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3 August 2020

LETTER OF COMPLAINT:

SRA'S RESPONSE TO COVID-19, REFUSAL TO EXTEND THE QLTS AND UNEQUAL TREATMENT OF MCT-EXEMPT STUDENTS

To Whom It May Concern;

We are writing to you to highlight the SRA's failure to consider the QLTS in its review of the impact of the pandemic.

Our complaints fall under three main categories:

1. Unequal treatment of MCT exempt students; and
2. Unreasonable refusal to extend the QLTS in the light of the pandemic, and
3. Inaccessibility of the information concerning the admission application deadline.

We note that LSB cannot intervene in a decision made by the SRA. However, as the LSB is concerned with systemic issues in the legal services market and the role of regulation in protecting consumers as a whole, we believe that LSB should get involved on this occasion. Furthermore, SRA has confirmed that LSB would be the appropriate body to escalate this matter to.

Attached to this letter:

- 19/05/2020 - 1st letter to the SRA
- 10/06/2020 - 1st Response from the SRA
- 14/06/2020 - 2nd letter to the SRA
- 17/07/2020 - 2nd Response from the SRA

1. Unequal treatment of MCT exempt students

As confirmed by the SRA, those who have taken the MCT before the introduction of the SQE, which is currently scheduled to commence in autumn 2021, will be given a 1-year transition period for passing the second stage of the exam, the OSCE. By virtue of this, those who have taken the MCT will be given an additional year to complete the OSCE.

However, this transitional period does not apply to LPC graduates who are exempt from the MCT, putting them at a great disadvantage. Those who have sat (or will sit) the MCT will be given at least two more opportunities to sit OSCE in winter 2021 and summer 2022, whereas LPC graduates will have no further opportunities beyond summer 2021, even if they fail at the last sitting.

Furthermore, due to the current outbreak of COVID-19, many exams all over the world have been postponed or cancelled, creating even further challenges for those wanting to qualify. Many of us planned to qualify overseas well in time to attempt to complete the QLTS and have enough time to retake if necessary. However, numerous overseas applicants (including LPC graduates) around the world have now been stopped from qualifying abroad and must wait for another opportunity to be created for them.

LPC graduates are being put at a disadvantage and are not given equal opportunity and treatment as those without the MCT exception. This unequal treatment should be stopped and the transition period should be made available to LPC graduates.

We asked SRA to reconsider its decision not to allow LPC graduates to benefit from the transitional arrangements and allow them to benefit from the transition period currently available to the MCT-takers.

2. Unreasonable refusal to extend the QLTS in the light of the pandemic

The availability of the QLTS and the transition period at the very least should be extended in the light of the current COVID-19 pandemic. QLTS exams may not run at all in July and November 2020, leaving us with reduced opportunities to cross qualify in England and Wales.

The SQE may not be approved to go ahead in September 2021, regardless of the pandemic. If that is the case, QLTS must be extended. However, even if SQE is approved to start in autumn 2021, it may be prudent that in the light of the current and future worldwide disruption of COVID-19, to delay the SQE or extend the QLTS to take into account the ongoing fallout of the pandemic.

Besides, the current wait times for admission overseas have now been delayed for up to a year due to the pandemic. One of those jurisdictions is New York where, from the moment of application for admission, the processing takes between 6-12 months, therefore, disadvantaging MCT-exempt individuals who were unable to attempt the Bar exam in 2020.

We asked SRA to consider extending the availability of the QLTS beyond summer 2021 to allow for fair and adequate sit and re-sit opportunities.

3. Inaccessibility of the information concerning the admission application deadline

We have also raised with the SRA the lack of transparency and information concerning the application for admission deadline which we first become aware of in their letter dated 10/06/2020. This information was published on the SRA's website in June 2020. Until then, this information was not accessible to the applicants and the QLTS providers were not aware of this either and kept advising students that they can apply for admission at any time after passing QLTS. Having spoken to a few of them, despite numerous meetings and guidance from the SRA, I was informed that all were informed of the long stop rules being given to students

but there was no mention that LPC students would not be treated the same as all the rest of the applicants. In fact, some still believe that students can qualify via QLTS until 2032.

It will be impossible for those taking the Bar in February 2021 to be sworn in before the current SRA deadline of 31/08/2021 (if MCT-exempt). Furthermore, considering the situation in the US at the moment and the uncontrollable spread of the virus, MCT-takers might be affected as well. Even the MCT takers are in trouble as due to the delays and cancellations of the exams abroad, they do not have an opportunity to prepare for the MCT unless they study for both, overseas bar examination and the MCT, at the same time which is not feasible because most students have full-time jobs and it would be very difficult, if not impossible, to prepare for 2 life-changing exams in two completely different jurisdictions all whilst going to work, vulnerable, shielding and taking care of other family-related obligations. Furthermore, studying for 2 exams is unlikely to result in success in either one which will increase the already challenging time commitment and financial pressure.

This is a great disadvantage for the MCT-exempt applicants as they do not only have until summer 2021 to pass OSCE but also till August to apply for admission. Those forced to take the NY Bar in February 2021 due to the pandemic won't be able to adhere to this deadline as the results won't come through in time.

Furthermore, OSCE exams will continue under the current policy until 2022 for those that completed the MCT, therefore, those exempt from the MCT should be allowed to attend also. Such an allowance will not result in any additional effort for Kaplan/SRA. On the contrary, it will have commercial advantages to both, as there will be more OSCE applicants spending almost £4,000 each for an additional year.

4. Dissatisfaction with the SRA's response

Overall, the SRA's response to lockdown and coronavirus has only served to create the environment of mistrust and anxiety for those wanting to qualify using the QLTS route.

The response from the SRA included:

1. Recommendation to take the SQE

For many of us, the SQE route is not viable. Most of us are mature individuals with years of senior experience in the legal field. Therefore, needing to work under the supervision of another lawyer would equal a demotion, in title and salary. This is why the QLTS is the only option for many of us. Option, which due to the pandemic and the arbitrary policy of the SRA, is being more difficult to achieve.

Furthermore, with the recently published cost of the SQE exam (£4,000) and the cost of the preparation course (£11,000) significantly exceed what we can afford in this climate. Especially, as we are already on the way to qualification using the QLTS route and have all incurred over £5,000 in costs already and will further spend approx. £5-10,000 on passing the Bar before we embark on the preparation for the QLTS. This is not a cost that we will be able to reduce as we have embarked on this route already. Furthermore, it is worth noting that most of us have already spent in excess of £11,000 on LPC which means that we will need to more than double our expense in order to qualify via SQE.

2. Recommendation to take the MCT (even if MCT exempt)

The suggestion for the MCT-exempt to pass the MCT anyway as a way of benefiting from the transition period is unreasonable. We are particularly outraged by the SRA stating that those who did not pay for the MCT did not make a sufficient financial commitment to the QLTS. Most of us have embarked on this route to qualification and have completed the LPC with a view of passing the NY bar and subsequently completing the QLTS. This is a cost over £40,000 in total which we consider a substantial financial commitment to the QLTS even without paying the £700 for the MCT exam specifically.

Furthermore, we believe that by applying for the MCT exemption we are showing our commitment to the QLTS - it is not something that we would have done without the intention to go down that route. Therefore, all intending to use the QLTS as their chosen qualification route should have a fair and

equal treatment, whether they are MCT-exempt or not. It is the responsibility of the SRA as the gatekeeper of the legal services in England and Wales to give fair and equal treatment to all regardless of which route they embark upon.

SRA stated that:

"In preparation for the introduction of SQE, we have put in place transitional arrangements designed to give candidates who, by 1 September 2021, are already on their way to becoming a solicitor, as much choice as possible to continue on the route they have already committed to within a reasonable time."

For the reasons above, it can be argued that those who have completed the LPC are 'already on their way to becoming a solicitor', and contrary to the SRA's statement we are not given 'as much choice as possible to continue on the route we have already committed to'.

The whole reason that the SQE was set up was to provide access to legal qualification to all and therefore it is not reasonable to now be disadvantaging one group over another. According to the SRA, the introduction of the SQE meant to ensure that all trainee solicitors, no matter which route they take, have the same opportunities and to ensure consistency and high standards across the board and silencing the notion that one route to qualification is better than another. The SRA also said that the SQE will make the law profession more accessible by lowering the cost of study (in comparison with the GDL and LPC.) It seems that en route to rolling out the SQE, not only not every applicant is treated the same but the only proposal by the SRA to cure that lack of equality involves spending more money by taking an exam from which many are exempt.

3. No impact by COVID

In their 2nd response, the SRA stated that:

"We have reviewed the impact of Covid-19 on our timeline for the SQE and on our transitional arrangements, but this has been minimal. Even in the face of any delays due to the Covid-19 pandemic, a qualified lawyer seeking to transfer would have sufficient time to take the QLTS route, if they had already committed to it. It is important that SQE is introduced without further delay and therefore it would not be reasonable for us to delay or amend our transitional arrangements for the SQE because of a delay in qualifying in another jurisdiction."

It only took a couple of weeks for the SRA to act to the contrary and make allowances for others as a result of the pandemic in respect of QLD and CPE students:

The news release titled 'SQE fees confirmed and transitional arrangements updated' dated 30/07/2020 states:

"We have also updated our planned transitional arrangements for students taking Qualifying Law Degrees (QLDs) and Common Professional Examination courses (CPEs) starting in autumn 2021.

Some universities have told us that they would welcome a longer period running these courses as they prepare their new SQE programmes, given the significant challenges managing the impacts of Covid-19.

We have responded by updating our approach so that we will extend our validation of QLDs and CPEs to courses which start any time before 31 December 2021, provided students accept their offer on or before 31 August 2021.

Paul Philip added: "It will be some time before the longer-term implications of the Covid-19 pandemic are properly understood but we want to give some extra time to prepare for SQE for those who need it. Our changes to the transition arrangements provide more flexibility for both students and universities, as we introduce SQE in 2021."

It is clear from this statement that the SRA acknowledges the impact that the pandemic had on the training and qualification and as a result, they decided to make allowances for certain groups of applicants. All we ask is that SRA and LSB consider doing the same for us.

Conclusion

We, therefore, ask that the LSB reviews the above and appended correspondence and assist in changing the policy relating to the aforementioned, as follows::

- General extension of the entire QLTS due to the pandemic. It does not have to result in the postponement of the SQE as there is no reason why both can't run consecutively for a year especially as the SRA already planned for the OSCE to be available at the same time as the SQE for the MCT-takers.
- In the alternative, we ask that those of us who completed the LPC and are MCT-exempt are allowed the same privilege as those taking the MCT to ensure fair and equal treatment and the ability to attempt OSCE until 2022.

Please respond to [REDACTED]

Signatures

- [REDACTED]
- [REDACTED]