legal Practice Course to regulate assessment drafting and marking and awards, when the Course is not being offered to new students.

Question 20: Do you consider that this development timetable is feasible?

As a training provider, a minimum of 18 months' notice of the nature, structure and routes to the SQE is needed. This is to allow time to design and validate an appropriate course and also to promote this to prospective students.

Candidates would benefit from as much notice as possible in order to ensure that they are able to make informed decisions about their futures and possible training pathways.

Viola Joseph - Hogan Lovells International LLP

## T4T - Assessing competence

### Consultation questionnaire form

This form is designed to be completed electronically—in MS Word. Please save it locally before and after completing it.

#### 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 do not feel that the SRA has explored the other options.

Under the current proposals, we have concerns that standards will not be consistent and will not be high quality.

Although the tests will be consistent, training will not be consistent. Some training providers will focus solely on providing the minimum training needed to pass the SQE. Under the current SQE proposals, we feel that that this minimum level for qualification will be significantly lower than under the current system (particularly in relation to legal analysis) and that standards will fall significantly.

## 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?

No. In particular, we feel that the SQE proposals will not provide the necessary rigorous development and testing of legal analytical skills. The practice of law requires more than an ability to identify the right answer from a choice of five options: it is about starting from nothing and having the analytical skills to build a robust argument.

A period of learning and reflection is an inherent part of developing these analytical skills to the rigorous level needed for practice. Candidates will be encouraged to 'cram' for the SQE test, which is no preparation for practice.

We are concerned that the SQE will not test individual and discursive legal analysis as an integral aspect of assessing the areas of legal knowledge. While recognising the significant costs of marking such assessments, we are concerned that standards will be significantly lower and will put consumers at risk.

As a result, some firms will not trust the SQE as adequate intellectual preparation for practice. This could have a negative impact on diversity, as recruitment could become more strongly focused on educational background; firms may feel that a traditional university education is needed to counteract the weaknesses in the SQE. Alternatively, there would be increased costs for firms in providing supplementary training, in order to fill the gaps left by the SQE and so maintain the current standards for practice.

In addition, we would be concerned if a sole assessment organisation were to be appointed to administer the SQE, particularly a private sector entity.

### **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?

We feel there should be exemptions for those with an English law degree, to avoid unnecessary costs and wasted time.

This would also facilitate transition to the new requirements, since the transitional period could be shorter.

## Question 4

With which of the stated options do you agree and why:

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

We recognise the significance of testing the reserved activities but have concerns that many firms will struggle with options (a) and (c). This is particularly the case if workplace experience in the relevant area is to be an important aspect of preparing for an assessment. In practice, this is likely to lead to increased costs as firms rely on external providers. We would prefer option (b) - or, failing that, option (c) with the addition of the law of organisations.

Practice as a solicitor (in both large and smaller firms) is increasingly specialised. The proposals focus on introducing a generic assessment when there are now very few general practitioners of law.

The introduction of tailored LPC training has enabled trainees to start work far better prepared for the demands of clients and legal practice than after training that focused on a uniform, generic assessment. The trainee role has developed as a result, along with the expectations of clients. We are concerned that the SQE would increase the costs of assessment while reducing the relevance and adequacy of training.

## 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?

The standard should be set at higher than graduate level. This reflects both the current level and the reality of the standard at qualification. Under the current system, graduates grow and develop enormously between starting the LPC and completing the training contract. It is amongst the most significant learning and development of their legal careers.

An appropriately high level is also important for the standing and reputation of the profession internationally. Any lowering of academic standards could have an economic and business impact on the legal services sector. For example, there are already difficulties in obtaining US work permits for those who have passed the GDL (rather than a law degree) and solicitors who have qualified via the GDL route are not eligible to take the New York Bar examination. These problems could be exacerbated by any reduction in the requirements or lowering of the assessment level.



## Question 6

Do you agree that we should continue to require some form of pre-qualification workplace experience?

Yes. Workplace experience is critical to consumer protection. The current training contract enables the development of judgement and resilience, as well as an understanding of clients' needs and expectations (which will inevitably be higher than the minimum level needed to pass an assessment).

Even under the present system, trainees face a steep step up to qualification and the responsibility that it brings. Close supervision and guidance are needed to meet the Level 3 Threshold Standard set by the SRA for newly-qualified competence.

Pre-qualification workplace experience allows trainees to make mistakes in a relatively safe environment. Without it, standards would fall significantly and the reputation of the profession would be diminished.

Although under the US system qualification occurs immediately after postgraduate study, in practice students undertake significant periods of workplace experience prior to qualification, by means of formal internships.

## Question 7

Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?

Yes. We feel it is essential that the SRA specifies a minimum time period for workplace experience. Otherwise, there will be a risk to the consumer from a 'race to the bottom'; candidates will seek to qualify as soon as possible and some firms will attract candidates by indicating that the firm will sign off at an early stage.

A minimum mandatory period enables students to focus on their learning and on developing competence, rather than rushing to complete an assessment as early as possible.

We find that even students with a strong academic background often need time to adjust to the demands of practice. Students progress at different rates.

We continue to feel that two years is the optimum requirement for workplace experience. Even then, the step up to qualification is demanding and the Level 3 Threshold Standard is high. A period of two years allows newly-qualified lawyers to be much better prepared for the increased responsibilities of qualification.

Most trainees take six months to adjust to the demands of practice. Over the next year, they develop enormously. The final six months allows them to consolidate and reflect on their learning and to consider their choice of specialism on qualification.

We see 18 months as an absolute minimum for adequate training. Even so, an 18-month period would remove the ability to include secondments to clients and others as part of pre-qualification experience. These secondments currently help trainees to develop commercial awareness and insight into clients' expectations, so enabling them to give better advice to clients on qualification.

## **Question 8**

Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?

We would not see these as alternatives. There should be both a minimum period and also stipulated requirements for workplace experience (as now), so as to ensure quality and consistency.

It is important that trainees experience work of more than one type.

Preparation for the proposed Part 2 test looks likely to require only four to five weeks of 'cramming' training. There is a need to specify the additional competences that need to be developed prior to qualification by means of workplace experience.

## Question 9

Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?

We feel that workplace experience should only be recognised where it involves suitably challenging legal work that is properly supervised (so as to provide appropriate training). This means it should involve:

- work of a similar nature and difficulty to the work of a trainee and
- supervision by a practising solicitor in a regulated entity.

If the workplace experience is to develop the skill areas set out in the Competence Statement, it is important that supervision and feedback are provided on a daily basis by someone who has attained the SRA competences in full and maintains and develops their own skill in these areas.

We feel that the period of workplace experience should be completed in no more than two organisations, with a minimum period of six months in each.

If trainees are able to move among multiple different firms to complete their workplace experience, there could be a negative impact on diversity. Firms might not wish to sponsor the SQE or might require repayment in a way that would deter or disadvantage non-traditional candidates.

It would also lower the quality of workplace experience, as firms would make less investment in developing trainees if trainees were likely to move to another firm after a few months.

We feel that time spent on vacation placements or other informal visits should not be permitted to count towards workplace experience requirements. The purpose of these visits is to encourage a diverse range of applicants to apply and to help students to make informed career choices. The standard expected of visiting students is significantly lower than is expected and needed from trainees. Feedback will be encouraging and generally positive, rather than overtly linked to the solicitor competences or Threshold Standard levels. These visits do not therefore provide rigorous preparation and training for practice as a solicitor.

## 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?

Yes. We currently have a system of regular and ongoing assessment during the period of workplace experience. We have a review process every three months and the Practice Skills Standards provide useful guidance in assessing our trainees.

It must be acknowledged that the step up to qualification is a big one. The role of a newly-qualified solicitor is very different from that of a trainee and carries much more responsibility.

The degree of supervision needed on qualification continues to be high - but, after two years, those we recruit are much more ready to meet clients' expectations than at the point when they complete the LPC.

We do not regard it as a weakness of the current system that so few trainees fail the training contract. The current assessments that take place prior to workplace experience are demanding and trainees receive a high degree of training and development during the training contract. The length of the period enables us to provide additional support and training where an individual trainee needs further help. Trainees develop at different rates and we invest time and resource to enable them to meet the qualification standard.

A firm is well-placed to assess whether a trainee is ready to qualify after a two-year period. If the length of the workplace experience is reduced or more flexible, it will be harder to ensure that trainees are adequately prepared and supported. We would regard a higher failure rate at qualification as a concern, since it would be likely to have a negative impact on diversity. Any system of legal training and assessment to reach the Level 3 Threshold Standard is going to involve expense and investment and non-traditional candidates may be deterred from a career in law if it becomes more likely that at the end of that process they cannot qualify as solicitors.

For consumers to be protected, there must be proper workplace assessment prior to qualification. If, though, the burden on firms is too onerous, there may be fewer places offered by firms, with increasing volumes of work completed by unqualified paralegals. The Work-Based Learning pilot demonstrated the danger that the assessment and monitoring burden on firms could become too heavy.

## 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 1 and Part 2, to a specified performance standard?

Yes. Under the current system, regular and ongoing assessment takes place during the period of workplace experience. We have an informal review process every three months followed by a formal appraisal at the end of each seat. The Practice Skills Standards provide useful guidance.

We have implemented an on-line system that trainees are obliged to use in order to maintain a detailed training record; this requires them to think about the work that they have done and the skills that they have learned and developed.

Each trainee's appraisal is carefully reviewed by our Trainee Development Team and supervisors are encouraged to raise with the Trainee Development Team issues that arise during the course of a seat. Where there are indications of under-performance, the Training Principal meets the trainee and, in conjunction with the supervisor, puts in place measures to achieve improvement.

Supervisors receive training on how to manage trainees and, in particular, on how to address any issues of under-performance or lack of resilience and the giving of feedback.

## **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?

Yes. We would be happy with this approach and level of support.

## 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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

We feel that the level of analysis and reasoning required by a degree is necessary to become a competent lawyer and is an important aspect of consumer protection. We do not see the proposed SQE as likely to demand the same rigorous analytical skills as the current system. We believe that the QLTS MCT is less rigorous than the current GDL. If the SQE takes a similar approach to the QLTS, we believe that over time some law firms will recruit only law graduates, in order to ensure that lawyers have developed the higher skills required. This could have a negative impact on diversity. In those firms that rely solely on the SQE, there could be a decrease in standards, with a risk to consumers.

If the SRA currently has concerns that some training providers may be offering sub-standard training and that this poses a risk to consumers, we feel that these concerns will be harder to address if the legal training market is not regulated or moderated. We are concerned at the risk posed by introducing a new, untested route that removes the current system.

Training (both for the SQE and in the wider sense) will continue to vary in quality and scope. There will therefore continue to be certain training providers that are trusted by particular firms. A lack of regulated pathways is more likely to leave both consumers and less-informed candidates at risk. There will continue to be training providers that set different entry requirements, meaning that statistical pass rates will not be comparable, even with a uniform assessment.

If the SRA believes that reforms are necessary, these could be introduced around the current framework (for example, by raising the standards expected in the PSC programme). If a uniform assessment is required, including this at the end of Stage 1 of the LPC might be preferred, as it would then be possible to maintain the current quality and relevance of legal education.



## **Question 14**

Do you agree that not all solicitors should be required to hold a degree?

We are happy with the current position. Solicitors need to have obtained a degree or gained equivalent analytical and academic skills by another means.

## Question 15

Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?

The current proposals indicate that the costs of taking the SQE will be significant (and similar to the QLTS assessments). We feel that these costs will be difficult to justify unless:

- the SQE is sufficiently rigorous to be credible (for example, requiring at least the same depth and breadth of legal analysis as the current GDL and LPC assessments) and
- SQE results are individually graded.

If both these conditions are not met, the increase in regulatory costs is likely to act as a barrier to diversity. Firms may also be reluctant to sponsor qualification.

Under the current system, we are able to look for students who demonstrate an upward trajectory in their studies: our experience is that strong results in the LPC are a good indicator of success as a trainee.

We have concerns that the potential costs of marking rigorous assessments individually (particularly, assessments that require a high degree of analysis to be demonstrated) will be too high for the SQE to fulfil these two conditions. Under the current system, these high marking costs are split into tranches, as they fall at different points of a pathway that takes several years of training and development to complete.

## Question 16

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

We believe that students (particularly those who self-fund their assessments) will wish to see overall candidate performance together with specific training provider performance, before applying for training. If overall candidate performance is low (that is, there is a relatively high likelihood of failing the SQE), it would be important to make this clear to possible candidates in view of the expected costs of the assessment. However, this could in turn deter non-traditional candidates and have a negative impact on diversity.

We are happy with the current information available in respect of the academic stage and LPC, which supports our recruitment patterns.

## Question 17

Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?

In summary (and due to the significant costs of taking the SQE) we foresee particular negative EDI impacts in the following circumstances:

- the SQE assessments are not as rigorous as the current system (in particular in respect of assessing legal analysis across the broad base of legal knowledge required by the Competence Statement) - and so the SQE is not seen as credible by firms
- some SQE training providers are sub-standard – and so less-informed candidates are disadvantaged
- SQE results are not individually graded - and so strong candidates cannot be identified
- the workplace experience requirement is met by moving among multiple firms or other entities - and so firms make less investment in trainees and provide less sponsorship to assist with the costs of qualification.

## Question 18

Do you have any comments on these transitional arrangements?

We feel the suggested timeframe for implementation is very soon. We are already recruiting those who could potentially be affected by the changes. Firms may be offering training contracts to meet requirements that will no longer exist.

We feel the proposal that those who pass the GDL cannot then complete the current pathway (and must transfer to the SQE) to be potentially cumbersome and messy.

## **Question 19**

What challenges do you foresee in having a cut-off date of 2025/26?

We feel this will mean a long period of comparing the two regimes, depending on the length of any workplace experience requirement.

However, this period does reflect the length of time currently needed between the point of recruitment and completion of the training contract.

## Question 20

Do you consider that this development timetable is feasible?

We feel that the timetables for decision-making and for implementation are extremely tight. We are currently recruiting trainees to start in 2018 and may be offering training contracts that students do not need to undertake. If the proposals are to be introduced from autumn 2018, there will be law students affected who have already started their degrees but will not yet be able to take the relevant Part 1 modules alongside their studies. The changes should only come in once finalised plans have been announced by the SRA and there has been time for law degrees to be adjusted in response.

**Thank you for completing the** Consultation questionnaire form.

Please save a copy of the completed form.

Please return it, along with your completed **About you form**, as an email attachment to [consultation@sra.org.uk](mailto:consultation@sra.org.uk), by **4 March 2016**.

Alternatively, print the completed form and submit it by post, along with a printed copy of your **About you form**, to

SQA consultation  
Solicitors Regulation Authority  
Regulation and Education  
The Cube  
199 Wharfside Street  
Birmingham  
B1 1RN





## WARWICK LAW SCHOOL

### Response to the Solicitors Regulation Authority Consultation Paper, "Training for Tomorrow: Assessing Competence"

#### 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?*

The objectives set out in paragraph 10 are:

**Objective** (i) "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".

**Comment:** The introduction of the SQE would serve to assure consistency and comparability of standards at the point of admission for all candidates. However, we do not consider that the current proposal for the SQE part 1, and in particular the proposal for "objective testing" would assure the necessary qualities of candidates at the point of moving from Part 1 to Part 2. We accept that if deployed skilfully, objective testing may test some high level skills, which may include core knowledge, understanding of key concepts, and understanding of key relationships. However, we doubt whether objective testing can test some other high level skills such as criticism, detailed analysis, construction of a complex argument, and responding to legal argument. We recognise that under the proposed two stage scheme, some high level skills will be test entirely in Part 2. We see this as problematic educationally because it will encourage students to separate the acquisition of core legal knowledge from the development of high level skills. In our experience, legal education is most effective when the processes of acquiring knowledge and developing skills are combined. It would also be very counter-productive for students to delay developing legal skills whilst focussing exclusively on acquiring legal knowledge. We would anticipate that there may be students who are capable successfully acquiring sufficient knowledge who would struggle with developing skills and who would fail at the Part 2 hurdle. This might lead to a bottle neck caused by large numbers of students passing Part 1, but then failing Part 2. In a theory of structured education, the criteria for passing at the ealier stage should provide a good indication of aptitude to pass at the later stage. We do not consider that this will be the case under the proposed scheme in which passing Part 1, will provide little indication of aptitude to pass at Part 2.

We are also concerned that the focus on "legal knowledge" at part 1, will encourage institutiouns and students to disregard the study of legal rules in context, which is recognised as a vital element in legal education. For instance, it would not be helpful to an intending company lawyer to learn the law of business organisations, but without any understanding of the context of modern business.

**Objective (ii)** "To ensure that the most talented candidates can qualify as a solicitor, by encouraging the development of new and diverse pathways to qualification which are responsive to the changing legal services market and which remove artificial and unjustifiable barriers."

**Comment:** (i) The SQE would offer an attractive level playing field in which students from different backgrounds, with different levels school-level qualifications and who had attended universities of different ranks, could compete on equal terms.

(ii) The existence of the SQE would undoubtedly create new training pathways, including self-tuition, which will offer choice and promote competition between training providers in terms of value for money. This will reduce barriers to qualification for some candidates.

(iii) Whereas the SQE will encourage diverse pathways it will discourage diversity and breadth (by de facto restricting the range of subjects studied) and depth (by placing emphasis on free-standing questions rather than complex problem solving and policy discussions) in legal education. This is not simply a concern for educational institutions but will have a negative impact on the range of knowledge and skills possessed by those entering the profession.

## **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?*

No. We endorse the view of the Society of Legal Scholars that the proposed model assessment for the SQE on its own cannot demonstrate achievement of the required competences to at least graduate level.

In particular we do not believe that the objective testing proposed for Part 1 will provide sufficient evidence of competence in Functioning Legal Knowledge. The SQE may provide a basis for consistent testing of a minimum standard of basic knowledge within the restricted range of subjects represented in the Statement of Legal Knowledge. However, the SQE Part 1 cannot provide an assurance that student is skilled in complex problem solving, focused legal research and the preparation of policy documents and position papers. Nor will the SQE provide assurance that the student understands how the law operates in relevant contexts.

## **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?*

We recognise the case for having a single hurdle which all intending solicitors must pass, as an element in qualification. However, as indicated, we do not

consider the SQE will provide *sufficient* assurance of a candidate's ability to use legal knowledge in a relevant context. We are also concerned that the quality of university legal education may be damaged by the perceived need to train students to prepare for it. In particular it would be regrettable if in response to the SQE, Law Schools moved away from complex problem solving, theory, policy issues and inter-disciplinary studies. Accordingly, we propose that it should remain the case that students are able to obtain exemptions from some modules of the SQE by passing a broadly equivalent module as part of a degree or GDL.

#### **Question 4**

*With which of the stated options do you agree and why:*

- *offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?*
- *offering a broader number of contexts for the Part 2 assessment for candidates to choose from?*
- *focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?*

We support the second option involving a broader number of contexts for Part 2 assessments. As indicated above, we are concerned that the current SQE proposal will severely narrow the scope and style of legal education and restrict the breadth of knowledge and skill of those entering the profession.

#### **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?*

Yes. Our view is that the SQE as currently proposed will not assure that a candidate is at graduate level.

#### **Question 6**

*Do you agree that we should continue to require some form of pre-qualification workplace experience?*

Yes.

#### **Question 7**

*Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?*

Yes.

## **Question 8**

*Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?*

We suggest that there should be a minimum time period plus a demonstration of relevant competences.

## **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?*

Yes.

## **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?*

Yes

## **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 1 and Part 2, to a specified performance standard?*

Not applicable.

## **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?*

Not applicable.

## **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?*

(1) In view of the objective nature of the SQE, we do not consider that it would be necessary to regulate trainers.

(2) We do not consider that the SQE part 1, as currently proposed would provide sufficient assurance of graduate-level generic skills and of particular skills in deploying (as opposed to acquiring) legal knowledge. We therefore recommend that the Law Degree or other degree plus GDL remain as a normal entry requirements for admission to the profession (with some possible alternative routes). We would not consider that holding a degree should be required prior to embarking upon SQE assessments. For instance, it would be acceptable for a student to complete some SQE assessment modules prior to completing a degree.

#### **Question 14**

*Do you agree that not all solicitors should be required to hold a degree?*

We consider that all solicitors should either hold a degree or be able to demonstrate a comparative level of academic attainment.

#### **Question 15**

*Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?*

It is in the interests of the profession that the most able candidates progress to become solicitors. If the SQE is designed to provide an indication of the relative merits of candidates, this information should be available to candidates to aid self-assessment and for them to use in support of job applications etc.

#### **Question 16**

*What information do you think it would be helpful for us to publish about:*

- *overall candidate performance on the SQE?*
- *training provider performance?*

If candidates are provided with information about their performance and use this in support of job applications, it would be helpful to employers in the profession to publish information about overall candidate performance.

We have doubts about the proposal to publish data about the performance of “training providers”. Whereas, institutions may present themselves as offering training for the SQE, other institutions, typically Universities may offer courses which are helpful in preparation for the SQE but which do not provide specific SQE training. It is envisaged that students may secure SQE “training from a variety of sources” such as a law degree, coupled with some distance learning or intensive short courses provided by a commercial trainer. In circumstances such as these, data would be more likely to be misleading than helpful.

## **Question 17**

*Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?*

Entrants from less privileged backgrounds may feel constrained to opt for the cheapest route to professional qualification and as a result be steered away from those institutions offering the highest quality legal education.

## **Question18**

*Do you have any comments on these transitional arrangements?*

Given all the uncertainties, these must be kept under review.

## **Question 19**

*What challenges do you foresee in having a cut-off date of 2025/26*

This seems reasonable.

## **Question 20**

*Do you consider that this development timetable is feasible?*

The timetable is very tight. In particular we are concerned that students currently holding university offers and embarking on a “qualifying law degree” in 2016 may find at graduation that they must pass additional SQE modules in order to complete Part 1.

Professor Roger Leng  
On behalf of **Warwick Law School**  
University of Warwick  
Coventry  
CV4 7AL

## 2. Your identity

**Surname**

Tomlinson

**Forename(s)**

Wendy

**Your SRA ID number (if applicable)**

463016

**Name of the firm or organisation where you work**

Taylor Wessing

**Your email address**

w.tomlinson@taylorwessing.com

**Would you like to receive email alerts about Solicitors Regulation Authority consultations?**

**We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

**Please identify the capacity in which you are submitting a response. I am submitting a response...**

## 3.

**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?**

No, we currently feel we have insufficient information on the SQE and the way in which the development of knowledge and skills will be managed leading up to the SQE in order to determine if this will be the most effective assessment of a solicitor's knowledge and skills overall We feel strongly that a breadth and depth of learning is required in order to become a solicitor, along with a period of supervised workplace experience. We are currently unclear that the method of assessment as outlined will most effectively meet the needs of our profession as it feels as if we are being asked to provide an answer to a question where we don't have all the information on the process to get there.

We fully agree with the SRA that we should seek to both ensure high quality of the professional standard and also increase access to the profession. However, we are concerned that the SQE may present another barrier to entry rather than opening up access.

We are also concerned that the current overview of the knowledge expected is not sufficiently flexible and potentially too rigid/outmoded to take in to account the continual changes in the law and areas of required focus for solicitors in the future. A real benefit of the current system is that individuals can take and are examined on elective options that support their interests and the type of lawyer they will become. We are concerned that this real positive of the current system will be removed and this will be to the detriment of how we develop our future lawyers.

## 4.

**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 are concerned that the intended assessment structure may be unable to sufficiently assess critical thinking, unprompted recall, written communication and anything involving demonstrating judgment and balancing arguments. When you take in to account the technological changes facing the profession, these skills will become ever more critical for Solicitors, and having a thorough format for assessing these skills



will be important. We can see the merit of a skills assessment that could address these areas in part, but are concerned that the proposal as outlined doesn't provide sufficient view of these skills. We also feel we would need further detail on how this will work such that it won't be onerous on the law firms who are supporting this process or, indeed, the individual.

Finally, we do very much support the mention of ethics as part of the consideration of the assessment process.

5.

**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?**

We feel that it may be appropriate for some exemptions so that an overly costly and disruptive process isn't put in place that may prevent the movement of talent - for the benefit of the profession as a whole. For example, under this proposed system even a very experienced Barrister would need to go through the full SQE which appears unnecessary when another form of assessment and/or determination of equivalency may be more appropriate.

6.

**4. With which of the stated options do you agree and why:**

b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?

**Why...**

We have no view on this, but the online questionnaire has forced a response. In principle, the option of choice is a good one (which then can be made in conjunction with a sponsoring law firm as appropriate) - however, we feel it is too early to force a decision on this point.

7.

**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?**

Yes, we feel this certainly needs to be at at least graduate level, and one may argue that we need to determine what the "graduate; standard is for the law as currently there is a qualifying law degree needed in order to enter the period of training that is the LPC so the current qualifying standard is above graduate level. It feels important that any form of assessment is mapped to the further education framework.

8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

We strongly agree with this point.

9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

Yes, we feel this is an important period to develop the maturity and practical life skills of the individuals ,and if the period is left open for firms to determine then we are concerned there could be a 'race to the bottom' in terms of the amount of time firms would determine is needed - including the need within this period for individuals to have a variety of experiences in different practice areas in order to determine where they want to spend the rest of their professional lives focusing. We would recommend this period is at least 18 months and preferably 2 years.

We do also feel it should be possible for individuals to complete their SQE assessments prior to and during this time if the assessments are to be introduced. Whilst our preference is for workplace assessment of skills, if a skills exam is to be introduced there should be the option for the skills exam to be completed prior

to the end of such a period such that and re-sits could be taken during their pre-qualification experience (clearly it is hard to know whether resits will be required as we are unclear on the exam standards and likely pass rate, but if individuals need to re-sit aspects of their assessment then this should be able to be done during the pre-qualification time period as otherwise it will be hugely disruptive).

Finally, if we are looking to standardise then there should be a specified minimum time period.

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

No, see our response to question 7.

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

We feel there needs to be some flexibility in the system to allow for a range of circumstances. However, careful judgment will need to be applied such that there isn't a degradation of standards by doing this.

12.

**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?**

Our preference would be to have a workplace assessment of skills and feel we could ensure this would meet the need to assess skills and be based on a workplace portfolio. We would welcome an independent audit of this to ensure standards are kept high if this is a current concern. However, having both approaches of skills assessment and workplace assessment would definitely feel overly burdensome for all concerned.

If we are to go down the route of assessing skills through an exam, a lot will depend on the exams themselves and the whole programme and proposed approach will live or die on the quality and of the assessment process - that it is sufficiently stretching without it presenting us with too high a barrier to entry and cost (time and actual) to ensure completion.

13.

**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 1 and Part 2, to a specified performance standard?**

Yes, we already do this within the current process and feel fully equipped to do so.

14.

**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?**

This would clearly depend on the quality of the toolkit put together - a draft would need to be produced to be able to adequately answer this question.

15.

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?**

We feel the role of the SRA is all about protecting standards and that in order to do this some indication of training pathways to ensure individuals gain a broad and deep education (which we know from large

amounts of research is very different to 'studying for an exam' where learning can quickly dissipate) is an important aspect of learning and development of solicitors.

#### 16. (untitled)

##### **14. Do you agree that not all solicitors should be required to hold a degree?**

We feel there is something about access to the profession in this - and that there should be a prescribed educational standard that is required that is equivalent to degree standard. However, in order to gain entry to the profession, holding a standard that the further educational framework consider equivalent to degree standard (e.g. HND) rather than actually holding a degree may be acceptable to allow different routes in.

As outlined above, the route to qualify to becoming a solicitor (whether through SQE or alternative means) should be beyond a qualifying law degree standard.

#### 17.

##### **15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

Information about individual performance is important. How this compares to an average overall standard may be helpful but less important.

#### 18.

##### **16.**

##### **What information do you think it would it be helpful for us to publish about:**

##### **overall candidate performance on the SQE?**

##### **training provider performance?**

Information on training provider performance would be helpful. Averages of candidate performance may be helpful.

#### 19.

##### **17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

Unsure at this point.

#### 20. (untitled)

##### **18. Do you have any comments on these transitional arrangements?**

There is an overall comment that we are concerned that this approach may encourage a large number of individuals to study for potentially very costly exams (in particular if they are to go through multiple re-sits) without any change of a job or ability to have a role as a solicitor on completion of the exams. There are going to be a significant reduction in qualified solicitor roles in the future as para-professionals and legal knowledge engineers take on greater prominence with automation and the technological changes the profession is facing. It is currently extremely dispiriting to people who have gone through expensive legal training and study to then have no hope of gaining a training contract and qualifying as a solicitor. Our concern is that these reforms may make this situation worse as even more people seek to take the SQE with no realistic access to the profession on their completion of the SQE. We feel there is a moral need for the future of the legal profession to be taken in to account as part of these reforms and it is not clear that this has currently been considered.

#### 21.

##### **19. What challenges do you foresee in having a cut-off date of 2025/26?**

It is very hard to respond to this question until we are clear how the consultation and proposals will progress.

#### 22. (untitled)

**20. Do you consider that this development timetable is feasible?**

We need to understand how the SRA may adapt its proposals following this current consultation in order to determine if the development timetable is feasible.

Please note that all comments relating to questions 1 - 20 are the combined views of a number of people brought together to discuss and agree our response to this consultation, including Graduate Recruitment and Development partners, Learning and Development, Risk and HR (including graduate recruitment)

**23. More about you**

**Your sex**

Female

**Your age**

35-44

**The Disability Discrimination Act 1995 defines a disability as "a physical or mental impairment which has a substantial and long-term adverse effect on the ability to carry out normal day-to-day activities". Do you consider yourself to be disabled as set out under the Disability Discrimination Act 1995?**

No

**Please indicate your type(s) of impairment. You may select more than one option below.**

**Your ethnicity**

White

**More about your White ethnic background**

British

**More about your Black or Black British ethnic background**

**More about your Asian or Asian British ethnic background**

**More about your Mixed ethnic background**

**More about your Chinese or other ethnic background**

**Where did you hear about this consultation?**

From the SRA

**Q1. 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?**

The objectives set out as the basis for the SQE are ones of consumer protection by ensuring that all solicitors meet a threshold high standard to be admitted to practise, and a greater equality of opportunity for talented would-be solicitors who wish to enter the profession. Whilst we firmly agree with ensuring only the most talented candidates can qualify as solicitors, and that talented individuals from a wide range of backgrounds are not dissuaded from or barred from entry to the profession, the SQE will not necessarily achieve this. We know that talented students from diverse backgrounds are admitted on to law degrees, and then go on to succeed on them and on the Legal Practice Course; this is not the point in their education where they are prevented from pursuing their career as a solicitor. It is their inability to obtain a training contract that acts as a block on their career aspirations and this is not addressed by the introduction of SQE1 or SQE2. If SQE1 is a pass/fail assessment there is concern that unless the profession has enormous confidence in this, they will revert back to A levels as an indicator of suitability to practise as a solicitor and A level grades are not a reliable indicator of academic ability let alone ability as a solicitor. If the SQE 1 is graded then the cost is likely to be higher, and may not lead to the level of qualification cost savings envisaged.

There is a need for clarification of comments made by the SRA in the Consultation Document that appear to link the SRA's concern about the quality and variability of standards in current legal educational attainment to the differing A level grades that institutions require of their law students for admission to their courses. The implication may be, although this may be a misreading of the document, that because some institutions accept students with lower A level grades their educational standards are lower and the quality of their students is also lower. We do not accept this premise. There is compelling evidence from the Sutton Trust that children from independent and elite schools achieve the highest A level grades levels <http://www.suttontrust.com/wp-content/uploads/2011/07/sutton-trust-he-destination-report-final.pdf> and this higher attainment is not necessarily a function of greater ability but of greater childhood privilege. University Law Schools that accept students with lower grades find they are teaching bright, motivated students who have not had access to the support offered in elite secondary schools. A levels cannot be taken as a reliable proxy for future excellence as a lawyer and so nor can university attended; these factors cannot be identified as the causes for any lack of competence of the small number of legal professionals who provoke concern.

Attainment in a range of assessments that test legal knowledge and its application (and over time) are a better assessment of competence. Further, it would be counter productive in equality and diversity terms to disincentivise periods of in-depth learning over time too given the findings of the National Foundation for Educational Research (Kirkup, C., Wheeler, R., Morrison, J., Durbin, B. and Pomati, M. (2010). *Use of an Aptitude Test in University Entrance: a Validity Study* BIS Research Paper 26, London: BIS) that demonstrated that over a period of three years of undergraduate education the apparent starting attainment gap between cohorts of students from state schools, private schools and public schools all studying on the same law degree programme diminished to become indistinct at the point of graduation. That does not speak to the efficacy of the SQE1 or 2 but it does speak to the importance of the eligibility requirements to be met prior to commencing SQE1 assessment. There are clearly some who will have gained knowledge and experience via routes other than a degree route and for whom the SQE could be a benefit, they are already provided for under the current system, for example by recognition of CILEX qualifications and by the Equivalent Means Route. Were the SQE to be introduced we would recommend that would-be solicitors only become eligible to sit the examination at the point when they have already

undertaken a period of extended learning at degree level, if not on a degree programme, and been assessed as competent to degree level standard. This would assist socio-mobility by allowing students to develop over time prior to being tested, it would also have the additional benefit of maintaining the reputation of the solicitor's 'brand'.

We believe that the undergraduate law degree is likely to be the route of choice for many students who intend to pursue a career in the legal profession. The Bar Standards Board has not stated if it will require a Qualifying Law Degree, if it does this is likely that many students will study an undergraduate course regardless of the SRA's more flexible approach so as to preserve a greater career choice; the SRA's desired flexibility of career path will not be achieved for most. Whilst it is possible to deliver the knowledge and skills required to take the SQE throughout the three year undergraduate degree, we would not wish to limit the undergraduate course in this way, not least as this would narrow down student's career options in other parts of the sector and in other related sectors; it would constrain the breadth of options and risk narrowing the students' learning experience. And so the undergraduate law degree is unlikely to be sufficient to prepare students for the SQE1. It would appear that some additional professional training will be required, bearing similarities to the current LPC if not necessarily similar length. Pre-admission training is delivered largely by not for profit universities, these are well regulated and have a clear commitment to education. In the initial stages, at the very least, private SQE preparation course provision will require regulation so as to ensure that it is of an appropriate quality and educational rigour, the market will not act as corrective to allow students to make informed choices for a number of years if at all. There is also the cost consideration of taking the SQE; as there appears to be no limit on the number of attempts this could in fact lead to an increase the cost of qualification. Further, the more sophisticated the tests, the more costly they are likely to be. And given that many students will still undertake an undergraduate law degree and an SQE training course, plus pay for central testing fees (and higher assessment fees if SQE assessment leads to a mark rather than a pass/fail assessment) then it is unclear what cost savings there are likely to be for students.

Although the SQE1 and 2 may provide a common benchmark against which to judge all potential solicitors, the quality of that common benchmark will be heavily dependent on the nature of the assessment envisaged and with such a paucity of information about how that assessment is to be made we are not able to endorse such a scheme. A test of knowledge that does not simultaneously assess its nuanced application is unlikely to offer any real protection to the public. Assessment would need to be both oral and written; while MCQs may be able effectively to test correct identification of principles and diagnosis skills, both of which are important, it is harder to see how they can assess an intending solicitor's treatment of client needs through the intending solicitor's effective use of legal knowledge applied through dexterous use of language. Law lives in language and assessments that do not test use of language as integral to the process of knowing and using law would be highly questionable as a check on competence. The parallels drawn between medical and legal professional testing are wanting in this regard, as doctors treatment plans are largely based on pharmaceutical and manual therapies, not through sophisticated deployment of language.

**Q2 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?**

It is difficult to give a complete response to this question without more information about the type of questions to be set, how the assessment will be administered and over what period of time students can take the various elements of the SQE.

In relation to SQE1, it is accepted that degree level knowledge in other disciplines and professions, most commonly in the medical profession is assessed through the use of MCQ and closed questions; however this method is used after the completion of a medical degree where knowledge and complex skills have already been assessed and students have been successful in those assessments. SQE1 in our view will not be able to assess the essential skills of communication and research nor will it assess as effectively as the law degree or GDL the application of legal knowledge. In our experience it is important to set assessments that allow one to distinguish between those who can diagnose (most students) and those who can also effectively apply the law (far fewer students) if one is to test ability. The medical profession has a different approach to treatment or guidance which may make it easier to develop sophisticated tests of application via MCQs, although we cannot be certain of that. In addition the medical profession knows that its would-be medical professionals have already reached a minimum threshold of ability by passing their medical degree. However, as currently proposed, the SRA would not be able to rely on the prior assessment of candidates sitting the test, and further there does not appear to be a means in SQE1 to test intending solicitors research skills, abilities to apply law or their dextrous use of language either. It may be that the SRA does have a means to do this, but it is unclear at present. We would have been able to provide a fuller response if we had seen some examples of the proposed model.

SQE2 is designed to assess the student following a period of work based. The assessment is also intended to be modular to allow the student to work and study at the same time; we are very supportive of the flexibility of this approach. It does however raise questions about how many times a student can attempt each element of SQE2 and over what period of time; one of the objectives of this SQE2 is to ensure currency of knowledge and skills at the point of entry into the profession, will this be achieved if students can take these modules over the period of several years? Further rather than opening up opportunities for under-represented groups in the profession, the work based learning requirement of the test could make it more difficult for them as they will be ineligible to take the test and therefore qualify as a solicitor. It appears that the SRA plans to use the SQE2 as a pivotal assessment to determine whether someone is fit to practise a solicitor; given the significance and importance of this examination more information about the method of assessment, grading and anticipated cost is required before any further comment can be made.

**Q3 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?**

This will depend on the level of experience of the lawyer seeking exemption; for example simply having passed the New York Bar or having been admitted as a lawyer in Australia and not having practised should not lead to exemptions. The SQE is intended for solicitor apprentices and those intending to qualify through the graduate entry route, those with limited experience of practice should be assessed at the same level and on the same content as intending solicitors in England and Wales.

However, qualified lawyers from other jurisdictions are a quite separate group and will need to be assessed on their merits. For those who have extensive experience in practice it may not be appropriate for them to be required to undertake SQE2. It may, however, be appropriate for them to sit some of or all of the SQE1 were their jurisdiction to be one that did not have sufficient common features as our own to allow them to be considered sufficiently knowledgeable of substantive law, procedure and evidence.

**Q4 With which of the stated options do you agree and why:**

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

**Why...**

We consider b) to be the most appropriate approach. We recognise that applicants will choose contexts that are suited to their workplace experience and more importantly their career plans. This is all the more important given that LPC electives will have been lost, and thus there may be have a more limited assessment of competence prior to SQE2.

**Q5 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?**

Yes. In principle we agree that the standard for qualification as a solicitor should be set at least at graduate level. The SQE1 could feasibly be used to ensure the currency of legal knowledge but that would depend on how the modular approach is adopted, as some may undertake some modules many years before they undertake the SQE2.

**Q6 Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Yes. Experience of the professional environment and especially the development of skills and confidence associated with advising clients is essential to a solicitor. The quality of the experience is exceptionally important with appropriate training and effective support.

**Q7 Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

It is more important to state the learning outcomes that must be achieved rather than a specified time period.

**Q8 Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

Yes. The focus should be on the achieved learning outcomes.

**Q9 Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

It is the quality of this experience that is important; the SRA has responsibility for deciding whether workplace experience should be recognised. Clearly, there are several Law Schools, including Westminster Law School that have a Student Law Clinic and it is entirely appropriate if such experience is suitable that it should be recognised. We consider those



applicants working as paralegals should be able to have this experience taken into account, and should not have to rely on firm support in order to be able to progress to the next stage of qualification; this is one of the main barriers to entry for many would-be solicitors.

**Q10 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?**

Whilst having workplace assessment is an appealing option it does create issues of consistency in relation to assessment. Some workplace providers will be well-equipped to carry this out but this will not be universal. To ensure the consistency of assessment it might be worth considering assessment of this learning as part of the SQE2.

**Q11 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 1 and Part 2, to a specified performance standard?**

Not Applicable

**Q12 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?**

Not Applicable

**Q13 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?**

There are currently two routes to qualification as a solicitor, through apprenticeship and the graduate trainee route. These are clear and transparent, especially to prospective students and solicitors. It is important that these routes remain clearly defined and regulated, primarily to protect students. Employers and consumers understand these routes and any new routes to qualification need to be similarly prescribed; if the equivalent means route is retained this provides all the flexibility required.

**Q14 Do you agree that not all solicitors should be required to hold a degree?**

We would consider it important that solicitors are educated to degree level, and are assessed at this level. Solicitors who have qualified through the CILEx route have also passed degree level (level 6) assessments; in other centralised assessment regimes, such as New York Bar all applicants have passed a degree to be eligible to take the exam.

**Q16 What information do you think it would be helpful for us to publish about:**

- **overall candidate performance on the SQE?**

**training provider performance?**

This is difficult to answer at this stage. It may be possible to come up with league tables of providers who provide explicit training that is designed solely for SQE1 and 2 preparation, but it will be difficult to set up a fair system to judge degree provider performance as most degree programmes would not be aimed squarely at SQE preparation. Further, if providers deliver courses suited to different parts of the legal profession, or tailor courses to meet the twin aims of the SQE and particular workplace requirements (this may become more desirable for some employers given that the LPC electives would have been lost and degree programmes may also have reduced options) then the data about pass rates will be difficult to interpret fairly. In the current climate it is very likely that providers will produce their data for prospective students but it is not anticipated that will be comparable data.

**Q17 Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

There is the strong possibility that rather than reducing the cost of qualification, the reverse could happen. As stated above in response to Question 1, students are very likely to retain their career choices by electing to study an undergraduate law degree, they will then have the additional cost of the SQE1 and SQE2 and they may also need to pay for a SQE1 and 2 preparation course. There are similarities between the SQE2 and the QLTT; the QLTT costs more than £4000 and does not cover the range of assessments indicated in the SQE2. Given that the Consultation Document states that applicants can be reassessed in SQE1 and 2 this could be a very expensive route to qualification.

Rather than opening up the opportunities to under-represented groups the SQE could make it more costly to qualify thus creating an economic barrier to qualification.

**Q18 Do you have any comments on these transitional arrangements?**

Our view is that young people in school and their careers advisers are unaware of these proposals so any changes to the route to qualification will need to be made swiftly and communicated effectively to the careers adviser networks. If this happens the proposed cut off date of 2025/2026 may just work.

**Q19 What challenges do you foresee in having a cut-off date of 2025/26?**

As stated in Question 18 this cut off might just work however from our experience there are always students with compelling personal circumstances and mitigating circumstances who will need to be exceptionally permitted to sit the previous form of assessment.

**Q20 Do you consider that this development timetable is feasible?**

Without having more information about the method and nature of assessment to be utilised for the SQE it is difficult to comment. Quality assurance processes in universities mean that changing the curriculum content and delivery of an undergraduate (or indeed professional postgraduate course) requires a minimum of eighteen months to achieve. Given the amount of information in the Consultation Document about the SQE we are cautious and concerned and consider this a challenging timetable.



## **YOUNG LEGAL AID LAWYERS**

### **Response to the Solicitors Regulation Authority Consultation on Training for Tomorrow: assessing competence**

**4 March 2016**

#### **About Young Legal Aid Lawyers**

1. Young Legal Aid Lawyers (YLAL) was formed in 2005 and has over 2,000 members. We are a group of lawyers committed to practising in those areas of law, both criminal and civil, which have traditionally been publicly funded. YLAL's members include students, paralegals, trainee solicitors, pupil barristers and qualified junior lawyers based throughout England and Wales. We believe that the provision of good quality publicly funded legal help is essential to protecting the interests of the vulnerable in society and upholding the rule of law.
2. This is our response to the Solicitors Regulation Authority (SRA) Consultation on Training for Tomorrow: assessing competence. This consultation concerns the introduction of a common professional assessment for intending solicitors: the Solicitors Qualifying Examination (SQE).

#### **Introduction**

3. The consultation poses a number of questions. We have responded to these below.
4. However, at the outset YLAL would like to raise a few key issues in line with our objectives as an organisation, which are:
  - a. To campaign for a sustainable legal aid system which provides good quality legal help to those who could not otherwise afford to pay for it.
  - b. To increase social mobility and diversity within the legal aid sector.
  - c. To promote the interests of new entrants and junior lawyers and provide a network for likeminded people beginning their careers in the legal aid sector.
5. The stated purpose of the SRA's introduction of a standardised assessment at the point of qualification is in order to "ensure consistent high standards of entry into the profession, providing confidence for the public and employers". While we note that the SRA has stated that it wants "to ensure that the most talented people from any

background can become solicitors”<sup>1</sup>, YLAL has concerns about the potential effect the proposed changes will have on the accessibility of the profession. To date, the SRA has failed to provide any clear information about how much it expects the SQE to cost. It remains unclear what the effect of the introduction of the SQE will be on the status of undergraduate law degrees and the Legal Practice Course (LPC). It also remains unclear whether prospective solicitors will be required to obtain practical work experience through a training contract equivalent in the future. In our view, it is therefore very difficult to provide an informed response to this survey as it is entirely unclear what effect the introduction of the SQE will have on the cost of qualifying as a solicitor.

6. YLAL notes the SRA’s view that the introduction of the SQE would “level the playing field between different routes to qualification”<sup>2</sup>. However, the view expressed by the SRA that the SQE “could help address the problem” of the lack of social mobility in the legal profession appears – on the information provided by the SRA – to be purely speculative. YLAL considers it vital that the SRA properly and fully considers the impact of any reforms on social mobility and the accessibility of the legal profession.
7. This is particularly important in light of the recent and concerning statistics regarding the lack of diversity within the profession and the prohibitive costs of entering the profession. In February, the Sutton Trust, an institution established in 1997 with the aim of improving social mobility through education, published the results of a survey into the educational backgrounds of “the UK professional elite”, including the judiciary<sup>3</sup>. The survey found that the proportion of senior judges who went to fee-paying schools has barely fallen in the last 25 years: in 1989, some 76% attended private schools, in 2004 this figure was 75% and in 2015 it was 74%. Moreover, the research found that in 2015, 71% of the top 100 ranked QCs and 32% of partner-level solicitors attended independent schools, compared to the 7% of people from the general population who attend such schools.
8. These statistics mirror the findings of YLAL in our October 2013 report on social mobility and diversity in the legal aid sector, *One Step Forward, Two Steps Back*<sup>4</sup>, launched by Baroness Hale of Richmond. Our report found that, unsurprisingly, high levels of debt combined with low salaries make legal aid work unsustainable for many from a lower socio-economic background. In 2013, before the impact of vastly increased student fees could be measured, 65% of respondents to our social mobility survey had debts in excess of £15,000, while a similar proportion of respondents in employment – 67% – were earning £25,000 or less. This combination of high levels of debt and low salaries represents the stark financial reality of life as a young legal aid lawyer, and means it is very difficult for many people to pursue a career in this area.

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<sup>1</sup> SRA blog, 16 February 2016: <http://www.sra.org.uk/sra/policy/training-for-tomorrow/T4T-Blog/Can-the-Solicitors-Qualifying-Examination-help-social-mobility-.page>

<sup>2</sup> Ibid

<sup>3</sup> [http://www.suttontrust.com/wp-content/uploads/2016/02/Leading-People\\_Feb16.pdf](http://www.suttontrust.com/wp-content/uploads/2016/02/Leading-People_Feb16.pdf)

<sup>4</sup>

<http://www.younglegalaidlawyers.org/sites/default/files/One%20step%20forward%20two%20steps%20back.pdf>

## **RESPONSES TO THE CONSULTATION QUESTIONNAIRE**

**Q1: 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?**

1. No, because:
  - a. It creates another layer of bureaucracy and will put those who are not able to prepare specifically for the assessment, but otherwise have the skills of a solicitor in their given practice area, at a disadvantage.
  - b. Although it may be a way of ensuring the quality of solicitors on entry to the profession it would in no way address the issue of ensuring the ongoing quality of legal practitioners.
  - c. Other than removing the need for LPC/PSC the SQE is unlikely to remove barriers to social mobility within the profession. The SRA would need to ensure that employers and candidates are clear that the LPC would no longer be necessary, and should not be used to give applicants a competitive edge.
  - d. Although it may cut costs for students it would inevitably transfer costs and training needs onto firms. YLAL considers that it will be particularly difficult for niche and/or legal aid firms to meet these added costs, due to the already tight cost margins that firms are operating under. The limited ability or inability of legal aid / niche firms to pay for and facilitate training would put aspiring legal aid lawyers at a distinct disadvantage compared to their corporate peers.
  - e. Without a clear idea of what the route(s) to qualification as a solicitor will look like following the introduction of the SQE, we feel it is very difficult to comment on whether such a common professional assessment would ensure that the most talented candidates can qualify as a solicitor.

**Q2: 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?**

2. We do not agree that the proposed model would provide an effective test of the competences needed to be a solicitor. The competences and the assessment in this form are too broad. The proposed model would also shift the burden of supervision and training onto the employer. YLAL is concerned that many legal aid / niche firms will not be equipped to provide training in the required areas.
3. YLAL considers that it would be more effective to focus training on specific practice areas. Client skills and legal knowledge vary greatly across the sector meaning that most generalised skills are not helpful and would not ensure quality.
4. It is also illogical to compare the proposed model with assessments used in other professions as described in paragraph 40, such as accountancy and pharmacy. The comparators put forward are clearly more mathematical or scientific in nature

compared with the practical application of the law. Whilst the proposed assessment methods may work in other industries, computer based testing would appear, on the face of it, to be inappropriate for lawyers.

**Q3: Do you agree that all intending solicitors, including 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?**

5. No, because:

- a. YLAL considers that it is difficult to know the full impact the SQE could have on lawyers from other jurisdictions, but would be concerned to ensure that standardised testing will not deter talent from outside the UK.
- b. The test is not qualitative, it is simply a re-fashioning of existing assessments, and does not ensure that the required standard of quality is met.

**Q4: With which of the stated options do you agree and why:**

- a. offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
  - b. offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
  - c. focussing the Part 2 assessment of the reserved activities but recognising the different legal areas in which these apply?
6. We agree with option B, because many of the reserved areas will not be directly or broadly applicable for legal aid / niche firms. It is important to offer a wide range of assessments that candidates can use for their training and future practice. However, this should be done without burdening future solicitors with study and assessment preparation in areas of law for which their firm cannot offer training.

**Q5: 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?**

7. YLAL considers it unnecessary to establish equivalency with traditional qualifications. If the SQE has been created to enable solicitors to qualify for practice and if it tests the skills and competences required for work in the law, then that should be sufficient for it to stand alone as a standardised assessment.

**Q6: Do you agree that we should continue to require some form of pre-qualification workplace experience?**

8. Yes, practical experience is vital, particularly when dealing with vulnerable clients. However, there needs to be regulation to ensure that there is equality of access to work place learning.

**Q7: Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

9. No. Employers view the current set time period is arbitrary and 'lazy regulation'. The period should be as long as is necessary to gain all the relevant skills to be a competent solicitor, which will take longer for some than others. However, it is important that there are adequate safeguards to prevent employers taking advantage of cheap labour and retaining people in the training phase longer than required. Without such steps YLAL considers that the current problem of 'paralegalisation' of the profession will become entrenched.

**Q8: Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

10. Yes, there should be some specifications that employers should be expected to ensure their trainees meet, rather than a time frame. However, it is also necessary to regulate the employer not just the trainee, to ensure quality of training. The competences should not be too broad, and should be targeted for different legal sectors.

**Q9: Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

11. Yes, this will prevent the problem of paralegalisation and may help to even out the oversupply of law graduates in relation to the number of available training contracts. It would allow for candidates to have independence from their employers, ensuring that they are not restricted to paralegal or administrative jobs, where they have already gained the requisite skills to qualify. Importantly this would remove barriers to social mobility by providing the flexibility to enable candidates from non-traditional routes to qualify as solicitors.

**Q10: 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?**

12. Maybe:
- a. YLAL considers that workplace assessment is the optimum environment for ensuring future solicitors develop the necessary client care skills;
  - b. There should not be assessment for assessment's sake;
  - c. The SRA must ensure that firms with a track record of offering training contracts are not deterred from taking on trainees because of the proposed added training costs. YLAL considers it imperative that the SRA gives full consideration to the provision of financial support to such firms during the crossover period;
  - d. YLAL questions the reasoning behind the costing of the introduction of the new assessment: why does it have to cost a lot? And what do the components of the assessment involve?

**Q11: If you are an employer, do you feel you have the expertise to enable you to assess trainee solicitors' competences, not capable of assessment in Part 1 and Part 2, to a specified performance standard?**

13. In responding to this consultation, YLAL represents the interests of its members only. However, YLAL wishes to make the following comments in response to Q11 of the consultation questionnaire.
14. YLAL anticipates that it will be difficult for smaller firms to accommodate an assessment at a specified performance standard, as there may be a limited number of people at supervisor level. Firms practising solely in legal aid tend to have fewer resources than their corporate counterparts, and are unable to devote the same people power to supervision. YLAL considers that it will also be difficult for small and niche legal aid practices to absorb the cost of the new assessment. This is likely to have the effect of firms reducing the number of training contracts available, and consequently introducing fewer lawyers into this much needed part of the legal sector.
15. If firms are to provide training and assessment in specified competences, there must be a method of ensuring that this is standardised across the industry and that trainees are given adequate support and supervision. Without this standardisation solicitors will qualify after a period of "on the job" assessment which will vary widely in its efficacy and usefulness for their future careers.

**Q12: If you were to introduce workplace assessments, would a toolkit of guidance and resources be sufficient to support you to assess to the required standard? What other support might be required?**

16. As above, YLAL is unable to answer any question from the view point of an employer, but as an organisation we would wish to make the following observations:
  - a. We would suggest that, during the transition phase, training would be necessary for employers who will act as assessors, and for any new providers. This could include training on the competences they would be required to assess and the methods of assessment that could be used. It could also give training on the soft skills required to assist candidates through the SQE and towards qualification, such as offering support, performance reviews, constructive criticism and supervision to trainees.
  - b. Use of a toolkit alongside training would help to provide consistent supervision for students as well as a consistent standard of training.
  - c. Possibility of a helpline/email/forum where providers could go with questions that arose during implementation.
  - d. However, this would again create an additional administrative burden for employers, and may be problematic for small firms looking to divert resources towards training and supervision.



**Q13: 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:**

**a. support the credibility of the assessment?**

17. No, because:

- a. We do not consider that the prescription or regulation of training pathways is necessary to support the credibility of the assessment.
- b. Any attempt to regulate the training pathways is likely to limit individuals' options/choices with regards to their route to qualification.
- c. University fees are now at an all-time high. The GDL and LPC are also extremely expensive, especially for the high number of students who are independently funding these routes. The diversification of routes into the profession has allowed people to choose pathways which best suit their learning style, monetary capabilities and lifestyles (for instance parents, carers, those working full-time to fund education etc). To remove options such as CILEx, equivalent means or apprenticeships and to replace them with a prescriptive and strictly regulated training route would inevitably lead to even greater barriers for social mobility within the profession. The assessment should not require additional pathways to enhance its credibility. If the assessment is properly constructed, fairly balanced and will ensure that all solicitors are qualifying and will remain at a good standard, then this will be sufficient.

**b. and/or protect consumers of legal services and students at least for a transitional period?**

- a. YLAL considers it would be useful and reasonable to have measures in place during a stipulated trial period that will ensure that the SQE is monitored for quality and reliability. The results of the exam can be considered and the newly qualified solicitors given adequate supervision to allow for any problems with the exam and any failings that may have to be identified and rectified. This should be sufficient to reassure both consumers and students that once fully implemented the SQE will be above the requisite standard. These would not need to be training pathways as such, but more procedural safeguards that ensure the assessment system is functional and fulfils its' objectives.
- b. YLAL considers that if measures need to be put in place on a permanent basis to protect consumers and students when the SQE assessment is fully in practice, this, in itself, may undermine the assessment.

**Q14: Do you agree that not all solicitors should be required to hold a degree?**

18. Yes, because:

- a. Many members of the profession have qualified through CILEx and in the future will qualify through legal apprenticeships.

- b. A degree is useful for students in that it allows them to gain a broad range of knowledge of areas they may never practice in. It also allows students to consider moral issues and issues of jurisprudence which do not come into the more practical courses such as the LPC. We recognise that undertaking a degree in law shows commitment to the subject. However, we do not believe that it should be seen as being a prerequisite for qualifying as a solicitor.
- c. A law degree is very broad, and not necessarily reflective of practice.
- d. Should the profession be limited to those who have a traditional degree or GDL this will limit social mobility as, particularly now with increased fees and removal of maintenance grants, many people with limited means or caring responsibilities (for instance) have been deterred from undertaking a degree.
- e. If the SQE and practical assessments are regulated and standardised then the quality of solicitors on admission should be assured without a university qualification as a prerequisite.
- f. There will, of course, still be requirements set by the training providers during the recruitment process for trainee solicitors/SQE candidate; this is likely to be the point at which the importance or otherwise of holding a degree or LPC will be most noticeable.

**Q15: Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

19. Yes, because:

- a. Feedback will enable candidates who have not passed the SQE to review areas of weakness, and will inform their decision-making about whether or not to re-take the assessment.
- b. Feedback will help to identify strengths, and focus future practice areas.
- c. Where prospective lawyers have been disadvantaged in terms of their access to education, impacting on their results, providing candidates with information about their individual and comparative performance on the SQE will highlight practical abilities that future employers can have regard to rather than relying on academic ability alone.
- d. It would allow candidates who had been unable to take part in courses such as the LLB, GDL or LPC for reasons such as lack of financial backing, illness or disability or family and caring commitments to demonstrate that they fulfilled the required competencies and had reached the same standard within the SQE as others who had followed a more traditional route.
- e. A single centralised assessment would allow the SRA and other bodies to better understand how performance in assessments varies by ethnicity, gender and other protected characteristics. This would help the SRA and other bodies to take action to remedy inequalities. YLAL considers it an imperative part of the SRA's function that full and fair equality and diversity statistics are gathered in order to assist and inform the regulatory objectives of the SRA.

**Q16: What information do you think it would be helpful for us to publish about:**

**a. overall candidate performance on the SQE?**

20. YLAL considers it would be helpful for the SRA to publish the following information on overall candidate performance on the SQE:

- a. Range of marks and number of candidates performing at each level. This would show whether the exam was producing overly low marks in certain areas. The SRA would then be able to assess whether the problem lay with the assessment or the training. It would also highlight any patterns in which law firms in some sectors were unable to meet the training needs of the assessment, and whether candidates with protected characteristics under the Equality Act 2010 or from socially disadvantaged backgrounds were performing to a lower standard.
- b. It could be used to determine whether there is a difference in educational routes, i.e. whether those who have studied the LLB or GDL perform better than those without the degree background. If there is no difference, it will encourage people to enter the profession without the degree, thereby removing current barriers to the industry.

**b. training provider performance?**

21. YLAL considers it would be helpful for candidates if the SRA published the following information on training provider performance:

- a. The cost of training should be transparent and services and materials included in the cost.
- b. Anonymised results of students should also be made available.
- c. Whether or not the provider has any additional services (e.g. crèche facilities, excellent disability link workers, excellent student welfare support, good/cheap transport links, good mentoring schemes with local firms, scholarships and bursaries and any other services that can assist in making the training accessible to all prospective candidates).
- d. Where and when the examination(s) will take place. Exam dates should be announced ahead of time and venues should be spread across the country, with options for assessments to be taken remotely where possible.

**Q17: Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

22. There is a risk of a two-tier system developing if the LPC and the PSC are not completely scrapped. There will be candidates who are in a position to fund the LPC and PSC, which is likely to put them at a competitive advantage to those who can't fund these courses, both in the training phase and after early qualification. This will create additional hurdles for already disadvantaged

candidates (i.e. BAME candidates, and candidates with family responsibilities) to enter the profession, impacting on diversity within the sector who can relate to associated client groups.

**Q18: Do you have any comments on those transitional arrangements?**

23. Transitional arrangements will of course be necessary so that candidates who are caught in the change-over do not lose the value of their existing qualifications, nor are they put in a position that will lead to further expense.
24. Many of YLAL's members will be seeking employment in small legal aid firms. For small (legal aid or otherwise) practices, they will therefore need to be operating dual systems of qualification during the transitional period. Small firms should be given adequate support and financial concession to ensure that they are in a position to do this, and will not have to turn away candidates seeking to qualify under either scheme because of the administrative burden or additional expense.

**Q19: What challenges do you foresee in having a cut-off date of 2025/26?**

25. In our report "One Step Forward, Two Steps Back", evidence from YLAL members demonstrates that work experience is a pre requisite to finding a job in the legal aid sector (pg 22; para 59).<sup>5</sup> Many are undertaking lengthy unpaid work experience, or working as paralegals for many years before they are able to secure a training contract. Those from BAME and financially disadvantaged backgrounds are disproportionately affected. Although the 2025/26 cut off is a significant time period in which to end the old system of qualifying, due to the length of time it can take to secure training contracts there is a risk that there will still be large numbers of people who have recently completed the LPC and have not been able to qualify under the old system in time.
26. It will therefore be essential that, if the new regulations are brought into force by 2018, as much as possible is done to ensure that students and aspiring solicitors are made completely aware, through secondary schools and sixth form colleges, university careers centres, training providers and employers (particularly where offering work experience), that the new regulations are coming into force, and to fully understand the requirements of any new training system.

**Q20: Do you consider that this development timetable is feasible?**

27. In light of the views of the stakeholders (universities), which demonstrate that it can take time to develop new courses, the current timetable seems unrealistic. YLAL considers that the current timetable is likely to risk candidates not receiving the right training through their education, thereby undermining their ability to undertake the later assessment.

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<http://www.younglegalaidlawyers.org/sites/default/files/One%20step%20forward%20two%20steps%20back.pdf>

28. As we have made clear throughout our response to this consultation, YLAL considers that although an overhaul to the current system is needed, the current proposals do not get to the heart of removing barriers to social mobility in the profession. There is insufficient evidence to demonstrate how a common assessment at entry point to the profession ensures ongoing quality throughout the lifespan of a solicitor's career. Furthermore, there is insufficient evidence to demonstrate that any such common assessment would offer onward protection to consumers. Should the SRA properly consider the responses to the consultation and seek to address these live concerns to their proposal, then this current timetable will be unworkable.

## **CONCLUSION**

29. In conclusion, YLAL believes that the route to qualifying as a solicitor is in desperate need of improvement. The costs of the current legal education system are prohibitive and training contracts are becoming less attractive for small, niche and legal aid firms to offer and more difficult for graduates to find. Students often find themselves academically qualified but practically ill-prepared for training.

30. Social mobility within the profession has improved very little in recent decades (as demonstrated in the introduction to our consultation response). For these reasons YLAL welcomes the SRA's willingness to consider a new route which, if implemented and regulated efficiently and fairly, could assist with social mobility within the sector and begin to help solve the problem of the loss of expertise in publicly funded or traditionally publicly funded areas of law.

31. However, YLAL believes that this will only be possible if costs are kept down, both for students paying for the exam independently, and for the firms who may be sponsoring their employees and offering training and supervision as part of the SQE. We also believe that it is extremely important to ensure that assessment and preparation are relevant, useful and effective. Employers, assessors and, most importantly for YLAL, students, must feel that the time and money they have invested has been worthwhile and that they enter the profession fully prepared.

32. YLAL considers that this consultation is a useful first step, but that it does not contain enough detail regarding costs, regulation or implementation. The SRA must consider whether the cost and time required from firms in the implementation and facilitation of this new route to qualification will be proportionate. Should firms find the costs of this route prohibitive it is likely to be most problematic for the small, high street and legal aid firms to continue to offer training contracts or to become SQE assessors. A lack of trainee level positions in these categories of firms would most affect those tied to their local areas for reasons of finances, family commitments or disability and as a result would be likely to have a negative effect on social mobility within the profession.

33. The SRA must make clear how the LPC, GDL and LLB will fit in with the future as part of the route to qualification. Should sitting these exams still be allowed to give prospective solicitors an advantage over those who have not sat them then the effect that the SQE can have on social mobility within the profession will be minimal.
34. For the reasons outlined within this conclusion and in the answers to the questionnaire, YLAL cannot support the SRA's proposal at this stage. However, we await further details from the SRA and hope for answers to the questions that we have posed in this response before giving our final analysis.

**Young Legal Aid Lawyers**

March 2016

[www.younglegalaidlawyers.org](http://www.younglegalaidlawyers.org)  
[ylalinfo@gmail.com](mailto:ylalinfo@gmail.com)  
@YLALawyers

## 2. Your identity

### 1. Surname

Naji Hussain

### 2. Forename(s)

Yousif

### 3. Name of the firm or organisation where you work

Harding Mitchell

**4. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Attribute my/our response and publish my/our name.

**5. Please identify the capacity in which you are submitting a response. I am submitting a response... as a student studying for a qualifying law degree or legal practice course**

## 3.

**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?**

Yes, I do.

## 4.

**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?**

Yes.

## 5.

**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?**

Yes.

## 6.

**4. With which of the stated options do you agree and why:**

b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?

**Why...**

This option will give more flexibility to the SQE.

## 7.

**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?**

Yes, at least LLB or CPE/GDL level.

## 8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

No, legal work experience can be a waste of time. Graduates with 2:1 and LPC are being exploited, undervalued and underpaid. The '2 years training contract' is out of date, I think it needs to be changed.

9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

No.

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

No.

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

Yes, not everyone can secure a training contract.

There are people with 2:1 and LPC and still with no training contract.

12.

**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?**

No.

13.

**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 1 and Part 2, to a specified performance standard?**

Really don't know.

14.

**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?**

I think a more indepth CPD, would be a good idea.

15.

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?**

To support the credibility of the assessment.

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

Well, Yes.

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

Yes.



18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

Overall candidates performance on the SQE.

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

Really don't know.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

No.

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

Don't know.

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

Yes.

Zoe Lock

## T4T - Assessing competence

### Consultation questionnaire form

This form is designed to be completed electronically—in MS Word. Please save it locally before and after completing it.

#### 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?

I certainly do not agree that the SRA's intended introduction of the SQE best meets the objectives set out in paragraph 10.

The SRA's proposals in this regard will inevitably lead to the destruction of the current education and training framework for qualification, despite the fact the SRA admits the current system produces highly competent and widely-respected practitioners.

The SRA is concerned with inconsistency in standards in relation to both qualifying law degrees and the LPC. It is, however, disingenuous of the SRA to imply that the problems in this regard would be resolved by a complete overhaul of the current system and the introduction of the SQE. It is the SRA which has relatively recently decided to relinquish its regulation and quality assurance of both the law degree and the LPC. It disbanded the joint academic board in 2014 whilst also simultaneously discontinuing the LPC external examining scheme which up until that stage, it had supervised. If it had not done so, it is submitted that there would be far less likelihood of inconsistency in standards, about which the SRA has so much concern.

## 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?

No, I do not agree that the proposed model assessment for the SQE will provide an effective test of the competences needed to be a solicitor.

Allowing solicitors to enter the profession without a degree level qualification will adversely affect clients and dilute professional standards which are currently in place. Furthermore, it clearly would not be in the best interests of the public to have a poorer standard of service as access to specialist legal advice underpins the entire justice system.

The wholesale removal of a degree level qualification, LPC and work-based training would jeopardise the international standing of the solicitor qualification at a time when young people in England are the most illiterate in the developed world.

### **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?

Yes, I do but for the reasons given in (2) above, I do not believe the SQE should replace the existing requirement for a degree level qualification and successful completion of the LPC and a two year training contract.

## Question 4

With which of the stated options do you agree and why:

- a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
- b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
- c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

I agree with option (a) due to the fact that focus should be placed on the reserved activities as this covers such a major practice area for solicitors. Furthermore, this would be beneficial for the candidates to enable them to make an informed decision with regard to the area in which they would ideally wish to specialise. I stress, however, that the SQE should not replace the requirement for a degree level qualification and successful completion of the LPC / two year training contract.

## 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?

Yes, absolutely, in order to achieve high quality standards.

## Question 6

Do you agree that we should continue to require some form of pre-qualification workplace experience?

Yes, absolutely. The current model of the training contract should remain. During the training contract, trainees learn how to put their academic knowledge into practice and develop vital skills required to become a competent solicitor. The SRA's implicit contention that the training contract is a barrier to the profession's diversity is nonsense. The SRA's premise appears to be that anyone who wants to qualify as a solicitor should be able to do so. Just because someone may wish to qualify as a solicitor, however, does not mean that they should do so – if they are not competent they should not be entitled to practise as a solicitor.

## Question 7

Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?

Yes and the minimum time period should be two years. Anything less would mean that trainees would not have been able to learn and develop their skills and experience to become a competent solicitor.



## **Question 8**

Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?

No, for the reasons given in (7) above.

## **Question 9**

Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?

No. For the reasons given above, the two year training contract is sufficient and should not be abolished.

## **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?

No. There is no evidence to suggest that the training contract in its current model does not work.

## **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 1 and Part 2, to a specified performance standard?

No and the SRA should not abrogate from its duties to properly regulate external examination.

## 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?

No. See the answer to (11) above. The SRA should still play a pivotal role in regulating the qualification and competence of would be solicitors.

## 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:

- a. support the credibility of the assessment?,
- b. and/or protect consumers of legal services and students at least for a transitional period?

Yes, absolutely. In order to safeguard professional standards, a degree level qualification should still be required, together with the successful completion of the LPC and two year training course. The SQE may negate the need for candidates to successfully complete the PSC but that is all.

## Question 14

Do you agree that not all solicitors should be required to hold a degree?

No.

## Question 15

Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?

Yes.



## Question 16

What information do you think it would be helpful for us to publish about:

- a. overall candidate performance on the SQE?
- b. training provider performance?

(a) Individual candidates' scores in comparison with the national average.

(b) Rankings by each training provider in much the same way that schools, colleges and universities are currently ranked.

## Question 17

Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?

Yes, the SQE is likely to increase the costs involved in successfully qualifying as a solicitor. The SRA maintains that its proposals will increase access but this would only be the case if providers develop training courses which are cheaper and more flexible than the current qualifying law degree and LPC.

## Question18

Do you have any comments on these transitional arrangements?

No.

## Question 19

What challenges do you foresee in having a cut-off date of 2025/26?

None.

## Question 20

Do you consider that this development timetable is feasible?

No but in any event, this question is superfluous as it is regrettably clear that the SRA has unilaterally decided to forge ahead with the wholesale dismantling of the current education and training framework that works.

The SRA should instead be concentrating its efforts on carrying out research with regard to whether law graduates have made an informed decision to study law, in the knowledge that there are limited numbers of training contracts available and whether the numbers of law graduates are inflated by students who do not in any event have the ability to meet the required competency levels.

Much of what the SRA perceives as being wrong with the current system is in its hands to fix but regrettably it has decided not to and instead is intent on abrogating its regulatory responsibilities.

If the SRA wilfully decides to ignore the views of the profession and educational experts, it raises a very real issue about the SRA continuing to be a regulator of our widely respected profession. The SRA could consequently become the author of its own downfall at a time when the relationship between it and the legal profession is at an all time low.

## 2. Your identity

**1. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

Yes. The SRA's efforts to "encourag[e] the development of new and diverse pathways to qualification" is laudable. This should help improve diversity and social mobility in the profession.

## 4.

**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?**

It is possible it will, but it's not clear how. Trainee solicitors are already heavily assessed and monitored in the run-up to qualification. Law firms are usually well placed to train, assess and educate their own trainees to fulfil the role required of them on qualification. And if a firm deems someone incompetent for a role they are unafraid to show them the door at the end of the training contract! It is not clear to me why the SRA sees a role for itself in this process.

Furthermore, the competencies required by solicitors in different locations and practice areas varies hugely. It's not clear how a single standardised test could cover both the skills needed by a City solicitor negotiating a merger between two major banks and a high-street solicitor at a firm in Tottenham dealing with a Somali woman's asylum application.

## 5.

**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?**

It makes good sense to require those qualifying from another jurisdiction to take the SQE. And indeed, it makes good sense that those qualifying by equivalent means or without undertaking the LPC should be required to undertake a test like the SQE. The only group it doesn't make sense for is those who've done a law degree, LPC and highly structured training contract.

## 6.

**4. With which of the stated options do you agree and why:**

Why...

## 7.

**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?**

Yes. Law should remain a profession with those with graduate-level ability, so the exam should be set at a graduate level. However, it is certainly worth considering whether the SQE should be open to those who do not in fact have a graduate degrees as this will help improve access to the profession.

8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Most certainly.

9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

Yes. However smart you are there is only so much you can learn in a short time period. Gaining experience over a set period of time will mean those training to be a lawyer gain exposure to the variety and vagaries of the legal profession.

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

I think most competencies and a minimum time period should be specified.

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

Yes. Many different types of experience can help to provide someone with the knowledge and competencies required to become a solicitor. However, I do think the experiences considered should be limited to workplace experience, not academic experience.

12.

**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?**

Workplace assessment is necessary, but I do not consider this something the SRA needs to involve itself in by introducing a general exam. Workplace assessment could be left to employers themselves, regulated by the SRA.

13.

**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 1 and Part 2, to a specified performance standard?**

N/A

15.

12.

**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?**

Yes. The prescription of regulations is also necessary to protect the credibility of the profession and the qualification process in general. It is also necessary to retain clarity for those considering entry into the profession - students and others.

16. (untitled)

**13. Do you agree that not all solicitors should be required to hold a degree?**

Yes, I agree. This will help improve access to the profession and social mobility.

17.

**14. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

Yes

**18.**

**15.**

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

It would be good to publish the performance of SQE candidates and where they undertook the LPC as this will help people assess the quality of different training providers.

**19.**

**16. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

Yes. It is certainly a positive step for EDI to introduce new ways of qualifying as a solicitor, and it would be good if the SQE allowed for that. However, there are two other effects you need to consider:

- Introducing new regulations, rules, exams and hurdles may confuse and scare off applicants from disadvantaged backgrounds.
- If SQE allows firms, companies and public institutions to get their employees to qualify as solicitors with little external training, it will decrease their incentive to recruit trainee solicitors externally. This could decrease the number of vacancies available externally to all comers and increase jobs advertised and filled internally by individuals already working for a employer who have obtained lower level jobs there through connections or coincidence.

**20. (untitled)**

**17. Do you have any comments on these transitional arrangements?**

No

**21.**

**18. What challenges do you foresee in having a cut-off date of 2025/26?**

None.

**22. (untitled)**

**19. Do you consider that this development timetable is feasible?**

Yes



## 2. Your identity

**1. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

## 4.

**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?**

## 5.

**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?**

Yes

## 6.

**4. With which of the stated options do you agree and why:**

Why...

## 7.

**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?**

No. I believe it should be set higher. If set at graduate level there would be no need for anyone to obtain legal experience before being able to pass the test. It therefore would not test the knowledge currently gained through the training contract. As a current trainee myself I feel there is a great difference between my legal of knowledge as a graduate and that which I currently hold. There is an awful lot about the legal profession which a law degree, no matter how good, can not teach you.

## 8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Absolutely. In my opinion it simply would not be possible for people to come straight out of university and start practicing as a qualified solicitor. I believe removing the requirement for workplace experience in the form of a training contract would open the profession up to sub-standard practice.

## 9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

Yes. I believe the two year period currently required for trainees is successful in providing 'on the job' training and helping trainees successfully make the transition from graduate to qualified solicitor. It is a very big step to make and the more assistance that can be provided for that, the better.

## 10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

The competences should be met during the pre-qualification experience but there should also be a minimum time period set. No specify a minimum time period would only open up the system to abuse - what is stopping someone claiming they have met all the competences within one month for example if they cover (albeit very briefly) a vast range of work.

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

I believe only pre-qualification experience within a law firm should be recognised. The experience must be relevant. Experience within other professions is not relevant to the legal profession and therefore should not be recognised. Experience obtained during a degree program should not be recognised. The level of skill and knowledge required for such experience during a degree is in my opinion lower than that currently required by a trainee.

12.

**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?**

Yes. I also believe this would help to regulate and standardise the quality of training currently provided by law firms to their trainees.

13.

**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 1 and Part 2, to a specified performance standard?**

N/A

14.

**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?**

15.

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?**

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

No. A law degree provides solicitors with the basic knowledge required to succeed within the profession. Without that basic legal knowledge and understanding, it would be extremely difficult for someone to deal with complex legal matters and correctly advise clients.

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

Yes

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

**19.**

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

**20. (untitled)**

**18. Do you have any comments on these transitional arrangements?**

**21.**

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

**22. (untitled)**

**20. Do you consider that this development timetable is feasible?**

# Consultation - T4T assessing competence

Response ID:92 Data

## 2. Your identity

**1. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

Yes I do.

## 4.

**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?**

Yes I do.

## 5.

**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?**

Yes I do. I have grave concerns about the current lack of consistency amongst NQ solicitors and the number of 'back door' routes to the profession - in particular, BVC graduates who have never secured pupillage being able to qualify as solicitors by taking the QLTT.

## 6.

**4. With which of the stated options do you agree and why:**

c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

**Why...**

## 7.

**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?**

Yes. I would in fact favour a higher standard, as NQ solicitors should be performing substantially above graduate level.

## 8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Yes.

## 9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

Yes.

## 10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

Yes.

**11.**

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

No.

**12.**

**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?**

Yes.

**13.**

**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 1 and Part 2, to a specified performance standard?**

Yes.

**14.**

**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?**

Yes. Other support in the form of assessor training would also be welcome.

**15.**

**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?**

Yes.

**16. (untitled)**

**14. Do you agree that not all solicitors should be required to hold a degree?**

Yes I do, but the new examination must be sufficiently robust to eradicate any concerns about the ability or intellect of those entrants not holding a degree.

**17.**

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

Yes.

**18.**

**16.**

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

Number sitting exam, number passing, differences by ethnicity, differences by gender, differences by training provider.

19.

17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?

20. (untitled)

18. Do you have any comments on these transitional arrangements?

21.

19. What challenges do you foresee in having a cut-off date of 2025/26?

22. (untitled)

20. Do you consider that this development timetable is feasible?

## 2. Your identity

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## 3.

**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?**

In relation to the first bullet point yes, however in response to the second bullet point no. I agree with the need to create consistency in relation to the standard of Newly Qualified Solicitors entering the profession. However, I do not agree that another examination is the best way to achieve this and believe it will add another barrier that is unnecessary. The current pathways are long and adding this additional examination at the very end of the road could potentially lead to quality candidates failing at the final hurdle. It would be far better to achieve the aims to focus on the skills employers want/need through practical experience rather than another academic exam. If, as suggested the requirement to remove the LPC and PSC give way to the SQE this assists, however I believe it damaging to leave it to individual firms to create an individual training programme as there still needs to be standardised approach.

## 4.

**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?**

I believe the practical assessments so do and are most crucial in developing the SQE, especially if the LPC and PSC are revoked. However, consistency across all training providers will be a crucial factor from your sole practitioners to magic circle firms.

## 5.

**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?**

Yes, there should be no exemptions

## 6.

**4. With which of the stated options do you agree and why:**

**Why...**

Missing from the list is b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?

I believe this is the better approach as more broadly covers the range of legal providers from sole practitioners to magic circle firms and the services/training they offer

## 7.

**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?**

Yes

8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Yes absolutely, this is essential

9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

Yes. Despite the fact that competence can be attained within any period of time (some candidates may take longer than others), I do believe that a minimum time period for pre-qualification workplace experience is fundamental. This is particularly important for part 2 of the SQE and there can be no substitute for this practical experience. Students who join a law firm directly following their academic study lack these core skills and it is vital they continue to have the opportunity to learn these skills in practice.

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

Yes, they should do both. The competencies and a minimum time period should be set.

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

Yes but this needs careful development in line with the competencies.

12.

**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?**

Yes.

13.

**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 1 and Part 2, to a specified performance standard?**

Potentially but this needs to be consistent and I am not convinced that leaving this to individual employers will achieve the objective of achieving consistency.

14.

**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?**

No, based on comments previously regarding consistency.

15.

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?**

Yes

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

No



17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

Yes

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

I think both of these key areas are important and could be best displayed in a ranking table, certainly for training provider performance. This would assist the best training providers in attracting talented individuals and would add a competitive element, encouraging training providers to provide the best possible training. This in turn would result in better, more well rounded newly qualified solicitors entering the profession.

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

None that haven't already been discussed.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

No further comments

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

I believe this is a realistic timeframe for all current methods of completing PRT to conclude.

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

Yes

## 2. Your identity

**1. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

No.

The current system is much better.

Any weeding out of unsuitables should come at the start so people do not waste time and money.

Also trainees can concentrate on the job in hand with all exams already finished. We do not want to be like the Germans.

## 4.

**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?**

No, the current system is much better.

## 5.

**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?**

I prefer the current system being retained.

## 6.

**4. With which of the stated options do you agree and why:**

c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

**Why...**

## 7.

**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?**

I do not agree with the new system at all.

I do think at the entrance end we should weed out unsuitables who are not bright enough better.

We certainly need brighter students with very high A level grades in decent subjects. If they are not bright enough they should not be solicitors.

## 8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Yes, the current 2 year training contract should be retained. Those are who are not good enough do not get a training contract which is a huge positive protection for the public under the current system.

9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

The current system with 2 years (but with "time to count") works well.

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

It could require 4 seats as now or something equivalent as that ensures trainees have a chance to consider different areas and make a choice of that in which they would prefer to specialise.

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

No.

12.

**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?**

We need less regulation not more. We want no more additional cost and no additional regulatory burden.

13.

**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 1 and Part 2, to a specified performance standard?**

Of course.

14.

**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?**

Yes. Make it very short - a page. We do not need any more.

15.

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?**

I do not support a change to the current system. If it is forced on us then occasional spot checks particularly on firms which are not very good ones might be wise.

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

Yes, they can use the ilex route.

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

I don't agree we need the SQE at all.

Of course they should be given information about performance - there will be many expensive legal

challenges and they will have Data Protection Act access rights anyway - see the ICO's guidance on examination script access etc. It will be a system leading to lots of litigation because people will have invested in a 3 year degree, further expensive training and wasted their practice training before it so claims where they are wrongly failed at the last hurdle will be of at least £200,000 yet another reason why the new system is a very bad idea.

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

If we have to have the new system then no publication about an individual's performance, but publish failure rates.

no publication of failure rates at particular firms.

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

What on earth is an EDI? Can we have a glossary to the consultation. It means electronic data interchange to me.

In general the SQE is a really bad idea and I hope it is dropped.

It will particularly make things much harder for the disadvantaged.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

Which? I do not favour any changes at all so there would be no transition to anything under my preferred plan of doing nothing.

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

I cannot remember what that date was. Was it a time limit to keep resitting?

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

If we have to have the system put it back by 10 years. The longer the better.

## 2. Your identity

**1. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

It is my view that if the Solicitors Regulation Authority are genuinely concerned about a disparity in the quality of education of newly qualified solicitors following the introduction of a broader range of new routes to qualification, they ought instead be focussing on curtailing these expansions rather than seeking to place a further onus on those that have qualified through the traditional route.

Whilst it is true that there are a variety of levels of institution offering Law degrees and GDLs, all of these routes are drawn together by the LPC/PSC that the SRA could perhaps exercise greater control over (i.e. by way of direct standardisation of exams, such as in A level and GCSE curricula).

Alternatively, if the SRA's genuine concern is that universities are not educating to an appropriate standard and/or the alternative routes to qualification (other than the LLB/GDL - LPC - PSC route) are producing sub-standard solicitors, perhaps energy should be put into bringing these qualifications routes up to standard (either by taking action to set a higher bar for a qualifying law degrees or by imposing an SQE-like exam on those with "poor" law degrees/those qualifying through one of the new routes). It is not fair or necessary to subject all trainee solicitors to an SQE-type exam when the SRA are seeking to target only a minority of newly qualified solicitors that they do not view as being of adequate standards.

## 4.

**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?**

No.

Whilst the SRA have provided a bare outline at this stage, it is entirely unclear how they propose to even structure these exams practically (it is suggested that they will be modular, and a large number of topics are listed, but will these be assessed separately? If so, how can a student reasonably be expected to complete all of these assessments of such broad practice areas in just one year?).

In addition, there is no clear method by which students (and indeed firms) can tailor their studies (such as current LPC electives) to ensure they are relevant to practice. This could see students taking specialist electives on their LLB and practising in a specialist firm with this specialist material totally missing from the SQE which is allegedly being introduced to control the quality of newly qualified solicitors that would actually be less prepared for practice under the SQE.

Notwithstanding the above, I do agree that unflagged professional conduct/ethical issues should be spread more widely throughout examinations.

## 5.

**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?**

I have addressed this in more detail in response to question 1.

In summary, I do not feel that there is a need to impose an SQE-type exam on, for example, a trainee solicitor with a first class law degree from a top university with an LPC distinction and having excelled on the PSC, as opposed to, for example, a trainee solicitor having qualified through one of the new routes without this rigorous level of background education.

6.

**4. With which of the stated options do you agree and why:**

a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?

**Why...**

(I note that above I am presented with two versions of option (a) and not option (b) and therefore have difficulty answering this question)

7.

**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?**

Notwithstanding my general disapproval of the SRA's proposals, I do agree that, if the SRA feel that the SQE is absolutely essential, any blanket standard should be set at graduate level to ensure they are not replacing the LPC/PSC with a standard below that of current law graduates and to ensure there is a genuinely high bar that recognises the complexity of the profession.

8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Yes.

The LPC provides an adequate bridge between study and practice, but there are invaluable skills picked up in practice that could never be effectively taught or examined through an LPC/PSC/SQE-type course.

9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

Yes.

Whilst some trainees may cover a much broader range in the current two years than others, a minimum time period is necessary to ensure trainees are able to obtain as broad a range of experience as possible.

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

No.

Whilst I do appreciate that in, for example, smaller firms trainees may experience a much greater degree of responsibility not found in larger firms and larger firms can offer broader practice area experience than smaller firms, should the SRA put too stringent requirements on pre-qualification experience, it may become quite onerous on firms and become a "box ticking exercise" for trainees.

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

No.

As expressed in my response to question 1, my concern is that the SRA are lowering the bar to entry and then needing to introduce the SQE to combat the problems this creates.

I appreciate the benefits of allowing entry to the profession of those with very broad experience but few/no formal qualifications, but I feel that relaxing standards to become a solicitor opened the floodgates that the SRA are now trying to stem, when they could instead have built upon, for example, Legal Executives and a new professional-standard Paralegal.

12.

**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?**

To a degree.

It is necessary to ensure trainees are picking up practical skills and incentivise firms to not simply give trainees menial tasks, but there is a risk, as I raise above, that the SRA will micromanage the qualification process.

13.

**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 1 and Part 2, to a specified performance standard?**

N/A

14.

**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?**

N/A

15.

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?**

This is a circular issue. Imposing entry requirements on the SQE negates the aim of the SQE as being to allow those with broader experience to enter the profession.

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

Yes.

I think there may be scope to allow a happy medium, whereby those without a formal law degree are still able to obtain a GDL without an existing non-law degree but instead with a prescribed level of experience in practice.

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

Yes.

It is usual for this information to be available to students (and the public) following standardised exams (e.g. GCSEs, A levels) and would allow firms to assess the quality of a candidate relative to their peers.

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

I think a breakdown of the percentages of students obtaining marks within a certain range would be sufficient (e.g. setting out what percentage of candidates scored between 90-100%). I do not feel there is any need to publish information on training providers' performance.

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

I do not foresee any significant changes, given that the SQE appears as a likely substitute for the LPC.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

No.

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

None.

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

I am concerned at how quickly the SRA are implementing this process given that firms recruit their trainees two years in advance of the start of their traineeship and four years (usually) from qualification, and suggest that the SRA did not have any clear regard to this when suggesting implementation in 2017/18 (i.e. a date for which most firms have already recruited their trainees), but I see no significant problems from this from the perspective of a future trainee.



## 2. Your identity

**1. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

No. The most likely thing that will happen on the introduction of such an assessment would be for courses to be introduced by LPC-providers to ensure that people are trained to complete the assessment, rather than the particular person having necessarily gained the relevant knowledge and skills organically.

## 4.

**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?**

No. This is likely to be similar to the LPC - a watered down, halfway house that caters for private/commercial solicitors but best serves neither.

## 5.

**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?**

There is a typo in the question - "legislation" and "or" have been joined together.

No.

## 6.

**4. With which of the stated options do you agree and why:**

c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

**Why...**

a) and b) appear to be identical.

## 7.

**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?**

This depends entirely on what is meant by this. A degree in law does not necessarily impart any particular legal knowledge; instead, the focus is on passing exams and learning by rote. If the aim was to test general legal awareness and an ability to identify relevant legal issues, even briefly, that would be better.

## 8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Yes.

## 9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

Yes. Otherwise, unscrupulous firms would simply state their staff have enough experience and are therefore qualified, simply to avoid having to train them in any way.

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

No. The reason being that certain people will never become competent in, for instance, litigation and related experience because they will simply never practice in that area. The general theme at present already appears to be a halfway house of getting experience in multiple areas, to the detriment of those who never intend to practice in them, and that would likely be the same in any new rules.

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

Yes. However, this is already largely covered in the ability to discount up to six months from the training contract.

12.

**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?**

No. How this would ever work in practice would be unclear.

13.

**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 1 and Part 2, to a specified performance standard?**

N/A

14.

**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?**

N/A

15.

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?**

Unclear on what the question is.

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

Yes. A law degree, as with any degree, can often be a matter of rote learning/learning to pass exams and the general ability needed can be developed without having a degree.

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

No. This will only add to the overly competitive nature of law graduates and encourage them to feel superior/inferior, as appropriate, for no particular reason. For example, someone scoring highly in litigation related topics could feel superior to someone who has no interest in that practice area or no major skill in it but who is much better in other areas.

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

Generic data.

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

Unclear what the question is.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

No.

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

Unclear what the question is. Assuming this is the end date of a trial period, a comment could be made that students already have little certainty on training requirements given how much these have changed in the past number of years and the continuing changes that are applying.

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

Unknown.

## 2. Your identity

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Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

No, I do not. I think the introduction of the SQE could make it disproportionately difficult for poorer students to become lawyers. I think the SRA should look at amending the current qualification system to maintain its rigour but make it cheaper for poorer students to access.

I think an SQE with no preparatory course behind it will make it harder for students to prepare for life as a solicitor, and is not in any way teaching them the skills they need to be a lawyer - some of which include rubbing along with fellow lawyers, presenting on legal points, and learning how to manage professional workloads, which is learned only by face-to-face contact with professionals, students and teachers. It cannot be learned by cramming for an exam. Students will find it much harder to enter the profession without this preparation.

I think poorer students will not be able to afford to do the requisite prep for the SQE and will find it more challenging to pass the exam. At the moment all students are obliged to do the same amount of prep, and sit the same exams in the same timeframe. This is appropriate.

## 4.

**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?**

No.

## 5.

**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?**

No. I think the exam will present yet another barrier for poorer students who enter the profession via an alternative route.

## 6.

**4. With which of the stated options do you agree and why:**

Why...

## 7.

**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?**

## 8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Yes, absolutely. Trainee solicitorships are helpful, although I am not sure they need to be 24 months' long. I think perhaps a year's traineeship would suffice.

9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

Yes. Otherwise firms will exploit the fact that they can charge clients more for trainees' work, even where that work may be below the standard a client might expect.

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

No.

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

I agree that you should recognise pre-qualification workplace experience, including paralegalling and being a legal executive. I think this should automatically be added onto trainees' "experience", rather than being at the discretion of the firms who hire those trainees. Many trainees I know have asked for their prior experience to be taken into account when assessing their eligibility for qualification, which the SRA has accepted but the individual firms have not.

However I do not agree that you should include experience obtained during a degree programme. This is clearly not proper experience of working in the legal profession.

12.

**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?**

No. Firms place enough strain and pressure on trainees already; trainee solicitors have already passed the Legal Practice Course and the GDL or a law degree; trainee solicitors also undergo repeated appraisals in the workplace which are informal methods of assessment. There is no need for an additional workplace assessment.

13.

**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 1 and Part 2, to a specified performance standard?**

14.

**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?**

15.

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?**

Yes, absolutely - permanently needed, not just for a transitional period.

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

No I do not agree. Solicitors are professionals and should need to hold a degree. Teachers, dentists, doctors and other professionals all hold degrees.

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

Yes. Surely it would be Kafkaesque to withhold information from candidates about their competence in a test?

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

No.

## 2. Your identity

**1. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

I/we have a specific confidentiality requirement as follows.: do not reveal my name

## 3.

**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?**

Only partially. The SQE, if properly conducted and be allowed to maintain the high standards as alleged, may serve the purpose of ensuring comparable standards of achievable on the first day of qualification. This is, I trust, what a lot of stakeholders are extremely concerned with right now. There is currently no means to determine what exactly is the actual outcome of the training, which seriously poses risk to, among others, the consumers locally and abroad. Having said that, there is still no reason to have the SQE to supersede the existing route to qualification. It is simply out of question to expect any assessment to have the same breadth and depth as a recognised courses of training. At best, SQE can only be an additional safeguard much needed within the profession. The existing system of qualification in England and Wales have already been widely looked upon internationally as among the least demanding and very unreliable, once it is compared it with the corresponding requirments of the other established economies round the world. Existing hurdles to qualification, far from perfect by all means, are at least an objective standard to which achievments can be measured.

## 4.

**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?**

Not on its own under all circumstances. Most aspects of the SQE seems to be concerned with how well a candidate 'window dress' himself/ herself to be a professional rather than the more intrinsic qualities required for him to be successful as a solicitor. If SQE is to be used just on its own for qualification purposes, there is a high risk that a pool of applicants reaching only up to the level of accomplishment legal executives will be admitted. Objective assessment of the basic legal knowledge has the danger that candidates may only resort to rote learning. We all know only too well that legal answers are never that absolute.

## 5.

**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?**

Yes. Experience in another jurisdiction cannot be identical to what is in Engalnd and Wales. SQE can be one of the indispensable means, however feeble, to protect the needs of the profession and its stakeholders.

## 6.

**4. With which of the stated options do you agree and why:**

b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?

Why...

Why two 'a)' here?!

7.

**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?**

Yes. A very simple logic is, nowadays, most of the users have intellectual abilities up to the level of a graduate or even above. Why would SRA expect someone with anything less than that to represent the profession? Is SRA not concerned at all with the way the profession is being looked down on by the public? Is SQE entirely immune from criticism? Can SRA ever be sure that there will never be asked to raise the pass rate of SQE (if it is to be implemented at all) later as a further effort to 'widening' access?

8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Yes. Assessment can never be as comprehensive as real experience. Because of logistic and other constraints, a lot of assumptions have to be made in assessment by way of examination, which is far from what the reality is like, Additionally, assessment tends to be based only upon some particular forms and areas, which is again not the reality, Incidentally, many people have noted that the a lot of questions in QLTS, for example, are repeated more than once.

9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

Yes, it should be two years as is the existing requirement for training contract.

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

Yes, but I believe that would be better reflected in the assessment of the training outcome through SQE.

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

Experience must be strictly relevant to legal areas and be provided in a context that can be recognised and ascertained. Experience should only be counted from completion of a recognised legal qualification as a reasonable standard to ensure that the involvement in such experience is legal but not mere administrative or secretarial.

12.

**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?**

It will, but in light of the very diverse nature of legal works in the real market, I have reservations about its viability.

13.

**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 1 and Part 2, to a specified performance standard?**

I believe yes, as a practitioner, but this may not be objective enough for the purposes.

14.

**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?**



Training may be required, but then some workplace assessor may only have just one or two candidates to be assessed to deserve their time to acquire the assessment skills.

15.

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?**

By all means yes, a standard of achievements (equivalent to a graduate level, pass in the prescribed core legal areas, pass the LPC, and completion of training contract) is reasonably expected from the pool of candidates for effective assessment administration. This prescription should be perpetual and not transitional.

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

Not at all. As mentioned in my reply to the earlier questions, users of legal services themselves are mostly degree holders. How could SRA expect anything less than that from the solicitors? There is little to no way to assess on intellectual achievement in SQE as in the traditional university courses, and such achievement is extremely important to solicitors. Intellectual skills and, to some extent, degree differentiate solicitors from the so-called other 'qualified lawyers' like paralegal, legal executive and case workers. It would be unimaginable for this distinction to be blurred, creating an uncontrollable situation of even higher unemployment rate in the legal profession marred by an even less consistency in standards of achievement.

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

This is not an important question. Do not be misguided to dream that candidate would work hard in any flagged area for anything more than passing the assessments. There are always course providers looking at this lucrative opportunity to provide 'support'.

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

Just the results for each areas with band description of the level achieved.

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

EDI concerns should never be a course to compromise on standards. As noted by other stakeholders, they may similarly be disadvantaged one way or the other under SQE.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

SQE should be introduced as an additional safeguard. Before its full implementation, SQE should not be made compulsory.

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

SQE as an additional safeguard on top of LPC and completion of training contract should come into force as soon as possible.

**22. (untitled)**

**20. Do you consider that this development timetable is feasible?**

Not exactly.

## 2. Your identity

**1. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

Yes, but a key feedback loop for training is being missed - training should highlight areas where mistakes are made

## 4.

**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?**

Yes but family law and criminal law should be options. The requirement and job opportunity in criminal law in particular is low, and forcing all to study it is unwarranted. If the purpose behind this is ensuring solicitors know what constitutes an offence and should therefore be upholding the law, then the focus should be on relevant criminal law risks, such as bribery and fraud, not matters such as common assault.

## 5.

**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?**

This is very important, the requirements to join foreign bars remain very high (perhaps unlawfully so)

## 6.

**4. With which of the stated options do you agree and why:**

c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

**Why...**

freedom of choice is better, and reserved activities are not very relevant to many - on admission an undertaking not to practice in areas not chosen without recognised training should be required

## 7.

**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?**

Yes - knowledge of the key law areas related to the reserved activities should be a requirement. That should be available through different routes not just a degree

## 8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Yes, but only solicitors of 5+pqe who have registered should be able to supervise ( similar to barristers). Supervision training should be a requirement for those that are going to supervise experience. Follow up on those that indicated that the trainee was competent , when they are not should be required. If more than

one supervisee subsequently demonstrates incompetence within 3 years of qualification , an investigation should occur. I have seen many cases where there was bad training at firms that got involved in mortgage fraud. When trainees left and set up their own firms, there is a high incidence of failure and mortgage fraud and negligence and complaints

9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

Yes two years is about right

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

Both time and competences should be specified

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

Not at the same rate as formal training contracts as front line fee earning experience with some client responsibility is very different to the lower level tasks assigned during work experience.

12.

**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?**

This has happened in the past, on a sample basis, I was interviewed in relation to the adequacy of training during articles, and notes made of the tasks. I do not consider the assessment adds much, and the cost outweighs the benefit. If the issue is to ensure the standards of the lowest are improved, I would rather see this tackled supply side (by regulating who can supervise) in a better way

13.

**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 1 and Part 2, to a specified performance standard?**

Yes, but this is a cost and a responsibility

14.

**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?**

Training and registration should be required

15.

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?**

Yes

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

Yes

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

Yes

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

Only candidate performance - provider performance depends too much on intake.

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

not if done properly. However what would be the expected failure rate for the SQE? The more failure the more likely complaints will arise.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

no

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

none

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

yes

# Consultation - T4T assessing competence

Response ID:176 Data

## 2. Your identity

**1. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

NO

## 4.

**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?**

No

## 5.

**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?**

No

## 6.

**4. With which of the stated options do you agree and why:**

**Why...**

None

## 7.

**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?**

Don't agree with SQE

## 8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Yes

## 9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

Yes

## 10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

No

11.

9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?

Yes

12.

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?

Yes

13.

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 1 and Part 2, to a specified performance standard?

14.

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?

15.

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?

Don't agree with SQE

16. (untitled)

14. Do you agree that not all solicitors should be required to hold a degree?

17.

15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?

18.

16.

What information do you think it would be helpful for us to publish about:

overall candidate performance on the SQE?

training provider performance?

19.

17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?

Negative

20. (untitled)

18. Do you have any comments on these transitional arrangements?

21.

19. What challenges do you foresee in having a cut-off date of 2025/26?

22. (untitled)

20. Do you consider that this development timetable is feasible?



## 2. Your identity

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Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

Yes, as it also matches what is being done internationally.

## 4.

**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?**

Yes, although some skills based assessments match those already done during the LPC.

## 5.

**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?**

YES

## 6.

**4. With which of the stated options do you agree and why:**

c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

**Why...**

Because it would be more tailored to the work place reality.

## 7.

**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?**

Yes, as a minimum.

## 8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Yes, although paralegal experience should be also greatly considered, since the training contract is great barrier to many good candidates in order to qualify. It is hard to obtain a training contract without an Ivy league university education or a 1st. It must be recognised that applicants with a 2.1 from a non-ivy league university may also be good solicitors one day. Practice often shows who are good solicitors and who aren't. For this reason, the pre-qualification workplace experience is important, but it must be wider and also recognise work done as legal assistants/paralegals in-house.

## 9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

No, as long as the basic areas of competency are covered.

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

Yes.

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

YES.

12.

**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?**

I fear this may place an additional burden on the training institutions and therefore not necessary. It is however, important for an institution to confirm that the relevant person has the necessary skills and shows potential to be a successful solicitor in the future. To this end, a feedback form in a standardised format to be forwarded at the end of training to the SRA may be an idea.

13.

**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 1 and Part 2, to a specified performance standard?**

Yes, if the SRA would provide the necessary guidelines.

14.

**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?**

Yes it would be sufficient.

15.

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?**

Both

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

I do not agree. All should have a law degree.

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

If possible yes.

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

both

**19.**

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

Yes, I believe that it will be fairer and more open to all.

**20. (untitled)**

**18. Do you have any comments on these transitional arrangements?**

I would hope that this comes into practice as soon as possible and would be open to people who hold a law degree and the LPC and have not started a training contract but are in the legal profession nonetheless.

**21.**

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

Uncertainty for the current students and public.

**22. (untitled)**

**20. Do you consider that this development timetable is feasible?**

Yes, if not too slow.

## 2. Your identity

**1. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

Yes, in particular a common professional assessment would remove the unjustifiable cost barrier to qualifying as a solicitor whilst still ensuring a high academic standard.

## 4.

**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?**

Yes.

## 5.

**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?**

Yes.

## 6.

**4. With which of the stated options do you agree and why:**

c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

**Why...**

I think this would provide the most practical method of assessment, i.e. would be most similar to the environments in which a student would work post-qualification.

## 7.

**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?**

Yes.

## 8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Yes. On the part-time GDL course I am currently studying for the majority of students are, like me, already working as legal secretaries or paralegals, which means they are already drafting wills and conveyancing, etc. This experience should be taken into consideration and not all workplace experience have to be after a student has already attained the LPC.

Considering this type of experience would be a big help in encouraging more women into the profession, alongside the incentive of the financial savings by not having to take a LPC.

I think that two years is an arbitrary period and needs to be reconsidered.

9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

Yes, but I feel this could be considerably less than the two years currently required and that pre-qualification, and pre-GDL/LPC, workplace experience would need to be included.

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

Yes. I think this would be a much better assessment of competence.

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

Yes, definitely.

12.

**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?**

Yes, this is where you have the opportunity to test those people skills so necessary for a career in law.

13.

**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 1 and Part 2, to a specified performance standard?**

N/A

14.

**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?**

N/A

15.

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?**

Yes.

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

My initial reaction would be no, but I do know many paralegals who through their years of experience are just as competent as the conveyancing solicitors they work alongside.

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

Yes.

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

Yes, I think this would be very helpful to students considering the qualification.

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

No.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

I think they are pretty reasonable.

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

None.

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

Yes, but I believe a shorter timetable is also feasible.

# Consultation - T4T assessing competence

Response ID:205 Data

## 2. Your identity

**1. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

Yes.

I believe the current route (LPC) and training contract is outdated and has no relevance to the actual day to day activities within a law firm. If i were to practice within Civil law, why am i being assessed in Criminal Litigation?

To work for a law firm and to take an exam will streamline the process.

The minimum requirement should be a LLB law degree.

## 4.

**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?**

## 5.

**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?**

No exemptions unless a traditional LLB law degree.

## 6.

**4. With which of the stated options do you agree and why:**

c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

**Why...**

Flexibility

## 7.

**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?**

Yes

## 8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Yes.

The basic requirement should be an LLB law degree with at least 12 months experience in a law firm as a paralegal under the supervision of a solicitor.

**9.**

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

Yes

**10.**

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

Yes but not longwinded and complex.

**11.**

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

No.

Work experience should be law related.

**12.**

**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?**

Providing a portfolio of work can be draining and costly for all parties involved.

A portfolio of work based assessment that is concise, relevant would be more effective.

**13.**

**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 1 and Part 2, to a specified performance standard?**

**14.**

**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?**



Toolkits would be fine

15.

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?**

Yes.

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

No.

I believe the LLB should be the foundation to help individuals on route to be a solicitor.

I have experience in working with Ilex employees and Apprentices for a few years and they shockingly have no basic understanding of the law and it's terminology.

The bare minimum should be a law degree to qualify as a solicitor.

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

Yes.

Feedback is essential.

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

Both

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

Positive- take away the old outdated LPC and offer the SQE exam instead

Negative- They needs to be a basic requirement such as a law degree to be enteted onto the exam. If not, the standards will drop.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

The SRA need to make it clear to students and Universities offering LPC course that it is no longer required and outdated.

The sooner the better, as many students are uncertain as they are currently on the LPC course.

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

Too long.

The definite changes need to be addressed sooner.

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

Yes.

# Consultation - T4T assessing competence

Response ID:215 Data

## 2. Your identity

**1. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

yes

## 4.

**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?**

Yes

## 5.

**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?**

Yes

## 6.

**4. With which of the stated options do you agree and why:**

c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

**Why...**

To promote diversity

## 7.

**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?**

Yes

## 8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Yes

## 9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

Yes

## 10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

Both

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

No

12.

**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?**

Yes

13.

**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 1 and Part 2, to a specified performance standard?**

n/a

14.

**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?**

No, would need outside assessment

15.

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?**

Yes

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

Yes

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

Yes

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

No comment

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

20. (untitled)

18. Do you have any comments on these transitional arrangements?

21.

19. What challenges do you foresee in having a cut-off date of 2025/26?

22. (untitled)

20. Do you consider that this development timetable is feasible?

Yes

## 2. Your identity

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## 3.

**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?**

I'm not sure but you should absolutely get rid of the LPC. Everyone I have talked to about it (including managing partners of law firms) think it's completely useless. It is very high priced and deters people from disadvantaged backgrounds from entering the profession. I want to train in a legal aid firm and they are not able to pay for the LPC. Why should I have to pay a substantial portion of my wages to a course that is nothing more than an arbitrary hurdle to jump over, adding no actual value to my training whatsoever? It is nothing more than a tax on aspiring lawyers, which goes into the pockets of greedy private university companies.

## 4.

**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?**

I don't know, but please get rid of the LPC.

## 5.

**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?**

I don't know, but please get rid of the LPC.

## 6.

**4. With which of the stated options do you agree and why:**

**Why...**

I don't know, but please get rid of the LPC.

## 7.

**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?**

I don't know, but please get rid of the LPC.

## 8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Yes definitely. This is essential to being a good solicitor.

## 9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

I don't know, but please get rid of the LPC.

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

I don't know, but please get rid of the LPC.

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

No, people should not be able to use non-legal experience or random voluntary experience to help them qualify as a solicitor. Voluntary experience is often completed with organisations who have low standards/quality of work.

12.

**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?**

No, it is too stressful to expect training solicitors to undertake constant assessments. We should be left free to make mistakes and learn from them, and build a genuine relationship with our colleagues. These things would not be possible if workplace assessments were constantly looming over us. We would e.g. be scared to ask our colleagues for help or admit when we have made a mistake.

13.

**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 1 and Part 2, to a specified performance standard?**

NA

14.

**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?**

NA

15.

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?**

I don't know, but please get rid of the LPC.

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

I don't know, but please get rid of the LPC.

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

I don't know, but please get rid of the LPC.

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?  
training provider performance?**

I don't know, but please get rid of the LPC.

**19.**

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

I don't know, but please get rid of the LPC.

**20. (untitled)**

**18. Do you have any comments on these transitional arrangements?**

No

**21.**

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

I don't know, but please get rid of the LPC.

**22. (untitled)**

**20. Do you consider that this development timetable is feasible?**

I don't know, but please get rid of the LPC.



## 2. Your identity

**1. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

Yes

## 4.

**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?**

Yes

## 5.

**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?**

Yes

## 6.

**4. With which of the stated options do you agree and why:**

a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?

**Why...**

## 7.

**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?**

Yes. It should remain a post graduate level, but a single exam for all centres/ students will ensure consistency of rigour and coverage and will discourage the current providers of the LPC from making their LPC exams too easy in order to result in an excellent pass rate and so attract students.

## 8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Yes. I still feel a training contract albeit in a more flexible way than the traditional two year contract is beneficial.

## 9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

Yes. There needs to be some minimum time period to be met.

## 10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

That could be a useful alternative and so I see no objection to such a suggestion.

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

No. Only relevant legal experience should count.

12.

**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?**

Yes I think so.

13.

**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 1 and Part 2, to a specified performance standard?**

I doubt small firms would have the time or inclination to do so.

14.

**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?**

Yes such guidance would no doubt help.

15.

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?**

Yes to both

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

Yes. I am an examiner for the CLC and also for Cilex and in my opinion the Cilex exams are more rigorous than the exams set by two of the three LPC institutions I examined. Not all Cilex students have a degree.

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

Yes

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

Yes, both.

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

I feel it is a very positive step and will enhance legal knowledge and make the exams of the same robustness across the board.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

Good idea. Well done.

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

# Consultation - T4T assessing competence

Response ID:243 Data

## 2. Your identity

**1. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

No

## 4.

**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?**

No

## 5.

**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?**

No

## 6.

**4. With which of the stated options do you agree and why:**

b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?

**Why...**

-

## 7.

**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?**

No

## 8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Yes

## 9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

No

## 10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

Yes

11.

9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?

Yes

12.

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?

Yes

13.

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 1 and Part 2, to a specified performance standard?

14.

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?

15.

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?

16. (untitled)

14. Do you agree that not all solicitors should be required to hold a degree?

Yes

17.

15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?

Yes

18.

16.

What information do you think it would be helpful for us to publish about:

overall candidate performance on the SQE?

training provider performance?

19.

17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?

20. (untitled)

18. Do you have any comments on these transitional arrangements?

LPC graduates and students should be able to qualify under old regime as they started the process before the new regulation.

21.

19. What challenges do you foresee in having a cut-off date of 2025/26?

22. (untitled)

20. Do you consider that this development timetable is feasible?

## 2. Your identity

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Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

Yes I do. I believe a single qualifying exam, centrally administered by the regulator is the best way to admit lawyers to a professional roll. Under the current set up of training contracts, controlled by existing Solicitors, the regulatory objectives are not being met. Specifically this set up is failing diversity within the legal profession, and by restricting the numbers of lawyers, the interests of the public are not being met. The public would benefit from more competition within the legal sector enjoying lower prices and a wider provision for the huge demand for legal services, that people can't obtain due to unjustifiably high fees. A SQE would also allow mature applicants to prove their abilities with legal skills learnt through work experience. A SQE would allow all those who are competent enough to be a lawyer, to actually practice the profession.

## 4.

**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?**

This is a good appraisal model, and one that I would like to be assessed by. However there is a huge failing with it, and that is: it completely overlooks the Administrative Justice jurisdiction. This, along criminal and civil, is the third main jurisdiction in the English legal system. It cuts across civil courts and the relatively new unified Tribunal structure. For example the Social Entitlement Chamber of the First Tier Tribunal handles more hearings than the criminal and civil courts combined. It deals with terribly important subject matters, and the outcomes of hearings have huge impact on citizen's lives. It is also the most likely jurisdiction in which a citizen will be involved with the legal system, given its relatively better accessibility vis a vis other jurisdictions. By not including the Administrative Justice jurisdiction at a training level, the general public will be denied competent advocates; lawyers will not be adequately trained to practice in this jurisdiction, because Administrative Justice is not simply an appendage to civil litigation or a subsection of constitutional law. Administrative Justice is its own distinct identity with significantly different procedures.

## 5.

**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?**

Yes I do. It makes a common standard and gives confidence to know that all lawyers have taken the same exam. Having a single standard on which to assess all lawyers is also better from a meritocratic point of view.

## 6.

**4. With which of the stated options do you agree and why:**

b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?

## Why...

As already stated in my previous answer, Administrative Justice is not considered properly by this scheme. Reserved activities, focus too much on high street commercial practices. And surprisingly many people in the legal world think that this of law is the only type of practice that exist, or that is relevant. Possibly due to the fact of this type is very profitable. However the public need many different types of legal services, and should be provided with trained lawyers to deal with their problems that are not to do with wills or conveyancing. That's why option B would be most flexible, allowing a trainee to train in areas of law, other than those found in high street commercial practices.

7.

### **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?**

Yes I do, not because I am an elitist, but it is what the job entails. You need at least the level of education gained at university to practice as a lawyer. I say this from practical experience. I use everyday the tool kit given to me by university education and also my LPC that I have completed in 2013, which is invaluable. All the skills of a lawyer, especially legal method, which I believe is the most important skill for any lawyer, needs to be taught to at least an undergraduate level for it to be effective in practice.

8.

### **6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Yes I do, but not as prescribed by Regulation 12.1 of the Training Regulations 2014. This regulation is set up for legal practice in a high street commercial practice, set up for a young university leaver with no work experience. This is obvious, given the conditions of supervision by an existing solicitor; the requirement to know three distinct areas of law, as seen medium sized firms with many staff; and the relevance of non-contentious skills such as negotiation. Work experience from all jurisdictions in which law practiced should be recognised and given due weight. Competency and ethicalness of a practitioner should not be assumed simply at having had supervision. Mature applicants are unlikely to have had supervision and will have achieved competence and ethical standards by outcomes shown in their work experience. The current set up penalises and indirectly discriminates against mature applicants.

9.

### **7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

I think it would be sensible, and actually very necessary. The time would depend on the type of experience gained, and whether than experience has allowed all the relevant standards required for a lawyer to have been achieved. I think flexibility and recognising experience in all jurisdictions is important. I make the point again for the particular recognition of work experience gained in the Administrative Justice jurisdiction.

10.

### **8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

The SRA should specify the competencies without question. This task should be in the hands of a central regulator. A minimum time period would not be required as it would be up to candidates to show when they have reached competence, and would vary from applicant to applicant. However as already stated the competencies should not be based simply on Regulation 12.1 Training Regulations 2014 or the current Practice Skills Standards. More flexibility is required.

11.

### **9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

Yes I do. As already mentioned the current training set up is biased towards the recognition of work experience in high street commercial practices. Experience of other jurisdictions is not given due weight as



this type of experience will not come in the training contract formula. In-house lawyers also require a higher representation as their experience is often in one area of law, usually a niche or specialist area, which none the less utilises all the skills of any lawyer in private practice.

12.

**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?**

Yes a work place assessment I believe is essential. There should not be a minimum time period, and it should be based on achieving the appropriate competences. Costs and the regulatory burden will be justified if this assessment is flexible and fully recognises the diversity in the legal jurisdictions that exists, giving due weight all types of legal experience gained. This is not currently happening due to the strangle hold that the training contract has over entry to the legal profession. Solicitors are ultimately in control who enters, not the central regulator. It should be the job of a central regulator to admit lawyers, not the existing lawyers themselves.

13.

**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 1 and Part 2, to a specified performance standard?**

I am not an employer, however I respectfully submits that it should be the duty of the central regulator to assess competences, not existing employers. I do not believe that most employers could have that expertise.

14.

**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?**

This is a training contract set up. Should be abolished. Work experience should be arranged according to the instructions of a central regulator. Evidence is then passed to the regulator for assessment. Tasks are completed at the employer, the assessment then done by staff at the regulators office reviewing evidence. Employer should not have any role in assessment, it should remain independent of the employer. Otherwise there are risks to competencies being achieved and conflicts of interest.

15.

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?**

Regulation of training pathways is obviously necessary for each of the outcomes above. I do not think many people will object to this.

Entry requirements however should be very flexible in recognising talent, not simply focus on academic success gained at an earlier stage in life, as this is elitist and damages diversity within the legal profession.

Work experience, should rank equally with academics, if a candidate has demonstrated that he has the skills required of a lawyer, they should be allowed to practice.

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

Yes I do to a certain extent. If a candidate can prove that they have done their own reading, know legal method and can engage in legal research effectively, and all the other necessary skills of a lawyer, then they should not be barred from practising as a lawyer. These instances may be rare however, and it is likely

that a degree will be a necessary formation to practice as a lawyer.

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

Yes I do. I do not think that this is elitist. It will be useful information for the candidate so that they can improve in areas that they are shown lacking.

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

Both sets of information. Training provider performance should be focused on the law school of that institution. Some universities may not rank highly, but their legal teaching departments do.

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

I believe that if the training set up is radically altered as you are suggesting, not simply dressing up the status quo in new clothes, then it will have a huge positive impact on the EDI of the legal profession. It will open up the profession to many competent and ethical practitioners who are unable to obtain a training contract for a variety of unjustifiable barriers and glass ceilings. It will allow for people to access the profession on their own merit and work experience. It will remove the patronage currently held by existing solicitors, who in restricting the numbers entering the profession, are acting in their own interest, in turn damaging the interests of the general public and those unqualified practitioners who deserve to join the profession. England needs more lawyers not less. There currently is a shortage in legal provision, those who want legal services cannot obtain them, and those who wish to provide legal services cannot qualify. Its time to join the two together.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

Yes the transitional arrangements should be amended so that a PRT under equivalent means is not directly aligned to Regulation 12.1 Training Regulations 2014. Regulation 12.1 simply means: training contract. This is contrary to the aims reforming the education and training of lawyers, as it maintains the existing barriers to the profession.

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

There may be a risk that having a cut off date so distant in the future, may allow existing vested interests to sabotage these reforms.

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

I believe that it is.

## 2. Your identity

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Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

No, I do not.

## 4.

**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?**

No, I do not.

## 5.

**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?**

No, I do not.

## 6.

**4. With which of the stated options do you agree and why:**

b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?

**Why...**

## 7.

**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?**

It should not be set at all.

## 8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

No, I do not.

## 9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

No, I do not.

## 10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

Yes

11.

9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?

Yes, I do.

12.

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?

No

13.

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 1 and Part 2, to a specified performance standard?

No

14.

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?

No

15.

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?

No

16. (untitled)

14. Do you agree that not all solicitors should be required to hold a degree?

No, I do not

17.

15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?

Yes

18.

16.

What information do you think it would be helpful for us to publish about:

overall candidate performance on the SQE?

training provider performance?

Everything

19.

17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?

20. (untitled)

18. Do you have any comments on these transitional arrangements?

21.

19. What challenges do you foresee in having a cut-off date of 2025/26?

22. (untitled)

20. Do you consider that this development timetable is feasible?

# Consultation - T4T assessing competence

Response ID:266 Data

## 2. Your identity

**1. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

I/we have a specific confidentiality requirement as follows.: anonymous

## 3.

**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?**

Yes

## 4.

**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?**

Yes

## 5.

**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?**

Yes

## 6.

**4. With which of the stated options do you agree and why:**

a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?

**Why...**

## 7.

**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?**

Yes

## 8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Yes

## 9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

Yes

## 10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

Yes

11.

9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?

Yes

12.

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?

Yes

13.

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 1 and Part 2, to a specified performance standard?

Yes

14.

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?

Yes

15.

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?

Yes

16. (untitled)

14. Do you agree that not all solicitors should be required to hold a degree?

No

17.

15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?

Yes

18.

16.

What information do you think it would be helpful for us to publish about:

overall candidate performance on the SQE?

training provider performance?

Both

19.

17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?

No

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

No

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

None

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

Yes



## 2. Your identity

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Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

Yes

## 4.

**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?**

Yes

## 5.

**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?**

Yes

## 6.

**4. With which of the stated options do you agree and why:**

c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

**Why...**

There is a huge difference between applying the activities in different legal areas and that should be catered for

## 7.

**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?**

Absolutely yes, to do anything else would make the profession a joke

## 8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Absolutely, that is key, it is inconceivable that a person ought to be able to qualify without a SIGNIFICANT time spent in the workplace 2 years minimum

## 9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

Yes a minimum of 2 years

## 10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

No, genuine competence can only be achieved by spending significant time in the workplace experiencing a variety of work and situations

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

No, this risks altering down the gravitas of a solicitor qualification and it would be an impossible task to determine which kind of experience or employers would be appropriate - it would take you back to the very type of inconsistency you are moving away from

12.

**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?**

Yes provided the assessment is undertaken by an independent person and not by firms themselves

13.

**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 1 and Part 2, to a specified performance standard?**

I am not currently an employer but have previously been responsible for recruiting and supervising trainers at a major international law firm. It certainly wouldn't have this expertise, performance appraisals and promotion decisions are not even consistent between departments in the same office! Smaller firms would stand no chance of doing this.

14.

**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?**

Firms ought to nominate assessors and they should attend compulsory training run by you.

15.

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?**

Yes

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

Absolutely not

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

Yes

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?  
training provider performance?**

Stats relating to every area assessed

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

No apart from the obvious need to consider reasonable adjustments for disabled individuals

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

No

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

## 2. Your identity

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Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

I agree that the SQE will provide a consistent route to qualification but I would question if it increases the diversity. Whilst it will undoubtedly remove barriers that could be attributed to the lack of diversity it doesn't address all restrictions and could in fact contribute to the lack of diversity by 'moving the problem on'. The lack of training contracts currently will change to the lack of work placements. Those of from a moderate to wealthy background could afford education prior to work placements. If we expect it to increase diversity and measure it as such then it will be a success. If success is solving the diversity issue then it will fail.

## 4.

**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?**

I do, combined the SQE 1 & 2 appears comprehensive. They do however sound expensive.

## 5.

**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?**

Yes

## 6.

**4. With which of the stated options do you agree and why:**

b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?

**Why...**

The diversity of work should be supported by diverse training.

## 7.

**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?**

It should be higher than graduate level in order to meet competence.

## 8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

I agree that you shouldn't be expected to pass the SQE's without the work experience.

## 9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

No, although I have concerns that larger firms will capitalise on their additional resource to facilitate a faster route to qualification. This would appeal to graduates and therefore larger firms would have first choice of who to employ for the wrong reasons.

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

Yes, after all this is all about meeting competencies. What difference does it make if one person required 3 months work experience and others 6 months if they are at the same standard.

Training people to understand competencies is key to this process.

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

No. I am also concerned that some smaller organisations will be unable to facilitate and form of training as it will be difficult for them to 'second'. Why would a private practice agree to take a secondment on from an in house practice?

12.

**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?**

Simply yes. If the overall aim is for consistency shouldn't the training received during the workplace be consistent? While I agree there is a cost I am assuming failing the SQE will be expensive, will employers or students choose when to take the exams and how will they know they are ready?

13.

**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 1 and Part 2, to a specified performance standard?**

I would but I am a qualified trainer/HR and have been working in law for a fair few years but they are many organisations that will not have a resource like me.

Competencies will be alien to solicitors who have no time for them.

14.

**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?**

Someone who would meet with you and talk through the requirements, someone you could call for support during the process and someone to show you how to use the toolkit. This will be especially important during the initial roll out.

Some employers will have someone dedicated to the role but the majority will make it an additional task of other employees, a lot of these will be qualified solicitors acting as trainers/HR. Not only a hidden cost but not giving consistency.

15.

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?**

Yes

**16. (untitled)**

**14. Do you agree that not all solicitors should be required to hold a degree?**

Yes, otherwise you are missing one of your key objectives and leaving a barrier to diversity.

**17.**

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

Yes, done correctly this would be an excellent tool for areas for development even if they pass.

**18.**

**16.**

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

Pass rates.

**19.**

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

Yes.

Diversity into the industry is not only associated to the expense. Training on E&D is woefully inadequate and whilst training addresses the politically correct way of dealing with E&D it doesn't sell the benefits. It has been proven that a diverse workforce alone can increase revenue by 9%.

It also doesn't address inclusion, it removes cost factors but the education system needs help promoting the law industry to all areas of society. Employers try to do this at the moment (I am currently working with charities and universities to bridge the gap) but resource is low and is often of the benefit of the employer not the industry.

**20. (untitled)**

**18. Do you have any comments on these transitional arrangements?**

Whatever is agreed, and I think we all agree that change is required, we need to talk to the schools and universities. Not the organisations but the students. It is clear that the changes are not favoured by the universities as there is a potential revenue at risk. I would not favour them to be open about the changes, the benefits of them or the timings. I sincerely feel students will find themselves blissfully unaware that their chosen route to qualification may not be the best.

**21.**

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

The transitional period is long and during such there will be confusion as to the routes to law.

**22. (untitled)**

**20. Do you consider that this development timetable is feasible?**

Yes

## 2. Your identity

**1. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

Yes

## 4.

**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?**

Yes as long as different practice areas are provided for and the computer generated section has right or wrong answers as opposed to selecting the best subjective answer.

## 5.

**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?**

Yes, all should be measured against the same standard

## 6.

**4. With which of the stated options do you agree and why:**

b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?

**Why...**

## 7.

**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?**

The standard should be higher than graduate level

## 8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Yes, the training contract or equivalent period in a workplace is invaluable to the development of young solicitors

## 9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

Yes I consider an 18 month period should be a minimum, but flexibility as to when to take the SQE should be available

## 10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience**

**instead of specifying a minimum time period?**

Demonstrating specific competences should be included, although these should be context sensitive too

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

It is difficult to grade workplace experience. The workplace experiences I had varied considerably, some very good, some were a waste of time.

If it was a requirement that experience was graded or recorded, I anticipate many firms would step away from providing experience.

12.

**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?**

Yes, it would help to identify lawyers which require further development in the practical environment

13.

**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 1 and Part 2, to a specified performance standard?**

Yes, although my firm has a constant monitoring programme. I am aware that not all firms provide this and the quality of training differs from firm to firm.

14.

**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?**

Yes

15.

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?**

No

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

Yes, there are many talented people who do not hold degrees.

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

Yes absolutely

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**



All information, be fully transparent.

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

No

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

A potential rush for qualification prior to the new regime coming into force.

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

Yes

## 2. Your identity

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Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

The SQE creates yet another bar to those less financially well off entering the profession. It also could potentially give students the wrong idea that because they have obtained this minimum standard, they would be automatically entitled to a job. Further, the removal of the elective component would be disastrous. The SQE would create 'clone' like students, with a real reduction of knowledge available to them when they enter practice. It would simply be a move back to an elitist system, when we should be encouraging diversity.

## 4.

**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?**

I am not sure how 'high quality' can be assessed through MCQs. Students will be entering practice with an absence of analytical skills. They could pick the right answer through luck and even those who knew the correct answer may not then be able to reason why this is correct. Those who perform well academically, do not tend to be well suited to MCQ type questions and so it would not provide an accurate representation of ability.

## 5.

**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?**

The SQE, in practice, is just another hurdle for students to satisfy. It would not provide any real indication of ability of the students who undertake it. If it is going to be in place, it should exist without exemption, otherwise I am sure there will be ways which people could get around it.

## 6.

**4. With which of the stated options do you agree and why:**

b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?

**Why...**

They all have their issues and to be honest I believe b to be the best of a bad bunch. Even with b, it would be administratively very costly but would provide students a greater choice.

## 7.

**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?**

It is not entirely clear what is meant by the phrase, as it does not fall within the HE framework which is widely adopted. There should be learning outcomes and assessments set out before I could form a more

rounded view on this question.

8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

I do think this is essential to ensure that all those seeking to enter practice do so against a backdrop of skills which they have acquired. Removing this would mean the PSC would need to be widened to ensure that trainees are able to complete even the most basic skills, and would place an excessive burden on the law firms. I think the LPC remains an adequate system, although could benefit from some tweaks, instead of such a drastic overhaul.

9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

This ensures that everyone knows where they stand and allows for consistency in approach.

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

This could become a tickbox exercise (similar to PSC) rather than ensuring that valuable skills are in place. However, this does again ensure that minimum standards are met.

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

There is a real diversity of experience in the profession and I believe this should be embraced. However, better guidance would be required as to how this should be evidenced and consideration given to minimum standards which should be met.

12.

**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?**

This already exists to some extent with the PSC which has to be completed. Introducing anything else would be difficult to justify, particularly in relation to the financial aspect - this could be disastrous and prohibitive for many students.

13.

**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 1 and Part 2, to a specified performance standard?**

N/A

14.

**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?**

N/A

15.

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?**

Pathways do provide clarity but again this can be rather much a tickbox exercise rather than something of value.

We need some minimum standards, otherwise we are removing the value of the title 'solicitor'. There are minimum standards in other valuable professions, such as healthcare, so the law should not be any different.

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

CILEX exists now so this is currently an option. However, many professions require their entrants to complete a degree now. Vocational careers such as nursing, also require a degree. I do not see why law would be any different, particularly as valuable analytical skills are acquired whilst undertaking the LLB/GDL.

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

Many solicitors are, by their very nature, competitive and so it would be bizarre if this information was not available to them. It would encourage candidates to better themselves and to work harder when they are aware of exactly what they are competing against.

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

I think overall candidate performance is useful. Many firms would use this to distinguish between applicants and this would be useful given how similar CVs/application forms currently are for training contracts.

I think we need to be careful to ensure that courses designed to assist those to perform better at the SQE are ruled out. Due to the proposed MCQs, it would be relatively easy to teach someone how to perform well, rather than acquiring any real knowledge.

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

Some people naturally do better at MCQs, including gender differences, so this needs to be fully considered before simply relying on this method of assessment. Further, adequate support needs to be provided for those with learning difficulties.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

Many students are recruited for training contracts up to 4 years in advance so this needs to be taken into consideration. Where would they fall into this scheme?

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

There could be some confusion for both students and employers. Also, it is not clear if there are provisions for those who require more support (i.e. learning support) to complete the course and who may well take longer in doing so.

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

Further guidance as to the structure needs to be provided for me to be able to comment here. As mentioned before, there is no real mention of the HE framework so it is not entirely clear what objectives are seeking to be met in the introduction of the SQE.

## 2. Your identity

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I/we have a specific confidentiality requirement as follows.: please do not mention my firm's name in any response attributed to me

## 3.

**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?**

No. Assessment of capability, credentials and 'fitness to practice' cannot be properly undertaken via a one off examination.

## 4.

**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?**

No. A solicitor's duty of care to his / her clients and position of trust and responsibility within society is something which cannot be diminished by a constant obsession to make the profession accessible to every single person. The same approach is not taken in accountancy, surveying, medicine or other professions where knowledge, experience, and responsibility are held in the highest regard. The 'competency needed to be a solicitor' is something that cannot be measured in a one-off examination. It requires thorough, diligent and continued assessment over a defined period during which performance can be measured and skills improved as necessary.

## 5.

**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?**

Yes, providing that the SQE is not the sole examination / assessment requirement for UK students wishing to train and qualify as English & Welsh qualified solicitors.

## 6.

**4. With which of the stated options do you agree and why:**

b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?

**Why...**

criminal and civil practice are two fundamentally opposing careers in the law and it must be recognised that students will likely have a preferred choice of practice.

## 7.

**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?**

No. It should be set higher requiring a professional diploma or equivalent to be completed.

## 8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Yes an absolute pre-requisite as how can a fully competent qualified solicitor effectively and properly practice on day 1 and discharge their professional conduct obligations with no workplace experience ? To suggest that could happen would mean the integrity of the profession and the quality of advice given to clients would be significantly compromised.

9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

Yes. This has to be a meaningful period and cannot be less than 12 months as a candidate needs to experience a complete business cycle / financial year and how this affects and impacts not only corporate clients but their own firm.

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

No. It should be done in conjunction with specifying a minimum time period. Why are the two mutually exclusive?

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

Yes. But this needs to be considered and any experience needs to be absolutely relevant. Workplace experience does not equal legal experience.

12.

**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?**

Yes it would enhance but is it proportionate or necessary? I would suggest not, providing a properly trained and qualified solicitor is still required to certify the 'fitness to practice' of any candidates.

13.

**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 1 and Part 2, to a specified performance standard?**

N/A

14.

**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?**

15.

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?**

Yes. Such requirements are fundamental.

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

No. Evidence of aptitude towards study and a minimum level of academic performance needs to be maintained given the work required to be undertaken by solicitors.

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

Yes.

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

Widening access to the profession is not a bad thing. Lessening and reducing the entry level requirements for a qualified solicitor will however, only result in poor legal services being rendered to the public. The profession should be held in esteem, not by the elite, but that doesn't mean the qualification requirements for a practicing solicitor should be diminished.

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

22. (untitled)

**20. Do you consider that this development timetable is feasible?**



## 2. Your identity

**1. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

I believe that the current system has been in force for a period of time and is well tested and trialed. I do not see the point of changing something which is unbroken. The SQE seems to be a watered down version of what is in place. I wish as a current professional within the legal sector for training to be maintained at a high standard so that the work and reputation of lawyers is not questioned.

## 4.

**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?**

No - I believe the SRA should maintain constant checks to provide the training is maintained and appropriate

## 5.

**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?**

Yes

## 6.

**4. With which of the stated options do you agree and why:**

a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?

**Why...**

To keep things simple

## 7.

**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?**

Should be a higher standard

## 8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Yes

## 9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

Yes

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

Both should be deployed

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

No

12.

**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?**

No

13.

**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 1 and Part 2, to a specified performance standard?**

Unable to comment - solicitors hold enough duties already

14.

**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?**

Trainings

15.

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?**

I think a harder exam should just be imposed at the end of the normal trainee period

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

All interested in law should have a law degree

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

No

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

Candidate info

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

No

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

None

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

Needs better consultation period for quality feedback

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

Possible

## 2. Your identity

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Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

No. The current route ensures that a high standard is met. Training to be a solicitor is a rigorous process that requires hard work and dedication. It is one of the few professions that have high standards of entry. To alter the entry barriers could detrimentally impact on the legal services received and the quality of those.

## 4.

**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?**

No. New processes such as legal apprenticeships will lead to lesser quality services being offered. One of the huge benefits of the law degree/GDL is that it gives you a grounding to take a knowledge of different areas of law into practice. Couple this with the LPC and the process ensures people are ready to practice effectively. Removing these barriers in favour of a standard exam could lead to candidates being able to pass the exam but will leave them short of the skills required to be a good solicitor in practice.

## 5.

**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?**

No. Solicitors should have to pass the LPC and or qualifying law degree or GDL to gain basic competencies in general law and practice. Although the proposed SQE may set a standard it appears that this standard only has to be met once on exam day and not repeatedly throughout training/education to succeed.

## 6.

**4. With which of the stated options do you agree and why:**

c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

**Why...**

Part 2 appears more relevant to practice.

## 7.

**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?**

Yes. But then why not rely on graduates to achieve this at university? There are already alternative routes such as ILEX for those that do not want to take the traditional route. The traditional route requires certain qualifications to be called a solicitor. The term solicitor is in danger of becoming diluted if the SQE is introduced to enable a wide range of solicitors through different means. The legal market currently

understands what a solicitor is and why they are in that position, the SQE could cause confusion in the market.

8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Yes. This is essential to understanding the role. The training contract is invaluable experience.

9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

Yes - like the training contract which has a specified time period pre-qualification experience should be the same.

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

Preferably both so that candidates know what they are to achieve and in what time limit.

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

No - this is career building and not necessarily useful to the candidate. Making tea in a law firm for a three weeks in the summer holidays is not good experience.

12.

**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?**

Yes - there is no experience like actually performing the role or similarly assisting someone in the role. This should be essential and is totally justified by the experience candidates will gain.

13.

**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 1 and Part 2, to a specified performance standard?**

Not an employer.

14.

**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?**

-

15.

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?**

No - the current system of qualification provides good quality legal services. Perhaps courses and/or training schemes are a better way of ensuring quality services continuously.

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

No - a degree shows a level of commitment to a subject and an analytical way of thinking. Most graduates learn their skills such as analysis and critical thinking from their degree. Universities teach these skills which are essential for solicitors. these are gained over 3/4 years and therefore a degree is an extraordinarily useful key to being a successful solicitor and providing quality services.

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

Yes - that would be useful as an indicator of areas of improvement.

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

What standard the provider is obtaining and similarly what standard their candidates are performing at. However, this then creates the issue of going to better providers and essentially replaces the university acceptance procedure.

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

-

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

-

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

-

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

Yes

# Consultation - T4T assessing competence

Response ID:366 Data

## 2. Your identity

**1. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

No

## 4.

**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?**

No

## 5.

**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?**

No

## 6.

**4. With which of the stated options do you agree and why:**

c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

**Why...**

## 7.

**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?**

Yes

## 8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Yes

## 9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

No

## 10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

Yes, as a guide, but it should not be an inhibitor.

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

Yes, as long as it is relevant

12.

**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?**

No

13.

**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 1 and Part 2, to a specified performance standard?**

14.

**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?**

Actual training on assessing the required standard

15.

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?**

Yes to both

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

No

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

Yes

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

21.



19. What challenges do you foresee in having a cut-off date of 2025/26?

22. (untitled)

20. Do you consider that this development timetable is feasible?

## 2. Your identity

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## 3.

**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?**

Whilst you can argue that if everyone does the same test then there is consistency, this is a very simplistic view. One test can provide consistency but it cannot possibly assess everything which is assessed under the current system.

There is no LPC elective coverage – this is actually a reduction in the knowledge at the point of admission when compared to the current system.

## 4.

**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?**

No. How can MCQs properly assess application of the law, reasoning etc to the same level as a long form question – do clients turn up at lawyers and say "this is my problem do I do A, B or C?" MCQs do not test real application and analysis. People can pass MCQs by getting lucky.

With regards to Part 2:

The timing of part 2 is wrong. Candidates need skills before they enter the workplace, hence the current LPC. Knowledge is not enough for firms who recruit candidates expecting a high skill level so they can contribute to the business from day 1. Students genuinely draw upon knowledge from their LPC course in the workplace.

The electives on the LPC are really worthwhile. Areas such as family or immigration do not have the resources of the large firms so the cost burden of doing introductory courses such as the LPC electives is still likely to fall on the candidates themselves on top of the SQE costs.

## 5.

**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?**

This seems fundamentally unfair and goes against well embedded systems in place like accrediting prior learning.

## 6.

**4. With which of the stated options do you agree and why:**

with...

why...

7.

**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?**

This q is too vague.

8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Yes - the current system works well and does not need such drastic amendment.

Part of the competence of being a solicitor is gained through experience – the learning journey at University and during the LPC and of course during the TC. A test as envisaged in no way equates to this.

9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

Yes we think that this provides clarity for employers and trainees.

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

If there is no formal regulation and testing of compliance how does this improve the quality of the PRT?

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

In theory work done in a pro bono or volunteering context out to be counted but there ought to be minimum criteria such as the level at which it was carried out, whether the work was supervised and independently verified.

12.

**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?**

It may enhance the process but not to the extent of justifying the increased costs.

13.

**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 1 and Part 2, to a specified performance standard?**

14.

**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?**

15.

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?**

If there were to be no minimum entry criteria or requirement for 'time served' the solicitor brand would be devalued. You would not expect a doctor to be able to hold the title doctor without a medical degree and

several years' experience in a medical setting

#### 16. (untitled)

##### **14. Do you agree that not all solicitors should be required to hold a degree?**

Not all solicitors now hold a degree now as they may have qualified via the CILEx route so this question is confusing.

The SRA have already signed off the Trailblazer Apprenticeship route which does not explicitly require the apprentices to gain a degree (like some of the other degree apprenticeships that have been signed off under the Trailblazer system).

However; In an age where many roles (police, nurse) now require a degree it seems perverse that a degree is apparently so under-valued by the SRA. This may damage the solicitor brand.

#### 17.

##### **15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

This doesn't seem to be a new idea/issue, seeing as candidates can basically seek this info out themselves within their respective law schools already.

#### 18.

##### **16.**

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

#### 19.

##### **17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

A reliance on an MCQ approach favours a particular skill set which can be honed and practiced by those with money and access to the right sort of tutoring i.e. not students from disadvantaged backgrounds.

The SQE will simply add costs and barriers into the already expensive route to qualification as a solicitor which will deter those from a disadvantaged background from applying.

#### 20. (untitled)

##### **18. Do you have any comments on these transitional arrangements?**

The timeframe seems unrealistic- given the genuine disapproval of the proposals from many within the sector, surely the SRA will need to go back to the drawing board meaning that the 18/19 deadline is not an option.

#### 21.

##### **19. What challenges do you foresee in having a cut-off date of 2025/26?**

Those that take longer to pass the course will be placed in a vulnerable position,

#### 22. (untitled)

##### **20. Do you consider that this development timetable is feasible?**

For the reasons already mentioned, the timetable surely needs to be revised as the current proposals are not satisfactory.

## 2. Your identity

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Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

I do not agree with this statement. The SQE will provide consistency but cannot possibly assess the level of detail which is currently assessed on the GDL/Law degree/LPC. Candidates will lack the ability to apply the law to a client's specific circumstances. Those who are less privileged might be under the impression that they pass the SQE and then they will be able to qualify as a solicitor. The firms will require a thorough education, i.e. undergraduate level followed by a further qualification focussed towards the elective modules in addition to the SQE. The SQE proposal is a dumbing down of the profession, which is not desirable.

## 4.

**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?**

Sitting an exam which comprises of MCQs will not adequately prepare candidates for the rigours of practice. They cannot test real understanding or application. The current LPC reflects what trainee solicitors will do in practice. The proposed SQE cannot do this. In addition, specific law firms will want their recruits to have knowledge in their practice areas (i.e. the current electives on the LPC). The SQE will not provide this.

## 5.

**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?**

Law firms will see the SQE as a box-ticking exercise. They will still require recruits to have degrees and LPC-type education. Therefore, the SQE will simply be an additional hurdle to cross and as a result have a negative impact on diversity.

## 6.

**4. With which of the stated options do you agree and why:**

b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?

**Why...**

Law firms and other organisations which recruit solicitors have very diverse areas of practice; the choice should be as wide as possible.

## 7.

**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?**

Solicitors should have an undergraduate degree. The SQE should therefore be at a higher level.

## 8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

The proposal is currently too vague. Would the experience be under a formal paid employment contract or more like an internship? Workplace experience is essential, but is currently offered by way of the training contract. The prospect of reducing the 2 year period or changing this workplace experience drastically will not be desirable from a diversity perspective. Less privileged students who do not have contacts within the industry will find it very difficult to get the workplace experience if it is on a less formal basis than the current position, as it will be almost impossible to gain the experience in the first place.

9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

I consider it essential - 2 years.

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

No, you gain the necessary experience throughout a period of time. You should not be able to tick boxes to complete the competences within a shorter period of time.

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

Whilst desirable, this may prove difficult to actually monitor effectively. However, if possible, then this should be recognised.

12.

**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?**

No, it will add to increased stress for the trainee solicitors. How will they be able to do a workplace assessment during a large transaction/court case?

13.

**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 1 and Part 2, to a specified performance standard?**

N/A

14.

**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?**

N/A

15.

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?**

Yes, pathways would provide clarity.

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

I do not agree with this statement. All solicitors should be required to hold a degree (with the current exceptions for the CILEx route only). Many other roles are now requiring degrees (e.g. nurses), so it seems strange that the solicitors profession should dispense with this requirement. It appears that the proposal is undervaluing the skills and qualities acquired on an undergraduate degree. I doubt whether a school leaver would have the requisite analytical skills to act as a solicitor.

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

Candidates will want to know this information, as will employers.

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

I do not consider that overall candidate performance is desirable. Everyone should perform to their own strengths and abilities and we should not encourage a culture of comparison.

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

The SQE is likely to increase costs and raise barriers to entry to the profession rather than lower them.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

Delivery in 2018/19 seems far too early for providers to draft new materials.

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

Having a dual system in place would be confusing for candidates and employers.

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

No, the proposals are so vague at this stage, it is difficult to see how providers will be able to create high quality courses to respond to the proposal.

## 2. Your identity

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Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

I am not persuaded that it does.

I agree with a common professional assessment, which was one of the advantages of the Law Society Finals examination, but fear that the SQE will diminish the qualification process and therefore the standing of solicitors as a profession.

It is a great pity that the SRA appears to have abandoned effective oversight of the LPC course and its providers over the last 10 years or so, which I believe has contributed to a lowering of standards. Had this not happened, I believe there would now be less concern about the qualification process.

## 4.

**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?**

No, I believe it is too light touch, Insufficiently rigorous and will diminish the standing of solicitors as a profession in the sense we have traditionally understood that term.

## 5.

**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?**

Yes, subject to my reservations about the desirability of the SQE in the first place.

## 6.

**4. With which of the stated options do you agree and why:**

a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?

**Why...**

The SQE should be the gateway qualification for all solicitors, equipping them to commence their careers in all sectors. A qualification which allows too early specialisation will deny solicitors the opportunity to change course early in their careers and risks creating a two tier profession, where for example, those seeking to join commercial firms will have to make an election too early and those who choose non-City firm options will be excluded too soon in their careers from entering this sector, even if they later find it matches their talents and aspirations.

## 7.

**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?**

It should be set at post graduate level, not merely graduate level. There is already a perception in private practice that the LPC lacks rigour. In medicine and accountancy, a degree is not sufficient. The idea that we would allow a clinician to treat based on just a first degree would rightly be condemned as being an insufficient safeguard for the public. The same should apply to solicitors.

8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Yes, it is essential. Furthermore I am strongly opposed to a watering down of this requirement, such as reducing 2 year period or dispensing with the PSC.

9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

Yes, in order to be credible it has to no less than the current training contract period of 2 years. This period is also the minimum required to learn practical skills in a supervised environment before practice begins.

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

The SRA should specify the competences but also stipulate the minimum period, with the power to increase the minimum period if the competences are not met during the initial two year period.

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

I would be cautious about recognising a wider range of pre-qualification workplace experience.

The danger of doing so is the subjectivity of the assessor and the power it gives to the candidate to promote experience, which may not be relevant or rigorous, and which is designed simply to reduce the period of prequalification workplace training. The danger is lack of rigour and oversight. Furthermore, it denies a level playing field, favouring candidates from certain socio-economic backgrounds who can access certain types of workplace experiences which are denied to others from less privileged backgrounds.

12.

**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?**

Yes, in order to ensure confidence in the qualification process and protection of the public.

13.

**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 1 and Part 2, to a specified performance standard?**

I am not an employer, so do not feel best placed to answer this question with any confidence.

14.

**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?**

In my view, A toolkit would not be sufficient. I would suggest that it would be necessary for the workplace trainer to attend mandatory courses on the subject run by the SRA. There is also a good case for external assessment of the trainer by the SRA to ensure that standards are met.

15.

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?**

Yes, I strongly believe that an undergraduate degree in law should be the entry requirement for the SQE.

The existing qualification process is not seen in private practice as sufficiently rigorous. The qualification process as a solicitor in England and Wales compares unfavourably with the requirements in other jurisdictions. For example in the USA you need an undergraduate degree before you can proceed to a law degree. I believe that attendance on a full time or part time post graduate LPC type course is essential to maintain the integrity of the qualification process and that entry to this course should be limited to those with a 2:1 degree or the passing of an entrance exam for those who do not.

There is also a strong argument for restricting entry to the post-graduate course to those who have secured approved workplace training. This would save the heartache experienced by many people who have passed the LPC cannot obtain a training contract. By this time they are often in significant debt in addition. If they did not have a commitment from an employer to a place on workplace training whilst this will be disappointing, it does enable the candidate to reconsider their career options without placing themselves in significant debt. It also enables them to work as a paralegal with a view to securing a position for workplace training before they commit to the expense of the course.

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

No, definitely not. The idea that the solicitors branch should not be principally a graduate profession will significantly erode its status and reputation. This would also place solicitors in an unfavourable position compared to barristers and other comparable professions. This proposal is outwith the drive to increase standards in other professions and will leave solicitors behind.

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

Yes

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

Statistics on pass/ fail rates for candidate performance and training provider performance so informed comparisons can be made.

In addition, more detailed information on those areas and skills where candidates struggle and which require greater application.

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

I decline to answer this as I have insufficient technical knowledge to give a sufficiently informed view.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

Not specifically , because I do not believe that the SQE in its present incarnation is the right way forward.

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

I am not commenting on this question.

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

Not commenting.

# Consultation - T4T assessing competence

Response ID:384 Data

## 2. Your identity

**1. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

In my opinion the LLB should have a 4th year LPC and then they should be fully qualified

## 4.

**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?**

## 5.

**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?**

## 6.

**4. With which of the stated options do you agree and why:**

a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?

**Why...**

Varied

## 7.

**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?**

LLB

## 8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

N/A

## 9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

No

## 10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

No

11.

9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?

yes

12.

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?

yes

13.

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 1 and Part 2, to a specified performance standard?

14.

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?

15.

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?

16. (untitled)

14. Do you agree that not all solicitors should be required to hold a degree?

no

17.

15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?

18.

16.

What information do you think it would be helpful for us to publish about:

overall candidate performance on the SQE?

training provider performance?

19.

17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?

20. (untitled)

18. Do you have any comments on these transitional arrangements?

21.

19. What challenges do you foresee in having a cut-off date of 2025/26?

I am currently doing my lpc and this worries me

22. (untitled)

20. Do you consider that this development timetable is feasible?

# Consultation - T4T assessing competence

Response ID:385 Data

## 2. Your identity

**1. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

NO

## 4.

**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?**

NO

## 5.

**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?**

NO

## 6.

**4. With which of the stated options do you agree and why:**

a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?

**Why...**

## 7.

**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?**

yes

## 8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

yes

## 9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

Yes

## 10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

No

11.

9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?

No

12.

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?

No

13.

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 1 and Part 2, to a specified performance standard?

N/A

14.

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?

N.A

15.

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?

No

16. (untitled)

14. Do you agree that not all solicitors should be required to hold a degree?

No

17.

15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?

Yes

18.

16.

What information do you think it would be helpful for us to publish about:

overall candidate performance on the SQE?

training provider performance?

n

19.

17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?

n



20. (untitled)

18. Do you have any comments on these transitional arrangements?

n

21.

19. What challenges do you foresee in having a cut-off date of 2025/26?

n

22. (untitled)

20. Do you consider that this development timetable is feasible?

n

## 2. Your identity

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Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

No. I do not think it is as comprehensive as the current system of qualifying law degree (or equivalent) plus L P C. The latter system has worked well, in my opinion.

## 4.

**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?**

No. it is too scant. I find it a sharp contrast to the rigours of a law degree and LPC. It will lead to a diminution in respect for and the value of the solicitors' qualification

## 5.

**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?**

No. I think the existing system of qualifying law degree and LPC plus period of training works satisfactorily.

## 6.

**4. With which of the stated options do you agree and why:**

c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

**Why...**

Legal practice encompasses a vast area of different work. These are catered for in the wide range of modules which can be studied at degree and LPC level. The focus on the proposed SQE is too narrow.

## 7.

**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?**

Yes, of course.

In society generally, nurses are expected to be graduates, as a police officers and social workers. It would be odd if a branch of the lawyers' profession were not . Further than "at graduate level" - a degree should be a requirement except for those who have trained through the legal executive route.

## 8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

I think it is important

## 9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification**

**workplace experience for candidates?**

I suggest two years

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

No, "competences" are too vague and woolly. A time period has more certainty.

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

yes, but on an application to show that it is of equivalent standing to time spent during a training contract - it would have to be considered on a case by case basis.

12.

**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?**

I see it as an extra level of bureaucratic compliance and that it is not necessary

13.

**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 1 and Part 2, to a specified performance standard?**

Probably, provided clear objective tests and guidance is provided.

14.

**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?**

Supply of actual tests - questions and answers.

15.

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?**

I think it is incumbent upon a regulator to take on the responsibility of prescribing clearly the routes to the solicitor qualification. The regulation of training pathways is the best way to do this. Clear guidance as to what is needed in a qualifying law degree, or G D L, for example. This is what happens in other professions and in the legal profession in other countries.

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

It should be very exceptional - nowadays, the degree route should be the norm. As it is in most professional occupations.

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

Yes

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

No opinion on this

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

Significant adverse impact on the reputation of the English solicitor brand in international legal markets. a big boost to the barristers' profession

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

More time is needed. Students are applying to universities now, and over the next few years, relying on getting a qualifying law degree, and contemplating the LPC route. They are not aware of your proposed shake up, and the additional cost it may cause for them.

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

No opinion on this

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

Too rushed. It's misleading for young people applying to University now.

## 2. Your identity

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Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

At this stage in the consultation process, we cannot comment meaningfully on the capacity of the SQE as an effective test of the competences required to become a solicitor until we have fully examined the detail of the various parts of the proposed assessments. What will the SQE look like? What specifically will it assess? How will it assess and at what level will the assessments making up the SQE be set? At what point in the wider legal education and training journey will the SQE be taken (after how long a period of recognised training, if this element remains)? How will candidates study the relevant material and practise the skills in preparation for the assessments? How much is it likely to cost overall (fundamental in relation to the access and diversity point for students who are not financially sponsored by firms)? What will the minimum entry requirements be to enable candidates to sit the SQE (if any)? The SRA has already heard lots of feedback from the profession about the benefits of the current qualification model- specifically, the development of a junior solicitor's competence via a period of recognised and supervised training. It's not entirely clear in the consultation document whether this will remain, but there is an assumption by the SRA that the SQE will be sufficiently challenging to pass without development of the core competences in a work place environment. On what basis is that assumption made? Is the intention that the new SQE will be substantially more difficult than the QLTS (presuming the SQE adopts a similar style to the QLTS)?

The SRA talks about an assessment which tests minimum standards based on a threshold of 'competent' or 'not competent', pass or fail. Understandably there is a legitimate concern that introducing a central SQE in isolation, helps ensure a level of consistency (in theory), but to a lower, rather than a higher standard at the point of admission. How does an arguably consistent approach, but lower standards better protect the consumer and build a strong profession? There is an innate risk that in seeking consistent and comparable standards, we sacrifice quality and lower the bar.

In relation to the objective of "ensuring that the most talented candidates can qualify as a solicitor, by encouraging the development of new and diverse pathways to qualification...", legal apprenticeships (under the new Legal Trailblazers) are still a very new concept for the majority of the profession, and indeed for candidates. In terms of our ability to test the outcomes and impact of this pathway and how it compares to the existing route, the lead in period for the first cohort to fully qualify as solicitors under this scheme is a few years away. Widening of access and genuine diversity are complex areas which require root and branch review and support from many stakeholders-, including government, early years through to further and higher education, parents, local communities and a more concerted effort by the professions. A collective effort is necessary to address child poverty, improve education standards and raise aspirations. With raised aspirations there is also a very real need to substantially increase work experience opportunities and to level the playing field during the recruitment process. Many firms are looking at concepts such as contextualised recruitment and creating more work experience opportunities to maximise the numbers of students looking to gain insight into the legal profession, regardless of background. In addition, many firms are also embracing Legal Trailblazers and other apprenticeship programmes. With all of this in mind, there's no one "silver bullet" in terms of an assessment route which will make it more likely that candidates from less traditional backgrounds will access law. To facilitate this objective, we need to

better promote the profession as inclusive and diverse, supporting those candidates who may be the first generation seeking to qualify into a profession (practically and financially).

The independent Alpha Plus report cites no evidence to support an SQE model improving diversity. Again the SRA appears to assume that the SSQE would provide a cheaper route, but on what basis? There is no detail as yet in relation to the courses which would be required to best prepare candidates to sit the various parts of the exam and how much this would cost.

Until there is far more detail and clarity around all of this, potential candidates, employers and providers cannot take an informed view on the question being asked.

4.

**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?**

As set out in the response to question 1, at this stage in the process, we cannot comment meaningfully on the capacity of the SQE as an effective test of the competences required to become a solicitor until we have fully examined the detail of the various parts of the proposed assessments. What will the SQE look like? What exactly will it assess? How will it assess and at what level will the assessments making up the SQE be set? At what point in the wider legal education and training journey will the SQE be taken (after how long a period of recognised training, if this element remains)? How will candidates study the relevant material and practise the skills in preparation for the assessments? How much is it likely to cost overall (fundamental in relation to the access and diversity point for students who are not financially sponsored by firms)? What will the minimum entry requirements be to enable candidates to sit the SQE (if any- appreciating this is being looked at as part of a future consultation)?

For example, how will the SQE "simulate the real demands of practice"- no specific examples of how this will be achieved are provided in the current Consultation document. How will this take account of different areas of legal specialism and business/client demand? This requires further exploration and analysis of the detail to allow stakeholders to better inform their view.

Simulation of the real demands of practice will be very challenging to achieve. Our understanding of the current QLTS model is that the practical assessment tasks are quite short and focus on one particular issue, which is not fully reflective of the complex nature of the matters a trainee would come across in practice. Replicating this aspect artificially will be tough and very contrived.

5.

**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?**

Conceptually, it would seem fair that if the SQE is introduced, this should be taken and passed by all candidates intending to become solicitors in England & Wales. To assure quality, consistency and the credibility of the qualification, it will be important to be clear about the minimum entry requirements for eligibility to sit the assessments and the period of work based learning during which candidates can learn and practise the skills elements. However, it is understandable that those candidates who have undertaken law degrees/equivalent qualifications would seek exemptions for elements of the knowledge assessments which they have already covered as part of their original qualification. This would need to be looked at more closely as and when there is more detail around the content of the assessments themselves.

6.

**4. With which of the stated options do you agree and why:**

**Why...**

There is insufficient information on which to base our responses here. This type of central exam, by

definition, cannot assess competence in all areas of practice that all firms/in-house teams etc can provide experience of. Even if in theory a firm could provide three of five areas for trainees to experience first hand, where trainees go in the business and the experience they gain, also depends on where the junior resource is required. This model would create a huge pressure on employers to give experience in the areas being assessed (why would trainees choose to go to a seat they thought was not relevant). So there would need to be external training for candidates/trainees before sitting the assessments because internal experience may not be sufficient/ the right focus to solely rely on. Employers would need to be very clear about what might be assessed to do their best to give the trainee as relevant an experience as possible.

The consultation itself suggests that option (b) would potentially be too expensive and arguably unworkable.

7.

**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?**

Yes- at least graduate/graduate equivalent- indeed higher at the point of admission, as is the case with the current requirement to undertake a course of post-grad study on the LPC and then the two year period of recognised training. As the Chairs of the SRA Board and SRA Education & Training Committee point out, it is important that NQ solicitors, regardless of the pathways they have followed, should demonstrate a level of intellectual and analytical ability at least equivalent to that of a graduate (as is the case in other professions). The entire education and qualification process underpins the quality standards of the profession. As has been discussed during various events, having a degree is not the only intellectual "currency"- the SRA is keen to promote flexibility in how candidates access the profession and it is therefore critical that we promote graduate equivalent routes such as CILEx and Legal Trailblazers. Graduate level or graduate equivalent takes us to Part 1 of the SQE assessment, but what about the benefits of the existing trainee training regime.

There are a number of risks if we rely only on a centralised assessment approach, namely:

- some candidates passing without truly having the competences the assessments have been designed to test. Some may do this by cramming, lacking real understanding and the ability to apply in context. Crammed knowledge can soon be forgotten post-qualification. Others may cheat- although stakeholders appreciate that the SQE would be administered in such a way as to minimise that risk, but it's still a possibility
- likely increase in the number of attempts to pass without gaining the true competence, compared to the current route. There is a danger that candidates and SQE training providers could start to attempt to find the easiest route to passing. A substantial period of work-based learning, observed (and potentially assessed by a qualified examiner), reviewing the candidate's performance and application of skills and knowledge against defined skills standards or competences would help address those risks.

Having a graduate or equivalent level of qualification (for example a legal higher level apprenticeship) would help to provide alternative and corroborative sources of evidence of intellectual ability, drive, self-direction and work ethic, minimising the risk of less focused (or indeed, very bright, but young) candidates simply "having a go". There is a face validity point that clients are highly unlikely to accept advice from a young teenager as credible, regardless of having passed the SQE.

8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Absolutely agree. It is not until we have the opportunity to practise in a "live" environment that we embed theoretical learning. That includes the vocational skills training delivered on courses such as the LPC, which are a good foundation, but no substitute for real frontline client experience. In many years of working in the legal sector as a trainee, a qualified solicitor, a trainee supervisor and now in a role as a recruiter and developer of graduate and school leaver talent, supporting numerous Training Principals, it is fair to say that the overwhelming feedback from trainee supervisors, partners, clients and the trainees themselves, is that a sensible period of practical "on the job" training is the biggest critical success factor in

building confidence and competence as a solicitor. Without this, junior lawyers would not have the opportunity to practically and appropriately apply legal knowledge and skills with supervision, reflect on what they have done, receive feedback and hone their craft as a legal advisor and draftsman. Without a period of recognised training, there would be increased expectation of employers (and importantly clients) that following the central assessment, the junior lawyer was the "finished article", which in reality they would not be, not having had, or only having had a very limited chance, to practise before taking up a fully qualified legal role.

The SRA define "competence" in the Statement of Competence as "The ability to perform the roles and tasks required by one's job to the expected standard". This is fundamental, because the definition distinguishes the competences observed in a training or assessment scenario and the competences required to be demonstrated "on the job".

At Pinsent Masons we hold regular one to one catch ups with our trainees. These are in addition to regular trainee supervisor appraisals. A consistent theme over the past ten years we have held these conversations, is the progress our trainees feel they have made on their journey towards qualification. They cite the high quality client exposure, drafting, research and business writing experience and incremental feedback they receive from their dedicated supervisors and other colleagues on all of those skills throughout their training as the major contributor to that growth in confidence and competence. Without this opportunity to train, practise and develop on the job, the trainee/qualified solicitor would potentially operate in more of a vacuum, being reticent to ask questions and seek developmental feedback because they are supposed to be the competent "finished article". This approach could pose a very real risk to the consumers of legal services if junior lawyers have had no opportunity to practise the requisite legal skills, appropriately apply their legal knowledge and develop their commercial acumen in a live client context and under real pressure. This will impact the quality of advice and service standard clients are entitled and rightly expect to receive, potentially increasing complaints and claims. Continuous monitoring of trainee development through the current two year period of recognised training underpins the ultimate competence of the Day 1 qualified solicitor. It goes to the heart of the quality assured kite mark of UK law. Just as patients would not seek medical advice or procedures from junior doctors who had no work-based, live experience, the practice of law should be no different.

9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

Yes. Obviously some trainees achieve a level of Day 1 competence quicker than others. This can depend on many elements including, previous work experience, the input of the colleagues they work with while they train and the on the job opportunities they've been exposed to (as well as individual ability). While some trainees develop competence in relation to the Skills Standards/competences faster than others, in our experience, the majority, if not all, trainees benefit and develop significantly during their period of recognised training. In relation to the length of the period of training, there is no perfect duration. It has been our experience that many, although not all, trainees start to come into their own around 18 months, and at this point begin to demonstrate the level of competence and confidence expected of a qualified solicitor. However, others require the final six months to fully find their feet and need the full two years to boost their client exposure, come across ethical issues and further hone their skills. There should be a minimum time period with which the profession is comfortable and satisfied that it is able to provide trainees with sufficient and varied opportunities to build the spectrum of skills and develop the applied legal knowledge required to demonstrate ultimate competence. It is also in the interests of the end consumer of legal services and therefore in the public interest, that before qualification, junior lawyers are required to practise, develop and demonstrate the core legal skills required over a sustained time period to genuinely allow firms to be in a position to sign them off as competent, qualified professionals. From our experience this should be at least 18 months, if not two years (depending upon previous legal experience which could be taken into account along the lines of the current time to count system). 18 months to 2 years does not seem like a protracted period over which to hone a range of skills and build legal knowledge in practice. It is fair and reasonable to take periods of paralegal and other relevant legal work experience into account for future qualifiers and the majority of firms will be comfortable that this decision be at the discretion of the



individual firm/Training Principal having reviewed evidence from the applicant.

Moving from a time served to a fully outcomes focused approach would be a massive cultural shift for the profession. And as well as the other stakeholders, the end users of legal services expect a qualified solicitor to have undertaken a period of work-based, on the job experience and learning (just as a doctor, dentist or other professional would before the "L" plates come off). We need to keep in mind, face validity, as highlighted by the Alpha Plus independent report- the ultimate route to qualification should not just be valid, but also needs to be seen to be and accepted as valid by all stakeholders to give confidence in the route.

The Alpha Plus Report also highlights that a period of pre-qualification work-based experience is helpful and should be retained.

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

Competences should be specified in addition to a minimum period to ensure clarity for firms/employers providing work-based learning opportunities for intending solicitors. This approach helps to focus firms and candidates on the skills and knowledge to be gained, practised (and potentially assessed) during their training period.

There's a legitimate and very practical point about the management of cohorts undertaking training/work-based learning with firms. Particularly if you are a firm taking on high numbers of intending solicitors and layering this with the complexity of other programmes, such as legal apprenticeships, which ideally the SRA would like to be perceived as absolutely comparable with graduate routes once the apprentice gets to a certain level. Managing candidates of varying abilities and previous experience who could qualify at different points is a managerial challenge for businesses and puts additional pressure on generally small HR and Graduate Development teams. It's therefore critical that employers know what all candidates (regardless of route) need to cover and achieve to reach the same end point at comparable levels. Absolute clarity around the period of work-based learning/training, plus the specific competences to be covered will better support candidates, supervisors, Training Principals and Graduate/HR teams to achieve positive outcomes and help achieve a more consistent approach to the training experience.

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

You would need to look very closely at how that experience was properly evidenced by candidates and employers. For example, in relation to the current time to count system, many firms exercise their discretion to shorten the length of the training contract for trainees who have previously paralegalled with their own firm (as opposed to other firms). This is because they can more easily assess whether the experience gained by the trainee while paralegalling was equivalent to the experience of a trainee and genuinely helped them develop competence under the skills standards. There is an argument that this approach could help diversity, because periods of supervised work experience in law clinics, secondments or university "sandwich" placements could count towards ultimate qualification experience (providing appropriately supervised and evidenced and this is where a clear competence framework and guidance from the SRA on what needs to be achieved would be critical). However, this would require the SRA to continue to regulate this aspect of training provision as they do currently by authorising organisations and individual lawyers to be recognised training supervisors/organisations. Exploring this option, if seen through to its logical conclusion, could create the much needed legal work experience which is so hard for many candidates to obtain, and partially relieve the training contract bottle neck. Whether this then creates a potential new bottle neck at qualified solicitor level is another question....

12.

**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?**

Yes. In the ideal world, this is absolutely the right place in which to observe and assess candidates in relation to the application of legal knowledge and skills. With the right guidance, tool kits and regulatory training, this element could be delegated to employers.

As highlighted in the Alpha Plus Report, the absence of workplace assessment is a potential "gaping hole" in the SQE only qualification route. To assure the rigour and quality of the qualification pathway (and negate the need for a contrived Part 2 of the SQE), it is worth the SRA and profession exploring our options in relation to a work-based assessment, providing that this is proportionate and relatively straightforward for employers to implement. As a profession, we don't need to go back to the drawing board on this. We should look at revisiting the work that was undertaken around WBL and the collation of trainee e-portfolios back in 2008-2010. Akin to an enhanced trainee training diary, trainees can focus on their day to day training, building a portfolio of evidence to support their learning outcomes, which can be monitored and signed off by supervisors as part of the on-going appraisal process. Feedback from the original pilot was positive. A system like this doesn't have to be "burdensome" - the profession could benefit through enhanced trainee engagement, trainees taking more responsibility for their development (supported by employers), in turn increasing the rigour of the ultimate qualification regime and consumer confidence.

As with the SQE itself, there is currently no detail to consider in relation to what a WBL assessment might look like. However, as with the frameworks which have been agreed re. legal apprenticeships, as a profession, we are more than up to collaborating in this area.

13.

**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 1 and Part 2, to a specified performance standard?**

As an employer and developer of trainee and junior lawyer talent, yes, with the right regulatory guidance and training, we can assess this.

Although some employers may lack confidence and feel there is a perceived know-how gap in relation to this area at the moment, the reality is that in the existing training contract model we are already working with our trainees, trainee supervisors and Training Principals to monitor and review the experience our trainees have, focusing on any development needs and ensuring different experience is provided if we identify gaps re. opportunity to practice and achieve the skills standards. We already have a great foundation in place here- if we develop a sensible work-based assessment, we can roll this out to harness and build on what we have in place already.

14.

**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?**

A toolkit providing clear, practical guidance would be welcomed, along with high quality training. Firm/employers could potentially participate in "train the trainer" with a view to sharing the relevant knowledge with colleagues involved in the assessment process. Some of the training could be online and would not necessarily need to be face to face (more cost effective delivery and easier to update with changes to future proof). Ideally we should be aiming for WBL assessment that authorised training organisations are able to integrate into their existing trainee training and supervisory models.

15.

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?**

Yes to both questions for the reasons set out in Response 5. Given that routes such as Legal Trailblazers are brand new and therefore as yet untested, this is fundamental to retain consumer confidence in the qualification process.

Not very much detail in the consultation document at this stage.

**16. (untitled)**

**14. Do you agree that not all solicitors should be required to hold a degree?**

We should think about the response to this question in terms of degree equivalence/graduate level to preserve consumer confidence in the rigour of the legal education & training process and its face validity. Please see previous responses. The current Regulations don't require all solicitors to hold a degree and many qualify via CILEx and in the future via the Higher Level Legal Trailblazer Apprenticeship.

**17.**

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

Candidates and employers may ask for this to establish how the candidate has been ranked against others in that overall cohort- particularly if there is little other evidence to review re. the academic calibre and overall competence of candidates (for example, if there was no minimum entry requirement to sit the SQE). Also, the SRA will be aware of a movement by some organisations (legal and other sectors) not to require minimum A-Level or equivalent qualifications. In lieu of this, organisations are working with external business psychologists and assessors to design and develop their own assessments of intellectual and analytical ability.

On the face of it ranking candidate performance could assist on diversity- in theory, the brightest and best candidates should be able to do well and stand out on the SQE regardless of background. However, this will depend on the upfront input the candidate has had to prepare for the SQE exams. Depending upon what's available in the market and the cost of that (on which we have no detail at this stage), some candidates will benefit from specific coaching, but what if you can't afford to access that input? The playing field will not be level.

Alpha Plus cover this in their report and also highlight that it would not be without challenge (and potentially impact costs) to do this. Ranking candidate performance on assessments which are focused on a competent/not competent outcome would introduce additional complexity into the SQE.

**18.**

**16.**

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

Re. candidates, potentially candidates and employers will want to see/be made aware of full transcripts of marks across modules.

Re. training provider performance there is a danger that success of candidates studying with them will push up course costs if this data is published.

It would also be helpful to have transparency around the diversity data going forward to see if the assessment achieves the SRA's desired objective of widening access to the profession.

**19.**

## **17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

In terms of EDI, there's a bigger cultural piece which Government, the SRA and firms need to address more proactively to genuinely change the make up of our profession. Revision of the routes to qualification is not a "silver bullet" and it is still very unclear whether this will have a substantial impact long term. Regardless of the introduction of an SQE, many organisations will still seek evidence of high academic and other achievement from Russell Group Universities (as tried and trusted academic "brands"). If the perception of the SQE is that it is not sufficiently rigorous (rightly or wrongly), it may be counter-productive in the area of EDI, with firms defaulting to traditional recruitment methods, such as reliance on the quality of undergraduate degree education from Oxbridge and other highly regarded institutions.

Higher numbers of qualified solicitors applying for NQ roles as a result of passing the SQE will very likely also still require employers to look behind that qualification to other sources of academic achievement, work experience and extra-curricular activity to help differentiate candidates.

There is a legitimate concern that if no work-based learning element is retained as part of the overall SQE assessment, while there may be an increase in the number of candidates qualifying as solicitors in England and Wales, there will be insufficient roles for them to practice as an NQ on qualification. This simply moves the bottle neck from obtaining a training contract/work-based learning opportunity, to securing a qualified role since the profession can only support so many solicitors (although it is accepted they would still have the ultimate professional qualification, rather than just academic qualifications such as the GDL and LPC). We may increase the number of qualified solicitors, but many may need to source alternative careers because there is no parallel increased demand. This may impact candidates from less traditional backgrounds because they are less likely to have the "package" of skills, confidence and experience to differentiate themselves through recruitment processes. This is why the wider use of contextual recruitment, unconscious bias training and a concerted effort by the profession to change the status quo in terms of what we look for and who we recruit is overdue.

Without more clarity in relation to the anticipated costs of the SQE and the pre- SQE training that would be required by the market to support that, it's hard to comment on this in an informed way. The Alpha Plus report says the proposed assessments themselves are unlikely to support or hinder increased diversity and access of any particular group that share a protected characteristic. Alpha Plus also mention that the proposed assessment does provide an opportunity to monitor diversity and access more closely. Cost is one of the big barriers to accessing the profession and until we can compare current cost of the various qualification courses with any new regime, we can't be sure that the SQE will be cheaper. Although the SRA may not formally prescribe pre-SQE training, it is certain that this input will be required and that candidates and employers will pay for this to maximise successful outcomes. This has happened with the QLTS- so although you don't have to subscribe to the training courses, candidates do (often sponsored by employers) to ensure a pass first time.

The other aspect to consider is how confusing all of this will be for new candidates (particularly from less advantaged backgrounds) if new qualification routes are not clearly communicated and information accessible from the earliest opportunity. There will be a substantial piece of work to be undertaken with schools, careers advisers, colleges and universities, as well as within the profession, to help all stakeholders get to grips with any "brave new world". This will need to start early in the educational pipeline, particularly if the profession is serious about bringing new talent on board with legal apprenticeships from school leaver stage. There is an argument that being more flexible and "modular" about the ways in which candidates can obtain recognised training, e.g. through university sandwich placements (as in the engineering sector), law clinics and secondments, would improve access.

## **20. (untitled)**

### **18. Do you have any comments on these transitional arrangements?**

We don't yet know exactly what we might be transitioning to, so this is difficult to comment on at this stage.

As with any new regime, we will require clear transitional arrangements and for these to be well signposted to all stakeholders.

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

This seems like a long cut off date but we understand that this would be necessary to make provision for students studying part-time under the existing regime, resits etc. There will be a challenge for training providers who may be spread thinly while they try to launch new programmes to support learning for a new regime, while still running courses to support the current qualification routes.

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

No, it's highly ambitious at best and arguably unrealistic given the amount of very detailed work that needs to be undertaken to get this right. This is a root and branch review of a qualification regime which is not broken in the first place- the rationale for the change remains unclear to many. All stakeholders require sensible periods in which to review, digest and respond to the various consultations. Even large law firms generally have very lean teams dedicated to graduate recruitment and development. To engage us, obtain our views and practical input to build workable, rigorous frameworks for a new qualification regime will take time and we should take whatever time the profession needs to get this right if the aim is to "future proof" for a sensible period.

There needs to be detailed discussion of how any new SQE would be "mapped" to the internationally recognised Higher Education Framework (FHEQ), as highlighted by Professor Becky Huxley-Binns. There's been no detailed discussion re. the use of MCQs, which arguably do not properly test high level analytical skills, communication, organisation, critical thinking, balancing arguments and unprompted recall of information. There is also the work-based learning assessment element to consider in detail.

If as an internationally regarded profession we seek to preserve the integrity and high quality of the professionals we send out into the market, we should take the time necessary to collaborate fully on any review of our qualification regime. This should not be rushed through when the impacts for so many stakeholders are substantial.

## 2. Your identity

**1. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

No. At the present time the SRA have not provided sufficient information as to how they will assess the knowledge required by SQE

## 4.

**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?**

No, not on the information provided by SRA to date. There is very little detail in the documentation currently available.

It is stated that the assessment will be at Degree level although a Degree would not be required. This appears to dumb down the academic requirements to be a solicitor. Other professions require Degrees for entry.

## 5.

**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?**

Yes

## 6.

**4. With which of the stated options do you agree and why:**

c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

**Why...**

Difficult for many Firms or Employers to offer the experience in the narrow contexts mentioned to date by SRA

## 7.

**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?**

Yes. Seems a bit strange that a Degree will not provide some or all exemptions though

## 8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Yes. The practical experience is absolutely necessary. There is much more to being a solicitor and practising law than can be taught as an academic subject and successfully examined by the multiple choice system that is being suggested by SRA

9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

Yes. For a substantial period. If the time is not specified, many will fail to complete this important part of their training

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

No.

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

No. Work experience needs to be for a substantial time and to be formal. Not sufficient for this to be incorporated as part of a Degree programme.

A number of Employers could assist with broadening experience across a number of different areas.

12.

**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?**

Yes

13.

**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 1 and Part 2, to a specified performance standard?**

Not answering as an Employer

14.

**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?**

See 11 above

15.

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?**

Yes

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

Yes. However the current system, whereby it is the exception that non-Degree candidates become solicitors should be maintained

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

Yes

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

Both

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

Increase in costs if some Employers still require their trainees to undertake a Degree (whether or not in law), and then the SQE. Some Universities may not want to alter their law Degree courses to cover everything required by SQE so candidates will need to undertake additional study (at a cost) to cover everything in SQE

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

There will probably be a rush to qualify under the current system and too many candidates for the junior/trainee positions available

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

No view at the present time as not all information is available from SRA regarding SQE

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

Probably not



# Consultation - T4T assessing competence

Response ID:397 Data

## 2. Your identity

**1. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

Yes I do. I feel that it is incredibly important to be able to complete work based training alongside the academic studying

## 4.

**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?**

Yes

## 5.

**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?**

Yes in the name of consistency and to allow applicants to rely upon work based experience in addition to study but to ensure that specific entry criteria are met across the board

## 6.

**4. With which of the stated options do you agree and why:**

b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?

**Why...**

To open the process to more applicants with a wide spectrum of experience based learning

## 7.

**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?**

Yes

## 8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Yes I think this is of paramount importance

## 9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

No, I think this can differ and should be judged on the individual merits of a person's application

## 10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience**

instead of specifying a minimum time period?

Yes

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

Yes

12.

**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?**

Most definitely and this entirely justifies the increased burden

13.

**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 1 and Part 2, to a specified performance standard?**

I am not an employer

14.

**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?**

Not relevant to my position

15.

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?**

Yes

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

Yes

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

Most definitely

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

As much comprehensive information as possible in order to roll this out consistently and ensure that employees are fully aware of the requirements an candidate should meet

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to**

**introduce the SQE?**

NO

**20. (untitled)**

**18. Do you have any comments on these transitional arrangements?**

No

**21.**

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

**22. (untitled)**

**20. Do you consider that this development timetable is feasible?**

## 2. Your identity

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Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

It is too early to tell without specific detail. My concern is that candidates from more affluent backgrounds will be unfairly advantaged. Although, the current system is not perfect at least candidates have the possibility that their training contract and LPC costs will be picked up by a firm if they have good grades and a good degree.

## 4.

**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?**

No, I strongly feel that real life practical experience is required. I feel that I learned more skills during my training contract than I did through my qualifying law degree and LPC. There is no replacement for real life experience.

## 5.

**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?**

In principal, yes.

## 6.

**4. With which of the stated options do you agree and why:**

b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?

**Why...**

I think it is better to be educated in the areas that you wish to practice.

## 7.

**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?**

If the SQE will not include a training contract or equivalent then the standard should be set at a post graduate level.

## 8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Definitely. I think the workplace experience is one of the most important parts of training as a solicitor.

9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

Yes, although I do feel that there should be discounts for relevant qualifying experience.

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

No, I think that the training could vary too much between companies and result in a race to get candidates qualified.

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

Yes. Relevant work experience should be recognised.

12.

**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?**

Yes, I think the training contract system used now should be the basis for the new workplace assessment.

13.

**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 1 and Part 2, to a specified performance standard?**

N/A

14.

**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?**

No, I think a brief course for firms that wish to offer workplace assessment should be introduced so there is consistency across companies.

15.

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?**

I think that an entry requirement needs to be set for both of the above reasons. I also think that there should be limited resits in order to maintain a high calibre of qualifying solicitors.

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

Yes, in certain circumstances.

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

Yes

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

I think in relation to candidate performance only percentages of pass rates and grades should be published.

I think training provider performance is more difficult. It would be good to publish figures but I think that we would need to keep a keen eye on providers in order to ensure the standard is equal. I also think that the providers performance figures should also include the providers entry requirements if applicable.

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

I have grave concerns that affluent candidates will be able to pay for multiple resits, and additional qualifications which will lead to a larger degree of inequality amongst qualifying solicitors. However, if managed correctly, I think the SQE could open doors to a more diverse range of candidate.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

I do not think that any candidates that have already started an educational route should need to comply with new rules. For example, if a candidate has completed their LPC they should only need to complete a training contract in order to qualify unless they choose otherwise.

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

I think it is unfair for anyone that is waiting for a training contract, having met all of the other requirements under the current system.

I think that some arrangement should be made so that the affected candidates can receive an exemption from parts of the new system, rather than having to start again.

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

No, I think that the timeline will be a little tight and sufficient time should be provided to implement the change effectively.

## 2. Your identity

**1. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

I think that the current route to qualification is suitable and is producing Solicitors with the required skills. I am unsure therefore that there is a need for change. Certainly I think that the Law degree or GLD are essential to give aspiring Lawyers an adequate legal background knowledge and an opportunity to learn to think like a Lawyer that can not be gained by other means.

## 4.

**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?**

While a test as described may allow it the difficulty is that those taking the test will effectively train to take the test rather than become lawyers in the way the current system allows.

## 5.

**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?**

I don't agree with the SQE in itself, but if introduced everyone should be required to pass the test.

## 6.

**4. With which of the stated options do you agree and why:**

b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?

**Why...**

Although skill should be transferable the approach of having a broader context will enable better training "on the job" to be offered to potential solicitors, rather than those who just pay to undertake training courses to pass the exams.

## 7.

**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?**

Yes, I would agree.

## 8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Absolutely. It is essential to have such training. I believe that trainees learn more during this part of their training process than any other time.

## 9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification**

**workplace experience for candidates?**

Yes I believe this should be the case.

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

More guidance should be provided on the competencies, but these should be met during a minimum period of training.

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

Yes, any experience that allows a trainee to use their skills and knowledge in a legal context should be recognised as long as suitably evidenced and supervised.

12.

**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?**

Yes, As the training principle we would welcome work place assessment. At the very least it would allow us to provide a skill set that would be recognised by our trainees who may wish to move to other firms.

13.

**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 1 and Part 2, to a specified performance standard?**

I think with the correct guidance this would be a possibility.

14.

**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?**

At least a tool kit, It may also be wise to have training for those providing and designing internal training to ensure that the correct standards are met.

15.

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?**

I think specification for entry to the SQE are needed. This would improve credibility of the test and ensure that trainees do not just undertake a course to pass the test but are fully and properly able to practise as solicitors at the end.

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

Yes I agree. Not everyone who passes a degree has the academic ability and skills to become a solicitor, however there are those who do not possess a degree but with the correct training and guidance will be able to meet the stringent requirement of becoming a solicitor.

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**



NO I think this test should be a pass fail.

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

Training provider performance may be useful , but may also be counter productive with providers training people to pass the exam rather than training them to become solicitors, this is why the work place part of training is so important.

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

The issues I foresee is those wealth individuals would be able to undertake specific courses to undertake the SQE without other relevant training and potentially qualify and obtain employment easier. I don't think the SQR would result ins more access.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

I think all those currently on a route to Qualification should remain on that route.

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

None at present

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

No, it is likely to take a significant time to develop the new structure properly.

## 2. Your identity

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Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

No. We do not understand how the SQE allows for a more rigorous regulatory control rather than just working with existing LPC/PSC suppliers to assure that all students and trainees are being held to a consistent and comparable standard, whether this is through entry requirements onto the LPC, the content being covered, or the grade criteria.

We have concerns that the SQE system would in fact create a two- tier system of qualification that would reduce true diversity in the profession and potentially undermine the current system's global reputation for quality.

If the quality of the LPC is seen to be a problem, it would be preferable to sort out the LPC rather than introduce a route to legal qualification which is potentially more costly and will have very little positive or no impact at all on EDI and will lower legal qualification standards in the UK.

## 4.

**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?**

No. There is no clear information on what learning will be required, other than generic topic titles. Without having seen an assessment framework, it is not possible to determine whether this proposal will test the competencies effectively.

We also have some concerns about the fact that the SRA is not planning to benchmark the SQE against the Framework for Higher Education Qualifications (FHEQ), due to concerns about the consistency of degree results across the UK. This surely creates a situation where the SQE would be a free-floating qualification, making it difficult to assess its worth in the wider educational system.

The lack of restrictions on the number of times an assessment can be retaken, alongside the lack of time restrictions on the completion of all elements, does not seem to be a robust approach.

We are concerned about the use of MCQs in Part 1 of the SQE. We are not convinced that you can test written communication skills, thought process, problem-solving, research and evidence-gathering, and the ability to write convincing arguments by MCQs.

No grading of SQE means candidates cannot demonstrate higher abilities and does not encourage higher achievement.

## 5.

**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?**

It is very difficult to answer this question without understanding the content. We do not see any reason to support any exemptions.

6.

**4. With which of the stated options do you agree and why:**

b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?

**Why...**

We are in favour of a broader set of contexts and more flexibility. City law firms do not operate in even three areas of the reserved activities, making training an issue.

7.

**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?**

No. The LPC is post-graduate level which we deem necessary. Most major jurisdictions in the world specify a law degree as a minimum entry to qualification. If the SQE is set at graduate level, there is a real danger that UK lawyers will be under qualified compared to other jurisdictions.

8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Yes. We believe this to be an important part of the training period, and where trainees gain a significant amount of knowledge, both about their future workplace and their own strengths and weaknesses. It also gives them relevant experience that they can draw on post-qualification. Workplace experience is necessary for the protection of our clients, maintenance of standards and the protection of intending solicitors themselves.

9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

We think there is potential for more flexibility in the period of recognised training. It is an opportunity to potentially reduce the length of the training contract. However, we believe proper training for our junior lawyers is essential so we would devise structured training over a specified period.

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

For the sake of clarity and consistency, the SRA should specify both but give firms the flexibility to organise workplace experience for a period that suits their business needs.

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

No. There is currently no way to guarantee the quality of experience individuals would have received during a degree programme or through internships/vacation schemes. While this is valuable experience that individuals should draw on during the recruitment process and potentially later on in their careers, it would not be clear enough what they had achieved to count towards qualification.

12.

**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?**

No. Generally, good training, supervision, management and assessment of trainees is already undertaken

in City firms – anything further could have serious implications in terms of cost, regulatory burden and workplace experience.

13.

**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 1 and Part 2, to a specified performance standard?**

At the moment, there is not enough information in the consultation document to know what is expected of employers and what the burden would be (in both a regulatory and time management sense). Therefore, it is difficult to assess whether there would be capacity from an internal perspective to manage this. In principle, there is sufficient expertise to understand the competences required, but we would not want to commit without further exploration of the shape of the assessment.

14.

**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?**

We would welcome a toolkit of guidance and resources. We would need examples of what good and bad examples look like, and a series of exercises to understand what individuals should be looking for.

15.

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?**

Yes to both. Specification for entry requirements for the SQE is important. Without a degree or degree level entry, the SQE will be seen as a tick box exercise which anyone can pass if they are good at MCQs. Without any restriction on the number of retakes, a poor candidate may eventually pass the SQE without having the competences it is designed to measure. Other jurisdictions (e.g. New York) not only specify entry requirement for their SQE equivalent exam, their entry requirements are post-graduate law degree. Without a regulated training market, the SQE will not be seen as credible, which could lead to reputational issues related to the status of solicitors' qualification in the eyes of consumers of legal services.

Without regulation of pathways, there is risk of creating a two-tier education system where the more expensive and more highly regarded pathways emerge as the gold standard and cheaper/shorter pathways creates an underclass in the profession.

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

For our organisation, it is likely that we would continue to require a degree, to ensure consumer confidence in the high calibre of individuals working at the firm. We believe that a degree is a good indicator of high academic standards and we think it plays a good role in ensuring the credibility of solicitors. In the context of other professions in the UK, increasingly other professions, such as nursing and the police, are looking at requiring a degree level qualification, not just an assessment. It is necessary that qualifications at degree level form pathways into the profession, in order to assure standards and the reputation of the profession, both domestically and internationally, in addition to the proposed assessments through the SQE.

We will continue to expect an academic minimum standard, regardless of changes to the qualification pathways.

17.

**15. Do you agree that we should provide candidates with information about their individual and**

## **comparative performance on the SQE?**

Yes, it is fair to give them information about the individual and comparative performance. This information should also be available to employers. The consultation implies that the SQE will be pass or fail alone – this does not give employers enough information to distinguish between candidates during recruitment. Any further information about performance during the assessments would be helpful.

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

It would be useful to provide pass mark data.

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

While we can see that the SQE is intended to make it easier for people from a broader range of backgrounds to enter the profession, we feel it may actually serve to reduce diversity because:

- Part 1 and Part 2 will still need some level of preparation which will be provided on a commercial basis. The preparatory courses are likely to be of varying quality and priced accordingly. Students who are able to pay more will have access to better quality preparation.
- It is unrealistic to think that people with more challenging economic circumstances will be able to sit the tests a number of times. Again this route will only be available for those who are able to pay.
- Ability to meet the technical standards to become a solicitor is only one part of what law firms are considering when they are looking for people at the entry level. These other requirements will not change regardless of the system of testing technical ability and in fact may be given more weighting in the recruitment process if firms do not have the comfort of having some control over the technical development of those at the entry level. This is likely to serve people from a more affluent background.

We believe that there are social and commercial benefits to opening up the profession to people from a more diverse range of backgrounds. We also believe that it is important that the standards of the legal profession are maintained and those entering into it should have a fair access to the same quality of legal training regardless of their background. We have concerns that the SQE system would in fact create a two-tier system of qualification that would reduce true diversity in the profession and potentially undermine the current system's global reputation for quality.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

Significant issues are raised which will require an entire review of strategy. At the moment, there is insufficient information to allow for detailed comments.

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

The current timetable is tight. There is insufficient time allocated to the design and delivery of the SQE, work place assessment and students transitioning from one route to another.

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

As the SRA does not expect to appoint an assessment organisation until summer 2017, the 2018/19 roll-out is a cause for concern. This does not give sufficient time for the assessment providers to fully pilot the assessments and build up a suitable bank of questions, nor for courses to be developed for these

assessments.

There is no information on whether there will be a consultation on the draft Assessment Framework document.

Additionally, the proposed development timetable focuses only on those aspects of the process that are being led by the SRA. It does not take into account the ability of stakeholders and external organisations to prepare for new qualification requirements. This will take a significant amount of time and require large-scale adjustments for the firms impacted by this.

In conclusion, the development timetable does not appear to be feasible.

## 2. Your identity

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## 3.

**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?**

No. We acknowledge that a centralised assessment may be appropriate in some form in conjunction with work based training, but would oppose any system which could end up with people becoming solicitors with little academic requirement, e.g. degree, or limited work experience in a legal environment. Being a Solicitor is not just about passing an exam. We feel that the current two year period of recognised learning supports our trainees development in these areas and it is simply not possible to learn behaviours solely from a book.

There is a real risk that the introduction of the SQE will lead to 'crammer' courses designed purely to enable the candidate to pass the exam rather than preparing them to be solicitors. In a market where students can simply pay to attend such a course it is unlikely that paragraph 10 will be achieved. Such a route will not encourage the development of new and diverse pathways to qualification which are responsive to the changing legal services market and which remove artificial and unjustifiable barriers.

Also, we wish to state our concerns in the format of the consultation paper. We feel its length and complexity will discourage proper feedback and therefore consultation. In particular the questions are too narrow in scope and consequently prevent open consideration.

## 4.

**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?**

It is not possible to determine whether the SQE will provide an effective test of the competencies needed to be a Solicitor from the information provided. We would like to find out the following before we could answer this question:

1. What form of training will take place prior to assessment.
2. Will results be limited? If so, to what number?
3. Will there be any time limit to pass / complete each module before passing the final assessment?
4. How will applicants be assessed and who by?

## 5.

**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?**

With a view to widening access to a career in England & Wales we believe that exemptions from the proposed SQE should be taken in to account.

## 6.

**4. With which of the stated options do you agree and why:**

## Why...

A combination of b) and c). Considerations should be given to a broader number of contexts e.g. employment, family, media and technology. This would increase the practical relevance of a SQE. We note that this might be difficult for some firms to support, so is going to require some form of training. This has a costs impact and may therefore reduce the possibility that firms will recruit intending solicitors, and / or that aspiring solicitors will be able to fund themselves to train. Therefore this could favour students who are able to access funding.

7.

### **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?**

YES. The role of a solicitors requires intellectual capability in line with at least graduate level. This is imperative to the reputation and brand of the profession and would be in keeping with the Bar Standards Board who have indicated their intention to keep the undergraduate degree as part of their route to entry.

8.

### **6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

YES. Without exception, pre-qualification work based learning should be substantial and should be undertaken in a regulated legal environment. In addition, any work based experience should be supervised by a Solicitor. Considering the skills and competence required it is difficult to envisage how experience in any other work environment could appropriately compare to qualify as a period of recognised work based learning.

We believe it would be important to retain a requirement for work based experience in more than one practise area. This would help ensure trainee solicitors improve their employability prospects upon qualification and ensure they are able to fully service the needs of clients, i.e. consumers.

It should also not be underestimated the skills which are learnt by trainee solicitors in a working environment such as office etiquette, communication, organisational, time management and customer service skills.

9.

### **7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

YES. There should be a minimum time period coupled with requisite competencies to be achieved. There is simply no substitute for work based learning in a legal environment. Certain skills, knowledge and experience can only be gained by on the job learning, as previously mentioned in Q6.

10.

### **8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

A combination of both. It should be viewed that the competencies would only be met over a specified period of time.

11.

### **9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

In order to widen access to a career in law we believe pre-qualification workplace experience could be obtained from another employer. However, we do not believe it could be obtained from another employer. However we do not believe it could be obtained whilst in full time education i.e during a degree programme.

12.



**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?**

We believe that workplace assessment would enhance the quality of solicitors on qualification however we cannot answer this question in full without understanding what the additional cost might be.

Workplace assessment, such as the current professional skills course is an effective way to train intending solicitors.

13.

**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 1 and Part 2, to a specified performance standard?**

Shoosmiths is an employer. We recruit around 60 one-week placement candidates each year and 22 trainee solicitors.

Whilst under the supervision of an experienced solicitor we believe we can adequately assess the competencies for trainee solicitors, by using a variety of methods including regular appraisals and formal training and guidance.

14.

**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?**

Yes and this would be important to ensure all firms remain consistent in their training and assessment.

Workplace assessment should be part of the pre-qualification work-based learning.

We have some concerns about how smaller firms will be able to manage this without considerable guidance.

15.

**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?**

Without clear pathways it will be difficult for aspiring solicitors to make an informed choice regarding which path to follow. This could significantly weaken the standard and ultimately devalue the profession. Those from a poorer background might be forced to choose the lowest cost option and then find that money has been wasted if they are not adequately prepared for the SQE and / or employment on qualification.

Students who are less informed or ill advised will be at risk of being severely disadvantaged.

The SQE must also ensure it offer a sufficiently high standard to identify those who do not have the necessary intellectual capability and skills to be a successful solicitor. Legal education and training needs to suitably robust to protect the reputation of the profession and to protect consumers, whilst avoiding any negative impact to equality and diversity.

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

We are committed to widening access to a career in law and have a wider commitment to diversity, inclusion and social mobility.

Alternative routes to qualification (i.e. without a degree) could be available by should be at an equivalent level to a degree. We do not want to support a two tier route.

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

Feedback is an important part of the learning process. As an employer we aim to provide all candidates with some level of feedback; a small amount at application stage to comprehensive feedback on performance at an assessment centre.

The SRA should support the development of those trying to access the industry by providing feedback on the SQE.

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

- a) We do not think overall performance for candidates should be publicly published. But candidate should be prepared to evidence their pass (or grade/ score/ mark) when applying for roles.
- b) More information required to answer fully.

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

We are concerned that introduction of a SQE will actually increase the cost of legal education and training rather than decrease it. It is noted that it is not yet known how much the SQE will cost and training will be required to enable one to pass the SQE. In addition, we understand that there will be no Student Finance Loans available for the SQE which creates a further barrier for those from poorer backgrounds. It is likely, and indeed has been identified by SRA research, that some employers will still require that intending solicitors follow the traditional route of degree and LPC. This risks creating a two tier system where only the more affluent candidates will be able to afford the 'gold standard' route and, as such, have an increased chance of passing the SQE, of obtaining work based learning opportunities, of achieving employment on qualification and/or better paid positions.

It is therefore not clear how the stated position of employers that they will require LPC and Degree will fit with the move towards the SQE – it seems that there will be a real dilemma for students, particularly if they are able to take SQE subjects at different points, where some firms may disfavour them for having done this, whereas other firms will be looking for SQE competencies as a recruitment requirement.

In addition, unlimited re-sits would create a bias towards more affluent candidates. Furthermore, unlimited re-sits do not sit comfortably with the objective to drive up the standards to enter the profession.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

We believe there should be a transitional period where students who have completed (or are currently studying) the GDL and/ or LPC will not be disadvantaged.

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

We are unable to comment on this until further clarity around the proposed route and transitional arrangements are published.

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

More clarity required before comment.

## 2. Your identity

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Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

It could do if properly thought through in conjunction with the whole of solicitor training.

## 4.

**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?**

No---there needs to be a work-based assessment as well.

## 5.

**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?**

Yes

## 6.

**4. With which of the stated options do you agree and why:**

a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?

**Why...**

## 7.

**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?**

What is equivalent? there should certainly be minimum academic requirements.

## 8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Yes, that is where most solicitors learn to be solicitors.

## 9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

Yes

## 10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

Yes

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

AS long as it's in a legal context or under the supervision of a solicitor

12.

**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?**

Yes

13.

**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 1 and Part 2, to a specified performance standard?**

Not applicable

14.

**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?**

Perhaps, as long as it was comprehensive and it was clear what the expectations were.

15.

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?**

I do

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

They are not required to at the moment.

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

No

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

Pass/fail percentages

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

I can't see anything here that would make it less expensive for students.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

Current students should be waived from the exam and allowed to qualify by usual routes

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

Seems far enough in the future.

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

Ask the legal education providers...

## 2. Your identity

**1. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

No. For Part 1 it is unlikely that computer based tests alone can provide a high standard of assessment. The weight of evidence suggests that a variety of assessment methods are required to ensure a high standard. Whilst wealthier students and those sponsored by firms may benefit from a wider education akin to the current LPC, there is a risk that those from less well- off backgrounds will simply cram for MCQs. This cuts against the objective of removing artificial and unjustifiable barriers to entry to the profession. For Part 2 the problem is that the assessment is too late in the career of potential solicitors. They may have expended considerable time and money and then fail at the part 2 stage. Why not have the skills based assessments earlier. Of course this is what happens on the current LPC system.

## 4.

**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?**

No. Part 1 Computer based tests test objective knowledge well. However there are many other aspects of legal training which are hard to assess in this way. These include assessing risk, providing best advice in certain adverse circumstances, or advising defensively where the law is uncertain. Computer based testing is not a good simulation of how clients present themselves (i.e. without a list of possible correct answers). There is a significant risk that some students pass computer based test by luck (or by training to pass them) and some will fail through lack of computer based test techniques. The risk is that unsuitable students may move on to the part 2 and talented students will be prevented from moving to the part 2.

In contrast to this the current LPC uses a variety of assessment methods including simulated clinical style assessments which attempts to replicate the work of a trainee. This is much more likely to provide effective tests of competence.

In respect of the part 2, this is a good way to test competence however I repeat my concern that it will be too late in the career of many potential solicitors and you may not get to test them if they fail their part 1 for the reasons set out previously.

## 5.

**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?**

This question is, of course fundamental. The proposal appears to disregard the government's view that the QLD is generally good, the LETR which took the view that the current system was not broken so was in no need of a fix and many in the profession who have had significant input into the current LPC.

Why make such a radical change to legal education when there are perfectly good non-graduate routes into the solicitors profession (legal executive route and legal apprenticeships)?

## 6.

**4. With which of the stated options do you agree and why:**

## Why...

There is a basic problem with all the options. The reality of the modern profession is that solicitors' work is diverse and niche for the majority. The SRA's commitment that part 2 of the SQE comes after the 'Period of Recognised Training' is likely to mean that any assessment is unrealistic or inappropriate to the work of a particular candidate. It will require coaching to the assessment and those who do not receive the coaching will be at an artificial disadvantage compare to those that do. In addition if the areas of law examined are made more diverse then how would the assessment be consistent across the different areas? These problems would be avoided if the part 2 elements could be assessed earlier. This is of course is what happens on the current LPC.

7.

### **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?**

Assuming that one accepted the need for the SQE (which I do not) it should certainly not be below Masters Level.

8.

### **6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Yes. The final part of the qualification process needs to be work based training. For two reasons. Firstly it seems risky to allow someone without work based experience to be allowed to work unsupervised on client matters. Secondly training future employees is cost effective for the firms (otherwise they would not do it).

9.

### **7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

Yes. For the sake of consistency.

10.

### **8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

No. It is good for trainees to see a variety of work and to gain experience of office procedures before qualification. It would be tempting to qualify earlier/ force trainees to qualify earlier if that were an option. There is a significant risk that standards might fall if this were allowed.

11.

### **9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

Yes. This would encourage diverse methods of qualification. My only caveat would be that systems must be in place to ensure that the portfolio of relevant work experience is assessed before qualification.

12.

### **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?**

Possibly, but it depends on the extent of the assessment. However, as I mentioned above this is too late in a candidate's career. I would prefer to let the market decide by employability criteria.

13.

### **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 1 and Part 2, to a specified performance standard?**

n/a



14.

**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?**

n/a

15.

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?**

Yes. There must be clear pathways to qualification. It is what the public expect and creates standards. It helps candidates. However they should continue to be diverse. See my answer to Q14 below.

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

There is no reason to get rid of the QLD as a route to qualification. I think that diversity in the kinds of law degree student might take should be encouraged. They could be academic, practical, vocational or a mixture of some or all of these. That is a matter for institutions with DAPs and students to decide.

However other routes to qualification should remain available: legal executives and apprenticeships

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

In the interests of transparency I think that you will have to. Firms will demand it.

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

You need to give students a grade or their mark.

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

There is evidence that computer based testing discriminates against women and those with learning support needs such as dyslexia. There is also evidence that they test ability to do the test rather than competence. Diversity and barriers will be affected if those privileged students can be coached to pass the test and non-privileged students are not.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

The timetable appears to be a rush

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

This will affect those students from diverse back grounds who take a longer time to qualify and may find that the goal posts have changed.

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

This is difficult to assess. The amount of development work will depend on the final proposal.

## 2. Your identity

**1. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

I/we have a specific confidentiality requirement as follows.:

## 3.

**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?**

No. We have concerns that the SQE may not ensure the quality of standards for all intending solicitors. We believe that students may be able to revise and pass assessments without necessarily gaining the real hands on experience that will make them good lawyers. There is a real risk that the SQE will devalue the on the job experience as trainees will (a) stress about the SQE and (b) need to have time off for the exams. In terms of diversity, the SQE will likely do the opposite, leading to a two tier profession - those who have passed the SQE and those who gain a good solid training experience and passed the SQE.

## 4.

**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 do not feel the proposed SQE will provide an effective test of the competences required to be a quality solicitor. Multiple choice questions are not a sophisticated enough method to assess a trainees full understanding the law. We feel part 2 of the assessment will narrow the experience of our trainees and is not a true reflection of the work we would require our trainees to do. For example, as a firm, we would struggle to give our trainees sufficient experience in wills and probate, but meanwhile, some of our more specialist practice areas, for example IP, professional regulation, financial services, derivatives, and competition will not assist trainees in passing their SQE2.

In addition, allowing trainees sufficient time off to study for the SQE once they are working is going to be unrealistic in a City law firm. It will diminish the appetite of some firms to take on trainees at their current levels.

## 5.

**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?**

We agree that all intending solicitors should all possess the required competences and knowledge to qualify as solicitors, but the SQE does not seem the best means to ensure this quality.

## 6.

**4. With which of the stated options do you agree and why:**

b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?

**Why...**

Experience in practice areas will help candidates practice the skills and knowledge to pass the assessments and a broader number of contexts would be more useful and applicable to our firm. As a firm, we would not be able to offer quality training in Wills and Probate, but we would offer quality training in

more niche areas such as IP and Technology, Professional Regulation, Competition, Finance and Derivatives. The suggestion in the consultation that some firms should instigate expensive training and secondments to gain this experience just shows how impractical and unnecessary such a limited range of contexts for SQE2 is. It does not reflect the current legal profession's activities.

7.

**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?**

We feel it should be assessed at least at graduate level, preferably post graduate. Fieldfisher recruit school leavers to progress through their CILEx qualifications. After 18 months - 2 years, they have not developed the skills and knowledge to be quality solicitors. This has taught us that at university, graduates not only learn theory, but they develop key skills, such as analysis and organisation, that are critical to a career in law.

8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Most definitely. During a period of recognized training, trainee solicitors learn how to be quality solicitor who can communicate legal issues to clients whom they have developed strong relationships with. Classrooms alone can never match the quality of work-place experience.

9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

There needs to be a minimum time period to ensure all qualified solicitors have a good standard of on the job training. A period of 2 years is working well for Fieldfisher at the moment.

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

The SRA should specify the competences to be met in workplace experience, but this should not be instead of a minimum time period. Training sessions, trainee diaries and appraisals can help trainees practice and develop these competences.

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

If a wider range of pre qualification workplace experience is considered, the SRA are going to need to ensure this experience has developed the key skills and knowledge to be a successful lawyer. We feel that a degree and SQE1 should be passed before the required period of pre qualification workplace experience commences.

12.

**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?**

Both the SQE and workplace assessment will mean that firms need to invest more time and money into training solicitors. Firms already invest heavily in trainees to ensure they are the high quality solicitors that will move the firm forward in the future. By introducing additional costs and regulatory burden, firms will be discouraged from training their own solicitors and will instead recruit post qualification.

13.

**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 1 and Part 2, to a specified performance standard?**

We believe we would have the expertise. The concern is that there will be imposed additional burdens (time and cost) that will not have any real merit.

14.

**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?**

Yes

15.

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?**

Yes. We would support that there are specified entry requirements for the SQE, such that all potential candidates are of degree-level (even without having necessarily taken a law degree). A step, such as the GDL, for non-law graduates, should be retained.

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

To help improve the diversity of the profession, not all solicitors should be required to hold a degree, however, this is already in place and allows an alternative route. You do not need a degree to qualify as a legal executive, but this route has a longer period of work based training. After 5 years of legal work experience, legal executives can then cross qualify as a solicitor. A period of 18 months - 2 years would not be a sufficient time period for school leavers to develop the skills and knowledge to qualify as a solicitor.

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

Candidates would need to know what to expect and they should be given feedback by the SRA, in particular in relation to SQE2.

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

It would be helpful to know pass rates.

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

We believe that the introduction of the SQE is going to have a negative impact on EDI. Firstly, we believe that if potential solicitors can resit the SQE provided they pay for it, wealthy students can resit the SQE many times until they can qualify. We also feel that the SQE will develop a two tier profession, those who have focused on passing exams and are academically sound but poor in practice, and those who have developed key skills via on the job training.

Firms have put a lot of effort into developing diversity programmes and are making headway in improving the diversity of the profession. By increasing the cost of qualifying (SQE, LPC, PSC etc), firms are likely to take on fewer trainees and invest less in their diversity programmes.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

We are currently recruiting trainees to start their training contracts in 2018. Neither students nor employers know what they will need to be studying to qualify as solicitors. This level of uncertainty is unhelpful.

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

Yes, but a lot of time and effort is going into the creation of a new system that does not seem to improve the system we have in place nor does it resolve the supposed challenges in place. Clear transitional arrangements will be essential.

## 2. Your identity

**1. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

No, the introduction of a central exam does not assure consistent high quality standards. Actually it does the reverse - high quality standards are achieved through training, attrition and experience over years and cannot be traded in for an exam (no matter how large or how many modules it covers). Entry into the legal profession is earned and those able to simply regurgitate textbook sections or successfully guess answers in order to pass exams do not belong in the profession. The LPC and law degree allow the top candidates to become lawyers, but a central exam will diminish the title of Solicitor.

## 4.

**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?**

No - a central exam does not substitute for years of hard work and the ability to practice effectively.

## 5.

**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?**

The SQE should not be introduced per my previous answers. Therefore the question is moot.

## 6.

**4. With which of the stated options do you agree and why:**

**Why...**

I do not agree with any of the stated options - the SQE should not be introduced. Many organisations have objected to its implementation and I firmly stand with them.

## 7.

**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?**

Irrelevant - the SQE should not be introduced and if it is, the level at which a central exam is set should be so high as to equate to 6 years of very difficult university work i.e. above PHD level & beyond graduate level (practising professional level).

## 8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Some form? If you are going to allow individuals to simply sit a central exam (even in parts) then all should have to go through a training contract to compensate for the time other trainees have persevered (i.e.) a training contract of at least 5 years.

9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

Yes, at least 5 years and such workplace experience would also have to be regulated. Simply to shadow a solicitor should not entitle people to enter the profession (even after a 'supposed' central exam)

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

This is based on the assumption that a central exam is preferable - it is not. Therefore the answer to this question is also conditional. It does not matter which approach you choose if a central exam is introduced - the damage has already been done and those entering the profession on the back of passing the exam will certainly not be the best candidates to become Solicitors.

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

Recognition of experience is important and such experience cannot be quantified in an exam no matter how diverse the questions or assessment criteria are. Similarly, the ability to work with a range of employers followed by a central exam in isolation should not allow individuals to become Solicitors.

12.

**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?**

Yes - the training contract (despite potential inconsistencies) is useful and allows future lawyers to gain experience in areas which they might practice. However, my objection to a central exam still stands.

13.

**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 1 and Part 2, to a specified performance standard?**

Yes, however you are asking the wrong question (again). How will employers be able to assess a candidate in interview knowing that they have simply passed a central exam and have not gained the experience through a degree, followed by an intensive post-graduate course? Answer - poorly. I feel very sorry for employers who might have to undertake this task if a central exam is introduced.

14.

**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?**

I cannot answer this question because you are proposing a system which is already enforced. It is the training contract and it is assessed by employers (including the PSC). Such a system has been in force for a number of years and is successfully putting lawyers in 'real life' scenarios and training them to achieve excellence.

15.

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?**

No - the current system is working well and your conclusions are based on false inferences.



**16. (untitled)**

**14. Do you agree that not all solicitors should be required to hold a degree?**

Yes, but they will have had to complete an equivalency and a central exam is not even close.

**17.**

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

Irrelevant - the SQE should not be introduced.

**18.**

**16.**

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

Irrelevant - the SQE should not be introduced.

**19.**

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

Yes, diversity is excellent but not when it compromises the ability of professionals. To clarify - to allow those from an ethnic minority to enter the profession is promoted but not if they are incompetent and cannot perform successfully as Solicitors. The central exam will not separate those who can and can't successfully practice law.

**20. (untitled)**

**18. Do you have any comments on these transitional arrangements?**

Yes - the SQE should not be introduced. It is going to diminish the title of Solicitor and allow a large number of people who are not competent to enter the profession.

**21.**

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

The main challenge is the disapproval and petitioning faced if the SQE is introduced. Should this happen I will stand with those who want the SQE abolished.

**22. (untitled)**

**20. Do you consider that this development timetable is feasible?**

No. There should be no timetable as the introduction of a SQE would be a travesty.

## 2. Your identity

**1. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

It would have been helpful to have the objectives in para 10 here to see.

I do not agree I am very unsure as to whether the introduction of SQE would achieve the objectives in para 10 and also I have concerns about its possible negative impact on diversity and equality in the profession were it to be introduced in the proposed form.

It would make sense to better regulate and moderate the current legal education providers than to 're invent the wheel' with the SQE

## 4.

**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?**

I have grave doubts as to the use of multiple choice questions as a way of examining legal knowledge. The new exam is similar to the current exams and qualifications. I can see that one exam board for all might be beneficial but it would have been helpful to see a sample exam before passing judgement

## 5.

**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?**

As the apprenticeship programme is still quite new it is hard to say whether those studying and qualifying via this route should take the SQE.

The apprenticeship scheme would on the face of it seem to encourage diversity in the profession and has been well thought out, so unless the SRA had grave concerns over the quality of the trainees and the process, then I would question the need for those qualifying via this route to take the SQE

## 6.

**4. With which of the stated options do you agree and why:**

**Why...**

I am unsure of what is being asked here.

## 7.

**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?**

If an SQE is introduced it should be set at least at graduate level

## 8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Yes

9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

This would be dependant on the candidate. if overseas solicitors had worked in a fully qualified legal role for some years prior to taking the SQE then maybe they could be overseen for a short probationary period of 6 month to one year.

Paralegals who have worked for a relevant period could be exempt if they were deemed to be of an adequate standard by their training organisation/firm

Overall I would still feel that there should be a period of pre qual work experience to ensure the person was of the required standard

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

That would make sense although it would depend on what the specified competencies were. It would have helped to have a clear idea of what these were before answering. It is vague in its current form here

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

Yes, as long as it could be verified then this would make sense

12.

**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?**

It seems incredible that this is not already taking place.

13.

**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 1 and Part 2, to a specified performance standard?**

N/A

14.

**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?**

N/A

15.

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?**

There are two matters here.

1) Prescription and regulation and 2) entry requirements

1) prescription or regulation seem vital to protecting consumers and

2) entry requirements - does this mean before taking the SQE?

It is unclear to me as to what this question is asking

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

If they have an equivalent qualifications and the necessary aptitude which must be proven, then I could see that not having a degree could be possible although I think this would most likely be the exception

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

I am wary of this aspect as those who have struggled and had mitigating circumstances during their studies and have still passed would still be at a disadvantage. I am sure prospective employers would still cherry pick and use this as a means of doing so. I am unclear as to the benefit of this.

I do understand the principal of the idea which isn't necessarily all negative but I would be surprised if it were not used in a way that stopped diversity

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

I would not wish to see overall candidate performance on the SQE being published unless this was done anonymously.

I think it is vital that information should be published on training provider performance. I was shocked that this was not already being done.

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

Yes. I think it has the potential to setback the limited progress that has been made in EDI

I think this needs very careful scrutiny before the proposed SQE gets to fruition

More in depth consultation needs to be done with representative EDI groups in a timely fashion so that they have more time to reply to such questions.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

More time needs to be given to the design and fabric of the SQE. The proposed changes are too soon. To be properly implemented it would need more time to avoid it being put together in a rush and so a SQE which had been cobbled together, would consequently lead to further problems.

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

there could be problems for those who have been unable to find a TC for domestic reasons. Carers, and people with disabilities and health problems

22. (untitled)

20. Do you consider that this development timetable is feasible?

No it is too rushed

## 2. Your identity

**1. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

The simple answer is no. There is no need to introduce SQE as current pathways to the profession are not broken and merely need some fine tuning. This fine tuning combined with more focused involvement from the SRA to ensure standards of education and training are consistent and at the right level would work just fine.

## 4.

**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?**

Once gain the answer is no for the reasons stated in answering 1. In addition without knowing what the assessment framework is and having no clarity on how work place experience, a fundamental to complete Part 2, one cannot say if SQE is an effective test. Furthermore the fact you are proposing to allow an individual to can keep failing assessments and take as many retakes as they like seems to be a very poor standard of effectiveness to qualify.

## 5.

**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?**

Fully concur that there should be a consistent standard to entry into the profession. Those pathways already exist and just need to be fine tuned and regulated to an acceptable standard.

## 6.

**4. With which of the stated options do you agree and why:**

a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?

**Why...**

Based on the experiences of colleagues who are in the profession and reading the many articles published on the subject. In addition my own experience as a management trainee in another profession was that we had targeted training and education.

## 7.

**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?**

There needs to be a challenging minimum standard. It already exists in the current pathways. There is no logic to trying to create a degree equivalent that will have no benefit and reduce in value the current pathways and the standing of the title of solicitor on the global stage.

8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

It is a fundamental requirement for entry to the profession. Furthermore for the SRA to have not addressed this first as part of this stage of the SQE consultation is a significant flaw in the process.

9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

One of the key justifications for the SRA expending considerably time, resources and expense on the introduction of SQE is the need for consistent standards. It would therefore be very odd for the SRA to not clearly define the minimum requirements for workplace experience, including time.

It is disappointing that the SRA do not properly regulate the current workplace training requirements and work with firms to achieve consistency - a simple area to address without the need for wholesale and unjustified change.

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

It makes perfect sense to map out what is to be achieved but there needs to be a time limit.

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

The scope of the SRA Competency Assessment has been in existence in other sectors for many years. As such many of the skills are already there e.g. in Investment Banking.

However it would be a stretch to say that you can enter the profession without first gaining exposure to working in the legal environment.

12.

**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?**

The SRA have failed to explain how one can pass Part 2 of SQE without workplace experience. The fact the SRA do not properly regulate the current workplace experience is disappointing.

Without providing more detail it is not possible to debate the costs and benefits.

13.

**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 1 and Part 2, to a specified performance standard?**

Not Applicable.

14.

**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?**

The question implies that the SRA is unsure about the need for a guidance toolkit etc. That is very troubling. The SRA can't seriously be thinking of introducing SQE and then walking away?

15.

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?**

The current pathways work. As indicated before there is a need for some fine tuning and fundamentally for the SRA to execute its obligations as a regulator.

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

It is important that there is a minimum standard of education and the degree is recognised as such and works in the current pathways.

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

It is important to know you passed or failed. The value of "I did better than the others" is a sad outlook on life.

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

There is value in knowing if a process is working, to understand why if it is not and to fine tune as appropriate.

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

It is good to see that the SRA is taking EDI into consideration. It is unclear how SQE will deliver change as the SRA has not explained in detailed how things like workplace experience and the cost of SQE will work.

If I am from a disadvantaged background and can't afford to get a degree, LPC and a training contract how is SQE going to solve all that? I will still be disadvantaged and have the same challenges.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

Individuals who have started a degree course should be given a guaranteed waiver.

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

If the SRA presses ahead with SQE they need to give maximum flexibility and not constraint people who have started courses in good faith.

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

No. There are so many things the SRA have not clearly mapped out in detail e.g workplace experience and the assessment framework that to set an implementation date of 2018 is just not credible.



## 2. Your identity

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Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

The SQE as a concept could, in theory, be a fair and consistent way to ensure consistently high standards at the point of admission to the profession.

Furthermore, we agree in principle that a degree in itself does not guarantee that someone will become a successful lawyer and that such a blanket entry requirement restricts access to the profession.

However, we are being asked to support a proposal in which so much crucial detail is missing. It is essential that quality and standards be at the heart of any new admission test, but the pre-requisite for our support must be a rigorous and appropriate SQE that is set at the right level of difficulty and appropriately tests the relevant skills to maintain quality (analytical skills, ability to construct arguments etc). We have quite serious concerns about the suitability of multiple choice questions to test such skills and also doubt whether simulated scenarios will be able to fully and robustly examine students to the breadth and depth required. We have not seen any evidence to assure us that the SQE would maintain consistent and comparable high quality standards, as the SRA is aiming to achieve.

We do not support the proposal for unlimited retakes of the SQE. If the aim is to ensure consistently high standards, it should not be possible for an individual to qualify because they have simply persisted long enough to become familiar with the examination technique and answers sought. There should be a cap on the number of retakes, in line with current arrangements for the QLTS.

We would only be willing to consider supporting the removal of the requirement for a degree and the introduction of the SQE if these concerns are fully and appropriately addressed first.

## 4.

**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?**

This is a very difficult question to answer without more detail, which has not been made available. The model described in paragraphs 38 to 45 is very high level so it is difficult to see what it is about the SQE that means it will fully and appropriately simulate the real demands of practice.

As mentioned in question 1, we doubt whether a multiple choice test as an examination method is able to rigorously and thoroughly test the competencies and skills required of a solicitor, such as analytical thinking, constructing an argument and advocacy.

As for Part 2 of the SQE, scenario based testing will surely lack the complexity and subtleties of a transaction a trainee may experience in practice. Without being education and examination experts, from our perspective it would seem very complicated to fully simulate a real transaction, but without this assurance and detail, it is difficult to support the proposed model

## 5.

**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?**

If there is to be a central SQE with its stated objectives of ensuring consistency and comparability at the point of admission, it would seem contradictory to continue to provide exemptions.

6.

**4. With which of the stated options do you agree and why:**

a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?

**Why...**

We do not foresee issues in meeting the requirements of option A within our firm in terms of providing training for trainees, but this could prove challenging for much smaller firms. We would envisage that those firms who are not able to meet the 5 assessment contexts stated in option A would then require support from an external provider, which could then result in courses preparing trainees to pass the exam (similar to the Litigation Training Course). Surely this goes against the stated aim of ensuring high standards and consistency and results in the same issue of academic ability versus applying the knowledge in practice.

We do not see how option B would be viable, as this must make the assessment costs far greater and also mean knowledge is not necessarily tested in core areas.

7.

**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?**

Trainees currently begin the training contract at level 6 (graduate) and are admitted to the roll at level 7 (post graduate). In order to maintain the current high standards in the profession, the SQE as the point of admission (or at least Part 2) should be set at post-graduate level. We see no need to downgrade this.

8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Workplace experience is crucial to the development and training of solicitors and we support retaining a requirement for this prior to qualification. Workplace experience is essential to the development and application of learnt knowledge and skills and it is not uncommon to see trainees who are academically capable but who take some time to adjust to the world of private practice. Workplace experience also provides a safe environment in which to learn from mistakes.

9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

Whilst workplace experience is essential, any period of time chosen would surely be arbitrary as all trainees develop and progress at different speeds. Some will be ready to qualify much earlier than the current 2 year time period but others might need longer.

That said, to ensure that workplace experience is gained to a sufficient standard, it would seem appropriate to specify a minimum term. It is likely that to gain the benefits of the work environment, a period of 12 - 24 months is most suitable.

However, the concerns raised about the validity of the SQE also mean we would be cautious about having no minimum time period until the SQE is proven to work

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

See comments under question 7. In theory specifying the competences to be met during workplace experience is a logical approach to take, but there would likely be some who would interpret this to mean a period less than 12 months. This would then surely undermine the need for workplace experience.

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

In theory at least, recognising experience outside of the workplace experience that may be required for the SQE could be beneficial to individuals and would certainly help, in part, access to the profession and the diversity concerns raised.

However, if the purpose of any stipulated workplace experience is to meet the specified competences and develop the required skills, then any experience outside of this would need to be regulated in the same way to ensure consistency of standards.

12.

**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?**

A workplace assessment would surely enhance the quality and rigour of the qualification process, but it would be crucial to design that assessment sensibly and proportionately. It would be very easy to design a very expensive and time consuming workplace assessment, but this does not have to be the case, nor would we support this being the case.

13.

**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 1 and Part 2, to a specified performance standard?**

Again this is difficult to answer without further detail on what any workplace assessment may look like. As part of the training contract, we already informally assess trainees and so with suitable guidance from the SRA about what employers / supervisors are looking for, together perhaps with associated training for those involved, it should be feasible.

Again, a crucial element within this would be the design of any workplace assessment, which should not be onerous and instead adapt to and build on what firms currently do with their trainees.

14.

**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?**

Again, this is difficult to answer without knowing what the proposal contains. We would expect the SRA to provide quality, clear and comprehensive guidance and resources that are simple to integrate into our existing training / supervision model.

15.

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?**

As per questions 6, 7 and 8, workplace experience is an essential requirement in our view that should be prescribed and regulated to support the credibility of the assessment and to protect consumers.

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

We support the principle that all solicitors should be of graduate level, i.e. should satisfy the requirements of a qualification of graduate level and above, which requires them to demonstrate the graduate level skills of critical thinking, analysis etc.

However, we will only be willing to support the removal of the requirement to have a degree if concerns

over the SQE are addressed first.

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

This could be useful when hiring externally to differentiate candidates or, if it is decided that no workplace experience is required, to determine who to retain. However, if a period of workplace experience is required before SQE Part 2 can be taken, grading is likely to be of less value to firms

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?  
training provider performance?**

In terms of candidate performance, information that should be made available to the individual and to their sponsor firm should be the result of each assessment and, most likely in the case of those who do not pass, whether any further development is required.

In terms of training provider performance, we are unclear whether this refers to education providers or firms providing workplace experience. From our perspective, we do not see the value in publishing data on individual providers as performance results may be a consequence of many factors, not just the training available.

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

We think it unlikely that the proposed SQE will be cheaper than the current training route. The SRA's assumption is that the SQE will only be more expensive if we retain the LPC, but even if this is not the case, a replacement course will be developed by providers and likely required by trainees as it has been recognised that there would be a knowledge and skills gap between say completing a law degree and passing the SQE. This would mean that a student could end up funding a LPC equivalent course as well as unlimited SQE attempts. This would not help access to the profession.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

We would urge the SRA to consider delaying the introduction of any new qualification process until the uncertainty and lack of clarity surrounding the assessment method has been confirmed.

We have already made training contract offers to candidates to start their training contracts in September 2018, most of whom will complete the LPC from September 2017 and some of whom will complete the GDL from September 2016. There will no doubt be great uncertainty for these candidates and will mean that some of them will start a course later this year without knowing what the next steps are and how much of what they are studying will be applicable. Whilst we understand the proposal is for no duplication of assessment to occur, this appears, at least at the moment, to be potentially confusing and difficult to administer.

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

We would envisage the transition of our students to any new arrangement to have been completed prior to this date. This will no doubt cause problems for some education providers

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

The proposed timetable seems ambitious but potentially unworkable and risks compromising on the high

standards the SRA aspires to.

The SRA is looking to build an entirely new assessment process from scratch, which would appear to be a complex and challenging undertaking, whilst also defining workplace experience and robustly testing all stages. Given there will be just over a year to fully develop and test the proposal, this does not seem to allow for much scope for changes if problems are found. We would want the SRA to confirm its position on the new arrangements by end of 2017 so we can plan accordingly.

It would therefore seem more appropriate to take the time needed to get this right, allow time for inevitable issues and launch in 2019/20 instead

## 2. Your identity

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Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

No. I do not. I would agree that there needs to be a common assessment at the academic stage of foundation subjects (so that equivalence of law degrees and other alternative preparations for the academic stage can be assessed). However, I do not think that the proposed test will do anything for accessibility or standards. On the contrary, it will merely play to certain private professional providers who will coach individuals to pass this 'test'. That is frankly not good enough. It will not result in greater accessibility but will instead place an additional (costly) hurdle in the way of those seeking to enter the profession, particularly those from non-traditional backgrounds and will do nothing for diversity and inclusion. I fear it will have the opposite effect to that intended. Common standards - yes; additional hurdles (because the test of quality will remain the degree - whatever your intentions) - absolutely not. I would tackle the degree and LPC inconsistencies if that is perceived to be an issue.

## 4.

**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?**

No - as it stands it is far too vague on detail of the proposed assessment. Would it not be preferable to ensure consistency of standard across the academic and vocational stages of education. It will also do the profession no favours at all if it is perceived to be non-graduate - although I believe it will remain resolutely graduate because that is the badge of quality (whatever the legal regulators believe).

## 5.

**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?**

I think this is a side issue. The real issue is the quality of the current UK legal education, ensuring its consistency and reliability as a badge of quality for users of legal services. The aim is also to improve accessibility. That seems to be about access to HE (and it has never been more accessible). I would not favour any move away from a graduate entry profession. It will lower public confidence and lead to confusion about core qualifications of those providing legal services (indeed, that already exists). As a member of the public I can say that I have been misled on all occasions when I have engaged legal services. The only difference between my position and that of the general public is that I was aware of the qualification tied to the fee rate. The public is entitled to get what it pays for - and I would not want to employ a non-graduate solicitor - whatever test they had passed.

## 6.

**4. With which of the stated options do you agree and why:**

**Why...**

I do not agree with the nature of this test and your consultation is designed to force compliance with options

for a test that I have already indicated is inappropriate as a method of achieving quality of entry.

7.

**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?**

Absolutely. Is there an equivalent ?

If this is not the case it is wending a very odd message to the general public. Why would any profession wish to slacken the entry requirements at a time when public confidence requires that standards and ethics be tightened. The real issue is the unwillingness of the profession - and regulators - to pay for a centralised assessment for the current academic and vocational stages. The aim seems to be to add an additional hurdle that is funded by entrants to the profession - and pushes up profits of private test organisers. This is the opposite course of action to that which should be pursued if standards and accessibility are the joint aims.

8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Yes. I would support greater blended learning at academic and vocational stages. Academic legal education is too academic in many universities. My personal view (and that of my University) is that we should be training entrants for the profession (or similar profession requiring analytical and communication skills) from day 1. Legal education has great value in its own right as it involves intellectual training of the highest level. The SQE suggests this is not so and that all that is necessary is that entrants can pass a tick box test. Frankly that devalues our joint enterprise and undervalues the qualifications of everyone in the profession or who possesses any legal qualification. Why would a regulator do that ? With all due respect, you are focusing on the wrong thing. The real focus should be on consistency of quality and practicality of the current legal education regime. Introduce more blended learning at all stages.

9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

Yes - to ensure perceptions are satisfied, although the realities of what is required will vary from individual to individual. The important point is that it should be 'real' workplace experience. Who would organise this ? It will not improve access for non-traditional students if the current system of patronage persists in relation to securing workplace experience.

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

How would that be assessed other than on a self-certification or firm certification basis ? That apart, it should reflect realities but is too easily subverted. For reasons of consistency and perceptions (ensuring confidence in the profession) a minimum period would seem sensible - even if some individuals acquire all of the competencies much earlier.

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

Yes - depending on the nature of the experience and whether it is 'real', e.g. placement year has proved a great assistance in terms of preparedness and employability (irrespective of the employer - as long as legal/regulatory work). However, this is an area where access to non-traditional backgrounds is more of a problem than access to university. This will have to be sorted out if any requirement for such PQ workplace experience is to achieve the accessibility aim.

12.

**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?**

Yes. My only reservation is the level-playing field for access to this experience - or this will prove a significant 'own goal'.

13.

**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 1 and Part 2, to a specified performance standard?**

Not technically applicable but as a qualified lawyer - yes. I would imagine that some training would be required - which someone will need to provide.

14.

**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?**

I can foresee an industry in preparedness for the SQE and an industry in training firms/solicitors to assess competencies. Is this really the intention?

15.

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?**

Yes - and permanently. My great fear is that this plan will undermine all credibility in the profession, rather than achieving its desired aims. I fear for consumers of legal services if we are not both training and testing the necessary intellectual and practical competencies. Omitting the training element suggests anyone can decide to pick this up, study for a test and then pursue a career as a solicitor. That seems to be to belittle and undermine the profession - or this branch of it. The danger is that the public will have confidence only in the Bar.

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

NO. This would undermine the status of the profession. However, there are many modes of entry to secure a degree. We are educating many more students to degree level (despite the fee increases) and there are degree apprenticeships. Our student profile is as diverse as it is possible to imagine, and standards are very high. Money is the issue - again. I would not be inclined to make it more expensive to qualify (with an additional hurdle) but to impose consistent standards for the legal foundations for anyone who wants to secure a QLD. We do not support the position of other universities that we are not preparing all of our students for the professions; as far as we are concerned, we are - and do.

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

I am not in favour of this test. However, I am in favour of feedback for students.

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

I do not support the SQE as it will only lead to reduced diversity and profits for private providers at the



expense of individual students.

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

I have set these out in earlier comments. Our student profile (as diverse as it is probably possible to get in the UK) want to secure a degree but also to enhance their employability prospects. They cannot afford an additional test which they will see as a hurdle rather than as having any merit in its own right. By all means assess competencies at the academic and vocational stages, increase workplace training - but forget the SQE if your aim of to improve D&I in the profession.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

I would forget transitional arrangements and rethink what it is you are trying to achieve here. There are other ways.

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

No.

## 2. Your identity

**1. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

I/we have a specific confidentiality requirement as follows.: Please do not attribute my response and do not publish my name.

## 3.

**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?**

I do not agree that it best meets these objectives, but it may meet them.

## 4.

**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?**

I am unable to say on the information provided.

## 5.

**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?**

No; lawyers qualified elsewhere should be able to assume the English qualification of solicitor without having to pass the SQE but to take an abbreviated version of the test in order to qualify as is possible currently.

## 6.

**4. With which of the stated options do you agree and why:**

**Why...**

a), but without requiring a contentious context if the candidate does not wish to practise in that context

## 7.

**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?**

Yes, emphasising 'at least', and assuming the Trailblazer level 7 legal apprenticeship is set at that level, as I understand that it is

## 8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Most definitely

## 9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

Yes, in order to prevent 'a free for all' in the legal recruitment market which would not be in the interest of the qualification or candidates

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

Not instead of; these two concepts are compatible as under the current workplace system

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

Yes, but clearly defined and controlled

12.

**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?**

No. This question subtly changes the word 'experience' used in the previous four questions to 'assessment'. I am against the idea of having an assessment of the workplace element on top of the SQE, part 2 which I understand to be aimed at assessing a similar thing.

13.

**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 1 and Part 2, to a specified performance standard?**

Possibly, but I am against this idea of employers having to make an assessment in the workplace on top of part 2 of the SQE.

14.

**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?**

No, I don't see that would be enough. In-establishment workplace assessors would require and expect a structure to guide them how to assess their colleagues and a training programme to show them how it should be used. This is one of the reasons why I don't see this idea would work.

15.

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?**

This question goes to the heart of the SQE proposal. If a student has done A level law and some additional study, that should not anywhere near enough to get them to the graduate level envisaged and required in order to pass the SQE, part 1. How else can the qualification system operate sensibly without entry requirements or a prescribed training route? But isn't this what the SRA is arguing against? It may be that I have misunderstood, so a greater degree of clarity is needed. But I doubt this is just fixed by more clarity. My answer would therefore be yes, certainly for the first aspect and not just to be used as a transition arrangement.

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

No, but they should be qualified in other ways to degree level (eg CILEX or level 7 legal apprenticeships).

17.

**15. Do you agree that we should provide candidates with information about their individual and**

**comparative performance on the SQE?**

No, this is making it too academic as if it were a degree which it obviously is not. Pass/fail gradation would be sufficient. This is, however, a minor issue compared with the more fundamental aspects already considered.

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

I have no view on this other than, for candidates, the response I have given to question 15.

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

I am unable to comment on this aspect.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

No

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

As it is such a long time in the future, operating under two qualification regimes in tandem for several years will make it more difficult for law firms to recruit fairly.

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

It seems tight; much depends on the response to this consultation and next steps.

## 2. Your identity

**1. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

I would support a centralised assessment however I see no reason why this could not be incorporated into the current system.

I am extremely concerned about any proposal which could lead to people becoming solicitors without any higher education as I believe this will be damaging to the profession and public.

I am not convinced that the introduction of the SQE will meet the second objective set out in paragraph 10 and feel it could even limit the diversity.

## 4.

**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?**

It is difficult to comment in detail without an assessment framework however I am concerned about the number of retakes a person can take.

## 5.

**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?**

In principle it is reasonable that everyone should meet the same standard however it would be unfair to some students to incur the cost of a law degree or postgraduate diploma in law on top of the SQE.

## 6.

**4. With which of the stated options do you agree and why:**

a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?

**Why...**

it hopefully would allow a greater degree of consistency.

## 7.

**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?**

Yes. Many other professions require a degree and it would be damaging to the profession to water down this requirement especially when the Bar is considering raising standards.

## 8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Yes. This is the only way to truly test the application of knowledge and skills.

9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

Yes. Compared to other jurisdictions England and Wales already has a shorter academic period and the 2 year training contract is essential to filling this gap.

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

Both the time spent and the level of competence should be assessed.

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

Potentially if combined with a set level of competence.

12.

**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?**

It would be essential to assess the application of the knowledge and skills gained and this would need to be through workplace assessment.

13.

**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 1 and Part 2, to a specified performance standard?**

n/a

14.

**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?**

Guidance would always be useful and would clarify the required standard. Some other form of assessment would be required to ensure employers are providing adequate training rather than using trainees to carry out administrative tasks like photocopying.

15.

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?**

Prescribing training pathways are needed to ensure the profession remains credible and to protect the public.

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

This is the current position via CILEx however it is becoming more common for other professions (i.e. nursing) to require a degree and not requiring solicitors to hold a degree could thus damage the profession from the public's perception.

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

Depend on the level of detail proposed. If there is a small range of marks that would provide individuals with an indication as to their performance.

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

Useful to provide data on the number of passes or fails etc.

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

As someone from a less than privileged background I did benefit from university education and would be concerned that the SQE could limit diversity.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

There could be issues with those who have just started/due to start in Autumn 2017 a part-time degree meeting this cut off date.

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

If it is proposed to start the scheme in 2018/2019 this would not allow much time (if any) to run a pilot scheme.

## 2. Your identity

**1. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

I/we have a specific confidentiality requirement as follows.: You may use my name but not the name of my firm or university.

## 3.

**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?**

No. You cannot assess standards with a multiple choice exam. Opening the exam to anyone with or without a degree will reduce standards not raise them. The proposed SQE cannot assess analytical skills nor in depth research skills not marshalling arguments or any of the other skills learnt at university. University also teaches students to learn independently, to broaden their thinking and to challenge themselves intellectually. None of this will be learned by those preparing for the SQE.

## 4.

**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?**

No. The competences needed to be a solicitor are so much more complicated than you indicate. Law is subtle, most of it cannot be tested in a multiple choice manner. At the very least the exam should be a written, essay based exam similar to that used at law schools up and down the country for centuries.

## 5.

**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?**

Lawyers qualified in other jurisdictions and barristers should have exemptions, particularly for the skills section. In a global world it is nonsense for us not to accept that a US qualified lawyer can write a letter or give a presentation. They should only be tested on the things that they have not already proved that they know.

## 6.

**4. With which of the stated options do you agree and why:**

c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

**Why...**

If you are going to assess solicitors to such a low standard they should all have to prove that they can carry out the reserved activities. The alternative is large nos of commercial lawyers without the first clue about the other reserved activities which puts them in a vulnerable position as they are qualified to do something that they have never learned anything about.

## 7.

**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?**



It should be set at post graduate level. We need to be upping the prestige of the profession, not lowering it. Is there any wonder that the government is cutting legal aid and saying that lay people can conduct their own litigation when we value our professional skills so little that we think that there is no need for a degree to carry them out.

8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Yes. Work based learning is absolutely vital to learning how to become a solicitor in practice. Without the work based experience you will have lots of people who pass the exam but who can never get jobs (after all, you are not going to create any more jobs just by doing away with the training contract).

9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

Yes. It should be at least 2 years and should be a formal programme such as a training contract with training requirements and the requirement to complete certain types of work to a certain standard.

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

You should do both.

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

No. This should not be a race to the bottom - a few weeks work experience here and a couple of months there. Trainee solicitors need a decent period of time working for a firm - time to make mistakes, to try new areas of law, to learn how a firm works, to get involved with firm activities (I taught at a local prison during my training contract with a commercial law firm because there was time and space to get involved with what was going on at the firm. This type of thing made me a better lawyer in the long run).

12.

**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?**

Yes. Anything which makes the final 'product' of a solicitor better is worth the additional cost and regulatory burden. It is for the public protection but also to protect the solicitors from being left open to negligence claims for doing something that they didn't know was wrong because they lacked the experience to know.

13.

**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 1 and Part 2, to a specified performance standard?**

N/A But I can't see why any decent employer would be incapable of assessing their employees' competence given sufficient guidance.

14.

**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?**

15.

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?**

Training pathways need to be prescribed to protect the credibility of the profession, not the assessment. In America, our competitors have a 4 year undergraduate degree followed by 3 years at post grad plus the bar exam. These are the people we are competing with and it is important that standards are kept high (and are seen to be high by clients and the public). Public protection requires the highest of standards, I cannot see how these could be protected with an exam open to anyone regardless of their pathway to taking it. If it becomes possible to cram over a few months for the exam then the legal profession will end up taking the weakest candidates who are unable to access the other professions (be that medicine, dentistry, accountancy, teaching etc). It will quickly become apparent that if you can't get into the other professions, law is easy to get into because it is just an exam. This will reduce the quality of lawyers over time.

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

Every solicitor should have to hold a degree. Degrees teach students so much more than just knowledge of the law. They teach them to think, to research, to challenge themselves, to explore their subject and to analyse facts and theories. These are skills which it isn't easy to test but that are vital for solicitors.

The profession's reputation will suffer if its members don't need degrees. Even nurses and probation officers have to have degrees these days. Solicitors are considered to be high level, well educated professionals, we should uphold these standards.

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

If the test is just pass/fail then firms have no information on which to assess candidates. They will end up using other information such as which university they went to, their A level grades even their GCSEs. If you are trying to open up the profession to those who don't fit the ordinary mould then making the SQE pass/fail seems to defeat that object.

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

The pass rate for the year group should be published. The training provider performance is commercially sensitive information and it is not your place as regulator to divulge it.

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

I don't think you can solve the class issues in this country at the entry into the profession. The problems start at primary school. The SQE isn't going to stop bright well educated middle class youngsters from becoming solicitors (and we don't want to stop them from joining the profession).

The best way to have social diversity in the profession is to make it feasible for poor students to reach the same standards as their wealthier peers. University degrees are the perfect leveller in this instance. All that will happen is that poorer students will not take the chance to go to university because they don't have to in order to become a solicitor (and because it appears to be expensive) and then they will lose out to their wealthier peers a few years down the line as they will be competing against those with good degrees from excellent universities.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

21.

19. What challenges do you foresee in having a cut-off date of 2025/26?

22. (untitled)

20. Do you consider that this development timetable is feasible?

# Consultation - T4T assessing competence

Response ID:451 Data

## 2. Your identity

**1. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

No. I found it difficult to find any reasonable justification in the SRA papers for the proposed changes.

## 4.

**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?**

No - it appears that SRA are trying dismantle a system without any reasonable evidence. What has been proposed, in my view, will diminish the high reputation of the British legal system.

## 5.

**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?**

NO: The present system is working very well there is no genuine evidence presented by SRA for the requirement of SQE.

## 6.

**4. With which of the stated options do you agree and why:**

**Why...**

I am sorry - but this question suggest that SRA has already made up it mind and will introduce the SQE. This is not consultation this is dictatorship.

## 7.

**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?**

As per my response to questions 4. SRA has failed to provide any reasonable evidence to suggest that SQE is required. SRA has failed to produce an Equality Impact Assessment on this consultation that has any substance.

Therefore I do not agree.

## 8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

YES

## 9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

NO

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

NO

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

NO - why try and fix something that is not broken.

12.

**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?**

NO- the additional cost will be hard on those from working class background and this SQE proposal, in my view is discriminatory against those from protected characteristics under the equality act 2010.

13.

**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 1 and Part 2, to a specified performance standard?**

NO

14.

**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?**

This process would create undue burden on small and medium size firms.

15.

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?**

No - SQE is not needed the proposal is discriminatory against protected groups and working class families.

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

NO - as a consumer, I want the best qualified legal person to handle my case. Why is SRA asking families to settle for second best.

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

NO

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

None of the above.

The best think SRA can do s to scrap this SQE idea and go back to the drawing board.

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

The SRA have failed to produce any meaningful equality impact assessment (EqIA), as a public authority SRA should have produced an EqIA with facts and not "may be" or "could be".

SRA has not given any evidence to suggest that if SQE is implemented will not have adverse impact on those from working class background and those who fall within the equality act 2010.

SRA are will create a divide between rich and poor if SRA go through with implementing SQE

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

NO

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

SRA will single handily destroy the British legal profession and it's international reputation by 2025. SQE is a poison challis and it will be saddest day in the British legal history.

British legal profession commands the respect worldwide, once SQE is introduced the British reputation will disappear. "It takes years to build reputation" but it only take a brief moment to "dismantle".

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

NO

# Consultation - T4T assessing competence

Response ID:453 Data

## 2. Your identity

**1. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

No

## 4.

**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?**

No

## 5.

**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?**

Yes

## 6.

**4. With which of the stated options do you agree and why:**

b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?

**Why...**

## 7.

**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?**

Yes

## 8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

This is critically important.

## 9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

Yes

## 10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

No

11.

9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?

No

12.

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?

Yes

13.

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 1 and Part 2, to a specified performance standard?

Yes

14.

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?

Yes

15.

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?

Nothing should be done to reduce the rigour of the qualification process.

16. (untitled)

14. Do you agree that not all solicitors should be required to hold a degree?

No

17.

15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?

Yes

18.

16.

What information do you think it would be helpful for us to publish about:

overall candidate performance on the SQE?

training provider performance?

All

19.

17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?

I do not understand the question.

20. (untitled)



**18. Do you have any comments on these transitional arrangements?**

Do not introduce this scheme.

**21.**

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

**22. (untitled)**

**20. Do you consider that this development timetable is feasible?**

No

## 2. Your identity

**1. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

No.

The SRA considers there to be inconsistent standards across the GDL and LPC training currently available. The SRA should therefore concern itself with regulating and/or centrally assessing these courses, rather than riding roughshod over a system that works perfectly well for large parts of the profession and which ensures that our future trainees join us having already been rigorously academically trained and having acquired a number of other integral skills. Further, the SRA proposals (as alluded to in Q11 of the consultation) suggest that law firms will be expected to academically train their trainees. This in itself will lead to inconsistencies which do not currently exist within the profession. If the intention of the SRA proposals is for trainees to commence their training with significantly less academic and skills training than they currently have (i.e. because large parts of that training will need to be carried out during or at the end of the training contract period) then our trainees will be underprepared and underqualified when they commence their training contracts with us. This will be detrimental to the trainee's experience, the level and complexity of work they will be able to undertake, their ability to provide any client advice; detrimental to our business; and detrimental to our clients.

The SRA states that it aims to ensure high quality standards at the point of admission. It focuses however on the need for a qualifying solicitor to demonstrate that he/she is of an ability equivalent to that of a graduate. The SRA proposals are therefore at serious risk of 'dumbing down' the legal profession, which will only lower the standards within the profession and erode its national and international reputation and credibility. Our international credibility is paramount. We must not in anyway endanger the standing of English Law, otherwise there are alternative laws that would be chosen.

The level of ability currently required to qualify as a solicitor is that of a postgraduate with two years of relevant workplace experience, a far higher standard than appears to be proposed by the SQE. Further, the assessment of a future solicitor's intellectual rigour, critical thinking, unprompted recall of information, and analytical and problem solving skills cannot be carried out in any credible way by a focus on multiple choice or "true/false" questions.

The SRA seeks to ensure greater diversity and equality by introduction of the SQE but at the same time the SRA acknowledges that it does not fully understand why there are currently issues with equality and diversity across the GDL and LPC results although there is reference to these issues arising at an early educational stage (i.e. that they are not issues which are caused by the GDL or LPC). The SQE would still, it seems, require training provision in the run up to the assessments and therefore by its very nature is going to incur costs for students. There is no apparent evidence at the moment (beyond an unsupported assertion from the SRA) that such costs would be considerably lower than those for the GDL or LPC.

There is no need to scrap the GDL and LPC (as above - why are they not retained and centrally assessed?) in order for the SRA to create additional and more innovative pathways to qualification if it wishes.

4.

**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?**

No. There is not enough information provided in order to adequately answer this question.

However, using the minimal information provided we have concerns about using a computer based assessment for aspects of the SQE, particularly using this as the sole form of assessment for Part 1. Computer based assessment does not enable the assessor to rigorously test various skills, such as critical thought and analysis, lateral thinking, problem solving abilities, unprompted recall of information etc, which are fundamental skills for solicitors. There is no evidence that the assessment of the knowledge requirements for a lawyer by multiple choice or true/false questions can in itself demonstrate that a person who passes that assessment possesses the skills and abilities of a graduate or indeed a postgraduate. The SQE model does not therefore demonstrate that a person has the equivalent academic ability of a graduate, let alone that of a postgraduate.

In addition, there is no evidence to show that the assessment models proposed will actually simulate the real demands of practice – assessment tasks will be short, and self-contained, thus lacking the complexity/subtleties of the transactions a trainee would currently work on in practice.

5.

**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?**

We don't know at this stage, as there is a lack of detail and information currently available. It will be difficult to answer this until we know what a person might be exempt from.

6.

**4. With which of the stated options do you agree and why:**

**Why...**

There is insufficient detail available in the proposals at present to allow us to make an informed decision. However, none of these options are palatable to or feasible for us if our trainees will be required to balance both work and study at the same time, in order to pass Part 2 of the SQE. We are vehemently unhappy with the concept of taking on trainees who do not have the equivalent of the academics/skills they have now (i.e. the skills and knowledge they acquire during the LPC) before they join us for their training contract. This would require us to fundamentally alter our business model and the nature of the services and resources we are able to offer to our clients, as well as the quality of "on the job" training we can offer to our trainees.

7.

**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?**

No.

The standard for qualification should be set at post-graduate level, with a 2 year period of work experience/training, as it is now.

Therefore any assessment through the SQE needs to be at the same equivalent of post graduate plus work experience. We do not agree to lowering this standard to graduate level (or equivalent) only.

8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Yes. This is of fundamental importance for pre-qualification.

9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

Yes. We feel it is a fundamental aspect of acquiring the skills to become a qualified solicitor. We would suggest that the time period remains at 2 years (which can, as it already does, include "Time to Count"). To remove this work experience time period would eliminate a critical part of a trainee's learning and experience during which it acquires fundamental skills that cannot otherwise be learnt, and would undermine client trust in what being a qualified solicitor means. Our clients understand the current route to qualification, and they have an inherent understanding that upon qualifying, a solicitor will have undertaken a rigorous and vital period of workplace experience, which has developed them into the solicitor they are.

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

No. Both aspects should remain – competences to be met during the pre-qualification workplace experience, and a minimum time period for the workplace experience.

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

Yes. As with the current system, which allows for periods of Time to Count to be recognised, we feel that a range of pre-qualification work experience should be recognised, provided that it meets all of the requirements as currently stipulated for Time to Count allowances (e.g.: that the work experience is relevant, and that the person has been supervised by a qualified solicitor).

12.

**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?**

Yes, workplace assessment is fundamental to the integrity of the qualification process, as per the current route to qualification. At the moment however this assessment is undertaken by the employer. The consultation paper again lacks detail, so we are therefore unable to assess the level of cost and regulation that might be required for centralised workplace assessment.

13.

**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 1 and Part 2, to a specified performance standard?**

No. If we are going to be required to carry out training to the same level as is currently taught/provided on the LPC, then no we do not have the resources to assess this. The SRA consultation refers to the workplace assessment including observation of a candidate's behaviour by an experienced professional. We assume that this experienced professional would need to be centrally trained, regulated and themselves assessed in order to ensure consistent standards and approach across the profession – this is certainly a resource we do not currently have.

14.

**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?**

Again, if the assessment is the equivalent of the current LPC academic studies and other skills, then no, a toolkit of guidance and resources would not be sufficient. As per our answer to Q11, we lack the resources to train our trainees during their training contracts on the curriculum covered by the LPC.

15.

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?**

Yes. For entry onto the SQE, students would need to provide evidence of having the ability equivalent to graduate level as a minimum. This should remain a requirement indefinitely, and should not just be required for a transitional period only.

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

Yes. But it is important that if a person does not hold a degree, they are able to demonstrate by some other appropriate means that they have both the skills (including life skills that are usually acquired by the time one is of the usual age of a graduate), experience and intellectual abilities equivalent to degree level in order to commence Part 1 of the SQE and can then go on to demonstrate a post graduate level equivalent ability in order to qualify as a solicitor.

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

Yes. We feel that candidates and employers should be provided with information about individual performance, but it is probably unnecessary from our perspective to provide comparative performance information.

It is unclear yet, from the consultation paper, how the SQE will be scored or marked. There is no detail as to what percentage the pass mark will be set at (will it be high enough to ensure a high level of intellectual rigour for example?), and whether candidates will simply receive a pass/fail result, or a percentage result, or something else.

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

Performance information should be published to ensure that both the quality and rigour of the SQE assessments and the quality of the training providers, can be assessed. However, the nature of the assessments and how they will be graded remains unclear and therefore we cannot specify precisely what information should be published.

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

We see no positive impacts on Equality, Diversity and Inclusion or social mobility from the proposals at all. Given the fact that the SRA acknowledges that there will be a need for training providers to prepare candidates for the Part 1 and Part 2 (whether this is a compulsory requirement or not is irrelevant), we cannot see that the proposals are any better than the current position in terms of ensuring access to the profession is open to those from lower socio-economic backgrounds.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

The consultation paper doesn't provide much by way of detail about transitional arrangements, so it makes it difficult for us to comment on this. However, considering the range of uncertainties, it is clear that this must

be kept under close review and that a transitional period of some form would certainly be required.

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

Again, depending on the transitional arrangements, it is difficult to comment on this. Certainly more clarity is required around how the proposed changes might affect graduate recruitment processes and requirements, considering that law firms recruit their future trainees 2 years in advance of them commencing their training contract. Candidates and employers will require clarity about the route to qualification, time scales, entry requirements and costs etc.

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

No. The timetable is overly ambitious and timescales are unnecessarily rushed. It would be reckless to rush the decision making process and implementation of a new assessment for the legal profession, considering the huge implications of these proposed changes. If the SRA do proceed with these changes, it is important that they take the time to get things right, rather than completing it quickly.

## 2. Your identity

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Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

I think the the proposal could have the opposite effect to the one intended by the SRA: the creation of a more elitist, less diverse, more costly route to qualification. The less privileged will self-study and might fail and face re-sit fees with crammer courses out of their own money.

A simpler way for the SRA to ensure there are not inconsistent standards in QLDs, LPC and TCs is to go back to properly regulating providers (and solicitors) which is has not done for the last few years. Our education system is already based on this, e.g. ofsted.

I am also concerned about the proposed timing of the SQE: it is illogical for candidates and employers. An all or nothing test at the end, after all of the time, money and personal investment has been put in does not seem to make any sense and it may detract firms from, for example, paying the test fee for candidates.

The current legal training has evolved over time to meet the needs of a diverse profession. As a lecturer at BPP in Manchester, I can vouch for a very diverse students particularly in our January start, part time evening, part time day and part time weekend intakes.

## 4.

**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?**

I wonder how MCQs can really be an effective test of high quality or to test the breadth of competences needed to be a solicitor. It is not very true to practice; the current system is. I would also be concerned that this type of testing would limit diversity into the profession e.g. would expect dyslexic students to have a particular difficulty with this sort of testing? It is also likely to be disheartening for students to do all their work and then to be tested in this way: it seems to me that they are unlikely to feel they have been allowed to demonstrate what they know and their ability to apply and analyse (contrast that to the amount of time they spend in exams now).

I wonder if candidates will end up doing test prep courses in addition to what they have already done? Whilst this may not be the SRA's aim, if this is the reality, it will make the system more costly and, again, reduce diversity.

Regarding part 2, on the information available so far, it sounds very expensive to run and administer. I co-ordinate interviewing and advising mocks and assessments just at BPP in Manchester and that is incredibly time consuming and complex enough!

## 5.

**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?**

I'm not sure at this stage.

6.

**4. With which of the stated options do you agree and why:**

b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?

**Why...**

I am surprised by the limit of assessment contexts in Part 2. The difficulty with a) and c) is that a candidate may well have been practicing in areas of the law that are very different from these areas for some considerable time if part 2 of the SQE comes after the 'Period of Recognised Training.' This may make it unnecessarily difficult for candidates. Faced with this position, many students may feel the need to seek out a course to help them. This adds to the cost of qualifying rather than reducing it.

7.

**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?**

This is a difficult question to answer. What is graduate level? Is it level 4, 5 or 6 or higher?

8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Yes, I think workplace experience/learning is absolutely essential. So many skills that make a good lawyer can only be learned during workplace learning (before being fully qualified and expecting a client to pay a high fee). I would also say that a minimum period helps to ensure a level of consistency.

I am worried that employers may be reluctant to recruit candidates before Part 2 of the SQE because they will be concerned that there is such a high stake assessment for the candidate still to come.

9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

Yes, I do, to ensure consistency (which is one of the SRA's concerns about training).

Candidates will want clarity before they embark on their legal careers.

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

I think both: a set minimum pre-qualification period during which time competencies are met. It should be possible to meet the competencies in a longer timeframe as well. Surely this must be necessary to maintain recognised standards/quality?

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

Yes, as I believe this may attract a more diverse range of candidates.

12.



**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?**

It may enhance the process but I am not sure it justifies the increased costs. The current LPC is very practical in nature and the skills students learn help to make them 'work place ready'.

13.

**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 1 and Part 2, to a specified performance standard?**

N/A as I am a tutor.

14.

**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?**

N/A as I am a tutor, but I think many firms would need a pretty big toolkit!

15.

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?**

I think candidates need to see clear pathways otherwise very good candidates may be put off from entering the profession.

I think consumers would be concerned if there is no minimum entry criteria or requirement for 'time served'. I think to do anything else would tarnish the solicitor brand.

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

I think that on the whole it is important that solicitors should hold a degree. I would be concerned about the impact on the solicitor brand if this was not the case. The degree encourages wider learning that is so important to a professional career and encourages important skills such as critical and reflected thinking and independent learning.

It is already the case that not all solicitors now hold a degree now as they may have qualified via the CILEX route and I think this is appropriate for a small proportion of candidate.

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

I am not sure how helpful this is. If the test is a marker of quality, should it be necessary for candidates (and ultimately firms) to have comparative data? It is not necessarily allowing for diversity when a candidate may have passed the test competently, but not as well as some others and yet have lots of other skills on offer.

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

Potential candidates will want training provider performance, but it may be difficult to properly compare providers as it won't be case of comparing a course against course (e.g. LPC against LPC) there will be so many difference courses available.

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

I mentioned in answer to an earlier question my concern that MCQs may not suit all candidates e.g. those with dyslexia and that the proposal therefore may reduce diversity.

I mentioned in an earlier question that if there are not specified pathways to the SQE there may not be enough clarity about about how to qualify as a solicitor which could put very able candidates off (a loss to the profession). It may well be that candidates who do not have access to good quality careers advice and support will be put off.

The potential EDI impacts may perhaps be a reason for not publishing individual candidate performance data for the SQE (as asked in a previous question), as firms will choose what appear to be the 'best' candidates, but it may not necessarily reflect the candidate's actual abilities: they may have others that are not tested in the form being proposed by the SRA.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

It may be that the delivery of new training in 2018/19 will be unrealistic for course providers or, if they do adapt, if put together too rapidly, the training may not deliver on the quality that the SRA, the profession and indeed the training providers themselves would expect.

There may be a limited choice of training providers initially (reducing choice) if only a few can develop the new training in time.

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

There needs to be a cut off date, but if the SRA goes forward with their proposals, they need to fully embrace them quickly so that there is not two systems in place. A long stop cut-off date may only serve to cause confusion for students and employers.

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

The problem will be the amount of providers who can fulfill the timetable in time and, of those, who can do so to the high quality the student, profession and providers themselves would expect. I anticipate the amount of work for me as a tutor in helping to design new courses will be considerable particularly as the timetable proposed has been given without details of the modules (e.g. in Stage 2), the example assessment materials etc. being published.

## 2. Your identity

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## 3.

**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?**

No, I do not agree. The SQE does not best meet the objectives set out in paragraph 10 of the consultation. Students and the profession are not homogenous. The proposed SQE is restrictive and lowers the qualification requirements and overall depth and breadth of knowledge required.

## 4.

**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?**

No I do not agree. It is not clear that the SQE can effectively test legal skills such as application, reasoning, analysis and problem solving.

I do not think that the SQE will protect the public from negligent or poor legal advice. I believe it will make negligent or poor legal advice more likely.

The SQE is envisaged as an MCT, this is a poor method of assessment of talent and there is sufficient research to show that reliance on MCTs is discriminatory.

## 5.

**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?**

No, I do not. Students who have studied for a law degree or CPE should be given credit for that learning in terms of exemptions. It is a well understood process in higher education in the UK and Europe.

## 6.

**4. With which of the stated options do you agree and why:**

b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?

**Why...**

The premise of this part of the SQE is flawed. Options A and C will likely be removed from many areas of trainee practice. All the options will mean students sitting different assessments - why change away from the current model if this is the proposal. Option B is more realistic to mirror trainee practice.

## 7.

**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?**

Yes I agree. This ought to be at graduate level. It ought to be mapped to the understood frameworks for higher education qualifications in the UK and in Europe.

The SQE will not be capable of being a graduate level assessment.

## 8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

yes I agree. This is the same requirement as for other professions and will protect the public from negligent or poor legal advice. The reverse would mean that someone could sit an exam, pass it and never have practiced but still be a qualified solicitor.

9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

Yes, I consider this necessary.

This is necessary for consistency and transparency for the public interest, students and the profession.

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

yes it should do so - if it doesn't this goes against the whole SQE concept. the SRA has recognised the issue in not doing so in its consultation. The SRA ought to check training providers are sticking to the competencies in the training framework.

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

Yes, I agree. The SRA already provides for this in equivalent means and recognises already that there are diverse entry points and ways to gain an appropriate level of experience.

12.

**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?**

Yes, quality will be enhanced and the public better protected by a higher quality and properly regulated assessment and training process

13.

**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 1 and Part 2, to a specified performance standard?**

N/A

14.

**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?**

N/A

15.

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?**

I do not support the SQE or the concept of the SQE. Students and trainees need clarity on how to qualify and pursue a career as a solicitor. Pathways ought to be the absolute basics that the SRA provides to would-be entrants to the professions.

I do not believe that the SQE will protect consumers of legal services

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

I do not agree. I believe all solicitors ought to hold a degree or clearly defined accredited prior learning or experiential learning mapped to degree level on the UK framework for higher education. Exemptions should be given to undergraduate legal study or cpe study

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

If the SQE is solely to ensure consistency than it ought to be competent/not-competent only. There cannot be degrees of competence.

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

The SQE concept is inherently flawed against the SRA's own criteria. The SQE ought to be competent/non-competent only. The SRA envisages a range of training providers entering a newly unregulated market. It cannot force students taking the SQE to declare how they prepared for it and who with.

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

MCQ research shows that it is a discriminatory form of assessment both in sex and in learning disability. This proposal may well breach the Legal Service Act and the Equality Act. Poorer students will lack access to appropriate careers advice without clear and well understood pathways. I believe that the SRA proposals will lead to a less diverse and less well educated profession.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

The arrangements are full of uncertainty and incoherent

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

an impossible timeframe to work to

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

No, I do not.

## 2. Your identity

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## 3.

**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?**

Do not agree. While there is room to improve in certain areas the existing pathways to the profession are well regarded and robust. All that is needed is the SRA to be more engaged in regulatory input.

## 4.

**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?**

Do not agree. Without clarity on the how the fundamental requirement for workplace experience is going to be achieved and how the assessment framework will work it is not possible to say if SQE would be effective in testing competences.

## 5.

**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?**

Do not agree as the existing pathways as indicated in 1 above are not broken and as such there is no need for SQE.

## 6.

**4. With which of the stated options do you agree and why:**

a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?

**Why...**

as there is logic in focusing on specific areas that one wishes to specialise in. This is the norm in other sectors e.g. medical profession.

## 7.

**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?**

Setting standards are important. Having a degree is seen as an important educational standard across many comparable sectors. Why the SRA would want to develop their own standard i.e. degree equivalent makes no sense.

## 8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Yes there should be relevant pre-qualification workplace experience. Without it how does the SRA expect an individual to pass Part 2? It is troubling that it takes expert advice for the SRA to work out the

fundamental need for workplace experience in assessing competence and raises serious questions about the SRA role in setting standards for the profession.

9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

Yes there should be set requirements for workplace experience that cover both content and time.

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

Yes there should be set requirements for workplace experience that cover both content and time.

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

Yes its is possible to gain certain experience in different sectors. However workplace experience has to be relevant for entry to profession i.e. legal sector and challenging for it to be effective.

12.

**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?**

Without the SRA setting out in more detail how workplace experience is to be executed and the costs of completing SQE one cannot determine if there will be an extra burden.

13.

**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 1 and Part 2, to a specified performance standard?**

Non applicable

14.

**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?**

Yes. Why would the SRA think it possible to introduce SQE without guidance?

15.

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?**

Yes - there needs to be regulation.

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

The current pathways to entry work and having a degree is a good standard.

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

Candidates need to know if they have passed or failed.

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

To not want to know if a process is working to achieve a goal and refine/adapt/improve as time goes is naive.

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

To not consider EDI would have been a big mistake for the SRA. However it remains unclear how SQE will move the needle forward without more substance on key areas e.g. workplace experience.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

Those who have already started an approved process to enter the profession should not be constrained in completing that process unless they are given equitable credit for the work completed.

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

Without more substance on how the SQE will be executed the validity of a cut of date cannot be assessed.

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

No. It is too aggressive considering the lack of buy in from the profession and the academic sector.



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## 3.

**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?**

No I do not agree. An SQE would introduce a standard but it will be a much lower one to that which is already in place - there will not be a "comparable high quality standard". I believe it would actually create a worse situation for those from more diverse backgrounds and a career in law could end up being more costly with students being given false hope as to receiving a career in law. They would not understand what would be expected from them in a law firm. Simply passing the SQE does not mean you will succeed in getting a position within a law firm. We spend a lot of time tutoring, mentoring and giving extra help, careers advice and assistance to those students who have not yet secured a training contract with a firm and this would be taken away with the introduction of an SQE exam.

## 4.

**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?**

No. As a regular LPC exam drafter and a drafter of MCQ questions it is totally at odds with any educational establishment to assess a subject such as law on the basis of MCQ questions. You simply cannot assess the application of knowledge, legal process and analytical reasoning using a computer test. Law is far more complex than this. In addition, one legal path cannot fit all. Some students wish to specialise in Criminal Law and Litigation whilst others may wish to take a more corporate route. The students love choosing their elective subjects on the LPC as part of Stage 2 as they feel it brings them closer to the career they want to follow in practice and often the electives they choose are the more specialised subjects they are personally interested in and they are examined at a higher level to those in Stage 1. If we 'do away with' the Stage 2 Electives then Law firms would then have to make a decision on student candidates based on a standard SQE test alone and might therefore revert to choosing students only from the best schools, universities or with the best A level results as there would be no further set of Elective module subject scores to credit them with. This potentially reverses the position and means we will end up with a less diverse profession.

## 5.

**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?**

No - the system of exemptions in relation to overseas qualified lawyers (SLQT etc) should stand.

## 6.

**4. With which of the stated options do you agree and why:**

b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?

**Why...**

I don't agree with any of the stated options:

Parts 1 and Parts 2 of any SQE would need to follow Stages 1 and 2 (respectively) of the current LPC followed by a period of training within a law firm.

7.

**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?**

Yes - you need to be able to complete a degree to have the level of understanding required in order to be a good lawyer and advise your clients.

8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Yes

9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

Yes

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

Both should be prescribed.

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

Generally no - but possibly with in-house lawyers within a company.

12.

**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?**

No

13.

**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 1 and Part 2, to a specified performance standard?**

NA

14.

**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?**

NA

15.

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?**

Yes

Yes

**16. (untitled)**

**14. Do you agree that not all solicitors should be required to hold a degree?**

I believe all solicitors should be required to have a degree. However - not all solicitors in practice currently do have a degree but it is generally only the older solicitors/partners in practice now who do not have one.

**17.**

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

Yes

**18.**

**16.**

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

Needs further consideration.

**19.**

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

A degree is useful for a career generally. Passing (attempting) the SQE and then realising you wish to take a different career path is not constructive.

**20. (untitled)**

**18. Do you have any comments on these transitional arrangements?**

No

**21.**

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

**22. (untitled)**

**20. Do you consider that this development timetable is feasible?**

No

## 2. Your identity

**1. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

No. There is no LPC elective coverage. Might this not lead to a reduction in the knowledge at the point of admission when compared to the current system? This proposal is too exam-focussed and this is out of step with current thinking in HE especially.

Questions beginning "Do you agree" are unhelpful. This is the view of the Electoral Commission on referendum wording. The objection to such phrasing is that questions worded this way push the respondent towards replying "yes".

## 4.

**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?**

No. We have not seen an example of the SQE. It is difficult to imagine how MCQs properly assess application of the law, reasoning etc. to the same level as a long form question. Would MCQs test application and analysis? People can pass MCQs by getting lucky. Passing MCQs does not equate to talent.

## 5.

**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?**

## 6.

**4. With which of the stated options do you agree and why:**

b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?

**Why...**

The problem with b) is the sheer range of possibilities (and the cost) involved in accommodating just a smaller extended range of options. A central assessment set in different contexts cannot be the same test for all (which I understand to be what the proposed changes are seeking to achieve).

## 7.

**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?**

This sentence is too vague. The SRA needs to adopt the HE Framework and map all learning outcomes and assessments against that framework before this question can be fully answered.

## 8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Work place learning should be a key part of qualification. A minimum period helps to ensure a level of consistency. It would be less stressful and less disruptive to the candidate if there were not a high-stakes Part 2 assessment to be undertaken at the end of the placement.

9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

Yes as this provides clarity for employers and trainees. As well as consistency to the qualification.

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

This would help with the diversity of experience issue and is in fact already permitted under the Equivalent Means process (candidates seeking to use this route have commented on the time the process takes and lack of guidance on the process). Given it is probably the more disadvantaged candidates who might need to submit such a portfolio of experience, the cost of signing this off should be reviewed. As should the guidance available.

12.

**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?**

It may enhance the process but would it justify the increased costs?

13.

**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 1 and Part 2, to a specified performance standard?**

N/A

14.

**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?**

N/A

15.

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?**

Pathways provide clarity for entrants, and build credibility and certainty for the profession and those who enter it. If there were to be no minimum entry criteria or requirement for 'time served' the solicitor brand would be devalued. You would not expect a doctor (or other professional) to be able to hold the title doctor without a medical degree and several years' experience in a medical setting.

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

The skills and qualities developed whilst on a degree programme seem to be undervalued here. The

critical and reflective thinking, the self-directed learning are all vital components of a professional career. These are the qualities that policing and nursing have recognised in becoming professions that are increasingly degree-based.

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

Students and employers will want this information. Will the performance results not create degrees of competence - rather than a straightforward competent / not competent result? If students will be assessed on their mark, a more nuanced form of assessment is required that will assess a variety of skills – not least of all analytical thinking.

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

A reliance on an MCQ approach to part 1 of the SQE favours a particular skill set which can be honed and practiced by those with money and access to the right sort of tutoring. This tends not to be students from disadvantaged backgrounds.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

## 2. Your identity

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Do not attribute my/our response and do not publish my/our name.

## 3.

**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 do not agree with this.

In our view, there is too little detail of exactly what the SQE will involve to make an informed assessment of this.

We are very concerned the SQE could enable students to qualify as solicitors too easily without assessing whether they have the intellectual ability and workplace experience to cope with life as a solicitor.

If the SRA consider that standards of competence are slipping then in our opinion it should look to regulate the courses provided by the LLB/GDL/LPC and CILEX providers which would possibly be a more cost effective option and involve less upheaval.

The SRA could also consider regulating the training and competences that firms should expect of trainees if the concern is that once they get into their respective firms, the firms are failing to provide adequate training.

If the SQE is implemented then at worst, students could become lawyers within two years of leaving education at 18 (assuming Part 1 and Part 2 of the SQE are each a year) and without ever having worked in a law firm. In our opinion, very few, if any students will possess the requisite skills or experience to be a successful solicitor at this point and it is unlikely that we would recruit such people as solicitors.

We consider it absolutely imperative that future solicitors receive a period of workplace training as no external course can simulate what working life is really like as a solicitor or offer future solicitors an insight into the different practice areas that a four or six month seat in the respective area can provide.

The SRA consultation repeatedly refers to artificial and unjustifiable barriers. The current process to becoming a solicitor has in our opinion been put in place to ensure that students have the requisite skills and experience to successfully work as a solicitor. It has not been put in place as a barrier or to artificially prevent people from becoming solicitors.

How will the SRA ensure that the SQE does not become an artificial and unjustifiable barrier?

For us the current system works well and the newly qualified solicitors we recruit from our trainees are all of the standard required by the firm. We do not let underperforming trainees qualify.

## 4.

**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 do not consider that the SQE will provide any more of an effective test than the CPE/LPC/CILEX/training contract currently does, all of which we consider work well.

Part 1 of the SQE just looks to mirror the GDL and Part 2 the LPC. As stated in question 1 we consider a period of workplace training to be imperative and the SQE does not provide for that.

Further, we consider that some of the contexts referred to in paragraph 42 will be irrelevant for those in large commercial firms or firms with large personal legal services divisions like ours and therefore the requirement to study them may not be adding value to the work they undertake. Surely, if the SQE has to be introduced it could, like the LPC at least be tailored to some extent to the interests/requirements of individual firms/students.

5.

**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?**

Assuming Part 1 of the SQE will broadly mirror a law degree we do not consider that intending solicitors should have to undertake this part of the SQE. If this was a requirement this would be a disincentive to undertaking a law degree.

We do not consider that lawyers from some overseas jurisdictions or barristers should have to do the SQE and there should be some equivalent to the current QLTT for them.

6.

**4. With which of the stated options do you agree and why:**

b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?

**Why...**

We are of the view that the courses offered should to some extent be tailored to the students interests or the requirements of the law firms they have been offered training contracts at (if training contracts are still to be a pre-requisite to qualification).

7.

**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?**

Yes, we agree that the standard for qualification should be set at graduate level.

We would only typically recruit graduates, although some exception is occasionally made for those that have taken the CILEX route. We generally consider it a pre-requisite that future trainees have a degree as we like to ensure that academically they are up to the challenge of being a solicitor. We are concerned that the SQE will not assess thoroughly the academic standards we consider essential to being a solicitor.

8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Yes, we strongly agree that there should be some pre-qualification experience.

We consider pre-qualification work experience to be essential. In our view work experience cannot be replicated by any educational course.

Training contracts give trainees an unrivalled opportunity to develop their client skills. It also gives them an opportunity to determine which area of practice they want to qualify into and it enables them to generate a commercial awareness that cannot be taught in education.

We will continue to insist that our trainees or anyone that had done the SQE (assuming it does not include some pre-qualification workplace experience), undertake a training contract for a certain period before we would let them 'qualify' with us.

Clients have an expectation that a Solicitor not only knows the law but also has the ability to communicate and apply that knowledge in real life situations. That ability can only come with experience. If they don't gain the experience, the clients will suffer.

By taking away the experience will ultimately lead to more complaints from clients and deliver a lower level of client care. In other professions, for example doctors, physiotherapists, nurses etc they always have practical experience before qualification.



Lack of experience could consequently lead to an impact on clients where there is increased risk of professional negligence so this in turn will put further pressure on firms where premiums for professional indemnity insurance are at an all-time high and many smaller firms may not be in a position to continue to fund in the future.

9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

Yes, we consider it necessary for the SRA to specify a minimum time period for workplace experience. If the time period for pre-qualification workplace experience was unspecified this could lead to firms competing for trainees on the basis of how long their training contracts were with trainees desperate to qualify and secure a higher salary. This would, in our opinion, lead to trainees qualifying without sufficient workplace experience and to falling client standards. We occasionally come across trainees who consider they are ready to qualify before they actually are and inevitably it is those trainees that are the least ready to qualify. It is these trainees that given the opportunity to do very little pre-qualification workplace experience would opt for this. Very few trainees have the required client service skills or commercial awareness at the beginning of a training contract. These are developed over the course of the training contract.

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

In our opinion a minimum period of pre-qualification workplace experience is the pre-requisite. The SRA might also want to consider imposing a set of competences to be achieved during the training contract.

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

We possibly agree with this.

It may be possible that workplace experience obtained within a law firm/legal department as part of a degree e.g. on a sandwich course could be recognised but only if the students are to be exposed to the same work experience as a trainee. Our concern with this would be that experience gained in another firm/legal department may however not match the experience we can provide and require our trainees to have. Also query whether experience obtained 2-3 years prior to qualification would be as valuable as the experience obtained when the trainees are able to focus solely on their career and not on a sandwich course as part of the SQE/a degree.

We may recognise workplace experience at the Bar but would not recognise workplace experience from other non-legal employers.

12.

**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?**

We already undertake our own assessment of trainees which we consider works well and we assume other firms have similar assessments. We do not consider it essential that the SRA introduces workplace assessments but if its concern is that post education, trainee solicitors are not getting the training they need to be good solicitors then, we have no objection to the introduction of a standardised assessment during training contracts.

13.

**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 1 and Part 2, to a specified performance standard?**

Yes, we have a dedicated graduate team and graduate partners assigned to assessing trainee competencies.

We have seen many trainees over the years and we have the expertise to train them and assess their competencies. We have our own in-house courses for trainees which work well. As stated previously we do not consider that the SQE can provide the experience and training that a training contract can provide. Mock interviewing, advising, negotiating etc. cannot replicate doing these things in practice.

14.

**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?**

A toolkit of guidance would be helpful as would anything else to elaborate and explain clearly and comprehensively what is expected of law firms in respect of any workplace assessment (e.g. FAQs).

This would help consistency in different law firms.

15.

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?**

If the pathways are unregulated then we don't see why the SQE would be introduced to replace the current pathways (which we consider work well) to becoming a solicitor. If the SQE is to have any credibility it must be able to demonstrate that it trains solicitors to a standard at least equivalent to the current processes or to the upheaval of the introduction of the SQE.

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

Yes, but all solicitors should be at least 'graduate level'. We would look for further guidance as to how the SQE will ensure this or take students to this required standard. In our opinion solicitors must, as a minimum, have an academic standard equivalent to a degree.

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

We do not consider that individual rankings are needed but do not feel too strongly about this. There should be different pass marks, e.g. outstanding, very competent, competent etc. as is currently the case on the GDL/LPC to enable firms to understand the quality of the student they are recruiting.

It would be beneficial for candidates to compare their performance, but only if they are also provided with support to improve on this.

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

Please see our response to question 15 as regards (a).

We don't consider it necessary to provide details about the training provider performance. This is not something we consider now with regards to the LPC/GDL.

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to**

## **introduce the SQE?**

No, but given that we have no details of the cost of the SQE or details of exactly what it will involve it is difficult to confirm what, if any impact it would have on diversity.

The SQE should only be introduced if it will generate better solicitors than the current process.

The SQE should also not be introduced to make it easier to enter the profession. We accept that some gifted but disadvantaged students may struggle to get into the profession but this must not be the reason for opening the flood gates to students who consider entry into the law an easy option. For every gifted student there are many more who in reality should never have pursued a career as a solicitor. We see lots of students who have accumulated huge debts getting to the cusp of practice only to find that firms will not recruit them because in reality they are not cut out to be a solicitor. We would want assurance that the SQE does not facilitate the increase in law students unable to obtain jobs as solicitors.

## **20. (untitled)**

### **18. Do you have any comments on these transitional arrangements?**

We will need transitional arrangements but until we know what, if anything we are transitioning to it is difficult to say a lot about the proposed transitional arrangements.

## **21.**

### **19. What challenges do you foresee in having a cut-off date of 2025/26?**

The main challenge will be to clarify the details of the SQE to make them a workable proposal and reassuring the profession that they will not lead to a watering down of standards before the cut off dates.

## **22. (untitled)**

### **20. Do you consider that this development timetable is feasible?**

Potentially but there is an enormous amount of work to be done.

We want to be assured and convinced by the SRA that the SQE will produce better solicitors than the existing process.

The legal profession already recruits 2 years in advance, and we want to be in a position where we can plan ahead accordingly, along with being able to advise future lawyers of the routes they can take to becoming a lawyer.

## 2. Your identity

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Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

I do not agree with this. In my view the current system (GDL and LPC) is an excellent means of training solicitors which offers high standards and enables the most talented candidates to succeed. I do not agree that there is any need to do away with the current system and develop the new SQE which seems to be very exam focused and which I doubt is fit for purpose. I found in my personal experience that the GDL and LPC offered an excellent way of learning about academic law and also business and commercial law and gaining the necessary practical skills to deal with intellectually difficult problems which arise in a career as a corporate solicitor.

## 4.

**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?**

I do not agree with this. I do not agree that an MCQ test can effectively test the competences required to be a solicitor. In my experience (having studied on the GDL and LPC in 2008-2010) the current GDL and LPC are challenging and require a great deal of intellectual effort, with assessments throughout the two years, ensuring that students who pass both qualifications gain a great deal of knowledge and are ready to be a solicitor.

## 5.

**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?**

I do not agree with this. In my view (as a 3 year PQE solicitor with some experience of trainee recruitment) firms will continue to be most interested in candidates' university degree results and GDL and LPC results. I do not see why all candidates should be required to pass the new SQE.

## 6.

**4. With which of the stated options do you agree and why:**

b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?

**Why...**

I do not agree with (a) or (c) as these will be too limiting. I have selected (b) but in practice I think this will be difficult to offer.

## 7.

**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?**

This is a difficult question to answer. In my view solicitors need to have passed a university degree and

subsequently taken the GDL (where necessary) and LPC.

8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Yes, but in my view the current system is perfectly fit for purpose and works well for training solicitors.

9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

Yes

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

No I do not think this is a prudent idea. I think the time is more important that an individual spends training.

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

Yes I think this is a good idea but needs to be established clearly and carefully.

12.

**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?**

It might do, but I do not agree that this justifies the additional cost.

13.

**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 1 and Part 2, to a specified performance standard?**

N/A - not employer

14.

**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?**

N/A - not employer

15.

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?**

Yes I definitely consider that training pathways/specification of entry requirements must be prescribed and regulated, in order to maintain the high quality of the legal profession. However I think the present system is adequate and I do not agree it needs to be changed.

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

I think it is preferable that solicitors should be required to hold a degree, in order to demonstrate they have the intellectual capability to serve clients and carry out legal work.

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

I would expect that firms will want to see this sort of information on their candidates/trainees, and I would expect that individuals will want to know how well they have done. However again I must say that I do not support the idea of the SQE in principle, as I feel it is unnecessary and even disadvantageous for the legal profession to do away with the current system (GDL and LPC) which is an excellent system, and replace it with the new SQE.

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

Difficult to say at this stage without knowing more information about the SQE.

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

I think the use of MCQs could potentially have negative EDI impacts. I also think generally the proposed introduction of a completely new system, the SQE, could have negative EDI impacts e.g. the confusion of the new system, added expense for students etc.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

No comments.

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

Could be difficult and confusing for students and firms recruiting trainees.

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

No

## 2. Your identity

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I/we have a specific confidentiality requirement as follows.: Please check with me before attributing a response which is in conflict with my institution\'s response to this consultation

## 3.

**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?**

It is ONE way of achieving these, and from the SRA's perspective, no doubt the most cost-effective. The nature of the assessment currently proposed raises serious issues, however, concerning evidence of the necessary competences: see further response 2. below.

## 4.

**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?**

No. The SQE proposals appear to assume that all necessary competences can (a) be learned 'on the job' and (b) be tested by MCQs and OSCEs.

In today's complex world - immeasurably more complex than in the days when a 5yr apprenticeship was sufficient to learn the typical solicitor's craft - the attributes of gradueness provide real and necessary value to a solicitor. Busy practitioners do not have the time, nor probably the teaching abilities, to develop these effectively in trainees/apprentices/new solicitors.

Secondly, although carefully-crafted MCQs can test higher-order thinking, they inevitably require the candidate to choose from a small range of prescribed options, ie a candidate's ability to think laterally and creatively to find the best solution for a client's problem is not tested by this means. The OSCE context is not best suited to this either.

## 5.

**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?**

Yes. Given that one of the major purposes of the SQE is to regulate for a minimum standard, this should be the case.

## 6.

**4. With which of the stated options do you agree and why:**

c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

**Why...**

This appears to offer the best compromise amongst competing concerns.

## 7.

**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?**

Yes, without question.

8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Yes. This offers valuable socialisation benefits and in my view assists substantially with the formation of professional identity.

9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

Probably, yes, if its benefits are to be realised as, in the nature of these benefits, they will accrue only with engagement and experience over time.

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

I think it might be preferable to specify both, as was once the case.

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

Yes, subject to this being capped at a limited amount of the prescribed time period for workplace experience (rather as paralegal experience may already count towards a limited amount of a solicitor's training contract period).

12.

**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?**

No: I consider that there are practical, cost and regulatory obstacles to this.

13.

**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 1 and Part 2, to a specified performance standard?**

N/A

14.

**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?**

N/A

15.

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?**

Not if the assessment is carefully designed to test what are in fact, in my view, all the competences needed to be an effective solicitor including, as stated at response 2 above, those of graduateness (for example: reflective, critical thinking; meta-cognitive self-regulation; independent learning; 'moral citizenship').



## 16. (untitled)

### 14. Do you agree that not all solicitors should be required to hold a degree?

I agree that a degree should not be a requirement per se; but the attributes of graduateness (see previous response) should be, and should be tested appropriately by the SQE. The present SQE proposals do not do this adequately.

## 17.

### 15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?

Yes, so long as this information can be presented in a way that will inform unsuccessful candidates as to where they need to concentrate their efforts to improve their performance and, as necessary, to facilitate their making realistic career choices and avoiding potentially wasted costs. It may also assist employers in recruitment decisions.

## 18.

### 16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

I do not think information about training provider performance should be published as it is too broad-brush, ignoring underlying issues, and may have a wide range of unintended consequences. Candidates could of course ask individual training providers for this information when making prospective training decisions.

## 19.

### 17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?

As implied in a number of my responses above, a negative impact from the failure of the SQE - as currently proposed - to assure attributes of graduateness in qualifying solicitors.

## 20. (untitled)

### 18. Do you have any comments on these transitional arrangements?

We need greater clarity as to outstanding issues before a definitive answer can be given to this question.

## 21.

### 19. What challenges do you foresee in having a cut-off date of 2025/26?

See previous answer: hard to comment at present.

## 22. (untitled)

### 20. Do you consider that this development timetable is feasible?

See previous two answers.

## 2. Your identity

**1. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

I/we have a specific confidentiality requirement as follows.: We are happy to be named as a respondent but please ask for permission if you intend to quote our response in any way

## 3.

**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?**

### STANDARDS

No. We are not able to assess this on the basis of the limited information provided. These are our concerns:

- The SQE may achieve consistency but this appears to be aimed at a lower level than the present system. The consultation suggests SQE will be at 'graduate level' ie level 5, so lower than the current level 6 (postgraduate) for GDL and level 7 for LPC/work experience. In order to achieve high quality standards, the level should be at least the same as it is now.
- The narrow range of contexts being considered for Part 2 of the SQE (Property, Wills & Probate, Criminal Litigation, Civil Litigation and the Law of Organisations) do not reflect the reality of practice at a global law firm. This means that the focus will be on subjects that will not be relevant to our practice and therefore won't achieve consistency or quality in our key areas.
- If the SRA believe that the lack of consistency in the current system is an issue, then it should look seriously at ways of addressing the current system, in particular the two other original options which it initially raised for consultation.

### DIVERSITY

No. We do not believe that the SQE will achieve the diversity objectives set out in paragraph 10.

Indeed we think it has the potential to do the opposite. By confusing the routes into law, potentially encouraging firms to have different and varying development programmes, there may well be a race to the bottom/race to qualification approach which would not develop and support those most in need of it. The resulting confusion from both the consultation and change process will leave aspiring solicitors with uncertainty about whether to attend university and which route to qualification to choose.

On a narrow interpretation of the proposals, theoretically with the right information people will find a pathway that suits them and ultimately pass the SQE, thereby achieving the stated objective of a diverse pool of qualified lawyers. However this ignore the fact that passing the SQE will not guarantee careers in the law, and that people who undertake less traditional routes to qualification may well be disadvantaged in the job market.

Further, given how little detail we have about the length and complexity of the SQE assessments, it is difficult to be confident that the cost of sitting the assessment (and any subsequent resits) will be manageable for candidates from non-traditional backgrounds, with limited parental or other financial support. The consultation seems to assume the new SQE route would be less expensive than the LPC but the assessment for part 2 in particular, has the potential to be expensive and preparation/'crammer' courses are likely to be attractive for part 1 given the substantive legal knowledge content.

We note that the AlphaPlus Report commissioned by the SRA casts doubt on whether the SQE will meet this objective.

## 4.

**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?**

Again we are not able to assess this on the basis of the limited information provided. Until the assessment

framework is provided (at the end of this year) we cannot consider it in full.

We have the following concerns:

- The Statement of Legal Knowledge on which the SQE is based does not reflect the breadth of knowledge required by a global law firm.
- Part 1 SQE is to be tested via multiple choice tests. We query how MCT can test the breadth and depth of legal knowledge. It does not appear to be even equivalent to the testing on the current one year GDL.
- Part 2 SQE is focused on reserved activities so a very narrow area which does not reflect the practice of a global law firm. We query whether any assessment environment can simulate the real demands of practice, as it will be too self-contained and will lack the complexity and subtleties of real issues.
- We are opposed to unlimited resits which will simply favour those students who can afford to keep resitting. This does not seem to be consistent with the objective of ensuring standards.

5.

**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?**

No.

Given the international nature of many of our clients, transactions and cases, it is a demand of modern practice that our lawyers are mobile.

If lawyers have qualified in the UK, for example barristers or Scottish lawyers, they should not have to requalify in this onerous way.

Lawyers who have qualified in similar common law jurisdictions, and have corresponding expertise in some modules of a law degree or equivalent, should be exempted from either elements of or all of the Part 1 assessment.

The EU will require exemptions to be offered to various EU-qualified lawyers, so we should not treat lawyers from common law jurisdictions less favourably.

6.

**4. With which of the stated options do you agree and why:**

b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?

**Why...**

We support option B. This is the only one that is suitable for a City law firm. As the City firms account for over half of the training contracts in the country, due weight should be given to the suitability of the regime for such firms.

The obvious problem will be the SRA's ability to test competence in all areas of practice covered by all firms. However a narrower range of competencies will mean the candidates will potentially have limited or no experience in some areas being tested, necessitating unnecessary expense and burden to pass the assessment as a tick box exercise rather than a meaningful contribution to and assessment of a solicitor's high standards of competence.

Options A and C will inevitably require City trainees to regain knowledge of these areas, no doubt at significant cost in time, disruption and fees.

7.

**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?**

No. This is a lower standard than at present. As per our response to Question 1, we consider that the level should be at least the same as it is now, namely level 6 (postgraduate) for GDL and level 7 for LPC/work experience.

We note that Trailblazer legal apprenticeships are set at level 7.

8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Yes. Our firm will continue to require this, as there is no substitute for the expertise that comes from work based learning. The information provided about the part 2 assessment leads us to believe that practice will be necessary to acquire the skills to pass.

9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

Yes – in order to avoid a 'race to the bottom'. We accept that people learn and develop at different speeds. However, the amount of knowledge, skill and judgement required to be a competent solicitor is, in our view, not possible to learn in less than 1 year – so we regard 1 year as the irreducible minimum and would argue for a longer period. We think stakeholders, for example clients, will need a minimum period of work based learning in order to have confidence in the validity of the qualification process, certainly in the early years.

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

As well as, rather than instead of. 'Time-served' in and of itself will not ensure consistently high standards without specifying the competences and experienced required during this period.

The SRA have not provided any proposals for specifying competences for our consideration.

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

No, due to the range of experience in different types of law that could be accumulated. It is difficult to see, for example, how experience advising pro-bono clients with tenancy issues in a legal clinic could ensure competence as a competition or banking lawyer. As our answer on question 4 is that we think the Part 2 assessment should be relevant to our areas of practice, then it follows that we should require experience to be in those areas.

12.

**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?**

We already undertake a rigorous process to ensure the quality of our newly qualified lawyers, including training, supervision, management and assessment. We do not think the additional cost and burden of work place assessment is justified. If it was to be required in light of an SQE that does not assess all the required competencies, it would have to be reasonable and proportionate.

Another concern is that increasing the burden on firms may deter them from taking on as many trainees.

Smaller firms in particular may find this a real challenge. In those circumstances, the diversity objective will not be achieved.

13.

**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 1 and Part 2, to a specified performance standard?**

The current model of using a period of recognised training already includes, albeit less formally than assessment format, a measure of competency based assessment. In the absence of any information about what this would entail, we do not know if we would have the expertise to conduct a more formal assessment.

14.

**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?**

We cannot answer this question without more detail of what the assessment would be, what the toolkit of guidance would contain and what resources would be available. If workplace assessment is introduced and the support is lacking, we are likely to need expensive support from external providers which is undesirable and would be a deterrent to taking on trainees as we have said above.

15.

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?**

- An unregulated training market (training pathways) is unlikely to be credible for a professional qualification. It is likely to be profit driven rather than educationally driven and teaching to the test and crammer style courses will emerge which is undesirable and could lead to reputational issues relating to the status of the solicitors' qualification in the eyes of consumers of legal services. It may well lead to reputational issues on a comparative basis with legal qualifications overseas which will be damaging to the English legal system particularly in the international market place.
- Shorter, crammer style courses are likely to be cheaper and if sufficient for a pass/fail exam, and restricted to the Part 1 and Part 2 subjects, are unlikely to provide the education and development of skills required by City firms. It is likely that City firms will want the equivalent coverage of the QLD/GDL and LPC and if only available at certain institutions, those will be preferred. Self-funding students may not wish to or be able to pay the higher fees and may not realise the career limiting consequences of their choices with the result that there would be a two tier legal education system.
- A two tier profession is a likely consequence of City firms needing to continue to select graduates or the equivalent, because of the education and skills they acquire which are not otherwise available in the new pathways to qualification.
- Reputational issues described above apply equally to the reasons why a degree or degree equivalent entry requirement is needed.
- This goes contrary to the trend in other professions eg nursing or the police who have recently moved towards or are considering moving towards a graduate entry requirement.
- These reasons do not only apply during the transitional period.

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

No. All solicitors should have a degree or degree-equivalent (such as CILEX) qualification. This is essential for the credibility and rigour of the qualification.

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

Yes. Our firm is focused on employing high performing individuals and we require details of their performance to assist in identifying their development needs, as well as giving us a view on the level of their competency and giving them a standard to aspire to.

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

- a. Rankings and grades in individual areas. We do not know what other information is possible.

b. We are not clear whether 'training provider' means educational providers or the law firms themselves. If the former, then we would want to have details to enable us to judge how effective they are in preparing candidates for SQE. If the latter, we don't have a comment.

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

Yes.

Cost will be an issue for social mobility which is likely to have an indirect impact on ethnic diversity. We cannot see the SRA has presented a convincing case that the new SQE assessment framework will be less expensive than the current regime and depending on its format, has the potential to be much more expensive. Although the SRA maintains preparation courses will not be necessary, there will nevertheless be a provision from an opportunity focussed legal education market place and a worried candidate cohort. There is a danger that students will opt for cheaper, less educationally sound courses in an unregulated training market and they will subsequently be less employable.

Cost is also an issue with the proposal of unlimited resits.

Overall this proposal is likely to perpetuate the current two tier profession whereas we believe the SRA should be looking for ways to unite the profession.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

It is difficult to comment on whether the transitional arrangements proposed will be sufficient until we have more detail on the assessment framework.

From the point of view of prospective solicitors, those who have embarked upon the existing framework should be allowed to continue with it and not be obliged to switch.

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

None that we can see at this stage.

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

No.

- The proposed development timetable focuses only on those aspects of the process that are being led by the SRA. It does not take into account the ability of stakeholders (eg universities, training providers and firms) to get themselves in a position to be ready for the introduction of the new qualification requirements.
- We are already currently recruiting for 2018 and the SQE described in this consultation is too complex and large scale a change to be achieved in such a short period of time and retain stakeholder confidence in its quality. Sufficient time must be allowed for firms to make the necessary adjustments to any new workplace experience requirements, the associated costs and the knock-on effects of managing trainees who may or may not be undergoing part or all of the SQE at the same time, as well as the consequential adjustments to firms' businesses.
- Given the unknowns and contingencies, the development timetable does not look feasible. It would be better to approach this with a more steady timetable and take the time to get this right.

## 2. Your identity

**1. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

I am supportive of measures to improve consistency and comparability between the routes to qualification. I also support measures to increase social mobility, equality and diversity and to maintaining and improving consumer confidence in the profession by ensuring high standards of entry and high standards of legal education and training. I believe that the current system is broadly fine and fit for purpose and with small scale changes could achieve the required improvements.

Like the Law Society nationally, I support the idea that the Law Society should take responsibility for professional standards which includes entry into the profession and awarding the professional title of solicitor.

I am very concerned that around 50% of those on the LPC do not have a training contract. If the necessity for a training contract is removed that position is going to get worse and this will have a disproportionate impact on poorer applicants. I oppose any system which could end up with people becoming solicitors with little or no mandatory education requirements at all and with little or no work experience in a legal environment. I believe that this would be extremely damaging to both the profession and the public.

Being a professional and being a solicitor is not just about passing an exam. It is about common standards of behaviour, conduct and ethics which really and truly are only learned by keeping the company of other solicitors. That is the reason why there is currently a two year training contract and why one has to practise as an employed solicitor for three years after that before one can start one's own firm. You don't learn these behaviours from a book. The SRA outcomes need to be learnt in context.

Those graduating or passing the exam may get employment but it will be at the same paralegal level as at present and the fact that they be called solicitor will be neither here nor there and indeed will lead to a diminution of that status.

These proposals also run the risk of lowering, not improving standards. The depth and breadth of experience obtained during the training contract, which requires a rounded overview of a solicitor's practice, would be lost if entrants to the profession were largely based around an exam which is learned in the summer term and forgotten by the autumn term. One needs to learn about things such as the duty to the court, dealing respectfully and honestly with one's opponents, what to do when a client puts you in a compromising position and, probably most importantly of all, handling client money, in practice

The removal of clear and/or authorised pathways to qualification will have a significant impact on both domestic and international reputation of the UK legal profession. I feel strongly that the findings of The Law Society's Report into the Global Competitiveness of the England and Wales Solicitor Qualification (July 2015), should not be ignored. This Report addresses the risks to our international reputation if the SRAs proposals come to fruition. In particular, that Report emphasises the importance of the training contract as maintaining the brand and reputation of the solicitor qualification. As one of the contributors to that Report put it "the regulator must take care of what the title means and the what standards are behind it. The international credibility of the qualification is at stake if this is threatened. If you erode the title, you erode English law as a commodity".

Rather than innovate legal education and training, there is a real risk that the introduction of the SQE will lead to 'crammer' courses designed solely to enable the candidate to pass the exam rather than preparing them to be solicitors. This risk is particularly acute in respect of the proposed SQE part 1. It is unlikely paragraph 10 will be achieved by ensuring that there are new and diverse pathways to qualification, as there is little incentive to innovate (such as the through apprenticeships or programmes such as the ones adopted by the accountancy model for example) if the potential student can simply choose a cramming course. With cost as a factor, it is unlikely that training courses designed to prepare students for a SQE will incorporate factors designed to improve overall employability nor is it likely to incorporate a broader knowledge base.

4.

**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?**

This is a difficult question to answer and assumes a simplicity and certainty that is not currently evident. Significantly, we do not know the form which legal education and training will take prior to these assessments. We do not know whether the number of re-sits will be limited and, if so, to what number. We do not know what the time limits on the time taken to pass and/or between taking particular modules and ultimately passing the assessment will be. We do not know the detail of how these will be assessed or who candidates will be assessed by.

Employment law does not appear to be covered in either Part 1 or Part 2. This is an area of wide applicability and importance and as an employment solicitor I believe it is worthy of inclusion.

5.

**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?**

I do not agree that all intending solicitors should be required to pass a SQE on the model currently proposed for the reasons outlined elsewhere in this response.

If exemptions can be achieved during a transitional stage then it is difficult to see why similar exemptions should not be permitted following a transitional stage in order to reduce the burden, including the financial burden, of aspiring solicitors. A model that would retain exemptions would be more flexible and more in line with the model for other professions, such as accountancy.

6.

**4. With which of the stated options do you agree and why:**

b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?

**Why...**

A combination of b) and c). Consideration should be given to a broader number of contexts e.g. employment, family, media and technology, company and commercial, construction and engineering, immigration, financial services, clinical negligence and PI. This would increase the practical relevance of a SQE and allow greater flexibility.

We note that this might be difficult for some firms to support, so is going to require some form of training. This has a costs impact and may therefore reduce the possibility that firms will recruit intending solicitors.

7.

**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?**

Yes. It is imperative to protect the reputation and brand of solicitor that all of those achieving qualification have been assessed to graduate level or equivalent.

The Bar Standards Board has indicated that they will keep the undergraduate law degree as part of their



route to entry. If this standard, or equivalent, was not maintained for solicitors it devalues the profession and would create disparity between the two professions with the real risk that solicitors would be viewed as inferior and less qualified.

8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

I believe that pre-qualification work based learning should be substantial and should be undertaken in a suitably regulated legal environment. In addition, work experience should be properly supervised by a solicitor. In view of the unique skills required to be a solicitor it is difficult to envisage how experience in other work environment could appropriately compare to qualify as a period of recognised work based learning.

I also believe that it would be preferable, and important, to retain a requirement to undertake vocational work experience in more than one practise area. This would help to ensure that intending solicitors improve their employability prospects upon qualification and prevent employers from taking advantage to suit their own business needs without regard to the needs of the individuals and, ultimately, consumers. We accept that this does not promote increased flexibility and as such would suggest that there is an opportunity to apply for an exemption from this requirement but that such an exemption only be granted where it is in the interest of the aspiring solicitor and consumers as opposed to the interest of an employer. For example, we envisage the scenario where someone has been a successful paralegal in a particular area for a number of years and wishes to qualify into that area.

The SRA has a responsibility to ensure that intending solicitors will be qualifying with the requisite skills to be able to compete on an equal footing in a competitive market and to ensure that legal education and training pre-qualification is as broad and as rigorous as possible. It is difficult to see how consumers can be protected if intending solicitors are not required to undertake a significant period of work based learning. Furthermore, if this was not a requirement, the solicitor brand would be significantly devalued.

9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

yes

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

I believe it should be a combination of competencies and a time period of workplace experience

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

I believe that no-one should be able to qualify as a solicitor without a period of work experience undertaken in a suitably regulated legal environment.

I would support work experience undertaken as part of law degrees to count towards pre-qualification workplace experience.

12.

**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?**

yes

13.

**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 1 and Part 2, to a specified performance standard?**

yes

14.

**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?**

training and the chance to compare experiences with others undertaking the assessment would be of assistance.

15.

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?**

By not having clear pathways it will be very difficult for aspiring solicitors to make an informed choice as to what pathway to follow. Not prescribing pathways and/or not regulating legal education and training providers could significantly weaken the standard and devalue the profession. Those from a poorer background may be forced to choose the lowest cost option and then find that money has been wasted as they are not adequately prepared for the SQE and/or for qualification. These students will therefore be disadvantaged and there will be no recourse available to them if they have received substandard training. They may also find it difficult to obtain employment, even having passed a SQE, as employers may still be looking towards the traditional routes and/or require education and training to have been given by particular institutions as a pre-requisite to any offer of employment. Less well informed or advised students are at risk of being severely disadvantaged.

There is also a risk of employers being faced with a number of applicants who have all followed distinctly different pathways, with no clear and coherent information on the quality, breadth or depth of any of the courses undertaken. With no assurance of consistency there is a risk that employers will stick to what they know and that those students who have taken alternative routes to qualification will find themselves at a disadvantage to those who have followed something akin to the current routes to qualification.

It is noted that there is to be a further consultation on the issue of pre-entry requirements therefore a more informed and balanced view can be given once further information is known. What is of the utmost importance is the credibility and standard of the proposed SQE, the legal education and training required in preparation for it and the associated work based training. It is therefore important that any SQE be designed to be of a sufficiently high standard to be able to identify those that do not have the required intellectual capability and skills to be a successful solicitor.

It is imperative that legal education and training needs to be of a high standard and suitably robust in order to protect the reputation of the profession and to protect consumers and be available in such a way so as not to negatively impact on equality and diversity. We also need to be able to confidently state to consumers and other jurisdictions that our system is suitably robust and achieves high quality standards.

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

I am committed to equality and diversity and increasing social mobility. As such, it is important that there are routes to qualification that do not require a degree. However, it is equally important that these alternative routes are recognised as being equally robust and of a comparative standard to ensure that those taking a non-degree route are not disadvantaged and that a two-tier system is avoided. It is noted that the current

system allows for qualification via the CILEx, equivalent means and apprenticeship routes, all of which do not require a degree.

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

yes

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

yes

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

I am concerned that introduction of a SQE will actually increase the cost of legal education and training rather than decrease it. It is noted that it is not yet known how much the SQE will cost and training will be required to enable one to pass the SQE. In addition, I understand that there will be no Student Finance Loans available for the SQE which creates a further barrier for those from poorer backgrounds.

It is likely, and indeed has been identified by SRA research, that some employers will still require that intending solicitors follow the traditional route of degree and LPC. This risks creating a two tier system where only the more affluent candidates will be able to afford the 'gold standard' route and, as such, have an increased chance of passing the SQE, of obtaining work based learning opportunities, of achieving employment on qualification and/or better paid positions.

It is therefore not clear how the stated position of employers that they will require LPC and Degree will fit with the move towards the SQE – it seems that there will be a real dilemma for students, particularly if they are able to take SQE subjects at different points, where some firms may disfavour them for having done this, whereas other firms will be looking at SQE competencies as a recruitment requirement.

In addition, unlimited re-sits would create a bias towards more affluent candidate. Furthermore, unlimited re-sits do not sit comfortably with the objective to drive up the standards to enter the profession.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

Full transitional arrangements are yet to be published which makes it impossible to comment.

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

More information is required before this can be answered.

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

It appears optimistic

## 2. Your identity

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Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

Taking the objectives stated at para 10 in turn:

"consistent and comparable" - yes, this form of assessment could achieve that, subject to the marking schemes for SQE Part 2 being sufficiently rigorous and objective.

"high quality" - there is little in the consultation document to convince us that a high quality will be achieved - we do not believe that the threshold for entrance (level 3 of the Threshold Standard) is sufficiently high as to stretch or even maintain current standards. It is also hard at this stage to judge or give credence to a series of multiple choice questions (SQE Part 1) being a sufficiently searching examination of the acquisition of years of legal knowledge. We further believe that relevant experience is more important than exams. Without a thorough assessment of the experience gained during a period of recognised training, alongside more academic testing, the rigour and quality of the proposed assessment remains doubtful and unproven.

"diverse pathways" - we are concerned about the potential cost of undertaking the assessment and therefore the impact on diversifying access to the profession; furthermore we believe there is a serious risk of a number of (potentially unregulated) "crammer" courses springing up and providers could conceivably seek to recoup some of their losses from potential reduction in law degree/LPC numbers through this avenue.

## 4.

**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?**

It is hard to judge without more detail. However, as per our answer to question 1, it is difficult to give credibility to a series of multiple choice questions providing a sufficiently thorough and detailed assessment of legal knowledge.

Part 2 could provide a greater and more exacting test, but we have concerns about how to ensure the consistency and rigour of marking, particularly given the likely thousands of candidates and numerous test centres and assessors needed. The assessment of written, drafting and research skills would require extensive and detailed responses from candidates, which would provide higher risk of subjectivity in marking. Additionally, we are concerned about the cost of both developing and undertaking an assessment of sufficient breadth and depth.

Without more detail about elements such as the number of re-sits permitted and any limitations on time between the two parts of the assessment, we are concerned about the effectiveness.

We also firmly believe that significant periods of recent and relevant work-based experience must also form an essential part of both the learning process and assessment for it to be truly effective.

## 5.

**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?**

There should be no other exemptions otherwise this poses a risk to the credibility of the SQE. However law degree students may question the value, priority and cost of having to undertake both law degree examinations and the Part 1 knowledge assessment.

6.

**4. With which of the stated options do you agree and why:**

**Why...**

We agree with option b). Limiting the choice of assessment contexts to the stated 5 or to reserved activities would also limit the value and relevance of the assessment. What about students seeking to qualify in Corporate, Family or Employment, for example? Many will know and have already begun to focus on their intended area of specialism by the time of sitting Part 2, so would reasonably expect to be assessed on that. This may cause challenges in the development and assessment of the SQE, and the likely cost, however for it to be credible and relevant, it needs to represent a broader spectrum of areas of specialism.

7.

**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?**

We strongly believe that the standard for qualification should be at least graduate level or equivalent, to maintain high standards and for credibility.

8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

We strongly believe that a significant period of structured workplace experience which is of sufficiently stretching breadth and depth, is absolutely essential to the development of well-rounded, capable newly qualified solicitors.

9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

As per our answer to question 6, a significant length of relevant workplace experience is vital. In order to maintain quality, the SRA may have to specify a minimum period. We understand the content and duration of this may form part of a future consultation, which we would welcome.

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

We believe the answer is not "instead of", but "as well as"! Guidance as to the competences required would be especially helpful for smaller firms.

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

We agree that a wider range of pre-qualification experience should be considered and could help broaden access - but the work that can be counted must be of a sufficiently high standard, relevance and recency. For example, the quality and range of experience gained in a single week's vacation placement five years' earlier, with limited meaningful work undertaken, is unlikely to have contributed much to preparing a candidate for qualification, so should not be included. Care must also be taken with paralegal roles - some contain a high level of relevant legal experience and should absolutely be taken into consideration, but

other roles are of a much more administrative nature and offer questionable value in terms of genuine preparation for a career as a solicitor. To that end, we believe that a number of instances of workplace experience could count cumulatively, but with a minimum duration (at least 2-3 months) and with detail as to the level and nature of work undertaken.

Again, we believe this will form the subject of a future consultation and we would welcome that.

12.

**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?**

Workplace assessment must be an essential component of the qualification process for it to have sufficient rigour, value and credibility. Without any indication of cost and other resources required however, it is hard to pass comment on that element.

13.

**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 1 and Part 2, to a specified performance standard?**

As an employer, we are already thoroughly assessing trainee solicitors' competence and have been doing so successfully for many years! We would need to understand the 'specified performance standards', but subject to that we see no difficulty with this.

14.

**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?**

Until we have more detail as to the scope of the workplace assessment, it is hard to know what guidance and resources might be required.

15.

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?**

We wholeheartedly agree that the prescription/regulation of training pathways, and the specification of entry requirements, are both absolutely essential to supporting the credibility of the assessment and to protect both consumers and students.

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

Yes, provided that an equivalent-level qualification and/or sufficiently relevant and lengthy practical experience is held as an acceptable alternative. We do also believe that this criteria should be a pre-requisite for assessment.

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

It would be valuable to share a candidate's individual performance on the SQE with them. It is important feedback to aid their development and decision-making, particularly if they are unsuccessful.

Sharing comparative performance may be less useful, as there are so many extenuating circumstances which make one candidate's situation different from another.

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

Data about overall candidate performance would be important in terms of judging the success of the new assessment initiative.

Data regarding training provider performance is vital to ensuring a competitive and open marketplace, both for students and employers. There is much concern about the emergence of 'crammer' courses, which this information would at least help mitigate.

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

There is no indication of cost but we are extremely concerned that the cost of undertaking the SQE, including recovery of the extensive development, administration and assessment, is potentially very high. It risks at least maintaining, if not exacerbating the exclusion of would-be entrants to the profession on financial grounds. The rise of 'crammer' courses will likely have a further negative impact on cost grounds.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

None.

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

We believe it is an ambitious but not impossible timetable. However, given the breadth and depth of genuine concern about elements of the SQE concept and format, from all across the profession, from students to universities, law firms to law schools and representative bodies, significant further consultation is essential and this may slow down the implementation process.

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

Our answer is the same as for question 19 - we believe it is an ambitious but not impossible timetable. However, given the breadth and depth of genuine concern about many elements of the consultation, significant further consultation is essential and this may slow down the implementation process.

## 2. Your identity

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## 3.

**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 have concerns about whether the proposed SQE will meet the objectives. Without more detail it's very difficult to agree. Our main concern is how we ensure the same high standard of competence that our 2 year training programme delivers. We're unsure how a test will satisfy us of the same legal and practical skills that 2 years of development delivers and have concerns that the test will become a substitute for a high quality period of training.

We are also concerned that people will be taught to pass a test rather than developing the skills and knowledge required to become a lawyer. This is unlikely to prepare them for the realities of practice.

There is also a concern that the cost will reduce access to the profession by burdening individuals with more expense.

## 4.

**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?**

Not in isolation. We need clarity on the standards that are being set, how rigorous the testing will be and what the standardised practical tests will look like.

We would like to understand how the assessment will simulate the real demands of practice - can a test situation genuinely replicate the work based demands?

## 5.

**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?**

If there is to be one central assessment then we do not believe there should be any exemptions to this.

## 6.

**4. With which of the stated options do you agree and why:**

a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?

**Why...**

We don't believe any of the options provide the perfect solution but option (a) is preferable in offering breadth of experience whilst maintaining as much consistency as possible.

## 7.

**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?**

Qualifying solicitors are currently assessed to postgraduate level. We believe that the standard of the SQE



should be set to a minimum of degree level but question how it is able to do this.

8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Yes, we regard this as an essential requirement for qualification.

9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

Whilst we recognise that people develop at different rates, and bring different experience that might be of equal value to the training contract, we're not yet confident in an outcome focused approach from day one. In our experience, the training contract allows firms an opportunity to stretch those who are very strong whilst allowing those who need a little longer to develop, ensuring that they are consistently operating at the required standard before qualifying.

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

We are in favour of assessing the competencies to be met during the pre-qualification workplace experience, but still believe a minimum time period is essential.

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

No. We are unsure how we could ensure consistency in the standards if the experience is gained from a range of employers.

12.

**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?**

Work based assessment does not need to be unnecessarily burdensome. As part of the training contract, we are regularly assessing our trainees against both the current skills standards, and our own performance standards.

13.

**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 1 and Part 2, to a specified performance standard?**

We believe this is expertise that could be developed. To an extent we are assessing competences but would need more information on the detail before we could comment further.

14.

**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?**

Difficult to answer without more insight into what is being proposed and what the toolkit might contain.

15.

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?**

Yes, we believe both are necessary.

**16. (untitled)**

**14. Do you agree that not all solicitors should be required to hold a degree?**

Yes - but this is the current position. We do, however, still believe that there is a need for the role to be at least graduate/post-graduate level.

**17.**

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

We don't have a strong view.

**18.**

**16.**

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

**19.**

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

We have some concerns about the negative EDI impacts.

There is a concern that this will result in an increase of costs which will inevitably disadvantage certain groups.

Potentially has a negative impact on social mobility - privately educated students are more regularly prepped to pass exams so does this perpetuate the problem with the perception of the profession?

**20. (untitled)**

**18. Do you have any comments on these transitional arrangements?**

The arrangements appear sensible but without further detail we cannot comment further.

**21.**

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

The cut-off is likely to have more challenges for providers than employers.

**22. (untitled)**

**20. Do you consider that this development timetable is feasible?**

It appears ambitious and somewhat unrealistic given that we are currently recruiting for training contracts to commence in the 2018/19 academic year so our current recruitment round could be effected by this timetable.

## 2. Your identity

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## 3.

**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?**

No

## 4.

**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?**

No - the current format is much better. Everything a future lawyer needs to know in order to succeed cannot be put into a one-off exam. A qualifying law degree allows future solicitors to practice and improve these skills over three years, which are then supplemented by practical skills learnt during the LPC. I fear that if a one-off exam, students will revise in order to pass the test rather than to learn the skills needed to be a successful solicitor

## 5.

**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?**

No, it is well known that a law degree is one of the most difficult degrees and if the SQE does not provide exemptions for those who have a law degree, many future lawyers will avoid doing it which will affect the quality of future trainee solicitors

## 6.

**4. With which of the stated options do you agree and why:**

Why...

## 7.

**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?**

## 8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

## 9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

No, the current quality of trainee solicitors is excellent and therefore there is no need to change this. Competition for training contracts is already fierce and this will exacerbate the problem whilst providing no improvements on the current system.

## 10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

Yes. It should be an alternative for those who cannot afford to do the LPC rather than instead of.

12.

**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?**

No. The costs are already large and therefore they should not be continued to be dragged out after a training contract has been gained.

13.

**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 1 and Part 2, to a specified performance standard?**

14.

**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?**

15.

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?**

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

No. There are already alternatives for those who cannot afford to do a degree such as CileX. Clients and firms will continue to expect trainees to hold a law degree and if the rules are changed, it will create an even larger gap in the quality of trainees in magic circle firms compared to those in small local firms.

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

Training contracts already have long very long hours and large workloads and the quality of work will be compromised if spare time will have to be used for studying for this new exam. I highly doubt firms will allow trainees to take large amounts of time off in addition to holiday leave in order to revise for these exams. If

some firms do and others do not, particularly small firms who cannot afford to have temp cover, this again will create large gap in the quality of trainees.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

No. These changes will be implemented at a time when students will have completed the LPC and then have to pay out again to do the SQE which will not really test anything students will not have already been tested on.

## 2. Your identity

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## 3.

**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?**

Changing legal services market

In part, the question refers to the need for change to be responsive to the changing legal services market.

There is no explanation of which changes in the legal services market are referred to here or how they are relevant to the process of qualification as a solicitor. It is hard to see how such changes mean that the process of qualifying as a solicitor should be changed.

From our point of view, the principal changes in the legal services market in the last five or 10 years are mostly through technology and increased competition. New technologies enable law firms to operate in a totally different way - including 'virtual' law firms. This is having a substantial financial impact. Technology now also enables some services to be provided remotely from non-metropolitan areas where the costs are lower or even from other countries. It also is likely that a number of more mundane tasks will become automated and that the role played by junior lawyers and trainees may diminish and that the non legal staff or paralegals may take some of this part of the market.

The proposals on the route to qualification as a solicitor seem to have very little to do with any changes in the market for legal services. In fact in some ways it seems to be quite the opposite: the high level of knowledge and skills required to be a successful solicitor remain the same as they were before with the possible exception that there is a greater emphasis on IT skills.

Barriers to qualification

The availability of traineeships is principally a barrier to qualification to the extent that there is a limited number of jobs available. If there were more jobs than applicants then the problem would cease to exist. However the opposite is the case. The Firm receives literally hundreds of applications every year for the three positions available. A change in the process for qualifying as a solicitor will not resolve this problem.

If it is intended that reducing the cost of training to the aspiring solicitor is to be achieved by putting the cost on the law firms then inevitably that brings into question whether firms will take the same number of trainees in the future. If this intended to make the profession more accessible it may have the adverse consequence of doing exactly the opposite. This process will then, if anything, exacerbate the oversupply of applicants.

We generally take three trainees a year and we already pay for their LPC fees. If instead there was a requirement for the firm to pay salaried employees to spend significant amounts of time on external courses to achieve the equivalent then the cost to the firm will be substantially increased. The disruption to the firm of such absences will be another disadvantage. If these changes are made it seems to us quite possible that likely we would consider reducing the number of trainees that we employ or stop taking any at all and

that we may look to alternatives such as paralegals.

If part of the proposals involve an examination at the point of qualification, then the risk of having employed someone who does not then qualify is increased. We would have to think hard about running such a risk given the cost of training. In order to increase the confidence we have in the result we would be most unlikely to risk candidates who do not have a strong record of success in examinations.

Ultimately, it is hard to see how we would move away from recruiting graduate trainees. We have found that process to be generally very reliable and, against a range of alternatives, represents the lowest risk for us.

4.

**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?**

There is insufficient detail provided in order to give confirmation sought.

It is hard to see how using actors/non-legal assessors will achieve consistency in the issues being assessed are inevitably very subjective.

There is reference to the fact that examining legal knowledge will be by a multiple-choice test supported by the fact that this has been used in medicine, pharmacy and accounting. There is a significant difference in the skills required for the practice of law from those required in medicine pharmacy and accounting, not least of which is fluency with the written word. Multiple-choice format will not assess those skills. The practice of law rarely involves merely providing one line answers.

Multiple choice is being used as a substitute for a QLD or non law degree plus GDL and parts of the LPC. That does not sound to us like a quality, high level, reputable methodology for examination of legal knowledge as the gateway to being a solicitor.

5.

**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?**

No comment

6.

**4. With which of the stated options do you agree and why:**

b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?

**Why...**

A broader number of contexts for the part two assessment will enable the training to be more relevant to the firm employing the trainee (and in which he or she presumably wishes to stay after qualification). We understand that the government's trailblazer legal apprenticeship is to be set at level 7. Surely the SQE cannot be at a level below that.

7.

**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?**

All aspects of the SQE should be level 7.

8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

From our point of view the two-year period of a training contract is a vital underpinning of the quality of the profession. It is very alarming to think that something so fundamental is under threat as the consultation implies. It is the principal means by which the high standards that we have are maintained.

It is also extremely helpful from the point of view of the trainees in choosing which area of the law they wish to work in as they get at least six months experience in each of the different training seats.

It is not clear from the consultation document whether work-based experience would be required to be different from the way it is currently run. If the only test is to pass the SQE, then firms would be able to limit the work-based experience possibly just in one area of practice and then provide cramming to get through the exam. This will produce less well rounded lawyers than our current system.

The question also addresses the question of comparability of standards. It is hard, if not impossible, for us to assess trainees on a basis comparable with other firms and it is difficult to see how we could become sufficiently knowledgeable about other firms for us ever to be able to do so.

9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

A period of two years of work place experience is very important although individuals achieve at different rates, the desire for consistency should make the period the same for everyone. This part of the route to qualification is tried and tested and should not be tampered with.

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

No. The minimum period is an absolute necessity as is specifying what needs to be achieved in the workplace period of learning.

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

No. The continuity of the period of training is important as it enables the trainee to work on cases or transactions from beginning to end and to build on their experience without interruption. Shorter interrupted periods would not achieve this. It is our experience that even with this continuity a trainee begins to be much more productive towards the end of a six-month seat. There is a lot more to it than merely clocking up the hours.

By way of example, we recently considered splitting one trainee's six-month seat into two three-month seats with different departments and concluded that this would be of little use either to the trainee or to the firm.

If some work experience were being done at the same time as a degree course then the work experience would by definition be at the time when the legal education was incomplete and the value of the work experience would be less.

12.

**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?**

We do not believe that this would be helpful in our case as we have our own system of checklists, objectives and appraisals for trainees.



13.

**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 1 and Part 2, to a specified performance standard?**

The ultimate assessment that we make of our trainees is principally whether we wish to offer them a job at the end of the training contract. This of course is very subjective and depends both on the trainee and on there being a suitable role to offer. We would not know how to assess the trainee against the performance of trainees in other firms as there is no basis for the comparison. We have never had a trainee who we felt would be inappropriate to be admitted as a solicitor, so we do not really have a point of reference for comparison at that level either.

14.

**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?**

It would be interesting to see what such a toolkit would include, but as stated previously, we do in effect have our own toolkit which we find satisfactory and which we, of course, consult on with trainees and associates so as to be open minded about improvements.

15.

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?**

Yes.

It is extremely important for the process to be regulated in order to support its credibility. It is also presumably desirable given the objective of consistency.

It would seem incredible that anyone would be allowed to establish a course whether or not they have the necessary expertise. Students cannot be expected to make decisions about the suitability and quality of courses unless they at least know they are approved providers and courses.

The legal profession in England and Wales has a very high reputation around the world and it is absolutely imperative that this should not be undermined by a desire to change a structure which is extremely successful other than in ways which acknowledges the success achieved by the current route to qualification and which guarantee improvement in standards.

There is no reason why any these objectives should be limited to a transitional period.

I expect that we will be looking for trainees who have been educated in a way which covers the same content as the QLD or GDL and LPC.

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

We have a legal profession which is very highly regarded around the world This is a source of considerable benefit as people engage solicitors on international transactions and choose our jurisdiction because of the high reputation of our legal system, English law and of our practitioners.

There is a real risk that changing the qualification requirements in this way will (regardless of whether or not this is right) lead people to believe that the standard is in fact being lowered.

If there are to be any alternatives to qualifying through having a degree then these be assessed extremely carefully to make sure that they have the equivalent status.

In the circumstances the chances of us taking on trainees who do not have degrees are very low.

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

Yes. The benefits are reasonably obvious.

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

The information on candidate performance should include grades in the relevant modules. If it is realistic to provide more detailed feedback then that could be considered.

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

It is hard to predict what effect the proposed changes would have on respective EDI, but we do not expect it to have any impact on our firm in that respect.

However, for the profession at large, we see the possibility of a two tier profession split between those solicitors who have a degree and those who do not. This would impact on equality.

If we reduce or cease taking trainees then this will reduce the range of firms available for trainees which will be further concentrated around the very large firms who can, and choose to, afford it.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

If a candidate has started on a particular route to qualification then it would seem right to allow them to finish on the same route rather than switch at the end of any earlier stage.

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

no comment

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

We do not feel competent to express a view on this.

## 2. Your identity

**1. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

I understand that a common assessment will assist in ensuring that all intending solicitors are of the same high calibre.

However, I would hope that establishments offering any route to qualification are being properly monitored and audited to ensure that the level of training and education being provided is at the level required for the profession.

If the SQE is to be introduced I feel that an onus should also be placed on those providing work place training/education/apprenticeships/professional practice courses, who are either receiving very high fees from students or are receiving good quality professional work from trainees, whose level of work is not usually reflected in their wage packet.

People who want to become solicitors have often already proved their academic and practice capabilities through the LLB and LPC, and I believe that those establishments benefiting from the routes to qualification should be ensuring that the level of expertise/practice required is provided to the solicitors of the future. It seems unfair to place all the onus on the intending solicitor; I have known of trainees undertaking training contracts, not knowing that the level of training they were receiving was of low quality as they had no comparator and the SRA was not adequately monitoring the training provided.

## 4.

**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?**

I think the model assessment does provide a test for the competences needed to be a solicitor but as with the PSC the focus is on private practice. There are plenty of employed solicitors either working in-house or like me working at a local authority. I personally found all elements of the PSC were aimed at private practice and often did not apply to the type of work I do. I feel that it should be accepted and embraced that there are other ways to practice rather than just private practice, and that those solicitors who wish to work in house should also be catered for.

I also do not agree that there should be unlimited retakes or no time limits to completing the assessment. This causes a social mobility issue for those who cannot afford multiple retakes. Also the law is an ever changing entity therefore it seems illogical that a person can be afforded unlimited time to complete the assessment when the modules they took at the beginning of the assessment could have dramatically changed by the time they finish the assessment.

## 5.

**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?**

For those who have completed the LLB and LPC, they have already proven over many assessments that they have both the academic and practice skills required, therefore exemptions should be provided to

those who are already educated to degree level and completed post graduate training.  
As stated previously there should be more onus of those offering education/training contracts to ensure the level of training provided is to the highest quality and comparable across the board.

6.

**4. With which of the stated options do you agree and why:**

c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

**Why...**

The importance of recognising that there are different types of practice and specialisms.

7.

**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?**

Yes. However, it is difficult to understand how this will be achieved, when one of the issues coming through from the consultation paper is that education providers are all providing differing levels of education with the merit placed on degree classes from Russell Group universities seemingly different from others. With this in mind what is graduate level?

8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Yes.

9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

I agree that a minimum time period of pre-qualification workplace experience should continue to be set. However, the system of only allowing your training contract provider to authorise any time to count is unfair, as this can only be granted at their discretion. Some training contract providers will not recognise any pre-qualification experience as they wish to keep trainees in trainee roles for longer periods of time, as trainees often provide good value for money for firms. I believe the SRA could develop a new system where time to count is considered by the authority rather than being at the discretion of the training provider.

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

Yes.

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

Yes, so long as this is properly managed. For example specifying a minimum amount of time under a single supervisor, contentious vs. non-contentious experience, a time limit on what experience gained can be counted towards the total amount of pre-qualification experience e.g. 5 years prior to qualification.

12.

**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?**

I do not believe there should be any additional cost to the intending solicitor. Access to the profession is already heavily burdened by costs and any additional costs can not be acceptable.

13.

**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 1 and Part 2, to a specified performance standard?**

N/A

14.

**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?**

A toolkit would be useful but I believe the SRA should place a greater onus on regulating providers to ensure the training provided is to a high quality. This supervision by the SRA would prove usual to ensure quality levels.

15.

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?**

No. Training people to be able to pass an exam does not ensure quality but only that candidates are able to retain information for an exam. Many candidates would have already proven this ability through their legal education.

I believe that another option could be developed which recognises an intending solicitors legal education and their preferred career choice be that in private practice or in house.

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

Overall I believe that a degree level education is important, however, I understand in order to qualify it is not necessary to hold a degree with pathways such as CILEx and legal apprenticeships. I feel it is important that the profession is opened up to allow for a more diverse work force but it remains important that solicitors should be educated to 'degree level'.

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

Yes.

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

Pass and fail mark data inc number of resits.

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

If there is any additional cost to the intending solicitor this will cause additional EDI impacts. Entry to the profession is already too expensive for most, especially as you cannot get any public funding for courses which must be passed in order to enter the profession. Despite the new pathways to the profession the most common is still the LLB and LPC route which is already far too expensive. If the SQE is to be introduced the burden of cost should be on the training providers.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

Exemptions for those completing a qualifying law degree.

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

Consideration should be afforded to those completing part time courses.

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

No. If the SQE is introduced this will be a dramatic change to entry to the profession and adequate time should be afforded to developing, consulting, testing and reviewing the scheme.

## 2. Your identity

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Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

The Society would question whether a Solicitors Qualifying Examination on its own at the point of admission would be a sufficiently robust test of legal knowledge, of practice related skills and of principles of professional conduct and regulatory matters to assess whether an applicant was competent to qualify as a solicitor.

Northern Ireland is a smaller jurisdiction with fewer providers and a smaller number of trainee solicitors currently up to 120 per annum. Consequently we do not have the problem of ensuring consistency over a large number of providers. Representatives from academia, the judiciary and the professional bodies join in a Council of Legal Education to oversee the training provided by vocational providers.

In addition solicitor training in Northern Ireland is an integrated system comprising in office training with attendance at a vocational provider over a two year period. The integrated system provides uniformity even with a variety of training firms and organisations. It ensures that at the end of the two year training period all persons admitted as solicitors will have covered the entirety of the vocational training curriculum and, in addition, will have seen in operation actual cases involving actual clients in the firm in which they complete their training contract. From an educational perspective integration changes the culture and working and learning environment of the course. Training in an integrated system gives a greater understanding of the practical working environment. Training in a sequential model, where trainees attend vocational training first and then seek a training contract, can lead the vocational training course to be viewed as another stage in academic training, removed from the office

## 4.

**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 are concerned that a SQE could be the sole means of assessing competence. is it a single assessment at a point in time.

Part of the rationale of training is that it includes the need for repetition and reinforcement to hone and refine competence.

A degree and a prescribed period of training within a regulated training system provide valid indicators of training

## 5.

**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?**

One of the issues this raises for this jurisdiction are the reciprocal arrangements which are currently in place. We would be concerned that substantive changes would affect the arrangements between both jurisdictions.

6.

**4. With which of the stated options do you agree and why:**

c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

**Why...**

Solicitors need to be trained in reserved areas of work as the foundation of their training and given the option to specialise thereafter. The SRA consultation on its competence statement recognised that solicitors should have a broad base of training and specialise thereafter.

We agree with the comment in paragraph 52 of this consultation document.

7.

**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?**

Yes

8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

Pre-qualification workplace experience is essential.

In office training gives the opportunity to learn client facing skills, to appreciate that the advice given or action taken has consequences for a client. It is not "role play". It is real but with safeguards that a supervised training environment can provide. There is protection for the client. Trainees need to have exposure to the needs and expectations of clients. They also need to have exposure to the needs and expectations of their training firms/organisations.

Training without the practical experience is incomplete.

9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?**

We would recommend that a minimum time period of prequalification experience in the workplace be specified. Some trainees may learn more quickly than others, some may gain more experience in a shorter period of time. However specifying a period of time allows greater opportunity to practice, to repeat skills and for reflection, all of which allow knowledge, skills, understanding and application to be reinforced.

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

There is merit in both

The SRA should specify what is expected to be completed during the period. However a minimum time period should be prescribed to allow for knowledge, skills, understanding and application to be reinforced to enable an individual to reach an appropriate level of competence.

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**



Training acquired on foot of a training contract is focussed, it is under supervision and it is undertaken in the context of training. It differs in nature from general work experience . We would be of the view that only experience gained within a regulated training system be recognised.

12.

**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?**

There is merit in workplace assessment.

Justification of the cost and regulatory burden depends on the level of both cost and burden.

Some prequalification experience is already assessed within the integrated model of solicitor training in Northern Ireland.

We recognise that the separation of the training system in England and Wales between LPC type course and a training contract makes that more difficult.

13.

**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 1 and Part 2, to a specified performance standard?**

Training in assessment could be provided for employers.

14.

**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?**

Access to a Training Liaison Officer

15.

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) Yes. Prescription or regulation of training pathways, or the specification of entry requirements to the SQE are needed to support the credibility of the assessment

b) It will be difficult for prospective students to know which is the best course to attend. League tables are of limited benefit, They may not be the most reliable guide to identify the best training for the student

Prescription of a training pathway also provides protection for consumers .

To rely on solely a single form of assessment places a substantial responsibility on it . A foundation in legal knowledge (qualifying law degree) plus a period of regulated training which reinforces knowledge, understanding and application of law, principles of good practice, professional conduct , an understanding of regulatory regimes and compliance principles would provide a support structure .

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

We take the view that there is an increasing requirement across the wider job market to require entry level degree status eg police officers. It would be surprising to remove the requirement to have a degree in the context of the solicitors' profession. There are now more opportunities to access and study degrees than there were in the past, through part time and distance learning and increased availability of university

places.

Solicitors need to have either taken law as their primary degree, or have taken a primary degree a subject other than law and completed a post graduate conversion course covering the Core Subjects. The Core Subjects provide the framework and background to legal practice. The legal principles studied relating to each Core Subject lead to a more comprehensive awareness of legal principles and reasoning and legal systems which inform all areas of legal practice. There is a need to maintain academic rigour to ensure competence in basic legal knowledge and principles.

We do not accept that the requirement to have a degree is a bar to entry to the profession or that it impedes access.

The removal of the requirement to have a degree may have the opposite effect. It may ultimately lead to a 2-tier system where those who have voluntarily obtained a degree are preferred in terms of promotion or recruitment.

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

We are not convinced by the argument that the recommendations will achieve a greater level of diversity.

We have concerns regarding the cost to applicants of the SQE.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

The timeframe seems short to accommodate the changes proposed.

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

## 2. Your identity

**1. We may publish a list of respondents and a report on responses. Partial attributed responses may be published. Please advise us if you do not wish us to attribute your response or for your name or the name of your firm or organisation to appear on any published list of respondents.**

Do not attribute my/our response and do not publish my/our name.

## 3.

**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?**

No.

## 4.

**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?**

No- it is too narrow and ill considered.

## 5.

**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?**

No. You will be testing the foundations of legal knowledge so let LLb and GDL graduates exemptions, even if it means specifying and regulating the content more effectively than previously

## 6.

**4. With which of the stated options do you agree and why:**

b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?

**Why...**

This looks like an outdated mode- high street firms 10 years ago. At the point of admission many solicitors are specialists and by only using the reserved areas you make the test inadequate. This will not reflect what the trainees have done in practice and makes it artificial

## 7.

**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?**

No. The foundations of legal knowledge ca be assessed earlier and at a lower level.

I do not agree with the premise that there should be an SQE

## 8.

**6. Do you agree that we should continue to require some form of pre-qualification workplace experience?**

yes. I have trained many academic students who struggle with the practical application of the law and whilst they have achieved first class degrees their LPC results are initially quite a bit lower. they need practical training, otherwise they will not be fit for practice. Exams are not everything

## 9.

**7. Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification**

**workplace experience for candidates?**

Yes otherwise it could be manipulated and insufficient experience be gained to equip the student for the pressures of practice.

10.

**8. Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?**

yes if you want to give your competence statement any ongoing credibility

11.

**9. Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?**

yes but regulate it properly

12.

**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?**

No- I do not believe that your proposal is sound and addresses any current issues the profession or students encounter.

13.

**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 1 and Part 2, to a specified performance standard?**

They will just end up paying education providers instead

14.

**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?**

So you are going to do it then?

15.

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 considerable amount of information about the format of the assessment is required and a draft syllabus before this question can be answered.

Your proposal remains too vague for comment

16. (untitled)

**14. Do you agree that not all solicitors should be required to hold a degree?**

Yes, but do not under estimate the skills and experience acquired during a degree.

17.

**15. Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?**

yes

18.

16.

**What information do you think it would be helpful for us to publish about:**

**overall candidate performance on the SQE?**

**training provider performance?**

This assumes you are going ahead?

Overall results would be helpful but a moving pass mark is not

19.

**17. Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?**

Huge problems. Only the rich students will be able to purchase the test prep they will need to pass the SQE. The fees will be prohibitive. Whilst LPC fees are high this is staged and funding is available for some whereas a one off fee of £4k+ will be difficult to obtain funding for.

This is a retrograde step. Having worked at a regional provider I know the struggles and sacrifices that students make and the work providers do to make the students practice ready. Just imposing a SQE ignores the work of LPC tutors and firms will struggle to do this work, especially smaller firms without the skill and resources necessary. This means smaller firms will not recruit and many talented but less affluent people will leave the profession.

20. (untitled)

**18. Do you have any comments on these transitional arrangements?**

Its all far too quick. Students don't know this is coming yet and will struggle to adapt

21.

**19. What challenges do you foresee in having a cut-off date of 2025/26?**

Too soon

22. (untitled)

**20. Do you consider that this development timetable is feasible?**

Not at all.