



# SQE Equality, Diversity and Inclusion Risk Assessment

Updated April 2021

## *Headline summary*

- The Solicitors Qualifying Examination (SQE) is single, rigorous assessment for all aspiring solicitors. It will be introduced on 1 September 2021. The SQE will mean everyone meets the same consistent, high standards at the point they become a solicitor.
- We also want the SQE to lead to new and diverse pathways to qualification, while removing unjustified barriers. It is in everyone's interest that talented people from all backgrounds can become solicitors.
- We recognise, however, that across professional assessments in many sectors there are patterns of differential attainment for some groups of candidates. This is a longstanding and complex problem, with no easy solutions.

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

- In 2017 we published our EDI risk assessment  
[<https://www.sra.org.uk/globalassets/documents/sra/consultations/sqe-edi-risk-assessment.pdf?version=4a162d>], updating a 2016 draft, which examined the risks and benefits of our proposed approach to the SQE.
- Since then we have made significant progress on developing the detail of the SQE assessment, including the examination and approach to qualifying work experience. We have now published the final SQE assessment design [<https://www.sra.org.uk/sra/policy/solicitors-qualifying-examination/sqe-final-design/>]. In order to make sure we understood the EDI impacts of our approach and to help us get the assessment design right, we have engaged extensively with thousands of stakeholders.
- This work has included:
  - running pilots for SQE1 and 2 with our assessment provider, Kaplan, which included monitoring and analysis of performance by candidates from protected groups
  - working closely with our SQE Reference Group - a group of more than 30 expert organisations and individuals, which includes Lawyers with Disabilities Division, Junior Lawyers Division and legal sector equality groups
  - taking specialist EDI advice
  - meeting with representatives from Black, Asian and minority ethnic groups and stakeholders representing disabled solicitors
  - running workshops across England and Wales, as well as webinars and surveys, on key issues including whether we include skills assessments in SQE1, optionality in SQE2, and the support materials required around qualifying work experience
  - publishing a draft update of our EDI risk assessment in May 2020 to get further feedback on our analysis. This included capturing feedback through a snapshot survey following a webinar
  - further independent analysis from the Bridge Group, specialists in research on social equality, who have updated their report on how we could maximise the EDI benefits.

## *Our updated risk assessment - benefits, risks and mitigations*

This updated risk assessment reflects engagement with thousands of stakeholders – and specialist advice – looking at the potential benefits, risks and mitigations of the SQE on EDI.

#### *Analysis from the Bridge Group*

- In 2017 Bridge Group [<https://www.thebridgegroup.org.uk/>] concluded that although the SQE cannot solve all the diversity issues in the profession, it could help.
- The Bridge Group reconfirm this conclusion in their updated report [<https://www.sra.org.uk/sra/news/press/2020-press-release-archive/sqe-for-diversity/>] . They say:  
"The current system is comparably fragmented and expensive. The SQE could reform the training market and give people more choice, while sharing standardised data has powerful potential to give the sector a better basis to understand - and address - diversity issues."
- They also highlight the fairness of the SQE design. They support the use of single best answer questions in SQE1 as objective, and using a uniform approach for the SQE2 assessment, with potentially greater diversity benefits than the alternative of giving candidates options.
- They emphasise that if the potential diversity benefits of the SQE are to be realised then we must make sure there is good information available for aspiring solicitors, while careful analysis and sharing of data will be crucial.
- They also set out that success will depend on buy-in from employers and training providers to take advantage of better information and new freedoms to promote greater diversity in recruitment.

#### *Feedback from stakeholders*

The benefits the Bridge Group identified were echoed in our wider stakeholder engagement.

The main EDI benefits of the SQE we have identified include:

- providing a level playing field where every candidate is assessed to the same standard regardless of their training or prior achievement
- introducing modern best practice and consistent design to assess candidates fairly
- tackling the training contract bottleneck through having a more flexible approach to qualifying work experience. This could reduce the risk of talented people getting stuck in the qualification process
- the creation of a more competitive training market, where people have more choice and more opportunities to earn and learn. There is already evidence to suggest some options will be more affordable than the current admission route
- a single, rigorous assessment with extensive, comparable data on results means that we will have the ability to effectively monitor performance by diversity characteristics.

We received 30 responses to our May 2020 survey on the updated draft of our EDI risk assessment. Around half felt the benefits we have identified are correct. The majority – around two thirds – of survey respondents felt the risks identified in the assessment were right.

The main areas of concern raised in the survey and more broadly in our conversations with stakeholders are:

- lack of funding opportunities for the SQE assessment and preparatory courses could disadvantage candidates from less affluent backgrounds
- the SQE could disadvantage disabled students for a range of reasons including the need to travel to assessment centres and the length and format of the assessments

- the assessment methods could unfairly discriminate against candidates from some protected groups
- it could create a two-tier profession whereby employers would value certain routes above others and candidates with access to funding could afford to pay for higher cost courses than candidates from less affluent backgrounds
- qualifying work experience (QWE) could be open to abuse by employers, resulting in candidates being exploited.

We have updated our EDI risk assessment to reflect this additional stakeholder feedback. Since 2017, we have added qualifying work experience as a fourth key impact area. This means the key areas where we have identified significant potential benefits as well as risks to be managed are:

- the costs of qualification
- the fairness of the assessments
- access to the profession and
- the quality of qualifying of work experience.

#### *Mitigating risks*

We are working closely with others to address and mitigate the key risks we have identified through our stakeholder engagement. Some we can resolve ourselves or through our work with Kaplan, whereas others require efforts by others, including training providers and employers. For example:

- providing information about funding options – for example student loan funding for degree courses which incorporate SQE training or through the solicitor apprenticeship. And for disabled students we can provide resources including signposting to government schemes, including the Disabled Students' Allowance and Motability.
- pursuing further funding provision, in discussion with the Government and with the Law Society.
- working with Kaplan to ensure that appropriate reasonable adjustments are provided for disabled candidates, publishing the SQE reasonable adjustments policy, continuing to engage with experts on any remaining concerns and keeping our resources under review.
- continuing to carry out in-depth analysis and quality assurance of the SQE to check it is fair – there is no evidence to date that any of the assessment methods are intrinsically biased or disadvantage particular groups. Through choosing a universal assessment in SQE2, rather than giving candidates options, we have further ensured a fair assessment for all – an approach supported by the SQE2 pilot results, and conclusions of the Bridge Group. The ongoing monitoring of the SQE's fairness will include oversight by the SQE Independent Reviewer.
- publishing full results to students (not just a pass/fail). This should help inform recruitment and allow candidates to highlight their achievements, regardless of the route they have taken.
- engaging with legal businesses and employers on the SQE, so they can take advantage of the opportunities to develop staff internally; the greater flexibility around workplace training; and better information for recruitment.
- creating information resources to support QWE, including guidance for trainees and for employers, developed in collaboration with the Law Society and the Junior Lawyers Division. This will include making clear we have in place regulatory controls prohibiting solicitors from taking unfair advantage of candidates and requiring them to properly supervise and manage their employees.



- monitoring performance year by year, including by protected characteristic and socio-economic status, and sharing the results.
- undertaking a ten-year evaluation programme – with initial evaluations after two and four years, and a full evaluation after seven and ten years – in order to evaluate the impact of the SQE, including the market reception of new routes to admission and EDI impacts.

## *Conclusions and next steps*

- We, and others, think the potential EDI benefits of the introduction of the SQE for candidates from protected groups<sup>1</sup> outweigh any potential risks. We know there is still work to do – for us and for others – to realise these benefits.
- We will continue to engage and involve stakeholders as we work with Kaplan on the implementation of the SQE.
- We will work with stakeholders to develop supporting resources. For example, resources to help candidates understand the range of options available to them.
- We will also work with stakeholders, including employers and training providers, to encourage them to play their part in addressing and mitigating some of the concerns and risks we have identified.
- Through ongoing and transparent data publication and evaluation, we will check whether the potential benefits we have identified are being realised and whether the mitigations we have put in place have minimised the risks.
- In response to the Bridge Group report, we plan to publish a high level information strategy and timeline in the Autumn which will include details of our plans for publication of post-assessment data, our plans for publishing information to help candidates who are considering taking the SQE, and our plans for evaluation of the SQE.
- What we cannot afford to do is to do nothing. The equalities issues in the current system are clear and have formed a key part of the debate about reforming entry to the profession since the Legal Education and Training Review was commissioned in 2013. We will continue to work with training providers, employers and stakeholders to make the much needed changes for aspiring solicitors from every background, and to ensure that the standards we all expect are met.

Open all [#]

## *Introduction*

From 2021, we will introduce a new framework for qualification as a solicitor. We will require all intending solicitors to:

- hold a degree or equivalent qualification or experience
- pass the SQE, a single, rigorous assessment for admission as a solicitor of England and Wales
- have undertaken a period of qualifying work experience (QWE)
- meet our character and suitability requirements.

Our new requirements will replace the current qualification system which is based on different routes, assessed in different ways by a wide range of providers. The aims of the new qualification requirements are:

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

In 2017 we published an EDI risk assessment which examined the risks and benefits of the new framework for qualification, in line with our commitment to supporting and promoting EDI, the regulatory objective to encourage an independent, strong, diverse and effective legal profession and our public sector equality duty. We also commissioned the Bridge Group to provide independent advice on:

- how we could monitor the impact of the SQE on candidates with protected characteristics, and those from lower socioeconomic groups
- practicable actions that we could take to maximise the positive impact of the SQE in relation to diversity.

The Bridge Group pointed out that we will not be able to fully assess the impact of the SQE on protected groups until the SQE is implemented and we have collected data from the assessments over a number of years. We asked Bridge Group to update their report. They have confirmed this in their updated report and made recommendations that we will implement. These include recommendations about how we can take forward and maximise the benefits of our monitoring and evaluation of the SQE.

To help to understand the potential implications, we have spent time engaging with stakeholders since we published our risk assessment in order to:

- inform the design and development of the SQE assessments
- gain an understanding of the developing market impact of the introduction of the SQE and the new qualification framework.

In light of this, we have reviewed our risk assessment to provide an update on:

- developments in the design of the SQE since the last risk assessment and the impact of these developments on EDI
- the new information we have and how it has helped inform our assessment of the risks and benefits of the new system
- what we have already done to mitigate risks
- what else we plan to do to realise the potential benefits and risks, and mitigate risks
- our ongoing work to further understand the risks and benefits and the development of the training market.

This update looks at the impacts of both the introduction of changes to the qualification framework, for example, the new requirement for qualifying work experience, as well as the impacts of the introduction of the assessment itself (the SQE). The considerations are different for each, but the potential impacts are inherently linked as we identify below.

In response to the Bridge Group report, we plan to publish a high level information strategy and timeline which will include details of our plans for publication of post-assessment data, our plans for publishing information to help candidates who are considering taking the SQE and our plans for evaluation of the SQE.

### *Report from the Bridge Group*

This risk assessment should be read alongside the Bridge Group report

[<https://www.sra.org.uk/globalassets/documents/sra/research/monitoring-maximising-diversity.pdf?version=4a1ace>]

published in March 2017 and updated in July 2020

[<https://www.sra.org.uk/globalassets/documents/sra/news/sqe-monitoring-and-maximising-diversity.pdf?version=4a00fc>]. A high-level summary of these reports is in annex 2.

Both the 2017 and 2020 reports concluded that “There is no silver bullet to address diversity in the legal profession, because lack of diversity is constructed of a complex range of factors at every stage on the journey to the profession. It follows that diversity implications cannot be precisely predicted, given the variety and multiplicity of these factors”.

Whilst it is clear that the SQE cannot solve all of the problems affecting diversity in the profession, the 2017 Bridge Group report concluded that it could help. For example, they said “The proposals are highly likely to increase the number, and broaden the range, of training providers in the market, and provoke new models of training including online provision. Wider range of choice is...an important opportunity to support diversity, since it will enable students to chart more flexible pathways.”

The reports recommend that we place emphasis on:

- the gathering and analysis of accurate data, throughout the implementation process and beyond
- robustly and transparently evaluating the impact of the SQE
- taking evidence-informed decisions regarding the continued development of the SQE
- providing information for aspiring solicitors and other interested parties, including employers.

They also emphasise that increasing diversity in the profession is dependent critically on the actions of employers and training providers to take advantage of the regulatory changes that we are making. Therefore, managing stakeholder relationships and increasing and maintaining employer confidence in SQE will remain one of our top priorities.

Importantly, the Bridge Group has consistently stressed the value of good data. We currently report on the profile of the profession through our two-yearly firm diversity data collection, and we are working to do more on data reporting, for example in conjunction with the Judicial Office. This is also critical when considering entry to the profession and the latest Bridge Group report says that “The introduction of the SQE has the powerful potential to introduce greater transparency through the datasets that a standardised examination will generate – dependable and comparable evidence, not available in the current fragmented system, to support all stakeholders to better understand, and to take evidence informed action to advance, equality and diversity.”

### ***Benefits and risks of the SQE for candidates from protected groups and less affluent backgrounds***

In our 2017 risk assessment, we set out the key risks and benefits of the introduction of the new system of qualification and the SQE. These covered three key areas:

- cost
- fairness
- access.

We have summarised again these risks and benefits below and included areas of concern raised with us since 2017. And we have added a new risk related to the quality of qualifying work experience. We have added details of the potential impacts of our final design for the SQE assessments. We have also set out:

- the new information we have obtained, to inform our assessment of these risks and benefits
- what we have done since 2017 to realise benefits and mitigate the risks
- what else we plan to do to mitigate these risks.

In addition to our extensive stakeholder engagement over several years, we ran a webinar on potential EDI risks and benefits in May 2020. At the same time, we published a draft of this risk assessment and asked for stakeholder views via a survey. We received 30 responses to the survey. Responses were from education and training providers, law firms, students/trainees and individual solicitors. We also met with representatives from Black, Asian and minority ethnic groups and stakeholders representing disabled solicitors. This risk assessment reflects those views.

In summary, stakeholders continue to express concern that:

- lack of funding opportunities for the SQE assessment and preparatory courses could disadvantage candidates from less affluent backgrounds and disabled candidates
- the SQE could disadvantage disabled students for a range of reasons including the need to travel to assessment centres, the accessibility of those centres and the length and format of the assessments
- the SQE assessment methods could unfairly discriminate against candidates from some protected groups
- the SQE could create a two-tier profession whereby employers would value certain routes above others and candidates with access to funding could afford to pay for higher cost courses than candidates from less affluent backgrounds
- qualifying work experience could be open to abuse by employers, resulting in candidates being exploited.

These points are all expanded on and addressed below.

### *Cost of training and qualification*

Qualifying under the current system can be expensive and may deter some talented candidates, particularly those from less affluent backgrounds and those from other protected groups, from seeking admission as a solicitor<sup>5</sup>. The Legal Practice Course (LPC) costs up to £16,750 and provides no guarantee of a training contract. This is in addition to undergraduate fees and, for non-law graduates, about £10,000 for the Graduate Diploma in Law (GDL). Training providers must also pay £1,500 - £2,000 for the Professional Skills Course (PSC).

Although some people get a period of recognised training (often known as a training contract) before taking the LPC, many people do not. That means taking the risk that by paying up to £16,750 for the LPC, they will not only pass the course, but will also get the necessary training - the "LPC gamble". With some 10,000 candidates a year taking the LPC and 6,000 periods of recognised training, four out of ten aspiring solicitors are losing that gamble. Some students get funding from their employer for the LPC, but these are in the minority (around 25% are funded by their employer).

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

Qualifying law degree	Start CPE <sup>6</sup> [#n6]	Start LPC	Start period of recognised training	Admitted as a solicitor by these pathways
23,413	4,499	9,978	5,757	5,407

*How will the new system help to address this?*

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

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

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

#### *What are the potential cost risks and concerns?*

Stakeholders, including the Law Society and the Junior Lawyers Division, continue to express concern that the new system could be as expensive as the current system. This could perpetuate the problems with the current system faced by those from less affluent backgrounds.

Stakeholders are also concerned because neither SQE preparatory training (if it is not included as part of an undergraduate or master's degree) nor the cost of the SQE assessment itself, is currently eligible for government-backed student loans or for Disabled Students Allowances. Respondents to our recent survey reiterated this concern.

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

Our decision to require all candidates to take the same, uniform exam in SQE2 will mean that candidates are likely to need some training, in addition to their QWE, to prepare them for SQE2. This will mean extra cost for candidates who are self-funding.

Some stakeholders have recently suggested that the publication of candidate performance data by provider might have an unintended consequence. It could result in providers with better outcomes increasing the cost of their courses which would disadvantage less affluent candidates. They have also suggested that, if employers choose to wait until candidates have their SQE1 results before recruitment, this could discourage employers from funding SQE1 training and assessment which would disadvantage candidates from less affluent backgrounds who would have to self-fund.

We address these risks and concerns below.

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

The candidate fee for the SQE will be £ 3,980 for SQE1 and SQE2:

- SQE1: £1,558
- SQE2: £2,422



These costs are comparable with other professional assessments, on time per test basis<sup>7</sup>

[#n7] .

The cost of any training will be additional. We have engaged extensively with education and training providers on the potential benefits of the SQE and to encourage innovative approaches to the training and support they could offer to candidates in the future. We have engaged with providers through our SQE conference, through participation in external events and through individual meetings. From our discussions, we anticipate there will be a wide range of training models, and price points, including:

- SQE-inclusive undergraduate law degrees, which can be funded through a student loan
- apprenticeships funded through the apprenticeship levy and which allow people to earn a salary while training. This can include individuals with prior learning joining the apprenticeship programme for the last two years of their training. For both apprenticeship routes the employer can recover the cost of training and assessment (on a pro rata basis) through the apprenticeship levy
- bespoke SQE-focused training courses for law and non-law graduates
- new post-graduate professional law programmes which may include the current GDL content within an SQE training package.

The training market is already developing:

- 35 organisations have so far joined the SQE list of training providers  
[<https://www.sra.org.uk/become-solicitor/sqe/training-provider-list/>] on our website. In total, 21 providers have confirmed that they plan to provide training for SQE1. Ten providers have confirmed that they plan to offer training for SQE2.
- There are already new entrants offering SQE training. For example, education and training provider Barbri is advertising SQE preparatory courses that include a full-time (10-week) or part-time (24-week) SQE1 preparatory course for law graduates and a full-time (8-week) or part-time (16-week) SQE2 preparatory course. They have indicated that the cost of the two preparatory courses may be in the region of £7,000 for both together.
- Traditional universities are looking at their law degrees to consider if and how to prepare their graduates for SQE. So far, we are aware of 15 universities that are making plans to introduce SQE1 prep inclusive law degrees and four that are planning to offer additional, optional top-up modules. Ten other universities have told us that they are considering whether to offer SQE1 training. Five universities have confirmed that they will offer SQE2 training.
- Two private providers have confirmed that they plan to offer SQE1 training and five have confirmed that they plan to offer SQE2 training. 20 other private providers are considering offering SQE1 training and 23 are considering offering SQE2 training.
- Publishers have advanced preparations in hand to launch textbooks and suites of multiple-choice questions. Five private providers have also told us that they plan to provide SQE materials for home study.
- Firms are introducing new training programmes. These include, for example, three-year training programmes which incorporate QWE with preparation for SQE1 and SQE2.

Some of these options will be materially cheaper than the current route to admission. Where a candidate trains through a combination of a law degree integrating SQE1 preparation there would be no additional training cost. Where a candidate requires SQE training over and above a law degree and their QWE, early market indications suggest that training costs could be substantially lower than the LPC.

We are also aware that early indications suggest that not all universities wish to incorporate SQE preparation into their law degree. So SQE preparatory training could still be needed

for SQE1 particularly in the early years. And candidates may need some classroom training in addition to their QWE before taking SQE2.

The structure of the SQE also helps address the "LPC gamble". Most candidates will take SQE1 before they start their QWE in the same way as they currently take the LPC before they start or have found a training contract. SQE1 is a much cheaper initial pre-work-based-learning assessment than the LPC. So when the SQE is introduced, the risk to candidates of taking SQE1 is £1,558 (plus any training costs they choose to incur). That is helpful to people seeking to enter the profession, particularly candidates from less affluent backgrounds.

We recognise the risks that, if firms wait for SQE1 results before recruiting, candidates might have to self-fund any SQE1 training they may need, and the assessment itself. But we do not think this is a reason not to proceed with the SQE. It is for employers to decide at what point they recruit. Some recruit two years in advance – and can use success in the SQE as a condition of acceptance, so they have that assurance of standards. This group may pay for SQE1 training and assessment. Others may want to see SQE results and use it as a selection tool. As we point out above, the upfront cost for SQE1 is £1,558 (plus training) instead of up to £16,750 for an LPC. This represents a much lower financial risk than under the current system. The access to data could also encourage fair recruitment at other points, including for newly qualified solicitors.

It is also possible providers with good candidate outcomes could increase the price of their courses, which would disadvantage candidates from less affluent backgrounds. Again, we do not think this is a reason not to publish data by provider. We believe the benefits to candidates will outweigh the potential risks. We hope that the publication of this data will drive high standards across the training market. And if some providers increase their course costs this could encourage other providers to explore more cost-efficient ways to deliver high quality courses. Most importantly, we anticipate that candidates from all backgrounds, including those from less affluent backgrounds, will have a far wider and better informed choice of provider and price points than under the current system, including some universities who include SQE1 training in their law degrees, at no additional cost to students.

#### *What are we doing to mitigate the risks?*

There is government funding for degree courses which incorporate SQE training and for SQE costs through the solicitor apprenticeship. However, student loan funding and Disabled Students Allowances are not currently available for the cost of the SQE assessment itself, or for the cost of private courses that a candidate may choose to take. The Disabled Students' Allowance and student loan funding are schemes operated by the Government. We do not set the eligibility criteria and we are not involved in deciding who receives the allowance. But we have discussed the funding issue with the Law Society and together we will continue to discuss this issue with government.

#### *Where employers offer solicitor apprenticeships*

[<https://www.instituteforapprenticeships.org/apprenticeship-standards/solicitor/>], the Education and Skills Funding Agency has confirmed to us that graduates can join the apprenticeship programme for the last two years of their training, in which case the cost of their training and assessment (on a pro rata basis) is recoverable through the apprenticeship levy. The upfront cost, as set out above, is significantly lower and the SQE offers real flexibility (for example, online training or integrated approaches combining classroom and work place learning), providing more scope for "earning while you learn".

We know from talking to law firms that some employers are considering paying SQE costs for employees, as they currently do, for example, for their CILEx (Chartered Institute of Legal Executives) employees, for PSC fees and for the GDL and LPC.

We have contractual mechanisms with Kaplan to make sure that we have full visibility of the costs of the delivery of the SQE assessments. Candidate fees will be agreed with us in advance and must represent value for money.

We will publish resources to help candidates navigate the range of options available. We have already published initial resources on the SQE tailored to the needs of different stakeholders including employers and prospective candidates. This will help to mitigate the impact by preparing people ahead about the options so they can navigate the choices available. In line with the Bridge Group recommendations, we will clearly define and target stakeholder groups and make sure our materials are inclusive. We will take proactive steps to reach key groups.

We have launched a Facebook page – Career in Law [<https://www.facebook.com/careerinlaw/>] – to provide information to prospective students about how to qualify as a solicitor in the future. This includes information about the cost of qualifying and the different options available to students.

We will also provide easily accessible and authoritative SQE candidate pass rates by provider to inform the purchasing decisions of candidates and employers.

We will continue to engage with providers to help them to understand the benefits of the new system and the role that they can play in creating a competitive and healthy market for SQE training. We plan to launch a community of practice for providers to facilitate this.

#### *Conclusion on cost*

We believe that, overall, our reforms will help to drive a more competitive and flexible legal education and training market which will benefit potential solicitors from a diverse range of backgrounds and address some of the issues with cost inherent in the current system. The market is already responding and will continue to develop in the years after the introduction of the SQE. We will carefully monitor and analyse any impacts on diversity and inclusion, and work with the training providers to maximise the positive effects or address any emerging difficulties.

We believe that, overall, our reforms will help to drive a more competitive and flexible legal education and training market which will benefit potential solicitors from a diverse range of backgrounds and address some of the issues with cost inherent in the current system. The market is already responding and will continue to develop in the years after the introduction of the SQE. We will carefully monitor and analyse any impacts on diversity and inclusion, and work with the training providers to maximise the positive effects or address any emerging difficulties.

As stated, early indications show that a range of options for SQE preparatory training will emerge. These will offer choice and a range of price points for candidates, with some options coming in cheaper than the cost of the LPC. The training market will continue to develop once the SQE is introduced. But critically, it will be at a structural level more competitive both on price and quality, because of greater transparency, choice and accountability.

Taken together, and working with stakeholders, we anticipate that:

- the wide range of options for training and preparation that will develop over time
- the publication of market data to encourage training providers to deliver quality training that will provide transparency for candidates
- the wider range of opportunities to earn and learn should make it possible for those from less affluent backgrounds to access SQE preparation and training.

We also anticipate that the removal of the "LPC gamble" will benefit candidates from less affluent backgrounds.

### *Fairness*

We cannot be sure that all new solicitors under the current system are meeting, on a consistent basis, the levels of knowledge and skills that are needed to qualify as a solicitor. This is critical for consumer protection.

- There are different routes to admission as a solicitor, which are assessed in different ways.
- On the graduate routes for domestic candidates, more than 110 providers offer the professional legal assessments we specify. They each set and mark their own assessments. We know that there is significant, unexplained grade inflation in higher education<sup>8</sup>. We also know that pass rates on the GDL and LPC vary from under 40% to 100%, but we do not know the reasons why.
- At the end of the period of recognised training, there is no benchmarking or standardisation to make sure that decisions to confirm trainees are taken against a consistent standard. In practice, few trainees do not get confirmed.

### *How will the new system help to address this?*

The SQE will provide a level playing field for all candidates, whatever their background. It will assess all candidates to the same standard regardless of their training or prior achievement. Candidates who attended less prestigious universities, or who choose new routes to qualification, can demonstrate to employers that they have reached the same standard as candidates who attended more prestigious universities or followed more traditional routes.

The SQE will bring solicitor assessment into line with best practice in other high-stakes professional assessments. It will provide a high degree of assurance that the candidates who pass are those who should pass, again regardless of their prior education or achievement. This is essential for proper consumer protection and public confidence in the profession.

The data generated from a large-scale standardised test will also provide more detail on the performance of different groups of candidates than is possible in the current system. This will allow us to monitor performance of candidates by protected groups on an ongoing basis<sup>9</sup>.

Overall, SQE introduces a step-change forward in professional legal assessment. SQE2 will be the end point assessment for solicitor apprentices.

The SRA has been appointed the External Quality Assurance Organisation (EQAO) for solicitor apprenticeships. And Kaplan has been appointed the End Point Assessment Organisation (EPAO). In both cases, the appointments followed a detailed process to review the assessment methodology and quality assurance processes by the Education and Skills Funding Agency (for the EPAO) and the Institute for Apprenticeships (for the EQAO).

The SQE will assess the competences required to qualify as a solicitor in two stages: SQE1 assesses functioning legal knowledge (FLK); SQE2 assesses practical legal skills.

The FLK assessments in SQE1 will consist of multiple-choice, single best answer questions. Multiple-choice questions offer benefits as set out below and are accordingly widely used in assessment in other professions (for example in medicine, pharmacy and accountancy). They are also used in the legal context, both in a university setting and in high-stakes licensing examinations (for example within the LLB, on the LPC, Bar Professional Training Course and the US Multi-state Bar Exam, which is used by the New York Bar). The Bridge Group have advised that single best answer multiple-choice tests are as objective an

evaluation methodology as possible (i.e. not subject to differential performance by background, and not subject to examiner bias).

Single best answer multiple-choice questions:

- can be objectively marked
- enable us to adopt modern, statistically based exam processes, to ensure a high level of accuracy in assessment decisions and consistent assessment over time, across successive sittings and between different candidates
- can measure the cognitive skills we wish to test effectively
- provide better assurance of a candidate's breadth of knowledge than a small number of essay-style questions – doing three essay questions on a topic increases the risk that a candidate "gets lucky" on the subjects that come up in an exam and does not in fact have the range of knowledge we expect of a solicitor.

Multiple-choice questions cannot be used as the sole method of assessment in the SQE. They cannot assess the range of legal skills set out in the Statement of Solicitor Competence, which we require aspiring solicitors to demonstrate. We will assess these skills through a suite of exercises in SQE2.

*What are the potential risks and concerns raised in relation to fairness?*

Stakeholders have raised a number of concerns about the SQE and its ability to uphold standards and provide a level playing field for all candidates. For example, stakeholders tell us they are worried that:

- the assessment methods proposed for the SQE, the use of multiple-choice questions and computer-based testing, could disadvantage particular groups of candidates, especially candidates with individual needs and women
- candidate performance on the SQE could be influenced by the candidate's prior educational experience, therefore re-enforcing prior social and economic disadvantage
- the requirement to sit the SQE in a single, and potentially lengthy, assessment session could discriminate against candidates with particular disabilities/conditions, or those with family or other caring commitments
- the requirement to take some of the SQE2 assessments at a small number of specified assessment centres could disadvantage candidates with individual needs and less affluent candidates who might find it difficult to travel
- firms and employers could be sceptical about the quality of alternative/new training providers and courses until there is sufficient data to show positive outcomes, and so would be most likely to stay with tried and trusted routes and providers. This might limit the development of a more competitive training market and may be detrimental to the progression of students from less affluent backgrounds who may choose newer and cheaper training providers.

Respondents to our recent survey and representatives from disabled groups reiterated these concerns, particularly the concerns about the use of multiple-choice tests, the accessibility of assessment centres and the length of the assessments for candidates with disabilities. They also expressed concern that multiple-choice tests could disadvantage candidates with disabilities and that some assessment centres may not have appropriate facilities to accommodate the range of reasonable adjustments that might be needed for candidates. There also continues to be some misunderstanding about the design of the SQE with some stakeholders believing that multiple-choice tests will be the sole method of assessment on the SQE.

We address these risks and concerns below.

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

*SQE1 pilot*

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

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

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

With those caveats, key things to note include:

- The most significant predictors of FLK performance were completion of a GDL and completion of a law degree at a Russell Group university.
- Male candidates performed marginally better in the FLK assessment. There was little difference in the skills assessment. Overall Kaplan concluded that gender was of limited significance in determining performance.
- White candidates generally performed better than Black, Asian and minority ethnic candidates in both the FLK and particularly the skills assessment<sup>10</sup> [n10].

In the pilot there was differential performance by binary ethnicity. This was not a reason in itself to remove the skills assessment from SQE1. But we also found that the design of the SQE1 skills assessment was not sufficiently robust. If we took the SQE1 skills model into the live assessment it would not give us sufficiently reliable data to make accurate judgments about pass and fail decisions.

Kaplan and the SRA are committed to promoting equality of opportunity while maintaining the standard of the assessment. But the skills assessment piloted in SQE1 did not ensure sufficiently effectively that the standard of the assessment is maintained because it was not sufficiently reliable or precise. There were also difficulties in setting the skills assessment at a standard that reflected the fact that many candidates would take the assessment before starting their QWE, rather than at the point of admission. In light of these findings, we held a series of focus groups and other meetings with the profession, training providers and special interest groups over the course of autumn 2019. We also ran an online survey to seek views. At the same time, Kaplan looked at models which would work technically. Through this process we refined possible options down to two:

- Assess skills purely through SQE2 at day one qualified solicitor standard; or

- Include a legal research and writing assessment in each of the two Functioning Legal Knowledge assessments within SQE1. The exercise would count for a maximum of 10% of the available marks and would be set at day one qualified solicitor standard. Kaplan advised that this model would be technically defensible and that it would enable the pass mark to be calculated with sufficient precision.

Stakeholder views on these options were split, with no clear consensus emerging for either model.

Most City and larger firms favoured no skills testing in SQE1. Their reasons were lower costs, simplicity, avoiding duplication, and less marking time between passing SQE1 and taking SQE2. They plan to start their trainees' QWE after they have passed SQE2. So, they would not be recruiting candidates who have passed only SQE1.

There was less consistent feedback from smaller firms, individual solicitors and other organisations authorised to take trainees, but many of them preferred SQE1 to include a skills element, although not at the standard of a competent day one solicitor. This is on the basis that they may take trainees for QWE between SQE1 and SQE2, they would value an indication of skills before taking on a trainee, and they want trainees to be able to do basic legal tasks such as legal research and legal writing from their arrival in the office.

Education and training providers had mixed views. Some see the testing of skills at SQE1 as a key indicator for progression for both candidates and employers. Others think it is more logical and simpler to test skills only in SQE2. Some individual trainees, paralegals, students and SQE1 pilot candidates favour skills testing in SQE1, others do not.

Having considered these views, we concluded that we should not assess skills within SQE1 but should rely instead on SQE2. Our reasons include:

- SQE1 skills would have to be set at day one solicitor level. If SQE1 skills were to be set at admission standard, that would duplicate SQE2 skills and would therefore be unnecessary.
- The purpose of the SQE is to ensure that those we admit demonstrate the high standards required for practice as a solicitor, and the means of assessment should be those that are proportionate to achieve that objective. It is not part of the purpose of SQE to assess skills required for individuals practising in a non-qualified capacity. Those skills will inevitably vary from role to role, and firm to firm.
- Should businesses have skills requirements for non-qualified staff, the proper place to assess their requirements is through their own recruitment and selection processes.
- Given that we expect most candidates will attempt SQE1 some time before admission, and may need some work experience to help develop those skills, an SQE1 skills assessment set at day one solicitor standard could create a barrier for which we have no regulatory justification.
- This barrier may disproportionately disadvantage candidates who need access to work experience to develop professional communication skills.
- The SQE1 skills assessment would increase the cost and burden of the SQE without a clear regulatory justification.

Overall, assessing FLK in SQE1 and legal skills in SQE2 provides a model which best meets our criteria of an assessment which is valid, reliable, cost-effective and manageable.

#### *SQE2 pilot*

We have completed a pilot for SQE2. SQE2 pilot candidates were selected to be, as far as possible, representative of those who will sit the SQE. Applications were encouraged from minority groups protected under the Equality Act. The analysis of the pilot data shows a



similar distribution of demographic characteristics amongst pilot candidates to those taking the LPC.

Through the pilot, we explored a number of facets of SQE2 assessment design and performance, the most significant of which is the question of the uniform or optional model. The primary purpose of SQE2 is to assess candidates' legal skills. Ensuring that those we admit have demonstrated they are able to practise competently is a core responsibility in order to meet our regulatory requirement to protect consumers. Legal skills cannot be assessed in a legal vacuum, so SQE2 must assess skills through the vehicle of different areas of practice. These will be the reserved areas of practice<sup>11</sup> and business law (because it is such a major sector).

One of the key questions for the pilot was whether candidates should all have to demonstrate their legal skills through the same assessments (the uniform model), or whether they could be allowed to demonstrate their legal skills in practice areas of their own choice reflecting their work experience or career aspirations (the optional model).

Few law firms practise across all the reserved activities. In practice, trainees start to specialise before admission when they choose which law firm to train in. There is no current requirement for trainees to demonstrate their competence across all reserved areas. For this reason we originally proposed a model where candidates could choose two practice contexts in which to have their legal skills assessed. This best reflected current custom and practice in the sector, and enabled SQE2 assessment to be aligned to work experience in some practice areas only.

The pilot enabled us to explore three alternative models:

- Specialisms only: candidates take legal skills assessments in two contexts of their choice.
- Uniform exam: candidates take same exam, which sampled across all legal skills and all contexts.
- Common core: candidates take an exam combining one context of their choice with a sample of all skills and all contexts.

At the same time, we explored these options with stakeholders from September 2019, through roundtables, individual meetings, webinars, the SQE Reference Group and an online survey.

The pilot findings are clear that both of the optional models (specialisms only and common core) create a significant risk that candidates may not be assessed fairly against the same consistent standard. It was not possible to make a precise statistical comparison of the level of demand of different subjects. Quality assurance arrangements can mitigate, but not eliminate, this risk.

Candidates with protected characteristics may be disproportionately represented in some specialist areas<sup>12</sup> and having optionality would make monitoring of performance by protected characteristics (and other statistical methods of investigating differential performance) less meaningful, with the attendant drawbacks in terms of advancing equality of opportunity. The pilot also provided some indicative evidence that legal skills were not wholly transferrable between different practice areas. Given that the solicitor qualification is broad, this does create a consumer protection risk: the optional model may result in people being licensed to practise who have not demonstrated their competence in all reserved activities.

On the other hand, the uniform model is likely to make it more difficult to rely on work experience alone to prepare for SQE2. Some form of classroom or online learning may be required, at least to top up legal skills. The uniform model is likely to cost less to assess, but the training costs may be higher than the optional model.



We discussed these risks with stakeholders in a series of meetings from September 2019 and again following the publication of the SQE2 pilot findings. Their views were mixed. Training providers confirm that training for a uniform exam is likely to cost more. And law firms worry about funding training in skills which their particular businesses do not need. On the other hand, some stakeholders recognise that the uniform model provides the greatest measure of consumer protection, and that it avoids early over-specialisation.

Consumer protection and fairness to candidates mean that all candidates must be assessed to the same standard. In a uniform exam, all candidates take the same examinations and so are demonstrably assessed against the same standard.

Kaplan's recommendation, that of their Advisory Board, of the SQE Independent Reviewer and of our expert External Psychometrician was therefore that a uniform exam is the most robust assessment design for a single entry point into the solicitors profession. The SQE Independent Reviewer, Geoff Coombe, states: "The overwhelming evidence from a psychometric perspective is to have a universal model. This is backed up in the relevant academic literature and is the model usually followed by professional qualifications which lead to licensure. From a defensibility perspective, and in order to ensure fairness to all candidates, the evidence from the pilot is the SQE2 design should be universal [i.e. uniform], and while recognising this will not be some key stakeholders' preference, the design must be able to withstand legal challenge".

The Bridge Group have advised us that "the potentially beneficial impacts on diversity of a uniform assessment at SQE2 outweigh those associated with an optional assessment". Their view is that a uniform assessment approach is "more likely to impact positively on diversity at point of qualification compared to optional assessment".

The Bridge Group also suggest that a uniform assessment might provide an opportunity to counteract the effects of some candidates 'selecting out' of areas that are perceived to be aligned with particular demographic characteristics. Research

[<https://static1.squarespace.com/static/5c18e090b40b9d6b43b093d8/t/5cd180d73cfb160001436429/1557233888333/03+Research+2018+Progression+law.pdf>]

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

Although individual firms employ lawyers in specialised roles, practice rights are generalised and allow solicitors to practise across the reserved activities. Therefore we need to test across all the core skills that are required in order to be able to exercise these rights safely and effectively. And we need to test on a fair and consistent basis. The best way to do this is through a uniform assessment.

The uniform model best achieves the primary objective of the SQE of assuring high professional standards on a fair and consistent basis. Given that the solicitor qualification is a general one, consumers are entitled to assume that all solicitors have met the same consistent standard. It also avoids the risk of a perceived two-tier qualification, and that it is easier to qualify through some assessments instead of others. The uniform exam is a single exam that all candidates take. So their results are standardised and consistent. While not a primary driver, this assessment is also cheaper. For these reasons, we concluded that SQE2 should take the form of a uniform assessment model in which all candidates take the same skills assessments set in five areas of practice.

In addition to the question of SQE2 design, both univariate and multivariate analyses of candidate performance by protected characteristic were examined. In considering the results, it should be remembered that candidate numbers were small in some groups, making it unlikely that statistical significance would be found in relation to those characteristics, that characteristics were self-declared, and that there were substantial confounding relationships between individual variables.<sup>13</sup> [n13]

The univariate analysis showed no significant difference overall between men and women, but that women significantly out-performed men in the criminal specialty. White candidates

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

#### *What are we doing to mitigate the risks?*

We recognise the challenge in higher education in relation to performance in assessments by different protected characteristics [<https://www.universitiesuk.ac.uk/policy-and-analysis/reports/Documents/2019/bame-student-attainment-uk-universities-closing-the-gap.pdf>] (PDF 88 pages, 1.8MB). This is also the picture for professional examinations, for example in medicine, pharmacy (PDF 68 pages, 826KB), architecture [<https://www.architecture.com/-/media/DE213D6DC130456CA4643B01890A8D73.pdf?la=en>] (PDF 22 pages, 2.1MB) and the barrister qualification [<https://www.barstandardsboard.org.uk/uploads/assets/7a20eb3e-b152-4777-9e821417bf596eed/bptckeystatisticsreport2019.pdf>] (PDF 149 pages, 5.1MB).

In the current domestic route to admission as a solicitor, there is consistent under-performance by ethnicity on both the GDL and LPC. For example, in academic year 2017-18 (the latest for which we hold data) GDL completion rates were as follows:

- 68% for white students
- 49% for Asian/Asian British students
- 43% for Black (African/Caribbean/Black British).

For the LPC, completion rates are:

- 66% for white students
- 48% for Asian/Asian British students
- 35% for Black students (African/Caribbean/Black British).

We have found no evidence that any of the assessment methods used in the SQE are intrinsically biased or that the outcomes are worse than those seen in the current LPC system.

We will include robust quality assurance measures in the SQE:

- Appointing external expertise to advise on these issues
- Recruiting a diverse group of assessors
- Diversity training for assessors, markers and question writers, including on issues such as the language of questions
- Statistical monitoring of the performance of assessors of live assessments for unconscious bias
- Statistical analysis of individual questions to check for patterns of differential performance at item level
- Statistical monitoring and analysis of the performance of protected groups under the Equality Act 2010.

Kaplan has already used appropriate external expertise to advise on these issues. And we have appointed an independent reviewer who will provide independent, external quality assurance of the SQE.

As recommended by the Bridge Group, we will monitor performance by diversity characteristics on the SQE on an ongoing basis and will report on the profile of SQE

candidates and newly qualified solicitors by protected characteristic and socio-economic background.

We have updated the diversity characteristics so that they will be comprehensive and align with our data collection for the profession, and we are already collecting baseline data from LPC providers to inform this work. We will conduct a full evaluation of the SQE post-implementation.

We intend to put in place the framework for evaluating the SQE towards the end of 2020. We will commission independent experts to identify the metrics we will use to measure actual outcomes on different groups in the legal services and training markets and to help us to assess the impact over the short, medium and long-term.

- **Phase one:** logic models developed
- **Phase two:** two-year post-implementation evaluation of the market impacts and a perception study
- **Phase three:** four-year post-implementation evaluation of the market impacts and a perceptions study
- **Phase four:** five to seven-year post-implementation full evaluation
- **Phase five:** seven to 10-year post implementation study of predictive validity

This will be a long-term commitment to evaluation which will last over ten years. Although we cannot evaluate the full impact of the SQE until five to seven years after its introduction, we will undertake an initial, interim evaluation after two years. This initial evaluation will include a study of developments in the training market and a perception study amongst key stakeholders, in line with the recommendations from Bridge Group. This is in addition to the provision of data after each assessment.

The full evaluation, five to seven years after the introduction of the SQE will include:

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

Seven to ten years after the introduction of the SQE we will undertake a study into its predictive validity. Predictive validity refers to whether the scores on the SQE can predict the future performance of a solicitor or their progression in the profession.

The SQE is set at the standard we specify for practice as a solicitor in the Threshold Standard [<https://www.sra.org.uk/solicitors/resources/continuing-competence/cpd/competence->

statement/threshold-standard/]. All question writers and examiners will be qualified solicitors. As well as making sure they have diversity training, we will be using modern assessment methodology to set and maintain a consistent standard:

- We will use an "Angoff panel" of solicitors to set the cut score for the Functioning Legal Knowledge assessments.
- The pass mark will include a calculation of the Standard Error of Measurement<sup>15</sup> [15]. This further increases confidence that only those who are competent pass the SQE.
- We will measure the reliability of the assessment over time.
- We will use "borderline regression" methodology to set a consistent standard for the skills assessments<sup>16</sup> [16].

Assessors will be trained and monitored statistically to make sure they understand and assess against the standard required for competence. They will also have diversity training.

We will continue to review the research for any emerging evidence relating to the assessment methods. We know differential performance by ethnicity happens widely in professional assessment, higher education and also specifically in legal professional assessment. It is nevertheless of concern and we plan to commission research to understand better the causes of the disparity in performance. This is in addition to our plans for the full evaluation of the SQE. It will help us understand what the reasons are and whether we can work with others to help to address any factors we identify.

Although the final design of SQE2 means that candidates may need some top-up training to prepare for SQE2, they will still be able to develop their skills through QWE. This will help them to prepare for SQE2. The top-up training can build on the knowledge demonstrated in SQE1 and skills developed during QWE. We know that some employers plan to provide and pay for their candidates to take training for the SQE2 assessment. And both training and assessment costs are covered by employers for apprentices. Candidates can also get their QWE with more than one employer if they choose to. This would enable them to develop their skills in more than one context and select QWE placements/work which make sure they have the breadth of experience to prepare them fully.

The making of reasonable adjustments for disabled candidates is a legal obligation, which Kaplan must comply with. We also have contractual arrangements with Kaplan to provide for the recording and monitoring of adjustments provided and the arrangements Kaplan have to provide those adjustments. These adjustments can include extra time to take the assessments, rest breaks, special seating or lighting, or a personal assistant. It can also include, in specific circumstances supported by appropriate evidence, provision of the assessment by alternative methods.

All of these adjustments are made on an individual basis, depending on the candidate's personal circumstances and the specific demands of the particular assessment. We will also consider religious holidays when deciding on assessment dates.

Kaplan has many years' experience of making reasonable adjustments, not least in its running of Qualified Lawyers Transfer Scheme (QLTS) assessments. In preparing for the introduction of the SQE, it is already planning for an increase in adjustment requests. It is a contractual requirement that each of the SQE assessment centres is compliant with all applicable equality legislation.

All of the SQE1 assessments and the majority of the SQE2 assessments (the written assessments) will be taken at Pearson Vue centres which are widely available throughout the UK and abroad. Candidates will be able to choose to sit these assessments at a centre close to home. Four out of the sixteen SQE2 assessments (the oral assessments) will need to be taken at a specified test centre. These assessments will be available at three test

centres initially and five test centres in England and Wales, once the SQE is fully established.

Some stakeholders have suggested that we should offer SQE2 at a wider range of assessment centres to minimise travel time and cost, particularly for candidates with individual needs. The decision on the number of assessment centres needs to strike a balance between standardisation, cost, staffing, geographical considerations and accessibility for candidates. We consider that three to five centres is a good compromise between these factors. The centres will be in well-connected cities with good transport links. And they will be spread across England and Wales.

We recognise that we need to work with Kaplan and with stakeholders to build confidence in the policy and process for reasonable adjustments on the SQE. We have already started to do this. We plan to share the draft policy on reasonable adjustments with representatives from disability groups. The reasonable adjustments policy, together with guidance and questions and answers will be published this Summer.

### *Conclusion on fairness*

The SQE will allow all candidates to show that they have met the same high standard, regardless of their training route or prior educational achievement. We will demonstrate the ongoing fairness and robustness of the SQE through both public reporting of candidate results and by independent scrutiny of the SQE assessment and evaluation of the reforms as a whole.

The SQE will provide us with much better data than under the present system to monitor and evaluate the outcomes of candidates from Black, Asian and minority ethnic backgrounds in the assessment. In addition, in the longer term as the dataset builds and we have data that candidates provide to us about their academic achievement, there is potential to explore more sophisticated relationships in the data. The data collated from a standardised examination will allow far more advanced and nuanced analysis such as:

- the relationship between performance in the SQE and graduate career destinations; and
- the relationship between performance in the SQE and longitudinal performance and progression in the profession.

We remain confident that multiple-choice questions are an appropriate method for assessing the FLK and that they will enhance assessment quality. But they are not the only method of assessment in the SQE. SQE2 will assess the full range of skills required to practise as a solicitor through a range of practical written and oral assessments. In their advice to us, AlphaPlus stated: 'The evidence regarding the use of objective tests (generally multiple-choice tests) in contexts and qualifications similar to this is strong: They are used in comparable contexts, as indicated by our case studies and experience of other similar qualifications. They can be used to assess higher order skills, as evidenced by a review of published literature and examples, mainly from the medical sciences. They have been shown to be reliable in this context.'

In their 2020 report, the Bridge Group also advised that 'We remain satisfied that single best answer tests (SBA), conditional on enough care and attention being paid to question setting and cultural context, are as objective an evaluation methodology as possible (i.e. not subject to differential performance by background, or not subject to examiner bias). SBA tests have been identified as an accurate means of assessing higher levels of knowledge such as decision making, data interpretation and problem solving. SBA tests have a clear advantage over a typical true/false multiple-choice examination, with SBA questions making it explicit that although more than one option may have validity, there is a single option that is superior. Extensive research into assessment for the medical profession has demonstrated the advantage of SBA. This learning from other professional sectors is to be commended and encouraged.'

In light of stakeholder concerns that multiple choice tests could discriminate against women, we asked Kaplan to conduct an investigation into this point. Looking at QLTS data over five years of testing, their conclusion was that 'the differences on performance and results between males and females on the QLTS multiple-choice test are not marked enough to suggest bias in any direction. This is even ignoring the considerable limitations of drawing conclusions about bias in methods of testing from performance data.'

There is no evidence that multiple-choice questions are intrinsically problematic. We are aware of case law which confirmed multiple-choice questions were not suitable for an individual candidate with autism, but did not consider them unsuitable for all autistic candidates where reasonable adjustments can be made. Each request for reasonable adjustments will be considered on an individual basis, taking into account the individual circumstances of the application.

We recognise the challenges of differential performance by protected characteristics that exist across education. It is not possible for us to solve all of these problems. They are based on multiple factors, many of which are outside of our control. It is our responsibility to make sure that SQE is fair to all candidates. We will do this in the ways described above. This is a responsibility we take very seriously.

We intend to continue to monitor the way diversity affects outcomes across the profession and will research the underlying causes of the disparity in performance in assessment. This will help us understand what the reasons are and whether we can work with others to help to address any factors we identify. We will start this piece of work before SQE is introduced. But it cannot be completed without the SQE because the research needs to tie into the SQE itself. For example, it should include qualitative research to understand better the factors contributing to the data findings on performance by ethnicity in the SQE, and the 'lived experience' of candidates from minority ethnic backgrounds completing the assessment.

## Access

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

### *How the new system will help address this?*

When the SQE is introduced, candidates will not need to gain their work experience under a formal training contract. We will recognise any work-based experience that allows a candidate to develop the competences in the Statement of Solicitor Competence

[<https://www.sra.org.uk/solicitors/resources/continuing-competence/cpd/competence-statement/>] .

QWE offers a wider range of options, helping to tackle the 'training contract bottleneck' that causes so many aspiring solicitors real difficulty. Periods of experience acquired through a placement as part of a sandwich degree, through working in a student law clinic, as an apprentice or a paralegal, or under a formal training contract could all contribute to this requirement. And it will provide opportunities for firms to provide work experience in circumstances where – because of their size, resources, or niche areas of law – they might currently not be able to provide a period of recognised training.

Firms and employers will not be making any judgments about whether a candidate is competent to be a solicitor. Instead, we will test their competence via the SQE2 assessments.

As the Bridge Group point out, 'the SQE has the powerful potential to level the playing field for candidates – assessing candidates in a standardised and comparable way regardless of

entry route and prior access to opportunities'.

QWE can also be undertaken part-time or full-time. Stakeholders have told us that the ability to gain QWE part-time could benefit candidates with individual needs and candidates who prefer to undertake their QWE at the weekends because they are studying or working during the week.

*What are the potential risks and concerns about access?*

Some stakeholders, including respondents to our recent survey, are concerned that there will be a perception that candidates who gained their qualifying work experience as a paralegal or working in a legal advice centre had not reached the same standard of competence as those who had followed a more traditional training contract route. They also think that the two-tier system will be exacerbated if candidates from less affluent backgrounds are not able to afford the more expensive training options.

Stakeholders have also expressed concerns that the bottleneck could be shifted from the training contract to the point of admission, i.e. more people will qualify as a solicitor and, depending on the development of the legal sector, not all of them may be able to get jobs as a solicitor. We address these risks and concerns below.

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

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

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

*What are we doing to mitigate the risks?*

We are planning to publish full results to students (not just a pass/fail). And we anticipate that as SQE is more established, people will increasingly use this data alongside other information to inform their recruitment decisions.

We will continue to engage with the profession on the potential benefits of the new system. And we will explain the benefits of candidates having done some QWE to help them develop the skills necessary to pass SQE2. We will also evaluate the market impact of the changes both in the short-term and over the longer-term.

We will add information to our resources, tailored to the needs of different stakeholder groups, explaining the new routes to qualification. For candidates, we will explain how performance in SQE2 will provide objective evidence of the competence of a candidate, and therefore help candidates to market themselves, even if they have followed a less traditional route to qualification. For employers, we will explain how they could use data on candidate performance to help with their recruitment.

*Conclusion on access*



The SQE should help because it will provide objective data to help employers make recruitment decisions.

We recognise that we have limited influence over how the profession, as employers of potential solicitors, respond to the changes. We will carefully monitor and analyse any impacts on diversity and inclusion, and work with the training providers to maximise the positive effects or address any emerging difficulties.

In its 2020 report, the Bridge Group pointed out that 'increasing diversity in the profession is dependent critically on the actions of employers and training providers, and actions by the SRA will achieve only modest gains without corresponding action from stakeholders in the sector'. They also pointed out that there is a lack of diversity in some universities/law schools.

We know that some employers already have plans to change the way they train and recruit solicitors. But others may not intend to make any significant changes. However, the narrow recruitment practices of some firms and employers and the fact that some employers may be cautious about some of the new routes to qualification are not compelling reasons to retain the traditional two-year period of recognised training. This was also confirmed in the Bridge Group 2020 report. Through our testing and piloting, we will make sure that the SQE will be a robust assessment of competence and that allowing greater flexibility in qualifying work experience will not dilute standards but promote a wider range of talented candidates to qualify as a solicitor.

We do recognise that employer trust in the SQE is key to realising the benefits arising from more flexibility in training and in QWE, but we believe that the quality of the assessment and our ongoing engagement with stakeholders will develop that confidence over time, once SQE is introduced. We intend to carry out a study to examine stakeholders' perceptions of the SQE a couple of years after introduction. And a perception study will also be included in the full evaluation to be carried out five years after introduction.

We know that the under-representation of candidates from less affluent socio-economic backgrounds and some ethnic groups in the legal and other professions is a complex and longstanding problem with no easy solutions. But we believe that the SQE will help to address this problem through:

- the enhanced flexibility of QWE
- independent and authoritative data on candidate performance on the SQE by provider to inform the purchasing decisions of candidates and employers
- online resources for candidates.

We considered carefully whether we should have a requirement for QWE to be completed before SQE2. We do not see a regulatory justification for this restriction.

We know concerns have been expressed that not having this rule will lead to all candidates taking both SQE1 and 2 before QWE, and that the consequential increase in training costs will deter those from lower socio-economic backgrounds from qualifying. In fact, we know that different parts of the market are taking different approaches which suit their business models. Some firms are planning to introduce training covering SQE1 and 2 before QWE. But others are introducing an approach which integrates SQE1 and 2 with QWE. Provided standards are met at point of admission, we see no reason to restrict flexibility in how employers recruit and train their future solicitors.

In practice, if we required SQE2 to be taken after work experience, candidates would be in limbo at the end of QWE while they waited to take SQE2 and get their results. Alternatively, we could permit SQE2 to be taken at some point during QWE. But, in this case, we would need to specify an arbitrary minimum period of QWE before which SQE2 could not be



attempted. It is not clear what the rationale would be for any such minimum period. But we will keep this under review once the SQE is implemented.

We recognise the risk that the bottleneck could shift from the training contract to admission i.e. more people will qualify as a solicitor and, depending on the development of the legal sector, not all of them may be able to get jobs as a solicitor. But we do not think this is a reason for retaining the current qualification system. It is our role to check that those who we admit are competent and to make sure that we do not put in place any unnecessary restrictions on qualifying as a solicitor that could limit consumer access to competent legal advice. The period of recognised training is a regulatory requirement which can act as a barrier to qualification for some people. Amending our requirements to introduce more flexibility through QWE will help to address this barrier.

We will continue to engage with the profession to set out the potential benefits of the new system. We will also evaluate the market impact of the changes both in the short-term and over the longer-term.

### *Quality of training during qualifying work experience*

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

#### *What are the potential risks and concerns about the quality of training in qualifying work experience?*

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

#### *What are we doing to mitigate the risks?*

The purpose of qualifying work experience is to expose candidates to clients, to ethical problems and to how solicitors work in practice. It will allow candidates to develop the competences to prepare for SQE2. But the SQE, not the qualifying work experience, will allow us to assess whether a candidate has developed the competences in our Statement of Solicitor Competence.

Feedback from stakeholders has also told us that workplace experience has a significant role to play in assuring both the credibility of the new approach to qualification and the solicitor brand. The demands of the SQE2 assessments, and the publication of pass rates by training providers, should drive learning and high quality training in a way that makes detailed and prescriptive requirements for the period of qualifying work experience unnecessary.

Our role is to regulate solicitors' conduct in relation to those they employ. This is a consumer protection measure. We already have in place a number of regulatory requirements which do this. These requirements can be found in a number of different sources:

- The competences to be developed are contained in the Statement of Solicitor Competence.
- Requirements not to take unfair advantage, and to properly supervise and manage staff are set out in the Code of Conduct for firms [<https://www.sra.org.uk/solicitors/standards-regulations/code-conduct-firms/>] and solicitors [<https://www.sra.org.uk/solicitors/standards-regulations/code-conduct-solicitors/>].

- Our disciplinary approach is set out in our Enforcement Strategy [\[1\]](#) and we can take action when we have evidence that employers are not meeting their obligations.

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

Our online resources will include information to help candidates who are looking for QWE. We will provide pointers on what candidates should look for when choosing an employer. This will include information to make clear that our powers are more limited where the candidate chooses to undertake their QWE in an organisation that is not regulated by us. We will also make available data on candidates' performance by reference to where they did their QWE.

We also know that other stakeholders are developing resources which will help candidates when the SQE is introduced. For example, the Sutton Trust has produced guidance on work placements. We have linked to this as part of our suite of SQE resources. The Law Society is also planning to publish guidance for candidates and firms.

### *Conclusion on quality of training during QWE*

We have in place regulatory controls prohibiting solicitors from taking unfair advantage of candidates and requiring them to properly supervise and manage their employees. We do not see why QWE might create any greater risk of exploitation than under the current system. On the contrary, the wider availability of QWE and the change in the role of the employer means people may be less likely to put up with poor treatment than in the present system where there is a scarcity of alternative training contracts.

We removed the minimum salary for trainee solicitors in 2014, given the introduction of the national minimum wage. And we carried out a post implementation evaluation [<https://www.sra.org.uk/sra/how-we-work/archive/reports/minimum-salary-trainees/>] of that decision in 2017. We do not see a case for reintroducing it for QWE. Indeed, given that QWE can encompass any form of work experience in legal services which gives a candidate the opportunity to develop the competences in the Statement of Solicitor Competence, it is difficult to see how it could be a practical measure.

QWE can include time spent in a student law clinic. This encourages the integration of classroom and work-based learning. Introducing a requirement for QWE to be paid would exclude this option.

Our online resources, together with resources provided by other stakeholders will help candidates when choosing a provider of QWE. We will monitor the effectiveness of the information available through our SQE evaluation.

### *Overall conclusion*

We have continued to engage with stakeholders, including representatives from special interest groups. We have discussed the key impact areas with stakeholders – the cost of qualification, the fairness of the SQE assessments, access to the profession and the quality of qualifying work experience. And through these discussions stakeholders have raised a range concerns related to these impacts. We have carefully reviewed the evidence around the risks and made sure we have developed and designed the SQE with them in mind, putting mitigations in place where necessary.

We have carefully considered the potential benefits and risks. We remain of the view that the potential benefits of the introduction of the SQE for candidates from protected groups outweigh the potential risks. But we will continue to do all that we can to mitigate the key risks.



It is of course understood that the impact of the SQE cannot be fully analysed until the SQE is introduced. This was confirmed by the Bridge Group in both their 2017 and 2020 reports. We agree that we should gather and analyse data throughout the implementation process and beyond. We must robustly and transparently review and evaluate impact, and take evidence-informed decisions regarding the continued development of the SQE post introduction and for years to come, in line with normal practice, and indeed good practice, for a major policy change or a new qualification. Through that ongoing and transparent evaluation, and working with stakeholders, we will check whether the potential benefits we have identified are being realised and whether the mitigations we have put in place have minimised the risks and concerns. And where more needs to be done, we will take action.

What we cannot afford to do is to do nothing. The equalities issues in the current system are clear and have formed a key part of the debate about reforming entry to the profession since the Legal Education and Training Review was commissioned in 2013. We will continue to work with training providers, employers and stakeholders to make the much needed changes for aspiring solicitors from every background, and to ensure that the standards we all expect are met.

## *Annex 1 – High level timeline*

### *SQE milestones 2020 to 2030*

#### *2020*

##### Summer:

- Announcement of final design of SQE and cost of assessment
- Publication of final EDI impact assessment and updated Bridge Group report
- SQE online resources updated, including publication of resources for disabled candidates and resources on qualifying work experience
- Policy on reasonable adjustments, together with guidance and questions and answers published

##### Autumn:

- Detailed work on SQE evaluation programme begins
- Publication of information strategy

##### Winter:

- SQE online resources updated

#### *2021*

##### Spring:

- SQE resources updated
- Research into the causes of disparity in assessment performance begins

##### Autumn:

- SQE introduced
- First SQE1 assessment

#### *2022*

##### Spring:

- First SQE2 assessment
- Phased introduction of SQE in Welsh
- First candidate results available (early 2022)

2023

Autumn:

- Initial evaluation of market impacts and perceptions study

2024

Autumn:

- SQE wholly available in the medium of Welsh

2025

Autumn:

- Further evaluation of market impacts and perceptions study

2026-28

Autumn:

- Full post-implementation evaluation to include EDI impacts

2028-30

Autumn:

- Post-implementation study of predictive validity

## *Annex 2 - What we have already done and plan to do to minimise the risks*

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

#### *Testing and piloting*

We have fully tested and piloted the SQE assessments. And we have put in place independent scrutiny of the SQE design, development, piloting, testing and implementation through the appointment of an independent reviewer and an independent psychometrician. We have analysed data from nine years of experience from the QLTS, considered the advice of Kaplan's Advisory Board, the SQE Independent Reviewer and the External Psychometrician and taken into account views from a wide range of stakeholders.

In March 2019 we ran a pilot of SQE1. The range and diversity of candidates was broadly representative of the profile of candidates we expect to take the live assessment. Both Kaplan and our independent reviewer confirmed that the pilot was a useful and valid exercise that achieved our aims. It showed it is possible to design a robust, manageable assessment of functioning legal knowledge. We have made some improvements to the design of the SQE1 assessments in light of the pilot findings.

In December 2019 we ran a pilot of SQE2. The 167 candidates who completed the pilot were selected to be, as far as possible, representative of those who will sit the SQE. The pilot showed that it is possible to design a valid, reliable, manageable and cost-effective assessment of practical legal skills. We have made improvements to the design of the

SQE2 assessment informed by Kaplan's recommendations, expert advice and engagement with stakeholders.

#### *Fairness*

The full range of reasonable adjustments will be made for those with particular needs. Kaplan has many years' experience of making reasonable adjustments for candidates with a wide range of disabilities, through running the QLTS assessment. Each SQE assessment centre is compliant with all applicable equality legislation.

We have published initial resources on the SQE tailored to the needs of different stakeholders. These include information about QWE and information specifically for disabled candidates. Other organisations have also produced resources, such as the Sutton Trust, whose guidance on work placements is referenced on our website.

We have trademarked SQE and require training providers to sign up to the terms of the trademark if they wish to use SQE in their marketing for preparatory training. So far, we have 35 providers on this list.

We have published an updated report by the Bridge Group and will take forward their recommendations.

Kaplan has used external expertise to advise on equality issues. And we have appointed an independent reviewer who will provide independent, external quality assurance of the SQE.

#### *Costs*

We have made sure, through our contract mechanisms, that Kaplan has a transparent funding model for the delivery of the SQE assessments and all candidate fees will be agreed with us in advance. They must represent value for money.

We have published the confirmed SQE fee. This is comparable with other professional assessments, on time per test basis. Early market indications suggest that there will be options available to candidates where the total cost of training and assessment will be less than the cost of the LPC.

We have launched a Facebook page – Career in Law [<https://www.facebook.com/careerinlaw/>] – to provide information to prospective students about how to qualify as a solicitor in the future. This includes information about the cost of qualifying and the different options available to students.

#### *Engagement*

We have continued to engage with universities, other providers of SQE preparatory training and publishers to make sure they have timely information about the SQE to allow them to design appropriate courses and materials. We have:

- established an SQE Reference Group, whose members include:
  - The Law Society
  - Junior Lawyers Division
  - Young Legal Aid Lawyers
  - The City of London Law Society
  - the Association of Law Teachers
  - the Society of Legal Scholars
  - the Socio-Legal Scholars Association
  - the City of London Law Society

- formed a LinkedIn Group, which is open to all. The group currently has more than 1,750+ members drawn from the profession, universities and other training providers
- held regular SQE webinars and event broadcasts which have been viewed more than 22,000 times
- drawn together subject matter experts to advise on technical aspects of the SQE
- conducted stakeholder surveys on aspects of the SQE, including the Assessment Specification and the timing of the assessment windows. We have had over 1,200 responses to our surveys.
- held roundtable events to discuss the assessment of skills in SQE1 and 2
- held three annual conferences with education and training providers, which have attracted almost 100 delegates each year
- published the final Assessment Specification for SQE1 and 2, and sample SQE1 questions

#### *Other things we plan to do to minimise the risks*

##### *Fairness*

We will monitor performance by protected characteristics on the SQE on an ongoing basis.

Individual questions will be analysed on an ongoing basis to check for patterns of differential performance.

Kaplan will recruit a diverse assessor team.

Diversity training will be mandatory for assessors, markers and question writers, including on issues such as the language of questions.

We will conduct a full evaluation of SQE and will begin work to develop the evaluation framework in Autumn 2020. We will assess the impact of SQE over the short, medium and long-term, including measuring outcomes for different groups.

We will continue to engage with representative groups working in this area.

We will continue to monitor the way diversity affects outcomes across the professions.

We know underperformance by ethnicity happens widely in professional assessment, higher education and also specifically in legal professional education. We plan to research the underlying causes of the disparity in performance to help us understand the causes and what we can do to help.

We will report on the profile of SQE candidates and newly qualified solicitors by protected characteristic and socio-economic background to monitor the impact of the SQE on the profile of the profession.

##### *Access*

Through our resources, we will explain how performance in SQE2 will provide objective evidence of the competence of a candidate, and therefore help candidates to market themselves, even if they have followed a less traditional route to qualification. We will inform candidates of their full results (not just pass/fail) to aid fair recruitment.

We will continue to engage with universities, other providers of SQE preparatory training and publishers on the design of the SQE and make sure they have access to timely information to allow them to design appropriate courses and materials.

We will publish resources to help candidates who are looking for QWE, including pointers on what candidates should look for when choosing an employer and data on performance. We will also include information to make clear that our powers to intervene are more limited

where the candidate chooses to undertake their QWE in an organisation that is not regulated by us.

We will provide easily accessible, independent and authoritative data on candidate performance on the SQE by provider to inform the purchasing decisions of candidates and employers.

We will add to our resources explaining the new routes to qualification and tailor these to the needs of different stakeholder groups. This will include information about the different types of SQE preparatory training available and information candidates and employers could use to inform their choice of university or other training provider.

We will help training providers to understand the benefits of the new system and the role that they can play in creating a competitive and healthy market for SQE training. We plan to launch a community of practice for providers to facilitate this.

#### *Engagement*

We will continue to engage with the profession on the potential benefits of the SQE, as well as explaining the benefits of candidates having done some QWE before sitting SQE2.

As implementation gets closer, we will continue to engage with all our stakeholders on what more information and/or resources would be helpful.

We will continue to work with other organisations that are developing resources to help SQE candidates.

We will continue to engage with government on for the issue of funding for SQE preparatory training and assessment.

### *Annex 3 – High level summary of Bridge Group reports*

We commissioned the Bridge Group to review our proposals to provide us with advice and recommendations about how we could monitor the impact of the SQE and practicable solutions we could take to maximise the benefits of the SQE. The Bridge Group – research experts on diversity and social equality – produced their first report

[<https://www.sra.org.uk/globalassets/documents/sra/research/monitoring-maximising-diversity.pdf?version=4a1ace>]

in 2017 and we later commissioned an updated report to take into account more recent developments. The [<https://www.sra.org.uk/globalassets/documents/sra/news/sqe-monitoring-and-maximising-diversity.pdf?version=4a00fc>] final report was informed by latest evidence relating to diversity and inclusion in the legal sector as well as our recent SQE policy and communications documents. The Bridge group also engaged with stakeholders including the Law Society and the Junior Lawyers Division.

The final report was published on 14 July 2020 and the findings are reflected in our updated equality, diversity and inclusion risk assessment.

The reports provide an analysis of the issues and factors affecting diversity in the legal sector and the barriers that some face in qualifying into and progressing within the profession.

The reports conclude that “There is no silver bullet to address diversity in the legal profession, because lack of diversity is constructed of a complex range of factors at every stage on the journey to the profession. It follows that diversity implications cannot be precisely predicted, given the variety and multiplicity of these factors”.

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

While it is clear that the SQE cannot solve all of the problems affecting diversity in the profession, the Bridge Group concludes that it could help. The 2017 report commented that the SQE:

- can help the sector to have an improved understanding of the causes of, and potential solutions to, the lack of diversity, due to the greater transparency it provides
- has the potential to increase the range and choice of legal training, without compromising on the need for high standards
- may drive down costs for trainees through competitive pressures in the market.

The 2017 report also:

- identified the risk that greater choice of training, whilst of itself a good thing, could make the training market more difficult for students to navigate
- emphasised the need for effective information, advice and guidance
- suggested that data from the SQE will allow us to monitor far more closely the performance and progression of particular groups
- recognised the role for employers and education and training providers to take advantage of better information and new freedoms to promote greater diversity in recruitment.
- suggested that different models and ways in which to study will emerge – for example, online or work-based – and better information may enable students to make choices about which course would suit them best in terms of cost and lifestyle. Information about courses and providers will also be available to recruiters to help them make informed decisions.

In its 2020 report, the Bridge Group built on these themes and continued its emphasis on the importance of data gathering and evaluation. It also maintained its conclusion that although the SQE cannot address all of the diversity challenges in the sector, it could help, highlighting the role of employers and training providers in making the potential benefits a reality. It commented that:

- single best answer tests, if written carefully, are as objective an evaluation methodology as possible (i.e. not subject to differential performance by background, or not subject to examiner bias). They have been identified as an accurate way of assessing higher levels of knowledge such as decision making, data interpretation and problem solving.
- the uniform assessment approach at SQE2 is more likely to impact positively on diversity at point of qualification compared to optional assessment, and could also subsequently effect better representation across different practice areas within the sector by avoiding early career self-sorting based on perception and over-specialisation.

The 2020 report recommends that we:

- share more widely with stakeholders our plans for evaluation of the SQE, publication of data and the provision of information to support candidates who are considering taking the SQE.
- do more to understand the factors contributing to differential performance by ethnic group.
- provide more detail on the policy and procedure for reasonable adjustments. We should continue our engagement with key stakeholder groups to understand and address concerns on an ongoing basis.
- make sure resources for students are accessible, timely and relevant, and enable students from all backgrounds to navigate the increasingly complex range of qualification routes and funding options. We should proactively share this information with schools' outreach programmes, universities, employers and student advisors.





- make sure that all parties fully understand the role of solicitors in confirming candidates' qualifying work experience, not whether a candidate is competent to practise; it is for the SQE to assess competence.
- formalise the timeline and scope of our plans to evaluate the SQE to assure stakeholders that evaluation has been embedded from the outset. More detail on our perceptions studies was also recommended.

#### Notes

1. We include within this candidates from less affluent backgrounds who do not strictly fall within the definition of protected characteristics within the Equality Act 2010
2. For example, enrolments as a percentage of applications for the full time LPC and Common Professional Examination (CPE) in 2018 were 85.6% (CPE) and 94.9% (LPC) for those funded by their training provider/employer; and 58.7% (CPE) and 72.3% (LPC) for those self-funded, or funded by a parent/guardian: Central Applications Board Ltd Annual Report 2018.
3. Common Professional Examination covering the foundations of legal knowledge for non-law graduates
4. When compared with similar assessments for GPs and overseas dentists wishing to qualify in this jurisdiction
5. Office for Students analysis of degree classifications over time, December 2018 [<https://www.officeforstudents.org.uk/publications/analysis-of-degree-classifications-over-time-changes-in-graduate-attainment/>]
6. We will collect data on gender, transgender, disability, ethnicity, sexual orientation, religion or belief, main secondary school attended between 11 and 16, highest level of qualifications achieved by parent/carer, work of the highest income earner in the household, whether they are a carer, country of birth, country of residence, jurisdiction of residence and nationality.
7. Kaplan Report on: SQE Stage One Pilot  
[<https://www.sra.org.uk/globalassets/documents/sra/research/kaplan-report-sqe1.pdf?version=4a335a>]  
1 The Solicitors Qualifying Examination Pilot of the Assessment of Functioning Legal Knowledge: a psychometric and statistical analysis  
[[https://kaplan.co.uk/docs/default-source/pdfs/about/sqe1-pilot-full-report.pdf?sfvrsn=87364401\\_2](https://kaplan.co.uk/docs/default-source/pdfs/about/sqe1-pilot-full-report.pdf?sfvrsn=87364401_2)]
8. Broadly, civil litigation, criminal litigation, probate and property
9. For example, there is over representation of Asian and black lawyers in firms doing criminal practice. SRA law firm diversity data 2019  
[<https://www.sra.org.uk/solicitors/resources/diversity-toolkit/law-firm-diversity-tool-2/>]
10. Confounding variables are variables which appear to be causing a predictive effect when in reality the true cause is something else
11. This is a method of standard setting where a panel of trained judges provide an estimate of the proportion of minimally competent candidates who would get each item correct. The information is used in setting the pass mark.
12. All measurements involve a margin of error which is the potential difference between a true and observed score. The Standard Error of Measurement quantifies that error to provide confidence in assessment outcomes.

13. Borderline Regression is a method of standard setting where a judge provides a score and a standard setting grade for each candidate. All candidate scores are plotted against their grades, and a best fit line (linear regression) is drawn through the data. The cut is set at the score where this regression line crosses the borderline grade.
14. For example, Tan, LT; McAleer, JJ (2008). "The introduction of single best answer questions as a test of knowledge in the final examination for the fellowship of the Royal College of Radiologists in Clinical Oncology". Clin Oncol (R Coll Radiol). 20: 571–6. [<https://doi.org/10.1016%2Fj.clon.2008.05.010>]