Annex 3: SRA SQE Assessment Regulations [First set of changes following Legal Services Board approval]

Introduction

These regulations govern the Solicitors Qualifying Examination.

These regulations are proposed to come into effect promptly following LSB's consideration of the proposed changes.

SRA SQE Assessment Regulations

Regulation 1: Definitions

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

'Assessment window': 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.

Regulation 2: Commencement Date

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

Regulation 3: Eligibility and identification requirements

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.

Regulation 4: Passing the SQE

4.1 The SQE consists of two parts, SQE1 and SQE2.

4.2 SQE1 consists of two assessments, FLK1 and FLK2. Both must be passed to pass SQE1. SQE2 consists of a single exam.

4.3 FLK1 and FLK2 must be taken in a single assessment window, except where the candidate:

4.3.1 has attempted both FLK1 and FLK2 and, having passed one of these assessments and failed the other, is having a further attempt at the assessment that they failed;

4.3.2 has passed either FLK1 or FLK2 but failed to attempt the other assessment in a single assessment window and, having had a successful application for mitigating

circumstances under Regulation 12 in relation to the failure to attempt, is having an attempt at that other assessment; or

4.3.3 has made a request for reasonable adjustments under Regulation 11 and the adjustments that have been made allow the candidate to attempt FLK1 and FLK2 in different assessment windows.

4.4 SQE2 is a single assessment ~~divided into two parts, SQE2 oral and SQE2 written, both of~~ which consists of oral and written stations, all of which must be taken in a single assessment window. Candidates are not permitted to re-take individual assessment stations.

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

4.6 All candidates must pass SQE1 before enrolling for SQE2.

Regulation 5: SQE1

5.1 SQE1 will test the application of the FLK in accordance with the Assessment Specification for SQE1.

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 Standard Setting Policy.

Regulation 6: SQE2

6.1 SQE2 will test oral and written legal skills in accordance with the Assessment Specification for SQE2.

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 Standard Setting Policy.

Regulation 7: Time Limits and Attempts

7.1 Subject to Regulation 7.4, candidates have six years from the date they first sat an SQE assessment to sit the remaining SQE assessments. Candidates who still have further assessments to sit at the end of this six year period, will need to reapply and previous passes will not be carried forward.

7.2 Subject to Regulation 7.4, 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 reapplying and previous passes will not be carried forward.

7.3 Subject to Regulation 7.4, 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 reapplying and previous passes will not be carried forward.

7.4 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 and/or 7.3. Any extension that is granted by the SRA shall be for such period as the SRA determines.

7.5 Candidates will not be permitted to resit an assessment where they have a valid pass ~~they have passed~~ in order to improve their marks under any circumstances.

Regulation 8: Assessment Board

8.1 The Assessment Board will comprise:

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

8.2 The ~~Chief Executive Officer~~ Executive Director, 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~~ pass mark for each SQE assessment;

~~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~~ 8.4.2 to review and make decisions on any ~~other~~ matter referred to it.

Regulation 9: Exemptions

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.

Regulation 10: Fit to sit

10.1 A 'Fit to Sit' Policy operates for the SQE. 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.

Regulation 11: Reasonable adjustments

11.1 The Statement of Solicitor Competence and the Functioning Legal Knowledge set out in the SQE1 Assessment Specification and the SQE2 Assessment Specification set out the competences and knowledge which all candidates must achieve to demonstrate their ability to practise. The Threshold Standard sets out the standard which must be achieved to qualify as a Solicitor of England and Wales. All candidates must be assessed against the Statement of Solicitor Competence and the Functioning Legal Knowledge and must reach the Threshold Standard to qualify. Kaplan are committed to making sure that a candidate is not disadvantaged by reason of a disability in demonstrating their competence and will make reasonable adjustments to methods of assessment for candidates with a disability (within the meaning of the Equality Act 2010) to achieve this. Kaplan will also consider reasonable requests to accommodate candidates with other condition/s which impact on a candidate's ability to undertake the SQE. All such requests for accommodations will be considered in Kaplan's reasonable discretion and on a case by case basis.

11.2 Candidates who wish to make a request for reasonable adjustments to assessment methods and arrangements for any part of the SQE so as to accommodate a disability or other condition as set out in 11.1 above should do so in accordance with the SQE Reasonable Adjustments Policy.

11.3 ~~All candidates who have made a request pursuant to 11.1 and 11.2 above for any part of the SQE and who present themselves for that assessment are deemed to have accepted that suitable reasonable adjustments/accommodation have been offered and will be required to make a declaration to that effect.~~ All candidates who have made a request pursuant to 11.1 and 11.2 above for any part of the SQE must have accepted the reasonable adjustment/accommodation plan provided to them by the required date in line with the Reasonable Adjustments Policy.

11.4 All requests pursuant to 11.1 and 11.2 will be considered in accordance with the SQE Reasonable Adjustments Policy.

Regulation 12: Mitigating circumstances

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 their reasonable control

which have, or are likely to, materially and adversely affect 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, or are likely to have been, materially and adversely affected by any of the

circumstances outlined in 12.1~~, or who consider that their failure to attend an assessment can be attributed to any of those circumstances~~, may make a claim for mitigating circumstances. ~~For the avoidance of doubt, candidates who fail to attend both FLK1 and FLK2 cannot make a claim for mitigating circumstances under this Regulation.~~

12.3 Candidates who wish to make a claim for mitigating circumstances should do so in accordance with the SQE Mitigating Circumstances Policy.

Regulation 13: Malpractice and improper conduct

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.~~
13.2.12 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~~ a Director of ~~Qualifications~~ Kaplan (or their nominee) will be informed as soon as practicable. The Director of ~~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~~ a Director of ~~Qualifications~~ Kaplan (or their nominee) decides that there is a prima facie case of malpractice or improper conduct ~~s/he~~ they 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~~ consisting of at least three people, at least one of whom must be a solicitor of England and Wales (practising or non-practising). The Panel composition should include an independent member, a representative of Kaplan and a representative of the SRA (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:

13.7.1 their finding will be ~~referred~~ reported to the Assessment Board ~~for consideration~~; and

13.7.2 ~~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~~ 13.8 A candidate who is found by the ~~Assessment Board~~ Special Panel 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~~ 13.9 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.

Regulation 14: Withdrawal from the examinations

14.1 Candidates may withdraw before the start of an assessment subject to the SQE Terms and Conditions. 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).

Regulation 15: Appeals against Assessment Board and Panel decisions

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 ~~Assessment Board~~ Mitigating Circumstances Panel before it made its decision; or

15.1.2 the decision of the ~~Assessment Board~~ Mitigating Circumstances Panel, 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~~ Special Panel's finding and/or sanction for ~~of~~ malpractice or improper conduct.

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

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 First Appeal Panel, 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.

Supplemental notes

Made by the SRA Board on 31 July 2020.

Amended by the SRA Board on 5 April 2022, amendments in force from 1 June 2022.

Made under section 2 of the Solicitors Act 1974.