



The Law Society

Junior Lawyers



Crispin Passmore
Executive Director
Solicitors Regulation Authority
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2 November 2015

Training for Tomorrow: A Common Professional Assessment

Dear Mr. Passmore,

I am writing prior to the well publicised upcoming SRA consultation, which will outline the SRA's plans to change the admission and qualification process for aspiring solicitors. As you are aware, the Junior Lawyers Division of the Law Society of England and Wales (the "JLD") represents approximately 75,000 LPC students, LPC graduates (including paralegals who have completed the LPC), trainee solicitors, and solicitors up to five years qualified. With our membership comprising a large number of the individuals who will be affected by the upcoming proposals, it is important that we represent their concerns, and we have no doubt that you will acknowledge the importance of their views.

The JLD has maintained a keen observance of all developments relating to the Training for Tomorrow programme and has sought to establish communication channels with the SRA in order to understand its aims and objectives. As part of these efforts, we invited Julie Brannan, SRA Director of Education and Training, to attend a meeting of the JLD National Committee in April 2015. The JLD National Committee is made up of junior lawyer representatives from regional groups across England and Wales.

The SRA have identified three possible alternative approaches (or combinations of them) for the assessment framework, which will utilise the Competence Statement to assure competence at admission:

1. Continuing to prescribe specific pathways to qualification (such as the QLD/CPE + LPC plus a recognised period of training, subject to their being aligned to the Competence Statement) and authorising providers to deliver them.
2. Authorising any training pathway proposed by a training provider which enables a candidate to demonstrate they can perform the activities set out in the Competence Statement to the required level described in the Threshold Standard.
3. Developing a centralised assessment of competence that all candidates are required to undertake prior to qualification. Candidates would be able to take the assessment regardless of the education and training pathway which they have followed. This approach could also



include specifying pre-requisites, such as satisfactory completion of a period of practical experience or of an authorised pathway.

We are aware that the SRA has indicated its initial preferred approach to be option 3. Indeed, we are aware that much of the pre-consultation discussions have been around formulating the SRA's plans in relation to option 3. We cannot see that the SRA has dedicated an appropriate level of pre-consultation public discussion to the other available options before forming this view. What is more worrying is that we are under the impression that option 1 and 2 will not be subject to the upcoming consultation. We think it is important that, for there to be a fair and open consultation, all 3 options must be consulted upon at a public level. We would appreciate your comments on this.

Knowledge Requirement

One of our biggest concerns of the pre-consultation option 3 is the seemingly complete absence of detail as to how the knowledge required to meet the Threshold Standard would be obtained. Our National Committee were in agreement that there should be some minimum level of educational requirement before being able to sit this assessment. It was felt that the current QLD is satisfactory and provides all solicitors with an expected minimum knowledge of the law.

We are aware that some universities are "more successful" than others, when assessing the number of graduates who proceed to qualify as solicitors. We are also aware that a 2.1 from one university may not be held in the same regard as a 2.1 from another university. We agree that individuals should be able to qualify based on merit, regardless of where that individual attended university. These are some of the arguments that have been put forward by the SRA as reasons why a centralised assessment for legal knowledge would be in the best interests of the profession. We do not believe a centralised assessment will solve these problems.

It is more likely that individuals will still be required to take their university exams, followed by the central assessment, which would broadly cover the same topics and therefore duplicate work at an already stressful time for students. Firms are likely to continue to look at the university that the individual attended. The "most successful" universities are likely to remain the "most successful" universities.

Access to the Profession

When the assessment framework was presented to the JLD National Committee by the SRA, we were told that the market would react to deliver alternative methods for students to obtain the required legal knowledge and thus pass the central assessment. It seems the expectation here is that institutions would adapt and offer courses to help students pass the central assessment. However, these courses would not be compulsory. We fear this could have negative consequences for social mobility.

We fear that this could lead to the development of LPC-like courses designed to enable students to meet the Threshold Standard. It is likely that some individuals would be unable to afford the fees for



such a course. The removal of the requirement to follow any particular programme of study may severely limit an individual's ability to access commercial funding. Not only may it be difficult for students to access such funding, it is even more unlikely that banks would offer anything for examinations and re-sits. Students who cannot afford the optional course, or the examination fees (including re-sit fees if necessary) would be seriously disadvantaged in their attempts to meet the Threshold Standard. This is the antithesis of what the SRA is trying to achieve in relation to increasing diversity in the profession.

The SRA has stated that it wishes to see alternative routes to qualification opened up and the JLD wholly supports this view. However, there are appropriate alternatives already being explored which have not yet been given the time to establish themselves. Equivalent Means is a prime example of this.

The Brand of Solicitor

At present, the two year period of recognised training is widely-seen to redress the imbalance caused by the relatively short period of academic training when compared to our international counterparts. If the period of recognised training is removed then people could qualify as solicitors at a very young age, without practical experience, and without going through the period of maturity and learning afforded as a result.

Additionally, we share the concerns voiced by the Law Society of England and Wales on the negative effect these proposals will have on the profession as a whole and the Solicitor brand in particular.

We think it is important that, even if a central assessment is implemented, a period of recognised training is required, which should share similar (if not identical) characteristics with the current period of recognised training required by the SRA Training Regulations 2014.

Protecting the Consumer

Allowing unlimited attempts at passing both the Functioning Knowledge Test and the Standardised Practical Legal Examination is unlikely to be in the best interests of the consumer. Indeed, this may encourage frivolous attempts by those who have "cracked the secret" to exams, as opposed to those with a sound legal knowledge or a desire to obtain such legal knowledge.

An individual who eventually passes these assessments, after what could be a time delay of several years, may not be familiar and conversant with all of the required elements at "Day 1" of qualification.

Qualifying as a solicitor in England & Wales already requires significantly less academic study than rival jurisdictions. Any removal of the current requirement to obtain an undergraduate degree (without an apprenticeship or equivalent) should be considered very carefully due to the negative perception it could create as a result. Furthermore, students from less advantaged socio-economic backgrounds are provided with an opportunity to excel at university in a unique way which may not be available at



their secondary school or sixth form. If firms recruit using solely A-level grades, this is likely to be detrimental to social mobility.

The LPC

The JLD does support the notion that all LPC students should be examined to the same standard, and we understand the concerns presented by the SRA following the Legal Education and Training Review that the widely differing results obtained across the various LPC institutions are inconsistent and thus undesirable. What has not been clearly demonstrated however, is why the Competence Statement cannot be utilised within the current education and training framework. It seems to us that the best, and most straight-forward, way of addressing this problem would be to have a centralised LPC exam that every student at every regulated institution would have to pass.

Conclusion and Recommendation

Our members have expressed confusion and concern about the lack of detail inherent in some of the fundamental aspects of these plans, and are simultaneously confused about the level of thought that has gone into others. For example, how can there be transitional arrangements for students moving to the new central assessment if a decision has not yet been made? What will happen to training contract (or period of recognised training) offers that have already been made if this new system were to be launched prior to the individual starting?

Moreover, the workplace element that has been touched upon does not seem to have been given the time and consideration that is necessary. This is a huge area of the central assessment that leaves us with a lot of questions. It is not known how this element will be assessed, what "work" is included, and the duration of the work. We would like to see the consultation explain in depth how this part of the central assessment will work in practice.

We understand the streamlining process which is underway as part of the move to outcomes focussed regulation. What we do not understand is why the educational system has to be dismantled entirely.

We believe there is a much simpler solution. The LPC has been out of date for a while. The number of people who commence the LPC has - for the past several years - been far above the number of training contracts available. There are widely different success rates between institutions, which is odd for a supposedly consistent course. A central assessment for the LPC can and should be considered.

This would not require any change to the current requirement to pass the QLD/CPE (or equivalent), undertake a period of recognised training, and complete the PSC.

We are aware that the SRA has recently told the Law Society Gazette that it has not chosen any particular option. We are reassured by that statement and hope that the above and forthcoming consultation will guide the SRA's plans.



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I look forward to receiving your response to this matter.

Yours sincerely,

A handwritten signature in blue ink that reads "Max J. Harris". The signature is fluid and cursive, with a large loop at the end of the last name.

Max Harris

Chair, Junior Lawyers Division of the Law Society of England and Wales