



The Law Society

Briefing on Solicitors Qualifying Examination (SQE) and the new SRA regulations consultation

June 2017



Briefing on: the Solicitors Qualifying Examination (SQE); & the New SRA Regulations Consultation

Background

What does this briefing cover?

It sets out a broad summary of the SQE for members, covering *previous* important work on this issue and describes the key points to be aware about on the SRA's *latest* consultation (on SQE regulations). <http://www.sra.org.uk/sra/consultations/new-regulations.page>

What is the SQE?

The SRA has decided to introduce a new systems of tests that will ensure that individuals who wish to be admitted as solicitors possess the requisite skills and knowledge, as set out in the Statement of Solicitor Competence: <http://www.sra.org.uk/solicitors/competence-statement.page>

SQE1 will be a written, mainly multiple choice question exam, which will test legal knowledge. There is no set time for taking it, but it is likely that (similar to the US State bar exams) it will be taken around the time of graduation or soon thereafter. The requirement to take the SQE1 will be a degree or equivalent, not as at present a law degree or equivalent.

SQE2 will be an exam of practical skills, testing issues such as client interviewing and giving advice. Again, whilst the time it is to be taken will not be prescribed it is likely to be around the time two years of practical experience have been gained. The period of practical experience will also not be the equivalent of a training contract due to the way the SQE framework is designed.

What are its origins?

In 2013 the Legal Education and Training Review (LETR) report concluded that the current qualification "provides, for the most part, a good standard of education and training", but identified a need for a clear description of *what* is expected of a solicitor at the point of admission, together with a clear description of the *level of ability* expected. <http://letr.org.uk/>

What has the SRA already done on the SQE?

There are three stages to their programme. Two have already been completed. These are the introduction of Continuing Competence¹; and the development of a Competence Statement and Threshold Standard.

The SRA is now at the third stage, which is the development of the standards by which someone qualifies as a solicitor under two stages (SQE 1 and SQE 2):

<https://www.sra.org.uk/sra/consultations/solicitors-qualifying-examination.page>

As part of its work to deliver this last stage the SRA has already published two consultations.

1. December 2015 - 'Training for Tomorrow: assessing competence'
The proposals from the SRA centred around options for centralised assessments of knowledge and skills, possibly without any pre-requisites for education or training, or regulated pathways to qualification.
2. October 2016 - 'A new route to qualification: the Solicitors Qualifying Examination'
This second consultation set out much more detailed proposals on the assessments and requirements for pre-qualification work experience (e.g. more information on how assessments would work).

Following the Law Society's responses to these consultations, we welcomed the fact that the SRA substantially re-worked their proposals to address many of our members' concerns. (For further details please see the tables below at Annex A).

*What is the SRA **currently** consulting on?*

To support the next stage of the process the SRA has recently published the latest consultation in the series (on 31 May 2017) which focuses on the regulations designed to support the SQE (see below).

What do the SRA intend to do in future?

The SRA confirmed on 25 April 2017 that it was pressing ahead with the SQE. It plans to publish a tender in 2017 to identify an assessment partner, and the new regime is likely to come into effect in 2020.

The SQE Regulations Consultation

The current consultation covers two separate areas:

¹ <http://www.lawsociety.org.uk/support-services/advice/articles/continuing-competence-guidance-faqs/>

1. Proposed draft regulations that set out what is required to be eligible to take an assessment in future to become a solicitor.
2. Proposed draft principles for the recognition of already qualified lawyers (this mainly relates to existing practitioners from overseas).

The SRA's consultation period ends on 26 July 2017 and the Law Society plans to issue a response.

Issues raised by the SQE Regulations Consultation

While we welcome the willingness of the SRA to amend its approach in light of feedback, there is still a great deal of work to do before the SQE can be launched.

Our main aims remain the same. First, to ensure the SQE maintains consistent and high standards for those entering the profession. And second, it is important that the new arrangements address any potential barriers to applicants, especially those from non-traditional backgrounds, seeking to join the profession.

The Law Society would like to draw members' attention to the following points that are directly raised in the consultation.

Question 1

Do you agree that these regulations implement the agreed policy framework for the SQE?

There are four relevant sections of the regulations listed below:

1.1 You will be eligible for admission as a solicitor if:

- a) you have satisfactorily passed an assessment which is designed to assess your competence against the prescribed competences for solicitors and is conducted by an assessment organisation appointed by the SRA for the purpose;*
- b) you hold a degree or qualifications or experience which the SRA is satisfied are equivalent to a degree;*
- c) you have completed qualifying work experience which meets the requirements of regulation 2; and*
- d) the SRA is satisfied as to your character and suitability to be a solicitor.*

At present the proposal appears to be to maintain the current requirements, under which prospective solicitors must demonstrate they possess the knowledge and skills set out in the Statement of Solicitor Competence.

With 1.1(b) the glossary explains that "degree"

means a UK degree, awarded at level 6 (or above) of the Framework for Higher Education Qualifications, by a recognised degree-awarding body.

On 1.1(c) Regulation 2 states that qualifying work experience must:

- a) comprise experience of providing legal services which provides you the opportunity to develop the prescribed competences for solicitors;*
- b) be of a duration of a total of at least two years full time or equivalent; and*
- c) be carried out under an arrangement or employment with no more than four separate firms, educational institutions or other organisations.*

In respect of each organisation under 2.1(c) above, you must arrange for confirmation in the prescribed form of the period of work experience carried out and that it provided you with the opportunity to develop some or all of the prescribed competences for solicitors, to be given by:

- a) the organisation's COLP;*
- b) a solicitor working within the organisation; or*
- c) if neither (a) or (b) are applicable, a solicitor.*

We will require reassurance that the regulations will offer an adequate explanation of how training will be provided in entities that have neither a COLP nor a qualified solicitor working within them.

Finally, regulation 1.1(d) refers to the SRA's existing character and suitability test:

<https://www.sra.org.uk/solicitors/handbook/suitabilitytest/content.page>

Question 2

Do you have any comments on the proposals for recognition of the knowledge and competences of qualified lawyers?

Currently, qualified lawyers, outside of England and Wales, are required to pass both parts of the Qualified Lawyers Transfer Scheme (QLTS), unless they are from an EU jurisdiction. EU qualified lawyers are allowed to apply for exemptions from all or part of QLTS based on the qualifications they hold and work experience gained within their jurisdiction.

When the SQE is introduced, the SRA has proposed to recognise qualifications and experience gained in other countries, providing that the qualification or experience is equivalent in both *content* and *standard*. The content must not be substantially different to the English and Welsh law set out in the Statement of Legal Knowledge. The knowledge, skills and competences must be developed to a level that is comparable to the threshold

standard. Where necessary, an English language test can also be required, at the point when an individual applies for a practising certificate.

Individuals must make the application to the SRA for recognition of their qualifications and work experience, but this process can be facilitated by professional bodies or regulators applying to the SRA to become a recognised jurisdiction. Jurisdictions and professions which have achieved "recognised" status under QLTS will continue to be recognised under SQE.

The Society welcomes the fact that the SRA has made efforts to clarify the situation for other jurisdictions. Addressing this early in the process is helpful. However, there are still questions about how the SRA will apply the tests in practice, so further guidance and consultation with those affected will be useful. This consultation is a good starting point.

Members' feedback

The Law Society will be submitting a response to the SRA's consultation. We would encourage you to send us your own views on the consultation or the content of this note, along with any supporting evidence that may be useful, to: [**educationandtraining@lawsociety.org.uk**](mailto:educationandtraining@lawsociety.org.uk) .

Any such response should be **submitted by 14 July** so that there is sufficient time to reflect relevant opinions/data in the Society's response.

You may also wish to submit a consultation response directly to the SRA as well at: consultation@sra.org.uk.

Earlier SQE Consultations

The following tables summarise: the main issues raised by the SRA in their earlier two SQE consultations; what the Society focused on in our response; and the steps taken by the SRA afterwards.

The first consultation was more of a speculative document, but the second contained more proposals, building on the original document, and subsequently resulted in a longer set of responses from the Society.

1st Consultation - Training for Tomorrow: Assessing Competence

February 2016

SRA consultation: <https://www.sra.org.uk/sra/consultations/t4t-assessing-competence.page>

Law Society response: <http://www.lawsociety.org.uk/policy-campaigns/consultation-responses/sra-training-for-tomorrow-law-society-response/>

SRA proposals	The Law Society's response	What did the SRA do next?
<p>Routes or pathways to qualification</p> <p>The SRA proposed to continue with the current practice of specifying routes to qualification and authorising providers (universities, training principals) to deliver those routes, but with improvements. It also planned to authorise any training routes proposed by training providers which meet certain criteria.</p>	<p>We argued that these initial concepts were too vague, and that there needed to be clearer pathways to those entering the profession, arguing it important from a widening access perspective, especially for those who may not have access to the profession for advice.</p> <p>In terms of prior qualifications and the entry to pathways we noted that solicitors have never been required to hold a degree and there should be no requirement for them to have to do so. However we said there should be a degree level qualification requirement, which can be acquired through a degree, CILEx and the new legal apprenticeships.</p>	<p>The SRA accepted they need to provide a toolkit explaining the options to address a lack of obvious pathways, and their entry points, and to set out 'exemplar routes.'</p> <p>The SRA adopted our proposals to drop the concept of having an A-Level qualification and keeping the original 'degree status' approach.</p>
<p>Centralised assessment</p> <p>The consultation included a clear view that this approach is to be favoured.</p>	<p>Having stated our support for the essence of the SRA's proposals on this point, the Society had some areas of concern, particularly that the level is set appropriately and does not result in a dilution of standards.</p>	<p>The SRA's said it would further reflect on these points in their second consultation.</p>
<p>Training contract work-based learning</p> <p>The SRA discussed a range of concepts around how best to ensure work-based experience could translate to official training recognition.</p>	<p>The Society stated its preference for clearly understood 2-year work-based training regimes.</p>	<p>The SRA adopted our proposals.</p>

2nd consultation - A new route to qualification

October 2016

SRA consultation: <https://www.sra.org.uk/sra/consultations/solicitors-qualifying-examination.page>

Law Society response: <http://www.lawsociety.org.uk/policy-campaigns/consultation-responses/a-new-route-to-qualification/>

SRA proposals	The Law Society's response	What are the SRA doing now?
<p>Routes or pathways to qualification</p> <p>The SRA proposed keeping the 'degree status' approach, with a more flexible approach towards qualifications.</p>	<p>Having stated our support for the essence of the SRA's proposals, the Society had some wider areas of concern. We noted that some potential employers will continue to regard candidates who qualify through more traditional routes as preferable to those who take newer, potentially shorter routes.</p> <p>We said that it should also be made clear in any guidance that choices made at an early stage of education and training may adversely affect the ability to move into other legal professions, such as the Bar.</p>	<p>The SRA has noted that they will consider these points during their ongoing analysis of this issue.</p>
<p>Centralised Assessment</p> <p>(See first consultation)</p> <p>Also included more specific proposals on:</p> <p>Marking - The SRA recommended pass/ fail marks, with scores for the modules to be provided to candidates only.</p> <p>Resits - The SRA proposed a time limit of 6 years from the start of SQE 1 to the completion of SQE 2. They stated that: retakes may only be taken if a module has been failed, not to improve marks; and a module may only be retaken 3 times - after this a student must</p>	<p>In General - The Law Society once more supported in principle the SRA proposal for a centralised assessment for solicitors entering the profession. However, we noted that it must meet two key aims. -Firstly, the level must be set appropriately, so that its introduction does not dilute standards, and ensure that those who qualify are of an equivalent level of competence to those from competing jurisdictions. -Secondly, it is important that the solicitor profession continues to be accessible to applicants from a diverse range of backgrounds, reflecting the makeup of our society. In that context, it is important that the new arrangements address any potential barriers to applicants, especially those from non-traditional backgrounds, seeking to join the profession (also see 'Diversity' below).</p> <p>Marking - Agreed that this is a sensible and more reliable way of marking the assessment than ranking candidates (as the SRA had suggested may be being considered).</p> <p>Resits - Agreed this a robust and credible way of running these assessments and that it assuaged the Society's concerns around potential discrimination.</p>	<p>As above</p>

SRA proposals	The Law Society's response	What are the SRA doing now?
<p>wait until the current 6 year period has expired before starting from scratch with all the assessments.</p> <p>Preparatory courses - These are now assumed to be part of the process of qualification</p>	<p>Preparatory courses - We supported these, but raised concerns that not all institutions will include them in their courses (for SQE 1) or provide them for their trainees (for SQE 2), which could lead to unfair outcomes</p>	
<p>Diversity / Widening Access</p> <p>This is a key aspect of the proposals, and cuts across several of the issues listed in this column.</p> <p>The SRA noted the importance of providing more detailed information and advice on several aspects of the SQE to encourage a diverse range of students.</p>	<p>The Society, like the SRA, wants to see people from all backgrounds being able to enter the profession based on merit and, in that context, welcomes the way in which the revised proposals create the potential for multiple ways of joining the profession.</p> <p>It will be important to ensure that measures that support this (e.g. a toolkit) is communicated widely to schools, universities and careers advisers.</p> <p>The Society has a role in promoting information on how to enter the profession, and this is something on which we would be happy to work with the SRA on.</p>	<p>As above</p>
<p>Apprenticeships</p> <p>Proposed a degree-level route to solicitor apprenticeships</p>	<p>The Society said that there is room for misunderstanding regarding the requirements for applicants seeking to enter the profession through the new solicitor apprenticeship route. Whilst this apprenticeship is set at degree level, the award of a degree is not required through this route, albeit many providers will include one in their courses, which may raise questions about apprenticeships.</p> <p>We understand that this is not a matter for the SRA alone, but we urged the SRA to work with Government to ensure - and robustly demonstrate to candidates and employers - that apprenticeships are at least equivalent to degrees. (Otherwise there is a real risk that the solicitor apprenticeship route could be undermined).</p>	<p>As above - have offered to assist Government and the SRA with discussions on this issue.</p>
<p>Funding</p> <p>The SRA laid out a general view of how funding may work.</p>	<p>The Society stated that more clarity was needed, and that students may not be able to access funding for either the new assessments or the preparatory courses for them. LPC students can currently apply for graduate loans to cover the costs of their courses and it was critical that the SRA ensures that similar loan funding will also be available to cover the cost of both SQE preparation and assessments.</p> <p>We added that the changeover to the new system must not inadvertently result in a new financial barrier being imposed, whereby candidates cannot access loan-funding for the SQE assessments. (Such a</p>	<p>As above - have offered to assist Government and the SRA with discussions on this issue.</p>

SRA proposals	The Law Society's response	What are the SRA doing now?
	financial barrier would inevitably impact most on individuals from lower income groups, with a negative effect on diversity and social mobility).	
<p>Training contract work-based learning</p> <p>There will still be no workplace assessment as the SRA believes this will be difficult to do on a consistent basis - the learning will instead be assessed through the improved SQE 2 assessments.</p>	<p>We responded that this was disappointing but understandable as the quality assurance of this would be a huge and expensive undertaking.</p> <p>(NB In pilots the SRA has run previously, participants also felt that keeping portfolios to evidence learning / judgements was unduly onerous).</p>	N/A