

SRA BOARD
03 December 2014

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Amendments to regulations – Red Tape 3 and Continuing Competence

Purpose

- 1 The Board is asked to make amendments to our regulatory arrangements which, subject to Legal Services Board approval, will implement the changes proposed in the Red Tape 3 consultation and begin phasing in the new approach to Continuing Competence.

Recommendation

- 2 The Board is asked to:
 - a) make the SRA Amendments to Regulatory Arrangements (CPD and miscellaneous) Rules [2015] (Annex 1);
 - b) make the SRA Amendments to Regulatory Arrangements (QLTSR and miscellaneous) Rules [2015] (Annex 2); and
 - c) approve publication of the SRA's response to the Red Tape 3 consultation (para 4 and Annex 3).

If you have any questions about this paper please contact: Crispin Passmore, Executive Director, crispin.passmore@sra.org.uk, 0121 329 6687.

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Amendments to regulations – Red Tape 3 and Continuing Competence

Background

- 3 We have recently consulted on a third round of changes to the education-related regulations as part of the Red Tape initiative. We proposed:
 - recognising Welsh language skills as an alternative to English language skills for solicitors practising in Wales
 - removing requirements for qualified lawyers overseas to have a certificate of eligibility to sit the Qualified Lawyers Transfer Scheme ('QLTS') Assessment. This would also remove a regulation requiring a separate English Language test for non-EEA international applicants, and the restriction on the maximum number of assessment attempts permitted in a five year period
 - removing the requirement for solicitors to undertake the Management Course Stage 1. Although not strictly a red tape initiative but rather a change arising from our work on continuing competence and CPD, we included it in this consultation to avoid a separate consultation on this issue alone.
- 4 A paper analysing the responses to the consultation and setting out our position is attached at Annex 3. No adverse impacts or risks were identified in the responses, nor were there compelling arguments presented which have caused us to alter or abandon our proposals.
- 5 We are also taking the opportunity to amend regulations which govern the Continuing Professional Development Scheme; proposals were consulted on previously in February this year and the Board agreed them in May. The changes will:
 - remove the requirement to complete 25% of annual CPD in accredited activities
 - allow solicitors to opt-in to the new Continuing Competence approach
 - amend other regulations which require CPD.
- 6 This will begin the phasing in of the new approach. It will allow a transitional period between the existing regulatory requirements for CPD and the new arrangements to reduce the impact on the profession and help to generate the culture shift required. A regulation is also being added which will repeal the regulations entirely on 1 November 2016 without the need for further Board or LSB approval.

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Business/operational impacts

- 7 There are business impacts in ceasing to process QLTS certificates of eligibility applications. We currently receive around 1,000 applicants annually– 1,150 so far this year – which are processed within Authorisation. These applications are dealt with by two FTE members of staff.
- 8 Of the 1,150 applications received, approximately 130 have requested an exemption from one or more of the assessments which will require a decision to be made by Authorisation. A decision will also be required to be made by Authorisation for those QLTS applicants who wish to have their Character & Suitability assessed before they sit the assessments and based on previous years figures this is approximately a further 50 decisions per year. It is therefore expected that there will be a staff requirement of 0.75 FTE to deal with making these two type of decisions which will result in 1.25 FTE being tasked with different work within the team.
- 9 The continuing competence changes will have an operational impact: they will reduce staff time needed to consider authorisation and reauthorisation applications from providers and collect annual fees. The Central Admin Unit processes applications for new CPD provider authorisations, but as a moratorium has been in place for a number of months the changes will simply formalise this and no new operational impacts will result. The annual fee processes were largely automated a year ago so the resource impacts will be minimal, and as we collect fees for the previous CPD year any resource savings in Central Admin will not be fully realised until next year.

Financial issues

- 10 There will be a loss of income if the QLTS certificates of eligibility are no longer required. Depending on the type of application (QLTS 1: international or QLTS 2: UK/EEA) typical annual income is approximately £266,400 pa (based on 1,000 applicants per year with one third QLTS1 at £400, and two thirds QLTS2 at £200). This year the income would be £306,400 based on 1,150. Expenditure is relatively low with only around 100 applications per year sent to external assessors, at a cost of £100 – this cost is covered by the higher QLTS-1 fee.
- 11 This loss of income would be offset by the resource savings on not having to process applications (other than early character and suitability and exemptions – see para 12). As we have made budget projections for this financial year on receiving a projected number of QLTS certificate of eligibility applications and resource costs for processing them, we have decided to bring in the changes for the beginning of the next financial year – the amendment rule for the QLTS changes at Annex 2 is therefore drafted to come into force on 1 November 2015.
- 12 We propose charging a fee for those applicants who voluntarily request their character and suitability to be assessed prior to sitting the assessments, or

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make a request for exemptions from one or more of the assessments. The cost for the applicant in these two situations will be considered between now and April and will form part of a subsequent paper for EPF showing how operational and business impacts, such as changes to Oneview, will be addressed.

13 The Board has previously considered the financial implications of removing the need for CPD course providers to be accredited as part of the 'SRA Income 2015' paper on 21 May 2014. In addition to this there will also be a loss of income of approximately £15,000 pa in annual fees from MCS1 providers.

14 The figures above were provided by Finance for an Executive policy Forum meeting in August.

Legal risks and consumer impacts

15 There are no legal risks or consumer impacts.

Equality and diversity considerations

16 The certificate of eligibility procedure is used to check that candidates from outside the EEA/EU and Switzerland meet the separate QLTS requirements in relation to English language. European Directive 2005/36/EC, which provides for free movement rights, prevents us from requiring individuals domiciled in the EU/EEA and Switzerland to undertake a separate English language assessment as a condition of recognising their professional qualification. The requirement to provide separate evidence of English language skills as a condition of eligibility to sit the assessment (and subsequently seek admission) therefore only applies to intra-UK and non-EEA candidates.

17 A possible consequence of the combined effect of the EU Directive and the regulation is for example that a Brazilian qualified lawyer who has been resident and working in the UK for years would be required to undertake a separate English language test (and pay for it) to satisfy us as to his or her standard of English but a Portuguese qualified lawyer who had not lived or worked outside of Portugal would not. There is also a possible discriminatory effect of this regulation. The standard of 7.5 that we impose may set a higher standard than that which is necessary and may have an unfair impact. Candidates from the Indian sub-continent for example may have a better standard of English than a candidate from the EU, but he or she would still be subject to the additional regulatory burden to provide separate evidence.

18 When QLTS was introduced, the Education and Training Committee and the SRA Board both spent considerable time deciding whether or not to introduce this separate requirement, or to rely on the English language testing which is part of the QLTS itself. Arguments were finely balanced, with on the one hand the need to assure a competent standard of English and on the other hand the danger that a separate assessment might require a higher standard than was necessary for effective practice as a solicitor, and therefore constitute an unjustifiable barrier to entry. In reaching a decision to change our approach we

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have consulted with Kaplan, the sole QLTS assessment provider; they are confident that the QLTS assessment acts as an appropriate assessment of standards of written and spoken English. We consider therefore that where English language at an appropriate standard is already assessed through the QLTS assessments, a separate requirement which can be applied only to a candidate outside the EEA is an arbitrary and possibly discriminatory regulation. We will provide guidance to candidates about the standard of English necessary for success in the assessment and subsequent practise. This approach has been adopted by the Bar Standards Board (and approved by the LSB).

19 There are some positive equality and diversity considerations. The proposal to remove the five year time limit has the potential to benefit people who, for reasons of disability or pregnancy/maternity, cannot complete all QLTS applications within the required time. We consider the removal of the compulsory early check on character and suitability to have a neutral impact on all those with protected characteristics.

Recommendations

20 The Board is asked to:

- a) make the SRA Amendments to Regulatory Arrangements (CPD and miscellaneous) Rules [2015];
- b) make the SRA Amendments to Regulatory Arrangements (QLTSR and miscellaneous) Rules [2015]; and
- c) approve publication of the SRA's response to the Red Tape 3 consultation.

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Supporting information

Links to the Strategic Plan

21 Objective three of our corporate strategy is to reform our regulation to enable growth and innovation in the market and strike the right balance between reducing regulatory burdens and ensuring consumer protection. Objective four is to work with solicitors and firms to raise standards and uphold core professional principles.

How the issues support the principles of better regulation

22 Removing the need for overseas lawyers to go through an unnecessary application process will deliver regulation that is more proportionate, consistent, transparent and targeted:

- Proportionate: the removal of the blanket character and suitability check for all QLTS applicants, irrespective of whether they pass the QLTS assessment and requiring at admission is more proportionate and timely.
- Accountable: the changes remove the need for some regulatory decisions which cannot be justified on the basis of consumer interest in that not all those who complete the QLTS assessment eventually seek admission.
- Consistent: the changes take account of changes made elsewhere in the training regulations and permit a more consistent approach to all applicants seeking admission who have met our education and training requirements.
- Transparent: It removes artificial distinctions from EU/EEA applicants and international applicants in relation to English language requirements.
- Targeted: the new regulations assess suitability at the point of admission and not as an eligibility requirement to complete an assessment.

23 The changes to the CPD regulations help us to meet the better regulation principles by removing the blanket 25% accredited activity requirement and starting to phase-out the untargeted 16 hour per year requirement. This reduces the regulatory burden, and is a more targeted and proportionate means of ensuring the continuing competence of those we regulate.

What equality and diversity considerations relate to this issue

24 We have carried out an equality impact assessment on both sets of proposals. The Continuing Competence Impact Assessment has been previously considered by the Board in May 2014 and the EIA for the Red Tape changes is annexed. No disproportionate adverse impacts have been identified in either case.

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Date 18 November 2014

Annexes

- Annex 1** Draft SRA Amendments to Regulatory Arrangements (CPD and miscellaneous) Rules [2015]
- Annex 2** Draft SRA Amendments to Regulatory Arrangements (QLTSR and miscellaneous) Rules [2015]
- Annex 3** SRA response to Red Tape 3 consultation

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Draft SRA Amendments to Regulatory Arrangements (CPD and miscellaneous) Rules [2015]

Rules dated [] made by the Solicitors Regulation Authority Board.

Made under Part I, Part II, sections 79 and 80 of the Solicitors Act 1974 and paragraphs 2 and 3 of Schedule 14 to the Courts and Legal Services Act 1990.

Subject to the approval of the Legal Services Board under paragraph 19 of Schedule 4 to the Legal Services Act 2007 and coming into force on [1 April 2015].

Rule 1

The SRA Qualified Lawyers Transfer Scheme Regulations 2011 shall be amended as follows:

- (a) in Outcome O(QR4) of the Outcomes section, insert “or Welsh” after “spoken English”;

Rule 2

The SRA Training Regulations 2011 Part 3 – CPD Regulations shall be amended as follows:

- (a) replace regulation 3.1 as follows:
 - “3.1 *You must:*
 - (a) undertake 16 hours of *CPD* during each complete CPD year in legal practice or employment in England and Wales; or
 - (b) consider and undertake the learning and development *you* deem necessary to ensure *your* ongoing competence and that *you* are in a position to provide a proper standard of service to *your clients*.”;
- (b) replace guidance note (ii) to regulation 3 as follows:
 - “(ii) The *SRA Competence Statement for solicitors* sets out what *we* mean by ‘ongoing competence’ in regulation 3.1(b)”;
- (c) delete regulations 4.1 to 4.4, and renumber 4.5 to 4.7 accordingly;
- (d) in regulation 4.5, delete “also”;
- (e) in regulation 4.6, replace “4.5” with “4.1”;

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- (f) in regulation 4.7, replace “4.5 and 4.6” with “4.1 and 4.2”;
- (g) delete the guidance note to regulation 4;
- (h) delete regulations 8.1, 8.2, 8.4, delete “The” from regulation 8.3, and renumber 8.3 and 8.5 accordingly;
- (i) replace the guidance note to regulation 8 as follows:
 - “(i) For the purposes of regulation 8, the following will be deemed to be *CPD* activities where they are relevant and beneficial to *your* area of work and/or *practice*:
 - (a) structured training, coaching or mentoring sessions;
 - (b) live or recorded webinars;
 - (c) writing on law or *practice*, for example law books, journals, publications for *clients*, *client’s* own publications, newspapers and magazines, online or in print;
 - (d) structured work shadowing schemes with clear aims and objectives and requiring feedback or reflection on the activity;
 - (e) research which relates to legal topics or has relevance to the *practice/organisation* which results in some form of written document, precedent, memorandum, questionnaire/survey etc;
 - (f) study for or production of a dissertation counting towards a qualification recognised by *us*;
 - (g) watching DVDs, webcasts, podcasts, television broadcasts or videotapes and/or listening to audio podcasts, radio broadcasts or audio tapes produced by learning and development providers;
 - (h) work towards the Qualification Credit Framework (QCF) awards relating to assessment, verification and/or quality assurance of competence-based assessment models (such as, for example, National Vocational Qualifications);
 - (i) participating in the development of specialist areas of law and *practice* by attending meetings of specialist committees and/or working parties of relevant professional or other competent bodies charged with such work;
 - (j) work towards the achievement of an National Vocational Qualifications in any business-related area and at any level;
 - (k) study towards professional qualifications.
 - (ii) These activities can be completed face-to-face or by distance learning, where appropriate.
 - (iii) Preparing and delivering these activities can count where appropriate, as well as attendance.
 - (iv) Actual time may be claimed.”;
- (j) delete regulation 9.2;
- (k) delete regulation 10.2 and renumber 10.3 to 10.5 accordingly;

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- (l) delete “other” from guidance note (i) to regulation 10;
- (m) delete regulation 17.1(a) and (e), and renumber 17.1(b) to (c) accordingly;
- (n) in regulation 17.1(b) delete “, and the requirement to satisfy a minimum of 25 per cent of the *CPD* requirement by *participation* in accredited courses”;
- (o) in regulation 17.1 (c), after “CPD training records;” insert “and”;
- (p) in regulation 17.1(d) replace “;” with “.”;
- (q) add a new regulation 18 as follows:

“Regulation 18: Repeal of these regulations

18.1 These regulations will be repealed on 1 November 2016.”.

Rule 3

The SRA Training Regulations 2014 – Qualification and Provider Regulations shall be amended as follows:

- (a) in Outcome O(TR5) in the Outcomes section, insert “or Welsh” after “spoken English”.

Rule 4

Rule 2 of the SRA Handbook Glossary Rules shall be amended as follows:

- (a) delete the definition of “**authorised CPD course providers**”;
- (b) delete the definition of “**participation**”.

Rule 5

The SRA Higher Rights of Audience Regulations 2011 shall be amended as follows:

- (a) in regulation 9.1, replace “If” with “Subject to regulation 9.3, if”;
- (b) in regulation 9.2, replace “If” with “Subject to regulation 9.3, if”;
- (c) insert new regulation 9.3 as follows: “If *you* have chosen to comply with regulation 3.1(b) of the SRA Training Regulations 2011 Part 3 - CPD Regulations, neither regulation 9.1 or 9.2 applies.”

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(d) in the guidance to regulation 9, insert new guidance note (iii) as follows:

“(iii) Regulation 9.3 means that, if *you* have opted to meet *your* responsibilities on ongoing competence through learning and development *you* deem necessary rather than the hours-based approach of the *CPD* regime, *you* should consider how the development activity *you* do contributes to maintenance of competence in higher courts advocacy and provision of a proper service to *your clients*.”.

Rule 6

The SRA Quality Assurance Scheme for Advocates (Crime) Regulations 2013 shall be amended as follows:

(a) in regulation 16.2, replace “continuing professional” with “learning and”.

Rule 7

These amendment rules come into force on 1 April 2015 or the date of approval of the Legal Services Board, whichever is the later.



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Rules dated [] made by the Solicitors Regulation Authority Board.

Made under Part I, Part II, sections 79 and 80 of the Solicitors Act 1974 and paragraphs 2 and 3 of Schedule 14 to the Courts and Legal Services Act 1990.

Subject to the approval of the Legal Services Board under paragraph 19 of Schedule 4 to the Legal Services Act 2007 and coming into force on [1 November 2015].

Rule 1

The SRA Qualified Lawyers Transfer Scheme Regulations 2011 shall be amended as follows:

- (a) insert “for admission” after “Eligibility” in the title of regulation 2;
- (b) delete regulation 2.1(d), replace “.” with “; and” at the end of regulation 2.1(e) and renumber 2.1(e) accordingly;
- (c) insert new regulation 2.1(e) as follows:

“(e) have passed all *QLTS assessments* subject to any exemptions *we* may agree.”
- (d) delete “and (d)” from regulation 2.2 and 2.4;
- (e) delete regulations 2.3, 2.5, 2.6, and 2.8, and renumber 2.7 and 2.9 accordingly;
- (f) replace regulation 6.1 as follows:

“6.1 Subject to regulation 4.2, if *you* seek to establish eligibility under regulations 2.1(d) or 5.1(b) to (d) and *we* refuse *your* application *you* may, within one month of receiving notification from *us* of any decision under those regulations, ask for the application to be reviewed.”
- (g) replace regulations 7.1 to 7.5 with:
 - “7.1 As required by regulation 2.1(d), *you* must satisfy *us* as to *your character and suitability* to be a *solicitor* before *we* admit *you* to the roll.
 - 7.2 *You* must apply to *us* for admission in writing in the *prescribed* form and support *your* application with such evidence as *we* consider necessary.
 - 7.3 *You* may ask *us* to assess any issue which may cause *you* not to meet the outcomes of the *SRA Suitability Test* before commencement



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of the *QLTS* assessments. Such determinations will not prejudice *our* ability to take all relevant factors into account when a subsequent admission decision is taken, including the facts giving rise to the earlier determination.

7.4 We may determine on the grounds of *your character and suitability* that *you* are not eligible for admission, and refuse *your* application. *You* may make up to three further applications for eligibility to be admitted where there has been a material change in circumstances after intervals of not less than 12 months from the final determination of *your* previous application.

7.5 Regulation 6.1 of these regulations gives *you* the right to ask us to review a refusal under regulation 7.4. *You* also have the right to appeal to the High Court under regulation 3 of the *SRA Admission Regulations* against *our* decision to refuse to admit *you* as a *solicitor* on the ground of suitability.”

- (h) in guidance note (i) to regulation 7 replace “Suitability Test” with “*SRA Suitability Test*” and delete guidance note (ii) to regulation 7;
- (i) in regulation 11.3 after “if you have commenced”, insert “on a part-time basis” and delete “on a part time-basis” after “these regulations”;
- (j) insert new guidance note to regulation 11 as

follows: “Guidance note

On 1 November 2015 these regulations were amended to remove the need to hold a certificate of eligibility in order to undertake the *QLTS* assessments. If *you* held a valid certificate on 1 November 2015, the provisions of those certificates ceased to have effect and *you* are now eligible to undertake the assessments and, if successful, apply for admission in accordance with regulation 2.”

Rule 2

The *SRA Admission Regulations 2011* shall be amended as follows:

- (a) in the title of regulation 2, delete “and certificates of eligibility for overseas lawyers”;
- (b) delete regulation 2.2 and renumber 2.3 to 2.5 accordingly;
- (c) in regulation 2.3, delete “16(3) and (4) of the *QLTR* or, where appropriate,”;
- (d) delete “or 2.2” from regulations 2.4 and 2.5;
- (e) in regulation 2.5, delete “or to issue a *certificate of eligibility*,”



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- (f) replace regulation 3.1(b) with “to refuse to admit *you* on the ground of suitability under regulation 7.5 of the *QLTSR*.”
- (g) delete regulation 3.1(c);
- (h) delete regulation 3.2 and renumber regulations 3.3 and 3.4 accordingly;
- (i) replace regulation 3.3 with “An appeal under regulation 3.1 a) or (b) above must be brought within three months of *you* receiving notification of *our* decision”;
- (j) in regulation 3.4(a), replace “issue a *certificate of eligibility*” with “admit *you* as a *solicitor*”.

Rule 3

Rule 2 of the SRA Handbook Glossary Rules shall be amended as follows:

- (c) delete the definition of “**certificates of eligibility**”;
- (d) delete the definition of “**QLTR certificate of eligibility**”;
- (e) delete the definition of “**QLTS certificate of eligibility**”.

Rule 4

These amendment rules come into force on 1 November 2015 or the date of approval of the Legal Services Board, whichever is the later.

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Education and Training Regulations Review: Red tape 3

Analysis of responses and SRA response

November 2014



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Introduction

1. This report follows our recent consultation, launched for 8 weeks in September 2014, on our proposals to make further changes to our education and training regulations, principally in relation to the Qualified Lawyers Transfer Scheme. In July 2014 we introduced changes to our education and training regulations which removed unnecessary layers of regulation and enabled us to simplify our processes and reduce fees. This red tape initiative, as with the one carried out in July, does not change any of the required outcomes of the current qualification pathway: the proposed changes are largely focussed on ensuring that our education and training regulations are risk-based, proportionate, effective and consistent for all routes to the profession.
2. The consultation paper included three proposals for change:
 - to recognise Welsh language skills as an outcome of our education and training regulations as an alternative to English language skills for solicitors practising in Wales
 - to remove requirements for qualified lawyers overseas to have a certificate issued by us confirming their eligibility to sit the Qualified Lawyers Transfer Scheme Assessment ('QLTS'). In removing this requirement we would also be removing regulation which relates to a requirement to undertake a separate English Language test for non-EEA international applicants and the restriction on the maximum number of assessment attempts permitted in a 5 year period
 - to remove the requirement for solicitors to undertake the Management Course Stage 1 (MCS1)

Responses received

3. We received 22 responses from a variety of stakeholders including higher education providers, individual solicitors and firms, local Law Societies, member groups and the Law Society. A list of respondents is attached at the end of the paper. Not all respondents expressed a view on each proposal: where a percentage is expressed it is a percentage of those who responded to that particular proposal. The range of responses varied from substantive comments on each of the proposals to single yes/no responses. These comments are summarised below.

Overview of the responses

4. Responses were largely supportive except for proposals which removed restrictions around the assessment period for QLTS candidates. A small number of responses were not supportive of the changes and called for more regulation. Some support was qualified, for example:

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“We understand the logic of the SRA's proposals and that they chime in with the outcomes based philosophy of the current Code. However we have some concerns...regarding how the SRA's preferred approach supports the SRA's initiative to streamline qualification process by removing those requirements which add cost, while neither assuring quality nor reducing risk.” – The Law Society.

The Proposals

Proposal 1 - to include the Welsh language in education and training outcomes

5. 78% of respondents expressed support for the proposal and foresaw only positive impacts in ensuring parity of treatment of the Welsh and English language in the training regulations. The Law Society said that it *"applauds the SRA for taking on board the comments of the Law Society, and correcting the current unlawful provision."*
6. The concern of those who did not fully support the proposal related to possible costs of translation where, for example, the transaction was conducted in English and Welsh.

SRA response

7. We are pleased with the support for this proposal to meet our legal obligations to place the Welsh language on an equal footing with English language.

Proposal 2 - to remove the requirement for a lawyer who is qualified in a jurisdiction outside of the UK to obtain a certificate of eligibility to undertake the QLTS assessment.

8. Removing the requirement to obtain a certificate of eligibility prior to completing the QLTS assessment would also impact on the following functions served by this process:
 - it acts as an early check on character and suitability
 - it acts as a check on English language skills of non-European lawyers who have not studied in English
 - it sets a 5 year time limit within which all of the assessments must be completed and restricts the number of assessment attempts within this period to three.
9. In relation to the early check on character and suitability we asked if there was agreement to its removal provided we retained the check at admission and that QLTS candidates could seek an early check of character and suitability if they wished. 74% of respondents supported the proposals. The Lawyers with Disabilities Division said it will reduce duplication and the City of

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London Law Society said that *"It seems an unnecessary duplication of time and effort and unnecessary expenditure for candidates."*

10. Applicants from non-European countries are required to provide evidence of English language skills by having studied at degree level in English or by passing an English language test with an approved test provider. In removing the need for a certificate of eligibility we are also placing all candidates on a level footing by relying on the standards of English language skills required to pass the QLTS assessments. 82% of respondents support the proposal and expressed confidence in the QLTS assessment as a means of ensuring that candidates have the appropriate standards of English language skills to take accurate instructions, to give clear and accurate advice, to understand and be understood, to draft legal documents and exercise rights of audience. A number of provisos were however expressed. We have been asked to ensure that all candidates are very clear about the standards of English required to be competent in the assessment and to monitor standards of English over time.
11. Current regulation requires both stages of the QLTS assessment to be completed within five years. 39% of respondents supported the removal of this restriction. The Law Society said that it *"agrees that the removal of this restriction is in line with other proposals within this area and has no objection. Whilst the current system does not restrict candidates from retaking the exams indefinitely, it does restrict the timescales for them completing the necessary parts and given the restrictions on where the exams can be taken and the expense required for travel to do so, this seems a proportionate and fair removal of an unnecessary barrier to entry."* Those who were in favour of retaining the 5 year period were so because they said it imposed a rigour to the assessment and aligned to the current requirement to complete the Legal practice Course within 5 years.
12. The same level of support was expressed for the removal of the restriction on the number of assessment attempts within any given period. Views against the proposal were similar to those given in support of retaining a five year restriction on completing the assessment. The Law Society expressed a concern that unlimited attempts could mean that a failing candidate will eventually pass because they have learned how to take the assessment rather than because they have acquired the level of competence required to pass. Cardiff Law School said that to allow unlimited attempts would give QLTS candidates an advantage over Legal Practice Course students who were limited to 3 attempts.
13. No additional adverse impacts or risks to the public interest were identified. **SRA response**
14. We are pleased with the level of support to remove the requirement that all QLTS assessment candidates submit an early check on character in addition



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to the check that they will be subject to at admission. We agree with those whose support was qualified by the condition that an early check on character, if no longer mandatory, remained available, and will ensure that this is retained. We will ensure that requirements as to character and suitability are clear and accessible to all potential QLTS candidates. Full checks on all solicitors who qualify via this route will still be carried out prior to admission.

15. We are pleased to have support to remove the uneven impact of our regulation on UK and non-European lawyers seeking to qualify via QLTS in relation to separate and additional evidence of English language standards. We will update the guidance we currently provide on standards of English language to ensure that all QLTS candidates are made fully aware of what is required of them to meet the QLTS assessment standards.
16. In relation to the five year qualifying period and maximum number of attempts, we appreciate the concerns that have been raised that lawyers qualifying via QLTS are not placed in a more favourable position than students undertaking the LPC. Currently unless there are mitigating circumstances an LPC student must complete the course in 5 years and has a maximum of 3 attempts at each assessment. On the LPC each subject/practice area is discretely assessed and a mark awarded for each area. Assessments are completed over a period of time and are undertaken contemporaneously with learning. This is not the case with QLTS where there is no specified learning, there are a limited number of assessment opportunities and most significantly, candidates receive an overall score for each stage. A candidate cannot progress to stage 2 without first having passed stage 1.
17. We do not consider removing the restrictions provides an unfair advantage to QLTS candidates: they do not have the opportunity within a structured framework of learning and assessment to put in place the assessment strategies available to LPC students and LPC course providers.
18. We will seek approval to make changes to the Qualified Lawyers Transfer Scheme Regulations 2011 to reflect these proposals and to make them effective from 1 November 2015.

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Proposal 3 - remove the requirement on individual solicitors to undertake Management Course Stage 1

19. 20 respondents answered this question. 50% of respondents to this question, including the Sole Practitioners Group, Cardiff Law School, CILEX, Lawyers with Disabilities Division and a number of local Law Societies supported our proposal to remove the requirement on individual solicitors to undertake MCS1. 45% of respondents, including the Law Society and The University of Law raised concerns with our proposal. One respondent answered yes to the question.
20. Respondents who supported our proposal recognised the subject matter of MCS1 was already addressed through training delivered by regulated entities. The Kent Law Society Regulatory Committee suggested that MCS1 *"was nothing more than "common sense" and conveyed information which attendees had already picked up from their work at a law firm."* Duplication in training and the fact that some solicitors will not use the training was cited as placing an unnecessary regulatory burden on individual solicitors and regulated entities by some respondents.
21. Some respondents also felt that the requirement to undertake MCS1 created difficulties for some regulated entities to accommodate within their wider organisational approaches to training. Birmingham Law Society suggested that the requirement to undertake MCS1 *"may actually adversely affect the training which large firms have in place as the course may not complement the firm's training programme for newly qualifieds."*
22. Respondents who disagreed with our proposal shared a common concern that if the requirement to undertake MCS1 was removed, individual solicitors would not undertake or regulated entities would not provide financial and client management training. The effect of removing MCS1 was summarised by The University of Law, who said that MCS1 training is *"a key part of the client experience and, if solicitors do not understand the need to deal with these matters, this can lead to poor client service and risk in the way that a firm is managed."*
23. We recognise these concerns. However, we do not believe our proposal poses a significant risk because:
 - as part of our new approach to ensuring ongoing competence, all solicitors must continue to meet their obligation under Principle 5 of the Handbook to provide a proper standard of service to clients. This involves reflecting on the quality of their practice by reference to our proposed Competence Statement that states what solicitors should be able to do and includes applying the rules of professional conduct on accounting and financial matters, and to apply good business practice. As far as solicitors are concerned, and subject to the current consultation on the proposed Competence Statement, complying with the Competence Statement will be one requirement of providing a proper standard of service in accordance with Principle 5.
 - persons who must be 'qualified to supervise' – i.e. sole practitioners, managers of authorised bodies, supervisors of those who undertake



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reserved work – will still be required to undertake at least 12 hours of management skills training by rule 12 of the Practice Framework Rules. This means that those people who hold roles demanding specific management training will still be under a regulatory obligation to undertake that training.

SRA response

24. We are pleased with the support for our proposal. We do not consider that the consultation has raised any significant issues that prevent us from proceeding with our proposal to remove the requirement on individual solicitors to undertake MCS1. Subject to Legal Services Board approval, we intend to remove this requirement from 1 April 2015.



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List of respondents

Birmingham Law Society
Cardiff Law School
CILEx
City of London Law Society
Barrie Davies on behalf of DJM Law Ltd.
HHJ Edwards
Lawyers with Disabilities Division
John Loosemore
Kent Law Society (Regulatory Committee)
Kent Law Society (Members)
Adrian Mackay
Laurence Mann
Sole Practitioners Group
The Law Society
Tonbridge Wells, Tonbridge and District Law Society
University of Law

6 respondents requested that they remain anonymous.