



Summary of decision

The purpose of this summary sheet is to provide a high level and accessible overview of the Legal Services Board's ("LSB") decision. Readers are recommended to read the formal decision notice below for further detail. **This summary is not and should not be taken as a formal part of the LSB's decision notice under the Legal Services Act 2007 ("the Act").**

The LSB's decision is to grant in full the application from the Solicitors Regulation Authority ("SRA") for approval of alterations to its regulatory arrangements relating to the Solicitors Qualifying Examination ("SQE").

The regulatory arrangements form part of the new SRA framework for admission as a solicitor in England and Wales, which provides that to be eligible for admission candidates must:

- Hold a degree or equivalent qualifications or experience. Notably, the current requirement to complete a Qualifying Law Degree (or Graduate Diploma in Law) and then the Legal Practice Course would cease, removing any requirement for the academic study of law.
- Pass a two-part centralised assessment: SQE1 (two exams of multiple-choice questions assessing legal knowledge) and SQE2 (an exam assessing legal skills). Candidates must pass SQE1 to progress to SQE2.
- Complete a minimum of two years qualifying work experience with up to four different organisations.
- Satisfy character and suitability requirements.

In addition, the SRA has set out principles for recognising qualified lawyer professional qualifications and experience when determining whether to allow individuals to forego any SQE component.

The LSB approved the regulatory arrangements forming the overall framework in March 2018. The decision set out in this notice is to approve specific regulatory arrangements necessary to implement the framework:

- the *SQE Assessment Regulations*, and
- amendments to *the Solicitors Qualifying Examination (SQE): approach to qualified lawyers seeking admission as a solicitor of England and Wales – the principles*.

Following assessment of the SRA's application, the LSB has concluded that the changes do not meet the conditions for refusal under paragraph 25(3) of Schedule 4 to the Act. We do, however, draw attention to certain issues that will need to be carefully monitored and managed by the SRA to realise the benefits of the changes. In addition, we recognise that achieving the full benefits of the new framework will be reliant on factors beyond the scope of these regulatory arrangements, and will likely depend to an extent on the progress the SRA and other stakeholders, including employers, make in wider areas of strategic importance for the sector, most notably in relation to equality, diversity and inclusion.

The decision notice explains our assessment of the main issues that we considered in reaching our decision. It also outlines the commitments made by the SRA that were relied upon in our assessment and our expectations for the SRA as it implements, monitors and evaluates the new framework.

Decision notice

The Solicitors Regulation Authority rule change application for approval of alterations to its regulatory arrangements relating to the Solicitors Qualifying Examination

1. The Legal Services Board (“LSB”) has granted an application from the Solicitors Regulation Authority (“SRA”) for approval to changes to its regulatory arrangements to introduce the *SQE Assessment Regulations* and amend the *Solicitors Qualifying Examination (“SQE”): approach to qualified lawyers seeking admission as a solicitor of England and Wales – the principles*.
2. The LSB is required by Part 3 of Schedule 4 to the Legal Services Act 2007 (“the Act”) to review and grant or refuse applications by approved regulators to make alterations to their regulatory arrangements. The Law Society is an approved regulator and the SRA is the regulatory arm to which the Law Society has delegated its regulatory functions.
3. This decision notice sets out the decision taken, including a description of the changes. The notes at page 37 of this notice explain the statutory basis for the decision.

Chronology

- The LSB confirmed receipt of an application from the SRA on 31 July 2020.
- The 28-day initial decision period for considering the application ended on 27 August 2020.
- On 24 August the LSB issued an extension notice which extended the decision period to 28 October 2020.
- This decision notice is effective from 27 October 2020.
- The decision notice will be published on the LSB’s website by 28 October 2020.

Background

4. The SRA is providing a new framework for admission as a solicitor in England and Wales. Central to the new framework is the introduction of a new centralised assessment – the SQE – and a requirement for a minimum of two years of qualifying work experience.
5. The SRA’s two stated objectives of the new framework are:
 - greater assurance of consistent, high standards at the point of admission
 - the development of new and diverse pathways to qualification, which are responsive to the changing legal services market and promote a diverse profession by removing artificial and unjustifiable barriers.
6. The SRA has conducted extensive public consultation and wide stakeholder engagement on its proposals, as detailed in its application.

SQE: First application

7. The SRA has taken a two-stage approach to seeking LSB approval for implementation of the SQE. In January 2018, the SRA submitted an application to the LSB for approval of regulatory arrangements providing for a new framework for admission as a solicitor in England and Wales. An essential component of the new framework is a new centralised assessment, the SQE. The SRA sought this initial approval as it intended to issue a tender to partner with an assessment provider to help it to develop and pilot the proposed SQE assessment. This initial approval was considered necessary as the assessment provider was expected to invest significant funds in this development stage.
8. The LSB approved the initial application in March 2018¹ (“the March 2018 decision”). The March 2018 decision approved *“the framework that will allow for further development and potentially implementation of the SQE”*. We made clear that the SRA would need to submit another application to the LSB for the approval of further regulatory arrangements to implement its planned reforms. The decision notice stated (paragraph 15):

“in making its decision, the LSB has also taken into account the fact that further regulatory arrangements will need to be approved by the LSB to give effect to regulation 1.1(a) [of the SRA Authorisation of Individuals Regulations] and therefore to implement the SRA’s new admission requirements.”

9. In the March 2018 decision, we set out the issues identified that were not possible to assess at that stage and which we would return to on our assessment of the second application. These issues and our expectations for the SRA’s second application were restated in a letter from the LSB Chief Executive to the SRA Chief Executive in November 2019². The key issues identified were:

- Quality of assessment
- Qualifying work experience (“QWE”) – meeting quality expectations
- Professionalism and ethics
- Cost
- Equality impact
- Provision of assessment in Welsh
- Plans for evaluation of impact

LSB statutory guidance on education and training

10. The LSB issued statutory guidance on education and training in 2014³. In 2017/18, we reviewed this guidance and concluded that it remained relevant. The guidance sets out five objectives that we seek for education and training. Regulators must have regard to this

¹ https://www.legalservicesboard.org.uk/what_we_do/regulation/pdf/2018/FINAL_decision_notice.pdf

² <https://www.legalservicesboard.org.uk/wp-content/uploads/2019/11/Paper-19-56-CEO-Report-November-2019-Anx-E.pdf>

³ https://www.legalservicesboard.org.uk/what_we_do/regulation/pdf/20140304_LSB_Education_And_Training_Guidance.pdf

guidance when reforming their education and training arrangements. The SRA's application explains how it has taken this guidance into account in developing its proposals.

Proposed changes

Overall framework

11. The SRA has developed a new framework for admission as a solicitor. Under the new framework, to be eligible for admission as a solicitor, candidates will need to:

- Hold a degree, or equivalent qualifications or experience. The current requirement to complete a Qualifying Law Degree (QLD) or Graduate Diploma in Law (GDL) and then the Legal Practice Course (LPC) would cease, removing the mandatory requirement for academic study of law (although it should be noted that academic study of law remains a valid pathway to admission). The regulatory arrangements concerning this aspect of the framework were approved by the LSB in the March 2018 decision on the SQE.
- Pass a two-part centralised assessment: SQE1 (two exams of multiple-choice questions assessing Functioning Legal Knowledge ("FLK" covering different subject areas) and SQE2 (a series of exams assessing legal skills). The current application contains regulatory arrangements that relate to SQE1 and SQE2.
- Complete a minimum of two years qualifying work experience. This could be completed with up to four different organisations and before completing SQE2. The current requirement to complete a registered training contract⁴ after the LPC would cease. The regulatory arrangements concerning this aspect of the framework were approved by the LSB in the March 2018 decision.
- Meet character and suitability requirements. The regulatory arrangements concerning this aspect of the framework were approved by the LSB in the March 2018 decision.

12. In addition, candidates seeking recognition of qualified lawyer professional qualifications and experience, will need to comply with the *Solicitors Qualifying Examination (SQE): approach to qualified lawyers seeking admission as a solicitor of England and Wales – the principles* ("the *Principles for Qualified Lawyers*"). This aspect was approved by the LSB in the March 2018 decision, but approval for minor amendments to the *Principles for Qualified Lawyers* is sought in the current application.

13. The SRA intends for the SQE to take effect from 1 September 2021, with the first examinations for SQE1 expected to take place in November 2021.

Regulatory arrangements for which approval was sought in this application

14. The SRA appointed Kaplan as the SQE assessment organisation in 2018, after the LSB's March 2018 decision on the first application. Kaplan is a large and established provider of education, training and assessment across a range of fields.

⁴ The final stage on the path to qualifying as a solicitor. It involves a two-year period spent working at a law firm or other organisation that employs solicitors.

15. Following further development of the proposals and the piloting of SQE1 and SQE2 assessments by Kaplan, the SRA developed the remaining regulatory arrangements that would be required to bring its new framework for admission into force.

16. This application therefore seeks approval of the following regulatory arrangements:

- the *SQE Assessment Regulations* (“the Regulations”)
- amendments to paragraphs 1, 6, 7, 8 and 9 and inserting a new paragraph 11, of the *Principles for Qualified Lawyers*.

17. The Regulations give effect to regulation 1.1(a) of the SRA Authorisation of Individuals Regulations (“Authorisation Regulations”), which requires candidates to successfully and satisfactorily pass a competency assessment conducted by an organisation appointed by the SRA for this purpose. (Regulation 1.1(a) to (d) of the Authorisation Regulations introduces the four core criteria for admission as a solicitor, as set out in paragraph 11 above.) The Regulations therefore prescribe the following requirements:

- The SQE will consist of two parts, SQE1 and SQE2. SQE1 must be passed before SQE2. Candidates must pass both SQE1 and SQE2 to pass the SQE.
- SQE1 will test legal knowledge and consists of two exams – FLK1 and FLK2 – which must be both passed. SQE2 will test oral and written skills and consists of a single exam.
- Candidates who fail either or both exams in SQE1 (FLK1 and/or FLK2) at the first attempt will have two further opportunities to sit them within a six-year window.
- Candidates who fail both FLK1 and FLK2 must retake them both in the same assessment window, unless there are exceptional circumstances.
- Candidates who fail SQE2 at the first attempt will have two further opportunities to sit them within a six-year window.

18. The Regulations also include arrangements in relation to the following:

- Composition, role and responsibilities of the Assessment Board
- Exemptions from any assessment – which are to be determined by the SRA, with no exemptions from only part of either SQE1 or SQE2
- Application of a candidates’ “Fit to sit” policy⁵
- Reasonable adjustments to assessment methods and arrangements for any part of the SQE to accommodate a disability or other condition
- Mitigating circumstances materially and adversely affecting a candidate’s marks or performance in the assessment
- Malpractice and improper conduct
- Withdrawal from the examinations
- Appeals against Assessment Board decisions.

⁵ This means candidates must declare that they know of no reason why their performance would be adversely affected during the assessment or why they may subsequently bring a claim for mitigating circumstances.

19. The Regulations reference the assessment specification as a document produced by the SRA giving information about the content of the SQE. These documents were annexed to the application. We do not consider the assessment specification to be a regulatory arrangement requiring LSB approval. However, we have considered it in assessing the impact of the overall proposals. The assessment specification provides that:

- For SQE1, candidates must take two 180 multiple choice question assessments of their application of functioning legal knowledge (FLK). These two assessments cover a range of subject areas⁶ and are “closed book assessments” in which students are not allowed to take notes, books or other reference material into the examination room, relying entirely on their memory to answer the questions set. Ethics and professional conduct will be examined across the two assessments.
- For SQE2, candidates would sit a mixture of written and oral assessments to demonstrate skills across five legal contexts⁷. There would be a total of 16 assessments. The legal skills assessed across the five legal contexts are client interviewing and attendance note/legal analysis, advocacy, case and matter analysis, legal research, legal writing and legal drafting.

20. The changes to the *Principles for Qualified Lawyers* would:

- Remove the requirement for qualified lawyers seeking an exemption from the SQE to be from a jurisdiction the SRA’s recognises, focusing instead on the qualification and experience
- Make clear that qualified lawyers can demonstrate the language requirement in either English or Welsh
- Extend the language requirement to qualified lawyers who are exempt from parts of SQE2 where the SRA has “serious and concrete doubts” about their language knowledge
- Remove the word “test” from the language requirement section to recognise greater flexibility in how candidates can demonstrate their language knowledge.

21. Consistent with the March 2018 decision, we have assessed this second SQE application as the “switching on” provisions for the new framework. Accordingly, in assessing this application we have considered the new framework overall, including but not limited to those issues that were identified in the March 2018 decision as requiring further information and analysis.

Approach to assessment

22. Our approach to the assessment of the application took the SRA’s two primary objectives for the new framework as a starting point:

- (i) Greater assurance of consistent, high standards at the point of entry (“Standards”)

⁶ Business Law and Practice; Dispute Resolution; Contract; Tort; Legal System of England and Wales; Constitutional and Administrative Law and EU Law and Legal Services; Property Practice; Wills and the Administration of Estates; Solicitors Accounts; Land Law; Trusts; Criminal Law and Practice.

⁷ Covering the reserved legal activities, with the addition of business law and practice.

- (ii) The development of new and diverse pathways to qualification, which are responsive to the changing legal services market and promote a diverse profession by removing artificial and unjustifiable barriers.

23. We considered that if the SRA's stated objectives are achieved, the new framework should deliver significant benefits related to the following regulatory objectives in section 1(1) of the Act:

- (a) protecting and promoting the public interest;
- (d) protecting and promoting the interests of consumers;
- (f) encouraging an independent, strong, diverse and effective legal profession;

24. In considering the application, where we identified risks or potential adverse impacts on the regulatory objectives, we assessed whether they were so significant as to outweigh the positive impacts of the objectives being met under the proposals (and, by extension, whether it was in the public interest to grant the application).

Stakeholder views

25. The procedure and process for approval of alterations to regulatory arrangements under Part 3 of Schedule 4 to the Act does not require that the LSB publicly consult on applications it receives. However, it has been our practice to take account of views communicated to us in correspondence when considering applications. In particular, we review all relevant correspondence for issues that might be relevant to our assessment and seek to identify new issues, or new evidence in relation to existing issues. We publish the correspondence we receive on our website alongside the application. This established practice was followed in relation to this application.

26. During the assessment period, we received or were copied into correspondence from a number of individuals and stakeholders in relation to the SRA's proposals. Correspondence sent direct to us is published on our website alongside the application.

27. We are grateful to stakeholders for the time that they took to share their views on this application and the new framework. In our assessment we sought to cover all of the issues raised by stakeholders.

Overview of key issues

28. We conducted a detailed analysis of all the information available to us to identify a wide range of issues for consideration in our assessment, which we recorded and assessed as 34 distinct issues.

29. In this decision notice, we provide a summary of those key issues, from the overall number that we assessed, that we consider the most significant in our assessment of the application against the refusal criteria. These are the issues that we considered to carry a degree of risk to the regulatory objectives which, if unmitigated, had the potential to engage the refusal criteria set out in paragraph 25(3) of Schedule 4 to the Act.

30. The issues summarised in this decision notice are:

- (i). QWE – quality of QWE, professionalism and ethics and risk of exploitation
- (ii). Training provider risks
- (iii). Costs/affordability
- (iv). Differential attainment
- (v). Provision of SQE in Welsh
- (vi). Removal of requirement for academic study of law
- (vii). Concerns about the design and quality of SQE assessments
- (viii). Removal of skills test from SQE1
- (ix). Accessibility of the SQE and reasonable adjustments
- (x). Ordering of the elements of the SQE
- (xi). Barriers to cross-qualification
- (xii). COVID-19 impact on development and implementation
- (xiii). Evaluation and monitoring

31. We have set out further detail on each of these issues and our assessment of them in paragraphs 32 to 187 below.

The LSB's assessment

32. If the SRA's stated objectives are realised, the proposals should have a positive impact on the regulatory objectives. Following our detailed assessment, we see no reason to conclude that the SRA's objectives should not be realised, as long as the SRA proceeds according to its stated intentions and commitments and pays careful attention to the issues identified in our assessment.

33. Whilst our assessment identified a number of issues, we have not encountered any risks or potential adverse impacts that, taking into account the mitigations set out by the SRA, we consider to be so significant as to outweigh the likely positive impacts of the proposals on the regulatory objectives. As a result, we have concluded that the refusal criteria are not sufficiently engaged to merit refusing this application.

34. In reaching our conclusion, we have taken account of the assurances and commitments provided by the SRA. These include commitments to monitoring, evaluation and research, as well as specific mitigations designed to prevent certain risks from materialising in the first place. The SRA has also committed to keep its position on each issue under consideration and to respond to the evidence if it identifies concerns. Further and more specific detail on commitments and expectations is set out below. The key commitments relied upon in our assessment that were not included in the SRA's original application, as well as the specific expectations that we have set of the SRA, are summarised in Annex A to this decision notice.

35. In this assessment we draw attention to a range of issues that will need to be managed carefully by the SRA in order to realise the full benefits of the changes. We commend the SRA for the transparency with which it has set out its corresponding commitments. While we expect the SRA to continue to demonstrate openness and transparency as it proceeds to implement

the SQE, the LSB's regulatory performance framework will provide an additional source of assurance that the SRA follows through on its commitments.

36. In addition, we recognise that achieving the full benefits of the new framework will be reliant on factors beyond the scope of these regulatory arrangements, and will likely depend to an extent on the progress the SRA and other stakeholders, including employers, make in wider areas of strategic importance for the sector, most notably in relation to equality, diversity and inclusion.
37. There follows below a more detailed explanation of the key issues that we considered in our assessment.

(i) QWE – quality of QWE, professionalism and ethics, and risk of exploitation

Overview of issues

38. This application does not provide for regulatory arrangements of direct relevance to QWE, as these were approved by the LSB in March 2018. However, the March 2018 decision set a clear expectation for the SRA to produce an updated equality, diversity and inclusion (“EDI”) impact assessment and to take appropriate action to respond to EDI risks.
39. Since March 2018, new information and concerns have arisen around the potential EDI risks associated with QWE, which has made this a key consideration in our assessment, given that approval of this application would allow for the new framework to be implemented. In addition, whilst the framework regulatory arrangements were approved in March 2018, this application provided an opportunity to consider how the detail of the SRA's expectations had developed in the intervening period.

Quality of QWE

40. From reviewing the application and supporting materials, we had concerns about the lack of a clear articulation around the SRA expectations for robust, good quality QWE. This was also an issue raised by some stakeholders, who questioned the quality of QWE that will be provided in the absence of a clear standard or expectation for QWE from the SRA.

Professionalism and ethics

41. We identified professionalism and ethics as a key issue when we wrote to the SRA in November 2019. During our assessment of this application, we requested an explanation of how, under the new framework, the SRA expects that ethical practise and the concept of professionalism will be acquired and assessed through QWE.

Risk of exploitation

42. We were also concerned about the risk of exploitation of individuals aspiring to be solicitors by less responsible firms, which could have a negative impact on professional standards, and on equality and diversity. This was an issue raised by a number of stakeholders. For example, there were concerns that individuals aspiring to be solicitors may be put under pressure to

undertake QWE on an unpaid basis, as the SRA had stated that unpaid internships can count towards QWE. This could have significant EDI impacts, particularly around social mobility, as many candidates would not be in a position to afford to do unpaid work for an extended period of time.

43. Linked to the above, we considered concerns about the level of regulatory oversight that the SRA was proposing to take to QWE, noting in particular the absence of clear and direct regulatory requirements on conduct in relation to the provision of QWE.
44. The LSB raised a number of issues with the SRA on QWE to seek further information, including a copy of the draft QWE guidance that it was in the process of developing, and assurance as to how it would address the above concerns.

SRA response

45. The SRA said it was engaging with a range of stakeholders including small, medium and large firms, the Sole Practitioners' Group, the Clinical Legal Education Organisation, the Law Society and the Junior Lawyers' Division to get their feedback and develop its final QWE guidance for publication in November 2020. In the meantime, the SRA provided us with a detailed outline of what its guidance would cover.

Quality of QWE

46. In terms of quality, the outline guidance that the SRA shared with the LSB set out clear expectations for what the SRA would consider to be an acceptable quality of QWE and how this would be supported through its rules and requirements (explained further below). The SRA confirmed that it will ensure that there are regulatory consequences for those who do not meet its expectations, as set out in the guidance.
47. The SRA will publish data on SQE pass rates by QWE provider which it expects will encourage those organisations to provide a good quality experience and help candidates to decide where to undertake QWE. It argued that this provides greater transparency than is possible in the current system about which organisations are good places to train in.

Professionalism and ethics

48. The outline guidance on QWE that the SRA provided recorded the SRA's expectation that the purpose of QWE is not only to help candidates develop the competences for practise as a solicitor but to enable them to learn from role models how to behave ethically and professionally in accordance with the SRA Code of Conduct. Moreover, a solicitor will have to sign off a candidates' QWE to confirm that there are no issues which might affect the candidate's character and suitability to enter the profession.
49. Beyond QWE, the SRA said it will work with education and training providers to make clear the importance of ethics and professional conduct in the SQE. It also explained its approach to assessing ethics through the SQE.

Risk of exploitation

50. In its application, the SRA noted a challenge associated with the current system that it believes will be improved through the introduction of QWE. It explained that some candidates currently take on paralegal roles in the hope that they will eventually be offered a training contract but under the current system, they can get only limited credit for this type of work experience and many candidates are not able to progress to admission. The SRA explained that when SQE is introduced, those in similar paralegal roles should be able to count this experience as QWE.
51. In its response to the LSB's question about unpaid internships counting towards QWE, the SRA noted that the current system allowed for internships to count towards a training contract (up to six months). The SRA acknowledged the risk of exploitation but considered this was not a reason to stop internships from counting towards QWE, to ban unpaid internships, or to require QWE to be obtained only through paid employment. The SRA considered that stopping unpaid internships would create a barrier to entry for those who have struggled under the current system to gain admission as a solicitor because of the training contract bottleneck. It also noted that this would prevent QWE from including experience gained in law centre and other pro bono settings.
52. The SRA considered that its Codes of Conduct for firms and individual solicitors would provide meaningful safeguards in relation to the risk of exploitation, as the SRA Standards and Regulations include the stipulation that firms/solicitors do not take unfair advantage of, and properly supervise and manage staff. The SRA explained that it can take enforcement action where it has evidence that employers are not meeting this obligation. The SRA confirmed that these requirements will be articulated and explained within the final QWE guidance, including direct references to the specific requirements in the Codes of Conduct for firms and solicitors that could be engaged.
53. The SRA will require QWE to be signed off by a solicitor or Compliance Officer for Legal Practice (COLP), both of whom are regulated by the SRA and are subject to the requirements in its Code(s) of Conduct. The SRA said that the requirement for a solicitor or COLP sign-off is an important protection. This means it can take disciplinary action if a false declaration is submitted or, for example, an individual refused to sign off experience where it had been properly completed to keep the candidate in an unqualified and therefore lower paid position.
54. In response to the issues raised by the LSB, the SRA has made a commitment to establish a dedicated hotline for QWE candidates to report issues with QWE. Staff will be trained to support distressed callers. The SRA expects this hotline to provide early warning of systemic issues, or serious or repeated concerns in relation to a particular provider which need follow up action. It confirmed that, where appropriate, it would be able to act on intelligence received through the hotline without a candidate needing to make a formal referral to the SRA.
55. The SRA confirmed that where it has evidence that standards referred to in its guidance are not met, it will apply robust and proportionate sanctions. In terms of poor treatment, the SRA asserts that it would take action were employers to take unfair advantage of candidates, act without integrity in their dealings with them (including bullying, harassment or other poor workplace practices) or fail to promote equality, diversity and inclusion.

56. The SRA explained that it does not want to minimise the benefits of QWE by placing prescriptive requirements on QWE providers which would unnecessarily restrict the flexibility and availability of QWE opportunities and perpetuate the problems of access to work experience in the current system. It also noted that poor practice does occur under the current system.

57. The SRA has set up a “community of interest” for QWE providers, which will include opportunities to meet and share best practice and concerns about QWE. The SRA stated that it hopes that this will provide insights into how QWE is working in practice and provide information which the SRA can use to develop QWE resources – both for employers and candidates.

Commitments to monitoring and evaluation

58. The SRA set out a range of measures to monitor whether its expectations are being met in relation to QWE and whether candidates are being treated fairly, which include:

- Conducting an annual survey of candidates to get feedback on their experiences of QWE, which will provide insight into specific QWE environments, including the need for the SRA to take appropriate action where there may be difficulties.
- Reviewing and monitoring information such as referrals to its dedicated QWE hotline.
- A focused evaluation of how QWE is working in the second year after the SQE is introduced.
- A wider evaluation programme through the SRA’s market studies (which will take place at 2, 4 and 5-7 years) that will look at the availability of QWE opportunities and how employers have reacted to QWE. Through “perception studies” (which will also take place at 2,4 and 5-7 years) the SRA will explore candidate and employer perceptions of the new system, including their experiences of QWE.

59. The SRA committed to using this data, its annual survey of candidates and evaluation work as the basis for ongoing consideration as to whether any changes or further safeguards are required to ensure high standards.

LSB assessment and conclusion

Quality of QWE

60. Our concerns around quality of QWE largely arose due to the lack of detail in the material that was initially presented to us around what the SRA expected and how this would be overseen. In our view, the SRA’s outline guidance sets out a clear indication of its expectations. The SRA has also explained how its wider regulatory arrangements will support these expectations and confirmed that failure to meet the expectations set out in its guidance will engage regulatory consequences. Further, it set out clear plans for monitoring and evaluating the position, leading to action to address issues identified. We have no reason to expect the SRA not to give life to its commitments and as a result we do not consider this issue to raise sufficient grounds for refusing the application.

61. It will be important that the SRA follows through on its commitments around monitoring and evaluation of QWE (as set out in particular in paragraph 58).

Professionalism and ethics

62. As with concerns about the quality of QWE, the additional detail provided by the SRA through its outline guidance has made its position clearer and largely allayed our concerns.

63. The LSB is likely to be pursuing work during our next strategic cycle (2021-24) to update our existing statutory guidance on education and training and ensure that it reflects the importance of ethics and instilling a strong sense of professionalism through education and training. At this stage, we are content in our assessment of this application that the approach set out by the SRA has the potential to flex in the future if it is deemed that further proactive measures to confirm ethical competence and professionalism would be beneficial.

Risk of exploitation

64. While we acknowledge the risks of exploitation identified, we also consider that the introduction of QWE could help to address some of the risks inherent in the current system. For example, it should be less likely that aspiring solicitors are kept in paralegal roles without being offered the opportunity to train and qualify.

65. Overall, we consider that the SRA has set out proportionate and targeted measures to minimise the risk of exploitation. In particular, we welcome the commitment to include clear references in the guidance to the relevant rules within the SRA's Codes of Conduct which might be engaged through poor practice. We also welcome the enhanced commitments to monitoring the situation in practice, through annual surveys and building QWE evaluation into the SRA's wider evaluation plans. The establishment of a dedicated QWE hotline to provide support to candidates and intelligence to the SRA on issues arising is also seen as a meaningful potential mitigation for the risks. The SRA will need to evaluate the effectiveness of these measures through its evaluation plan and account for this through publishing its findings.

66. In terms of unpaid internships, the ability to undertake these will often require access to resources that puts such positions beyond the reach of many aspiring solicitors. This may constitute a barrier to EDI and social mobility. We understand, however, that some not-for-profit organisations may rely on a small number of such positions and also that allowing unpaid internships to count towards QWE may help to address the training contract bottleneck. While it may be desirable in due course to consider pursuing policy changes in relation to unpaid internships, gathering and analysing the evidence to do so is beyond the scope of this application. Given that such internships exist under the current arrangements, we do not consider this issue as providing sufficient grounds to refuse the application. We do expect, however, the SRA to be conscious of the potential of this issue to hinder the realisation of the full benefits of the SQE. The SRA will need to carefully monitor the position in relation to unpaid internships, including the evidence in relation to equality, diversity, inclusion and social mobility impacts, and keep its position under review.

(ii) Training provider risks

Overview of issues

67. Training provider risks were considered in the March 2018 decision and we noted that it was an aspect of the arrangements that the LSB would expect the SRA to monitor.
68. Currently, the SRA provides authorisation and a degree of quality assurance of its training providers. Under the proposed arrangements, the SRA intends to discontinue its approval of training providers. It is expected that many providers who will offer training for the SQE assessments will be educational organisations that currently fall under the remit of existing oversight for higher education providers. However, the SRA also expects that a range of new providers will enter the market who may not fall under existing higher education oversight arrangements.
69. We were concerned about how candidates would be able to navigate the training market and understand the quality of training that they may be offered in the early years, when the training market will be evolving and before data on performance is available. This issue was also raised by stakeholders.
70. We also had related concerns about financial viability of training providers who are not subject to any oversight. Our concern here was that providers might cease operating mid-way through delivering training that candidates have paid for and without protections in place for these candidates.

SRA response

71. The SRA explained to the LSB why it does not consider that assuring the quality of teaching is the best way to assure the outcomes of that teaching or encourage high quality teaching. Its experience with the LPC and with CPD providers is that it is very difficult to assure the quality of providers through input measures and related quality assurance activity and it can be misleading to candidates. It considers that its proposed open approach to data (including publishing SQE pass marks by training provider) will create a more transparent and accountable market in which candidates can make judgements about value for money, pass rates and whether to purchase providers' services.
72. The SRA noted that many of the providers planning to offer SQE preparatory training are existing providers which are regulated by the Quality Assurance Agency for Higher Education and the Office for Students ("OFS"). Candidates will be able to choose among a range of providers, including new entrants, or those with an established reputation in the provision of legal education, or those who operate within, or outside, the regulated higher education market.
73. The SRA also expressed its view that for all providers, the desire to retain their reputation and market share, and the knowledge that the SRA will be publishing their pass rates, will encourage them to offer quality training. In addition, the SRA has trademarked the term 'SQE'. Any provider that wishes to use the term SQE in their advertising must sign up to the trademark

terms and conditions of use. This enables the SRA to take action to prevent market abuses (such as publication of false pass rates or misleading advertising).

74. We asked the SRA to confirm what risks it had identified in relation to viability of training providers and how it proposed to mitigate these. In response, the SRA provided the following explanation and commitments:
- a. The SRA expects that the majority of SQE training providers (and the largest providers) will be regulated by third parties, such as the OFS. The SRA explained that the OFS's position is that it will not intervene to prevent a university exiting the market, but it will intervene to ensure that students are protected from a disorderly exit. OFS therefore requires providers to have in place a Student Protection Plan identifying risks (including in relation to institution viability) and measures in place to mitigate those risks.
 - b. The SRA will issue guidance that makes it clear that the SRA regulates the SQE assessments but does not regulate SQE training providers, courses or materials. The guidance will provide information for candidates on what to look for when choosing a provider. This will include advice to candidates to check what protections providers have in place and to consider questions such as whether the provider offers the facility to pay for the course in instalments, rather than paying the full fee upfront.
 - c. The SRA will use the "community of interest" it has established with training providers to keep this issue under review. The community of interest will give the SRA insight into the training market, what support candidates might need and where possible risks might lie. The SRA has stated that it will use this forum to encourage providers to explore ways to work together in the interests of candidates. It will also be able to facilitate discussions between providers if it becomes aware of a possible risk materialising.
 - d. The SRA will keep the training market under review through its routine horizon scanning and engagement with the wider education and training landscape, and through its formal evaluation. There is a built-in review point through the planned initial market study after two years of operation.
 - e. The SRA has provided a commitment that where the evidence suggests concerns are materialising about providers' financial viability, it will consider whether it needs to take further action. For example, if necessary, it could consider a light touch system of monitoring for providers who are not already regulated. This could involve a requirement for providers to share financial information with the SRA and put in place a student protection plan in relation to financial viability.
75. Overall, the SRA will monitor the training market as part of its evaluation (in years 2,4 and 5-7 years) and will review its approach if any concerns arise.

LSB assessment and conclusion

76. We are satisfied with the SRA's explanation for moving from an inputs-based approach to oversight of training to one based on transparency around outcomes. This said, we note that

outcomes in SQE assessments may be influenced by a range of factors beyond the quality of teaching – for example, the student intake of a particular training programme – and publishing results by provider may not by itself provide the full picture of quality. The SRA will need to keep this under review and consider whether additional indicators would be of benefit to candidates in the future.

77. We also recognise that implementing this new framework comes with inherent risks to candidates, particularly in relation to navigating the training market in the first few years of the SQE's operation. These arise because training providers will be learning what is expected of them and the SRA's intended publication of pass rates will not have had time to deliver benefits.
78. We have taken assurance from the SRA's planned mitigations for training provider risks. In particular, we:
- accept the SRA's argument that even in the early years providers should be incentivised to provide high quality training due to future publication of pass marks
 - consider that the SRA has recognised the potential for market abuse and has committed to monitoring the market closely
 - acknowledge the SRA's plans to publish materials for candidates to help guide their decision on which training provider to enrol with
 - note commitments to monitor and review the situation in practice and respond to signs that risks are materialising in practice.
79. In relation to concerns about viability risks to candidates, we note the mitigations that the SRA has set out in response to our enquiries, as recorded in paragraph 73 above. Whilst these will mitigate the identified risks to some extent, we note that the SRA will be creating a new training market and that as a result, acknowledge there is an inherent risk that some providers may encounter viability issues.
80. We expect the SRA to work with incoming providers and other key stakeholders such as the Law Society, prior to implementation, to establish the viability of introducing additional reasonable safeguards to protect students, which are beyond the scope of the regulatory arrangements proposed here. This should include consideration of student protection plans or market exit strategies, payment by instalments or mandatory disclosure of providers' arrangements before accepting payment. The SRA has committed to investigate this area further in line with our expectations. We will expect the SRA to report to the LSB on progress in this regard.
81. On the basis of the SRA's commitments as set out above, we do not consider that this issue sufficiently engages the refusal criteria so as to merit refusing the application.

(iii) Costs/affordability

Overview of issues

82. The March 2018 decision made clear that we would expect to see detailed costs information in the second SQE application. The SRA's application did provide costs modelling for SQE1 and SQE2.
83. Some stakeholders emphasised that SQE costs do not include the cost of training and courses likely to be taken in preparation for the SQE and suggest that this is borne out to some extent by indications that some firms may require candidates to complete SQE1 and SQE2 before QWE. As a result, they argued that the overall cost may be the same as or even higher than the costs of the existing route.
84. Some stakeholders questioned the figures provided by the SRA in its application for the cost of the LPC, noting that there are many cheaper options.
85. Concerns were also expressed that government funding will not be available for most SQE training, whereas currently some candidates may be eligible for government loans for GDL and LPC courses. This could serve to make qualification less affordable than the current system.
86. The LSB also raised an issue with the SRA concerning the potential for the single assessment provider to raise assessment fees in the future, thus increasing the overall costs of qualification.

SRA response

87. Since the March 2018 decision, the SRA has appointed Kaplan as the sole assessment provider for SQE and has now confirmed that the total cost of assessments will be £3,980. This allowed it to further develop its costs modelling on the different pathways to admission as a solicitor.
88. The SRA stated that it expects the SQE to offer candidates a far wider choice of routes to qualification than under the current system. While it is possible that some routes to qualification may be more expensive than is currently the case, the cost modelling indicates that many routes should be cheaper and all candidates will be held to the same SQE assessment standard, regardless of their choice of pathway. The SRA also set out its view that under the new framework, it will be easier for candidates to "earn while they learn", making qualification more affordable in practice, regardless of overall cost.
89. The SRA provided the LSB with further information on indicative costs for different pathways to qualification under the new framework to support statements made in its application that the SQE offers less expensive routes to qualification. These indicative costs were based on fee estimates that some education and training providers have published for SQE training packages that they are developing. However, the SRA expects new providers to enter the market in time, which could in theory drive further potential cost savings. To illustrate the potential saving that may be available based on current information, the SRA's modelling

compared the total indicative costs of training and assessment under new pathways with costings for the existing law degree and LPC route and for the non-law degree (GDL) and LPC route. These illustrative costings suggested that, based on fees already published by some training providers, the following savings may be possible:

Route (costs include SQE assessment costs)	Indicative overall saving based on SRA analysis of costs published by existing providers
Law degree incorporating SQE1 preparatory training, qualifying work experience (QWE) and SQE2 preparatory training	Approximately £8k compared to existing law degree route
Degree (law degree which doesn't include SQE1 preparatory training), SQE1 preparatory training, QWE and SQE2 preparatory training	Approximately £4.5k compared to existing law degree route
Degree (non-law degree), Conversion Course, SQE1 preparatory training, QWE and SQE2 preparatory training	Approximately £4.5k compared to existing non-law degree route

90. In response to further enquiries from the LSB, the SRA provided detail to further explain the indicative costs it used for the LPC and confirmed that, as stated in its application, VAT will not be paid by candidates on SQE assessment fees.

91. The SRA recognised that some firms will require completion of SQE1 and SQE2 before QWE. If so, the SRA accepted that it is possible that lack of access to funds could disadvantage those from lower socio-economic background for whom the upfront cost may be less affordable, thus limiting some of the potential benefits of the new approach in terms of affordability. However, the SRA view is that there is no regulatory justification for restricting the flexibility in how employers recruit and train their future solicitors. The SRA envisages a range of different approaches emerging in the market and pointed out that some firms have announced publicly that they will be introducing a training system which will integrate QWE with SQE1 and SQE2 to support candidates to earn and learn. It considers that flexibility for all firms and employers, as well as for the candidates, offers opportunities for all concerned. The SRA said that its engagement with the sector suggested that some employers are considering paying SQE costs for employees, as they currently do under the existing arrangements.

92. The SRA addressed cost and affordability in some detail in its EDI risk assessment, which accompanied its application. The SRA's application also highlighted that funding for SQE costs is available through the apprenticeship levy. This can include individuals with prior learning joining the apprenticeship programme for the last two years of their training, in which case the cost of the SQE training and assessment (on a pro rata basis) is recoverable through the levy.

93. The SRA sets out in its application the wide range of training models that it expects to emerge, which will include SQE inclusive law degrees and new post-graduate professional law

programmes which may include the current GDL content within an SQE training package. Government funding for SQE through these routes will still be available.

94. The SRA provided the LSB with detail on measures it has in place dealing with the governance and processes around how any future proposed fee increase for the SQE assessment would need to be agreed with the assessment provider.

LSB assessment and conclusion

95. We were satisfied with the controls the SRA has identified in relation to future fee increases by Kaplan.
96. We have interrogated the SRA's costs modelling and are satisfied that the assumptions on which they are based are reasonable. The modelling demonstrates that cheaper routes to qualification will be amply available. Whilst employer (and indeed candidate) preferences and practices might serve to maintain some more expensive pathways, the availability of cheaper pathways are designed to have a positive impact on diversity and inclusion, and thus the regulatory objective to encourage a strong and diverse legal profession.
97. Whilst largely out of the SRA's hands, the likely lack of government funding for some routes for SQE training will not help with affordability. Balanced against is the impact on diversity and inclusion of lower overall costs, and the fact that there are likely to be more opportunities for candidates to earn as they learn and therefore avoid or reduce the need to incur debt through loan funding.
98. The extent to which employers embrace the new system and adopt practices which support earn as you learn and do not place additional requirements for expensive training will have an impact on cost and affordability for some candidates. The Bridge Group⁸ consider this in its report (annexed to the SRA's application) and notes that overall, the SRA will only achieve modest EDI gains without corresponding action from employers and other stakeholders. Whilst it suggests that the recruitment practices of some firms are not a compelling reason to maintain the current position, it makes a number of suggestions for the SRA to seek to build trust amongst stakeholders to encourage them to embrace the reforms. The SRA has confirmed that it will be undertaking work in this regard and shared some details on its plans, which will include engaging closely with the Law Society and other solicitor representative groups to maximise QWE opportunities.
99. Taking all these factors in the round, our assessment is that cost/affordability is unlikely to give rise to a negative impact on the regulatory objectives or to sufficiently engage any of the refusal criteria to warrant refusing the application. However, we recognise that achieving the full benefits of the new framework will be reliant on factors beyond the scope of these regulatory arrangements, and will likely depend to an extent on the progress the SRA and other stakeholders, including employers, make in wider areas of strategic importance for the sector, most notably in relation to EDI. The benefits of diverse pathways are likely to be much

⁸ The Bridge Group is a non-profit consultancy that uses research to promote equality, diversity and inclusion.

diminished if, for example, existing cultural barriers within the profession – for example, preference for “elite” institutions – are not tackled meaningfully.

(iv) Differential attainment

Overview of issues

100. The March 2018 decision noted the need for the next application to provide an updated EDI impact assessment. Differential attainment is an EDI risk that has been identified through piloting and is reflected in the SRA’s updated EDI risk assessment, which was annexed to its application.
101. We noted the differential attainment in the performance and pass rates of different groups of candidates of the SQE1 and SQE2 pilots. Some stakeholders also raised concerns around this. The Kaplan report for the SQE1 pilots found that ethnicity and disability were both factors adversely affecting performance. This outcome from the pilot and recommendations made by Kaplan resulted in the SRA removing the proposed skills assessment from SQE1 to SQE2.
102. More generally, the pilots identified a difference in performance by binary ethnicity⁹ in other assessments with BAME candidates performing worse as a group overall than white candidates across both the FLK and skills assessments.
103. Some stakeholders suggested that, due to the issue of differential attainment and the sample size of the pilots (including the low number of candidates with a disability who took part), more time is needed for the SRA to undertake further testing, research or piloting.

SRA response

104. The SRA’s application explained that the issue of differential attainment is not unique to the SQE, rather it is a known problem across higher education and other professional assessments. The SRA said it found no evidence that the differential performance identified in the SQE1 and SQE2 pilot was due to the design of the assessments or the assessment tasks, but that the pilot did show that differential performance is an issue which it must monitor in the live assessments.
105. The SRA claimed that candidates on the pilots were broadly representative of those that seem likely to take the SQE. The SRA said that the pilots conducted by Kaplan incorporated detailed analysis of differential attainment. This included:
- Univariate analysis of performance by candidate demographics and multivariate regression analysis to try to establish the “true” predictors of candidate performance in a situation of confounding variables.
 - Differential item functioning, looking at whether questions disadvantaged particular groups over and above any general difference in performance between those groups.

⁹ Binary ethnicity refers to binary categories (Black, White, ethnic minority) rather than more detailed levels of ethnic groupings

106. The SRA was clear that it did not consider that further pilots would answer any new questions.

107. In response to a suggestion by one stakeholder to run a pilot with the solicitor apprentices in 2021/22, the SRA explained that this would not be helpful due the low number of apprentices that will sit the SQE in 2021/22. In addition, it noted that the apprentice group would not be representative of those who are likely to sit the SQE in general. The SRA added that qualifying apprentices through a pilot which is designed to test the assessment (not whether the candidates were competent) would also be undesirable from a regulatory point of view.

108. The SRA's application sets out measures that Kaplan will introduce to minimise the risk of unfairness to candidates from protected minority groups. The stated measures are:

- recruitment of a diverse range of assessors, markers and question writers
- diversity training for all assessors
- monitoring of outcomes by assessors for evidence of unconscious bias
- statistical analysis of individual questions to check for patterns of differential performance
- statistical monitoring of the performance of protected groups.

109. The SRA's application also stipulated that it will be commissioning independent research in 2020/21 to investigate what might be the underlying causes of differential attainment. This research would be informed by the results of the first cohort of SQE students.

110. The SRA explained that the introduction of the SQE as a national qualifying exam would enable, for the first time, collection and analysis of a large data set covering all candidates who have sat the same exam. The SRA consider this will provide a sound basis on which to research differential outcomes and their causes and to measure the effect of actions taken to improve equality of opportunity.

111. Monitoring differential attainment is a key part of the SRA's monitoring and evaluation plans, which will initially include a two-year review point.

112. The SRA's application notes that whilst it is not possible to accurately assess performance across different groups under the current system, there is some concerning data on drop-out rates for the GDL and LPC. For example, for the academic year 2017/18:

- For the GDL, the drop-out rate was 57% for Black (African, Caribbean/Black British) candidates and 51% for Asian/British Asian candidates, compared to 32% for White candidates.
- For LPC candidates, the drop-out rates were even more marked with 65% for Black candidates and 52% for Asian candidates, compared to 34% for White candidates.

113. The Bridge Group report contains a section on differential attainment. Some of the key points from its assessment include:

- Acknowledging references in the SRA's EDI risk assessment to the wider challenge in higher education and other professional examinations in relation to differential attainment
- Commending the SRA's decision to undertake further analysis to embed an understanding of factors contributing to differential performance and making recommendations for how to conduct this analysis
- Noting that in relation to single best answer multiple choice questions, its view is that these are as objective an evaluation methodology as possible.

LSB assessment and conclusion

114. Concerns about differential performance are relevant to the following regulatory objectives in section 1(1) of the Act:

- (a) protecting and promoting the public interest
- (f) encouraging an independent, strong, diverse and effective legal profession.

115. This issue therefore had the potential to engage the refusal criteria. However, we recognise that there are significant concerns with differential attainment under the current system. The drop out figures from the GDL and LPC demonstrate a significant difference by ethnicity which is very concerning. Of equal concern, is that the current framework makes it difficult to properly track and understand attainment for those who do sit exams. It is in this regard that the new approach could have significant benefits. The SRA will be able to monitor and report on performance in SQE assessments by a range of factors, including ethnicity. This in turn will provide the basis for better understanding what may be contributing to differential attainment and to targeting activity to address this.

116. We note and are satisfied that the SRA has carefully considered the results of the pilot and the measures it will undertake to address differential attainment. We also recognise that neither the Independent Reviewer appointed by the SRA to advise on the development and running of the SQE¹⁰ nor the Bridge Group expressed concern that the differential attainment was due to the design of the assessments or the assessment tasks.

117. The SRA has made a commitment to commission independent research into this area over the coming year and to monitor and evaluate the position thereafter as a key strand of its wider evaluation plan. It has also committed to respond to the findings of its research and monitoring, to seek to address any issues identified that may be contributing to differential attainment.

118. Overall, on the basis of the SRA's commitments to monitor, publish and respond to identified issues with differential attainment, we do not consider that this issue sufficiently engaged the refusal criteria so as to merit refusing the application. In fact, the new framework appears to provide an important opportunity for significant progress to be made in terms of understanding and responding to existing concerns about differential attainment.

¹⁰ The SRA appointed Geoff Coombe, previously executive director at the AQA (one of the national GCSE and A level exam boards) as the Independent Reviewer of the SQE.

(v) Provision of SQE in Welsh

Overview of issues

119. The March 2018 decision noted that the SRA's decision on offering SQE assessments in Welsh would be relevant to our consideration of the second application and encouraged the SRA to continue to engage with the Welsh Language Commissioner as it developed its approach.

SRA response

120. The SRA acted on stakeholder concerns in the time between its first and second applications. In this application, the SRA proposed a phased approach to development of the SQE in Welsh. Starting from Autumn 2021, candidates will be able to provide responses to SQE2 written assessments in Welsh. In the second year of the SQE, candidates will also be able to provide their responses to SQE2 oral and written assessments in Welsh. In the third year of the SQE, questions for oral and written skills from the assessments will be translated into Welsh. In the fourth year of SQE, the FLK questions for SQE1 will be translated into Welsh – which would mean full parity of assessment achieved for both SQE1 and SQE2.
121. The SRA confirmed to the LSB that the LPC is currently offered in Wales by three universities. These courses are largely taught and assessed in English. Although students can request assessments in Welsh, the SRA's understanding is that none of them have ever requested this. The SRA is aware of only one university which provides advocacy and interviewing assessments in Welsh where students request this, but the numbers are very small (one student this academic year).
122. The SRA's application explained that it had discussed its proposed approach with stakeholders in Wales and referenced comments made by the Counsel General to the Welsh Parliament, welcoming the fact that the SRA had agreed to offer the SQE in Welsh. In reply to our request, the SRA also provided a copy of written correspondence from the Welsh Government welcoming the decision. The SRA further outlined its engagement with stakeholders including the Welsh Government, the Coleg Cymraeg Cenedlaethol, the WJEC, the Welsh Justice Commissioner, Welsh-speaking staff and students at the University of Swansea and the Translation Service at HM Courts and Tribunals Service in Canaerfon.
123. The SRA set out in its response that it had adopted a phased approach to the introduction of SQE in Welsh to make sure that provision is of the highest quality and consistent with provision in English. The SRA stated that the four-year implementation period reflected the scale of the tasks to be completed prior to introduction and the need for quality assurance at each stage. The SRA said that attempting to implement any earlier would create risks for the successful introduction of the SQE in Welsh.

LSB assessment and conclusion

124. The SRA's agreement to provide full parity of assessment in Welsh and English, which follows significant engagement with, and input from, a number of stakeholders in Wales should help to promote the regulatory objective to encourage a strong and diverse legal profession.

125. While a shorter implementation period would be preferable, taking account of the limited existing provision of assessment in Welsh and the SRA's arguments around the scale of work required, we have concluded that its approach is reasonable in the circumstances.

126. We do not consider that this issue engages any of the refusal criteria.

(vi) Removal of requirement for academic study of law

Overview of issues

127. One of the key issues that we considered as part of our assessment of the SRA's first application was stakeholder concerns about removal of the requirement for the academic study of law (which is currently provided for by the requirement to complete a QLD or a recognised conversion course qualification). Some stakeholders argued that this change would have an adverse impact on the depth of knowledge acquired through the academic study of law, which could in turn affect the reputation and international competitiveness of the legal profession in England and Wales. In the March 2018 decision, we concluded that the SRA had justified its approach and that there were not sufficient grounds for refusing the application on this issue, especially when balanced against the wider positive impacts on the regulatory objectives that the SRA is seeking to achieve through the changes.

128. We received similar representations during our assessment of this application and considered them afresh against the SRA's more detailed explanation of the assessments set out in the SRA's application.

SRA response

129. The SRA stated in its application that it has identified all the competences required for practice as a solicitor in the Statement of Solicitor Competence and its Threshold Standard¹¹ and mapped these across SQE1 and SQE2. The legal knowledge to be assessed through the FLK in SQE1 includes all the current Foundations of Legal Knowledge required to be taught on the QLD/GDL and the core subjects of the LPC, with the addition of Conflict of Laws. The SRA also noted that SQE1 as set out in the SQE1 Assessment Specification would test the application of fundamental legal principles and rules to realistic client based legal and ethical problems and situations, at the level required of a competent newly qualified solicitor. Further, it stated that the areas of functioning legal knowledge required to pass the SQE are specified to a far greater level of detail than the current requirements for QLD and GDL providers.

¹¹ The competencies and threshold candidates must meet to qualify as a solicitor, set out by the SRA and referred to in the Regulations, and annexed to the application as part of the SQE1 and SQE2 assessment specifications.

130. The SRA asserted that its obligation to ensure that regulation is proportionate and targeted means that it cannot justify requiring candidates to take a course of study that would teach them more, or require them to study for longer than is necessary to gain the core competences needed to practise as a solicitor. This could result in unnecessary cost for candidates and act as a barrier to qualification.

LSB assessment and conclusion

131. Having considered this issue afresh, including new representations made, we are satisfied with the SRA's justification for its approach. In particular, we accept the SRA's proportionality and targeted argument against requiring candidates to take a course of study that goes beyond what is necessary to gain the core competences needed to practise as a solicitor. We do not consider that there is compelling evidence to suggest that there would be a negative impact on the regulatory objectives from not making it mandatory for candidates to undertake the academic study of law and note that there are other existing routes to qualification as an authorised person that do not require a QLD or GDL. Overall, we do not consider that this issue raises sufficient grounds to justify refusing this application.

132. This issue is also linked to concerns about the quality of the SQE assessments, which we deal with further below.

(vii) Concerns about the design and quality of SQE assessments

Overview of issues

133. Concerns were raised during the first SQE application about the quality of SQE assessments. Given the lack of detail at that stage, our March 2018 decision noted that for the next application we would expect to see the SRA's Assessment Specification, which would set out the detail of how SQE assessments will work. This second application did include the assessment specification for SQE1 and SQE2, which the SRA had consulted on as early as October 2016 with final versions of each being published on its website in July 2020.

Multiple-choice Questions (MCQs)

134. Some stakeholders expressed concerns about the use of MCQs in SQE1. They considered that MCQs alone cannot assure a candidate's ability in all areas of law that the SRA grants a solicitor a licence to practice within. In the context of these concerns, stakeholders also asserted that without a requirement for a QLD/GDL and the SQE1 assessment being multiple-choice questions, newly qualified solicitors arriving on 'day one' may not have developed specialist knowledge in different areas of practice in the way that they currently do. In particular, we received the results from a survey conducted by one stakeholder¹², which showed that respondents (who were predominantly legal academics) considered that the multiple-choice test in SQE1 would lower professional standards. Although this issue had been

¹² Submission from the Socio-Legal Studies Association: <https://www.legalservicesboard.org.uk/wp-content/uploads/2020/09/Representation-from-the-Socio-Legal-Studies-Association-dated-24-August-2020.pdf>

raised during the SRA's consultations and during our assessment of the first SQE application in 2018, we assessed this issue and the new representations afresh against the SRA's more detailed explanation of the assessments set out in the contents of this application.

Coverage of SQE1 (in particular its focus on areas of law which are clear)

135. Specific concerns were expressed by stakeholders that assessment by MCQs is inadequate to test the understanding and skills needed to advise clients where the law is uncertain. These concerns link to those relating to removal of the requirement for academic study of law, as it was argued that the generic analytical skills developed by QLD or GDL are essential for learning how to apply the law in areas of uncertainty.

136. In addition, we received correspondence from one stakeholder who claimed that the published model questions for SQE1 were focused on areas where the law is clear and (in the case of the foundation subjects) the questions were very basic.

Balance of assessment of skills and application of the law

137. Some stakeholders also questioned the proposed weighting of assessment of skills and application of the law in SQE2. In this context, it was noted that the SRA's decision to opt for uniform assessment where candidates would take the same exam, which sampled across all legal skills and all contexts (rather than allowing some choice and specialism) would mean candidates being assessed in areas where they are unlikely to have practical experience.

SRA's response

MCQs

138. The SRA's application set out its view that MCQs are capable of testing cognitive skills across the breadth of the curriculum unlike essay-type questions and short answer questions. The SRA stated that SQE1 tests specific cognitive skills and that the evidence confirms that single best answer multiple-choice tests can do this. The SRA also noted that MCQs are widely used in assessment in other professions and are also used in the legal context, both in a university setting and in "high-stakes" licensing examinations (for example within the LLB, on the LPC, Bar Professional Training Course and US Multi-State Bar Exam). The SRA acknowledged, however, that these examinations are generally preceded by the academic study of law.

139. The SRA noted that it used leading psychometricians in the design of SQE and that it commissioned AlphaPlus (an education service business that specialises in standards, assessment, and certification) to conduct a technical evaluation of the proposed approach and the SQE reference Group¹³. AlphaPlus supported the use of MCQs in this setting, noting that "the evidence for using MCQs in similar contexts and qualifications is strong".

¹³ The SQE reference group included: Access to justice foundation, AGCAS, Association of Law Teachers, Apprenticeship employer group, Bar Standards Board, Black Solicitors Network, Committee of Heads of UK Law Schools, City of London Law Society, Cam Exam, GMC, Government Legal Service, Institute for Apprenticeships, Junior Lawyers Division, Lawyers with Disabilities, Legal education and training group, Lexis Nexus, Society of Legal Scholars,

Coverage of SQE1 (in particular its focus on areas of law which are clear)

140. The SRA has made clear that the SQE will test areas of law which are uncertain or require interpretation. In a response on this issue, it stated that multiple-choice questions can be used to examine areas of law that require interpretation. Options provided as possible answers to questions can give different interpretations of the law, include an answer that the law is uncertain in this area or include information about the extent of the risk a client is taking in relying on a particular interpretation. The SRA further noted that, as set out in the SQE Assessment Specification, SQE1 will test the application of fundamental legal principles and rules to realistic client based legal and ethical problems and situations, at the level required of a competent newly qualified solicitor in practice.

Balance of assessment of skills and application of the law

141. The Assessment Specification stipulates that both skills and application of the law are assessed in SQE2 and that the assessment weighting is 50:50. In proposing this split, the SRA drew both on the SQE2 pilot and on its experience of the Qualified Lawyers Transfer Scheme (QLTS) assessment for lawyers qualified in other jurisdictions applying for admission as a solicitor in England and Wales. The SRA explained that Kaplan's experience on the QLTS, where the weighting was changed from 60:40 (skills: knowledge) to 50:50 after some years of operation, is that this is needed to ensure that only those candidates who have an acceptable score on legal knowledge pass the assessment. The SRA committed to keep this weighting under review through its monitoring and evaluation programme.

142. The SRA explained that the legal knowledge on which candidates may need to draw should be a sub-set of what they have already been assessed on in SQE1, pursuant to the SQE2 Assessment Specification which states:

“Candidates will need to demonstrate that they can apply fundamental legal principles in the skills-based situations covered by SQE2 in a way that addresses the client’s needs and concerns. They will need sufficient knowledge to make them competent to practise on the basis that they can look up detail later. Candidates will not be expected to know or address detail that a Day One Solicitor would look up unless they have been provided with that detail.”

143. The SRA explained that following the SQE2 pilot, Kaplan, the Independent Reviewer and the external psychometricians identified three areas of risk inherent in designs involving candidate choice of specialisms in which to take their assessments, rather than uniform assessments for all candidates. Accordingly, the SRA concluded that a uniform exam is the only way of establishing a consistent universal standard at admission and so ensuring fairness to candidates. Given the generic nature of the solicitors' qualification, a universal exam testing the legal skills sampled across practice contexts was considered by the SRA to be the model best designed to ensure consumer protection. This approach was supported by the Bridge Group, who noted potentially beneficial impacts on diversity of this approach which outweighed those

associated with the other approaches to assessment. The SRA also noted, that although not a key driver, the uniform model is also a less expensive model than the alternatives.

LSB assessment and conclusion

144. We are satisfied that the SRA has devoted significant attention to the SQE assessment design, involving a wide range of relevant expert input, including leading psychometricians, an education service business that specialises in standards, assessment, and certification, expert question writers, its Independent Reviewer and the Bridge Group (to advise on diversity impacts).

145. We do not consider that the design of the assessment is inherently flawed so as to raise sufficient grounds to refuse the application. The SRA has set out comprehensive plans for how it will monitor, evaluate and report publicly on the impact of the SQE and this will be key to ensuring that the assessments are delivering against the SRA's objectives and that any emerging risks are identified and responded to swiftly. Crucially, publication of the SRA's evaluation work will also enable public scrutiny and accountability.

(viii) Removal of skills test from SQE1

Overview of issues

146. The SRA had initially intended to include a basic skills test as part of the SQE1 assessment. However, following the SQE1 pilot, which identified concerns about including limited skills assessments in practice, the SRA has decided to remove all skills assessments from SQE1, which would leave the focus entirely on MCQ assessments of functioning legal knowledge.

147. Some stakeholders raised concerns about this change, noting that SQE1 should also test certain skills to allow progression from SQE1 to SQE2.

148. Concerns have also been raised about how the removal of the skills assessment might impact on the willingness of firms to offer QWE to aspiring solicitors before they have passed SQE2, which might make it harder for candidates to undertake QWE to help them to prepare for SQE2 and also to earn as they learn (which might in turn have EDI impacts).

SRA response

149. The SRA piloted SQE1 – as it was with the skills test – in March 2019 with more than 316 candidates having completed the pilot in 42 test centres in England, Wales and abroad. Legal research and writing skills were tested through two legal writing exercises, where candidates had to explain to a lay client the meaning of a statute or legal resource and one legal research exercise, where candidates had to use a range of resources (both relevant and irrelevant) to advise a client.

150. Kaplan reported that the pilot results did not give a sound basis for proceeding with the proposed assessment of skills in SQE1. The SRA's application described the fundamental problem with the SQE1 skills assessments, which was that the small number of skills exercises

included in the assessment did not enable sufficiently reliable or accurate pass/fail decisions. This meant that the SRA could not be sufficiently certain that candidates who passed had met the standard of a competent day one solicitor. An additional problem with the skills assessment piloted was that it was not set at the level of a day one solicitor. It was set at the level of a person working in an unqualified capacity in legal services because the SRA expected, in many cases, that candidates would take the SQE1 assessment before they started their QWE and before they were ready to qualify as a solicitor. The pilot found that this level was open to interpretation as it could mean different things to different people, so there was a risk that, if this standard was used in the live assessments, it would be interpreted inconsistently or inappropriately.

151. The SRA's application outlines that in view of the small number of skills assessments in SQE1 and the inaccuracy of pass/fail decisions made as a result, Kaplan recommended removing the skills assessment from SQE1 entirely, and instead relying on the skills assessment in SQE2. Kaplan had advised that it would not be possible to have a separate, reliable assessment of SQE1 skills set at a lower level without requiring more assessment points, which would be costly. It stated that the alternative would have been to have a smaller assessment of SQE1 skills, attached to the FLK assessments, but this would have to be set at admission standard. The SRA explained that setting SQE1 skills at admission standard would duplicate SQE2 skills and would therefore be unnecessary and costly. In the light of both Kaplan's and the Independent Reviewer's advice and further exploration of possible options around skills testing in SQE1 (and testing with stakeholders), the SRA concluded that the skills assessment should be removed from SQE1.

152. In relation to concerns about the impact on firms offering QWE, the SRA considered that firms could easily replicate something like the proposed skills assessment through their own recruitment tests, which could be focused on their own areas of specialism or interest, as appropriate. It did not therefore consider this decision to be a significant barrier to firms taking on candidates for QWE before they had passed SQE2.

LSB assessment and conclusion

153. We are satisfied that the SRA's justifications for excluding a skills assessment from SQE1, which was based on advice from Kaplan and the Independent Reviewer, is reasonable. We note that the skills test at SQE1 was intended to be assessed at the level of a person working in an unqualified capacity in legal services and the associated increase in costs required to expand the skills assessment to address the concerns following the pilot, is likely to have other negative consequences, particularly for EDI.

154. We accept the SRA's rationale around potential QWE providers being able to address any basic skills requirements through recruitment practices and, as set out above in this decision notice, the SRA has provided commitments to further work to build confidence and trust in the market to encourage engagement with the flexibilities that the new framework will allow. This should help to mitigate this risk.

(ix) Accessibility of the SQE and reasonable adjustments

Overview of issues

155. Some stakeholders raised concerns about the accessibility of the SQE assessments. This included concerns about the number of MCQs in the assessments, the time limits and associated risks of disadvantage for disabled students. Concerns were also raised about Kaplan's management of requests for reasonable adjustments (and the SRA's oversight) and the location and number of oral assessment centres, and in particular, the associated travel costs which would be borne by those from lower socio-economic background.

SRA's response

156. The SRA's application provided examples of the types of reasonable adjustments which could be made (noting that adjustments would be dependent on individual circumstances), which included measures such as providing additional time or alternative assessment venues. The SRA also confirmed to the LSB that scheduling adjustments may be accommodated for both SQE1 and SQE2 assessments. Kaplan is required to report to the SRA on requests received and granted and the SRA explained that it would carry out regular monitoring of Kaplan's responses to requests received.

157. The SRA committed to publishing its reasonable adjustments policy and guidance in November 2020, which we understand from further enquiries has been informed by close working with Kaplan, the Law Society's Disability Division and other groups, such as the Association of Disabled Lawyers, InterLaw Diversity Forum and Diversity Forum and Diverse Matters. The SRA will also publish information for disability assessors to support them in giving advice about adjustments.

LSB assessment and conclusion

158. The LSB has given due consideration to the matters raised in relation to reasonable adjustments in our assessment of this application. Based on the information assessed and commitments made, the LSB is assured that the SRA and Kaplan have carefully considered the breadth of adjustments that may be required for the SQE assessments, which they will adopt as required in the implementation of the SQE assessments.

159. It is essential that the SRA continues to engage with specialist groups as it finalises and publishes its reasonable adjustments policy and as the SQE is implemented. It will be important that the SRA does hold Kaplan to account for the way in which it is handling applications and that its monitoring and evaluation programme provides transparency and public accountability for how reasonable adjustments are operating in practice.

(x) Ordering of the elements of the SQE

Overview of issues

160. One stakeholder suggested that the SRA should require candidates to complete their QWE before they can attempt SQE2. One of the main justifications is that this would provide a strong incentive on firms to provide high quality QWE and also to not require candidates to have completed both SQE1 and SQE2 before starting their QWE.

SRA response

161. As set out above at paragraph 91, the SRA explained that it sees no regulatory justification for restricting the flexibility in how employers recruit and train their future solicitors. It envisages a range of different approaches emerging in the market and considers that flexibility for all firms and employers, as well as for the candidates, offers opportunities for all concerned. It also set out the measures that it will pursue to ensure the quality of QWE, as set out above at paragraphs 52 to 59 including measures to build trust with employers.

LSB assessment and conclusion

162. We consider that the SRA has provided adequate justification for its approach and its view that it would be disproportionate to impose the restrictions sought. We will expect the SRA to follow through on its stated commitments to encourage and build trust with employers around the flexibility of QWE so that the intended benefits can be realised.

(xi) Barriers to cross-qualification

Overview of issue

163. In the current system, many qualified lawyers choose to cross-qualify as a solicitor and there are certain exemptions which may apply. Some stakeholders were concerned about the SQE creating a barrier for those wishing to cross-qualify.

164. The application contained limited detail about how the SRA would handle qualified lawyer transfer within England and Wales and so we sought further detail and assurance about this.

SRA response

165. During the assessment period, the SRA confirmed that CILEx Fellows with practice rights would be considered as qualified lawyers under the SRA's Principles for Qualified Lawyers and SRA Authorisation of Individuals Regulations. This means that they would be entitled to apply for exemption from SQE1 and/or SQE2 on the basis of any prior qualifications or experience. If they are applying solely on the basis of their CILEx qualification, they are likely to have to take the whole of SQE1 and SQE2. But the SRA confirmed that CILEx Fellows with practice rights will not have a requirement to complete QWE.

166. CILEx Fellows without practice rights will not be considered as qualified lawyers and will therefore be required to take SQE1 and SQE2 and to complete QWE, as with any other unqualified candidate. However, the SRA explained that it is likely that CILEx Fellows without practice rights will be able to meet the requirements for QWE through the work experience they complete to become a Fellow, provided that experience gave them the opportunity to develop the competences in the Competence Statement and could be signed off by a solicitor. The SRA provided assurances about measures that will be in place to support candidates in this position to obtain sign off in circumstances where they may have completed their QWE some time ago.
167. The SRA explained that it did not consider that it would be appropriate to grant partial exemptions from any of the SQE assessments. This is because each assessment is designed with the number of questions/tasks to produce a reliable and precise pass or fail point. A reduction in the number of questions/tasks would reduce the reliability of pass/fail decisions to an unacceptable level. Further, the SRA argued that compromising the reliability of the assessments would run contrary to its objective of providing a consistent and fair assessment for all candidates.

LSB assessment and conclusion

168. We are satisfied that the SRA has given appropriate consideration to cross-qualification of domestic qualified lawyers. Whilst the SRA has not yet completed detailed mapping exercises with other regulatory bodies, it has indicated that partial exemptions will not be granted and therefore that some qualified lawyers wishing to transfer are likely to have to pass SQE1, SQE2 or both. Given that those in these circumstances will not have to undertake a prescribed course of study and are likely to be able to demonstrate completion of QWE, we do not consider that the SRA's proposals are likely to create disproportionate additional barriers, as compared to the current position.

(xii) COVID-19 impact on development and implementation

Overview of issues

169. We wanted to establish what impact the COVID-19 pandemic had on the SRA's development of its final proposals, including piloting and testing, and on its plans for implementation. Ultimately, we needed to establish whether the impact of the pandemic meant that implementation should be delayed.
170. In relation to potential impacts, some stakeholders suggested that there may be challenges associated with candidates securing QWE in the context of the effects of COVID-19.
171. More specifically, during our assessment we received representations from some students who noted that the impact of COVID-19 had affected their ability to progress with plans to qualify through the existing Qualified Lawyer Transfer Test exams which will be phased out through the introduction of the new framework. In particular, they noted delays in their ability to sit exams in foreign jurisdictions and difficulty in securing places on QLTS assessments.

SRA Response

172. In its application, the SRA noted that in making the final decision in June 2020 to introduce the SQE, it considered whether it should delay implementation due to COVID-19. It concluded that it did not need to delay implementation because the SRA and Kaplan had both been able to continue SQE development and stakeholder engagement working remotely. In particular, Kaplan had completed the field work on its piloting prior to March 2020, when the national lockdown began.
173. The SRA noted in its application that the picture from both firms and training providers in relation to COVID-19 is mixed. Some organisations say financial pressures and additional COVID-19 workload is constraining SQE development time and resource. On the other hand, the SRA stated that some training providers had SQE preparatory courses well under development in line with this timetable and it would be unfair to those providers, and to candidates who are waiting for the introduction of the SQE, to delay implementation.
174. The SRA explained that it extended its transitional arrangements slightly in response to the pandemic and concerns raised by some universities. In particular, it extended the deadline for starting the last QLD (and therefore the last ability to start qualification under the existing system) to 31 December 2021 (for those who accept offers by 31 August 2021). The SRA has also extended validation of QLDs and GDLs to 31 August 2022 for students who have accepted the offer of a place to start in academic year 2020/21 but who have deferred their place to 2021/22 and non-law graduates who, before 1 September 2021, have received the offer of a period of recognised training and are due to start the GDL¹⁴. Overall, the SRA stated that its transitional arrangements will provide a long overlap between the old and new admission arrangements, and therefore provide flexibility and choice to candidates, helping to address the impact of COVID-19.
175. With regard to demand issues experienced in respect of QLTS assessments, the SRA provided assurances about measures being put in place both to provide additional capacity for remaining QLTS assessments and for ensuring that Kaplan is able to meet demand for SQE assessments in the future. It also provided some detail on contingency planning and lessons learned exercises for future challenges of the sort that the COVID-19 pandemic has created for assessment providers.
176. The SRA's application set out in detail its transitional arrangements for the QLTS and the justifications for this. It explained that it considered whether to extend the transitional arrangements for candidates qualifying via the QLTS in the light of the pandemic. It concluded that *"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"*. The SRA also pointed out that the SQE will also provide a route for qualified lawyers from other jurisdictions to seek admission, so transfer will remain possible.
177. The Bridge Group report commented on concerns about COVID-19 limiting availability of QWE and its wider impacts. It noted that: *"overall we do not anticipate these impacts warrant*

rethinking the proposed arrangements – nor should they delay the current implementation plan. We anticipate that the increased breadth of QWE opportunities that will be available as a result of introducing the SQE will mitigate some of the effects of the pandemic”. The report concluded with the following view: “the introduction of the SQE offers an opportunity to address some of the anticipated negative effects of the pandemic on recruitment to the legal sector, and on diversity and inclusion”.

LSB assessment and conclusion

178. The SRA has confirmed that the COVID-19 pandemic has not had a significant impact on the piloting, testing, or final development of the SQE and that it does not believe that there is a need to delay SQE implementation beyond the slight extension that it has made to its transitional arrangements.

179. We recognise the arguments made by the Bridge Group in favour of not delaying the changes due to the potential benefits that they could bring and find this compelling. We also note that in extending the deadline for the last QLD, the SRA has in effect provided for an additional academic year in which candidates can start their route to admission under the existing framework.

180. On the basis of the SRA’s assurances, we are satisfied that the impact of COVID-19 on the SRA’s implementation plans and transitional arrangements does not raise sufficient grounds to refuse the application.

(xiii) Evaluation and monitoring

181. We were clear in our assessment that effective monitoring and evaluation by the SRA would be key to mitigating the risks and maximising the benefits of the reforms. As set out above, we have relied on the SRA’s commitments and assurances around monitoring and evaluation throughout our assessment of all issues.

182. We also considered the SRA’s overall package of monitoring and evaluation in its own right, to establish whether it raised concerns that might provide grounds to refuse the application.

SRA response

183. The SRA’s application sets out its plans for monitoring and considering the consumer, economic, market, equality and diversity impacts of the SQE. In the course of our assessment, the SRA provided additional commitments to monitoring and evaluation, as recorded in this decision notice.

184. Overall, the SRA has set out a ten-year evaluation programme, with initial evaluations after two and four years, and a full evaluation after seven and ten years. Its application sets out its commitments in terms of the scope of these evaluation exercises. The SRA will publish at the end of 2020, a long-term plan for full evaluation of the impacts of the new qualification framework.

185. As part of its ongoing evaluation of the SQE, the SRA has also confirmed that the Independent Reviewer will provide and publish an annual report on the assessment providers' delivery of the assessments as well as the SRA's standard setting processes. The SRA will also collect, interrogate and publish data on performance in SQE assessments, including performance by protected characteristics and socio-economic background, after each assessment. This will enable it to identify and investigate specific trends or concerns.

LSB assessment and conclusion

186. Overall, we are satisfied that the SRA has committed to a comprehensive monitoring and evaluation programme. We expect the SRA to build the additional commitments provided through the course of our assessment into its wider evaluation plan. For example, the research into QWE that it committed to in response to concerns about exploitation.

187. For these reforms to realise their potential benefits and for the risks identified through this decision notice to be effectively managed, it is essential that the SRA delivers on its commitments to monitoring and evaluation. This will include making all reports, data and the SRA's assessment of these available for public consumption and scrutiny, which will help to build trust and confidence in the new framework. It is essential that the SRA responds to the evidence as it emerges and acts swiftly to remedy any identified weaknesses or concerns.

Decision

188. The LSB has considered the SRA's application against the refusal criteria in paragraph 25(3) of Schedule 4 to the Act. We consider that there is no reason to refuse this application and accordingly, the application is granted. In reaching this decision, the LSB has taken into account the commitments given by the SRA.

189. **Annex B** to this decision notice contains the amendments to the regulatory arrangements approved by the LSB.

Notes:

1. The LSB is required by Part 3 of Schedule 4 to the Act to review and grant or refuse applications by approved regulators to make alterations to their regulatory arrangements.
2. Paragraph 25(3) of Schedule 4 to the Act explains that the LSB may refuse an application setting out a proposed change to the regulatory arrangements only if it is satisfied that:
 - (a) granting the application would be prejudicial to the regulatory objectives
 - (b) granting the application would be contrary to any provision made by or by virtue of the Act or any other enactment or would result in any of the designation requirements ceasing to be satisfied in relation to the approved regulator
 - (c) granting the application would be contrary to the public interest
 - (d) the alteration would enable the approved regulator to authorise persons to carry on activities which are reserved legal activities in relation to which it is not a relevant approved regulator
 - (e) the alteration would enable the approved regulator to license persons under Part 5 [of the Act] to carry on activities which are reserved legal activities in relation to which it is not a licensing authority, or
 - (f) the alteration has been or is likely to be made otherwise than in accordance with the procedures (whether statutory or otherwise) which apply in relation to the making of the alteration.
3. The designation requirements referred to in paragraph 2(b) above are set out in paragraph 25(4) of Schedule 4 to the Act and are:
 - (a) a requirement that the approved regulator has appropriate internal governance arrangements in place
 - (b) a requirement that the applicant is competent, and has sufficient resources to perform the role of approved regulator in relation to the reserved legal activities in respect of which it is designated, and
 - (c) the requirements set out in paragraphs 13(2)(c) to (e) of Schedule 4, namely that the regulatory arrangements are appropriate, comply with the requirements in respect of resolution of regulatory conflict (imposed by sections 52 and 54 of the Act) and comply with the requirements in relation to the handling of complaints (imposed by sections 112 and 145 of the Act).
4. In accordance with paragraphs 20(1) and 23(3) of Schedule 4 to the Act, the LSB has made rules¹⁵ about the manner and form in which applications to alter regulatory arrangements must be made. Amongst other things, the rules highlight the applicant's obligations under section 28 of the Act to have regard to the Better Regulation Principles. They also require applicants to provide information about each proposed change and details of the consultation undertaken.
5. If the LSB is not satisfied that one or more of the criteria for refusal are met, then it must approve the application in whole, or the parts of it that can be approved.

¹⁵ LSB's Rules for applications to alter regulatory arrangements – Version 2 April 2018

[https://www.legalservicesboard.org.uk/what_we_do/regulation/pdf/New%20folder%20\(2\)/FINAL_Rules_for_applications_to_alter_regulatory_arrangements.pdf](https://www.legalservicesboard.org.uk/what_we_do/regulation/pdf/New%20folder%20(2)/FINAL_Rules_for_applications_to_alter_regulatory_arrangements.pdf)

Annex A – Key SRA commitments on the SQE and specific LSB expectations

This annex is not a formal part of the decision notice. It provides a summary of certain commitments made by the SRA during the assessment process and as recorded in the decision notice. It also summarises specific LSB expectations of the SRA that are set out in the decision notice.

Key commitments and expectations

In reaching our decision to grant in full the SRA's application, we have taken into account the commitments given by the SRA in its application, and further commitments in response to questions and issues that we raised during our assessment of the application.

The SRA's application and the commitments made in it are publicly available on our website. The table below summarises those commitments made by the SRA during the assessment process (and so which go beyond what is in the application as submitted), that we recorded in the decision notice. It also summarises the key specific expectations that we recorded for the SRA in the decision notice.

Qualifying work experience – quality of QWE, professionalism ethics and risk of exploitation

The SRA committed:

- that its QWE guidance will provide clear expectations for QWE quality and provide that failure to meet those expectations will engage regulatory consequences (para 46 of decision notice)
- that its QWE guidance will specify relevant rules within the SRA's Codes of Conduct which might be engaged through poor practice (para 52 of decision notice)
- to set up a dedicated hotline for QWE candidates to report issues with QWE. It confirmed that where appropriate, it would be able to act on intelligence received through the hotline without a candidate needing to make a formal referral to the SRA (para 54 of decision notice)
- to a range of measures to monitor whether its expectations are being met in relation to QWE and whether candidates are being treated fairly, which include (para 58 of decision notice):
 - Conducting an annual survey of candidates to get feedback on their experiences of QWE, which will provide insight into specific QWE environments, including the need for the SRA to take appropriate action where there may be difficulties.
 - Reviewing and monitoring information such as referrals to its dedicated QWE hotline.

- A focused evaluation of how QWE is working in the second year after the SQE is introduced.
- A wider evaluation programme through the SRA's market studies (which will take place at 2, 4 and 5-7 years) that will look at the availability of QWE opportunities and how employers have reacted to QWE. Through "perception studies" (which will also take place at 2,4 and 5-7 years) the SRA will explore candidate and employer perceptions of the new system, including their experiences of QWE.
- to using SQE data, its annual survey and evaluation work for ongoing consideration as to whether any changes or further safeguards are required to ensure high standards (para 59 of decision notice).

In addition, we set out specific expectations for the SRA in the decision notice, as follows;

- We will expect the SRA to evaluate the effectiveness of its approach in identifying and responding to risks of exploitation [during QWE] through its evaluation plan and account for this through publishing its findings (para 65 of decision notice).
- The SRA will need to carefully monitor the position in relation to unpaid internships, including the evidence in relation to equality, diversity, inclusion and social mobility impacts, and keep its position under review (para 66 of decision notice).

Training provider risks

The SRA confirmed that it will:

- issue guidance that makes it clear that the SRA regulates the SQE assessments but does not regulate SQE training providers, courses or materials. The guidance will provide information for candidates on what to look for when choosing a provider. This will include advice to candidates to check what protections providers have in place and to consider questions such as whether the provider offers the facility to pay for the course in instalments, rather than paying the full fee upfront (para 74(b) of decision notice)
- use the "community of interest" it has established with training providers to keep this issue under review. The community of interest will give the SRA insight into the training market, what support candidates might need and where possible risks might lie. It will use this forum to encourage providers to explore ways to work together in the interests of candidates and facilitate discussions between providers if it becomes aware of a possible risk materialising (para 74(c) of decision notice).
- keep the training market under review through its routine horizon scanning and engagement with the wider education and training landscape, and through its formal evaluation. There is a built-in review point through the planned initial market study after two years of operation (para 74(d) of decision notice).

- consider whether it needs to take further action where the evidence suggests concerns are materialising about providers' financial viability. For example, if necessary, it could consider a light touch system of monitoring for providers who are not already regulated. This could involve a requirement for providers to share financial information with the SRA and put in place a student protection plan in relation to financial viability (para 74(e) of decision notice).

In addition, we set out specific expectations for the SRA in the decision notice, as follows:

- We note that outcomes in SQE assessments will be influenced by a range of factors beyond the quality of teaching and so the SRA will need to keep this under review and consider whether additional indicators would be of benefit to candidates in the future (para 76 of decision notice).
- We expect the SRA to work with incoming providers and other key stakeholders such as the Law Society, prior to implementation, to establish the viability of introducing additional reasonable safeguards to protect students, which are beyond the scope of the regulatory arrangements proposed here. This should include consideration of student protection plans or market exit strategies, payment by instalments or mandatory disclosure of providers' arrangements before accepting payment. We will expect the SRA to report to the LSB on progress in this regard (para 80 of decision notice)

Costs/affordability

The SRA confirmed that it will be undertaking work to build trust and confidence in the SQE amongst stakeholders to encourage them to embrace the reforms to help achieve the full benefits of the new framework particularly in relation to EDI. This will include engaging closely with the Law Society and other solicitor representative groups to maximise QWE opportunities (para 98 of decision notice).

Differential attainment

The SRA has made a commitment to commission independent research into differential attainment in 2021 and to monitor and evaluate the position thereafter as a key strand of its wider evaluation plan. It has also committed to respond to the findings of its research and monitoring, to seek to address any issues identified that may be contributing to differential attainment (para 117 of decision notice).

Concerns about the design and quality of SQE assessments

The SRA committed to keep the weighting of assessments, between skills and application of the law, under review through its monitoring and evaluation programme (para 141 of decision notice).

The SRA has set out comprehensive plans for how it will monitor, evaluate and report publicly on the impact of the SQE and this will be key to ensuring that the assessments are delivering against the SRA's objectives and that any emerging risks are identified and responded to swiftly. Crucially, publication of the SRA's evaluation work will also enable public scrutiny and accountability (para 145 of the decision notice).

Accessibility of the SQE and reasonable adjustments

The SRA committed to publishing its reasonable adjustments policy and guidance in November 2020 and is working closely with Kaplan, the Law Society's Disability Division and other groups, such as the Association of Disabled Lawyers, InterLaw Diversity Forum and Diversity Forum and Diverse Matters in developing this material. The SRA also committed to publish information for disability assessors to support them in giving advice about adjustments (para 157 of decision notice).

In addition, we set out a specific expectation for the SRA in the decision notice, as follows:

We will expect the SRA to continue to engage with specialist groups as it finalises and publishes its reasonable adjustments policy and as the SQE is implemented. It will be important that it does hold Kaplan to account for the way in which it is handling applications and for reasonable adjustment that its monitoring and evaluation programme provides transparency and public accountability for how reasonable adjustments are operating in practice (para 159 of decision notice).

Barriers to cross-qualification

CILEx Fellows without practice rights will not be considered as qualified lawyers and will therefore be required to take SQE1 and SQE2 and to complete QWE, as with any other unqualified candidate. However, the SRA explained that it is likely that CILEx Fellows without practice rights will be able to meet the requirements for QWE through the work experience they complete to become a Fellow, provided that experience gave them the opportunity to develop the competences in the Competence Statement and could be signed off by a solicitor.

The SRA provided assurances about measures that will be in place to candidates to obtain sign off of QWE in circumstances where they may have completed their QWE some time ago (para 166 of the decision notice).

COVID-19 impact on development and implementation

The SRA provided assurances about measures being put in place both to provide additional capacity for remaining QLTS assessments and for ensuring that Kaplan is able to meet demand for SQE assessments in the future (para 175 of decision notice).

Evaluation and monitoring

The SRA will publish at the end of 2020, a long-term plan for full evaluation of the impacts of the new qualification framework (para 184 of the decision notice).

As part of its ongoing evaluation of the SQE, the SRA has also confirmed that the Independent Reviewer will provide and publish an annual report on the assessment providers' delivery of the assessments as well as the SRA's standard setting processes. The SRA will also collect, interrogate and publish data on performance in SQE assessments, including performance by protected characteristics and socio-economic background, after each assessment. This will enable it to identify and investigate specific trends or concerns (para 185 of the decision notice).

In addition, we note in the decision notice that it is essential that the SRA delivers on its commitments to monitoring and evaluation. This will include making all reports, data and the SRA's assessment of these available for public consumption and scrutiny, which will help to build trust and confidence in the new framework. It is essential that the SRA responds to the evidence as it emerges and acts swiftly to remedy any identified weaknesses or concerns (para 187 of decision notice).

Annex B



Solicitors
Regulation
Authority

SQE Assessment Regulations

Date

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1. Definitions

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

Assessment window: An assessment window is a period of time defined by Kaplan, during which candidates can sit the assessments. Assessment windows will be shown on the SQE website

“External Examiners”: the persons appointed as such by the SRA

“FLK”: the Functioning Legal Knowledge required to qualify as a Solicitor of England and Wales as set out by the SRA

“SQE”: the Solicitors Qualifying Examination

“Statement of Solicitor Competence”: the competencies required to qualify as a Solicitor of England and Wales as set out by the SRA

“SRA”: the Solicitors Regulation Authority

2. Commencement Date

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

2.2 All candidates who sit the SQE assessment after 1 September 2021 are bound by these Regulations.

3. Eligibility and identification requirements

3.1 In order to enter an assessment, candidates will be required to comply with the SQE ID and Security Requirements which are available on the SQE website. (*add link*)

4. Passing the SQE

4.1 The SQE consists of two parts, SQE1 and SQE2. SQE1 consists of two exams, FLK1 and FLK2. Both FLK1 and FLK2 must be taken in a single assessment window. Both must be passed to pass SQE1. SQE2 consists of a single exam.

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

4.3 All candidates must pass SQE1 before enrolling for SQE2.

5. SQE1

- 5.1 SQE1 will test the application of the FLK in accordance with the Assessment Specification for SQE1. *(add link)*
- 5.2 In order to pass SQE1, candidates must obtain the overall pass mark for each of FLK1 and FLK2.
- 5.3 The pass mark for each of FLK1 and FLK2 will be set in accordance with the SQE Marking and Moderation Policy. *(add link)*

6. SQE2

- 6.1 SQE2 will test oral and written legal skills in accordance with the Assessment Specification for SQE2. *(add link)*
- 6.2 In order to pass SQE2 candidates must obtain the overall pass mark for SQE2.
- 6.3 The pass mark for SQE2 will be set in accordance with the SQE Marking and Moderation Policy. *(add link)*

7. Attempts

- 7.1 Subject to Regulation 7.3, a candidate who fails FLK1 and/or FLK2 at the first attempt will have two further opportunities to take the assessment(s) they failed, (FLK1 and/or FLK2) within six years from the date they first sat an SQE assessment. Candidates who fail both FLK1 and FLK2 must retake them both in the same assessment window. If a candidate fails FLK1 and/or FLK2 three times during this six year period they must wait until that six year period expires before re-applying and previous passes will not be carried forward.
- 7.2 Subject to Regulation 7.3, a candidate who fails SQE2 at the first attempt will have two further opportunities to take that assessment within six years from the date they first sat an SQE assessment. If a candidate fails SQE2 three times during this six year period, they must wait until that six year period expires before re-applying and previous passes will not be carried forward.
- 7.3 Where there are exceptional circumstances, candidates may apply to the SRA to extend the six year period in Regulations 7.1 and/or 7.2. Any extension that is granted by the SRA shall be for such period as the SRA determines. *(add link to relevant SRA pages)*
- 7.4 Candidates will not be permitted to resit an assessment they have passed in order to improve their marks.

8. Assessment Board

- 8.1 The Assessment Board will comprise:

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

8.2 The Chief Executive Officer, SRA (or their nominee) will be the Chair. In the absence of agreement, final decisions will be made by the SRA.

8.3 The quorum for a meeting of the Assessment Board will be two of those referred to in Regulation 8.1 including a representative from the SRA and a representative from Kaplan. The SQE Independent Reviewer must be present at the Assessment Board as an observer save in exceptional circumstances in which case the Assessment Board may only proceed with the consent of the SRA.

8.4 The principal role and responsibilities of the Assessment Board are:

8.4.1 to review and make decisions on the results of candidates in the SQE;

8.4.2 to review and make decisions on applications for mitigating circumstances (see Regulation 12);

8.4.3 to review and make decisions on allegations of malpractice and improper conduct (see Regulation 13) and;

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

9. Exemptions

9.1 Exemptions from any assessment are determined by the SRA. There are no exemptions from only part of either FLK1 or FLK2 or SQE2.

10. Fit to sit

10.1 A “Fit to Sit” Policy operates for the SQE. (*add link*) Candidates who present themselves for any part of the SQE will be required to sign a declaration that they are fit to sit the assessment. Being “Fit to Sit” means that the candidate knows of no reason why their performance would be adversely affected during the assessment or why they may subsequently bring a claim for mitigating circumstances. (*add link*)

11. Reasonable adjustments

11.1 The Statement of Solicitor Competence (*add link*) and the FLK identified in the Assessment Specifications (*add link*) set out the competencies and knowledge which all candidates must achieve to demonstrate their ability to practise. All candidates must be assessed against the Statement of Solicitor Competence and the FLK and must reach the Threshold Standard (*add link*) to qualify but reasonable adjustments will be made to methods of assessment to ensure that candidates with a disability (within the meaning of the Equality Act 2010) are not disadvantaged. Kaplan will also consider reasonable requests to accommodate candidates with other conditions if those impact on a candidate’s ability to undertake the SQE. All such

requests for accommodations will be considered in Kaplan's reasonable discretion and on a case by case basis.

- 11.2 Candidates who wish to make a request for reasonable adjustments to assessment methods and arrangements for any part of the SQE so as to accommodate a disability or other condition as set out in 11.1 above should do so in accordance with the SQE Reasonable Adjustments Policy.
- 11.3 All candidates who have made a request pursuant to 11.1 and 11.2 above for any part of the SQE and who present themselves for that assessment are deemed to have accepted that suitable reasonable adjustments/accommodation have been offered and will be required to make a declaration to that effect.
- 11.4 All requests pursuant to 11.1 and 11.2 will be considered in accordance with the SQE Reasonable Adjustments Policy. (*add link*)

12. Mitigating circumstances

12.1 Mitigating circumstances are defined as:

12.1.1 a mistake or irregularity in the administration or conduct of the assessment; or

12.1.2 evidence of bias in the conduct of the assessment; or

12.1.3 subject to the Fit to Sit Policy and these Assessment Regulations a candidate's illness or other personal circumstances beyond his/her reasonable control which materially and adversely affects a candidate's marks or performance in the assessment.

12.2 Candidates who consider that their marks or performance in any SQE assessment have been materially and adversely affected by any of the circumstances outlined in 12.1 may make a claim for mitigating circumstances.

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

13. Malpractice and improper conduct

13.1 In these Regulations the term "malpractice" refers to any activity carried out by a candidate (whether or not done intentionally) which could result in either the candidate or a fellow candidate obtaining an unfair and/or undue advantage in connection with the SQE. "Improper conduct" refers to any disruptive activity carried out by a candidate before, during or after any assessment (whether or not done intentionally).

13.2 The following is a non-exhaustive list of what amounts to malpractice and/or improper conduct:

13.2.1 copying another person's answer either in whole or in part;

13.2.2 allowing another person to look at, use or copy your answer;

- 13.2.3 communicating or attempting to communicate with any other candidate during the course of an assessment;
 - 13.2.4 disclosing or discussing details of the content of any element of the assessment unless expressly permitted or required;
 - 13.2.5 impersonation or any other deliberate attempt to deceive;
 - 13.2.6 taking in any materials or aids which are not expressly permitted by these regulations or an invigilator;
 - 13.2.7 conduct which is causing disturbance to other candidates or affecting the proper running of any element of the assessment;
 - 13.2.8 removing from any assessment room any papers, answer sheets or other materials or copies thereof;
 - 13.2.9 providing and/or disseminating information about any element of the assessment with a view to assisting current or prospective candidates;
 - 13.2.10 providing false information and/or making a fraudulent claim at any time, including at registration or booking, or as part of a claim under the SQE Mitigating Circumstances Policy, or the SQE Appeals Policy;
 - 13.2.11 failing to abide by the assessment rules or using, attempting to use, assisting another to use or attempting to assist another to use any unfair, improper or dishonest method in connection with the SQE.
- 13.3 In any case where an allegation of malpractice or improper conduct in an SQE assessment is made against a candidate the candidate may be excluded from the assessment if in the opinion of at least two senior members of Kaplan staff it is necessary to do so to ensure the proper running of the assessment.
- 13.4 Where an allegation of malpractice or improper conduct has been made the Director of Learning and Qualifications Kaplan (or their nominee) will be informed as soon as practicable. The Director of Learning and Qualifications Kaplan (or their nominee) will decide within 10 working days of being informed of the allegation whether there is a prima facie case to answer.
- 13.5 Where the Director of Learning and Qualifications Kaplan (or their nominee) decides that there is a prima facie case of malpractice or improper conduct s/he will convene a panel of at least three Solicitors of England and Wales (practising or non-practising) who may also be members of Kaplan staff (the Special Panel). The Special Panel will be convened within 30 working days of the decision under 13.4. The candidate will be given the opportunity of making verbal and/or written representations to the Special Panel.
- 13.6 The candidate will be notified of the decision taken by the Special Panel within 15 working days of its decision.
- 13.7 Where a finding of malpractice or improper conduct is made by the Special Panel their finding will be referred to the Assessment Board for consideration.
- 13.8 Where a finding of malpractice or improper conduct is confirmed by the Assessment Board the SRA will be informed within 10 working days. The SRA reserves the right to report the

finding to the candidate's employers and/or sponsors.

13.9 A candidate who is found by the Assessment Board to have engaged in malpractice or improper conduct in connection with any SQE assessment will fail that assessment and will not normally be permitted to sit an SQE assessment again.

13.10 A candidate who wishes to make either a first stage or a final appeal against the decision of the Assessment Board must do so in writing in accordance with the SQE Appeals Policy. (*add link*)

14. Withdrawal from the examinations

14.1 Candidates may withdraw before the start of an assessment subject to the SQE Terms and Conditions (*add link*). Withdrawal during an assessment is subject to the SQE Terms and Conditions, the SQE Fit to Sit Policy (Regulation 10) and the SQE Mitigating Circumstances Policy (Regulation 12).

15. Appeals against Assessment Board decisions

15.1 A candidate may make a first stage appeal on one or more of the following grounds only:

15.1.1 there are mitigating circumstances which could not have been put before the Mitigating Circumstances Panel or the Assessment Board before it made its decision; or

15.1.2 the decision of the Mitigating Circumstances Panel or of the Assessment Board, or the manner in which that decision was reached involved material irregularity and/or was manifestly unreasonable and/or irrational; or

15.1.3 the candidate disputes the Assessment Board's finding of malpractice or improper conduct.

15.2 Following a first stage appeal a candidate may make a final appeal on the following ground only:

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

15.3 A candidate who wishes to make a first stage or a final appeal must do so in writing via the appropriate form in accordance with the SQE Appeals Policy. (*add link*)

Annex One

The Solicitors Qualifying Examination (SQE): approach to qualified lawyers seeking admission as a solicitor of England and Wales

The principles

Overarching requirements

1. Qualified lawyers who wish to be admitted as a solicitor of England and Wales will need to:
 - a. Hold a legal professional qualification that we recognise which confers rights to practise in England and Wales or in an overseas jurisdiction we recognise.
 - b. Demonstrate that they have the competences set out in the Statement of Solicitor Competence (SoSC), and the knowledge of English and Welsh law set out in the Statement of Legal Knowledge either on the basis of the principles set out below and/or through successful completion of the SQE.
 - c. Have a degree or qualifications or experience which we are satisfied are equivalent to a degree.
 - d. Satisfy our character and suitability requirements.
2. We will recognise the knowledge, skills and competences that qualified lawyers have gained through professional qualifications and professional experience.¹⁶ This recognition may relate to SQE stage 1 and/or SQE stage 2 in totality, or individual components¹⁷ which make up SQE stage 1 and/or 2. We will only recognise professional legal qualifications or professional experience as equivalent to an individual component of the SQE where the knowledge, skills and competences for which a qualified lawyer seeks recognition correspond to the whole of an individual component. There will be no recognition available for only part of an individual component as it is not possible to assess all candidates on a reliable and accurate basis where some candidates are only being assessed on some aspects of a component.

Recognition of professional qualifications

3. For us to recognise a qualified lawyer's professional qualification as equivalent to part or all of the SQE (SQE 1 and/or SQE 2), they will need to demonstrate that the qualification they hold is equivalent to SQE 1 and/or SQE 2 in its entirety, or individual components of the SQE in the following ways:
 - Content: the professional qualification will need to cover content which is not substantially different to the areas of English and Welsh law set out in the Statement of Legal Knowledge and the competences set out in the SoSC.
 - Standard: the professional qualification will need to be of an equivalent standard – ie it will have to assess to a level which is comparable to level three of the SRA threshold standard.¹⁸

¹⁶ Recognition of part or all of the SQE will be granted to candidates who hold a legal professional title we recognise (a professional qualification) ~~in~~ a jurisdiction we recognise. Where recognition is granted, the qualified lawyer will not be required to sit the corresponding components of the SQE assessment(s).

¹⁷ "Component" of the SQE means an individual assessed element of the SQE for which a separate standard is set and a mark provided.

¹⁸ www.sra.org.uk/threshold

Recognition of professional experience

4. Where qualified lawyers have acquired professional experience in legal practice¹⁹ through practising under their home title and/or in their home jurisdiction, we will consider whether the knowledge, skills and competences developed by this professional experience are equivalent to corresponding parts of SQE 1 and/or SQE 2. For us to recognise a qualified lawyer's knowledge, skills and competences acquired through professional experience, they will need to demonstrate that the knowledge, skills and competences acquired are equivalent to the whole of the SQE, or individual components of the SQE in the following ways:

- Content: the knowledge, skills and competences acquired through the professional experience will need to cover content which is not substantially different to the areas of English and Welsh law set out in the Statement of Legal Knowledge and the competences set out in the SoSC.
- Standard: the knowledge, skills and competences acquired through the professional experience will need to be developed to a level which is comparable to level three of the SRA threshold standard.²⁰

5. As a starting point, we envisage that qualified lawyers will typically have a minimum of two years' professional experience in order to show us that they have satisfactorily developed to an equivalent standard the competences assessed by the part(s) of the SQE for which they are seeking recognition. However, some candidates may be able to demonstrate to our satisfaction that they have developed the respective competences to an equivalent standard within a shorter period of professional experience or through lifelong learning (or through a combination of both).²¹ They can still apply to us for recognition by submitting formal evidence and we will review the evidence to assess whether their knowledge, skills and competences meet our content and standard requirements.

English language

6. Where necessary,²² there will be an English or Welsh language ~~test~~ requirement imposed for qualified lawyers whose professional qualification(s) or professional experience we have recognised as equivalent to all or part of SQE 2. This will take place post-admission, at the point applicants apply for a first practising certificate.

¹⁹ Periods of professional experience in legal practice which are undertaken either pre or post qualification can be taken into consideration.

²⁰ www.sra.org.uk/threshold.

²¹ 'lifelong learning': all general education, vocational education and training, non-formal education and informal learning undertaken throughout life, resulting in an improvement in knowledge, skills and competences, which may include professional ethics.

²² in cases of "serious and concrete doubt" about the applicant's language knowledge in respect of the professional activities which they intend to pursue as per the European Union (Recognition of Professional Qualifications) Regulations 2015.

Notes on the principles

Regulatory/professional bodies

7. ~~It is the A relevant regulatory/professional body that will need to may make the an application to us for recognition of a professional title and/or to become a recognised jurisdiction. However, the jurisdictions and professions which have been awarded 'recognised' status under the previous Qualified Lawyers Transfer Scheme (QLTS), will retain their 'recognised jurisdiction' status under the SQE.~~

8. ~~We will continue to recognise professions which we have recognised previously. However, A a regulatory/professional body of a recognised jurisdiction can applying for recognition for the whole of SQE 1 and/or SQE 2 or individual components of the SQE for their jurisdiction/profession. In practice, this will mean that the regulatory/professional body of the recognised jurisdiction will need to undertake a mapping exercise and submit evidence to us showing how their members' professional qualification is equivalent to the SQE.~~

9. We will review the mapping exercise the regulatory/professional body has undertaken and recognise the professional qualifications of a regulatory/professional body as equivalent to the SQE or individual components of it, where we assess that the content and standard of the qualification scheme is not substantially different to corresponding areas of the SQE. We will look at the content and standard of the profession's qualification scheme only,²³ and whether the recognition sought covers the entirety of an individual component and/or the whole of SQE 1 and/or 2.

Individuals

10. Qualified lawyers who are seeking admission will have to contact us and demonstrate how their professional qualification or professional experience is equivalent to the SQE, or part of it, based either on the areas of recognition agreed with us by their regulatory/professional body, and/or their individual circumstances. In order to do this, they will be required to submit formal evidence, including an explanation of how their professional experience has enabled them to develop the competences in relation to which they are seeking recognition.²⁴

11. Qualified lawyers may make an application to us for recognition of a professional title that they hold and which confers practice rights in England and Wales or in an overseas jurisdiction which has not previously been recognised by us and has not been the subject of an application to us by the regulatory/professional body. If the qualification has not already been recognised sufficient information will need to be provided to enable the mapping exercise referred to in paragraphs 8 and 9 above to be carried out.

124. Qualified lawyers of EU Member States other than the UK, have the choice as to whether they seek admission on the basis of Directive 2005/36/EC or Directive 98/5/EC. Typically, candidates

²³ ie - we will not look at features such as the assessment methodology or the format of the assessment.

²⁴ In practice this could be achieved either on the basis of confirming to us that they are a member of a profession which has pre-agreed areas of recognition in place (based on the standard qualification route of the profession), and/or by submitting evidence in support of 'less typical' periods of professional experience.

seeking establishment on the basis of Directive 98/5/EC will need to effectively and regularly pursue an activity in the law of England and Wales, in England and Wales under their home-country professional title for a period of at least three years.