

**Law Society Meeting**  
6 November 2017  
Law Society Offices – 62 Wellington Street

**Solicitors Qualifying Examination**

Julie Brannan – Director of Education and Training

*Introduction by Sue Harris – Director at Walker Morris*

**Julie Brannan**

Explanation of slide pack – should take 15/20 minutes without questions or we can pick the questions up as we go along.

**START OF SLIDESHOW**

Why SQE?

- "High professional standards
- Greater flexibility in training routes

Next steps:

- Practical implementation issues: what SQE means for you"

The Solicitors Qualifying Exam – the SRA Board has taken the decision to move ahead with implementing the SQE. The decision was taken April 2017.

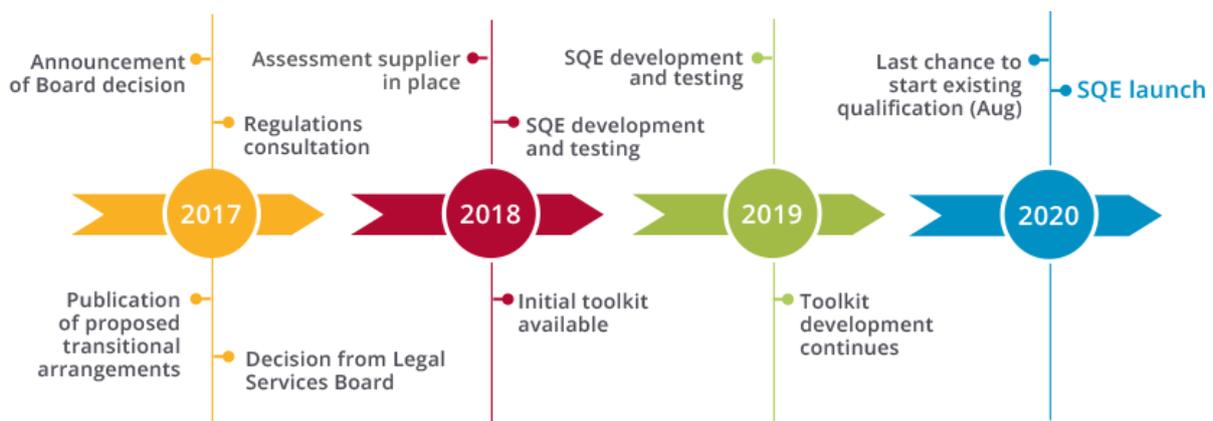
The Board believes it is the best way to ensure high professional standards and assure those standards are better than the previous arrangements.

The SQE will also provide greater flexibility in training routes in recognition of the different lifestyles people have and the mechanics of the right steps.

In terms of the next steps, we have to consider the practical implantation issues and what the SQE means for you.

Key Milestones

*Explanation of the slide image:*



The Regulations Consultation will be included in the Handbook Consultation; look for it in there. That is open until 20 December 2017.

## SQE four elements for admission

*Explanation of slide image:*



The substantial period of work experience will be a minimum of 2 years and will not necessarily have to be a training contract.

In terms of the satisfactory character and suitability test, there will be new requirements on this to be assessed before the Training Contract/work experience commences.

### What do we know?

People are telling the SRA that they need to know more about the assessment process.

The SQE is the mechanism to assess: :

- The competences in the Competence Statement;
- The legal knowledge in the Knowledge Statement consisting of the 7 foundations of legal knowledge and the LPC core specified on a more detailed basis.

To the standard specified in the Threshold Standard, which specifies the minimum standards of competence needed for admission.

Detailed assessment outcomes are set out within an Assessment Specification which is currently in draft form, and includes a straw model for the SQE assessment design. This is available on the SRA website..

How it is being assessed? SQE Stage 1 and SQE Stage 2. For law firms, they already know about competences in the Competence Statement (which underpin the new approach to continuing competence for qualified solicitors) but they need to be clear what this means for training their trainee solicitors.

### SQE Stage 1

“Functional Legal Knowledge Assessments

- Principles of Professional Conduct, Public and Administrative law and the legal systems of England and Wales
- Dispute Resolution in Contract and/or Tort
- Property Law and Practice
- Business Law and Practice
- Wills and the Administration of Estates and Trusts

- Criminal Law and Practice”

The Assessment Specification will include the substantive and procedural law so people know what they are being assessed on.

Candidates will need to know both substantive and procedural law and they will need to know how to use their legal knowledge to address client problems and transactions e.g. Commercial Property lawyers need to know Contract law etc. Under the current system, substantive and procedural law aren’t tested together.

*Question from audience: “Isn’t that what the Training Contract does?”*

Yes, but there is no regulatory check on that. There is also no mechanism to benchmark with other law firms.

Under the training contract, there is guidance on the content but not the performance standard.

“Practical Legal Skills Assessment

- Legal Research
- Writing Skills”

These will allow trainees to work effectively within the work place from the beginning with these skills. This has been added to SQE Stage 1 – we want people to have acquired these skills this before work experience.

### SQE Stage 2

“Practical Legal Skills Assessments

- Client interviewing
- Advocacy/Persuasive Oral Communication
- Case and Matter Analysis – including Negotiation Planning
- Legal Research and Written Advice
- Legal Drafting”

Some of these skills are already assessed on the LPC. However, SQE 2 will be assessed to a higher standard. SQE will also be assessed after some substantial period of work experience, maybe even at the end. We will issue guidance that we expect candidates will need a substantial period of work experience to pass SQE 2 successfully.

“Assessed in the following contexts:

- Criminal Practice; Dispute Resolution; Property; Wills and the Administration of Estates; Business Practice”

SQE 2 needs to be assessed in context and not in a vacuum. Therefore, it will be assessed against various areas of reserved practice and assessed in two contexts of the trainee’s choice.

There are a number of questions surrounding this:

- Is two enough?
- Could we look to wider areas such as Finance and Employment?

There are pros and cons to adding more contexts or widening the areas. One disadvantage is that you could end up doubling the price of the SQE if you double the practice contexts.

### Qualifying Work Experience (QWE)

This is really important in forming and training junior solicitors.

- “Learn the practical work of a solicitor
- Exposure to ethics
- Development of professional competences
- SQE 2 assesses competences developed during QWE
- Sign off by COLP or solicitor”

In regards to the professional competences, you can only get so far with classroom learning. Experience is needed.

The experience can be broader, i.e. paralegal, legal clinic, as part of a sandwich degree program.

*Question put to audience: Will that affect firms' recruitment strategy?*

It gives firms the opportunity to consider whether a broader recruitment strategy may suit their businesses better. There will be more choice and more flexibility for firms.

At the end of the QWE, it will be signed off by a solicitor. Sign off by a solicitor is important because it means that we can take regulatory action if a solicitor was dishonest in signing off a candidate's work experience. That solicitor will need to be on the Roll but there is no need for a practising certificate.

We are not asking that solicitor to assess competence. That will be done through SQE2. We just want the solicitor to say that QWE has happened.

For example

The requirements are not a process. The slide shows the standard route under a three-year law degree but there are lots of different routes.

An example of how it would work in practice under the three-year law degree route:

1. "Leave uni with trainee job offer
2. SQE 1
3. Results
4. Job start date confirmed by firm
5. Start two years' work experience
6. SQE 2
7. Results given before end of QWE
8. Firm makes qualified job offer"

You could take SQE2 after 12 months. This would give a chance for the individual to get their results and for the firm to make a retention decision. Or it could be taken later.

What we don't know

- "Cost of assessment and training
- Sample questions
- Final detailed form of assessment
- Start date – 2020 is target
- What training courses will be available"

The cost of the SQE assessment needs to be decided upon in relation to the procurement of an assessment organisation. The cost of training to prepare a candidate for the SQE will have different pricing points and that will be up to the educational provider. For universities, it could go in law degrees. There will be lots of different methods and pricing points.

In relation to the sample questions, there will be a final detailed form of assessment which the SRA will publish. It will also publish sample questions, so candidates and those preparing them can understand what to expect from the assessment.

The start date is intended to be 2020. We think that this is realistic. The SQE won't be brought in before we are absolutely sure it works.

Practical arrangements

- "Two exam sittings per year
- SQE available in England and Wales
- And (for written tests) internationally

- Future – more sittings in more places”

There will initially be two exam sittings per year but that will expand with demand. We are only expecting a very small take-up in the beginning. As it progresses there will be more places and sittings. There may also be the chance to do the SQE internationally as there is a demand for English and Welsh trained lawyers.

#### Results

- “Marks will be published to students
- Consistent standard over time
- Objective data available to firms to support recruitment

#### Resits

- Three attempts over six years
- If your trainee fails – must repeat to pass”

The results will be given to students. They will not be published in one long list setting out competent/non-competent. We expect providers to say ‘what did you get?’.

It will be a UMS score and not a raw score so it will be adjusted. This will provide more objective data available on students for recruitment.

In terms of resits, candidates will be allowed three attempts in six years. If you fail a particular element in the six years, you just have to repeat that element. But if you fail three times within the six years, you will have to do it all over again.

#### Transition

- “Currently consulting
- If introduced in 2020, last academic year on old system is 2019/2020
- Start QLD/CPE before 2020: choose to continue under old system to 2031, or qualify under SQE”

The 2031 date provides a longstop. We are proposing to retain the equivalent means under the old system until that date. However, there will be no mix and match (i.e. LPC and SQE2).

#### Questions for firms:

- “Recruitment
  - When to move to the new style QWE?
  - Whether to leave two systems running together?
  - Continue to offer traditional training contracts?
  - Recruit for eventual qualification as a solicitor via a mix of trainee/paralegal/apprenticeship contracts?
- Training?
  - Do current systems need aligning to SQE? If so how?”

The training will no longer require rotation or contentious/non-contentious. You can, however, continue doing it this way.

You will still have part-timers on the old system after 2021. There will be a new route for CPE’ers.

#### **END OF SLIDESHOW**

#### Views/Questions

Key:

- Julie Brannan
- *Audience questions/responses*

I would be keen to get your observations and thought processes on this.

*(Q) With SQE1 part of a university course, how much time do you think is required for preparing for SQE2?*

(A) SQE2 deals with competences that should be developed on your training contract.

*(Q) SQE1 doesn't sound as demanding. I've heard there will be multiple choice questions etc.*

(A) I can assure you the SQE will be a tough exam. We have no intention to dumb it down. Currently you can pass with a 3<sup>rd</sup> class degree and 50% on the CPE. This is not an exercise to make it easier to become a lawyer. Practitioners will be at the heart of setting the standard for safe practice.

In terms of how much time you need to prepare for SQE 2, there has been feedback that individuals would have appreciated a mock for example. So perhaps that could be done at a weekend.

In terms of developing trainees competences in the work place, one firm said that they might do a GAP analysis, look at the current competences people are picking up and compare them to the SQE requirements. That sounds like a very sensible approach.

*(Q) It sounds like you don't anticipate a lot of time with the course providers? Will it be short bursts or will it be continued time?*

(A) That's correct, SQE 2 is about on the job competence developed during your experience. Some training contracts may not be good enough at the moment. The new system enables us to check that candidates have developed the skills they need to be a competent practitioner.

*(Q) What will the results processing time be if there only two sittings a year?*

(A) It may well take a little while for results to be processed. There are no MCQs planned for SQE2. There will be standard setting and moderation to do. Maybe a couple of months.

*(Q) Will there be a minimum period before SQE2?*

(A) There are lots of different views on this. We will publish clear guidance that a substantial period of work experience is needed before someone can attempt SQE 2, so that it is not straight out of university into SQE2. That is the problem with the LPC, it is taken when individuals are straight out of university – it doesn't recognise the journey or the skills candidates develop during their work experience.

*(Q) Some firms take in trainees at three month intervals. If you only have two sittings a year, surely that is going to detriment some trainees and they will get a lower mark?*

(A) The number of sittings of the SQE will grow with time. We will not have a hard and fast rule that candidates must all have done a minimum period of work experience before they attempt SQE 2. Similarly, there is no rule with GCSEs and A-Levels that all candidates must have been taught for two years before you take them. Mature candidates, in particular, often take them with less study. Firms will need to gauge the level of difficulty of the SQE and judge when their trainees will be ready.

*(Q) But then it will not be a level playing field?*

(A) The assessment is a consistent assessment for all candidates. It will be for firms and candidates to decide when they think they are ready to take it.

*(Q) Is there a certain level of degree required?*

(A) Still the same – just a degree with no minimum. But SQE will be a more rigorous test.

*(Q) Can we have some more information on the SQE Knowledge?*

(A) Referring back to the statement of legal knowledge. SQE will assess only core knowledge of the basic compulsory subjects – what at the moment are the foundations of legal knowledge and

the LPC core subjects. Functioning legal knowledge will be assessed. The SQE will check that candidates can take their legal knowledge and use it to drive through a transaction/solve a client's problem. The SQE will not be a recall exercise but a test of how legal knowledge can be used in practice.

In SQE1, candidates will need to apply the core knowledge, for example, to a cause of action in contract or tort. It will be more about problem-solving. With law degrees, you see law through lots of different lenses; historic, socio-legal, philosophical – it is more academic and that is great at assessing understanding but SQE1 is assessing how you use your legal knowledge in practice.

SQE2 is about assessing writing and arguing etc. in role plays. For example, it will assess case and matter analysis. Here, the supervisor will be looking whether the individual has understood the factual and legal issues in a case, what the client risks are, and what the next steps should be. There will be a range of assessment methodologies as appropriate to ensure a safe standard of future practice.

*(Q) So will you be checking with the trainee rather than the employer at SQE2?*

(A) Yes that is the idea. We will assess the trainee's competence directly.

*(Q) Will CPE now be rolled into one?*

(A) Non-law graduates will need to learn the law – so their preparation for SQE is likely to take longer to allow them time to learn what law graduates have learned in their degree.

*(Q) With regards to the signing off process, will it be more rigorous? We've seen poor trainees being signed off, not kept on by the original firm and someone else takes them on. They don't want the obligation of the trainee but give them the benefit of doubt and leave them for someone else.*

(A) Yes it will be. It is a concern for us. In 10 years, no-one has not been signed off. It is one of the risks we want to address through SQE. Now the rule will be that the firm will sign off that the work experience/training happened, but people will fail the SQE2 if they are not up to standard.

In terms of overseas qualification, our experience on the QLTS is that about 50% of candidates fail at stage 1. But then most candidates - about 85% - will pass at stage 2.

*(Q) Will it gear more towards commercial practice? I am from a family practice and there is obviously no employment/family law included with the core subjects.*

(A) It is narrow because we want people to know fundamental legal principles. It's not about the full curriculum, it's about getting people up to scratch. Universities will continue to teach wider subjects because they know firms will want that. Firms will need to engage directly with universities and student saying "we do value these skills". In terms of family practice, the trainees should be brilliant for the Practical Legal Skills Assessment. Their experience in family practice should be a good context in which to develop and demonstrate their skills, for example in dealing with distressed or emotional clients, who it may be hard to get a clear story from.

Training records and logs are expected. But the employer is signing off is only for verification. They need to ensure the correct exposure to the right form of work.

*(Q) Apprenticeships currently have a two-tier system with portfolio, will it be similar to that?*

(A) We don't want to create more bureaucracy. There is no requirement for a portfolio. It will be for law firms and individual candidates to decide the form of records – as with continuing competence.

*(Q) Is the QWE done on a pro-rata basis for part-timers?*

(A) Yes it is for a minimum of 2 years' full time work experience.

*(Q) When does six years start? At SQE1?*

(A) Yes, and the QWE can start before SQE1 commences. We thought that the six years is a good balance. It is long enough to take three attempts, but if you fail and have to start again it is not too long to wait. 10 years would be too long. It is permissive in allowing people to retry without waiting too long.

*(Q) Will there be a minimum salary introduced?*

(A) No, the National Minimum Wage is all that will be in place.

*(Q) There is a big concern that the fundamental skills don't start until SQE2*

(A) The individuals will have writing and research practice but there is no interview assessment until SQE2.

It is like the advocacy issue which we had to consider. Very few practitioners have rights of audience. You are given full rights in the lower courts on admission in any case. No one is taught this and the lower courts now have higher and higher jurisdiction to deal with cases. Therefore, advocacy remains an issue.

However, we have to recognise that skills assessment is expensive and we have to make sure we are aware of how many assessments are at SQE1. This is an LPC issue where people are spending lots of money.

We want to back-end load SQE2 over the more expensive SQE1. Front-end loading is a barrier to access. People will have more confidence that they will qualify this way.

*(Q) What about the issue with people having three years' experience before setting up their own practice?*

(A) We are consulting on that now. The whole qualify to supervise rule with three years PQE is not clear, it is very unclear. If the rule is designed to ensure that someone can run a business before they set up their own practice, we question whether their three years post qualification experience really gives them this competence. After three years, are you going to be business ready etc. to set up on your own? There are firm authorisation purposes within the SRA which will check if they are ready to set up. If someone sets up a firm and they are putting their friends through a 'training contract' inappropriately, we can take regulatory action if they are breaching the 'act with integrity' solicitors' rule.

*(Q) Will there still be assessment of Solicitors Accounts Rules?*

(A) Yes.

*(Q) For recruiters, there are going to be lots of different points of entry. The LPC was homogenous, now everyone is at different points. Also experiences will be different and a more forensic approach will be needed.*

(A) With the SQE1, there are core elements and greater consistency within that. Universities already teach different things in courses. The core legal knowledge will be more consistent. And SQE2 will give everyone a standard assessment with marks. So actually, there will be greater consistency about the knowledge and skills that firms can assume everyone who has passed SQE 1 has.

*(Q) Do you envisage numbers of solicitors falling?*

(A) It is not about numbers. It has to be about ensuring safe standards of practice.

Closing point: please remember the Toolkit will be out before Christmas.

**End of meeting.**