

23 March 2020

Paul Philip CEO  
The Solicitors Regulation Authority  
The Cube  
199 Wharfside Street  
Birmingham  
B1 1RN

By email only

Dear Mr Philip,

### **Covid-19: SRA guidance needed**

The Junior Lawyers Division (“**JLD**”) is saddened by the devastating impact COVID-19 is having on people's lives. The protection of society's most vulnerable is in our foremost thoughts and we wish for the timely demise of this cruel virus.

We also acknowledge that the virus is having unprecedented impacts on people's lives. Of particular concern to us is the effect it is having on junior lawyers, particularly Legal Practice Course (“LPC”) students, solicitor apprentices and trainee solicitors.

### **LPC students**

We understand the SRA's need to maintain the integrity of exams. However, we are concerned about the implications of delaying LPC exams until autumn 2020, as was the SRA's initial response.<sup>1</sup> Importantly, there is no known timescale for this virus and its implications on society. It therefore seems unworkable to suggest a later timeframe to simply postpone exams until. An alternative solution needs to be found now.

Our concerns are set out below:

1. Delaying the LPC exams until autumn 2020 will have serious implications for those with training contracts due to commence in September 2020. Namely, it will be a heavy burden for those that have to sit exams alongside work.

By way of example, candidates who have completed their studies in one part of the country but have accepted a training contract in another part, may have to commute long-distances to sit the exams. This would be challenging, both logistically and financially, for those that have to seek temporary accommodation for a week (which is the usual timeframe for several exams).

There is also no guarantee that employers will grant trainee solicitors study leave to sit these exams. This would mean trainees required to sit LPC exams would have to take time off work, most likely unpaid or use their annual leave.

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<sup>1</sup> <https://www.lawgazette.co.uk/news/coronavirus-sra-wont-allow-exams-to-go-online/5103514.article>

Employers may even postpone the training contract until the student has taken the LPC exams, and possibly received the results, meaning that the student is potentially left with no job, and consequently no income (alongside escalating debts), for an unknown period of time.

2. Many students now complete the LLM alongside the LPC. However, students are required to complete the LPC before submitting the LLM. By delaying LPC exams, LLM students will be unable to submit their LLM until at least autumn 2020. This could add additional stress to those starting their training contract, as they have another deadline looming over them.
3. There is no guarantee that social distancing requirements will be lifted by autumn 2020. In such a scenario, LPC students with underlying health conditions would be risking their health to sit the examination, which might be considered a “large gathering”<sup>2</sup>. In the same vein, there are no guarantees that the public will be permitted to travel at this time. Subsequent delays may mean the student is not actually able to sit the exams until 2021 or later. This is unacceptable.
4. International students would be at a loss if exams were delayed. Many international students leave the country after their exams in the summer. To delay until at least autumn 2020 would require them to incur additional costs; either by requiring them to stay, or to return at a later date for the exams. Further, international students face the added uncertainty of whether they will be able to return for the exams, giving the increasing restrictions on travel and possible visa requirements.
5. Many students have leases that end in line with their LPC exams finishing in the summer. Such students face the difficult question of whether to extend their lease or move out and return for the exams. Such a decision may be difficult for those facing financial uncertainty in the wake of the virus’ impact on the economy and for the reasons mentioned above.

### Possible solutions

Given the above, the JLD asks the SRA to provide clarity on the situation as a matter of urgency and to reconsider its position. Below, the JLD have set out some alternative solutions that LPC providers could use, following the SRA’s consideration and recommendation of the same, to enable students to receive their LPC award:

1. Use online software that has been tested and verified as capable of upholding the integrity of exams. Such software like Exemplify<sup>3</sup> can be explored to meet this standard.
2. Allow LPC students to submit coursework pieces. The coursework could be marked using criteria reflective of that used to mark the LPC exams.

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<sup>2</sup> <https://www.gov.uk/government/publications/covid-19-guidance-on-social-distancing-and-for-vulnerable-people/guidance-on-social-distancing-for-everyone-in-the-uk-and-protecting-older-people-and-vulnerable-adults>

<sup>3</sup> <https://examsoft.com/examsoft-platform>

3. Consider video assessments for any 'live', practical exams still to be taken such as advocacy or client interviewing.
4. Consider whether it would be safe to use the LPC student's current grade as their predicted grade and whether their current grade would be a fair representation of what the student could reasonably expect to be awarded in usual circumstances. This would need further consideration and detailed guidance as to when this option would be considered satisfactory.

The JLD accepts that each LPC provider has different ways of examining (for example, closed book or open book). We believe that the options provided can be used for different providers. For example, where providers operate on an open book policy, Exemplify can be used to impose time limits on the examination to avoid an over-reliance on books.

While the JLD considers that any postponement of the exams to be taken in their current format is not a satisfactory solution, if the SRA considers that this is the only solution, then the JLD requests that the SRA commits to making it an obligation upon LPC providers to abide by all Government guidance on social distancing and personal safety at the relevant time in providing the exams (with reasonable adjustments made for vulnerable individuals).

Furthermore, it is imperative that, whatever the solution, current LPC students must have their LPC grade prior to September 2020. We therefore request that, in implementing a solution, the SRA requires that all LPC providers must provide students who complete the course with their LPC grade by no later than 24 August 2020.

The JLD believe that such solutions protect the interests of our members while also allowing the SRA to comply with its regulatory duties. The solutions ensure that LPC students are not affected by avoidable delays but can instead complete their course in the summer.

These are unprecedented times, but our solutions are not ungrounded. Other examining bodies have already made similar decisions. For example, the General Medical Council has agreed that final-year medical students will not be required to sit their final exams.<sup>4</sup> Moreover, the Royal College of Veterinary Surgeons has relaxed some of its regulatory requirements.<sup>5</sup>

### **Solicitor Apprentices**

Similar to LPC students, solicitor apprentices are also finding that their examinations are being postponed. This risks their apprenticeship timetable falling behind schedule and, as a consequence, may impact the time it takes for them to qualify.

With schools in England and Wales closed indefinitely and examinations cancelled, future solicitor apprentices are also in a period of uncertainty. Solicitor apprentices rely on their A-Level results in order to be successful in commencing their apprenticeship. Firms typically recruit their solicitor apprentices during the final year of their A-Level examinations meaning that solicitor apprentices are ready to commence work the September following receiving their

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<sup>4</sup> <https://www.gmc-uk.org/news/news-archive/coronavirus-information-and-advice/information-for-medical-students>

<sup>5</sup> <https://www.rcvs.org.uk/news-and-views/news/coronavirus-ems-requirements-for-vet-students-temporarily/>

results. With talks of A-Levels being postponed until autumn 2020, this leaves firms in a period of uncertainty as to what will happen to their apprenticeship intake for September 2020.

### Trainee solicitors

The JLD has also received messages of concerns from trainee solicitors about how this virus may impact their training and qualification. To date, queries received include:

- Concerns regarding working from home – whether that be firms allowing trainees to work from home or the trainee having the necessary equipment to be able to work from home;
- Impact of sick leave on the duration of training contracts;
- The impact that a possible 12 week isolation period will have on the duration of training contracts if the trainee is considered to be a particularly vulnerable individual;
- Accessing supervision during self-isolation; and
- Those qualifying in August/September are concerned about this impacting the number of NQ jobs that will be available.

Current trainee solicitors feel vulnerable given the level of uncertainty surrounding their training contracts with concerns being raised including the suspension of training contracts, delays to qualification date and in worst-case scenarios, termination.

With such uncertainty, the JLD requests that the SRA provides some clarity as to how its regulations are to be interpreted in light of the changes we are seeing to our working lives.

Guidance on working from home would also be of benefit to those who are currently gaining what will be considered as Qualifying Work Experience under the SRA's new Solicitors Qualifying Examination ("**SQE**"). Given that many of these individuals will now be working remotely, guidance on what does, and what does not, constitute QWE is needed straightaway.

We also consider that such guidance might go some way to offering support surrounding what training and supervision might look like during time spent working away from the office.

Further, with face-to-face teaching being suspended, trainee solicitors are also likely to find that Professional Skills Courses ("PSC") are also postponed until further notice. The PSC is a compulsory element of the training contract that trainees complete at any time during the two years. The SRA has already stated that it will be flexible with teaching arrangements during the coming months but cannot commit to changes that affect the integrity of the examinations. The SRA needs to give consideration to what this will mean for trainees who are approaching the point of qualification and have outstanding PSCs to attend.

While some of the larger firms may be able to arrange for the PSCs to be delivered via video link to their trainee intake, smaller firms with a lower number of trainees may suffer.

The JLD would welcome guidance from the SRA on these key issues. Particularly regarding the duration of a training contract and how firms and trainees should handle remote working alongside their obligations to train trainees appropriately. The SRA could consider whether a Q&A page on its website might be an appropriate first step to providing guidance, by using some of the questions set out above.

### **Next steps**

A flexible and pragmatic solution can, and must, be found. Junior lawyers cannot be left in limbo with no guidance and support from the regulator.

We welcome definitive guidance from the SRA on these issues. We note that the SRA is currently developing its new SQE, which hopes to introduce greater flexibility to qualify as a solicitor. Accordingly, in these unprecedented times, we assume that the SRA can look to issues it took into consideration when proposing more flexible methods of examinations in designing the SQE.

We look forward to the SRA's timely response.

Yours sincerely,



**Charlotte Parkinson, Chair, Junior Lawyers Division of The Law Society**

*The views expressed in this letter are those of the Junior Lawyers Division and do not necessarily reflect the view of the Law Society of England and Wales or any other organisation unless stated.*