

# SQE2 Pilot Assessment Specification

31 October 2019

## *SQE2 legal skills pilot overview*

### *Practice areas and underlying black letter law*

The practice areas tested in the SQE2 skills pilot are:

- Criminal Litigation (including advising clients at the police station)
- Dispute Resolution
- Property Practice
- Wills and Intestacy, Probate Administration and Practice
- Business organisations, rules and procedures.

Questions in these practice areas may draw on underlying black letter law in the Functioning Legal Knowledge (FLK) as follows:

- Criminal Litigation: Criminal liability
- Dispute Resolution: Contract law and tort
- Property Practice: Land law
- Wills and Intestacy, Probate Administration and Practice: Trusts
- Business organisations, rules and procedures: Contract law.

Questions on ethics will be pervasive throughout SQE2. Questions involving taxation may arise in Property Practice; Wills and Intestacy, Probate Administration and Practice; and Business organisations, rules and procedures.

Detail of the examinable content covered is given in the FLK (see Annex 2). Property Practice is under the headings freehold and leasehold real estate law and practice and core principles of planning law.

### *Assessments*

The assessments in the SQE2 legal skills pilot are:

- client interview
- attendance note/legal analysis (linked to the client interview)
- oral presentation/advocacy
- case and matter analysis
- legal research
- legal writing
- legal drafting

For the purposes of the pilot, candidates will complete these seven assessments twice (ie they will do a total of 14 assessments) as follows:

1. Seven assessments in a practice area chosen by the candidate (the “specialisation”). For the purposes of the pilot, candidates will be asked to choose between (1) business organisations rules, and procedures and (2) criminal litigation.
2. Seven assessments in practice contexts which range across the five practice areas above (the “common core”), ie there will be at least one assessment in each of the five practice contexts. Advocacy/oral presentation in the common core will always be in dispute resolution or criminal practice.

Annex 1 illustrates the blueprint for the SQE2 skills pilot, first for those taking the criminal specialisation and then for those taking the business specialisation. Please note that for the common core the context for any specific station will vary over time and therefore may not be as illustrated in any future deliveries but there will always be at least one assessment in each of the five practice contexts.

Further detail about each of these assessments is given below [\[#LegalSkills\]](#).

### *Permitted legal materials for the legal skills pilot*

The extent of legal materials provided for candidates will differ between assessments in the common core and those in the specialisation.

We will evaluate the operation of these two approaches in the pilot and our evaluation will inform the decision about how we provide legal materials in the live SQE assessment.

In the pilot, the approach will be as follows:

For the specialisations, candidates will be provided with legal materials that a day one solicitor would usually look up.

For the common core, candidates will be provided with legal materials covering the key issues in the scenario. Some underlying knowledge of basic principles will be assumed but a wider range of materials will be provided than will be provided for the specialisations.

For example, in a criminal litigation scenario, materials explaining mens rea and actus reus will not be provided in either the specialisation or the common core. The definition of offences may be provided to candidates in, for instance, a charge sheet. Where this is not the case the definition of more complex offences would be provided in both the common core and the specialisation. The definition of well known offences which a day one solicitor would deal with frequently, will be provided in the common core but not in the specialist area.

Any other materials, such as books and notes, cannot be brought into or used during the pilot assessments.

### *Marking for the legal skills pilot*

#### *Overview*

The assessment criteria against which candidates will be judged in each of the seven types of legal skills stations are provided on the following pages. Performance in each of these criteria will be assessed on a scale from A – F by trained assessors making global professional judgements related to the standard of competency of the assessment<sup>1</sup> [\[#n1\]](#) as follows:

A: Superior performance: well above the competency requirements of the assessment

B: Clearly satisfactory: clearly meets the competency requirements of the assessment

C: Marginal pass: on balance, just meets the competency requirements of the assessment

D: Marginal fail: on balance, just fails to meet the competency requirements of the assessment

E: Clearly unsatisfactory: clearly does not meet the competency requirements of the assessment

F: Poor performance: well below the competency requirements of the assessment.

This grading will then be converted into numerical marks such that A = 5 marks and F = 0 marks.

The marking criteria for each of the stations except interviewing have been divided into marks for skills and marks for application of law. Interviewing is assessed in terms of skills only. The quality of legal advice provided to the client as a result of the interview is assessed in the attendance note/legal analysis.

In arriving at a final mark for the candidate across all assessments, skills and application of law are weighted equally. This is to make sure that adequate weighting is given to the quality of the advice provided.

### *Application of law*

The assessment criteria for the SQE2 pilot refer to correct and comprehensive application of law. The following is a non-exhaustive list of what this may include:

- Identifying relevant legal principles
- Applying legal principles to factual issues, so as to produce a solution which best addresses a client's needs and reflects the client's commercial or personal circumstances
- Interpreting, evaluating and applying the results of research
- Ensuring that advice is informed by appropriate legal analysis and identifies the consequences of different options
- Drafting documents which are legally effective
- Applying understanding, critical thinking and analysis to solve problems
- Assessing information to identify key issues and risks
- Recognising inconsistencies and gaps in information
- Evaluating the quality and reliability of information
- Using multiple sources of information to make effective judgements
- Reaching reasoned decisions supported by relevant evidence.

### *Clear, precise, concise and acceptable language*

In the assessment criteria for the SQE2 pilot we refer to clear, precise, concise and acceptable written language. This may include:

- Using the most appropriate style of communication for the situation and recipient
- Using clear, succinct and accurate language and avoiding unnecessary technical terms where they are not appropriate to the recipient.

## *Assessments in the SQE2 legal skills pilot*

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## *1. Client Interviewing*

### *Overview*

Candidates will be given an email from a partner or a secretary stating who the client is and providing an indication of what the client has come to discuss. The email may, but will not necessarily, be accompanied by documents. The email may also indicate specific legal issues which candidates should have particular regard to in the interview and the subsequent attendance note/case analysis.

Candidates will have 10 minutes to consider the email and/or documents.

They will then have up to 25 minutes to conduct the interview with the client. The client may be, but will not necessarily be, somebody in vulnerable circumstances.

The client will be played by a trained actor who will assess the candidates on skills.

In the interview candidates should aim to win the client's trust and confidence and to make sure that the client wishes to instruct or continue to instruct their firm. They should try to obtain all the relevant information and as full an understanding as possible of the client's concerns. Candidates do not need to provide detailed advice at this stage. They can conduct the interview on the basis that they will be advising the client in detail at a later date. However, candidates do need to give enough preliminary advice and to address enough of the client's concerns to establish the client's trust and confidence.

### *Assessment objective*

Candidates can demonstrate they are able to conduct an interview with a client.

### *Assessment criteria*

Candidates' performance in the interview will be assessed against the following criteria:

#### *Skills*

- a. Establish and maintain an effective relationship with the client so as to build trust and confidence.
- b. Communicate and explain in a way that is suitable for the client to understand.
- c. Listen to the client and use questioning effectively to enable the client to tell the solicitor what is important to them.
- d. Conduct themselves in a professional manner and treat the client with courtesy, respect and politeness including respecting diversity where relevant.
- e. Demonstrate client-focus in their approach to the client and the issues (ie demonstrate an understanding of the problem from the client's point of view and what the client wants to achieve, not just from a legal perspective).

For further information on marking see marking for the legal skills pilot [#Marking].

Annex 4 sets out the Statement of Solicitor Competence (SoSC).

Annex 5 maps the competences assessed in each of the SQE2 pilot skills assessments against the SoSC.

## *2. Completion of attendance note/legal analysis*

## *Overview*

Candidates will have 25 minutes to write, by hand, an attendance note/legal analysis of the interview they have just completed.

All relevant information obtained during the interview should be recorded in the attendance note/legal analysis. Candidates should provide an analysis of any legal issues that arise in the matter and record their initial advice for the client. The attendance note/legal analysis should also identify the next steps to be taken by the solicitor and, where applicable, the client, as well as any ethical issues that arise and how they should be dealt with. If the email from the partner or secretary has asked the candidate to deal with any specific issues or questions, then advice on these issues should also be included.

## *Assessment objective*

Candidates can demonstrate they are able to produce an attendance note recording a client interview and initial legal analysis.

## *Assessment criteria*

Candidates will be assessed against the following criteria:

### *Skills*

- a. Obtain all relevant information.
- b. Identify appropriate next steps.
- c. Provide client-focussed advice (ie advice which demonstrates an understanding of the problem from the client's point of view and what the client wants to achieve, not just from a legal perspective).

### *Application of law*

- a. Give a correct analysis of the application of the law to the client's situation.
- b. Give a comprehensive analysis of the application of the law to the client's situation.
- c. Correctly identify any issues of ethical and professional conduct and exercise judgement to resolve them honestly and with integrity.

For further information on marking see marking for the legal skills pilot [#Marking].

Annex 4 sets out the SoSC.

Annex 5 maps the competences assessed in each of the SQE2 pilot skills assessments against the SoSC.

## *3. Advocacy/persuasive oral presentation*

### *Overview*

Candidates are given a case study on which they will conduct a piece of advocacy/make a persuasive oral presentation. An email asks the candidate to conduct the advocacy/make the presentation and tells them before whom this will be made. Where relevant, candidates are also given a file of documents. Candidates may be asked questions during the advocacy/oral presentation. They have 45 minutes to prepare for the advocacy/oral presentation.

Candidates will then have 15 minutes to make their presentation/submission to a decision maker who is present in the room. The decision maker will be played by a solicitor of England and Wales who will assess the candidate both on skills and application of law.

### *Assessment objective*

Candidates can demonstrate they are able to conduct a piece of advocacy/make a persuasive oral presentation to a judge or decision maker.

### *Assessment criteria*

Candidates will be assessed against the following criteria:

#### *Skills*

- a. Use language and behaviour appropriate to the context.
- b. Use a clear and logical structure for the presentation.
- c. Make a persuasive argument.
- d. Engage the audience appropriately.
- e. Include all key relevant facts.

### *Application of law*

- a. Apply the law correctly to the client's situation.
- b. Apply the law comprehensively to the client's situation.
- c. Correctly identify any issues of ethical and professional conduct and exercise judgement to resolve them honestly and with integrity.

For further information on marking see marking for the legal skills pilot [#Marking].

Annex 4 sets out the SoSC.

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## *4. Case and matter analysis*

### *Overview*

This is a computer-based assessment. Candidates will be given an electronic file of documents. Some of the documents or content may not be relevant. Candidates will be asked to produce a written report to a partner giving a legal analysis of the case including risks, issues, options and strategies including, where relevant, as part of a negotiation. There will always be an element of negotiation in the common core case and matter analysis assessments.

Candidates will have 60 minutes to complete this task.

### *Assessment objective*

Candidates can demonstrate they are able to produce a written report to a partner giving a legal analysis of the case and suggesting, as appropriate, options and strategies, including as part of a negotiation.

### *Assessment criteria*

Candidates will be assessed against the following criteria:

#### *Skills*

- a. Identify relevant facts.

- b. Suggest and advise on client focussed options, strategies or solutions.
- c. Use clear, precise, concise and acceptable language.

### *Application of law*

1. Apply the law correctly to the client's situation.
2. Apply the law comprehensively to the client's situation.
3. Correctly identify any issues of ethical and professional conduct and exercise judgement to resolve them honestly and with integrity.

For further information on marking see marking for the legal skills pilot [#Marking].

Annex 4 sets out the SoSC.

Annex 5 maps the competences assessed in each of the SQE2 pilot skills assessments against the SoSC.

## *5. Legal research*

### *Overview*

This is a computer-based assessment. Candidates will be required to investigate a problem for a client. They will be given an email from a partner asking the candidate to research an issue or issues, so that the partner can report back to the client. Candidates will have to produce a written note explaining their legal reasoning and the key sources they rely on, as well as the advice the partner should give the client. They will not need to produce a research trail.

Please note that while the subject matter of the research will be within the broad heading of the practice area in which the assessment is set, it may be outside the scope of the FLK, thus requiring research.

For the purposes of the pilot, candidates will be provided with sources for the legal research exercises. These may include both primary and secondary sources. Some of the sources provided may not be relevant.

Candidates will be given 60 minutes to complete the task.

### *Assessment objective*

Candidates can demonstrate they are able to conduct legal research from a variety of resources provided and produce a written report.

### *Assessment criteria*

Candidates will be assessed against the following criteria:

#### *Skills*

- a. Identify and use relevant sources and information.
- b. Suggest advice which is client focussed and addresses the client's problem.
- c. Use clear, precise, concise and acceptable language.

### *Application of law*

- a. Apply the law correctly.

- b. Apply the law comprehensively.
- c. Correctly identify any issues of ethical and professional conduct and exercise judgement to resolve them honestly and with integrity.

For further information on marking see marking for the legal skills pilot [#Marking].

Annex 4 sets out the SoSC.

Annex 5 maps the competences assessed in each of the SQE2 skills assessments against the SoSC.

## *6. Legal writing*

### *Overview*

This is a computer-based assessment. Candidates will be asked to write a letter or an email as the solicitor acting in a matter, which clearly and correctly sets out the law and addresses the recipient's concerns. They will be given an email from a partner explaining what is required. The email may or may not be accompanied by electronic documents. The following is a non-exhaustive list of the possible recipients: a client, a third party, the other side or a partner within their organisation.

Candidates will have 30 minutes to complete this exercise.

### *Assessment objective*

Candidates can demonstrate they are able to produce a letter or an email as the solicitor acting in a matter.

### *Assessment criteria*

Candidates will be assessed against the following criteria:

#### *Skills*

- a. Include relevant facts.
- b. Use a logical structure.
- c. Content is recipient focussed.
- d. Use clear, precise, concise and acceptable language which is appropriate to the recipient.

#### *Application of law*

- a. Apply and/or explain the law correctly.
- b. Apply and/or explain the law comprehensively.
- c. Correctly identify any issues of ethical and professional conduct and exercise judgement to resolve them honestly and with integrity.

For further information on marking see marking for the legal skills pilot [#Marking].

Annex 4 sets out the SoSC.

Annex 5 maps the competences assessed in each of the SQE2 skills assessments against the SoSC.

## *7. Legal drafting*

## *Overview*

This is a computer-based assessment. Candidates will be asked to draft a legal document or parts of a legal document. This may take the form of drafting from a precedent or amending a document already drafted but it may also involve drafting without either of these.

Candidates will be given 45 minutes to complete the task.

## *Assessment objective*

Candidates can demonstrate they are able to draft a legal document or parts of a legal document for a client.

## *Assessment criteria*

Candidates will be assessed against the following criteria:

### *Skills*

- a. Use clear, precise, concise and acceptable language.
- b. Structure the document appropriately and logically.

### *Application of Law*

- a. Draft a document which is legally correct (ie accurately gives effect to client instructions).
- b. Draft a document which is legally comprehensive (ie accurately gives effect to all the client's instructions).
- c. Correctly identify any issues of ethical and professional conduct and exercise judgement to resolve them honestly and with integrity.

For further information on marking see marking for the legal skills pilot [#Marking].

Annex 4 sets out the SoSC.

Annex 5 maps the competences assessed in each of the SQE2 skills assessments against the SoSC.

## *The single best answer multiple choice test*

The pilot also includes a test of the application of the FLK comprising single best answer multiple choice questions. This test will provide data to help inform and extend the analysis to be carried out following the SQE2 pilot.

Using single best answer multiple choice questions in this pilot is for the purpose of enriching the pilot data for analysis. The proposed design of the actual SQE2 assessments does not include single best answer multiple choice questions tests.

*Candidates will need to answer 120 single best answer multiple choice questions over two days, as follows:*

### *Candidates taking the business specialisation*

These candidates will take the following multiple choice assessments:

- 10 December: 60 single best answer multiple choice questions sampling from all areas of the Functioning Legal Knowledge in Annex 2.
- 11 December: 60 single best answer multiple choice questions sampling from business

organisations, rules and procedures, taxation in the context of business; money laundering and financial services; contract law and related questions on ethics, as set out in Annex 2

### *Candidates taking the criminal specialisation*

These candidates will take the following multiple choice assessments:

- 10 December: 60 single best answer multiple choice questions sampling from all areas of the FLK set out in Annex 2.
- 11 December: 60 single best answer multiple choice questions sampling from core principles of criminal liability, advising clients, including vulnerable clients, about the procedure and processes at the police station, criminal litigation and related questions on ethics as set out in Annex 2

These single best answer multiple choice questions test the candidates' ability to apply core legal principles and rules appropriately and effectively at the level of a newly qualified solicitor in practice to realistic client-based and ethical problems and situations.

Each of the questions on the single best answer multiple choice test is followed by five possible answers. Candidates should choose the best answer from the stated alternatives. They should mark only one answer for each question as multiple answers will not be counted.

The single best answer multiple choice assessments will be closed book. The questions in the assessments are designed to test the application of fundamental legal principles which can be expected of a newly qualified solicitor of England and Wales without reference to books and notes. They are not designed to test matters of detail which a newly qualified solicitor would be expected to look up.

## **Annexes**

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### *Annex 1 – SQE2 pilot blueprints*

#### *SQE2 pilot blueprint-Criminal Specialisation*

<b>SQE2 pilot blueprint</b>		<b>Context</b>				
		<b>1 – Criminal Litigation: Criminal liability</b>	<b>2 – Dispute Resolution: Contract and tort</b>	<b>3 – Property: Land Law</b>	<b>4 – Wills &amp; Intestacy, Probate: Trusts</b>	<b>5 – Business: Contract</b>
<b>Skills</b>	<b>1 – Client Interviewing</b>	+		*		
	<b>2 – Completion of Attendance note/Case</b>	+		*		

	<b>Analysis</b>					
	<b>3 – Advocacy/oral presentation</b>	<b>+</b>	<b>*</b>			
	<b>4 – Case and matter analysis</b>	<b>+</b>			<b>*</b>	
	<b>5 – Legal Research</b>	<b>+</b>	<b>*</b>			
	<b>6 – Legal Writing</b>	<b>+*</b>				
	<b>7 – Legal Drafting</b>	<b>+</b>				<b>*</b>
<b>*</b>	<b>Core</b>					
<b>+</b>	<b>Specialisation</b>					
	<b>No station</b>					

*SQE2 pilot blueprint-Business Specialisation*

<b>SQE2 pilot blueprint (Business specialisation)</b>		<b>Context</b>				
		<b>1 – Criminal Litigation: Criminal liability</b>	<b>2 – Dispute resolution: Contract and tort</b>	<b>3 – Property: Land Law</b>	<b>4 – Wills &amp; intestacy, probate: Trusts</b>	<b>5 – Business: Contract</b>
<b>Skills</b>	<b>1 – Client Interviewing</b>			<b>*</b>		<b>+</b>

	<b>2 – Completion of Attendance note/Case Analysis</b>			*		+
	<b>3 – Advocacy/oral presentation</b>		*			+
	<b>4 – Case and matter analysis</b>				*	+
	<b>5 – Legal Research</b>		*			+
	<b>6 – Legal Writing</b>	*				+
	<b>7 – Legal Drafting</b>					*+
*	Core					
+	Specialisation					
	No station					

## *Annex 2 – Functioning Legal Knowledge for SQE2*

### *Core principles of criminal liability*

The core principles of criminal liability relating to the specified criminal offences listed below:

Specified criminal offences:

- offences against the person:
  - assault and battery
  - s. 47 Offences Against the Person Act 1861
  - s. 20 Offences Against the Person Act 1861

- s. 18 Offences Against the Person Act 1861
- theft offences:
  - s. 1 Theft Act 1968
  - s. 8 Theft Act 1968
  - s. 9 Theft Act 1968
  - s. 10 Theft Act 1968
- criminal damage:
  - simple criminal damage
  - aggravated criminal damage
  - arson
- homicide:
  - murder
  - voluntary manslaughter
  - involuntary manslaughter (unlawful act manslaughter, manslaughter by gross negligence)
- fraud:
  - by false representation
  - by abuse of position
  - by failing to disclose.

Definition of the offence:

- actus reus
- mens rea.

General defences:

- intoxication
- self-defence/defence of another.

Partial defences:

- loss of control
- diminished responsibility.

Parties:

- principal offender
- accomplices
- joint enterprise.

Inchoate offences:

- Attempt to commit an offence.

### *Advising clients, including vulnerable clients, about the procedure and processes at the police station*

Rights of a suspect being detained by the police for questioning:

- right to legal advice
- right to have someone informed of arrest
- reviews and detention time limits under PACE 1984, Code C.

Identification procedures:

- when an identification procedure must be held
- different types of identification procedure
- procedure for carrying out an identification procedure Police and Criminal Evidence Act (PACE) 1984, Code D.

Advising a client, including vulnerable clients, whether to answer police questions:

- right to silence
- adverse inferences.

Procedure for interviewing a suspect under PACE 1984:

- role and appropriate conduct by defence legal representative/ solicitor including representation of vulnerable client
- role of appropriate adult and who can be an appropriate adult.

### *The procedures and processes involved in criminal litigation*

Bail applications:

- the right to bail and exceptions
- conditional bail
- procedure for applying for bail
- further applications for bail
- appeals against decisions on bail
- absconding and breaches of bail.

First hearings before the magistrates' court:

- classification of offences
- applying for a representation order
- procedural overview – what will happen at the hearing
- the role of the defence solicitor at the hearing.

Plea before Venue:

- procedure on defendant entering plea
- advising the client on trial venue.

Allocation of business between magistrates' court and Crown Court:

- procedure ss. 19–20 and s. 22A Magistrates' Courts Act 1980
- sending without allocation s. 50A Crime and Disorder Act 1998.

Case management and pre-trial hearings:

- Magistrates' court case management directions
- Plea and Trial Preparation Hearing
- disclosure – prosecution, defence and unused material.

Principles and procedures to admit and exclude evidence:

- burden and standard of proof
- visual identification evidence and Turnbull guidance
- inferences from silence ss. 34, 35, 36, 37, 38 Criminal Justice and Public Order Act 1994
- hearsay evidence:
  - definition
  - grounds for admitting hearsay evidence
- confession evidence:
  - definition
  - admissibility
  - challenging admissibility ss. 76 and 78 PACE 1984
- character evidence:
  - definition of bad character
  - the 7 gateways s. 101(1) Criminal Justice Act 2003
  - procedure for admitting bad character evidence
  - court's powers to exclude bad character evidence
- exclusion of evidence:
  - scope and application of s. 78 PACE and the right to a fair trial.

Trial procedure in magistrates' court and Crown Court:

- burden and standard of proof
- stages of a criminal trial, including submission of no case to answer
- modes of address and court room etiquette
- difference between leading and non-leading questions
- competence and compellability

- special measures
- solicitor's duty to the court.

#### Sentencing:

- role of sentencing guidelines
- determining seriousness (aggravating and mitigating facts)
- concurrent and consecutive sentences
- mitigation
- types of sentence:
  - custodial sentences
  - suspended sentences
  - community orders
- Newton hearings.

#### Appeals procedure:

- appeals from the magistrates' court:
  - procedure for appeal against conviction and/or sentence
  - powers of the Crown Court
  - appeal to the High Court by way of case stated
- appeals from the Crown Court:
  - grounds of appeal
  - procedure for making the appeal
  - powers of the Court of Appeal.

#### Youth court procedure:

- jurisdiction and grave crimes
- allocation
  - youths jointly charged with adult
- sentencing:
  - role of the Sentencing Children and Young People – definitive guidelines
  - referral orders
  - detention and training orders
  - youth rehabilitation orders.

### *The principles, procedures and processes involved in dispute resolution*

#### Different options for dispute resolution:

- The characteristics of arbitration, mediation and litigation which make them an appropriate

mechanism to resolve a dispute.

Resolving a dispute through a civil claim:

- preliminary considerations: limitation, pre-action protocols:
- parties and causes of action
- calculating limitation periods for claims in contract and tort
- Practice Direction – Pre-action conduct
- principles and purpose of pre-action protocols governing particular claims and consequences for failure to follow their terms
- applicable law: mechanisms to determine which country's laws apply to a contractual or tortious claim issued in the courts of England and Wales
- jurisdiction: mechanisms to determine jurisdiction over an international contractual or tortious claim.

Where to start proceedings:

- allocation of business between the High Court and the County Court
- jurisdiction of the specialist courts.

Issuing and serving proceedings:

- issuing a claim form
- adding, removing or substituting parties
- service of a claim form within the jurisdiction
- procedure for service of a claim form outside the jurisdiction (with or without the court's permission) and mechanisms for effecting valid service in another jurisdiction
- deemed dates of service and time limits for serving proceedings
- service by an alternative method.

Responding to a claim:

- admitting the claim
- acknowledging service and filing a defence and/or counterclaim
- disputing the court's jurisdiction
- entering and setting aside judgment in default
- discontinuance and settlement
- time limits for responding to a claim.

Statements of case:

- purpose, structure and content of a claim form, particulars of claim, or defence relating to a claim in contract or tort
- purpose, structure and content of a reply, Part 20 claim, or defence to Part 20 claim
- requests for further information about statements of case

- amendments.

#### Interim applications:

- procedure for making an application
- purpose, procedure and evidence required for particular applications:
  - summary judgment
  - interim payments
  - interim injunctions.

#### Case management:

- the overriding objective
- track allocation
- case management directions for cases proceeding on the fast or multi-tracks
- non-compliance with orders, sanctions and relief
- costs and case management conferences.

#### Evidence:

- relevance, hearsay and admissibility
- the burden and standard of proof
- expert evidence -
  - opinion evidence
  - duties of experts
  - single joint experts
  - discussion between experts
- witness evidence -
  - witness statements
  - affidavits.

#### Disclosure and inspection:

- standard disclosure
- orders for disclosure
- specific disclosure
- pre-action and non-party disclosure
- electronic disclosure
- privilege and without prejudice communications
- waiver of privilege.

#### Trial:

- summoning witnesses
- preparations for trial -
  - purpose of pre-trial checklists and hearings
  - purpose of trial bundles.
- trial procedure
- the nature and effect of judgment.

#### Costs:

- costs management and budgeting
- inter-partes costs orders (interim and final)
- non-party costs
- qualified one-way costs shifting
- Part 36 and other offers
- security for costs
- fixed and assessed costs.

#### Appeals:

- permission
- destination of appeals
- grounds for appeals.

#### Enforcement of money judgments:

- oral examination
- methods of enforcement
- procedure and mechanisms for effecting valid enforcement in another jurisdiction.

### *Core principles of contract law*

#### Formation:

- offer and acceptance
- consideration
- intention to create legal relations
- certainty
- capacity.

#### Parties:

- privity of contract
- rights of third parties.

#### Contract terms:

- express terms
- incorporation of terms
- terms implied by common law and statute
- exemption clauses
- the interpretation of contract terms (conditions, warranties and innominate terms)
- variation.

Vitiating factors:

- misrepresentation
- mistake
- unfair contract terms
- duress and undue influence
- illegality.

Termination:

- expiry or other specified event
- breach
- frustration
- basic principles of restitution and unjust enrichment in the context of termination of contract.

Remedies:

- damages
- liquidated sums and penalties
- specific performance
- injunctions
- duty to mitigate
- indemnities
- guarantees.

Causation and remoteness

### *Core principles of tort*

Negligence:

- duty of care (standard (general and professional)) and breach
- causation (single and multiple)
- remoteness and loss
- principles of remedies for personal injury and death claims
- claims for pure economic loss arising from either a negligent act or misstatement

- claims for psychiatric harm
- employers' primary liability (operation and effect of the common law principles).

Defences:

- consent
- contributory negligence
- illegality
- necessity.

Principles of vicarious liability

Occupiers' Liability:

- legal requirements for a claim under the Occupiers' Liability Act 1957 (in relation to visitors) and the Occupiers' Liability Act 1984 (in relation to non-visitors)
- defences
- exclusion of liability.

Product liability:

- principles in negligence
- principles of the Consumer Protection Act 1987.

Nuisance:

- public and private nuisance
- the rule in Rylands v Fletcher
- remedies (damages and injunctions) and defences.

### *Core knowledge areas of freehold real estate law and practice*

Investigation of a registered and unregistered freehold title:

- key elements and structure of freehold property transactions
- process of analysing Land Registry official copy entries
- process of analysing an epitome of title and deducing ownership
- issues that could arise from an investigation of title and further action required
- purpose and process of reporting to the client.

Pre-contract searches and enquiries:

- range and purpose of making searches and raising enquiries
- who would make the searches and raise enquiries
- results of searches and enquiries.

Law Society Conveyancing Protocol

#### Finance:

- sources of finance for a property transaction
- types of mortgage.

#### Acting for a lender:

- lender's requirements
- purpose of a certificate of title.

#### Preparation for and exchange of contracts:

- key conditions contained in the:
  - Standard Conditions of Sale
  - Standard Commercial Property Conditions.
- purpose of, and matters covered by, special conditions
- methods of holding a deposit:
  - stakeholder
  - agent
- insurance and risk
- basics of VAT in a contract
- timing for issuing certificate of title to a lender
- the practice, method and authority to exchange
- consequences of exchange.

#### Pre-completion:

- form of transfer deed and formalities for execution
- pre-completion searches
- pre-completion steps.

#### Completion and post-completion:

- methods and effect of completion
- post-completion steps.

#### Remedies for delayed completion:

- common law damages
- contractual compensation
- notice to complete
- rescission.

*Core knowledge areas of leasehold real estate law and practice*

Structure and content of a lease:

- repair
- insurance
- alterations
- user and planning
- rent and rent review
- alienation
- options for the term of a lease
- Code for Leasing Business Premises.

Procedural steps for the grant of a lease or underlease:

- drafting the lease
- purpose of an agreement for lease
- deduction of title
- pre-contract enquiries and searches
- pre-completion formalities
- completion and post-completion steps.

Procedural steps for the assignment of a lease:

- deduction of title
- pre-contract enquiries and searches
- landlord's consent
- deed of assignment and covenants for title
- pre-completion formalities
- authorised guarantee agreement
- completion and post-completion steps.

Licence to assign and licence to underlet:

- purpose of and who prepares the draft
- privity of contract and how the licence deals with this
- key provisions in the licence.

Leasehold covenants:

- liability on covenants in leases –
  - leases granted before 1 January 1996
  - leases granted on or after 1 January 1996

Remedies for breach of a leasehold covenant:

- action in debt
- forfeiture
- Commercial Rent Arrears Recovery
- pursue guarantors and/or rent deposit
- specific performance
- damages
- self-help/Jervis v Harris clause.

Termination of a lease:

- effluxion of time
- notice to quit
- surrender
- merger.

Security of tenure under a business lease:

- Landlord and Tenant Act 1954 (Part II) –
  - application of 1954 Act
  - renewal lease by the tenant
  - termination by the landlord
  - landlord's grounds of opposition
  - terms of new lease
  - availability of compensation.

### *Core principles of planning law*

Statutory definition of "Development"

Matters that do not constitute "Development"

Matters that do not require express planning permission

Building regulation control

Enforcement: time limits and the range of local planning authority's enforcement powers

### *Taxation – property*

Stamp Duty Land Tax and Land Transaction Tax:

- basis of charge in both England and Wales for:
  - residential property
  - non-residential freehold property.

Value Added Tax:

- basis of charge:

- what constitutes a taxable supply
- differences between standard, exempt and zero-rated supplies
- reasons why a client would make an option to tax and the effect that has.

#### Capital Gains Tax:

- basis of charge
- principal private dwelling-house exemption.

### *Core principles of land law*

#### Nature of Land:

- distinction between real property and personal property
- how to acquire and transfer legal and equitable estates
- how to acquire and dispose of legal and equitable interests in land
- methods to protect and enforce third party interests
- different ways in which land can be held
- legal formalities required to create and transfer interests and estates in land.

#### Title to Land:

- registration of title to land:
  - estates that can be substantively registered
  - how to protect interests
  - interests that override registration and interests that need to be protected on the register
- core principles of unregistered title to land:
  - role of title deeds
  - Land Charges
  - continuing role of doctrine of notice.

#### Co-ownership and Trusts:

- differences between joint tenants and tenants in common in law and in equity
- rule of survivorship
- severance of joint tenancies
- solving disagreements between co-owners by reference to sections 14 and 15 of Trusts of Land & Appointment of Trustees Act 1996.

#### Proprietary Rights:

- essential characteristics of easements
- methods for creation of easements
- rules for the passing of the benefit and burden of freehold covenants

- mortgages, including enforceability of terms, priority of mortgages, lender's powers and duties, and protection of mortgagors and other third parties with an interest in the land.

Leases:

- relationship between landlord and tenant in a lease
- essential characteristics of a lease including the difference between a lease and a licence
- privity of contract and privity of estate
- rules for the passing of the benefit and burden of leasehold covenants and enforceability
- purpose and effect of an alienation covenant
- remedies for breach of leasehold covenants (including forfeiture)
- different ways a lease can be terminated.

### *Wills and Intestacy*

Validity of wills and codicils:

- testamentary capacity
- duress and undue influence
- formal requirements.

Personal Representatives:

- the appointment of executors
- renunciation and reservation of power.

Alterations and amendments to wills:

- effect of alterations made to wills both before and after execution
- use of codicils.

Revocation of wills:

- methods of revocation
- effect of marriage and divorce of a testator.

The interpretation of wills:

- effect of different types of gift
- failure of gifts.

The intestacy rules:

- Section 46 of The Administration of Estates Act 1925
- the statutory trusts.

Property passing outside the estate:

- joint property

- life policies
- pension scheme benefits
- trust property.

### *Probate and Administration Practice*

Grants of representation:

- need for grant
- the relevant provisions of the Non-Contentious Probate Rules
- application procedure
- valuation of assets and liabilities
- excepted estates
- methods of funding the initial payment of Inheritance Tax
- burden and incidence of Inheritance Tax.

Administration of estates:

- duties of personal representatives
- liabilities of personal representatives and their protection
- the sale of assets to raise funds to pay funeral expenses, tax, debts and legacies
- distribution of the estate.

Claims against estates under the Inheritance (Provision for Family and Dependents) Act 1975:

- time limit
- applicants
- ground.

### *Taxation – wills and the administration of estates*

Inheritance Tax:

- lifetime transfers that are immediately chargeable and those that are potentially exempt
- transfers on death
- exemptions and reliefs
- the scope of anti-avoidance provisions.

Income and Capital Gains Tax in respect of the period of the administration of an estate:

- the personal representatives' liability to Income Tax and Capital Gains Tax
- the beneficiaries' liability to Capital Gains Tax on inherited assets.

### *Core principles of trust law*

Creation and requirements of express trusts:

- the three certainties of intention, subject matter and objects:
  - fixed interest trusts
  - discretionary trusts
- formalities to create express inter vivos trusts
- constitution of express inter vivos trusts and exceptions to the rule that equity will not assist a volunteer.

Beneficial entitlement:

- fixed, discretionary, vested, contingent interests
- the rule in *Saunders v Vautier*.

The distinction between charitable trusts and non-charitable purpose trusts

Resulting trusts:

- how they arise and when they are (or are not) presumed.

Trusts of the family home:

- establishment of a common intention constructive trust:
  - legal title in the name of both parties/sole party
  - express declaration or agreement as to equitable ownership
  - direct and indirect contributions
- requirements to establish proprietary estoppel.

Liability of strangers to the trust:

- establishing recipient liability
- establishing accessory liability.

The fiduciary relationship and its obligations:

- duty not to profit from fiduciary position
- trustees not to purchase trust property
- fiduciary not to put himself in a position where his interest and duty conflict.

Trustees:

- who can be a trustee; appointment, removal and retirement of trustees
- trustees' duty of care
- trustees' duty to invest (and powers in relation to investment)
- trustees' statutory powers of maintenance and advancement.

Trustees' liability:

- breach of trust
- measure of liability
- protection of trustees
- limitation period.

The nature of equitable remedies and the availability of tracing in equity.

### *Business organisations, rules and procedures*

(Excluding the Listing, Prospectus, Disclosure Guidance and Transparency Rules and any other FCA, London Stock Exchange, market rules or codes)

Business and organisational characteristics (sole trader/partnership/LLP/private and unlisted public companies).

Legal personality and limited liability.

Procedures and documentation required to incorporate a company/form a partnership/LLP and other steps required under companies and partnerships legislation to enable the entity to commence operating:

- constitutional documents
- Companies House filing requirements.

Finance:

- funding options: debt and equity
- types of security
- distribution of profits and gains
- financial records, information and accounting requirements.

Corporate governance and compliance:

- rights, duties and powers of directors and shareholders of companies
- company decision-making and meetings: procedural, disclosure and approval requirements
- documentary, record-keeping, statutory filing and disclosure requirements
- appointment and removal of directors
- minority shareholder protection.

Partnership decision-making and authority of partners:

- procedures and authority under the Partnership Act 1890
- common provisions in partnership agreements.

Insolvency (corporate and personal):

- options and procedures - CVA/VA, bankruptcy, administration, fixed asset receivership, voluntary and compulsory liquidation
- claw-back of assets for creditors – preferences, transactions at an undervalue, fraudulent and wrongful trading, setting aside a floating charge

- order of priority for distribution to creditors.

## *Taxation - business*

### Income Tax:

- chargeable persons/entities (employees, sole traders, partners, shareholders, lenders and debenture holders)
- basis of charge (types of income/main reliefs and exemptions)
- the charge to tax: calculation and collection
- the scope of anti-avoidance provisions.

### Capital Gains Tax:

- chargeable persons/entities (sole traders, partners, and shareholders)
- basis of charge (calculation of gains/allowable deductions/main reliefs and exemptions)
- the charge to tax: calculation and collection
- the scope of anti-avoidance provisions.

### Corporation Tax:

- basis of charge
- calculation, payment and collection of tax
- tax treatment of company distributions or deemed distributions to shareholders
- outline of anti-avoidance legislation.

### Value Added Tax:

- key principles relating to scope, supply, input and output tax
- registration requirements and issue of VAT invoices
- returns/payment of VAT and record keeping.

### Inheritance Tax:

- business property relief.

## *Money laundering and financial services*

### Money laundering

- purpose and scope of anti-money laundering legislation including the international context
- circumstances encountered in the course of practice where suspicion of money laundering should be reported in accordance with the legislation
- the appropriate person or body to whom suspicions should be reported, the appropriate time for such reports to be made and the appropriate procedure to be followed
- direct involvement and non-direct involvement offences, and defences to those offences under Proceeds of Crime Act 2002

- due diligence requirements

#### Financial services

- the financial services regulatory framework including authorisation, and how it applies to solicitors' firms
- recognition of relevant financial services issues, including the identification of specified investments, specified activities and relevant exemptions
- application of the Financial Services and Markets Act 2000 and related secondary legislation to the work of a solicitor
- appropriate sources of information on financial services.

### *Ethics and professional conduct*

Candidates are required to demonstrate their ability to act honestly and with integrity, and in accordance with the SRA Standards and Regulations as follows:

The purpose, scope and content of the SRA Principles

The purpose, scope and content of the:

- SRA Code of Conduct for Solicitors, RELs and RFLs
- SRA Code of Conduct for Firms in relation to:
  - Managers in authorised firms
  - Compliance Officers.

Together referred to as the Code of Conduct.

See SoSC (A1) at Annex 4.

### *Annex 3 – Threshold Standard*

Level 3 of the Threshold Standard for the Statement of Solicitor Competence describes the level at which the SoSC competences should be performed upon qualification as a solicitor.

Functioning legal knowledge	Standard of work	Autonomy	Complexity	Perception of context	Innovation and originality
Identifies the legal principles relevant to the area of practice and applies them appropriately and effectively to individual	Acceptable standard achieved routinely for straightforward tasks. Complex tasks may lack refinement.	Achieves most tasks and able to progress legal matters using own judgment, recognising when support is	Able to deal with straightforward transactions, including occasional, unfamiliar tasks which present a range of problems and	Understands the significance of individual actions in the context of the objectives of the transaction/strategy for	Uses experience to check information provided and to form judgments about possible courses of

cases.		needed.	choices.	the case.	action and ways forward.
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## *Annex 4 – Statement of Solicitor Competence*

This statement takes a broad definition of competence as being "the ability to perform the roles and tasks required by one's job to the expected standard" (Eraut and du Boulay, 2001).

The advantage of this definition is that it recognises that requirements and expectations change depending on job role and context. It also recognises that competence develops, and that an individual may work 'competently' at many different levels, either at different stages of their career, or indeed from one day to the next depending on the nature of their work.

The competence statement should be read holistically. By way of example, the requirement in A1e to respect diversity and act fairly and inclusively pervades all areas of work and underpins all of the competences in the statement.

Solicitors should be able to:

### *A. Ethics, professionalism and judgment*

#### **A1. Act honestly and with integrity, in accordance with legal and regulatory requirements and the SRA Standards and Regulations and Code of Conduct, including:**

- a. Recognising ethical issues and exercising effective judgment in addressing them.
- b. Understanding and applying the ethical concepts which govern their role and behaviour as a lawyer.
- c. Identifying the relevant SRA principles and rules of professional conduct and following them.
- d. Resisting pressure to condone, ignore or commit unethical behaviour.
- e. Respecting diversity and acting fairly and inclusively.

#### **A2. Maintain the level of competence and legal knowledge needed to practise effectively, taking into account changes in their role and/or practice context and developments in the law, including:**

- a. Taking responsibility for personal learning and development.
- b. Reflecting on and learning from practice and learning from other people.
- c. Accurately evaluating their strengths and limitations in relation to the demands of their work.
- d. Maintaining an adequate and up-to-date understanding of relevant law, policy and
- e. Adapting practice to address developments in the delivery of legal services.

#### **A3. Work within the limits of their competence and the supervision which they need, including:**

- a. Disclosing when work is beyond their personal capability.
- b. Recognising when they have made mistakes or are experiencing difficulties and taking appropriate action.
- c. Seeking and making effective use of feedback, guidance and support where needed.
- d. Knowing when to seek expert advice.

**A4. Draw on a sufficient detailed knowledge and understanding of their field(s) of work and role in order to practise effectively, including:**

- a. Identifying relevant legal principles.
- b. Applying legal principles to factual issues, so as to produce a solution which best addresses a client's needs and reflects the client's commercial or personal circumstances.
- c. Spotting issues that are outside their expertise and taking appropriate action, using both an awareness of a broad base of legal knowledge (insofar as relevant to their practice area) and detailed knowledge of their practice area.

**A5. Apply understanding, critical thinking and analysis to solve problems, including:**

- a. Assessing information to identify key issues and risks.
- b. Recognising inconsistencies and gaps in information.
- c. Evaluating the quality and reliability of information.
- d. Using multiple sources of information to make effective judgments.
- e. Reaching reasoned decisions supported by relevant evidence.

*B. Technical legal practice*

**B1. Obtain relevant facts, including:**

- a. Obtaining relevant information through effective use of questioning and active listening.
- b. Finding, analysing and assessing documents to extract relevant information.
- c. Recognising when additional information is needed.
- d. Interpreting and evaluating information obtained.
- e. Recording and presenting information accurately and clearly.

**B2. Undertake legal research, including:**

- a. Recognising when legal research is required.
- b. Using appropriate methods and resources to undertake the research.
- c. Identifying, finding and assessing the relevance of sources of law.
- d. Interpreting, evaluating and applying the results of the research.
- e. Recording and presenting the findings accurately and clearly.

**B3. Develop and advise on relevant options, strategies and solutions, including:**

- a. Understanding and assessing a client's commercial and personal circumstances, their needs, objectives, priorities and constraints.
- b. Ensuring that advice is informed by appropriate legal and factual analysis and identifies the consequences of different options.

**B4. Draft documents which are legally effective and accurately reflect the client's instructions including:**

- a. Being able to draft documents from scratch as well as making appropriate use of
- b. Addressing all relevant legal and factual issues.
- c. Complying with appropriate formalities.
- d. Using clear, accurate and succinct language.

**B5. Undertake effective spoken and written advocacy, including:**

- a. Preparing effectively by identifying and mastering relevant facts and legal principles.
- b. Organising facts to support the argument or position.
- c. Presenting a reasoned argument in a clear, logical, succinct and persuasive way.
- d. Making appropriate reference to legal authority.
- e. Complying with formalities.
- f. Dealing with witnesses appropriately.
- g. Responding effectively to questions or opposing arguments.
- h. Identifying strengths and weaknesses from different parties' perspectives.

**B6. Negotiate solutions to clients' issues, including:**

- a. Identifying all parties' interests, objectives and limits.
- b. Developing and formulating best options for meeting parties' objectives.
- c. Presenting options for compromise persuasively.
- d. Responding to options presented by the other side.
- e. Developing compromises between options or parties.

**B7. Plan, manage and progress legal cases and transactions, including:**

- a. Applying relevant processes and procedures to progress the matter effectively.
- b. Assessing, communicating and managing risk.
- c. Bringing the transaction or case to a conclusion.

*C. Working with other people*

**C1. Communicate clearly and effectively, orally and in writing, including:**

- a. Ensuring that communication achieves its intended objective.
- b. Responding to and addressing individual characteristics effectively and sensitively.
- c. Using the most appropriate method and style of communication for the situation and the recipient(s).
- d. Using clear, succinct and accurate language avoiding unnecessary technical terms.
- e. Using formalities appropriate to the context and purpose of the communication.
- f. Maintaining the confidentiality and security of communications.
- g. Imparting any difficult or unwelcome news clearly and sensitively.

**C2. Establish and maintain effective and professional relations with clients, including:**

- a. Treating clients with courtesy and respect.
- b. Providing information in a way that clients can understand, taking into account their personal circumstances and any particular vulnerability.
- c. Understanding and responding effectively to clients' particular needs, objectives, priorities and constraints.
- d. Identifying and taking reasonable steps to meet the particular service needs of all clients including those in vulnerable circumstances.
- e. Identifying possible courses of action and their consequences and assisting clients in reaching a decision.
- f. Managing clients' expectations regarding options, the range of possible outcomes, risk and timescales.
- g. Agreeing the services that are being provided and a clear basis for charging.
- h. Explaining the ethical framework within which the solicitor works.
- i. Informing clients in a timely way of key facts and issues including risks, progress towards objectives, and costs.
- j. Responding appropriately to clients' concerns and complaints.

**C3. Establish and maintain effective and professional relations with other people, including:**

- a. Treating others with courtesy and respect.
- b. Delegating tasks when appropriate to do so.
- c. Supervising the work of others effectively.
- d. Keeping colleagues informed of progress of work, including any risks or problems.
- e. Acknowledging and engaging with others' expertise when appropriate.
- f. Being supportive of colleagues and offering advice and assistance when

required.

- g. Being clear about expectations.
- h. Identifying, selecting and, where appropriate, managing external experts or consultants.

#### ***D. Managing themselves and their own work***

**D1. Initiate, plan, prioritise and manage work activities and projects to make sure that they are completed efficiently, on time and to an appropriate standard, both in relation to their own work and work that they lead or supervise, including:**

- a. Clarifying instructions so as to agree the scope and objectives of the work.
- b. Taking into account the availability of resources in initiating work activities.
- c. Meeting timescales, resource requirements and budgets.
- d. Monitoring, and keeping other people informed of, progress.
- e. Dealing effectively with unforeseen circumstances.
- f. Paying appropriate attention to detail.

**D2. Keep, use and maintain accurate, complete and clear records, including:**

- a. Making effective use of information management systems (whether electronic or hard copy), including storing and retrieving information.
- b. Complying with confidentiality, security, data protection and file retention and destruction requirements.

**D3. Apply good business practice, including:**

- a. Demonstrating an adequate understanding of the commercial, organisational and financial context in which they work and their role in it.
- b. Understanding the contractual basis on which legal services are provided, including where appropriate how to calculate and manage costs and bill clients.
- c. Applying the rules of professional conduct to accounting and financial matters
- d. Managing available resources and using them efficiently.

#### ***Annex 5 – SQE2 skills mapping against the SoSC***

SoSC	<b>SQE2 pilot</b>						
	<b>Legal Skills Assessments</b>						
	Client interview	Attendance note/legal analysis	Advocacy/oral presentation	Case and Matter Analysis	Legal writing	Legal research	Legal drafting

A. Ethics							
A1	x	x	x	x	x	x	x
A2							
A3	x	x	x	x	x	x	x
A4	x	x	x	x	x	x	x
A5	x	x	x	x	x	x	x
B. Technical legal practice							
B1	x	x	x	x	x	x	x
B2						x	
B3	x	x	x	x	x	x	x
B4							x
B5			x				
B6		x	x	x	x		
B7	x	x	x	x	x	x	x
C. Working with other							

people							
C1	x						x
C2	x	x		x	x	x	
C3			x		x		
D. Managing themselves and their own work							
D1							
D2		x				x	
D3	x			x		x	x

1. The standard of competency of the assessment is the Threshold Standard set out in Annex 3