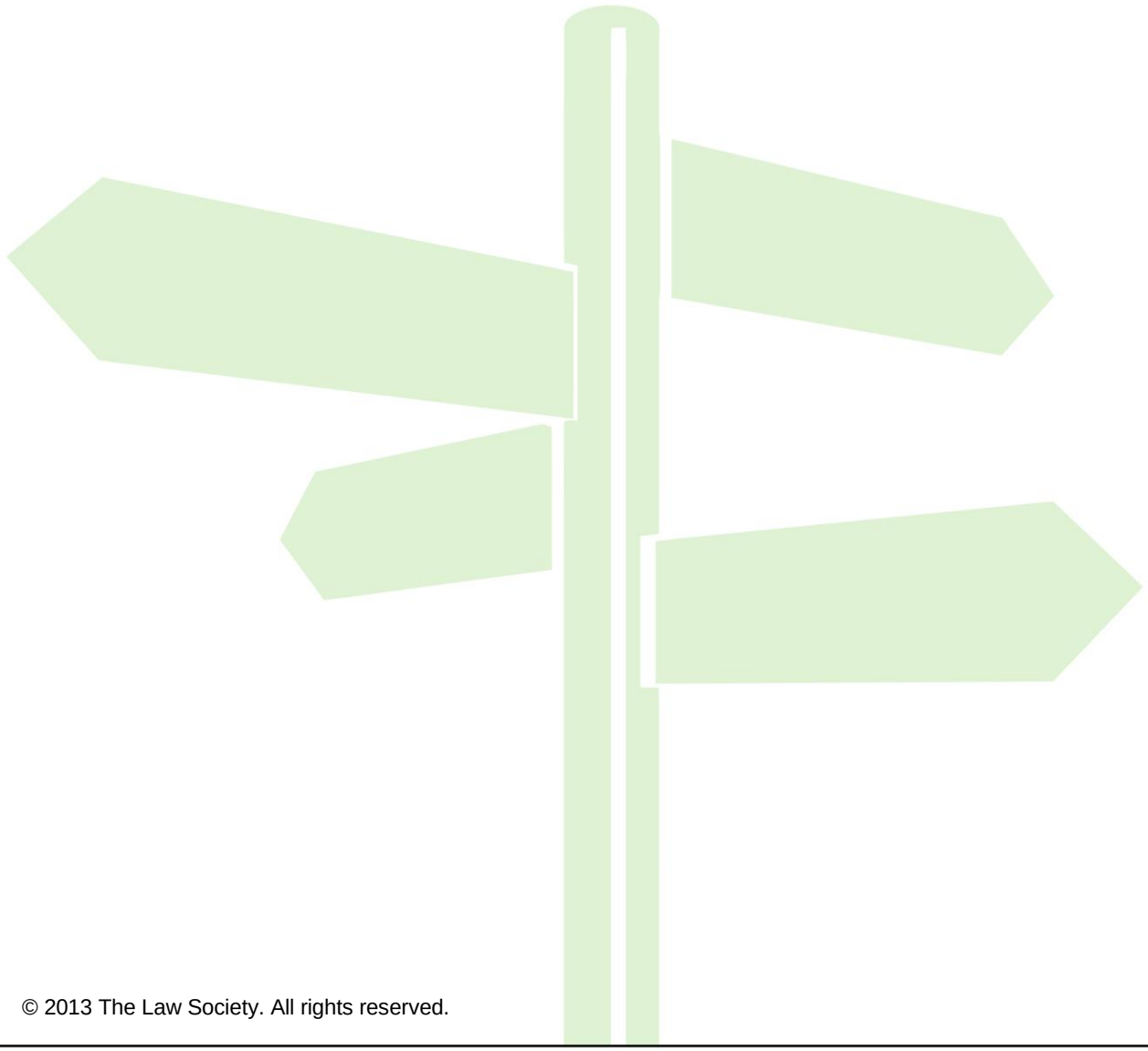
The Law Society

SRA Training for Tomorrow: Assessing competence

Response of the Junior Lawyers Division of the Law Society

March 2016



SRA Training for Tomorrow: Assessing Competence

Response of the Junior Lawyers Division of the Law Society to the SRA consultation Training for Tomorrow: Assessing Competence

The Junior Lawyers Division (JLD) is a division of the Law Society of England and Wales. The JLD is one of the largest communities within the Law Society with over 70,000 members. Membership of the JLD is free and automatic for those within its membership group including LPC students, LPC graduates, trainee solicitors and solicitors one to five years PQE.

The JLD considers it appropriate to respond to this consultation in the interests of its members. Several local JLD groups wished to support our response with an additional statement, which we have appended to this consultation response.

We have very significant concerns as to the lack of detail surrounding key elements of the Solicitors Qualifying Examination ("SQE"). The SRA has correctly identified some of the issues with the existing system of qualification, in terms of the inconsistency of education and training, a perception of a "two tier" system, and arbitrary barriers to qualification that hinder social mobility, including both the cost of qualifying and recruitment trends. However, we do not consider that the proposals of the SRA in their current form address any of these issues, and could potentially exacerbate them.

The JLD is supportive, in theory, of a consistent centralised standard and recognises that there are limitations with the current system of education and training. However, we feel that the consultation has "skipped a step" in that it is not seeking views on either of Options 1 or 2 which were considered in addition to Option 3 as a result of consultation on the Statement of Solicitor Competence. The JLD finds it incomprehensible that the SRA would propose the biggest reform to solicitor education and training for many years, yet have failed to properly consult and seek the views of stakeholders in respect of all possible options. We appreciate that the consultation states that the options are not mutually exclusive; however in not actively seeking views on them it does signal that Option 3 is potentially a forgone conclusion and risks discrediting the consultation process.

The JLD wrote an open letter to the SRA in November 2015, prior to this consultation, briefly outlining some of our concerns. The SRA has not responded to our letter or, as far as we can tell, considered any of our concerns in writing its proposals. What's more, the fact that guidance on how the legal apprentice route to qualification fits in with this new centralised qualification framework has already been published alongside government guidance to legal apprenticeships, leads us to believe that the SRA has already made its decision, notwithstanding the result of this consultation.

The JLD has considered each question asked by the SRA in the Consultation and provides its answer below.

Question 1

Do you agree that the introduction of the SQE, a common professional assessment for all intending solicitors, best meets the objectives set out in paragraph 10?

As far as the SRA will be able to control the method and content of the SQE, the JLD agrees that it is one method of focusing regulatory effort more rigorously on consistency. There are obvious benefits to concentrating regulatory efforts on a single standard which candidates must satisfy at the point of entry, and the JLD is in favour in principle of increasing clarity and consistency. However, ensuring high standards at the point of admission is about much more than sitting a set of exams. Candidates must have been involved in a rigorous process of development prior to admission, which includes a combination of education and training. We understand that the SRA will consult on the level of work experience required at a later stage but we stress that regulatory resources must also focus on the quality of vocational training in order to ensure that there are both consistent and high quality standards for newly qualified ("NQ") solicitors.

The JLD considers the removal of unjustifiable barriers to be vital to any reform to the system for qualification, and the one that is least likely to be met by the current proposal. The JLD is concerned about what has been omitted from the 'barriers' identified by the SRA, and considers that additional barriers will be created by the introduction of the SQE as currently proposed. In the response to this question we will focus on two artificial barriers: the cost of qualifying and access to periods of recognised training ("PORT").

Cost

The consultation document states that public funding is not available for the LPC, but this disregards the fact that post-graduate commercial funding is available. If the SRA removes the requirement of following prescribed pathways into the profession, the non-compulsory nature of any new preparatory course for the SQE means that they may not be eligible for these loans. This will put qualification beyond the reach of those who do not have the means to fund it privately, or are not being financed by their employer. This level of financial risk will be particularly unwelcome to candidates from low and middle-income backgrounds and thus will have a negative effect on social mobility as these candidates could be less likely to pass the SQE, and may also be seen as less attractive candidates without having completed a post-graduate course on their CV.

We would therefore ask the SRA to consider how to bridge this gap in funding, and to engage with financial institutions at an early stage to explore ways in which lower income individuals can fund their route to qualifying.

The SRA says that costs of any preparatory course will fall due to the non-compulsory nature of the course, however the consultation document acknowledges that this is entirely dependent on 'employers, universities and training providers taking advantage of any new flexibilities'. Education providers will have to make a choice about what type of course(s) they are able to provide.

The JLD would like to see the evidence of this. The EDI Impact Assessment acknowledges that few universities will be willing to absorb the cost within the price of a degree.

What is far more likely, in the JLD's view, is that course providers will add the SQE content at an additional cost, or even as a separate course. Pre-1992 universities may not be willing to amend the content of their degrees, which potentially attract students from all over the world, to adapt to the new pathways. If this is the case and a student intends to obtain their qualifying law degree ("QLD") at such an institution, they will have to find additional funding if they want to undertake a preparatory course for the SQE itself.

Post-1992 universities may feel it more appropriate to compete by offering an SQE preparatory QLD. This could lead to a two-tier market in the Higher Education System.

If any preparatory courses are developed which are additional to the undergraduate degree (or equivalent level courses), than candidates will have to find the means to fund both this and the SQE assessment. Again, this creates a clear barrier that could prevent the best and the most able from qualifying.

Candidates will be forced to choose, at an even earlier point in their careers, which branch of the legal profession they wish to follow, as under the SRA proposals those who do not undertake a law degree could qualify as a solicitor but not as a barrister. If certain universities offer a more liberal arts degree instead of a traditional LLB and, so, aspiring solicitors taking the course have to find further funds to undertake a subsequent SQE preparatory course, this creates a barrier which does not exist for aspiring barristers. This will not facilitate the SRA's obligation to foster cross-qualification between professions and will lead to a perception that the route of becoming a solicitor is the "dumbed down" option. Further, many individuals do not know at the age of 18 whether they want to be a solicitor or a barrister, so the SRA's argument that there is no need for a degree is a red herring. Individuals are likely to still consider that they need one, in order to keep their options open.

Availability of PORT

The consultation rightly highlights access to PORT as a barrier to qualification. Equivalent Means has provided the potential for a fair and accessible means of entry for those individuals working in a similar capacity as a trainee. By removing the requirement for them to complete a PORT in circumstances in which a candidate can demonstrate that they have developed the same skills a trainee solicitor on a formalised PORT would have done over a similar period of time, they can still qualify as a solicitor.

The JLD would be very keen to see equivalent means maintained, if not the ethos and underlying principles of it, particularly when addressing the issue of workplace experience under the SQE.

However, although the requirement to complete a PORT does operate as a substantial bottleneck, it would be short-sighted to assume that removing the requirement to complete a PORT would achieve the goal of opening access to the profession.

If it were possible to qualify as a solicitor without first completing a PORT, or some other type of workplace experience, then qualification would occur on completion of the relevant course. The playing field would be levelled such that NQ solicitors are entering the market in their thousands, rather than LPC graduates, and the focus of the competition would shift to NQ jobs. The bottle neck would not disappear, it would simply move. Furthermore, consumers would be duly concerned if the legal professional they were engaging had little or no practical experience.

Question 2

Do you agree that the proposed model assessment for the SQE described in paragraphs 38 to 45 and in Annex 5 will provide an effective test of the competences needed to be a solicitor?

No.

At this stage is not clear exactly what the proposed model assessment is, therefore it is not possible to answer this question in the affirmative. The JLD considers that this question will only be appropriate once the further consultation on assessment methods is underway.

The JLD considers that the Functioning Legal Knowledge Assessment should not be examined by the use of objective testing alone. In particular, multiple choice questions are not, in the JLD's view, a thorough and robust assessment of knowledge.

For example, in a four option scenario, it may be possible to rule out two obviously incorrect choices immediately, leaving a fifty per cent chance of selecting the correct answer. This is further exacerbated by the fact that multiple attempts at the assessment are permitted. If, for example, the questions are only changed annually, but the assessment is attempted monthly, it will quickly become apparent which are the correct answers.

Although there are some areas of Legal Knowledge which may be suitable for objective testing (e.g. solicitors accounts), the process of drafting an answer to a question requires the candidate to demonstrate a high level of knowledge, awareness and understanding of the topic. It also further develops communication skills, the development of which has been remarked upon as lacking in the Legal Education and Training Review. It is the appropriate application of legal knowledge in a specific context that is important.

The JLD has particular concerns about the form of the model assessment. Whilst it is acknowledged that the SRA will be holding a further consultation on this issue, we wish to make two points at this stage (these are not exhaustive):

- *Unlimited assessments* - this raises serious concerns about the competency of the individual. In our view, it would be reasonable to expect the candidate to reach the required standard within a certain time frame. Candidates with the benefit of unlimited means will be able to make repeated attempts at the SQE and thus gain an advantage.

- *Qualified lawyer transfer scheme ("QLTS") used as an example of how the SQE could succeed in practice* – this is not an appropriate example, as where

an individual qualifies by QLTS, there is an established pathway in the candidates' qualifying country which they are required to follow first. The SQE is not suitable alone; it must have an underpinning basis.

Questions which the JLD considers it pertinent to address include the following:

- How long will each of Parts 1 and 2 be?
- Where will they be assessed?
- How much will it cost to take Part 1 and Part 2?
- Will candidates be able to split the cost?

Question 3

Do you agree that all intending solicitors, including solicitor apprentices and lawyers qualified in another jurisdiction, should be required to pass the SQE to qualify and that there should be no exemptions beyond those required by EU legislation, or as part of transitional arrangements?

If the SQE was sufficient in producing high quality solicitors, and on the basis that the JLD agrees that consistency should be increased, we agree, in principle that if the SRA's motivation for implementing the SQE is consistency then the only way to ensure that is for every aspiring solicitor to have sat the same examination.

In addition to the concerns raised at Question 2 above, the JLD considers that some form of graduate level and post-graduate study, combined with work experience, should be part of qualification, other than for lawyers qualified in other jurisdictions, but their pathways will already have been specified and achieved (we would support those individuals only having to take the SQE).

The possibility of cross qualification for legal executives and barristers should be carefully considered. If these individuals were exempt from all or part of the SQE, but both of those pathways continue to involve graduate and post graduate level study and a period of work experience, then a solicitors profession not including these elements could be perceived as the lower quality legal professionals.

In addition, the JLD are concerned that despite the SRA's assertions that only the only exemptions are those prescribed by EU law, the SRA have recently openly stated that they are now considering exemptions for those that are CILEX members and those at the Bar. It is concerning that the SRA appears to be making further decisions before the consultation has closed and they have received the responses from stakeholders.

Question 4

With which of the stated options do you agree and why:

a) offering a choice of 5 assessment contexts in Part 2, those aligned to the reserved activities, with the addition of the law of organisations?
b) offering a broader number of contexts for the Part 2 assessment for candidates to choose from?
c) focusing the Part 2 assessment on the reserved activities but recognising the different legal areas in which these apply?

The JLD considers that the central issue at stake is the demonstration of the skill, which should be applied universally irrespective of legal area. Since the SRA has highlighted that the standards are different across training contract providers, it seems logical to minimise this by setting a single standard in as many different contexts as possible.

We repeat our concerns surrounding the current lack of details of what these assessments will entail.

We feel that candidates should not be able to choose the context in which they are assessed. The choice should be pre-determined, therefore employers cannot be swayed by the candidates context choices in terms of how far these are aligned to their own areas of practice.

Question 5

Do you agree that the standard for qualification as a solicitor, which will be assessed through the SQE, should be set at least at graduate level or equivalent?

We know that graduate study provides intellectual rigour and discipline, both of which are qualities that are essential to the practice of law. By virtue of undertaking graduate-level study, the candidate matures emotionally and professionally during their period of study.

Further, the experience gained in undertaking a graduate level qualification, be that CILEX or a degree, requires the candidate to demonstrate critical thinking and the ability to study independently, both factors that are intrinsic to the role of a solicitor.
We wish to make clear that when referring to "graduate level study" we mean both traditional degree courses and equivalent level courses such as CILEX. There are significant economic barriers to embarking on undergraduate study in England & Wales and for these reasons the JLD considers that level 6 or equivalent courses should be recognised.

In order to maintain the high standards and reputation of the solicitor profession the entrants should be of the highest academic ability. It is noted that currently, the Bar Council intends that a degree should remain a requirement for qualification as a Barrister. Furthermore, other industries such as nursing and the police are considering making a degree an entry requirement. Being educated to "graduate level" is an increasing pre-requisite to many professions, and it is incongruent that the SRA propose removing this requirement for solicitors. The JLD is concerned that this would reduce the confidence of consumers in the quality of solicitors.

Question 6

Do you agree that we should continue to require some form of pre-qualification workplace experience?

Anecdotal evidence provided to us directly, and opinion from the profession as a whole, comes to the resounding conclusion that some element of work experience is necessary to qualify as a solicitor. The message cannot be clearer. Our members have told us that the completion of the training contract was when they 'learned to be a solicitor' and as such we consider workplace experience to be essential,

particularly as the consultation itself acknowledges that there are competencies which cannot be assessed by either Part 1 or Part 2 of the SQE.

However, although the requirement to complete a PORT does operate as a substantial bottleneck, it would be short-sighted to assume that removing the requirement to complete a PORT would achieve the goal of opening access to the profession.

If it was possible to qualify as a solicitor without first completing any kind of training contract, or some other type of workplace experience, then qualification would occur on completion of the relevant course. As we explained above, the market could be changed such that NQ's are entering it in their thousands, rather than LPC graduates, and the focus of the competition would shift to NQ jobs.

Consumer protection is one of the key roles of the SRA and the JLD would be concerned if the SRA were condoning people being admitted to the profession and calling themselves solicitors having little or no practical experience.

The SRA is right to acknowledge the issue of diversity in trainees/NQs compared to LPC graduates, but there are deep underlying reasons for this that cannot be resolved by the removal of a requirement to complete a PORT.

It also states that having a degree is not considered to be an essential requirement of becoming a solicitor. This position surely comes from the historical nature of training which meant that it was possible to qualify as a solicitor solely through work-based learning i.e. the workplace provided the knowledge so a degree was not required. Without a degree, and without any work placed learning, all that is left is self-study.
The damage that would be caused to the reputation and quality of solicitors in England & Wales, if the requirement of graduate level education and practical experience was removed, is incalculable and would likely be irreversible.

There is a real risk that, if few understand exactly what you have to do to become a solicitor, the value of the qualification will be greatly diminished.

We would also go further than to say that some element of "work experience" must be included. We would like to see a positive obligation for training, and not just work experience. Properly regulated training is the best way to ensure that NQs of consistently high quality are produced. The "work experience" element must be more than just time spent.

Question 7

Do you consider it necessary for the SRA to specify a minimum time period of pre-qualification workplace experience for candidates?

The JLD agrees that a prescribed minimum is necessary, however this need not be limited to being completed at a specific stage provided that the necessary standards and competencies can be achieved. For example, if a candidate has significant prior experience, this should be capable of recognition. To this end, the equivalent means rationale is still relevant and it should not be removed completely. We suggest that there should be both a minimum time period of total work experience and that there be a minimum period of time spent in an area of law in order for that experience to be included. It would be nonsensical if, for example, a candidate could piece together

the requisite amount of work experience through a substantial number of placements of just a few weeks.

We suggest that a minimum of a 3-6 month period in a particular area of law would be appropriate, with this experience being recognised even if it was gained at different firms and we consider that the current requirement of gaining experience in at least three areas of law to be of value, providing both opportunities for trainees to gain experience in new areas of law, and also for them to develop their skills in different contexts. A long-stop could be applied so that the different periods all had to be accumulated within a particular time frame, subject to making reasonable adjustments for absences resulting from long term illness or maternity leave in accordance with the law.

Question 8

Should the SRA specify the competences to be met during pre-qualification workplace experience instead of specifying a minimum time period?

The JLD considers it appropriate to specify both competencies and a minimum period of training. In our view, it would not be desirable for someone to be able to qualify as a solicitor immediately upon completion of academic study alone, but equally, any work experience must involve the active development of an individual's skills, and not just be "time spent".

At present, the two year period of the training contract can be of varying quality. Without any clear guidance or any real prospect of inspection, firms are left to their own devices and inconsistencies in the quality of the training of the solicitor can result.

It is desirable to allow differences in individual candidates to be recognised. Much as with equivalent means, if a candidate with extensive experience of working in a paralegal environment doing the same work as a trainee passes both Part 1 and Part 2, it seems nonsensical to expect them to complete a PORT also. It is anticipated that these examples will be in the minority however, and that many paralegals will need to complete some form of work experience in order to successfully pass Part 2.
It is clear from our members that the variation in standards across firms allows for substantial discrepancies in the quality of training. This issue could be adequately addressed by the SRA now without the need for SQE by the SRA properly regulating training, however it is clearly going to form an important part of the assessment framework. We look forward to the SRA's later consultation on this element.

Question 9

Do you agree that we should recognise a wider range of pre-qualification workplace experience, including experience obtained during a degree programme, or with a range of employers?

This response is predicated on the assumption that the Part 2 assessment will take place once the work experience element is completed, or is at least underway.
If the competencies and their assessment methods are sufficiently standardised, then there should be no reason why a candidate cannot obtain their required period of work experience from a variety of organisations. Granted, different firms will assess the competencies in different contexts.

If the aim of the SQE is to remove artificial barriers then it seems logical to adopt this approach on the issue of work experience. However, the work experience must include legal work of sufficient quality which is properly supervised by a qualified solicitor of appropriate seniority.

Question 10

Do you consider that including an element of workplace assessment will enhance the quality of the qualification process and that this justifies the additional cost and regulatory burden?

Yes. The JLD considers that an element of workplace assessment could go some way in raising the standards of training and, as we consider high quality training to be so important for reasons already specified, we consider this a necessary use of resources of both firms and the SRA.

The JLD would be concerned if the SRA were attempting to remove the obligation of regulating the level of practical training required to be given to aspiring solicitors.

Question 11

If you are an employer, do you feel you would have the expertise to enable you to assess trainee solicitors' competences, not capable of assessment in Part 1 and Part 2, to a specified performance standard?

N/a

Question 12

If we were to introduce workplace assessment, would a toolkit of guidance and resources be sufficient to support you to assess to the required standard? What other support might be required?

As the JLD is not an employer we do not consider it appropriate to provide a direct response to this question. However, given the SRA's stated aim of ensuring consistency of standards, we would welcome a toolkit of guidance and resources. At present, firms are left to their own devices to manage trainees' learning. If this is to be an effective part of the SQE, they need the appropriate materials to enable them to perform this function.

Inspection of firms by the SRA to ensure quality of training will be required and a helpline for trainees to call would also be useful. A toolkit would also assist trainee solicitors in understanding the kind of training which their firm should be giving to them, and could be used as a benchmark to seek further support which aids in an individual's development.

Question 13

Do you consider that the prescription or regulation of training pathways, or the specification of entry requirements for the SQE, are needed in order to:

a. support the credibility of the assessment?,

b. and/or protect consumers of legal services and students at least for a transitional period?

The JLD considers that prescription and regulation of training pathways is necessary for both (a) and (b), and that this extends beyond a transitional period.

As outlined above, an inability to clearly assess what is required to qualify as a solicitor is potentially extremely damaging to the profession. Consumers and future lawyers may be confused at the lack of certainty of how someone came to be qualified.

Annex 3 states that 'Consumers don't know and don't care how the Solicitor title is acquired and so the title trumps how it is acquired'. The JLD would be extremely keen to see the research/evidence of this, as we do not agree that consumers do not care about this. Consumers make assumptions as to the background of a solicitor and clients sometimes ask our members what "stage they're at". It could be the reason that they do not appear to care is because they assume that a solicitor has gone to university or law school, but they do not necessarily understand exactly what qualifying entails.

The specification of entry requirements for the SQE is essential for both (a) and (b), and in our view those entry requirements should be as specified at our response to Question 3.

If there are no entry requirements, then the perception that 'anyone can take it' will be incredibly damaging to the reputation of the profession, particularly initially when the rigour of the assessment is not proven. It will not be easy for consumers, competitors or employers to understand the route taken to become a solicitor and the perception that 'all I had to do was sit an exam' will be incredibly damaging to the reputation of the profession, regardless of whether or not it is true.

Question 14

Do you agree that not all solicitors should be required to hold a degree?

Yes, however the JLD considers it important that candidates are able to demonstrate that they have been educated to degree level, for example by completing the CILEX examinations or apprenticeship.

There has always been a degree-free route to qualification, and the JLD believes that this should remain the case as it is important for social mobility.

However, the historic degree-free routes still followed a specified programme of study, which had available published standards. It is possible for consumers and employers to look at the course content and understand what had to be covered.
The JLD has not seen any evidence that this will cease to be the case. Employers in particular will want to understand a candidate's educational and practical experience prior to qualification.

Question 15

Do you agree that we should provide candidates with information about their individual and comparative performance on the SQE?

The JLD considers that information about individual performance will be beneficial to candidates, particularly where they are required to take re-sits. An understanding of previous performance will assist in preparing to re-take the assessment. We would certainly consider that publishing the number of resits would be beneficial to both candidates and employers, and might limit the advantage which more affluent candidates may have.

The SRA has stated that an objective of the SQE is to remove barriers to entry. If the SQE proceeds as proposed, it is argued, that candidates will be able to show that they are as good as those applicants from Oxbridge and Russell Group universities, because they have passed the exam.

Ignoring the fact that showing this will come too late in the recruitment stage for many firms (especially now that these decisions are made even earlier due to the SRA no longer being a signatory to the recruitment code of conduct), completion of a post-graduate course alone is unlikely to displace the esteem in which a QLD from certain institutions may be held.

It is implicit in the language used by the SRA in the consultation document that candidates will have to undergo some form of post-graduate study. The JLD agrees that this is likely and thus it underlies the majority of our concerns. In the absence of more rigorous practical training, firms are likely to require that candidates continue to pick up the expertise currently gained on the LPC prior to joining as an employee. In the absence of funding options outlined above, the way in which a candidates funds this course is of great concern to the JLD.

Furthermore, candidates may need to be able to demonstrate how they have performed in order to show their strength as an applicant to future or current employers. If they only receive a competent/not-competent mark for the SQE, then employers may need to trace back further in their academic history to identify differentiating factors, effectively leading back to square one. The JLD maintains that it is unjust to recruit a trainee solicitor or NQ based heavily on A-level grades achieved some years before during a student's teenage years. We agree with the comments at paragraph 84 of the consultation in this respect.

Question 16

What information do you think it would it be helpful for us to publish about:

a. overall candidate performance on the SQE?
b. training provider performance?

Transparency is of paramount importance.

Once again the JLD considers it implicit by the inclusion of this question that candidates will have to follow some kind of preparatory course.

Statistics showing the various scores may aid the credibility of the assessment and the level of preparation provided by certain providers.

We would ask the SRA for clarification with respect to part b. Does 'training provider' in this context mean preparatory course or workplace assessment provider? Success

rates of the various course providers would be beneficial so that candidates can best determine where to part with the course fees.

It would be useful if the statistics encompassed whether or not a candidate took a preparatory course at all, so that candidates could assess the risk of 'going it alone' and attempting the Part 1 assessment after independent study.

The JLD would also strongly support the publishing of the performance of firms/organisations who run programmes (we imagine similar to a PORT) for the work experience element between Parts 1 and 2 of the SQE. If firms were required to release the percentage of their trainees who pass Part 2 as a result of their training, then we consider this is extremely likely to raise standards and protect trainee solicitors from exploitation. We are concerned that some organisations may hire individuals on a temporary contract on a promise that it will prepare them for the SQE Part 2, and then provide inadequate training, so the individual does not pass, and may lose their job as a result.

It would also increase competition between firms, as they will be able to market their training programmes using their SQE Part 2 pass data.

Question 17

Do you foresee any additional EDI impacts, whether positive or negative, from our proposal to introduce the SQE?

Large international and City firms will continue to value candidates from particular institutions, and who have particular experience. Removing the current requirements will do nothing to influence this. However it will affect the ability of candidates from low socio-economic backgrounds to attend these institutions in the first place, due to the constraints placed on their ability to obtain funding as outlined in our response to Question 1.

At present, the firm providing the training contract has the final sign-off on the qualification of a trainee solicitor. The removal of this control may make firms focus even more closely on A level grades/UCAS points, first (or second) year undergraduate degree results and the completion of work experience when selecting candidates, because they will want to be even more certain in that candidate's ability to pass Part 2 of the SQE. This would potentially have a negative impact on social mobility, as those candidates from low and middle socio economic backgrounds are known to be disadvantaged by this approach to recruitment and their lesser ability to access informal work experience opportunities.

If the market behaves as the SRA hopes and includes SQE preparation as part of an undergraduate course at no additional cost, then the cost of qualification will become cheaper. However, this is dependent on firms and organisations acting in a certain way. Until the SRA shares its research and evidence with us, we cannot be convinced that this will be the expected result of any reform. The SRA cannot purport to have the ability to positively influence the legal market to enhance diversity and inclusions.

Question 18

Do you have any comments on these transitional arrangements?
Firstly, we would point out that if the motivation for the SQE is quality, then its implementation must not be rushed, and educational providers must be given ample time to write and implement courses which best prepare individuals for the SQE, so that money is not wasted on inadequate courses, which might mean "top-up" courses will be required.

We consider that the idea of candidates choosing which route to take may cause confusion as to which route is preferable for an individual. We would also point out that currently, many individuals paralegal for a number of years before obtaining a training contract, and then are recruited for the intake two years subsequent to their application.

It is also unclear how any transitional provisions might affect career changers and other legal professionals (legal executives and barristers who might want to cross-qualify).

We are strongly in favour of equivalent means remaining during the transitional period, particularly as the PORT may disappear in its present form as firms transition to their new training arrangements, meaning that LPC graduates would have no other means to qualify. We envisage that LPC graduates will not choose to move to the SQE route during this time, and so they must be able to use their legal work experience to qualify, where they have done a sufficiently high quality work.

Question 19

What challenges do you foresee in having a cut-off date of 2025/26?

We repeat our concerns in the response to question 18 above. We also consider that, if the implementation date is pushed back, so should the long-stop.

If the SRA is intending that students will have the opportunity to qualify without obtaining a degree, then it must follow that the implementation date must allow for a longstop date which is at least 7 years later. This is because anyone who has, possibly unnecessarily, invested in a university education on the assumption that this is the quickest and most straight forward way to becoming a qualified solicitor, should be allowed to continue on that pathway, with the benefit of a QLD offering the same exemption to the knowledge element of qualification as it does now. Given that students apply to university at the end of the first year of their A-levels, we have suggested this minimum timeframe, but would prefer it to be longer, given that it will take some time for the market, law firms, education providers, and aspiring solicitors, to properly understand what is expected of them.

Given that so many individuals now paralegal for a number of years prior to obtaining a PORT, it is not inconceivable that unqualified LPC graduates may still exist, particularly if an individual has taken a break after completing their LPC, perhaps for family or health reasons. We would not see these people discriminated against because they "missed the boat", particularly as, as far as we know, the SRA has no way of tracing or contacting all LPC graduates to let them know of these restrictions, which we consider to be a significant reason why the take up of equivalent means has not been huge – many do not know about it or understand the process.

Question 20

Do you consider that this development timetable is feasible?

We do not consider that this question is suitable for a response until we understand the proposals in more detail. The SRA has not provided enough detail in order for us to respond.

Local Junior Lawyers Divison g roups - supporting statements

Bristol Junior Lawyers Division

We agree with the initial response of the Junior Lawyers' Division that the SRA has not conducted an appropriate level of pre-consultation public discussions before deciding that a centralised assessment of competence would be a suitable approach.

We agree that the current standards of training vary and a change could be appropriate to ensure that all newly qualified solicitors are trained to the same standards. The idea of a solicitor's qualification exam could work but much more detail is required about how this would work in practice.

The costs to qualifying are already high, what would the cost implications be for the centralised assessment of competence? Would commercial funding still be available?

The cost implications also have an impact on social mobility and it is important that the profession is diverse and has solicitors from all backgrounds. Would the solicitor's qualification exam decrease the current attainment gap? We have concerns that whilst one of the objectives behind the SQE is to enhance access and increase diversity, it may actually achieve the opposite. The largest commercial firms have the resources to invest in thorough training for their aspiring solicitors, but smaller and medium sized firms may not be able to offer the same opportunities. If the decision is made to implement the SQE and a timeframe set for deploying it, before proper consultations and details are determined, the risk is creating additional barriers to qualification for those who are already under-represented in the profession.

Before deciding if dramatic changes such as an SQE should be adopted, it is vital to determine how such changes would be implemented. Whilst we accept there is a need to ensure minimum competencies are met by all new solicitors, there is a risk that "change for the sake of change" could make the situation worse, causing problems for future solicitors, law firms, education providers, and most importantly for the public who purchase legal services.

There is a lack of detail in the current consultation from which a lot of questions arise.

The current proposal is not detailed enough for us to consider fully and we would welcome a further consultation period once there is a detailed and considered proposal.

Halifax & Huddersfeld Junior Lawyers Division

The Halifax & Huddersfield JLD ("H&H JLD") represents junior lawyers (students, LPC graduates, trainee solicitors and solicitors up to 5 years PQE) throughout Kirklees and Calderdale.

The H&H JLD committee members are concerned about the implications of the SRA's proposal for a centralised exam.

The H&H JLD are in support of the concerns raised by the Junior Lawyers Division in their response to this consultation.

To summarise, the H&H JLD is anxious that the SQE will not only jeopardise the integrity of the profession but also hinder social mobility. A lack of information has been provided to enable proper consideration of the SQE and whether it will effectively assess competence, although it is of concern that the SQE does not appear to require any prior education and/or work experience to enable an individual to qualify as a solicitor. There has also been a lack of detail as regards to the cost of the SQE and external funding.

The Halifax & Huddersfield JLD is supportive of a centralised examination in general.

South London Junior Lawyers Division

The South London Junior Lawyers Division represents solicitors (up to 5 years PQE), trainees, paralegals and students who live, work or study in South London.

- What effect will the SQE have on the quality of newly qualified solicitors?

We have some concerns about the effect that the SQE will have on the quality of newly qualified solicitors. Removing the need for a qualifying law degree/ GDL and LPC could lead to prospective lawyers taking unregulated "crammer courses" in order to pass the SQE, without having developed the skills needed to be a competent solicitor.

- What is the importance of each of (a) the level of education required prior to taking the exam, and (b) the practical/work experience element of the proposal, and what should this entail?

It is very important that the reputation of the profession is upheld in any changes that are made to the routes to qualification. We believe that its reputation could be damaged if it is no longer seen as a "graduate profession" for which a degree (or equivalent) is required, especially given that a number of professions now require applicants to have a degree. The period of study during a degree and GDL/LPC is also important for personal development and the learning of key skills needed to be a solicitor.

The practical/ work experience element of the SRA's proposals is also vitally important, as consensus tends to be that most people learn the skills that they need to become competent lawyers during their training contract. We believe that a period of at least two years' work experience should be retained, although there

could be greater flexibility than the current training contract allows (e.g. removal of the need to complete experience in a contentious area).

- What effect will the proposals have on social mobility?

We believe that the proposals may have an unintended negative impact on social mobility. Firstly, it is possible that the new system will be more expensive for prospective lawyers, as it is likely that they will have to pay for a degree, some kind of SQE preparatory or crammer course, plus the SQE itself. Secondly, the ability to re-sit the SQE an unlimited number of times could lead to a situation where those who can afford to take the exam again will do so, which could have a negative impact on equal opportunities and diversity within the profession. There are also statistics to show that for judicial exams, for example, women and ethnic minorities and state school educated students are less likely to re-sit the exam if they fail than privately educated, middle class white males who will re-sit the exam as many times as it takes them to pass it. If the exam really is as difficult as the SRA is indicating it will be, this might mean that the fail rate for first attempts might be quite high and so women, minority groups and state educated individuals may be deterred from re-sitting the exam, thus reducing equality and diversity in the profession. Finally, there is a risk that a two-track system may emerge, with some solicitors who have qualified through a more "traditional" route (i.e. a degree, SQE preparatory course and a structured period of work experience) being more highly regarded than those who have qualified through an alternative route.

We do welcome the opportunity for those who may have worked as paralegal for a number of years, (potentially doing the work of a qualified solicitor), to qualify without the need to complete a training contract or further assessments. This is, however, already an option under the existing equivalent means route.

In summary, we do not believe that the proposed system will achieve higher standards in the legal profession any more so than the existing arrangements. A preferable method of improving standards would be to reform the current system so that there is greater consistency of performance across LPC and training contract providers. This could be achieved, for example, by instituting greater regulation and monitoring of institutions and law firms, and by setting a SRA written exam that is taken by all students at the end of the LPC.

Nottinghamshire Junior Lawyers Division

The NJLD welcomes any change that will demonstrably bring about an improvement to the current system. However, in our view the current proposals by the SRA to dramatically overhaul the pathway to qualification and introduce the SQE will have the opposite effect to what it is intended i.e. it will result in a fall in the standard of individuals entering the profession, reduce social mobility and impact trust in the profession.

The current system requires solicitors at the point of qualification to have undergone several stages of academic and vocational studies (or equivalent means) followed by a period of workplace training. The SRA's proposals to overhaul the system will result in the removal of all of these stages to be replaced with a single set of exams. The NJLD strongly opposes this. The NJLD is concerned that this will not only result in a significant reduction in the quality of solicitors' entering the profession but also loss of consumer confidence in the

profession. The UK legal profession is one that is highly regarded internationally, and the proposed changes are also very likely to impact the reputation of the profession on an international level.

The NJLD is particularly concerned about the proposals to remove the period of workplace training. This element of the current route to qualification is, in our view, an extremely important part of the qualification process, without which the standard of solicitors entering the profession will certainly not be improved. Workplace training is the first time a future solicitor learns the skills needed to become a solicitor. The NJLD strongly believes that that training simply cannot be achieved by passing a set of exams.

The SRA has a responsibility to ensure that intending solicitors will be qualifying with the requisite skills to be able to compete on an equal footing in a competitive market and to ensure that legal education and training pre-qualification is as broad and as rigorous as possible. It is difficult to see how consumers can be protected if intending solicitors are not required to undertake a significant period of work based learning. The prospect of a 'solicitor' who has passed the SQE providing legal advice without having ever previously worked at a law firm, is a daunting thought indeed, and surely goes against the principles of "providing a proper standard of service to your clients" and "behaving in a way that maintains the trust the public places in you and in the provision of legal services".

The NJLD is also concerned that the huge amounts of work that has been done to increase social mobility within the profession will be undone as a result of these new proposals. The costs associated with the SQE are not at all clear. Undoubtedly the introduction of the SQE will result in the introduction of some form of SQE preparatory course which will need to be funded by candidates. The cost of the exam has not been detailed and furthermore it is our understanding that the SQE will fall outside the scope of eligibility for professional development loans, a luxury the LPC is afforded; in turn limiting access only to those in a position to self-fund. In addition, the courses are likely to be designed simply to enable students to pass exams, which under the current proposals, can be re-taken an unlimited number of times. Passing these exams will not guarantee a candidate employment and if the proposed changes come in to effect we will be faced with a situation where hundreds of candidates who are able to fund the preparatory course and exams have invested thousands of pounds to pass the exams, hold the title of "solicitor" but ultimately do not have employment. This also results in a diminution in the value of what is a protected job title. It will also exclude good candidates who do not have the means to fund the course and exams from being able to enter the profession.

We note that the approach proposed by the SRA ignores the primary findings of the Legal Education Training Review ("LETR"). Most notably, that the current system is broadly fine and fit for purpose and that small scale changes could bring about the required improvements. With many members of the NJLD having recently completed the current course of education and training, we support the LETR's findings and recommendations.

This response has been prepared by members of the NJLD committee who in turn represent the interests of over 200 legal professionals from a range of firms across Nottingham's legal sector, we unanimously, and strongly oppose the proposed changes in their current format.

Suffolk and North Essex Junior Lawyers Division

The Suffolk and North Essex JLD is concerned about the effect that the SQE will have on the quality of newly qualified solicitors. Presently, newly qualified solicitors are typically educated to degree level before undertaking the GDL (if appropriate) and LPC. The period of recognised training is then the final stage of the qualification process, allowing the trainee solicitor to gain two years' practical experience. In practice, however, a trainee is also likely to have completed additional work experience placements, vacation schemes and, perhaps, gained experience as a Paralegal before beginning their period of recognised training.

We note that the SRA has stated that the SQE is likely to require an element of pre-qualification work experience, however there has been no consultation on, or indication of, what this would involve. We hope that it would be akin to the period of recognised training.

Additionally, the lack of a specified minimum educational level to be obtained (e.g. degree level) before undertaking the SQE is concerning. Especially considering the Bar Standard's Board consultation on the future training of the bar, which considers whether the degree classification needed to obtain a place on the bar vocational training course should be raised from a 2:2 to a 2:1.

We also understand that there is no limit on the number of times the SQE may be attempted which, again, is concerning and it may result in applicants learning how to pass the exam, rather than truly meeting the threshold requirement.

The proposal that an aspiring solicitor could take the SQE innumerate times without there being a minimum educational requirement, and presently without any concrete proposals for pre-qualification work experience, and become a newly qualified solicitor threatens the quality of members of our profession. This, in turn, threatens the reputation of our profession.

The Suffolk and North Essex JLD submit that it is important for newly qualified solicitors to have a minimum educational level, and an understanding of basic legal principles, both from a theoretical perspective and a practical perspective. Aside from the knowledge element, from a reputational perspective, it is important that our clients have trust in our knowledge and ability to do our job. This may not be the case if educational and practical thresholds are lowered.

We are also unsure how the SQE is capable of being passed without students having first undertaken a degree and/or some form or preparatory course. We are concerned that, in practice, even if there is no minimum educational standard, law firms will still require newly qualified solicitors to have attended a reputable university, to have gained a decent degree classification and to have completed an LPC-style preparatory course before taking the SQE. In which case, the introduction of the SQE is pointless. The SRA could instead have simply standardised the LPC.

The above would mean that the SQE would have a negative impact on social mobility. Aspiring solicitors would still have to find the funds to attend university, to complete an LPC-style course and, additionally, to pay a fee to take the SQE. This would make the route to qualification more expensive than, or at least as expensive as, it is now. Although attending university and completing a preparatory course would presumably be optional in theory, it is unlikely that law firms will be receptive to hiring a candidate who has only passed the SQE, compared to a candidate who is degree educated, has undertaken a preparatory course and passed the SQE. We are also concerned that a candidate attempting to pass the SQE without degree/LPC-style education would have to take the SQE more times before passing. Although the SRA has indicated unlimited attempts at taking the SQE, we assume law firms will draw adverse inferences from this and, even if they do not, the candidate would have to keep paying to take the SQE.

We also note that the envisaged cost of the SQE has not been confirmed, nor have proposals from the SRA as to how this may be funded by applicants. It appears unlikely that the current career development loans which can be used towards the LPC would cover the cost of the SQE. This, again, is a further barrier to social mobility, which would likely decrease diversity and prevent applicants who are not sponsored by a law firm or able to self-fund their studies from entering the profession.

The Suffolk and North Essex JLD is supportive of proposals that increase the quality, diversity and social mobility of our profession. Unfortunately, at present, the SQE does not appear to achieve this. We are concerned that the SQE would actually have the effect of negatively impacting upon the quality and diversity of our profession.

Leeds Junior Lawyers Division

The Leeds branch of the Junior Lawyers Division of the Law Society of England and Wales (the '**Leeds JLD**') represents Legal Practice Course (**'LPC'**) students, paralegals who have completed the LPC, trainee solicitors, and solicitors up to five years' PQE. With a membership of approximately 200 individuals, it is important that we represent our members in all matters likely to affect them either currently and / or in the future. The proposals surrounding the Training for Tomorrow scheme will have a significant impact on junior lawyers. Hence, we wish to make this additional statement as part of the national Junior Lawyers Division's submission on the new initiative.

Firstly, it is unclear to what extent junior lawyers have been involved in the development process. Indeed, neither the national JLD or Young Legal Aid Lawyers group were involved in the initial advances of the concept behind Training for Tomorrow and have only had limited involvement at these later stages. We kindly remind the SRA that trainee solicitors, newly-qualified solicitors and other junior solicitors are uniquely placed to identify those areas of practice which they do not feel their education / training has adequately prepared them for and where there are gaps. We hope that the SRA will better engage with junior lawyers in the development of the Assessment Framework – which in our view should have been released alongside the proposed Competence Statement and Threshold Standards. The Assessment Framework is the document which will give meaning to the generic terms laid out in the documents dealt with in this Consultation. In addition,

development of the Solicitors Qualifying Examination (the **'SQE'**) should also be undertaken after clear engagement with junior lawyers.

Secondly, we query what effect the SQE will have on the quality of newly-qualified solicitors entering the profession. It is acknowledged that fewer than 1% of full-time students on the Graduate Diploma in Law (**'GDL'**) fail and only 2% of those with training contracts are not admitted. In addition, new pathways to qualification (such as apprenticeships and 'equivalent means' training) are being introduced – overseen by a variety of providers. We see these as welcome developments, opening up the profession to applicants from varied backgrounds, but are aware of the differing perceptions about how such pathways and more traditional routes compare. A method is needed to ensure standards are consistent across all pathways and quality of output from all bodies / at the end of a training contract is maintained. However, we suggest that a further examination such as the SQE may be an arbitrary way to ensure this. In particular, it seems unlikely that the SQE will adequately demonstrate that newly-qualified solicitors all hold a similar level of intellectual and analytical ability, combined with a high-level of legal knowledge and the practical skills required. Successful attainment of the SQE will, arguably, just demonstrate competency at being able to pass an assessment and aptitude towards examination success – as opposed to successful skills as a lawyer. As part of the SQE assessment process, what is to be the importance of (a) the level of education required prior to taking the exam? And (b) the practical / work experience element of the proposal?

In addition, what will the practical / work experience element entail? Depending on how the latter element in particular is developed, it seems that those training in smaller or niche firms could be particularly disadvantaged or challenged in their successful completion of the SQE, simply by 'dint' of the fact that they have access to fewer opportunities within their firm. Correspondingly, those undertaking the practical element in-house or as general counsel will surely have to be offered differing routes / greater flexibility compared to those training within medium to large private practice entities.

The Leeds JLD feels it is unable to give a fully-formed view on the SQE proposals in particular when there are certain key questions unanswered and elements which remain undeveloped and unclear. For example:

1) What does failure to satisfy the SQE 'look like'? (For example, what are the level of competencies to be attained? Does failure in one element equate to failure of the entire SQE?)
2) Will there be a limitation on the number of re-sits of the SQE that can be undertaken? And / or a timeframe for re-sitting the examination stages?
3) Is there a validity period on the 'life' of any SQE? Or part thereof? (in particular, that may disadvantage those physically or financially unable to complete all the elements of the SQE within a particular time-frame).
4) Who is responsible for compliance with the SQE requirements (i.e. individual or firms)?
5) What are the sanctions for failure to comply?

Further, despite alternative access routes to the profession having proliferated in recent years, barriers to entry still remain. The cost of undertaking the GDL (where appropriate), the LPC, and sustaining oneself on minimal salaries during the training process can be extremely challenging for many. Further courses, assessment fees etc. appear likely to be required to prepare trainees for the SQE. This raises

concerns about unfairness for less affluent candidates, particularly as there does not seem to be any clear indication of the fees, resit provisions etc. This in turn suggests the SQE would do little to assist social mobility and wider access to the profession.

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