

**SRA BOARD**

2 June 2020

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*This paper will be published***Solicitors Qualifying Examination Regulations****Purpose**

- 1 To ask the Board to make regulations and amendments to regulations necessary for the introduction of the Solicitors Qualifying Examination (SQE).

**Recommendations**

- 2 Further to the Consultation on changes to the Principles for Qualified Lawyers, the Board is asked to:
  - a) note the response to the consultation at annex 1.
  - b) make the minor amendments to paragraphs 1, 6, 7, 8 and 9 and the addition of new paragraph 11 in the Principles for Qualified Lawyers (paragraphs 4 to 11).
- 3 Subject to Board agreement on the recommendations in the paper for item 5 of this meeting (Implementing the Solicitors Qualifying Examination) and those above, the Board is asked to:
  - a) make the draft SQE Assessment Regulations in annex 2 (paragraphs 12 to 19)
  - b) make the SRA Authorisation of Individuals Regulations Commencement Order [2020] at annex 3 (paragraphs 20 to 25), bringing them into force on 1 September 2021.

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

**Equality, Diversity and Inclusion considerations**

Consideration	Paragraph nos
An evaluation of the impact of our final policy positions in relation to the Principles for Qualified Lawyers on our obligations under the Equality Act 2010 is included at annex 1.	Annex 1, para. 71

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**Solicitors Qualifying Examination Regulations**

**Background**

**Changes to the Principles for Qualified Lawyers**

- 4 Between 26 March 2020 and 6 May 2020, we consulted on proposals to make minor changes to the Principles for Qualified Lawyers, which were originally approved by the Legal Services Board (LSB) as part of our first stage SQE application. These principles set out the basis on which we will admit qualified lawyers as solicitors of England and Wales.
- 5 The consultation proposed making four changes to the Principles for Qualified Lawyers, as follows:
  - a) Removing the requirement (over and above holding qualifications/experience we have assessed as equivalent) for qualified lawyers seeking an exemption from the SQE to be from a jurisdiction we recognise.
  - b) Making clear that qualified lawyers can demonstrate the language requirement in either English or Welsh in line with our Authorisation of Individuals regulations.
  - c) Extending the language requirement to qualified lawyers who are exempt from parts of SQE2 (as well as the whole of it, as originally drafted) where we have serious and concrete doubts about their language knowledge.
  - d) Removing the word “test” from the language requirement section of the principles, so as to be clear that competence can be demonstrated in a number of ways, not just through a formal test.
- 6 These proposed changes are designed to ensure that:
  - Our exemption requirements for qualified lawyers are properly focused on the equivalence of their qualifications and experience. Recognising particular jurisdictions is not relevant to this purpose.
  - A solicitor practising in England and Wales must be competent in the English or Welsh languages, but may be competent in either.
  - We can impose a language requirement (which can be demonstrated in a number of ways) on candidates who have not wholly demonstrated their competence in the English or Welsh languages through the SQE itself, because they are exempt from either all or part of the SQE.
- 7 We promoted the consultation to our stakeholders through our social media channels and our newsletters. We contacted each jurisdiction we currently recognise for the purposes of the Qualified Lawyers Transfer Scheme.

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- 8 We received 16 responses to the consultation. These came from one law firm, a number of individuals, the Law Society, the Junior Lawyers Division, the New Zealand Council for Legal Education and the Welsh Language Commissioner. We considered all responses.
- 9 The majority of respondents supported our proposals. They suggested that the changes were in the interests of consumers and overall public trust in the profession. Some respondents highlighted possible operational impacts which might arise from our proposals.
- 10 Having carefully considered each response, we intend to proceed with the minor changes proposed in our consultation. We will take into account the operational impacts highlighted by respondents when we implement the SQE.
- 11 We attach at annex 1 our draft response and proposed next steps. This sets out the detail of stakeholders' views on the individual questions and our proposed response. Annex 1 includes the proposed final principles; guidance on how a qualified lawyer can demonstrate their English or Welsh language knowledge; and an updated impact assessment.

**Recommendation: further to the Consultation on Changes to the Principles for Qualified Lawyers, the Board is asked to:**

- a) **note the response to the consultation at annex 1**
- b) **approve the minor amendments to paragraphs 1, 6, 7, 8 and 9 and the addition of new paragraph 11 in the Principles for Qualified Lawyers.**

**Approval of the SQE Assessment Regulations**

- 12 The draft SQE Assessment Regulations are at annex 2. The Assessment Regulations must be approved by the LSB as part of our final application to them this summer. Within the Assessment Regulations, the awarding rules (clauses 4 to 7) specify the requirements which candidates must meet in order to pass the SQE assessments.
- 13 The Assessment Regulations also include the usual provisions for mitigating circumstances, the fit-to-sit requirement, reasonable adjustments, appeals and candidate malpractice and improper conduct. These are standard academic provisions, in line with similar provisions for the Qualified Lawyers Assessment Scheme and the Legal Practice Course.
- 14 We first published the awarding rules together with our rationale for them in our second consultation in 2016. We also published them in the July 2017 version of the SQE Assessment Specification.
- 15 The awarding rules set out that:
  - Candidates must pass each of SQE1 and 2, and that they must pass SQE1 before progressing to SQE2

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- Candidates will have six years in which to complete the SQE
  - Within this period, candidates can attempt each separate part of the SQE three times, but that they cannot re-sit in order to improve a pass mark.
- 16 The awarding rules have not changed in substance since the version published in 2017. But they are now included in the SQE Assessment Regulations. We have recently sought feedback from the SQE Reference Group on the Assessment Regulations, including the awarding rules.
- 17 We had limited comments on the awarding rules in response to the 2016 consultation. The Law Society and a number of other stakeholders welcomed the proposal to limit the time taken to pass the SQE to six years. The Law Society also welcomed the proposal to limit the number of re-sits to three. A small number of other stakeholders also agreed that candidates should not be able to re-sit in order to improve their marks and that all assessments should be taken in one sitting. Two stakeholders queried whether six years would be long enough for some candidates, including those who work and study part-time and apprentices.
- 18 The SQE Reference Group indicated that they were broadly content with the awarding requirements, subject to suggestions from some members of the group that:
- we should allow candidates to apply for additional time to complete the SQE assessments (ie longer than six years) if they had to take time out, for example, because of illness or caring responsibilities
  - we make minor drafting changes to the rule which requires candidates to take all assessments in one sitting
  - we should allow candidates six years from completion of SQE1 rather than from the first time they take SQE1.
- 19 We have incorporated the first two of these suggestions in the draft Assessment Regulations in annex 2. We do not consider it appropriate to allow candidates six years from completion of SQE1 to complete SQE2. We consider the proposed period to be long enough for candidates to progress through their SQE sittings, including re-sits, on the basis of one attempt a year. The suggested change would mean there was no time limit for completing SQE1. It would also extend the time an unsuccessful SQE2 candidate had to re-sit SQE2, but, by the same token, it would extend the time someone who failed all three attempts at SQE2 had to wait before being able to re-attempt SQE as a whole.
- Agreeing the commencement date for the SQE**
- 20 Finally, the Board is also asked to agree 1 September 2021 as the commencement date for the SQE regulations.
- 21 This date is in line with our internal business readiness planning. It will enable us to run the first live SQE1 assessment in autumn 2021 and the first live SQE2 assessment in spring 2022.

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- 22 In response to stakeholder feedback asking for more time, we have twice delayed the introduction of the SQE. Most recently in 2018, we deferred the introduction of SQE from 2020 to 2021. Work started to reform the way solicitors qualify in 2011, with the Legal Education and Training Review: this has been a 10-year project. The LSB approved the framework regulations in 2018. The SQE1 Assessment Specification was published in autumn 2019, two years before the first SQE1 live assessment. The SQE2 Assessment Specification will be published this summer, about 21 months before the first SQE2 live assessment. This gives stakeholders a reasonable amount of time to prepare for SQE.
- 23 We have carefully considered whether there is any case for a further delay at this stage to 2022, particularly in view of the current Covid-19 outbreak. There is a clear public interest in terms of assurance of competence and public protection for the SQE to be introduced as soon as possible and we see no reason to delay the introduction of the SQE again.
- 24 We know that some universities and firms have suggested that the Covid-19 outbreak is affecting their SQE preparations. However, the market has already started to adapt to the SQE and others are keen to proceed. We are confident that provision will be available to support the first cohorts of SQE candidates. This does not require all training providers to be ready from the introduction of the SQE: organisations can introduce their SQE training provision when it best suits their particular circumstances.
- 25 In terms of our own preparations, both we and Kaplan have been and are fully able to work remotely. All tasks remaining on the critical path for 2021 implementation have been reviewed and are able to be completed by that date.

**Recommendations**

**Subject to Board agreement on the recommendations in the paper for item 5 of this meeting (Implementing the Solicitors Qualifying Examination) above, the Board is asked to:**

- a) make the draft SQE Assessment Regulations in annex 2**
- b) make the SRA Authorisation of Individuals Regulations Commencement Order [2020] at annex 3, bringing them into force on 1 September 2021.**

**Next Steps**

- 27 We will publish the response to the Principles for Qualified Lawyers consultation.
- 28 We will promote the Board's decision about the date on which the SQE Regulations come into force through:
- a) our dedicated SQE Update ebulletin
  - b) our SRA Update ebulletin, which goes to all the profession
  - c) our social media channels

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- d) a meeting of the SQE Reference Group
  - e) the SQE LinkedIn Group
  - f) a webinar and associated online survey
  - g) individual engagement with key stakeholders and key representative groups, including
    - i. The Law Society, Junior Lawyers Division and City of London Law Society, Sole Practitioners Group, LawNet and local law societies
    - ii. special interest groups, including the Black solicitors Network, Lawyers with Disabilities Division, Society of Asian Lawyers, Ethnic Minority Lawyers Division.
- 29 We will make the second SQE application to the LSB towards the end of July, which will include approval of the SQE Assessment Regulations. The application will be for approval of the Assessment Regulations, and awarding rules within them, and of the principles for qualified lawyers. We will also submit the final Assessment Specification and provide further background information on how we have developed the assessment, covering key areas set out above.

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**Supporting Information**

30 Supporting information relating to the proposals in this paper is set out in the paper for item 5 of this agenda (Implementing the Solicitors Qualifying Examination). Additional information about the engagement approach and the impact of our final position following the consultation on the Principles for Qualified Lawyers on the Equality Act 2010, the Regulatory Objectives and the Principles of Better Regulation are set out at annex 1.

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**Date**                         **26 May 2020**

**Annexes**

**Annex 1:**                  Draft Response to Consultation on Changes to Principles for Qualified Lawyers

**Annex 2:**                  Draft SQE Assessment Regulations

**Annex 3:**                  SRA Authorisation of Individuals Regulations Commencement Order [2020]

# Principles of Qualified Lawyers consultation response

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June 2020

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# Executive summary

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1. This document outlines our response to our Principles of Qualified Lawyers consultation.
2. The short consultation proposed amendments to our Principles for Qualified Lawyers seeking admission in England and Wales after the Solicitors Qualifying Examination (SQE) is introduced. The principles outline our overarching requirements, our approach to exemptions and the recognition of professional qualifications, professional experience and language knowledge requirements.
3. The proposed changes are required so we can be sure that the professional experience or qualifications of a qualified lawyer provides them with the necessary skills, knowledge and competence for practice as a solicitor of England and Wales.
4. They were also designed to make sure that our principles align with Part 1 of our Authorisation of Individuals Regulations ('SQE admission regulations') and that all qualified lawyers are competent in the English or Welsh language.
5. We proposed to:
  - 5.1 Remove the requirement for qualified lawyers seeking an exemption from the SQE to be from a jurisdiction we recognise.
  - 5.2 Make clear that qualified lawyers can demonstrate the language requirement in either English or Welsh in line with our [Authorisation of Individuals Regulations](#).
  - 5.3 Extend the language requirement to qualified lawyers who are exempt from parts of SQE2 (as well as the whole of it, as originally drafted) where we have serious and concrete doubts about their language knowledge.
  - 5.4 Remove the word "test" from the language requirement section.
6. The consultation included draft principles which set out our proposed amendments. We also asked for views on our proposed guidance for qualified lawyers on how they can demonstrate competence in the English or Welsh language.
7. We will proceed with our proposals having analysed each consultation response and considered how we can mitigate potential risks. We have included final versions of our principles and guidance for demonstrating English or Welsh language knowledge in this document.

8. The consultation did not identify any additional impacts or qualified lawyers from protected characteristic groups that prevent us from proceeding with our changes.
9. We will now apply to the Legal Services Board (LSB) for approval of these changes. We will do this through our second SQE application which will be submitted to the LSB in summer 2020. Subject to approval, our revised principles will take effect once the SQE is introduced.
10. We also published an initial impact assessment alongside our consultation. This document builds on that initial assessment and includes our final assessment of our changes against the Equality Act 2020, the Better Regulation Principles and our regulatory objectives.

## Who did we hear from?

11. The consultation was launched on 26 March 2020 and closed on 6 May 2020.
12. We promoted the consultation to our stakeholders through our social media channels and our newsletters. We contacted each jurisdiction we currently recognise for the purposes of the Qualified Lawyers Transfer Scheme.
13. We received 17 responses. Respondents included the Law Society of England and Wales (TLS), the Junior Lawyers Division (JLD), Comisiynydd y Gymraeg / the Welsh Language Commissioner, the New Zealand Law Society, the New Zealand Council of Legal Education (NZCLE), a firm and a number of individuals.
14. We are grateful to everyone who took the time to respond to our consultation. We have reviewed all the comments we received and have given each one careful consideration in developing our final policy positions.

## Our final positions

15. In this section we outline each consultation proposal, a summary of the responses we received, our next steps and how we will mitigate any risks we have identified.

### **Consultation proposal 1: Remove the requirement for qualified lawyers seeking an exemption from the SQE to be from a jurisdiction we recognise**

#### **What we proposed**

16. We proposed to remove the requirement for an overseas jurisdiction to be recognised by us when a qualified lawyer is seeking exemption from the SQE. Our objective is to make sure that the professional experience or qualification of a qualified lawyer is equivalent to the SQE, or the relevant part of it.

17. We said that we would do this through assessing their qualifications and experience against the content and standard of the SQE, or the relevant part of it.
18. This emphasis on qualifications and experience means that we do not need separately to assess the features of the jurisdiction in which the qualification was obtained or in which the lawyer has been practising. Recognising the jurisdiction itself is not therefore a necessary part of the process.

#### Summary of responses

19. 12 of the 17 respondents supported this proposal, including the New Zealand Law Society. The JLD suggested that removal of this requirement could:
  - 19.1 enable qualified lawyers from all countries, irrespective of jurisdiction, to qualify and make England and Wales the jurisdiction of choice
  - 19.2 increase competition and choice by encouraging best talent from diverse backgrounds to enter the market
  - 19.3 support the aims of the SQE by increasing access to the profession.
20. The JLD also expressed concern that this change could increase the burden on a qualified lawyer, who does not have the support of a regulatory or professional body to make an application for exemption to us.
21. TLS also agreed that our proposed change could help people from all backgrounds to be able to enter the profession based on merit. However, they were concerned that since the individual has a clear interest in the outcome of the application, this could increase the possibility for false or partial information being provided. This could undermine the integrity of the SQE.
22. Two individual respondents disagreed. They felt that to maintain high standards for qualified lawyers, applications for admission from qualified lawyers should include an assessment of jurisdiction of origin. This would make sure that the jurisdiction offers a valid academical credential, or a valid qualification route.

#### What we will do next

23. We agree with respondents that our change could encourage more qualified lawyers to seek qualification, increase access to competent solicitors and support access to the profession. We will proceed with the removal of the requirement for qualified lawyers seeking an exemption from the SQE to be from a jurisdiction we recognise.
24. Our assessment of the qualifications and experience of a qualified lawyer provides the evidence we need to evaluate whether they have met the standard we expect. Recognised jurisdiction status does not offer this assurance. We

recognise the concern that the evidence needs to be genuine. Where a qualified lawyer is from a regulated profession, we will continue to require a Certificate of Good Standing from their home jurisdiction as part of the admission process.

25. Our principles also state that a regulatory/professional body or an individual qualified lawyer may make an application to us for recognition of a professional title. We will continue to recognise professions which we have recognised previously, for the purpose of entitlement to exemptions from the SQE. Their actual exemptions will depend on the equivalence in content and standard of their qualification to the SQE or parts of it.
26. A regulatory/professional body applying for recognition for the purposes of exemption from the whole of SQE1 and/or SQE2 or individual components of the SQE for their profession will need to undertake a mapping exercise and submit evidence to us showing how their members' professional qualification is equivalent to the SQE. An individual qualified lawyer without a regulatory or professional body can also make an application to us.
27. We will review this mapping exercise to make sure that the content and standard of the qualification scheme is not substantially different in content or standard to corresponding areas of the SQE.
28. We will provide guidance to support regulatory/professional bodies in completing this mapping exercise. This will be issued before the SQE is introduced. At this stage, it is difficult to identify whether any qualified lawyers will be impacted by this change as suggested by the JLD.
29. Our approach is proportionate. Assessment of the qualifications and experience of a qualified lawyer provides the evidence we need to evaluate whether they have met the standard we require rather than relying on jurisdiction and requiring an individual to sit all the SQE.
30. Our changes could also increase the number of qualified lawyers who could apply for admission by removing the requirement of being from a recognised jurisdiction.
31. Given that this requirement will only take effect once the SQE is introduced, it is difficult to assess the likely burden on qualified lawyers from protected characteristic groups. We will also provide information to support an individual qualified lawyer without a regulatory or professional body in making an application to us and monitor this for any unintended consequences through our overall SQE evaluation.

How we will manage risks

32. The JLD suggested that some qualified lawyers seeking recognition of a professional title that they hold and which confers practice rights in England and Wales or in an overseas jurisdiction which has not previously been recognised by us and has not been the subject of an application to us by the regulatory/professional body, could be burdened by having to make an application to us.
33. We recognise this risk. We must make sure that all qualified lawyers seeking an exemption from all or part of the SQE are competent to practise. Any impact on an individual qualified lawyer is therefore justified in order to protect the public. However, we will make the process as straightforward as possible and will provide guidance to help individuals making an application to us. We will monitor our approach to make sure that it is as manageable as possible for individual applicants.
34. We understand the concerns raised by TLS about the potential for individuals to submit misinformation. We will put in place a clear, robust, and objective process for the assessment of applications from individual qualified lawyers, for example, contacting employers of qualified lawyers to confirm details that have been provided.
35. We have not identified any detrimental or disproportionate impact on qualified lawyers from any protected characteristic group because of this change.
36. We will communicate our changes with qualified lawyers and jurisdictions once the LSB has approved our changes to help them understand what is required.

## **Consultation proposal 2: Assessing the Welsh language knowledge of qualified lawyers**

### **What we proposed**

37. We regulate solicitors in England and Wales and recognise that they may speak English, Welsh or both. Regulation 6.2(b) of the SRA Authorisation of Individuals Regulations provides that one of the eligibility requirements for a practising certificate is that the applicant has sufficient knowledge of written and spoken English or Welsh, depending on the language they use.
38. The principles, as originally drafted, suggest that a qualified lawyer can demonstrate that they meet the language requirement through the medium of English, but do not mention Welsh. This is therefore inconsistent with that regulation and our policy intention.

39. We propose to amend the principles to make clear that qualified lawyers can demonstrate their language knowledge when applying for their practising certificate in either English or Welsh.
40. This change makes sure that Welsh speaking candidates who wish to demonstrate their language competence in Welsh are not disadvantaged. Qualified lawyers will be entitled to practise across both England and Wales regardless of whether they have demonstrated their language knowledge in English or Welsh.

#### Summary of responses

41. 12 respondents, including the Comisiynydd y Gymraeg / the Welsh Language Commissioner, the New Zealand Law Society, the JLD, the TLS and a firm, welcomed our proposal on the grounds that it would enable proficient Welsh speaking qualified lawyers to seek an exemption from the whole or part of the SQE and meet the language requirement once the SQE is introduced. Comisiynydd y Gymraeg / the Welsh Language Commissioner said our change ensures that the bilingual society of Wales is reflected, and our approach adheres to the core principle of the Welsh Language (Wales) Measure 2011 of not treating Welsh less favourably than English.
42. Three individual respondents disagreed with this proposal but did not provide their reasoning. One respondent suggested the SQE itself was a sufficient test of language competence. One respondent chose not to comment.

#### What we will do next

43. We will amend our principles to make clear that qualified lawyers who are exempt for whole or part of the SQE can demonstrate their language knowledge when applying for their practising certificate in either English or Welsh.

#### How we will manage risks

44. Our proposed change is designed to address the potential disadvantage that Welsh speaking qualified lawyers could face in seeking admission once the SQE is introduced. It will allow Welsh speaking qualified lawyers seeking a whole or partial exemption from SQE2 to demonstrate their language knowledge in Welsh.
45. The consultation did not raise any negative impacts about assessing the Welsh language knowledge of qualified lawyers. Nor have we identified any impacts on qualified lawyers from any protected characteristic group.
46. We will engage with Welsh solicitors, firms and representative bodies to inform them of changes to our principles for qualified lawyers. We will provide guidance

in Welsh on the range of ways in which they can demonstrate their language knowledge when applying for their practising certificate.

### **Consultation proposal 3: Extend the language requirement to qualified lawyers who are exempt from parts of SQE2**

#### **What we proposed**

47. Our principles as drafted, allow us to apply a language requirement to qualified lawyers whose professional qualification(s) or professional experience we have recognised as equivalent to all SQE2.
48. We proposed to extend the language requirement to apply to those qualified lawyers who may be partially exempt from SQE2. This is because a qualified lawyer who is exempt from part of SQE2 may not have demonstrated all four elements of language competence (listening, speaking, reading and writing) in the part that they have sat. Therefore, we may be left with serious and concrete doubts about their competence in the English/Welsh language.
49. For the avoidance of doubt, in the event the transitional arrangements for the UK's exit from the EU are still in force, qualified lawyers who are seeking admission on the basis of Article 10 of the Establishment Directive 98/5/EC (having practised as a Registered European Lawyer for a period of at least three years) will not be subject to an English or Welsh language requirement.
50. We also said that this change would future proof our principles against the final design of the SQE assessment. Under the SQE admission regulations, qualified lawyers may be exempt from whole assessments within the SQE, but not from elements within an assessment. The model we have piloted for SQE2 envisages a single assessment with one overall pass/fail decision based on candidate performance across a range of tasks.
51. However, depending on the final decision taken about the design of SQE2, and bearing in mind that the assessment design of any exam may change in the future, we wish to ensure that our principles allow us the flexibility we need to require evidence of language sufficiency where we have serious and concrete doubts, should this be required.

#### **Summary of responses**

52. 14 respondents agreed with our proposal, including a law firm, Comisiynydd y Gymraeg / the Welsh Language Commissioner, the New Zealand Law Society, the JLD and TLS. Respondents considered that language competence is required in order to provide competent legal services and to maintain trust and confidence in the legal system. One respondent agreed but suggested that a qualified lawyer would also need to submit evidence of their experience.

## **What we will do next**

53. Our objective is to ensure that all qualified lawyers meet the required standard of English or Welsh language competence we and the public expect. We will proceed with amending our principles to extend the language requirement to qualified lawyers who are exempt from parts of the SQE2. Our approach will also encourage the widest range of qualified lawyers to seek qualification whilst enabling us to maintain the high standards we expect.
54. We will provide guidance to qualified lawyers to outline how language knowledge can be evidenced. We will publish this before the SQE is introduced. Visually impaired candidates will be able to discuss guidance with our Contact Centre by phone.

## **How we will manage risk**

55. Our criteria for demonstrating English or Welsh language knowledge is designed to be flexible whilst maintaining high standards of language knowledge. However, in some cases, a qualified lawyer may have to incur cost to demonstrate English or Welsh language competence through an English or Welsh language proficiency test.
56. We also said in our initial impact assessment that if we implemented this change, it could result in indirect discrimination on grounds of race or nationality for applicants born and/or brought up in a non-English or Welsh speaking country.
57. We anticipate these risks would only impact a small number of qualified lawyers but set out several measures to mitigate them including:
- 57.1 Only applying the requirements where we have serious and concrete doubt about the applicant's language knowledge in English or Welsh.
- 57.2 Targeting the requirements at those elements of English or Welsh knowledge which they have not been able to demonstrate through taking relevant elements of the SQE2.
- 57.3 Developing flexible ways in which an applicant can demonstrate English or Welsh language knowledge if required.
58. We do not consider that our proposal presents a significant or disproportionate barrier to admission for qualified lawyers who may need to incur a cost. Our objective is to ensure that all qualified lawyers meet the standard of language knowledge that is necessary for them to be able to provide legal services in

England and Wales competently. For this reason, we consider our proposal and any cost incurred by some qualified lawyers justifiable. We note that the TLS agrees that whilst our change may disadvantage those qualifying from a non-English speaking country, they believe it is a necessary addition to maintain and ensure standards.

59. We will regularly review our language knowledge requirement as part of overall evaluation of the SQE. This will help us make sure that there are no unintentional barriers to qualified lawyers who cannot demonstrate English or Welsh language knowledge outside of our guidance. We will also assess the application of this requirement.
60. We have not identified any impact on qualified lawyers from other protected characteristic groups.

#### **Consultation proposal 4: Do you agree with our proposed approach to demonstrating English or Welsh language competence and proposal to remove the word “test” from our principles accordingly**

##### **What we proposed**

61. We included draft guidance for qualified lawyers on how they can demonstrate English or Welsh language knowledge.
62. We proposed to remove the word “test” from the language requirement section of our principles. We consider that it is unnecessary as a “test” does not reflect the flexibility in how a qualified lawyer can demonstrate their language knowledge if required.

##### **Summary of responses**

63. Most consultation responses, including individuals and a law firm, agreed with our proposal to remove the word “test”.

##### **What we will do next**

64. We want to be flexible in how a qualified lawyer can seek admission and to maintain our obligation to make sure that all solicitors have the required standard of English or Welsh language knowledge.
65. We will remove the word “test” from our principles. We will publish on our website the revised principles should our wider amendments be approved by the LSB.
66. Neither we, nor respondents to the consultation, identified any negative impact of our proposal to make this change. We will inform stakeholders when our revised principles are available on our website.

**Consultation proposal 5: Do you have any further information on our proposals or how we propose to implement them to inform our impact assessment**

**What we proposed**

67. We asked for views on the impact of our proposals and on our initial impact assessment.

**Summary of responses**

68. Most respondents did not provide any information on the potential impacts nor provided comments on our initial impact assessment.

**What we will do next**

69. We have not identified any impacts that prevent us from proceeding with our positions outlined in this document. Where a risk has been identified, we clearly set out how we will mitigate it.

## Analysis of our proposals in relation to the Equality Act 2010, our Regulatory objectives and Better Regulation Principles

70. We have outlined in our response, how we will mitigate the impact we identified in our initial impact assessment. We have not identified any additional impacts. We state how we will mitigate the impact of increased burden on individuals seeking an exemption from a jurisdiction without a regulatory or professional body in paragraphs 27. The consultation did not raise any further specific Equality, Diversity and Inclusion impacts.

71. In this section we consider the impact of our final policy positions on our obligations under the Equality Act 2010, to promote the Legal Service Act regulatory objectives and the Principles of Better Regulation.

### Impact of our final positions in relation to the Equality Act 2010

Protected Characteristic	Impact
Age	The consultation did not raise any evidence to suggest that the proposed changes to our principles would have a differential impact because of the age of a qualified lawyer.
Disability	The consultation did not raise any evidence to suggest that the proposed changes to our principles would have a differential impact because the qualified lawyer has a disability.
Marriage and civil partnership	The consultation did not raise any evidence to suggest that the proposed changes to our principles would have a differential impact on qualified lawyers in respect of their marital or civil partnership status.
Pregnancy and maternity	The consultation did not raise any evidence to suggest that the proposed changes to our principles would have a differential impact on qualified lawyers who are pregnant or on maternity leave.
Race	We recognise that there may be indirect discrimination on grounds of race or

	<p>nationality for applicants born and/or brought up in a non-English or Welsh speaking country. We have outlined the measures to mitigate the impact in paragraph 54. Our approach is a proportionate and justified response to the issue and is in the public interest.</p> <p>Removal of the requirement for recognition of the jurisdiction in which a qualified lawyer holds a professional qualification could increase the number of qualified lawyers who could apply for admission from a wider number of jurisdictions. This is a positive impact.</p>
Religion or belief	The consultation has not raised any evidence to suggest that the proposed changes to our principles would have a differential impact because of the religion or belief of a qualified lawyer.
Gender	The consultation did not any evidence to suggest that the proposed changes to our principles would have a differential impact because of the gender of a qualified lawyer.
Sexual orientation	The consultation did not raise any evidence to suggest that the proposed changes to our principles would have a differential impact on the sexual orientation of the applicant.

## Impact of our final positions on the LSA regulatory objectives

Regulatory Objective	Impact
<b>Protecting and promoting the public interest</b>	Applying the English or Welsh language test requirement to qualified lawyers who are partially exempt from SQE2 protects the public by making sure that they meet the standard of language knowledge necessary to provide competent legal services in England and Wales. This helps increase confidence in the legal system.
<b>Supporting the constitutional principle of the rule of law</b>	Our changes support this objective by making sure partially exempt lawyers from SQE2 have the English/Welsh language competence needed to practise effectively, and therefore to uphold the rule of law.
<b>Improving access to justice</b>	<p>Our change enables a Welsh speaking qualified lawyer to demonstrate Welsh language competence, addressing the potential disadvantage they face in not being able to do so.</p> <p>Recognising professional qualifications rather than the jurisdiction of a qualified lawyer could encourage qualified lawyers from jurisdiction we currently do not recognise to seek admission.</p> <p>Both changes remove unnecessary barriers to entry that offer no real public protection. As a result, the public could have improved access to legal help.</p>
<b>Protecting and promoting the interests of consumers</b>	Applying the English or Welsh language requirement to qualified lawyers who are partially or fully exempt from SQE2 means that we make sure they meet the standard of English or Welsh language knowledge necessary to provide competent legal services.
<b>Promoting competition in the provision of services</b>	Recognising professional qualifications of qualified lawyers rather than their jurisdictions could help increase competition and provision of legal services by enabling a wider range of qualified lawyers to enter the market.

**Encouraging an independent, strong, diverse and effective legal profession**

Our changes contribute to a strong and diverse profession. They ensure that all lawyers have the necessary level of competence in the English/Welsh languages. In addition, they reduce unnecessary barriers to entry from a diverse range of jurisdictions: focusing on professional qualifications could increase the number of qualified lawyers seeking admission.

## Impact of our final positions on the Better Regulation Principles

Better Regulation Principle	Impact
<b>Proportionate</b>	<p>Our changes are proportionate to the risk we have identified. The language requirement only applies to those where we have serious and concrete doubts about their competence in the English/Welsh languages.</p> <p>Removing the requirement for an overseas jurisdiction to be recognised by us when a qualified lawyer is seeking exemption from the SQE removes an unnecessary regulation that offers no real public protection.</p>
<b>Accountable</b>	<p>Subject to LSB approval, we will publish our revised principles for qualified lawyers so that individuals are clear on how the English or Welsh language requirements apply. We will also publish our criteria for demonstrating competence in the English/Welsh languages, so applicants are clear on how they can demonstrate language knowledge if required.</p>
<b>Consistent</b>	<p>Our changes ensure consistency between our principles and SQE admission regulations. Our revisions also enable us to take a consistent approach to the admission of qualified lawyers, for example, those that have been partially and fully exempt from SQE2.</p>
<b>Transparent</b>	<p>As above. Our requirements will be clear, consistent and published. We will engage with all jurisdictions and qualified lawyers to explain our proposed changes.</p>
<b>Targeted</b>	<p>Our changes are a targeted response to protecting the public. We will only target the English or Welsh language requirement at those elements of language competence which a qualified lawyer has not been able to demonstrate through passing relevant elements of the SQE2 and in relation to which we have serious and concrete doubts.</p> <p>Our focus on the qualifications and experience of qualified lawyers seeking an exemption from SQE2 rather than their jurisdiction means our approach is focused</p>

	on assuring competence whilst increasing flexibility in qualification.
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# Final versions of principles and guidance for demonstrating English and Welsh language

## Final principles

### **The Solicitors Qualifying Examination (SQE): approach to qualified lawyers seeking admission as a solicitor of England and Wales**

#### **The principles**

##### **Overarching requirements**

1. Qualified lawyers who wish to be admitted as a solicitor of England and Wales will need to:
  - a. Hold a legal professional qualification that we recognise which confers rights to practise in England and Wales or in an overseas jurisdiction.
  - b. Demonstrate that they have the competences set out in the Statement of Solicitor Competence (SoSC), and the knowledge of English and Welsh law set out in the Statement of Legal Knowledge either on the basis of the principles set out below and/or through successful completion of the SQE.
  - c. Have a degree or qualifications or experience which we are satisfied are equivalent to a degree.
  - d. Satisfy our character and suitability requirements.
2. We will recognise the knowledge, skills and competences that qualified lawyers have gained through professional qualifications and professional experience.<sup>1</sup> This recognition may relate to SQE1 and/or SQE2 in totality, or individual components<sup>2</sup> which make up SQE1 and/or SQE2. We will only recognise professional legal qualifications or professional experience as equivalent to an individual component of the SQE where the knowledge, skills and competences for which a qualified lawyer seeks recognition correspond to the whole of an individual component. There will be no recognition available for only part of an individual component as it is not possible to assess all candidates on a reliable and accurate basis where some candidates are only being assessed on some aspects of a component.

##### **Recognition of professional qualifications**

3. For us to recognise a qualified lawyer's professional qualification as equivalent to part or all of the SQE (SQE1 and/or SQE2), they will need to demonstrate

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<sup>1</sup> Recognition of part or all of the SQE will be granted to candidates who hold a legal professional title we recognise (a professional qualification). Where recognition is granted, the qualified lawyer will not be required to sit the corresponding components of the SQE assessment(s).

<sup>2</sup> "Component" of the SQE means an individual assessed element of the SQE for which a separate standard is set and a mark provided.

that the qualification they hold is equivalent to SQE1 and/or SQE2 in its entirety, or individual components of the SQE in the following ways:

- Content: the professional qualification will need to cover content which is not substantially different to the areas of English and Welsh law set out in the Statement of Legal Knowledge and the competences set out in the SoSC.
- Standard: the professional qualification will need to be of an equivalent standard – ie it will have to assess to a level which is comparable to level three of the [SRA threshold standard](#).

### **Recognition of professional experience**

4. Where qualified lawyers have acquired professional experience in legal practice<sup>3</sup> through practising under their home title and/or in their home jurisdiction, we will consider whether the knowledge, skills and competences developed by this professional experience are equivalent to corresponding parts of SQE1 and/or SQE2. For us to recognise a qualified lawyer's knowledge, skills and competences acquired through professional experience, they will need to demonstrate that the knowledge, skills and competences acquired are equivalent to the whole of the SQE, or individual components of the SQE in the following ways:

- Content: the knowledge, skills and competences acquired through the professional experience will need to cover content which is not substantially different to the areas of English and Welsh law set out in the Statement of Legal Knowledge and the competences set out in the SoSC.
- Standard: the knowledge, skills and competences acquired through the professional experience will need to be developed to a level which is comparable to level three of the SRA threshold standard.

5. As a starting point, we envisage that qualified lawyers will typically have a minimum of two years' professional experience in order to show us that they have satisfactorily developed to an equivalent standard the competences assessed by the part(s) of the SQE for which they are seeking recognition. However, some candidates may be able to demonstrate to our satisfaction that they have developed the respective competences to an equivalent standard within a shorter period of professional experience or through lifelong learning (or through a combination of both).<sup>4</sup> They can still apply to us for recognition by submitting formal evidence and we

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<sup>3</sup> Periods of professional experience in legal practice which are undertaken either pre or post qualification can be taken into consideration.

<sup>4</sup> 'lifelong learning': all general education, vocational education and training, non-formal education and informal learning undertaken throughout life, resulting in an improvement in knowledge, skills and competences, which may include professional ethics.

will review the evidence to assess whether their knowledge, skills and competences meet our content and standard requirements.

## **English language**

6. Where necessary,<sup>5</sup> there will be an English or Welsh language requirement imposed for qualified lawyers whose professional qualification(s) or professional experience we have recognised as equivalent to all or part of SQE2. This will take place post-admission, at the point applicants apply for a first practising certificate.

## **Notes on the principles**

### **Regulatory/professional bodies**

7. A regulatory/professional body may make an application to us for recognition of a professional title.

8. We will continue to recognise professions which we have recognised previously. However, a regulatory/professional body applying for recognition for the whole of SQE1 and/or SQE2 or individual components of the SQE for their profession will need to undertake a mapping exercise and submit evidence to us showing how their members' professional qualification is equivalent to the SQE.

9. We will review the mapping exercise the regulatory/professional body has undertaken and recognise the professional qualifications of a regulatory/professional body as equivalent to the SQE or individual components of it, where we assess that the content and standard of the qualification scheme is not substantially different to corresponding areas of the SQE. We will look at the content and standard of the profession's qualification scheme only,<sup>6</sup> and whether the recognition sought covers the entirety of an individual component and/or the whole of SQE1 and/or 2.

### **Individuals**

10. Qualified lawyers who are seeking admission will have to contact us and demonstrate how their professional qualification or professional experience is equivalent to the SQE, or part of it, based either on the areas of recognition agreed with us by their regulatory/professional body, and/or their individual circumstances. In order to do this, they will be required to submit formal evidence, including an

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<sup>5</sup> in cases of "serious and concrete doubt" about the applicant's language knowledge in respect of the professional activities which they intend to pursue as per the European Union (Recognition of Professional Qualifications) Regulations 2015.

<sup>6</sup> ie - we will not look at features such as the assessment methodology or the format of the assessment.

explanation of how their professional experience has enabled them to develop the competences in relation to which they are seeking recognition.<sup>7</sup>

11. Qualified lawyers may make an application to us for recognition of a professional title that they hold and which confers practice rights in England and Wales or in an overseas jurisdiction which has not previously been recognised by us and has not been the subject of an application to us by the regulatory/professional body. If the qualification has not already been recognised sufficient information will need to be provided to enable the mapping exercise referred to in paragraphs 8 and 9 above to be carried out.

12. Qualified lawyers of EU Member States other than the UK, have the choice as to whether they seek admission on the basis of Directive 2005/36/EC or Directive 98/5/EC. Typically, candidates seeking establishment on the basis of Directive 98/5/EC will need to effectively and regularly pursue an activity in the law of England and Wales, in England and Wales under their home-country professional title for a period of at least three years.

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<sup>7</sup> In practice this could be achieved either on the basis of confirming to us that they are a member of a profession which has pre-agreed areas of recognition in place (based on the standard qualification route of the profession), and/or by submitting evidence in support of 'less typical' periods of professional experience.

# Guidance for demonstrating English and Welsh language competence

## English and Welsh Language Competence

### Our approach

- To ensure candidates who have been exempt from part or the whole of SQE2 and as result about whose English or Welsh language competence we have serious and concrete doubts can demonstrate that they are competent in the four areas of English and Welsh language – reading, writing, listening and speaking – and satisfy the requirements in regulation 6.2(b) of the SRA Authorisation of Individuals Regulations before they are issued with a practising certificate
- To allow a range of ways to demonstrate competence whilst ensuring standards.

### Acceptable evidence of English or Welsh language competence

Applicants will be able to demonstrate they are competent in English or Welsh in one of the following ways:

- Applicants can demonstrate their successful achievement of an English or Welsh language assessment which fulfils the following core requirements:
  - The assessment is at a high level, ie The Common European Framework of Reference for Languages (CEFR), Level C2
  - Applicants have been assessed on their reading, writing, listening and speaking ability
  - There is a system of independent assessment report verification (i.e. a means by which the SRA can independently check candidates' results against the providers' own records)
  - There is ID verification throughout the testing process to ensure the security of its tests and test results including established methods to deal with candidate identity fraud
  - The assessment must have been passed within two years prior to application for admission.

(In addition to the core requirements above, English or Welsh language assessment organisations will need to provide evidence to demonstrate that they have in place an appropriate policy and process for dealing with requests for reasonable adjustments and for ensuring the standard, validity and reliability of the assessments.)

- Applicants demonstrate that their degree has been taught in English or Welsh and is equivalent to a UK FHEQ Level 6 (eg bachelor's) degree, through provision of a certificate issued by [UK NARIC](#) which confirms this

Applicants demonstrate that they hold a FHEQ Level 6 (eg bachelor's) degree or higher from a university recognised by NARIC in a country in which NARIC has stated that all higher education takes place in English or Welsh

Applicants show that they hold a FHEQ Level 6 (eg bachelor's) degree or above from a [Government recognised UK university](#).

# List of respondents

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Publish the response with my name

## *Responses from organisations*

<b>Respondent</b>	<b>Respondent type</b>
Junior Lawyers Division	Representative group
The Law Society of England and Wales	Law society
New Zealand Council for Legal Education	Other
New Zealand Law Society	Law society
Welsh Language Commissioner	Other

## *Responses from individuals*

<b>Respondent</b>	<b>Respondent type</b>
Ghulam Mustafa	Other legal professional - lawyer
Krishna Sharma	Other
Hamzah Yusuf	Other

Publish the response anonymously

## *Responses from individuals*

<b>Respondent</b>	<b>Respondent type</b>
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ID - 002	Other legal professional – Registered European Lawyer
ID - 005	Solicitor
ID - 007	Solicitor
ID - 015	Other legal professional – Registered European Lawyer
ID - 016	Other – retired solicitor
ID - 019	Solicitor

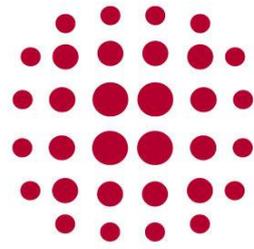
Do not publish my response and do not publish my name

*Responses from organisations*

<b>Respondent</b>	<b>Respondent type</b>
ID - 013	Law firm or other legal services provider

*Responses from individuals*

<b>Respondent</b>	<b>Respondent type</b>
ID - 004	Student
ID - 010	Other legal professional



Solicitors  
**Regulation**  
Authority

# **SQE Assessment Regulations**

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**Date**

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# 1. Definitions

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“Assessment Specification”: the document produced by the SRA giving information about the content of the SQE

Assessment window: An assessment window is a period of time defined by Kaplan, during which candidates can sit the assessments. Assessment windows will be shown on the SQE website

“External Examiners”: the persons appointed as such by the SRA

“FLK”: the Functioning Legal Knowledge required to qualify as a Solicitor of England and Wales as set out by the SRA

“SQE”: the Solicitors Qualifying Examination

“Statement of Solicitor Competence”: the competencies required to qualify as a Solicitor of England and Wales as set out by the SRA

“SRA”: the Solicitors Regulation Authority

## 2. Commencement Date

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2.1 These Regulations govern the SQE assessment from 1 September 2021.

2.2 All candidates who sit the SQE assessment after 1 September 2021 are bound by these Regulations.

## 3. Eligibility and identification requirements

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3.1 In order to enter an assessment, candidates will be required to comply with the SQE ID and Security Requirements which are available on the SQE website.  
(*add link*)

## 4. Passing the SQE

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4.1 The SQE consists of two parts, SQE1 and SQE2. SQE1 consists of two exams, FLK1 and FLK2. Both FLK1 and FLK2 must be taken in a single assessment window. Both must be passed to pass SQE1. SQE2 consists of a single exam.

4.2 In order to pass the SQE candidates must pass both SQE1 and SQE2.

4.3 All candidates must pass SQE1 before enrolling for SQE2.

## 5. SQE1

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5.1 SQE1 will test the application of the FLK in accordance with the Assessment Specification for SQE1. (*add link*)

5.2 In order to pass SQE1, candidates must obtain the overall pass mark for each of FLK1 and FLK2.

5.3 The pass mark for each of FLK1 and FLK2 will be set in accordance with the SQE Marking and Moderation Policy. (*add link*)

## 6. SQE2

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6.1 SQE2 will test oral and written legal skills in accordance with the Assessment Specification for SQE2. (*add link*)

6.2 In order to pass SQE2 candidates must obtain the overall pass mark for SQE2.

6.3 The pass mark for SQE2 will be set in accordance with the SQE Marking and Moderation Policy. (*add link*)

## 7. Attempts

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7.1 Subject to Regulation 7.3, a candidate who fails FLK1 and/or FLK2 at the first attempt will have two further opportunities to take the assessment(s) they failed, (FLK1 and/or FLK2) within six years from the date they first sat an SQE assessment. Candidates who fail both FLK1 and FLK2 must retake them both in the same assessment window. If a candidate fails FLK1 and/or FLK2 three times during this six year period they must wait until that six year period expires before re-applying and previous passes will not be carried forward.

7.2 Subject to Regulation 7.3, a candidate who fails SQE2 at the first attempt will have two further opportunities to take that assessment within six years from the date they first sat an SQE assessment. If a candidate fails SQE2 three times during this six year period, they must wait until that six year period expires before re-applying and previous passes will not be carried forward.

7.3 Where there are exceptional circumstances, candidates may apply to the SRA to extend the six year period in Regulations 7.1 and/or 7.2. Any extension that is granted by the SRA shall be for such period as the SRA determines. (*add link to relevant SRA pages*)

7.4 Candidates will not be permitted to resit an assessment they have passed in order to improve their marks.

## 8. Assessment Board

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8.1 The Assessment Board will comprise:

- The Chief Executive Officer, SRA, or their nominee, the SRA External Psychometrician, and three other nominees from the SRA
- The Director of Learning and Qualifications, Kaplan, or their nominee, and three other nominees from Kaplan.

8.2 The Chief Executive Officer, SRA (or their nominee) will be the Chair. In the absence of agreement, final decisions will be made by the SRA.

8.3 The quorum for a meeting of the Assessment Board will be two of those referred to in Regulation 8.1 including a representative from the SRA and a representative from Kaplan. The SQE Independent Reviewer must be present at the Assessment Board as an observer save in exceptional circumstances in which case the Assessment Board may only proceed with the consent of the SRA.

8.4 The principal role and responsibilities of the Assessment Board are:

- 8.4.1 to review and make decisions on the results of candidates in the SQE;
- 8.4.2 to review and make decisions on applications for mitigating circumstances (see Regulation 12);
- 8.4.3 to review and make decisions on allegations of malpractice and improper conduct (see Regulation 13) and;
- 8.4.4 to review and make decisions on any other matter referred to it.

## 9. Exemptions

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9.1 Exemptions from any assessment are determined by the SRA. There are no exemptions from only part of either FLK1 or FLK2 or SQE2.

## 10. Fit to sit

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10.1 A “Fit to Sit” Policy operates for the SQE. (*add link*) Candidates who present themselves for any part of the SQE will be required to sign a declaration that they are fit to sit the assessment. Being “Fit to Sit” means that the candidate knows of no reason why their performance would be adversely affected during the assessment or why they may subsequently bring a claim for mitigating circumstances. (*add link*)

## 11. Reasonable adjustments for candidates with individual needs

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- 11.1 The Statement of Solicitor Competence (*add link*) and the FLK identified in the Assessment Specifications (*add link*) set out the competencies and knowledge which all candidates must achieve to demonstrate their ability to practise. All candidates must be assessed against the Statement of Solicitor Competence and the FLK and must reach the Threshold Standard (*add link*) to qualify but reasonable adjustments will be made to methods of assessment to ensure that candidates with disabilities and individual needs are not disadvantaged.
- 11.2 Candidates who wish to make a request for reasonable adjustments to assessment arrangements for any part of the SQE so as to accommodate a disability or individual need should do so in accordance with the SQE Reasonable Adjustments Policy.
- 11.3 Candidates who have made a request for such reasonable adjustments to assessment arrangements for any part of the SQE and who present themselves for that assessment are deemed to have accepted that suitable reasonable adjustments have been made and will be required to make a declaration to that effect.
- 11.4 All requests for such reasonable adjustments will be considered in accordance with the SQE Reasonable Adjustments Policy. (*add link*)

## 12. Mitigating circumstances

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- 12.1 Mitigating circumstances are defined as:
- 12.1.1 a mistake or irregularity in the administration or conduct of the assessment; or
  - 12.1.2 evidence of bias in the conduct of the assessment; or
  - 12.1.3 subject to the Fit to Sit Policy and these Assessment Regulations a candidate's illness or other personal circumstances beyond his/her reasonable control
- which materially and adversely affects a candidate's marks or performance in the assessment.
- 12.2 Candidates who consider that their marks or performance in any SQE assessment have been materially and adversely affected by any of the circumstances outlined in 12.1 may make a claim for mitigating circumstances.
- 12.3 Candidates who wish to make a claim for mitigating circumstances should do so in accordance with the SQE Mitigating Circumstances Policy. (*add link*)

## 13. Malpractice and improper conduct

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- 13.1 In these Regulations the term “malpractice” refers to any activity carried out by a candidate (whether or not done intentionally) which could result in either the candidate or a fellow candidate obtaining an unfair and/or undue advantage in connection with the SQE. "Improper conduct" refers to any disruptive activity carried out by a candidate before, during or after any assessment (whether or not done intentionally).
- 13.2 The following is a non-exhaustive list of what amounts to malpractice and/or improper conduct:
- 13.2.1 copying another person’s answer either in whole or in part;
  - 13.2.2 allowing another person to look at, use or copy your answer;
  - 13.2.3 communicating or attempting to communicate with any other candidate during the course of an assessment;
  - 13.2.4 disclosing or discussing details of the content of any element of the assessment unless expressly permitted or required;
  - 13.2.5 impersonation or any other deliberate attempt to deceive;
  - 13.2.6 taking in any materials or aids which are not expressly permitted by these regulations or an invigilator;
  - 13.2.7 conduct which is causing disturbance to other candidates or affecting the proper running of any element of the assessment;
  - 13.2.8 removing from any assessment room any papers, answer sheets or other materials or copies thereof;
  - 13.2.9 providing and/or disseminating information about any element of the assessment with a view to assisting current or prospective candidates;
  - 13.2.10 providing false information and/or making a fraudulent claim at any time, including at registration or booking, or as part of a claim under the SQE Mitigating Circumstances Policy, or the SQE Appeals Policy;
  - 13.2.11 failing to abide by the assessment rules or using, attempting to use, assisting another to use or attempting to assist another to use any unfair, improper or dishonest method in connection with the SQE.
- 13.3 In any case where an allegation of malpractice or improper conduct in an SQE assessment is made against a candidate the candidate may be excluded from the assessment if in the opinion of at least two senior members of Kaplan staff it is necessary to do so to ensure the proper running of the assessment.
- 13.4 Where an allegation of malpractice or improper conduct has been made the Director of Learning and Qualifications Kaplan (or their nominee) will be

informed as soon as practicable. The Director of Learning and Qualifications Kaplan (or their nominee) will decide within 10 working days of being informed of the allegation whether there is a prima facie case to answer.

- 13.5 Where the Director of Learning and Qualifications Kaplan (or their nominee) decides that there is a prima facie case of malpractice or improper conduct s/he will convene a panel of at least three Solicitors of England and Wales (practising or non-practising) who may also be members of Kaplan staff (the Special Panel). The Special Panel will be convened within 30 working days of the decision under 13.4. The candidate will be given the opportunity of making verbal and/or written representations to the Special Panel.
- 13.6 The candidate will be notified of the decision taken by the Special Panel within 15 working days of its decision.
- 13.7 Where a finding of malpractice or improper conduct is made by the Special Panel their finding will be referred to the Assessment Board for consideration.
- 13.8 Where a finding of malpractice or improper conduct is confirmed by the Assessment Board the SRA will be informed within 10 working days. The SRA reserves the right to report the finding to the candidate's employers and/or sponsors.
- 13.9 A candidate who is found by the Assessment Board to have engaged in malpractice or improper conduct in connection with any SQE assessment will fail that assessment and will not normally be permitted to sit an SQE assessment again.
- 13.10 A candidate who wishes to make either a first stage or a final appeal against the decision of the Assessment Board must do so in writing in accordance with the SQE Appeals Policy. (*add link*)

## 14. Withdrawal from the examinations

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- 14.1 Candidates may withdraw before the start of an assessment subject to the SQE Terms and Conditions (*add link*). Withdrawal during an assessment is subject to the SQE Terms and Conditions, the SQE Fit to Sit Policy (Regulation 10) and the SQE Mitigating Circumstances Policy (Regulation 12).

## 15. Appeals against Assessment Board decisions

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- 15.1 A candidate may make a first stage appeal on one or more of the following grounds only:
- 15.1.1 there are mitigating circumstances which could not have been put before the Mitigating Circumstances Panel or the Assessment Board before it

made its decision; or

15.1.2 the decision of the Mitigating Circumstances Panel or of the Assessment Board, or the manner in which that decision was reached involved material irregularity and/or was manifestly unreasonable and/or irrational; or

15.1.3 the candidate disputes the Assessment Board's finding of malpractice or improper conduct.

15.2 Following a first stage appeal a candidate may make a final appeal on the following ground only:

15.2.1 the decision of the Adjudicator, or the manner in which that decision was reached involved material irregularity and/or was manifestly unreasonable and/or irrational.

15.3 A candidate who wishes to make a first stage or a final appeal must do so in writing via the appropriate form in accordance with the SQE Appeals Policy. *(add link)*

**SRA BOARD**  
2 June 2020

**CLASSIFICATION – PUBLIC**



**SRA Authorisation of Individuals Regulations Commencement Order [2020]**

Order made by the SRA Board on [ ] 2020

Made under sections 2, 13, 28 and 31 of the Solicitors Act 1974 and section 89 of, and paragraphs 2 and 3 of Schedule 14 to, the Courts and Legal Services Act 1990.

- 1. Regulations 1 to 3.3 of the SRA Authorisation of Individuals Regulations come into force on [ 1 September 2021].**
- 2. This Order comes into force on [date made ].**