

# **A new route to qualification: The Solicitors Qualifying Examination (SQE)**

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October 2016

## Foreword

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Enid Rowlands, Chair of the Solicitors Regulation Authority Board

1. The professions are changing and changing fast as they respond to new pressures, new business models, new markets and new technology, both at home and in a vast international marketplace offering a wide range of choice to business and individual consumers.
2. We know that the solicitors of the future will need outstanding skills and high professional standards in order to compete in these rapidly changing domestic and global marketplaces.
3. Our proposals are all about setting and assuring high, consistent, professional standards for the future. This is what will support the brand of solicitor and protect the interests of the public, consumers and the profession itself.
4. Introducing a modern, up to date assessment – the Solicitors Qualifying Examination (SQE) – will make sure solicitors have these high standards from when they first qualify. It will address the current problem of inconsistent and variable provider-dependent pass rates across the Legal Practice Course (LPC) and Common Professional Examination (CPE), as well as provide a single assessment for all regardless of which route into the profession they take.
5. And, of course, an entrance examination is common practice in other major jurisdictions, from New York to New Zealand. At home, the public appetite for a central assessment is also strong. Four in five adults in England and Wales told us they believed everyone should pass the same final exam to become a solicitor<sup>1</sup>, while three quarters said they would have more confidence in solicitors if they all passed the same final exam.
6. We have considered, analysed and absorbed feedback – both positive and negative – from our initial consultation on the principles of the SQE. We have listened to voices from every quarter and the model on which we are now consulting has evolved considerably. We are proposing a substantial, rigorous assessment, covering knowledge of the law, legal process, legal thinking, drafting, writing, presenting, negotiating, arguing a case and analysing claims and transactions.
7. I believe that the new SQE, and the package of measures that sit alongside it, will serve individuals, employers and the profession well.
8. I encourage you to engage with the new proposals and to take this opportunity to influence the future qualification requirements for solicitors.

A handwritten signature in black ink, appearing to read 'Enid Rowlands'.

## About the SRA

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9. The SRA is the regulator of solicitors and law firms in England and Wales, protecting consumers and supporting the rule of law and the administration of justice.

10. We have statutory responsibility for the education and training of solicitors by virtue of sections 2 and 3 of the Solicitors Act 1974 and section 28 of the Legal Services Act 2007. We exercise this responsibility by overseeing all education and training requirements necessary to practise as a solicitor.

11. Our aim is to regulate in a way that:

- protects the public and helps them to understand the protections they have
- makes sure individuals have the right knowledge and skills when they enter the profession
- makes sure individuals apply clear ethical standards and deliver a proper standard of work
- encourages the provision of flexible, accessible and affordable legal services to the public and business consumers
- gives solicitors more flexibility and makes it easy for them to provide legal services.

12. We have a number of projects that will deliver these objectives. Training for Tomorrow, of which this consultation is a part, is reviewing the education and training of solicitors to better assure their competence. As part of Training for Tomorrow, we have already published a Statement of Solicitor Competence, which sets out what solicitors need to be able to do to perform their role effectively and which provides consumers of legal services with a clear indication of what they can expect from their solicitor. We have also introduced a new approach to ensuring that the skills and knowledge of qualified solicitors remain up to date.

13. This is the second consultation on how to assure consistent and comparable high quality standards at the point of admission.

14. The Looking to the future project is reviewing our approach to regulation as set out in the SRA Handbook. The Looking to the future consultation (which closed on 21 September 2016) asked whether the “qualified to supervise” rule (rule 12 of the SRA Practice Framework Rules 2011) is necessary. This rule has the effect of imposing a three-year post-qualification restriction on setting up as a sole practitioner. We have not raised this question as part of this consultation, as this relates to current restrictions on practice rather than admission as a solicitor.

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## Introduction

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15. In December 2015 we published an initial consultation setting out early thinking on how solicitors might qualify in the future. We proposed a centralised assessment that all intending solicitors would take. It would provide a high level of assurance to consumers of legal services that all solicitors had demonstrated their competence to practise on a fair and consistent basis.

16. We received a large response to the consultation – much negative, some positive, some asking for more detail – and this has all helped in developing our thinking. You can [read consultation one, the individual responses received and our summary of those responses](#).

17. In response to the issues raised in the first consultation, we reviewed our proposals.

18. This second consultation sets out more detail about how we are proposing solicitors might qualify in the future – and specifically about the SQE. It makes clear how we have revised and developed our proposals in the light of feedback from the first consultation, and it explains how the SQE would fit with preparatory training, including work-based learning. It sets out how the SQE can assure high professional standards.

19. This consultation on a new solicitors' qualification is structured as follows:

- The case for change – why introduce the SQE?
- Proposal one: Introducing the new SQE
- Proposal two: Qualifying legal work experience
- Proposal three: Regulating preparatory training for the SQE
- Proposal four: Qualification requirements
- Proposal five: Exemptions
- Proposal six: Timescales and transitional arrangements
- Equality, diversity and inclusion (EDI) implications
- How to respond
- References

### What are we proposing?

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20. We propose that in order to be admitted as a solicitor, individuals would need to hold a degree, apprenticeship, or equivalent; pass stages 1 and 2 of the SQE; have undertaken a requisite period of workplace training; and meet our character and suitability requirements (subject to any changes made as part of the proposals in the Looking to the Future reforms).

21. SQE stage 1 would assess functioning legal knowledge through a series of six examinations. It would also assess basic legal research and written communication skills. SQE stage 2 would assess core legal skills (client interviewing, advocacy, case and matter analysis, legal research, written advice and drafting) through a series of five assessments repeated in two separate legal contexts. Candidates would be tested on ethical principles throughout. We would not require candidates to be assessed in SQE stage 2 in the context of both contentious and non-contentious work.

22. The introduction of a centralised assessment would bring us into line with other international jurisdictions such as New York, California, Germany, France and India. The Bar Standards Board is also consulting on future training for barristers, and whilst we recognise the difference in emphasis, we are pleased that both consultations are based on the same underlying principles.

23. There is a range of views on the appropriate length for the period of work-based learning. We are unconvinced that 12 months is enough to develop the appropriate experience and skills, and we see significant merit in maintaining the current requirement for 24 months. However, some have made the case for either 18 months or a more flexible approach. While we are minded to require 24 months, we will make a decision on timescale in the light of feedback from this consultation. The work experience obtained through the period of work-based learning should be such as to enable candidates to develop the competences in the Statement of Solicitor Competence. Periods of experience acquired under a formal training contract, or through working in a student law clinic, as an apprentice or a paralegal, or through a placement as part of a sandwich degree could all contribute to this requirement.

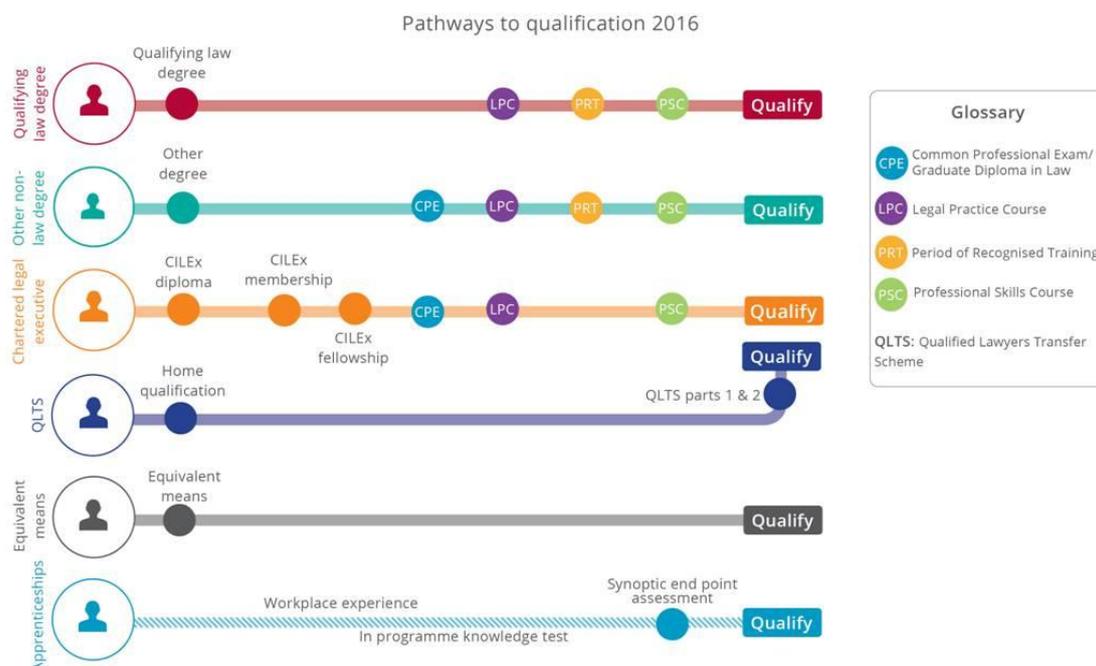
24. We do not propose to specify how candidates prepare for the SQE. Instead, we would support students in making informed choices through publishing data about providers' SQE pass rates. We believe this new approach would create a more open market, which would allow candidates to choose the training that best suits their circumstances, and where competitive pressures could raise standards and reduce cost. At the same time, the SQE would ensure high standards were maintained.

25. **We welcome feedback on the proposals, either on the package as a whole or any particular areas with which you agree or disagree. We have asked a number of formal questions but also welcome feedback on specific points mentioned in the document.**

## The case for change – why introduce the SQE?

26. It is vital we have a qualification that justifies the high reputation of solicitors of England and Wales around the world. The proposals in this consultation will help maintain and improve the international standing of solicitors of England and Wales by introducing a consistent, high standard at a time of change.

27. At present, there is a range of different ways in which people can become a solicitor and each of them is assessed differently. This means there is no consistent examination at the point of qualification for solicitors, and no mechanism to compare the different pathways. The qualification regime should provide sufficient flexibility to encourage diversity within the profession, but have a consistent standard which everyone must attain to prove they are competent and suitable to be a solicitor. The diagram below shows the different routes to qualification under the current system.



28. We cannot know from the current system of legal education that all aspiring solicitors are assessed to a consistent standard and achieve the same outcomes. There are about 110 universities involved in assessing students through Qualifying Law Degrees (QLD), Exempting Law Degrees (ELD),<sup>ii</sup> the CPE and the LPC. These universities both teach their students and assess them through examinations which the universities set, mark and moderate. With this number of providers, we cannot be sure that all new solicitors are meeting, on a consistent basis, the levels of knowledge and skills that consumers expect of the profession.

29. We know that pass rates vary across LPC and CPE providers from below 50 percent to 100 percent, but we do not know why. During 2015/16, we appointed Chief External Assessors to look at the assessments taken across the range of LPC providers.<sup>iii</sup> They identified variations in the ways in which students were assessed:

- Some providers permitted students to take any materials they wished in to the assessment; others permitted some materials; others permitted none.
- The breadth of the curriculum assessed varied.
- The length of the assessments varied.
- Some questions were more straightforward than others, and required less application.

30. At present we cannot be sure that there is a consistent or comparable standard of assessment for qualification across providers who adopt different assessment practices. We do not know how varied students' preparation for exams is – for example, whether they are told specific areas to revise, whether they are given questions that are similar to mock exams or coursework essays.

31. The current tri-partite structure of legal education, divided into academic, professional and work-based stages, means students often learn substantive and procedural law separately. They may not be adequately assessed on the core professional competence of applying the legal principles they have learned in the academic stage of training to practical transactions or to solving clients' problems.

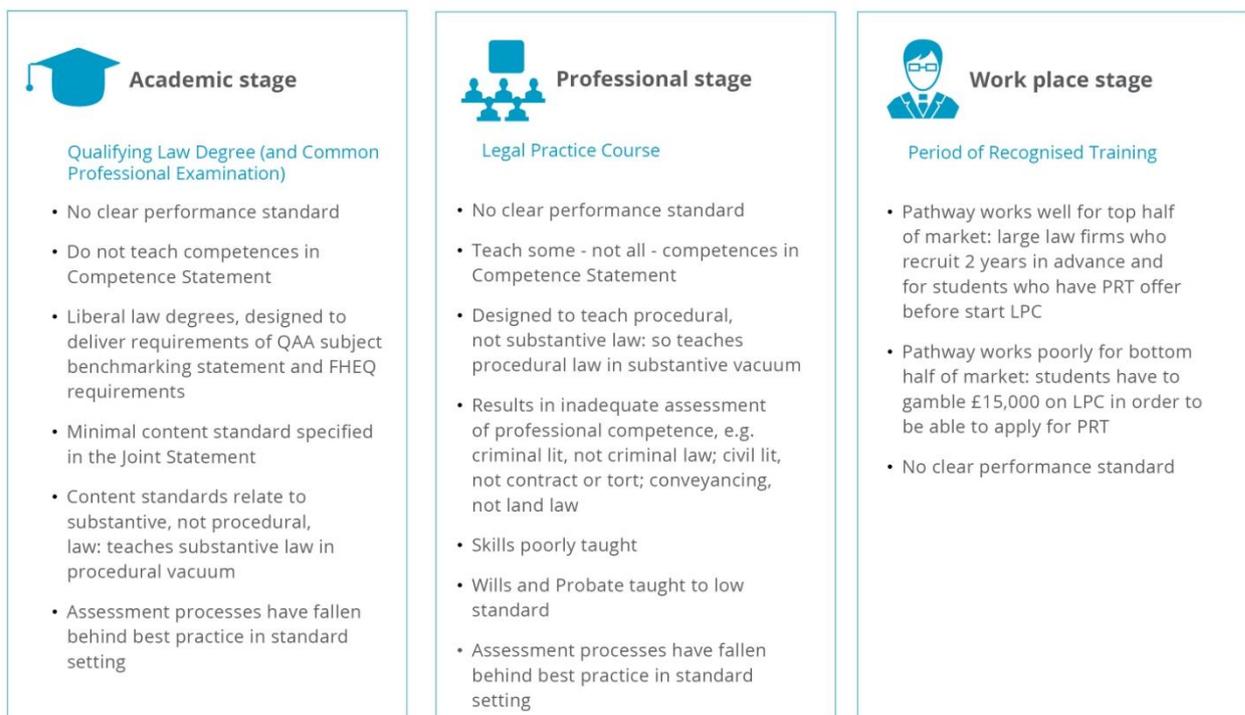
32. The LPC came into being before fees were introduced for degrees. It now costs £27,000 (plus living expenses) to graduate, and tuition fees are set to rise.<sup>iv</sup> It is no longer acceptable or fair for us to force all CPE graduates, and law graduates who do not qualify through ELDs, to take the LPC - an additional course on top of a degree - at a cost of up to £15,000 (with living expenses on top) when there are other ways in which they could acquire the professional skills and knowledge currently taught on the LPC.

33. In a market where there is little or no independent information about the quality of courses, price is seen by students as a proxy for quality. The price of the LPC has risen inexorably since it was introduced. We see no evidence of downward competitive pressures on price.

34. We know that many trainees struggle to get a training contract. We commissioned [research](#) into the part that workplace training plays in the qualification of legal professionals, which we have published to support this consultation. In this research, many trainees expressed their frustration at how difficult it was to obtain a training contract. This 'training contract bottleneck' is a major constraint on new entrants to the profession.

35. Final sign-off at point of qualification is made by any one of more than 5,000 law firms who are authorised by us to train solicitors.<sup>v</sup> Little guidance is available to help law firms understand where exactly to draw the line between trainees who are competent to practise and those who are not.

## Does the current system guarantee competence?



36. It is difficult to establish a direct link between consumer detriment and inadequate training. But there is evidence that the quality of legal advice sometimes falls below the level that can reasonably be expected by consumers. Over the period 2004–2014, there were 142,000 indemnity insurance claims notified to insurers by solicitors' firms. So far about one in five have resulted in payments, worth a total of £1.6bn. The majority of negligence claims will stem from a range of competence issues.

37. In 2014–15, more than 800 complaints against solicitors were upheld by the Legal Ombudsman.<sup>vi</sup> This is likely to underestimate the extent of consumer dissatisfaction: research published by the Legal Services Consumer panel found that, last year, 44 percent of those who were dissatisfied with their solicitor did nothing.<sup>vii</sup> Recent research commissioned by the SRA found issues with legal services provided to asylum seekers, including poor legal and case knowledge and insufficient experience of undertaking interviews.<sup>viii</sup> Similarly, research commissioned into will writing found evidence that approximately a quarter of wills were of poor quality.<sup>ix</sup>

38. Although establishing a direct causal link between the current training system and poor consumer experiences is difficult, we do believe that there is a case to be made that it could be improved to the benefit of the users of legal services.

## Why not improve the existing system?

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39. A number of respondents to our first consultation questioned why introducing the new SQE would be better than making changes to the current system. We have considered carefully whether we could achieve consistent and robust standards through adjustments to the existing system. We could expand our existing quality assurance framework to set more requirements around what we require to be taught on the QLD, CPE and LPC. We could require providers to ensure that what they taught corresponded to the competences in the Statement of Solicitor Competence. But this alone would not provide an assurance of consistent standards. We could require all providers to adopt modern standard setting processes as a condition of their approval and we could monitor assessment standards. However, this would be expensive and onerous. To be sure that we were happy with what and how universities were assessing students, we would need to review and check all examinations set by all providers on an annual basis. This is likely to be resource intensive across 110 universities. And, even if we did it, we would still not know how the assessments aligned with teaching. In a distributed assessment model with a wide number of providers assessing candidates using different assessments, it would be an inefficient, and not necessarily effective, way of seeking to assure consistent standards.

40. In practice, absolute consistency and fairness can only effectively be assured by candidates sitting the same examination. This has been recognised internationally. We have undertaken an [international benchmarking exercise](#) that shows 14 out of 18 jurisdictions<sup>x</sup> we examined require candidates to take a centrally set examination, with another soon to launch.

41. The problems we have set out above associated with the comparability of pathways (paragraph 27), the training market problems and the training contract bottleneck (paragraph 34) are intrinsic to the current system, and we believe they cannot be solved within it.

42. The way in which solicitors qualify underpins the reputation of solicitors of England and Wales throughout the world. We believe that a new package of measures for qualification would help resolve some of the problems with the existing system. We believe it is the best way to assure high professional standards and to underpin the reputation of the profession, both in England and Wales, and internationally. In our view, the SQE would:

- provide an independent assessment of those entering the profession, and clear, consistent and robust standards against which they can be assessed
- use best practice in standard setting processes and valid<sup>xi</sup> assessments
- be aligned to the Statement of Solicitor Competence and so be a better assessment of the skills and competences that solicitors need
- provide a more rigorous assessment of entry standards, which could help ensure solicitors are competent
- address concerns about different standards arising from different routes to the profession
- allow us to be more flexible in our requirements for the period of work-based experience, which might go some way to addressing the problems with the training contract bottleneck
- mean that candidates would not take the more expensive SQE stage 2 assessment before their workplace experience, so that they would not have to commit to expense without knowing whether it could lead to qualification, if they passed
- provide data which we could publish to inform candidate choice and create competitive pressures to drive down price and improve and assure quality.

## Proposal one: Introducing the new SQE

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43. Since our initial consultation, we have developed and refined our thinking around what an examination for those wishing to become a solicitor might consist of. We have developed a model which we believe is consistent, fair and transparent and could distinguish accurately between candidates who are competent and those who are not. Our examination model is split into two stages: the SQE stage 1 (which will test candidates' ability to use their legal knowledge to address clients' problems or within legal transactions) and the SQE stage 2 (which will test the legal skills of analysis, advocacy, interviewing, writing, drafting and research).

44. We expect many candidates will take SQE stage 1 before their work-based experience, and SQE stage 2 at the end of their work experience.<sup>xii</sup> Our assessment design recognises the development which should take place in candidates' competence as they train.

45. The SQE has been designed to establish the competence of candidates by the time they qualify as a solicitor. It is based on the Statement of Solicitor Competence published in April 2015. The Statement of Solicitor Competence sets out what solicitors need to be able to do to perform their role effectively and provides consumers with information about what they can expect from their solicitor.<sup>xiii</sup> The statement is supported by an underpinning Statement of Legal Knowledge<sup>xiv</sup> and a Threshold Standard Statement.<sup>xv</sup> Under our proposed new system all candidates who have passed the SQE will have demonstrated the competences specified in the Statement of Solicitor Competence to the standard expected of a newly qualified solicitor as set out in the Threshold Standard.

46. We have developed a detailed Assessment Specification which sets out what outcomes we expect to be tested within the examination. It would be used by the assessment organisation to design an examination which is consistent and robust and by education and training providers to guide curriculum design. A summary of the SQE is included below. We have integrated the required areas of legal knowledge set out in the Statement of Legal Knowledge into the Assessment Specification. If the SQE is introduced, we consider that we would no longer need to publish a separate Statement of Legal Knowledge.

47. We have published a draft of the proposed [Assessment Specification](#) and we would welcome comments on it. This draft Assessment Specification would be further developed before the SQE was introduced, not least in response to consultation feedback and pre-implementation testing by the assessment organisation. But it demonstrates how the SQE can assess competence effectively, provide a mechanism to communicate the detail of the assessment to stakeholders and provide a clear set of instructions for the assessment organisation, to which it could be held.

48. The structure of the SQE stages 1 and 2 could allow additional assessments to be added should the need arise. We also intend that the SQE would be subject to regular reviews to ensure it remained a valid assessment of solicitor competence.

## SQE stage 1

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49. The first stage of the SQE would assess candidates' functioning legal knowledge through six modular assessments, which would assess the following topics:

- Principles of Professional Conduct, Public and Administrative Law, and the Legal Systems of England and Wales
- Dispute Resolution in Contract or Tort
- Property Law and Practice
- Commercial and Corporate Law and Practice
- Wills and the Administration of Estates and Trusts
- Criminal Law and Practice.

50. These assessments would cover a combination of substantive and procedural law. For example, Criminal Law and Practice would assess a candidate's ability to determine whether their client has a defence to a criminal charge, using their knowledge of the elements of criminal offences, as well as testing their knowledge of criminal procedure. Commercial and Corporate Practice would assess candidates' knowledge of contract law, as well as company procedure. We believe this approach enables us to assess the core analytical skills required to be a solicitor. The detailed assessment objectives of each examination are set out in the [Assessment Specification](#).

51. Stage 1 will also include an assessment of candidates' legal research and writing skills. This assessment will comprise one research task (in which they use a legal database to research a legal problem and produce an attendance note) and two writing tasks (in which they produce a letter or email for a client and for a third party). Candidates who pass this module should be reasonably prepared for their legal services workplace experience. This would give employers considering taking on a trainee the assurance that candidates are prepared for this role. We would expect candidates to further develop their skills in legal research and writing over the course of their workplace experience, and these would therefore be tested at a more demanding level as part of the SQE stage 2.

### How would the SQE stage 1 assessments work?

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52. The SQE will use a range of assessment methods to test candidates' functioning legal knowledge, their ability to write, to formulate arguments, to analyse and to research. The six functioning knowledge assessments in the SQE stage 1 would use computer-based, objective testing, using a range of question formats including: single best answer questions, extended matching questions, and multiple choice questions.<sup>xvi</sup> All of the assessments would include unflagged ethical questions. In the current model, five of the six assessments would be three hours long and consist of 120 questions. One (Wills and the Administration of Estates and Trusts) would be two hours long and consist of 80 questions, because the curriculum being tested is shorter.

53. Some respondents to our first consultation raised concerns about the use of computer-based questions to assess functioning knowledge. It is important to recognise that the SQE as a whole would use a wide range of assessment methods. A good assessment matches the method of assessment to the purpose of the assessment. We recognise that computer-based testing is not suitable to assess the full range of skills needed to be a solicitor. If the purpose of the assessment is to test communication skills, multiple choice questions cannot do that.

54. But research and experience demonstrates that computer-based testing can assess a range of higher order cognitive skills, such as application of knowledge, interpretation, synthesis and analysis (Case & Swanson, 2001).<sup>xvii</sup> This form of testing is widely used in other high-stakes professional assessment, such as medicine and pharmacy, to discriminate between competent and non-competent candidates. It is also used in the assessment of lawyers. For example, it is used in the United States as part of the Multi-State Bar Exam, (and therefore to admit attorneys in major jurisdictions like New York and California).

55. It is true that multiple choice, and other computer-based testing methods, include prompts for candidates to select. In well-designed questions, the distractors (the incorrect options) should be plausible and designed to test accuracy of application and judgment. Used well, the prompts can check functioning knowledge with real precision.

56. Multiple choice questions also provide a far more consistent, objective and robust form of assessment than traditional essay-type examinations. Multiple choice questions can assess a breadth of knowledge, sampling a wide range of the curriculum. Essay-based examinations typically assess a very small number of topics and create a risk that a candidate might not know the full curriculum, but might simply "question spot" (ie get lucky through having swotted up on a small number of topics which happened to come up in the exam).<sup>xviii</sup>

57. The SQE stage 1 skills assessments would be taken online but would be designed to assess skills which cannot be tested through this sort of computer-based testing. Candidates would be required to write discursively, and the assessments would be manually marked. Candidates would take all assessments in secure examination centres.

## SQE stage 2

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58. The second stage of the SQE would be an assessment of skills. It would test candidates' ability to carry out practical legal tasks through five assessments. Each assessment would include one or more tasks that a newly qualified solicitor would be expected to be able to carry out with minimal or no supervision. These would be:

- Client Interviewing
- Advocacy/Persuasive Oral Communication
- Case and Matter Analysis
- Legal Research and Written Advice
- Legal Drafting.

59. Client Interviewing, Advocacy/Persuasive Oral Communication and Case and Matter Analysis would be assessed through role-play exercises with trained actors playing the part of clients, colleagues or decision makers. For the Legal Research and Written Advice assessment, candidates would be asked to use a legal database to complete a research task and produce written advice for a client. For the Legal Drafting assessment, candidates would be asked to produce legal documents, both freehand and by reference to an electronic precedent bank. Candidates would complete all written tasks on a computer. As with SQE stage 1, all SQE stage 2 assessments would be taken in a secure examination centre.

60. Under our current thinking, together this would amount to a further 20 hours of testing.

## How would the SQE stage 2 assessments work?

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61. Stage 2 of the SQE would assess candidates' skills rather than knowledge. For example, an assessment might test whether a candidate can conduct an interview with a client who is confused, forgetful, emotional, unreliable, or with whom the candidate has to establish their credibility. The assessments would not be designed to test recall of legal knowledge. We would provide candidates with all relevant legal materials. But getting the law right is clearly a core competence. So we would expect candidates to be able to take the legal materials provided and use them to provide accurate legal advice. We would also expect candidates to make sound ethical judgments, and (like SQE stage 1) ethical issues would pervade SQE stage 2.

62. The assessments would be based in a range of practice contexts. Candidates could choose two practice contexts from the following list:

- Criminal Practice
- Dispute Resolution
- Property
- Wills and the Administration of Estates and Trusts
- Commercial and Corporate practice.

63. These areas reflect the entitlements to practise in the reserved activities which qualification confers, and the significant numbers of solicitors practising in commercial and corporate law. They provide common contexts within which all candidates can demonstrate their legal skills. They build on the subjects in which all candidates will have been assessed in SQE stage 1.

64. We expect SQE stage 2 would be taken after a period of practical work experience. SQE stage 1 will provide an identical baseline assessment for all intending solicitors. Candidates will then build up their skills through their work experience. Through SQE stage 2, we will check that candidates can apply the broad range of skills required for practice as a solicitor within the two practice contexts they have chosen.

65. We recognise that while most candidates will have work experience in at least two of these contexts, many will have experience in other contexts. As we have said, SQE stage 2 would not be assessing particular areas of practice, but broad competences to be a solicitor. So, we believe that work experience in wider contexts than those listed in paragraph 62 can prepare candidates for the stage 2 assessments. For example, a candidate who has had experience of client handling in a family or employment law practice could be well prepared for the client interviewing assessment, say, in a disputes or wills or crime context.

66. This approach recognises that on qualification a solicitor has a broad entitlement to practise in the reserved activities but that many people begin to specialise before they qualify.

67. In developing this model, we have considered a wide range of other approaches:

- We could assess skills in just one legal context chosen by candidates from the list at paragraph 62. This would benefit candidates who wish to specialise in a single area of law. But it would not test the transferability of candidates' legal skills.
- We could increase the number of contexts to include, say: finance, family law, welfare law or employment law. Many respondents to the first consultation wished to see a wider range of practice areas included as a context for SQE stage 2. But SQE

stage 2 is not an assessment of the law. Adding to the contexts risks creating the perception that SQE stage 2 is assessing a particular practice area rather than a skill. Increasing the numbers of contexts would also raise the cost of the SQE stage 2 while reducing consistency.

- We could require all candidates to take the stage 2 assessments in any of all five contexts on an unseen basis. Removing any element of candidate choice would create an assessment that is fair, consistent, manageable and cost effective. It is the approach we already take on the Qualified Lawyers Transfer Scheme (QLTS) test. However, we believe our proposed model provides some element of candidate choice while still ensuring sufficient consistency of assessment.

68. We would welcome your views on these alternatives.

### Overview of the SQE

69. Candidates must pass all SQE stage 1 and SQE stage 2 assessments. We would provide candidates with their scores for each of the individual assessments, but we would not provide grades for the examinations beyond "pass" or "fail".

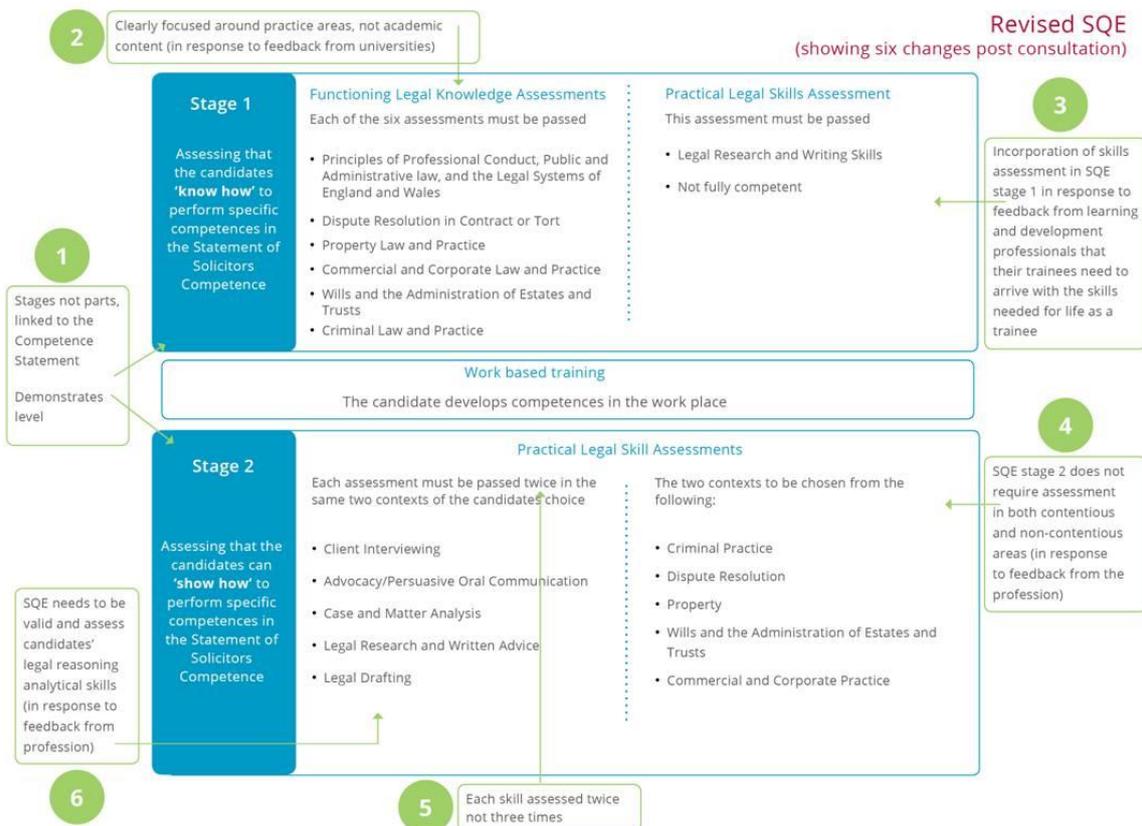
Overview of the SQE	
Stage 1	Stage 2
<p><b>6 x Functioning Legal Knowledge Assessments:</b></p> <ul style="list-style-type: none"> <li>■ Principles of Professional Conduct, Public and Administrative law, and the Legal Systems of England and Wales</li> <li>■ Dispute Resolution in Contract or Tort</li> <li>■ Property Law and Practice</li> <li>■ Commercial and Corporate Law and Practice</li> <li>■ Wills and the Administration of Estates and Trusts</li> <li>■ Criminal Law and Practice.</li> </ul> <hr style="border-top: 1px dashed black;"/> <p><b>1 x Practical Legal Skills Assessment</b></p> <ul style="list-style-type: none"> <li>■ Legal Research and Writing</li> </ul>	<p><b>2 x 5 Practical Legal Skills Assessments:</b></p> <ul style="list-style-type: none"> <li>■ Client Interviewing</li> <li>■ Advocacy/Persuasive Oral Communication</li> <li>■ Case and Matter Analysis</li> <li>■ Legal Research and Written Advice</li> <li>■ Legal Drafting.</li> </ul> <p>All five assessments must be taken and passed in the same two practice contexts of the candidate's choice, making a total of ten assessments.</p> <p>The practice contexts are: Criminal Practice; Dispute Resolution; Property; Wills and the Administration of Estates and Trusts; Commercial and Corporate Practice.</p>

## How has the design of the SQE developed since the first consultation?

70. This revised model incorporates a number of changes to the design of the SQE which we have made in response to feedback from the first consultation, which has helped us develop and refine our proposals. The most significant of these changes proposed are:

- SQE stage 1 includes a set of six computer-based examinations of functioning legal knowledge with more than 17 hours' testing. The examinations test a combination of substantive and procedural law.
- SQE stage 1 includes a new test of writing and legal research.
- In SQE stage 2, legal skills would be assessed in two practice contexts, not three, over a total of 20 hours of testing. We have removed the requirement for skills to be tested in both contentious and non-contentious practice areas in response to feedback that few solicitors switch between contentious and non-contentious practice once they have qualified. If a candidate wanted to switch, or thought they might practise in both, they could choose to take both types of assessment, but we have decided against imposing this requirement on all candidates.

71. This is illustrated in the diagram below:



## Who would deliver the examination?

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72. We would propose to appoint a single assessment organisation to deliver the SQE on our behalf. There are a number of advantages to having a single organisation to run the SQE. The main advantage is that a single provider means a single set of standards and avoids inconsistency in terms of maintaining standards. All candidates would sit the same examination and there would be no opportunities for them to game the system by selecting what might be perceived to be the easier assessment provider.

73. There are also operational efficiencies in dealing with one provider, both for us and for candidates. We would ensure that the supplier developed and delivered assessments that were valid and reliable. Over successive assessments, all the competences and knowledge set out in the Assessment Specification would be assessed.

74. Although the assessment organisation would set and run all the assessments, we would be responsible for setting and maintaining standards over time, through quality assurance of the assessment organisation and convening the assessment award boards to set the standard for each assessment, using expert panels of academics and professionals.

75. We cannot know the exact cost of the SQE before the appointment of the assessment organisation. However, the large numbers of candidates and the use of computer-based testing where possible should minimise cost. We would expect SQE stage 1 to be relatively inexpensive. SQE stage 2 will be more expensive because of the individual assessment of oral skills through role-play. But candidates would not need to pay for SQE stage 2 until after they had secured a period of workplace experience. Under the current system, many candidates pay for the LPC ahead of securing a period of recognised training and take the gamble that they will be able to find a training contract. Greater flexibility about where, when and how candidates secure work experience could also provide more opportunities for them to earn while they learn.

## When and where would the examinations happen?

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76. Our current thinking is that, at least in the first years of the SQE, assessments would be available in two sessions per calendar year. We would work with stakeholders to identify the most appropriate times for these sessions to take place.

77. We propose that SQE stage 1 assessments would be available in designated examination centres across England and Wales and internationally.

78. We also envisage that the SQE stage 2 Legal Research and Written Advice and Legal Drafting assessments would be available in designated examination centres across England and Wales and internationally. The other role-play SQE stage 2 assessments would be available in designated examination centres in England and Wales only, to ensure comparability and manageability.

79. We would require the assessment provider to have a high level of fraud deterrence security, including candidate identity checks, for example through palm vein technology, digital photograph and signature capture. We would also require a high level of protection of IT systems against the risk of cyber crime.

80. Our experience on the QLTS leads us to believe that a high level of security would be possible on the SQE. Problems such as plagiarism and essay farms would be avoided because the SQE would include no assessments that were taken outside exam conditions.

### **Passing the SQE stage 1**

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81. We propose that all candidates must take all SQE stage 1 assessments in a single assessment window.

82. Candidates would have a maximum of three attempts to pass each stage 1 assessment. If they failed any of the stage 1 assessments, they would have to resit the assessment they failed. Candidates would not be permitted a resit to improve their marks. Only candidates who had failed would be allowed to resit. All resits would have to be taken in the same assessment session.

83. Candidates would have to pass all seven stage 1 assessments before they started the stage 2 assessments.

### **Passing the SQE stage 2**

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84. We are also proposing that all candidates must take at least all five stage 2 assessments in one of their chosen practice contexts in the same assessment window. They can elect to take all ten stage 2 assessments in the two chosen practice contexts in the same assessment session.

85. The proposal is that candidates would have a maximum of three attempts to pass each stage 2 assessment. If they failed any of the stage 2 assessments, they would have to resit the assessment they had failed. Candidates would not be permitted a resit to improve their pass marks. Only candidates who had failed would be allowed to resit. They would have to resit the assessment in the same practice context and take all resits in the same assessment session.

86. We would welcome views on the proposal to assess candidates for SQE stages 1 and 2 in these assessment windows.

### **Period of validity**

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87. Candidates would have a fixed number of years in which to pass all stage 1 and stage 2 assessments. We are proposing that candidates should have six years from attempting the first stage 1 assessment to the date they receive their final result for the stage 2 assessment. This would apply to full and part-time candidates. We believe this period is long enough for candidates to exhaust their resit attempts and complete the work experience they need to prepare for SQE stage 2, regardless of whether they are working on a full or part-time basis.

88. If candidates cannot pass all assessments within this time frame, they must sit all seven stage 1 and all ten stage 2 assessments again. We have set out our rationale for these rules in [annex 2](#).

## How will the pass mark be set?

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89. In designing the SQE, we have drawn on best practice in standard setting methods, in order to distinguish between competent and non-competent candidates in a consistent way. The pass mark for each of the assessments would be determined through the use of criterion-based standard setting methodologies, which combine professional judgment and statistical analysis of candidate performance. These are widely used in other high stakes professional assessments, including the QLTS. The 'raw' marks for candidates, derived through these standard setting methodologies, would then be converted to a standardised mark scale to enable us to report consistent performance over time.

90. For SQE stage 1 Functioning Legal Knowledge assessments, we would use the 'modified Angoff procedure'<sup>xix</sup>, in which a panel of experts (in our case, academics and solicitors) would be used to determine the 'raw' pass mark in the Functioning Legal Knowledge Assessments and borderline regression to determine the 'raw' pass mark in the Practical Legal Skills Assessments on each assessment. The 'raw' score is the arithmetic number of marks the candidate achieved on the test. These methods make a judgment about the difficulty of each individual assessment and the minimum standard of performance expected of the candidate, based on the Threshold Standard.<sup>xx</sup>

91. For the SQE stage 1 skills assessment and SQE stage 2, the borderline regression method would be used<sup>xxi</sup>. Here, examiners are asked to complete both a checklist score and a global score on a five-point scale. Both scores are collated from all examiners, and the global score is then statistically regressed against the checklist score to produce a pass mark.

92. An explanation of these mechanisms can be found in the [Assessment Specification](#). We believe that the combination of these methods will ensure a consistently high standard for those wishing to enter the profession.

## Will the results be published?

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93. For each assessment, we would propose to make available all candidate results on an anonymised basis. We would exclude small datasets where individuals might be identifiable, in order to comply with our obligations under the Data Protection Act 1998. We would publish or report on:

- the pass mark
- the number of candidates who sat the assessment
- the pass rate
- the distribution of candidate scores (for example, by decile, top and bottom marks)
- the proportion of candidates passing and failing the SQE in terms of their protected characteristics (for example, the number of females entered, the percentage of females that passed the SQE stage 1 and stage 2), socio-economic background, prior education and SQE training.

94. Candidates would receive their raw score and standardised score for each assessment. The individual scores of named candidates would not be made publicly available. Recruiters and employers would be free to ask candidates for their SQE scores. Candidates could use their scores as they wish.

**Consultation question 1: To what extent do you agree or disagree that the proposed SQE is a robust and effective measure of competence?**

## Proposal two: Qualifying legal work experience

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95. We view pre-qualification work experience as an essential part of becoming a solicitor.

96. Many respondents to the first consultation stressed the importance of time spent in the legal work place prior to qualification and wanted it to be retained in the new model. However, other respondents flagged the difficulty in obtaining a training contract as a barrier to becoming a solicitor, and welcomed our proposals for a more liberal approach to workplace learning, recognising experience obtained outside a formal training contract.

97. We have commissioned research into the part work experience plays in developing trainees intending to qualify as solicitors of England and Wales, as well as examining requirements overseas. The full research is available on our [research and report pages](#). In summary, it found that most legal professions around the world require some form of workplace learning, and that most UK professions require some element of it in their qualification regimes. The research also shows that work experience requirements are usually defined in terms of length, ranging from a matter of months to four years where candidates were undertaking an apprenticeship, and that learning can take place in a wide variety of organisations. For example, in addition to the traditional training contract/period of recognised training (PRT), many regulators will consider experience gained on sandwich degrees, in clinical legal education, on vacation schemes, or through paralegal work. Our own work-based learning pilot (2008–2013) confirmed that trainees can gain relevant skills outside a conventional training contract.

98. Any new qualification model must therefore recognise the value of work experience, but also endeavour to make our requirements more flexible.

### **Should work experience be formally assessed?**

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99. It is clear from our own work-based learning pilot, and from experience in other sectors, that it is difficult to assess work experience on a consistent basis. Much of its value comes from the range and variety of experiences that prepare a candidate for 'real-world' practice, rather than being something which can be standardised, measured and assessed.

100. So we would not, therefore, require firms to make any judgments about whether a candidate was competent to be a solicitor. Instead, we would test their competence via the SQE stage 2. We would, however, expect employers or the supervising solicitor (where work experience was not gained in a regulated entity) to sign a declaration that a candidate had had the opportunity to develop some or all of the competences in the Statement of Solicitor Competence through the required period of workplace experience.

## How long should qualifying legal work experience last?

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101. We agree with respondents to the first consultation that we should require a substantial, defined period of work-based learning. This recognises the critical importance of practical work experience in enabling candidates to develop the competences for practice as a solicitor.

102. Our research was not determinative about how long work experience should be. There is a wide variety of practice internationally. There are more examples of jurisdictions requiring less than two years than those which require two years or more.

103. Most respondents to the first consultation favoured a period of 18 months to two years. There are also benefits in having a more flexible term, reflecting the fact that candidates develop at different speeds. Excellent candidates in firms which develop their trainees very well may acquire skills more quickly.

104. A number of other jurisdictions take a flexible approach to acquiring work experience, for example the New York State Bar requires 50 hours of pro bono work to be undertaken, which students can complete while at law school. In Italy, candidates must undertake 18 months' experience, but gain some practice rights after one year. Ontario is trialling an approach to provide candidates with a choice of either an Articling Requirement, involving ten months' experience, or a Practice Legal Training Course (PLTC), plus a four-month placement organised by the law school.

105. There is a wide range of views on the appropriate length for the period of work-based learning. We are unconvinced that 12 months is long enough to develop the appropriate experience and skills and see significant merit in maintaining the current requirement for 24 months. However, some have made the case for either 18 months or a more flexible approach. While we are minded to require 24 months, we would value more feedback as part of this consultation. (see question 2b below). Our proposed working model is based on a period of 24 months work experience (or part-time equivalent), which is our intended position, unless strong arguments are made for 18 months. Of course, candidates might wish to work on different part-time bases, would take annual leave, and also might take some study leave. Our regulations could make provision for this by specifying the period of work experience by a number of days.

## Where could qualifying legal work experience be gained?

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106. We envisage that the legal experience would need to be obtained either in an SRA-regulated firm or under the supervision of a solicitor in a non-SRA regulated entity. Any work-based experience that allowed a candidate to develop the competences in the Statement of Solicitor Competence could count. Periods of experience acquired under a formal training contract, or through working in a student law clinic, as an apprentice or a paralegal, or through a placement as part of a sandwich degree could all contribute to this requirement.

107. The emphasis would be on developing the broad range of skills needed for safe practice as a solicitor. We would no longer specify that work experience should include experience of at least three areas of practice, including contentious and non-contentious. Instead we would test candidates' ability to transfer skills through the requirement for them to demonstrate their skills in two different practice contexts in SQE stage 2.

108. Our research shows that shorter placements of a few months or weeks tend to be too short and too constrained to allow for much more than informing career choice or recruitment decisions. We also want to avoid a situation where trainees undertake 12 different month-long workplace experience positions. We do not believe candidates would be likely to develop the necessary skills to pass SQE stage 2 through such short placements. They would, for example, be unable to progress transactions over time, or see the consequences of decisions they had taken earlier.

109. This suggests we should include a requirement for a minimum time period or for a maximum number of placements to make sure candidates have had sufficient opportunity to develop legal skills. We could require work experience to be at least three months long, or, alternatively, we could require it to comprise no more than four separate placements in different employers.

110. We would welcome your views on which of these options, ie a minimum time period or maximum number of placements, you think would be the most appropriate.

### **When should work-based learning take place?**

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111. We believe that candidates would need substantial work experience in order to pass SQE stage 2. The workplace experience could be undertaken at any point ahead of qualification. But we expect and would issue guidance stating that the bulk of it should be completed before sitting SQE stage 2 to give candidates the best possible chance of passing. Thus completion of work-based learning would be required by the point of admission, not as a condition of eligibility to sit SQE stage 2.

### **How is this more flexible than the current system?**

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112. Obtaining a training contract is currently one of the main barriers to qualification as a solicitor. We would recognise a greater variety of experience, obtained across a number of different workplaces. We expect many law firms will wish to continue to offer formal training contracts. But including a wider range of experience would allow candidates to seek innovative ways of gaining workplace experience. It might also give more flexibility to firms who might wish to offer a training experience, but feel unable to do so under the current system.

### **What records must candidates keep?**

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113. We would require candidates to maintain a record of their qualifying legal work experience. We would issue guidance stating that they should record what competences they have acquired during that period, and how they have done so. We would provide guidance on recording learning and a suggested template for doing so. We would retain the right to call for this record where a regulatory concern was identified.

114. As stated, we would not require firms offering workplace learning to make any judgments about whether a candidate had actually acquired the competences required to be a solicitor. Instead, we would test the candidate's competence through the SQE stage 2. We would require the authorised entity, or supervising solicitor, to sign a declaration that a

candidate had been given the opportunity to develop some or all of the competences in the Statement of Solicitor Competence through the required period of workplace learning.

115. The entities we regulate have obligations in relation to the competence of their staff. The new draft Code of Conduct for Firms<sup>xxii</sup> recently consulted upon as part of our Looking to the Future programme contains the following requirement for firms:

*"You ensure that your managers and employees are competent to carry out their role, and keep their professional knowledge and skills up to date."*

116. So, employers would of course need to make sure their trainees or paralegals are competent in those roles even though candidates' competence to practise as a solicitor would be tested through SQE stage 2.

### Lawyers from other jurisdictions

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117. We also propose that lawyers seeking to qualify from other jurisdictions outside England and Wales should be required to have equivalent-length work experience in legal practice to develop the competences in the Statement of Solicitor Competence. This could be gained either pre or post qualification and could be in their home jurisdiction. It need not be in English or Welsh law. The rationale for this is that we can test overseas lawyers' knowledge of English law, and their ability to apply it in practice, through SQE stages 1 and 2. Their experience of practice in a regulated, overseas jurisdiction should, however, provide the opportunity for them to develop the practical legal skills that we would assess through the SQE.

118. This is a departure from our current position for QLTS candidates, where there is no specific work experience requirement, although in practice most candidates would have worked in a legal environment before applying to us for admission. Our proposal would ensure parity with the domestic route to qualification.

**Consultation question 2a: To what extent do you agree or disagree with our proposals for qualifying legal work experience?**

**Consultation question 2b: What length of time do you think would be the most appropriate minimum requirement for workplace experience?**

- No minimum.
- Six months.
- One year.
- 18 months.
- Two years.
- Longer than two years.
- Flexible depending on the candidate's readiness.
- Other, please specify.

## Proposal three: Regulating preparatory training for the SQE

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119. We continue to view robust and effective training as an essential part of becoming a solicitor.

120. We do not believe, however, that specifying particular courses or qualifications and quality-assuring teaching through an Ofsted-style regime of inspections and visits can be the best way to encourage high quality teaching. This is because judgments can lack objectivity and course specification can stifle training providers' ability to innovate and offer flexible, cost-effective ways to prepare candidates.

121. There are other, better ways to improve quality, for example through using market information and open data to create competitive pressures from students and recruiters for high quality legal education and training.

122. We therefore propose compiling and publishing data about training providers' performance on the SQE. An open approach to data will create a more transparent and accountable market in which candidates can make judgments about value for money, pass rates and whether to purchase the services of particular providers.

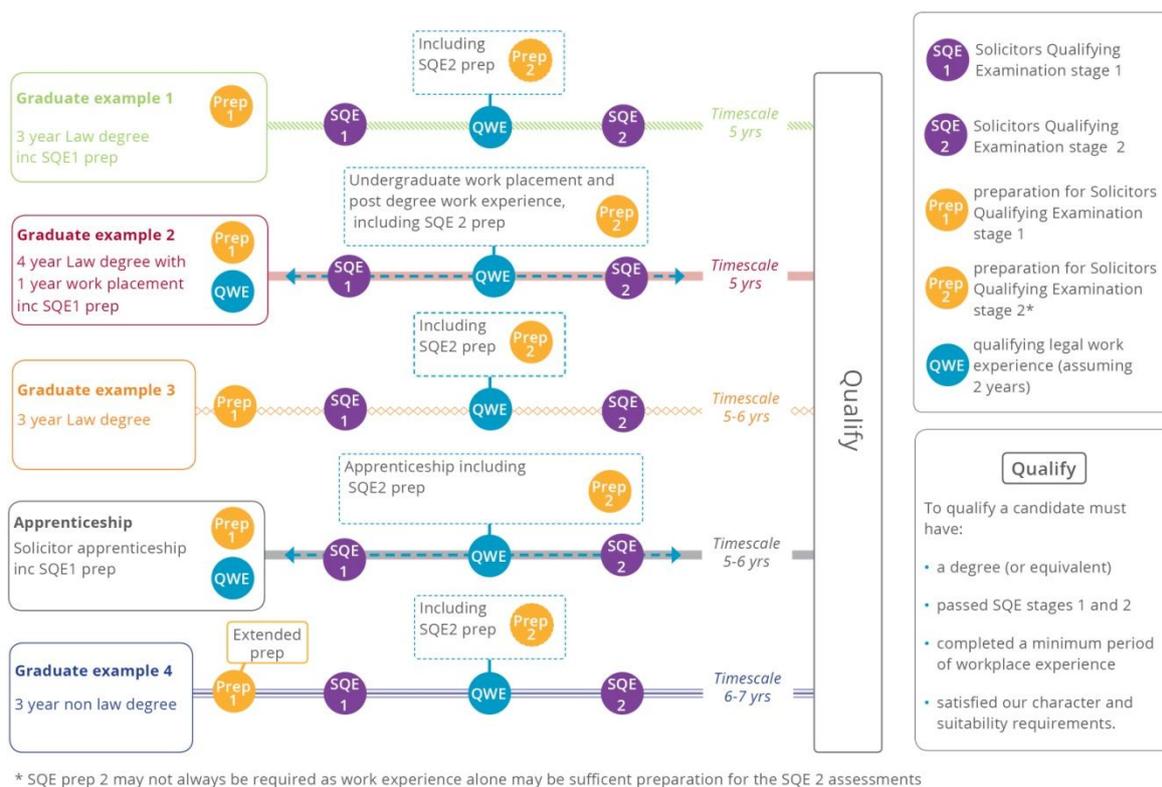
### **What information will be available to trainees?**

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123. We have set out in paragraphs 93 and 94 the data that we would propose publishing and/or reporting on. It would include candidate performance by reference to prior education and SQE training. We would also allow education and training providers to publish and analyse the data themselves and provide information to contextualise their performance.

124. We recognise that candidates will require information about how to qualify and the range of options which may become available. We believe a number of common routes to qualification are likely to emerge about which we can provide information. Initially, we will publish 'exemplar pathways' demonstrating some, but by no means all, of the ways in which candidates could choose to qualify. This might look like the diagram below.

A possible new approach to solicitor qualification



125. The exemplar pathways would be part of a toolkit of resources for candidates to help them navigate their pathway to qualification, understand the choices they have and select the options which work best for them. As well as the exemplar pathways, the toolkit might include case studies, guidance about what good training looks like and questions to ask of prospective training providers.

### Consultation question 3: To what extent do you agree or disagree with our proposals for the regulation of preparatory training for the SQE?

## Proposal four: Qualification requirements

126. The SQE and workplace experience are the main requirements for qualification as a solicitor. But they are only part of the requirements we would specify, to ensure individuals are safe to practise. To qualify as a solicitor, we would continue to specify a pathway to qualification which all solicitors must follow. We propose that all candidates would need to:

- have a degree (or equivalent)
- have completed a minimum period of workplace experience
- have passed the SQE stage 1 and stage 2
- have satisfied our character and suitability requirements.

127. In forming our position, we took into account feedback from the first consultation, in which some stakeholders considered that solicitors ought to remain a profession of graduates. We believe that, regardless of our requirements, it is likely that most solicitors

would continue to be graduates. We also recognise that the skills which students develop by studying for a degree (eg analysis, the ability to manage one's own learning, conceptual understanding) are valuable skills for the practice of law, and are likely to hold students in good stead in their future legal careers. We also looked at the requirements for legal professions globally, and found that the majority of countries require a degree in law in order to qualify as a lawyer.

128. We are therefore proposing to require new solicitors to have a degree or a qualification equivalent to a bachelor's or master's degree (such as a level 6 or 7 apprenticeship or a level 6 or 7 professional qualification), or to have equivalent prior attainment. This would, for example, enable Legal Executives to continue to qualify as a solicitor, and would recognise the valuable contribution that non-graduates have historically made to the profession. We believe such a requirement would recognise the benefits a degree (or equivalent) qualification confers, would help establish the credibility of the new qualification, and would help underpin the high reputation of all solicitors of England and Wales and the global City law firms in the international market. We are discussing the detail of the proposed SQE qualification with regulators in key international jurisdictions.

129. In our first consultation, we had considered explicitly tying the SQE to academic level descriptors. While we can see merit in pinning the new assessment to a well-recognised academic qualification framework, we remain of the view that it would reinforce the misconception that the SQE is a test of the academic curriculum, rather than a test of professional competence. We intend to demonstrate the rigour of the examination by publishing our Assessment Specification (setting out what skills and competences are tested, and how), and we do not propose to peg the SQE to a particular academic standard.

130. We do not propose any changes to the character and suitability requirements as part of this consultation. Those seeking to become a solicitor would still need to demonstrate they are fit to enter the profession and uphold the moral and ethical standards consumers expect of them. In the first part of our consultation on the SRA Handbook we asked for initial views on whether the fit and proper test is currently working, and we may consult on changes to the test in the second part of our consultation if there is sufficient feedback and evidence to suggest it is not.

**Consultation question 4: To what extent do you agree or disagree that our proposed model is a suitable test of the requirements needed to become a solicitor?**

## Proposal five: Exemptions

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131. Our proposal in the first consultation was that anyone wishing to become a solicitor would need to pass the SQE (including overseas lawyers and apprentices) and that we would offer no exemptions except for those required by EU legislation. However, we recognised that further guidance might be necessary for other regulated legal professions within the United Kingdom.

132. The majority of those who responded to the consultation did not agree with our proposals about exemptions. Many respondents, especially universities, wanted exemptions from SQE stage 1 for law graduates. Others thought it unfair if EU candidates had exemptions when candidates from within England and Wales did not.

133. The landscape has changed since our first consultation and, in light of Britain's anticipated exit from the EU, it is unclear what the regulatory requirements will be for EU nationals working in the British legal professions. The exemptions offered to EU nationals will depend on the agreements reached on access to the single market but we will ensure that our qualification structure complies with the legal requirements eventually implemented.

134. Our central position remains that the overwhelming majority of those becoming solicitors in the future should have passed both stages 1 and 2 of the SQE. Stage 1 is assessing the candidates' ability to use their legal knowledge in practical contexts through assessments which integrate substantive and procedural law. It is not assessing what is assessed in an academic law degree and it is not appropriate to give exemptions to QLD or GDL students.

135. We will hold separate discussions with other relevant legal regulators about what (if any) arrangements for the automatic recognition of title and qualifications might be appropriate where equivalence with the SQE, or aspects of it, can be demonstrated.

**Consultation question 5: To what extent do you agree or disagree that we should offer any exemptions from the SQE stage 1 or 2?**

## Proposal six: Timescales and transitional arrangements

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136. Our proposal is that the new regulations should come into effect in August 2019.

137. We recognise that whenever and however we change our qualification regulations, some candidates will be part way through the existing routes to qualification when the new regulations come into effect.

138. We have looked carefully at transitional arrangements for the new framework. We have come to the view that we should introduce the SQE on the following basis:

- We would require all overseas candidates and apprentices to take the SQE from September 2019.
- Domestic candidates who have started a QLD, CPE, LPC or PRT before September 2019 would be able to choose whether or not to qualify under the old route (subject to availability) or to take the SQE. If they take the SQE, they must meet all our requirements (including holding a degree or equivalent, and undertaking the requisite workplace experience). The long-stop date for qualification under the old route to qualification would be 2024.
- Individuals who start a law degree or post-graduate conversion course in September 2019 or after may no longer qualify through the existing route and must take the SQE.
- QLTS candidates who had successfully completed QLTS 1 could choose to do either QLTS 2 (subject to availability) or the SQE stage 2.

139. We believe that this approach is fair to candidates who are part way through qualification when the SQE is introduced. It creates a market-led approach to implementation in which these candidates can choose the best route for their particular circumstances. It will also allow the education and training market time to adapt to the new landscape.

140. We would undertake a post-implementation evaluation of the SQE. This could take the form of a cohort study to look at consistency, effectiveness and equivalence of particular routes to qualification, attainment by protected characteristic and socio-economic background. We would welcome views and suggestions about the focus of the evaluation.

**Consultation question 6: To what extent do you agree or disagree with our proposed transitional arrangements?**

## Equality diversity and inclusivity implications

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141. While we recognise that the SQE cannot solve wider issues of social justice, we believe that our proposals could promote fairer access. We also believe that a competitive, diverse profession helps to enhance professional standards.

142. We have carefully considered whether our proposals could have unintended consequences which impact negatively on particular groups. Before publishing the first consultation, we carried out an initial EDI assessment of the SQE, which explored issues raised during the SQE testing period. We also commissioned a baseline study of attainment within the existing qualification framework, which could be used to measure the impact of the SQE in the future. The main areas of concern raised were whether the assessment design, methods and arrangements proposed for the SQE would discriminate against particular groups, and whether the introduction of the SQE would increase the cost of qualification.

### Considerations raised in the first consultation

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143. We asked respondents whether they foresaw any EDI issues arising from the proposals in the first consultation. Some of the issues raised in responses were:

- Introducing the SQE might create an additional cost, increasing the cost of qualification.
- The assessment methods in the SQE, in particular multiple choice questions, could be discriminatory.
- If there were no limits placed on the number of attempts permitted to re-sit the SQE, this could favour more affluent or employer-funded candidates (who would be able to afford multiple attempts).
- There could be less clarity on the routes to qualification, which might favour candidates who have access to informal networks and discourage those from disadvantaged backgrounds.
- The proposals might create a two-tier system, whereby employers favoured trainees following the traditional qualification route.
- If SQE stage 2 was taken at the end of the workplace experience, it could deter smaller firms, from recruiting trainee solicitors, which would reduce the opportunity to train outside of large or City firms who are less likely to recruit a diverse workforce.

144. Some respondents thought the SQE would have neither positive, nor negative impacts because the workplace experience requirement would continue to be a barrier to qualification.

145. Other respondents thought that the introduction of the SQE might have positive impacts as the centralised assessment would be fairer and more transparent; and making workplace experience more flexible could reduce barriers.

### How we are addressing the concerns

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146. We will do a further piece of research on impact during the consultation period and will publish a final Equality Impact Assessment, which will take into account comments received from the consultation itself, at the end of the consultation when we publish our own response.

147. Our original SQE design was tested by independent experts who concluded that there was nothing in the proposed structure or assessment methods for the SQE that suggested it was predisposed to cause bias in the assessment of candidates with protected characteristics, and that there was nothing inherent in the assessment methods proposed that would prevent reasonable adjustments being made for candidates with disabilities.

148. We have looked again at whether the use of computer-based objective testing has the potential to discriminate against particular candidate groups and have reviewed research into candidate performance on other high-stakes professional assessments. We have not found evidence to suggest that the use of this kind of testing is more likely than any other form of assessment to advantage or disadvantage particular groups.

149. While the SQE cannot by itself solve wider issues of social justice and fair access to education and the professions, it should not make the current situation worse. In fact, we believe that the proposed framework could provide significant benefits. For example:

- At a time when degrees cost £9,000 per annum – and rising – we can no longer justify a requirement for candidates to take the LPC at an additional cost of up to £15,000.
- Through not specifying particular SQE preparatory courses, there would no longer be a regulatory requirement to take the LPC or Professional Skills Course (PSC), removing an average of £12,500 from the cost of qualification. We do not expect that the cost of the SQE and preparatory training would be greater or even equivalent to this sum.
- We have limited to three the number of attempts a candidate can take to pass the SQE, and candidates will not be able to resit in order to improve a pass mark. As stated, unlimited resits could favour more affluent candidates who have the resources to continue sitting the exam to improve their pass marks. We will state the number of attempts on their transcript.
- Although we will not be specifying particular preparation for the SQE, we will be providing a toolkit of resources, including exemplar pathways, to help guide students' choices about the options which are available.
- By not specifying training but publishing data on candidate performance on the SQE by provider, we aim to drive a more flexible and competitive training market.
- We propose to introduce greater flexibility in when and how candidates can gain their qualifying work experience, recognising experience gained outside of a traditional training contract.

**Consultation question 7: Do you foresee any positive or negative EDI impacts arising from our proposals?**

## How to respond

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This consultation is open from 3 October 2016 until 9 January 2017.

### How to respond

We will publish and attribute your response unless you request otherwise.

We encourage you to use our online consultation questionnaire to compose and submit your response.

### Online questionnaire

Our online consultation questionnaire is a convenient, flexible way to respond.

You can save a partial response online and complete it later.

To respond visit <https://forms.sra.org.uk/s3/sqe>.

### Alternative ways to respond

You can respond by email or post. For us to include your response in our analysis of ordinal data, please state your level of agreement with each proposal on a scale of 1 (strongly agree) to 5 (strongly disagree). Our online form makes this easy, and allows you to explain and qualify your answers.

If you choose to respond by email or letter, please include the title of the consultation and tell us who you are and on whose behalf you are responding.

Please email [consultation@sra.org.uk](mailto:consultation@sra.org.uk).

Post responses to:

Solicitors Regulation Authority  
Regulation and Education - Policy  
The Cube  
199 Wharfside Street  
Birmingham  
B1 1RN

## References

<sup>i</sup> [ComRes survey](#)

<sup>ii</sup> Exempting Law Degrees integrate the QLD and the LPC, usually over a period of 4 years. There are six exempting law degrees, at the Universities of Central Lancashire, Huddersfield, Northumbria, Nottingham Trent, South Wales and Westminster.

<sup>iii</sup> [LPC data monitoring report](#)

<sup>iv</sup> [TEF proposals to link teaching quality to rises in tuition fees](#)

<sup>v</sup> The SRA authorises approximately 5,130 law firms to offer a period of recognised training (PRT), however at any one time only about 2,500 have trainees undertaking their PRT.

<sup>vi</sup> [Ombudsman decision data](#)

<sup>vii</sup> [Legal Services Consumer Panel Tracker Survey 2014](#)

<sup>viii</sup> [Quality of legal services for asylum seekers](#)

<sup>ix</sup> [Legal Services Consumer Panel will writing report](#)

<sup>x</sup> Those that have centralised assessment are Canada - Ontario, France, Germany, Italy, India, New Zealand, Nigeria, Pakistan, Poland, Singapore, Spain, South Africa, United States - California, and United States - New York, with Hong Kong soon to launch.

<sup>xi</sup> Validity refers to the appropriateness, meaningfulness and usefulness of the inferences made from test scores. An assessment is valid if it measures what it claims to measure (AERA, APA, NCME. (1985). *Standards for educational and psychological testing*. Washington DC: American Psychological Association). So, an advocacy role play in a standardised, controlled setting is a more valid test of the ability to undertake advocacy than writing an essay about what good advocacy involves. Reliability refers to whether the assessment consistently produces the same results between successive sittings and different candidates and is free from errors of measurement.

<sup>xii</sup> But not all. Overseas candidates, for example, who are already qualified in their home jurisdiction, and apprentices, might well have work experience before they take either part of the SQE.

<sup>xiii</sup> [Statement of Solicitor Competence](#)

<sup>xiv</sup> [Statement of Legal Knowledge](#)

<sup>xv</sup> [Threshold Statement](#)

<sup>xvi</sup> Single Best Answer Questions give candidates several alternative answers from which they must choose the best answer. More than one answer may have elements that are correct, but one will be superior. Extended Matching Questions consist of lettered options followed by a list of numbered problems/questions. For each numbered problem/question, candidates select the one lettered option that most closely answers the question. Candidates can use the lettered options once, more than once, or not at all. Multiple Choice questions require the candidate to select the correct answer to a question from a list of options.

<sup>xvii</sup> Case, S.M. & Swanson, D.B. (2001). *Constructing Written Test Questions for the Basic and Clinical Sciences*, (3rd Ed). Philadelphia: National Board of Medical Examiners.

<sup>xviii</sup> [Article on Developing High-Quality Multiple-Choice Questions for Assessment in Legal Education](#)

<sup>xix</sup> The modified Angoff procedure is one of the most popular procedures for setting a pass mark for an examination used to license practitioners. The pass mark is set by a group of subject matter experts who develop a definition of a hypothetical 'minimally competent practitioner' (MCP). They are shown an item on the examination and asked to consider how many of a group of 100 MCPs are likely to answer that item (question) correctly. Initial ratings are discussed, and they are allowed to change their ratings, based on the discussion. This process is repeated for each item on the examination. The ratings are averaged across all items and all experts to determine the overall pass mark or cut score. Once the passing point is determined, a candidate's pass/fail performance is established independently of the group who sat the exam. Candidates are judged by comparing their performance to an absolute standard, not to other candidates.

<sup>xx</sup> [Threshold statement](#)

<sup>xxi</sup> Borderline Regression is a well-established method used to set the pass marks for clinical skills exams (Kramer, et al., 2003). In this approach candidates' total score is calculated for each of the skills assessments. Candidates are also rated on a global score for their overall performance. For example: 1=clear fail, 2=borderline, 3=clear pass, 4=very good pass, 5= excellent. The total score is then plotted against the global judgement score and a linear line of best fit is produced. The pass mark is derived from the point at which the best fit regression line crosses the borderline mark.

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Kramer, A., Muijtens, A., Düsman, H., Tan, L., & van der Vleuten, C. P. M. (2003). Comparison of a rational and an empirical standard setting procedure for an OSCE. Objective structured clinical examinations. *Medical Education*, 37, 132-139.

<sup>xxii</sup> [draft Code of Conduct for Firms](#)