

SRA BOARD

27 April 2021

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*This paper will be published***Remote proctoring of Legal Practice Course (LPC) assessments****Purpose**

- 1 This paper seeks the Board's agreement in principle to allow remotely proctored assessment for the LPC, should a provider meet our requirements.

Recommendations

- 2 The Board is asked to agree:
 - (a) to the authorisation, as a matter of principle, of remote proctoring arrangements for LPC assessments
 - (b) the criteria and conditions that we would require to be met by providers applying to use remote proctoring on a permanent basis, as set out in paragraphs 26, 27 and 28.

**If you have any questions about this paper please contact: Julie Brannan, Director of Education and Training: Julie.Brannan@sra.org.uk
Equality, Diversity and Inclusion considerations**

| Consideration | Paragraph nos |
|---|----------------------|
| Remote proctored assessments can impact on those students requiring reasonable adjustments. We will require providers to have appropriate arrangements in place and to report to us on how requests for reasonable adjustments have been handled. | 12, 27 |
| Remote proctored assessments risk impacting negatively on those who are 'digitally excluded'. We will require providers to have appropriate arrangements in place to minimise this risk and to report to us on how they are supporting students without adequate IT resources, or an appropriate home learning environment. | 12, 27 |
| Research has suggested that facial recognition technology, which is used by some remote proctoring systems to identify candidates, can be discriminatory. We will require providers to have appropriate arrangements in place to address this risk and report to us on any complaints about discrimination and facial recognition technology. | 12, 27 |

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Remote proctoring of Legal Practice Course (LPC) assessments

Background

- 3 The outbreak of the Covid-19 pandemic in March 2020 led education institutions and regulators all over the world to rapidly change their approach to teaching and assessing courses.
- 4 In particular, different approaches to the traditional exam hall assessment were required. Some postponed and then administered 'Covid-19 safe' assessments, some changed their assessment requirements, for example, by allowing assessment using coursework, and others moved to remote assessment, using remote proctoring software.
- 5 Our approach to assessment of the courses that we authorise took in all of these. By adapting, we have ensured that those seeking to become solicitors have been able to continue to be appropriately assessed and complete their qualifications.
- 6 The most significant change to our arrangements was to temporarily adjust our LPC requirements and permit core practice areas of the LPC¹, and the accounts rules, to be assessed remotely using 'remote proctoring' software, deciding that this approach fell within our requirement for supervised assessment². We have now authorised almost all providers of the LPC to assess the LPC using remote proctoring software.
- 7 As the pandemic continues, we have been looking ahead to how our qualifications will be assessed in the future. In doing so, we have considered the prospect of the risk of future lockdowns and the fact that approaches to teaching and assessment which were new or novel at the start of the pandemic, are now more widely accepted by students and universities.
- 8 This paper seeks the Board's agreement in principle to allow remotely proctored assessment for the LPC, should a provider meet our requirements.

Discussion

- 9 Remote proctoring software enables candidates to take an examination online from their home computer. They are supervised remotely by the assessment provider, using the computer's audio, video, keyboard and other systems to check that the candidate is not cheating, for example by referring to reference materials, or asking another person the answer to a question.
- 10 Remote proctoring systems vary, but typically they can check a candidate's identity at the start of the exam; will lock-down other internet access; prohibit

² However, we allowed the vocational elective subjects² to be assessed by alternative assessment arrangements, for example, coursework.

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cut and paste into the exam; will scan the room to check that only the candidate is present; and can track eye movements and key strokes to pick up what might be suspicious behaviour.

Risks of remote proctoring

- 11 Remote proctoring provides a secure way in which students can take assessments in their own home. There is some research³ to suggest that it helps prevent cheating in assessments and, anecdotally, LPC course providers have told us this.
- 12 However, like any approach to assessment, remote proctoring is not without risk. It can also disadvantage certain groups. The key risks and issues that we have identified include:
 - Security of the assessment – allowing remote assessment potentially provides an opportunity for assessment questions to be recorded and shared with others.
 - While remote proctoring assessments may reduce the opportunity for cheating, they do not eliminate it altogether (and nor do traditional examination hall assessments)
 - Cyber security – assessments could be compromised should such an incident occur before or during an assessment.
 - Use of facial recognition technology – many remote proctoring programmes use facial recognition technology to check candidates' identity. There is evidence to suggest that facial recognition technology can discriminate against some ethnic minorities, making it more likely that they will be 'flagged up' by the system⁴.
 - Students requiring reasonable adjustments – while remote proctoring software can make assessments more accessible for some candidate groups, there are other groups who are not adequately supported, for example, students who are partially sighted cannot use their speech and text software.
 - Breaks – a challenge for many remote assessment providers has been how to handle students' toilet breaks against requirements for students to undertake closed book, lengthy assessments.
 - Impact on the 'digitally disadvantaged' – the use of remote proctoring software can negatively impact on those who do not have IT equipment or an appropriate setting to take an assessment at home.

³ <https://www.sciencedirect.com/science/article/pii/S2451958820300336> . The article compares remote proctoring with remote assessment not using proctoring controls. It does not compare remote proctoring with traditional examinations.

⁴ <https://www.nist.gov/news-events/news/2019/12/nist-study-evaluates-effects-race-age-sex-face-recognition-software> – this 2019 study by the US Government Agency, the National Institute of Standards and Technology, found that the majority of face recognition algorithms' ability to match two images of the same person varies from one demographic group to another.

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- Student privacy concerns – remote proctoring software by its nature captures a large amount of personal information about students.

Our experience of remote proctoring for the LPC

- 13 To help mitigate and manage these risks for the LPC, we put in place a robust application and assessment process for LPC course providers to apply to us for approval for any alternative assessment arrangements.
- 14 Our process has been focused on ensuring that LPC providers:
 - Have remote proctoring arrangements that maintain the security and integrity of the LPC assessment.
 - Make adequate arrangements for students requiring reasonable adjustments.
 - Have considered those who are digitally disadvantaged and unable to access remote teaching and assessment.
- 15 We have managed the process carefully – applications are considered on a provider-by-provider basis and many providers have applied to us more than once as the pandemic continues and they needed to change or adapt previously approved changes.
- 16 However, there has also been a degree of flexibility in how we have managed providers, given the nature of how the LPC is taught and assessed. The LPC is mainly assessed on an 'open book' basis, which reduces the risk of cheating. It also meant we have not had to be so prescriptive about breaks. In addition, students are familiar to the institution assessing them.
- 17 We are also unaware of any LPC provider which relies on a centralised question bank – each provider writes its own assessment papers and there are new assessment papers for each assessment sitting, negating the risk of questions being recorded and shared.
- 18 We have not recommended specific remote proctoring software as this is a choice for providers depending on the size of their course, the students they attract and their institution. However, we have set clear requirements. The remote proctoring systems that we have approved use video and audio to record all student assessments, set locked-down web browsers on machines and are able to flag unusual behaviour.
- 19 In total we have had over 80 applications for changes to LPC assessments. We have been clear that any alternative arrangements that we have agreed are temporary, rather than permanent changes, and approval is for a finite time (approvals were initially for a period of three months).
- 20 We have worked closely with LPC providers as they have introduced the new arrangements. We have a dedicated email inbox for them to ask us about any issues or concerns as they arise and provided advice to ensure our

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requirements are met. We have introduced a regular 'roundtable' discussion enabling providers to share their experience and best practice.

- 21 As part of their applications to extend their authorisation, we have required providers to confirm to us that they have continued to maintain the security of the assessment, whether they have identified any incidents capable of undermining the security and integrity of the exam and if so, how were these were identified and addressed.
- 22 We have also monitored the management of reasonable adjustment requests, complaints and feedback from students about the software and how providers have supported those without adequate IT equipment or an appropriate home learning environment. Many providers have arranged for those requiring reasonable adjustments that could not be met remotely, or those who could not take assessments remotely due to their personal circumstances, to take their assessments on campus.
- 23 We required all alternative assessment arrangements to be agreed by external examiners of the LPC. We are currently reviewing the reports of external examiners of the LPC courses for the period 2019/20. External examiners have commented positively on the way in which remote teaching and assessment arrangements were implemented, the integrity of the approach taken by providers, the consistency of outcomes when compared to 'normal' times, and how well providers have met the needs of those students requiring reasonable adjustments.
- 24 Our work to date has found that while there have been some one-off issues with remote proctoring, overall, the experience has been positive. LPC providers report that where remote proctoring systems have captured suspicious activity, this tends to be innocuous. As part of our approval process for remote assessments, we require that providers remind LPC students that any findings against them of deliberate academic offences could lead to them not being admitted as a solicitor under our character and suitability requirements. Providers report that students take this very seriously.

Arrangements for permanent changes to allow remote proctoring on the LPC

- 25 This positive experience leads us to ask the Board whether it is appropriate to extend what was an emergency measure so as to permit remote proctoring as a permanent feature of normal LPC provision.
- 26 We would require any LPC provider using remote proctoring on a permanent basis to demonstrate to us that, in the context of their form of assessment (for example, closed/open book; use of question banking):
 - Their remote proctoring arrangements maintain the security and integrity of the LPC assessment.

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- There are adequate arrangements in place for students requiring reasonable adjustments.
 - There are adequate arrangements in place for those who are digitally disadvantaged and unable to access remote teaching and assessment.
- 27 We already have a stringent monitoring regime in place for LPC providers, who are required to report to us annually. Were we to approve an application from a provider to assess the LPC using remote proctoring on a permanent basis, we would introduce a number of additional conditions for our annual reporting requirements. These would include a requirement for providers to have in place measures to address the following risks and to report to us annually on any actual problems:
- Student complaints about the stability of the platform.
 - Student complaints about the use of facial recognition technology.
 - Student complaints about their experience of using the technology.
 - Any identified or suspected issues with the security of the platform.
 - Any occasions where requests for reasonable adjustments could not be met.
 - How the needs of students without access to adequate IT and/or adequate learning environments are met.
 - All academic offence reports and outcomes related to the remote assessments (currently providers report to us if a student is found to have committed a deliberate assessment offence, so that this can be added to our records and flagged up should they subsequently apply for admission).
- 28 We have the power to revoke authorisation, or make authorisation subject to any conditions that we see fit⁵. We would include a condition that were our requirements not met, or were the security or integrity of the assessment compromised, we could rescind permission to use Remote Proctoring.
- 29 We will also look to review the software in operation and seek technical advice to support our decision making where necessary.

Recommendations: the Board is asked to agree:

- (a) to the authorisation, as a matter of principle, of remote proctoring arrangements for LPC assessments**

⁵ Regulation 1.5 of the SRA Education, Training and Assessment Provider Regulations provides that: If the [SRA](#) considers that an [approved education provider](#) or an [authorised education provider](#) has failed to comply with any obligation placed on it under these regulations, the [SRA](#) may: revoke the organisation's approval or authorisation, as appropriate; or make the approval or authorisation subject to such conditions as it considers appropriate.

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- (b) the criteria and conditions that we would require to be met by providers applying to use remote proctoring on a permanent basis, as set out in paragraphs 26, 27 and 28.**

Next steps

- 30 We will prepare for applications from LPC providers for permanent changes to their assessment arrangements to allow for remote assessment.

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- 31 This work is directly linked to corporate and business objective one – ‘we will set and maintain high professional standards for solicitors and law firms as the public would expect and ensure we provide an equally high level of operational service’. Our arrangements for assessment and qualification ensure that those who are admitted as solicitors have the knowledge and skills necessary for practice.

How the issues support the regulatory objectives and best regulatory practice

- 32 Ensuring standards in how our qualifications are assessed helps us meet the regulatory objectives to protect and promote the interests of consumers, encourage an independent, strong, diverse and effective legal profession and promote and maintain adherence to the professional principles.
- 33 Our approach to how our qualifications are assessed supports the principles of better regulation. By authorising remote assessments for the LPC on a permanent basis, we are being proportionate and targeted, recognising that remote proctoring can open up the opportunities available to take our qualifications.

Public/Consumer impact

- 34 Ultimately, the key driver for our approach to how our qualifications are assessed is to protect people who use legal services and uphold public confidence in the rule of law. This means we need to be assured that candidates who pass our qualifications have the knowledge and skills required for the early stage of their career in practice. Therefore, if the Board agrees to remote proctoring, we are proposing to impose a number of conditions on LPC providers.

What engagement approach has been used to inform the work and what further communication and engagement is needed

- 35 We have engaged with LPC providers throughout the period of temporary authorisation of alternative assessment arrangements. See paragraphs 20 - 24 above. We have also engaged with the Quality Assurance Agency for Higher Education and other regulators. Should the Board agree to authorise remote proctoring arrangements permanently for LPC assessments, we will communicate this to LPC providers and students, via our website.

What equality and diversity considerations relate to this issue

- 36 Remote proctored assessments can make assessments more accessible but can also impact on those students requiring reasonable adjustments. We will

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require providers to report to us on how requests for reasonable adjustments have been handled.

- 37 Remote proctored assessments risk impacting negatively on those who are 'digitally excluded'. We will require providers to report to us on how they are supporting students without adequate IT resources, or an appropriate home learning environment.
- 38 We know that there is research to suggest that facial recognition technology, which is used by some remote proctoring systems to identify candidates, can be discriminatory. If we agree to permanently allow remote proctoring arrangements for the LPC, we will require providers to report to us on any complaints about discrimination and facial recognition technology.

How the work will be evaluated

- 39 We require the LPC providers report to us annually on the teaching and assessment of the LPC, including reports from external examiners. We are also proposing a number of additional conditions for providers that we authorise to proctor LPC assessments remotely and will monitor and follow up on performance against these conditions (see paragraph 27 above).

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