

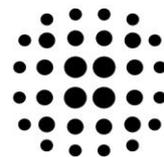
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This paper will be published

Update on Education and Training activity

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| Reason for paper | This paper provides an update to the Board on key developments relating to our education and training activity that it needs to be aware of. It also asks for approval of minor changes to the Solicitors Qualifying Examination (SQE) Assessment Regulations and for a new permanent application scheme in relation to remote proctoring arrangements for certain authorised training courses. |
| Decisions(s) | The Board is asked to <ul style="list-style-type: none">a) make the SRA SQE Assessment (Amendment) Regulations [2022], at annex 1 which make minor changes to the SQE Assessment Regulationsb) agree that we allow providers of the Professional Skills Course, Higher Rights of Audience assessment and the Police Station Representative Accreditation Scheme to apply to us to teach and assess their courses remotely on a permanent basis, on the same criteria as we require for Legal Practice Course (LPC) providers. |
| Previous Board and committee consideration | The Board considered remote proctoring arrangements on the LPC at its meeting on 27 April 2021. The Board considered our work on continuing competence at the seminar on 31 January 2022. |
| Next steps | Subject to Board decisions we will notify relevant authorised course providers of the new arrangements for remote proctoring. We will apply to the Legal Services Board (LSB) for approval of the revised SQE Assessment Regulations. |

If you have any questions about this paper please contact: Julie Brannan, Director of Education and Training, julie.brannan@sra.org.uk, 0121 329 6788.



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Update on Education and Training activity

Solicitors Qualifying Exam (SQE) update

Stakeholder engagement

- 1 In addition to ongoing engagement with training providers about their candidates' experience of the SQE, the main focus of our engagement work this Spring will be a series of webinars, designed to help candidates understand and navigate the new qualification system. We are also running a further series of face-to-face SQE networking events, following on from the sessions we ran at the end of last year. The upcoming events will be aimed at employers and will focus on Qualifying Work Experience and evaluating the SQE. They will run in Birmingham, Manchester and Swansea between April and July.

SQE quality assurance and minor changes to SQE Assessment Regulations

- 2 After the November 2021 SQE sitting, we conducted a review of systems and processes. We identified the need for some minor textual changes to the Assessment Regulations to remove any potential ambiguity in relation to the application of mitigating circumstances to SQE1 and to clarify the meaning of "assessment window". The changes are not substantive: they clarify the current operation of the regulations. However, the SQE Assessment Regulations are regulatory arrangements, and any changes to them need to be made by the Board and approved by the LSB. The SRA SQE Assessment (Amendment) Regulations [2022] are attached at annex 1 and include a Schedule showing the proposed changes to the Assessment Regulations. Subject to Board agreement, we will be seeking LSB approval later this month with a view to the revised regulations being published before the July 2022 sitting.

Recommendation: the Board is asked to make the SRA SQE Assessment (Amendment) Regulations [2022] at annex 1 which make minor changes to the SQE Assessment Regulations

- 3 We have completed our review of SQE2 assessments for the April SQE2 sitting and have an agreed schedule of monitoring activity which includes attending assessment venues, observing assessments and attending assessor standardisation and marking meetings. These will be attended by our Subject Matter Experts, the SQE psychometrician, the SQE Independent Reviewer, the Director of Education and Training and the SQE quality assurance manager.
- 4 Our SQE quality assurance framework was audited earlier this year by our internal auditors, KPMG. The report noted areas of good practice in relation to clearly documented outcomes and close alignment of evidence to support them. They noted clear reference to IfATE (Institute for Apprenticeships and Technical Education) Principles which we must consider in our capacity as IfATE's appointed quality assurer for solicitor apprentices. All previous suggestions for potential improvement have been implemented. There was one recommendation relating to a more explicit reference to reporting details of the ethics questions in SQE1 for review by our Subject Matter Experts, which we will introduce.

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SQE bookings

- 5 Booking for the first SQE2 assessments, which will take place in April, opened on 31 January 2022. We introduced a queuing system to manage the flow of candidates through the system. This worked well. On the first morning, some candidates experienced waiting times of up to two hours but by mid-afternoon candidates were able to go straight through to book their place. Bookings have now closed as of 7 March 2022 and we had 776 candidate bookings. Some candidates had not fully completed the booking process and some may subsequently cancel, so actual numbers sitting may change.
- 6 Booking for SQE1 in July opened on 17 March 2022. There is a good level of demand for the assessment, including some of those who failed all or part of the SQE1 in November 2021. Although numbers of solicitor apprentices who sat SQE1 in November 2021 were low (27), their performance was well above average and the majority are sitting SQE2 this month. We have seen a significant increase in apprenticeship numbers for the July SQE1 2022 sitting.
- 7 We recently advised that candidates who sit SQE1 in July 2022 will not be able to move directly to SQE2 in October 2022 because of the time needed to analyse and verify the results from the July 2022 assessment. Some candidates have expressed disappointment about this and there has been some media interest. Media coverage seems to be based on the assumption that the normal route through SQE would be for candidates to proceed immediately from SQE1 to the next sitting of SQE2.
- 8 In fact, there is no set timetable through SQE. Most candidates will be ill-advised to rush through immediately from one sitting to the next. More commonly, we expect candidates to have a larger gap between sittings and we have issued guidance to this effect. In practice, how candidates progress will depend on a large number of factors:
- When they do Qualifying Work Experience (QWE).
 - The type of training they choose, its length, timing and availability.
 - Whether they are a qualified lawyer, and therefore do not need to complete QWE (although they may still need some preparatory training before SQE2).
 - Whether they are a qualified lawyer, and have an exemption from SQE2.
- 9 We do recognise that some candidates may already have completed QWE, and any necessary SQE2 training, by the time they get their SQE1 results. The key is to have as much flexibility as possible in our timetable, to reflect the differing circumstances of individual candidates. To achieve this, we are adjusting the overall examination timetable to:
- introduce more SQE2 sittings: there will be 3 SQE2 sittings a year in 2023, in April, July and October, and 4 SQE2 sittings a year from 2024 onwards, in January, April, July and October
 - shorten the results publication period. We cannot do this until we are absolutely confident in our post-assessment processes. We have reviewed the timeline closely with Kaplan, our SQE assessment provider, and have

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concluded that we can shorten the processes by the time we have been through two SQE1 assessment cycles.

- 10 In the meantime, we continue to monitor candidate volumes on the SQE and transition routes. Given the transitional arrangements, the current pipeline of candidates for the SQE will be driven by individual choice, and how quickly firms adopt the SQE into their recruitment processes. So it is difficult to be precise about how quickly candidates will move from the LPC route to the SQE route. It is also hard to be sure about the extent to which numbers attempting SQE will grow, to include those who were unable to qualify under the old system. With each assessment we get better insight into the SQE volumes and will be developing our long-term forecasts to inform future demand planning.

Exeter University research into the attainment gap in professional legal education

- 11 As the Board knows, there was a troubling (but sadly not surprising) underperformance in the November 2021 sitting of SQE by ethnic minority candidates. We found no evidence of bias in the assessment itself, but we continue to monitor our processes very closely. We have discussed this problem with a number of groups, including the Law Society Equality, Diversity and Inclusion committee and the Ethnic Minority Lawyers Division.
- 12 At the same time, the research we commissioned from Exeter University on the reasons for the attainment gap in professional legal education is underway. The research team is undertaking a systematic literature review and has established a very broad reference group. It is planning to publish an interim report at the end of 2022 and a final report at the end of 2023.

SQE exemptions

- 13 Qualified lawyers who can demonstrate that they have qualifications or experience equivalent in content and standard to the SQE can apply for exemptions. We can agree exemptions for a qualification from a particular jurisdiction, which then apply to all holders of that qualification, and/or recognise personal qualifications or experience.
- 14 So far, we have received 624 applications from qualified lawyers (both UK qualified and overseas qualified) for exemption from SQE1 and/or SQE2. Jurisdictions where exemptions have been granted (all for SQE2) include Brazil, Denmark, Romania and Hong Kong. We have made 438 exemption decisions in individual cases. We have an application from the Law Council of Australia (which covers all territories) for exemption from SQE1 for all Australian qualified lawyer and this is currently being evaluated by an expert dual qualified lawyer.

Publication of SQE performance data

- 15 We wrote on a confidential basis to SQE training providers who had significant numbers of candidates in November 2021 with an indication of whether their candidates had performed above or below average. We decided not to publish this information, because it related to a single sitting which was not necessarily

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representative, and because the candidate-derived information about how they had prepared for SQE1 was not complete or entirely accurate.

- 16 It remains our intention to publish full candidate performance data, from winter 2023. Work is underway to develop a search tool for candidates to use to find out the pass rates of individual training providers, and to ensure that the information we publish is as complete and accurate as possible. We will review registration processes to encourage candidates to provide accurate and complete information. We are also working with both Kaplan and the training providers on the new systems.

Remote proctoring of authorised training courses

- 17 In April 2021, the Board agreed that we should no longer permit remote proctoring on the LPC on an emergency basis. It also agreed criteria for applications for remote teaching and assessment of the Legal Practice Course (LPC) on a permanent basis. These are that
- Providers' remote proctoring arrangements maintain the security and integrity of the assessment.
 - 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.
- 18 During the pandemic, we also permitted other authorised training courses to use remote proctoring on an emergency basis. We now wish to withdraw the emergency permission and instead replicate the permanent arrangements agreed for the LPC. This will allow providers of the Professional Skills Course (PSC), Higher Rights of Audience (HRA) and the Police Station Representative Accreditation Scheme (PSRAS) assessments to apply to us to teach and assess these courses remotely on a permanent basis, using the same criteria set out at para 17.
- 19 We also think that it will be helpful to ask all training providers to have in place contingency arrangements that can be implemented in the event of future national lockdowns. So we will also ask all providers of these courses, and the LPC, to tell us and their students how they would manage teaching and assessment of their courses in the event of any significant disruptions.

Recommendation: the Board is asked to agree that we allow providers of the Professional Skills Course, Higher Rights of Audience assessment and the Police Station Representative Accreditation Scheme to apply to us to teach and assess their courses remotely on a permanent basis, on the same criteria as we require for LPC providers.

CLASSIFICATION – PUBLIC***LSB consultation on a draft statement of policy on ongoing competence***

- 20 We submitted our response to the LSB's consultation [Draft statement of policy on ongoing competence](#), on 7 March 2022 and have [published our response](#). Ensuring the competence of those we regulate is critical to public protection and achieving our regulatory objectives and so we have welcomed the LSB's interest in this important area of our work.
- 21 Our response also recognises the LSB's consumer research, which shows that consumers expect more specific checks on competence throughout lawyers' careers and that regulators should do more to reduce the risk of lack of competence.
- 22 In response to this, as an evidence-based regulator, we have started a programme of work to look at whether we can collect and analyse more data about competence. We will build on our existing proactive regulatory approach to competence and we will consider whether we can deploy our existing broad toolkit of interventions more widely or differently to better understand any competence risks and to better support the profession in maintaining competence.
- 23 We are also continuing our planned activities in this area. These include:
- An update of our competence resources to better support reflective practice, in response to the findings of our recent review of the training records of those working in the Youth Courts.
 - Planning our reviews of training records of those practising in the Crown and magistrates' courts, which will help our understanding of how individuals and firms working in these high-risk areas meet our competence requirements.
 - A programme of visits to firms within our regulatory management scheme, which will help our understanding of how the larger firms meet our continuing competence requirements.
 - Continuing to monitor and respond to any evidence we identify in relation to competence concerns in particular sectors of legal services.

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Supporting information

Links to the Corporate Strategy and/or Business Plan and impact on strategic and mid-tier risks

- 24 Our work in education and training relates to objective one of the Corporate Strategy: “we will set and maintain high professional standards for solicitors and law firms as the public would expect”.

How the issues support the regulatory objectives and best regulatory practice

- 25 Our work in education and training relates to the regulatory objectives of: protecting and promoting the public interest; protecting and promoting the interests of consumers; and encouraging an independent, strong, diverse and effective legal profession.
- 26 We take an outcomes focused regulatory approach which is proportionate, targeted, fair and transparent.

Public/Consumer impact

- 27 Our work is designed to assure minimum professional standards at point of admission and on an ongoing basis, so as to protect consumers of legal services.

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

- 28 We have summarised ongoing stakeholder engagement at paragraphs 1 and 11.

What equality and diversity considerations relate to this issue?

- 29 All our education and training requirements must be fair. We monitor performance by personal characteristics. We are aware of an attainment gap by ethnicity in professional legal education and have commissioned research from the University of Exeter to understand the causes.

How the work will be evaluated

- 30 There is a ten-year SQE evaluation programme in place.

Author Julie Brannan, Director of Education and Training

Date 28 March 2022

Annexes

Annex 1 **SRA SQE Assessment (Amendment) Regulations [2022]**