LEEDS LAW SOCIETY

RESPONSE TO "A NEW ROUTE TO QUALIFICATION: NEW REGULATIONS"

This consultation response is submitted on behalf of the members of Leeds Law Society ("**LLS**") and is intended to be reviewed alongside our previous responses to the SRA's consultations on the SQE.

SRA QUESTIONS AND RESPONSES

Do you agree that these regulations implement the agreed policy framework for the SQE?

Regulation 1.1 (a)

LLS has submitted responses to previous SRA consultations on the SQE, and refers to the answers given there.

Regulation 1.1 (b)

LLS considers that clarification and guidance should be given as to the content of the degree and what is considered the equivalent of a degree.

Regulation 1.1 (c)

LLS gives its comments on qualifying work experience ("QWE") below.

Regulation 1.1 (d)

LLS agrees with this requirement.

Regulation 2.1 (a)

LLS considers that the definition of QWE comprising "*experience of providing legal services*" is too wide and lacks definition. There is a wide variety of legal services and it is self-evident that not all are equal or will result in candidates obtaining inappropriate work experience to enable them to qualify as a solicitor.

Further, the QWE simply has to provide the candidate with "*the opportunity to develop the prescribed competencies*". There does not appear to be a requirement for the candidate to actually develop the prescribed competencies, or for the firm providing the QWE to ensure that these skills are developed through supervision. Whilst LLS understands that the SQE should test these competencies, it is of course possible and indeed likely that candidates will "cram" for these exams and pass despite not having developed and properly understood the competencies in a way which protects consumers.

Regulation 2.1 (b)

LLS also seeks clarification on the duration of "*at least two years*" for the period of QWE. For example, is there a long stop for this period – e.g. if after four years, a candidate does not have the sufficient two years QWE they must start again?

Regulation 2.1 (c)

LLS is concerned that the definition of organisations who can provided QWE is very broad and does not take into consideration the quality of the work that may be provided. For example, educational establishments often offer pro bono clinics to their local area, which offer an important service to local residents. However, the experience candidates ' gain in these clinics is often limited, and a candidate will rarely see a case through from start to end due to the nature of the clinics and the academic terms. This does not seem to have been considered, nor how and by who the candidate would be monitored or assessed in this environment.

It is also important to consider that a candidate whose QWE is only undertaken in limited areas, or outside the traditional setting of a law firm or regulated legal services may find it very difficult to secure employment in any other practice, as employers will always take into consideration past legal experience and will rate some forms of QWE much higher than others.

Further, it appears that unregulated entities could offer QWE under this broad definition. This could result in a candidate undertaking QWE in a company that offers no legal supervision. LLS considers that it should be a requirement of QWE that a candidate is overseen and supervised by a solicitor with at least three years post qualification experience in the field in which the candidate is seeking experience.

Regulation 2.2

LLS repeats its concerns regarding the firm offering QWE simply having to provide candidates with the opportunity to gain experience. LLS considers that the firm should be obliged to take reasonable steps to ensure that the candidate is gaining this experience, and that a record of this is kept. A firm should not be able to simply say it made work available, without ensuring that the candidate was well placed to take advantage of and participate in this work and that the work was undertaken to a reasonable standard.

Regulation 2.2 (a)

Agreed.

Regulation 2.2 (b)

Agreed.

Regulation 2.2 (c)

LLS is concerned that it appears a solicitor outside of the organisation the candidate is working in may be able to offer the candidate QWE. It is unclear how this is workable where the solicitor does not appear to work with the candidate on a day to day basis. Given the proposed changes to the SRA Handbook, this solicitor may not in fact be regulated themselves. It is difficult to see how this can be monitored or how the candidate will receive sufficient supervision to meet the competencies and therefore protect consumers by providing an adequate service.

Regulation 3.1 (a)

See our comments to consultation question two.

Regulation 3.1 (b)

LLS note that the candidate does not have to have met the criteria at regulations 1.1 (c) – i.e. QWE. It is not clear why this has been omitted and LLS considers that the QWE should be mandatory for all solicitors admitted to the roll.

Regulation 3.2

It is noted that a candidate only need meet "some" of the prescribed competencies. It is not understood why the candidate should not have to meet all of these, and LLS considers that this should be the case.

It is also unclear how the SRA will satisfy itself that a candidate has met all the prescribed competencies, given that there will no longer be a training diary for QWE and a candidate's experience may be signed off by someone who they have not worked with (regulation 2.2(c)).

Further comments

LLS notes that there will no longer be a requirement for candidates to keep a training record. The training record was a useful way of candidates and their supervisors being able to review the work undertaken and what extra tasks and steps should be completed to ensure that a trainee achieves all the targets expected in that department, and reaches their full potential. The removal of a requirement for a training record, particularly when candidates may be moving between firms/companies, does not seem sensible and may mean that information and opportunities to learn and expand on knowledge are lost.

The training record also allows the SRA to inspect a firm to ensure that it is providing adequate training and supervision. This is an important check which should ensure that firms are monitoring the work they are providing to candidates, and its removal may cause firms to stop undertaking these checks and the quality of the experience may therefore decline.

It is also not clear whether these regulations are sufficient to protect the consumers of legal services. It is likely that most firms will take the time to adequately supervise and oversee their candidates. However, there will always be firms that do not take their responsibilities seriously. It is not clear how the SRA will measure whether there is adequate supervision within firms signing off on the periods of recognised training.

This is related to LLS' concerns regarding the amendments to the SRA Handbook. At present, a solicitor cannot set up and run a firm until they are three years post-qualification, or unless they have special dispensation from the SRA. However, the proposed amendments to the Handbook will allow solicitors to set up a firm immediately upon qualification. LLS is concerned that these firms, run by solicitors with little experience, may then take on candidates and sign off their QWE without providing adequate supervision, as the supervising solicitors are not sufficiently experienced to do so. These candidates may then set up their own firms and do the same. This would not adequately protect consumers of legal services.

LLS acknowledges that the SRA's intention is that the SQE Part 2 will be sufficiently challenging to

capture any candidates who have not received adequate training. However, LLS considers there should be extra checks and balances in place to protect both consumers and the candidates who may expend time and money working at a law firm or company which does not provide them with adequate experience.

Do you have any comments on the proposals for recognition of the knowledge and competences of qualified lawyers?

The stated purpose of the SQE is to ensure that all solicitors in England and Wales have passed the same rigorous test before being allowed to practice. LLS are therefore of the view that all candidates intending to practice as a solicitor in England and Wales should be required to take and pass the SQE. To not require this will undermine the SQE as a measure of excellence.

If this is not a requirement, it is likely that people will find loopholes to taking the SQE (as happens now with the New York Bar and cross jurisdictional qualification, for example) which may have less rigorous testing and limited exposure to legal work experience. These loopholes are more likely to be exploited by wealthier candidates, and as such, exacerbate issues with diversity and social mobility within the profession.

It is noted that there may be an English language test requirement post-admission. There is no indication as to how the SRA will decide whether a language test is necessary, or the format it will take. LLS considers that this needs further clarification. A good understanding of the English language test is essential to practicing as a solicitor in England and Wales and it is imperative that all qualified solicitors maintain the standards expected by the public.

It is also unclear how the SRA will assess the qualifications undertaken in other countries. The reputation of solicitors in England and Wales is highly regarded and, should lawyers from other jurisdictions not have to take the SQE and not be subject to such rigorous testing, this may undermine this reputation.