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The Solicitors Qualifying Examination: Perspectives on the Proposed Changes to Legal Qualification



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August 2020

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Executive summary

Legal education and training are fields characterised by uncertainty, containing major data gaps and research unknowns. This report suggests that the Solicitor Regulation Authority's July 2020 application to the Legal Services Board for approval is premature, particularly in its lack of completed guidance on SQE2 and qualifying work experience (QWE) as well as its lack of evidence on the acknowledged attainment gaps use of informal networks in legal recruitment. The SQE proposals lack an evidence base demonstrating how the changes will improve longstanding problems with diversity in the legal profession.

This research project underpinning this report, *The Solicitors Qualifying Examination: Perspectives on the Proposed Changes to Legal Qualification*, drew on desk-based studies of legal and policy materials, supplemented with responses to a survey. The report is designed to demonstrate how socio-legal studies, which are completely omitted from the SQE proposals, provide valuable contextual analysis in legal research and study, developing key skills for students and aspiring solicitors.

Respondents who took part in our survey, who told us they had a good understanding of SQE plans, highlighted a range of detailed questions about the implications of the proposals as currently formulated. These comments have underscored our view that despite the SQE's undoubted progressive potential, it is an education and training experiment with possibly serious implications for quality, cost and diversity.

However, if SQE plans are to be approved, it is vital that a gentler introduction is implemented, with slower phasing out of the current route to enable time for clarification of some of the key aspects of the proposals.

We suggest the following next steps:

- Wait for more details on SQE2 sample questions, marking and moderation;
- Wait for more details on QWE including how many weekly hours are required (particularly when undertaken voluntarily and/or on a part-time basis);
- Require an analysis of the social security (universal credit) rules and employment law framework for internships to assist both aspiring solicitors and organisations;
- Require evidence on how informal recruitment networks operate in the legal profession and how these might be ameliorated with the introduction of the QWE, perhaps in collaboration with the Sutton Trust;

- Require a detailed pilot study of SQE1 and SQE2 with those solicitors' apprentices finishing in 2021-22, allowing a more extensive analysis of SQE assessment processes;
- Require the release of the raw data for the SQE1 and SQE2 pilots. The SRA have acknowledged an attainment gap in SQE assessments and the LSB should require more evidence that the SQE will not exacerbate existing inequalities;
- Require analysis of the SRA's experience with the equivalent means route of qualification, including data on protected characteristics for applicants;
- Confirm data gaps for the Graduate Diploma in Law (GDL)/Common Professional Exam (CPE), Legal Practice Course (LPC) and training contracts as well as for the SQE and QWE. Data on aspiring solicitors should include markers of both protected characteristics and other aspects of concern, including first in family to attend university, history of free school meals, type of school attended for GCSE & 'A' levels, ethnicity, gender and disability.

Without further refinement the SQE risks making signifiers of ability (educational establishments, social networks, identity, location and nature of work experience) even more influential in the solicitors' profession than they are today.

1. Introduction

This report is written for members of the SLSA and other interested parties. It focuses on the Solicitor Regulation Authority's (SRA) proposals for the Solicitors Qualifying Examination (SQE), drawing on research designed to assist with consideration of these plans and to enable reflection on them. It has consisted of a survey as well as desk-based research using freely available policy and professional resources as well as academic research on legal education and training. The report is in three parts: (1) an overview of uncertainties in the current system; (2) uncertainties in the proposals; and (3) analysis of our survey responses. An Annex outlines the methodology used as well as further quantitative information of the responses we received.

We would like to thank our colleagues in the Socio-Legal Studies Association, the Association of Law Teachers, the Society of Legal Scholars, the Young Legal Aid Lawyer's Group and the Law Society's Junior Lawyer's Division for all their advice and support with this research, which was unfunded and undertaken in our free time. Any errors are our own.

The proposals

The SRA submitted their application to the Legal Services Board (LSB) in relation to the SQE on 31 July 2020.¹ On current timelines, if the LSB approve the proposals, the SQE is due to be introduced in September 2021. As a result of the Covid-19 pandemic, the SRA have extended the validation for an additional year, so that those starting studies in 2021 will be able to choose between the current route or the SQE. From then on (with some small exceptions), aspiring solicitors can have any degree or equivalent and will be required to take SQE1 and SQE2, completing Qualifying Work Experience (QWE) thereby demonstrating their "competence" in order to be admitted to the profession.

The SQE proposals rest on the concept of competence. Competence standards have been defined by the SRA and are published as the Statement of Solicitor Competence of April 2015. This statement is made up of three parts: (1) a statement of competence; (2) a statement of legal knowledge; and (3) a statement that the solicitor or aspiring solicitor has met the threshold standard. Competence is intertwined with "outcome focused regulation" (OFR) in the SRA Handbook² and underpins both solicitors' regulation and the proposed changes to legal education and training.³

¹ It is available to view here: <https://www.legalservicesboard.org.uk/our-work/statutory-decision-making/alterations-to-regulatory-arrangements/closed-applications-2> (last accessed 6 August 2020).

² Bronwen Still, 'Outcomes Focused Regulation – a New Approach to the Regulation of Legal Services' (2011) 11 Legal Information Management 85.

³ Legal Education and Training Review, 'Setting Standards: The Future of Legal Services Education and Training Regulation in England and Wales' (2013); Julie Brannan, Vicky Purtill and Victoria Stec, 'The Legal Education

The concept of competence has been criticised, particularly in relation to the SQE. Stephen Mayson, for example, critiques the SRA proposals for limiting assessments of competence to internal participants (ie. solicitors) rather than Ombudsman or consumers.⁴ Academics William Twining and Andrew Sanders have doubted the decision to conflate competence in a professional and academic setting⁵ as well as using single best answer multiple choice questions (MCQs) to measure competence of legal knowledge.⁶ Although MCQs are routinely used for assessment in comparable professions, including medicine, pharmacy and architecture, these professions also require a degree-level qualification in the area of study. Internationally, it is rare for jurisdictions not to require study of law to degree level or equivalent before practising as a lawyer.

With the introduction of the SQE, competence for newly qualifying solicitors is to be assessed through the SQE1 and SQE2 assessments. The sign offs on QWE do not include a sign off/certification of competence, rather they certify that the QWE provided an opportunity for the aspiring solicitor to acquire the appropriate competences. This opportunity apparently exists even if SQE2 is passed before the QWE, with several law firms indicating that they would prefer applicants to have completed SQE1 and SQE2 before undertaking their QWE.

SQE1 is to test Foundational Legal Knowledge (FLK) through 2 x 180 multiple choice single best answer tests. FLK 1 is to cover Business Law and Practice, Dispute Resolution, Contract, Tort, Legal System of England and Wales, Constitutional and Administrative Law and EU Law as well as Legal Services. FLK 2 is to cover Property Practice, Wills and Administration of Estates, Solicitors Accounts, Land Law, Trusts, Criminal Law and Practice. Ethical questions are to pervade both FLK1 and FLK2.⁷ These multiple choice tests are to be the sole basis for assessing substantive legal knowledge. A law degree or equivalent will no longer be required for any applicant.

SQE2 is to assess Practical Legal Skills (PLS) including client interview and attendance note/legal analysis, Advocacy, Case and matter analysis, Legal research, Legal writing, Legal drafting sampled across the following five practice contexts: Criminal Litigation, Dispute Resolution, Property Practice, Wills and Intestacy, Probate Administration and Practice,

and Training Review 5 Years on: The View from the Regulators' (2018) 52 *The Law Teacher* 397; Jane Ching and others, 'Legal Education and Training Review: A Five-Year Retro/Prospective' (2018) 52 *The Law Teacher* 384.

⁴ Kaplan, 'Report on SQE Stage One Pilot' 10.

⁵ William Twining, 'LETR: The Role of Academics in Legal Education and Training: 10 Theses' (2014) 48 *The Law Teacher* 94; William Twining, 'Rethinking Legal Education' (2018) 52 *The Law Teacher* 241; Andrew Sanders, *Poor Thinking, Poor Outcome? The Future of the Law Degree after the Legal Education and Training Review and the Case for Socio-Legalism* (Hart Publishing 2015) <<http://www.bloomsburycollections.com/book/the-futures-of-legal-education-and-the-legal-profession>> accessed 30 June 2020.

⁶ Though see the work done by statisticians for the SRA and drawn on in Eileen Fry, Jenny Crewe and Richard Wakeford, 'Using Multiple Choice Questions to Examine the Content of the Qualifying Law Degree Accurately and Reliably: The Experience of the Qualified Lawyers Transfer Scheme' (2013) 47 *The Law Teacher* 234.

⁷ Solicitors Regulation Authority, *Solicitors Qualifying Examination (SQE) Briefing* (July 2020) 11.

Business organisations rules and procedures. Unflagged ethics and professional conduct points will pervade the SQE 2 assessments.

These assessments will be supplemented by the completion of at least two years' QWE or full-time equivalent, which can be gained in one block of time or in stages, so long as it is in no more than four organisations. QWE is defined as "any experience of working in legal services which provides candidates for admission with the opportunity to develop the competences in the Statement of Solicitor Competence".⁸ QWE is intended to provide greater flexibility than the current training contract, helping to tackle the widely perceived "bottleneck" that appears to prevent many aspiring solicitors from qualifying.

Under the new arrangements, SQE2 will provide the assessment of competence. A solicitor signing off QWE will not be making any assessment of competence. Instead, their signing off is to certify that: "the period of work experience completed; that the work experience provided the candidate with the opportunity to develop some or all of the prescribed competences for solicitors (ie those set out in the Statement of Solicitor Competence) and that no issues arose during the period of work experience that raise a question as to the candidate's character and suitability to be admitted as a solicitor".⁹

The cost of these assessments has been confirmed as £3,980.¹⁰ This price is within but towards the upper end of estimates previously released (between £3,000–£4,500, calculated as £1,100–£1,650 for SQE1 and £1,900–£2,850 for SQE2). This cost is for the tests alone, excluding any preparation costs that applicants incur.

Approval by the Legal Standards Board

Under the Legal Services Act 2007, the Legal Services Board (LSB) has two oversight responsibilities. The first, under section 3, requires the LSB to promote the regulatory objectives and to have regard to the better regulation principles. The second, under section 4, requires the LSB to "assist in the maintenance and development of standards in relation to the regulation by approved regulators of persons authorised by the approved regulator to carry on activities which are reserved legal activities" and "the education and training of persons so authorised". The LSB has interpreted this section as being one "allows (and indeed

⁸ Legal Education and Training Review, 'Setting Standards: The Future of Legal Services Education and Training Regulation in England and Wales' (2013).

⁹ Solicitors Regulation Authority, *Solicitors Qualifying Examination (SQE) Briefing* (n 7) 18.

¹⁰ Solicitors Regulation Authority, 'SQE Moving Closer' (7 August 2020) <<https://www.sra.org.uk/sra/news/sra-update-83-sqe-costs/>> accessed 10 August 2020.

imposes a positive duty on) the LSB to take action to help in the development of regulatory standards and specifically education and training.”¹¹

In March 2018, the LSB approved the SRA’s application for amendments to its regulatory arrangements in respect of its authorisation of individuals. While this approved “the framework” for the SRA, at the time of the 2018 decision, the LSB also noted that:

“The introduction of the Solicitors Qualifying Exam (SQE) does not automatically follow from today’s approval. The SRA will have to submit and the LSB will have to approve further rules change applications. Approval of this application does not mean any further rule changes will be approved. This will be a new and separate assessment of the rules needed to bring the SQE into effect.”¹²

The then Legal Services Board Chief Executive, Neil Buckley was quoted as saying that: “When considering these further rules and deciding whether to agree with them, the LSB will expect to see more detail from the SRA – particularly on how the SQE will operate, what it will cost and the likely diversity impacts.”¹³

In 2018, the LSB’s decision, which is formulated as one of refusal under the 2007 Act, was predicated on requiring evidence from objectors to the SRA’s proposals:

“A theme amongst some of the submissions received from stakeholders was that the SRA has not proven the case for the changes it is proposing. The LSB is required under the Act to assess applications that it receives only against the refusal criteria in paragraph 25(3) of Schedule 4 to the Act. As set out in this notice, the LSB did not find grounds to refuse this application due to insufficient evidence.”¹⁴

This suggests that the LSB requires evidence to refuse the SRA’s application for approval. However, there is no formal burden of proof here. Schedule 4, para 25 of the Act, states that the LSB “may refuse the application only if it is satisfied that:

“(a) granting the application would be prejudicial to the regulatory objectives,

¹¹ Legal Services Board, ‘Increasing Flexibility in Legal Education and Training Consultation on Proposals for Draft Statutory Guidance to Be Issued under Section 162 of the Legal Services Act 2007’ (2013), 8.

¹² Legal Services Board, ‘LSB Approves Framework for SRA’s New Admission Requirements for Solicitors’ (*The Legal Services Board*, 27 March 2018) <https://www.legalservicesboard.org.uk/news/20180327lsb_approves_sra_sqe_application> accessed 10 August 2020.

¹³ Legal Services Board, ‘LSB Approves Framework for SRA’s New Admission Requirements for Solicitors’ (n 12).

¹⁴ Legal Services Board, ‘LSB Final Decision Notice 26 March 2018’, para 33.

(b) granting the application would be contrary to any provision made by or by virtue of this Act or any other enactment or would result in any of the designation requirements ceasing to be satisfied in relation to the approved regulator,

(c) granting the application would be contrary to the public interest,

(d) the alteration would enable the approved regulator to authorise persons to carry on activities which are reserved legal activities in relation to which it is not a relevant approved regulator,

(e) the alteration would enable the approved regulator to license persons under Part 5 to carry on activities which are reserved legal activities in relation to which it is not a licensing authority, or

(f) the alteration has been or is likely to be made otherwise than in accordance with the procedures (whether statutory or otherwise) which apply in relation to the making of the alteration.”

The regulatory objectives are set out in section 1 of the 2007 Act and include:

- (a) protecting and promoting the public interest;
- (b) supporting the constitutional principle of the rule of law;
- (c) improving access to justice;
- (d) protecting and promoting the interests of consumers;
- (e) promoting competition in the provision of services within subsection (2);
- (f) encouraging an independent, strong, diverse and effective legal profession;
- (g) increasing public understanding of the citizen's legal rights and duties;
- (h) promoting and maintaining adherence to the professional principles.”

Given the uncertainties that remain in the SQE proposal, particularly in relation to inequalities in relation to SQE1, assessment, marking and moderation in SQE2 and internships in QWE, the LSB could refuse approval of the SRA’s current application for approval. This would ensure that it meets its regulatory duties meet its to encourage “an independent, strong, diverse and effective legal profession” (in its regulatory objectives) as well as “protecting and promoting the public interest” (Schedule 3, para 25 Legal Services Act 2007).

The LSB has long been concerned with evidence-based policy-making, noting in 2017 in a document setting out its “regulatory approach” that the LSB is “evidence-based and use evidence to determine which of our tools to use to address the regulatory issues that we

identify”.¹⁵ The importance of evidence to decisions on legal education and training was stressed by the Law Society in their February 2020 submission to the LSB’s consultation on the 2020/21 draft business plan. The Law Society said in their response that:

“In order to achieve the regulatory objectives of the LSA, it is important for the decisions of the LSB and frontline regulators to be robust and well-evidenced, and for them to take account of the cumulative impact of all the changes on the legal professions and on the consumers of legal services. By improving the quality of rule change applications, the LSB has the opportunity to ensure consistent evidence-based regulation of legal services, which we believe is currently a significant weakness.

Over the course of this Business Plan the LSB will be considering rule change applications which are likely to have a significant impact on the profession, including a final application from the SRA in relation to the SQE. It is therefore critical that the LSB requires frontline regulators to improve [the] quality of their rule change applications and supporting evidence.”¹⁶

We agree that it is for frontline regulators to supply supporting evidence in their applications for rule changes. It is critical that applications for such substantial alterations to legal education and training have a clear rationale, providing evidence to substantiate the charge that the current system is not fit for purpose (including those aspects that the SRA itself currently regulates). The frontline regulator should also provide at least some evidence indicating how new proposals would improve both the quality and indirect costs of qualification, particularly for those supporting themselves through QWE, as well as diversity within the legal profession.

¹⁵ Legal Services Board, ‘The Legal Services Board’s Regulatory Approach’ 4
<https://www.legalservicesboard.org.uk/what_we_do/pdf/Regulatory_Approach.pdf> accessed 17 June 2020.

¹⁶ The Law Society, ‘LSB Business Plan 2020-21 Consultation: Law Society Response’ 6.

2. Uncertainty in current legal education and training

One striking aspect of the SQE proposals is that while proponents often criticise the existing system, there is limited data provided to underpin their claims. In the 2020 SQE Briefing, for example, the SRA say that work undertaken since 2013 has identified:

“problems with the current system of qualification. There are inconsistencies in how routes into the profession are currently assessed, meaning we cannot be confident that everyone is meeting the same standards at point of entry. The current system is also expensive and inflexible, which creates difficulties for many aspiring solicitors, particularly those from less affluent and diverse backgrounds”.¹⁷

These three problems, inconsistencies in methods of assessment, cost and inflexibility, lie at the heart of the SRA’s call for reform.

This lack of evidence in legal education and training has long characterised the debates. Dave Edmonds, then chair of the Legal Services Board giving the Lord Upjohn lecture, fired an opening salvo in 2010, stating that he heard “consistently from educationalists and practitioners alike” that “the current framework is simply not fit for purpose”¹⁸.

Lord Neuberger, delivering his Lord Upjohn lecture the next year, was more cautious, arguing that: “it remains an open question whether the hypothesis that the present system is not fit for purpose is anything other than assertion, whether it is made generally or in respect of aspects of the system”.¹⁹ Awaiting the LETR report at the time of his lecture, Lord Neuberger called for “a second phase to the review – a phase which is practical and professional, to complement the report’s initial, academic-based phase.”²⁰ The reason for this, Lord Neuberger explained is that:

“It is, of course, true to say that the Review has carried out consultations, but it has necessarily done so from a single perspective. It must be right to combine the educative expertise, experience and theory with the professional expertise, experience and requirements.

¹⁷ Solicitors Regulation Authority, *Solicitors Qualifying Examination (SQE) Briefing* (n 7) 3.

¹⁸ David Edmonds, ‘Training the Lawyers of the Future – a Regulator’s View’ in Chris Ashford, Nigel Duncan and Jessica Guth (eds), *Perspectives on Legal Education Contemporary Responses to the Lord Upjohn Lectures* (Taylor & Francis 2015) 74.

¹⁹ Lord Neuberger of Abbotsferry, ‘Reforming Legal Education’ in Chris Ashford, Nigel Duncan and Jessica Guth (eds), *Perspectives on Legal Education Contemporary Responses to the Lord Upjohn Lectures* (Taylor & Francis 2015) 11.

²⁰ Lord Neuberger of Abbotsferry (n 19) 11.

Any such second phase should be the product of collaborative work by representatives of the professions, the judiciary, and consumer groups, including the Legal Services Consumer Panel and the Legal Ombudsman.²¹

This call for professional input into legal education and training debates illustrates its broader significance, connecting the education and training of aspiring solicitors to broader policy questions on access to legal services and public legal education.

The uncertainties in the current system of legal education and training include how much similarity there is between QLDs and the teaching of foundational legal knowledge (particularly in light of widespread moves into online teaching). We have seen no research asking whether any Law Schools propose not teaching the QLD on either a compulsory/optional basis or into their plans regarding the SQE. Despite the statements about inconsistency or insufficiency in qualifying law degrees, no research has – to our knowledge – been undertaken by the regulator to develop an evidence base to either refute or confirm inconsistencies of knowledge in QLDs which is aimed to be addressed by the multiple choice question in the FLK.

The Qualifying Law Degree (QLD)

The format of legal education has changed little since the Ormrod Review in 1971, which established the qualifying law degree (QLD) as a compromise between academic and professional contributors.²² The Review produced a compromise so that today a Qualifying Law Degree (QLD), or Graduate Diploma in Law (GDL) must cover seven ‘foundation subjects’ (contract; tort; criminal law; equity and the law of trusts; law of the European Union; property law; and public law including constitutional law, administrative law and human rights law), devoting at least one-half of a three-year programme to them.

Within these subjects there is significant freedom, with Law Schools not required to cover a centralised syllabus. Generally, syllabi at Law Schools represent broadly overlapping circles in a Venn diagram though there are significant differences by institution.²³ In addition, a further one-sixth must be ‘law’ of any description, leaving the remaining one-third to the academic institution to determine.

²¹ Ibid 11.

²² Philip A Thomas and Geoff M Mungham, ‘English Legal Education: A Commentary on the Ormrod Report’ (1972) 7 47; GP Wilson, ‘Reflections on the Ormrod Committee Report’ (1971) 34 *The Modern Law Review* 635; P Asterley Jones, ‘The Future of the Ormrod Report’ *Western Australia Law Review* 153; HW Arthurs, ‘The Ormrod Report: A Canadian Reaction’ (1971) 34 *The Modern Law Review* 642.

²³ Sanders (n 5).

Certain basic legal skills are also prescribed as well as the main elements of English legal system and methods need to be covered, either separately or in the course of fulfilling the other requirements. There is no requirement to include legal theory, comparative, historical or social science approaches, or international elements, though many Law Schools do so. Academics have criticised the QLD for unnecessarily limiting law schools' autonomy²⁴ and for teaching "rich man's law", requiring the law of trusts and property, for example, but not housing, immigration or social welfare law.²⁵ Conversely, many academics argue that the possession of the generic analytical legal skills developed by a QLD or GDL are essential for safe practice as a lawyer.

The SRA has suggested that Law Schools may incorporate the SQE syllabus into their curricula, producing "SQE ready" graduates and the abolition of the QLD or equivalent for solicitors appears, at the time of writing, to be a virtual certainty.²⁶ However, some form of qualifying law degree is likely to remain as the Bar Standards Board have confirmed that they will still require:

"a law degree, or a non-law degree plus further graduate/post-graduate study and in both cases must cover the seven foundations of legal knowledge and must enable students to demonstrate (as a minimum) the relevant competences in the Professional Statement as set out in the BSB's Curriculum and Assessment Strategy".²⁷

As many applicants to law schools (most of whom are minors) either express an interest in becoming a barrister or would like to keep their options open, many if not most law schools will continue to offer something akin to a QLD.

Law schools will also be mindful of the commercial need to offer an attractive law degree to international students - estimated to make up 26% of the intake in 2018²⁸ - many of whom will not be intending to qualify as solicitors in England and Wales. International students are important for the UK economy, 23,185 international students studied law at UK Universities in 2019.²⁹ Universities will have their own views about how to develop and brand their degrees, particularly at postgraduate level but also for undergraduates. Many may choose a broad, legal education over an "SQE ready" qualification.

²⁴ Rebecca Huxley-Binns, 'What Is the "Q" For?' (2011) 45 *The Law Teacher* 294, 299.

²⁵ Sanders (n 5); Jess Guth, 'The SQE, Law Degrees and Socio-Legal Studies' (*SLSA Blog*) <<http://slsablog.co.uk/blog/blog-posts/the-sqe-law-degrees-and-socio-legal-studies/>> accessed 9 July 2020.

²⁶ Legal Services Board, 'LSB Final Decision Notice 26 March 2018'; Helen Phillips, 'Re: LSB Approval of the Solicitors Qualifying Examination' (15 August 2019).

²⁷ Bar Standards Board, 'Authorisation Framework for the Approval of Education and Training Organisations' 6.

²⁸ 'Patterns and Trends in UK Higher Education 2018' 39, 16.

²⁹ Universities UK, 'International Facts and Figures 2019' (2019).

Although no consultation or publicly available research has been undertaken to ask law schools how they intend to respond to the SQE, few observers believe that it is possible to provide an internationally attractive legal education, a qualifying law degree and cover the SQE syllabus in three years. Oxbridge and Russell Group institutions, in particular, appear anecdotally very unlikely to change their syllabi to include preparation for the SQE, particularly the focus on procedural material currently taught in the LPC. The risk is that a young person who is sure that they would like to qualify as a solicitor, chooses a course on the basis that it will make them “SQE ready” but chooses an institution that lacks the signifiers future recruiters may rely on in deciding whether to offer either QWE and/or future employment as a solicitor. As one of our research participants noted:

“There are pros and cons here. The SQE offers a more accessible route into the profession for those wishing to switch. But anyone thinking of going to university who knows they want to study law will likely look for a course that covers the SQE requirements, meaning they only need to get the experience and sit the exam. Otherwise the process becomes lengthier and costlier.”

While the QLD has been criticised, particularly as raising inconsistencies, there is limited empirical research on this point. The LETR concluded that consistency problems are “a function of scale” given the number of providers, which can be “difficult for regulators to address in a proportionate fashion without risking the benefits of the system”.³⁰ It proposed assessing competence and outcomes, highlighting “the need for a reasonable degree of transparency in knowledge outcomes and therefore for some increase in the specification of the Foundations of legal knowledge”.³¹ These LETR recommendations have not been taken on board by the SRA.

CPE/GDL

Converting to law via the Common Professional Exam (CPE) or Graduate Diploma in Law (GDL) is a common path to entry to the profession, despite being a significantly more expensive option. While the precise data is not readily available, the Law Society’s figures suggest that perhaps as many half of direct entrants do not currently have a law degree and study for a CPE/GDL instead.³²

As well as costing in the region of £10-15,000 for the course, in addition to living expenses, the CPE/GDL has high withdrawal rates. The latest SRA figures showing that in 2017-18, 60%

³⁰ Legal Education and Training Review (n 3) 60.

³¹ Legal Education and Training Review (n 3) 152.

³² The Law Society, ‘Annual Statistics Report 2017’; The Law Society, ‘Annual Statistics Report 2018’.

of students studying for the CPE/GDL completed their courses.³³ This means that around 40% of the 5,479 students who had enrolled and were eligible to sit assessments - 2,191 students - did not complete their course in 2018, though some may complete in future years.³⁴ While mature students (over 21) in all degrees have higher non-continuation rates than young students on first degrees³⁵, these drop-out rates are strikingly high.

Female candidates are marginally more likely to complete their GDL (at 61% to 59% respectively), while students declaring a disability are less likely to complete their CPE/GDL (55% to 61%). The SRA also identify clear differences in achievement according to ethnicity:

“White students form approximately 61% of the cohort and have a successful completion rate of 68%. Asian/Asian British students account for 17% of the cohort and have a successful completion rate of 49%. Black (African/Caribbean/Black British) form 8% of the cohort and the successful completion rate is 43%. In addition, where white students are successful, they are much more likely to be awarded commendations or distinctions.”³⁶

The SRA conclude that “it is difficult to draw firm conclusions about the reasons for this”, noting that external examiners reports supplied by providers in their Annual Course Monitoring Reports “did not raise any concerns about quality and standards on the CPE/GDL”.³⁷ We have found no SRA or other research investigating why black and Asian students are so much more likely to not complete their CPE/GDL courses, nor why white students receive proportionately more commendations/distinctions. This is notable given that the SRA is the approved regulator for CPE/GDL courses.

LPC

Completion rates for the LPC are also striking. The most recent data released by the SRA show that while 66% of white students complete their GDL courses, only 48% of Asian students and 35% of Black students do.³⁸ Again these students may complete assessments in later years, though we have found no data tracking this.

³³ Solicitors Regulation Authority, ‘Regulation and Education Authorisation and Monitoring Activity 2017-2018’ (2020).

³⁴ Solicitors Regulation Authority, ‘Regulation and Education Authorisation and Monitoring Activity 2017-2018’ (n 33).

³⁵ HESA, ‘Non-Continuation: UK Performance Indicators 2018/19 | HESA’ <<https://www.hesa.ac.uk/data-and-analysis/performance-indicators/non-continuation-1819>> accessed 9 July 2020.

³⁶ The Law Society, ‘Annual Statistics Report 2017’; The Law Society, ‘Annual Statistics Report 2018’.

³⁷ Solicitors Regulation Authority, ‘Regulation and Education Authorisation and Monitoring Activity 2017-2018’ 19.

³⁸ Solicitors Regulation Authority, ‘Regulation and Education Authorisation and Monitoring Activity 2017-2018’ (n 33).

The institutions providing the LPC vary significantly in their size of cohorts (from 16 students to institutions with many thousands of students), in completion rates (from 35-100%), and in the proportions of pass, commendation and distinction grades awarded.³⁹ The SRA currently releases no information on which providers have the highest withdrawal rates, nor any research on why students might withdraw.

Again, a lack of research characterises the high withdrawal rates for the LPC, where two out of three black students do not complete the course according to the SRA's figures but we have no empirical research to indicate why that might be. Anecdotally, withdrawals are connected to the inability to obtain a training contract. At the very least, an exit interview or form for withdrawing students might shed some light on these decisions.

³⁹ Solicitors Regulation Authority, 'Regulation and Education Authorisation and Monitoring Activity 2017-2018' (n 33).

Training Contracts

It is often difficult for aspiring solicitors to gain a training contract with highly variable outcomes for candidates. In their most recent SQE Briefing⁴⁰, the SRA set out the figures they hold on progression:

Start Qualifying Law Degree	Start CPE	Start LPC	Start PRT (Training Contract)	Admitted as a solicitor by this pathway
23,413	4,499	9,978	5,757	5,407

The figures indicate that around 25% of students who start a qualifying law degree are admitted as a solicitor by this pathway. For those who do qualify, salaries for training contracts (and subsequently) vary markedly.

The minimum salary for all trainee solicitors was introduced in 1987 and abolished by 2014. Today, while all trainees must be paid the minimum wage, the Law Society only recommend the minimum salary (to avoid undue influence in a private market). Their current recommendations are that trainee solicitors should be paid at least £22,541 in London and £19,992 elsewhere.⁴¹

Private research on pay for trainee solicitors has uncovered that pay is highly variable, with mean salaries influenced by extremely high salaries in London, paid by both “magic circle” and US firms.⁴² The SRA’s research following their decision to no longer regulate trainee solicitor salaries from 1 August 2014, found that mean salaries had dipped slightly. They also identified striking differences in pay according to gender, race and whether or not the trainee was the first in their family to attend university. The SRA noted that:

“The survey data shows that for the respondents who are first generation of their family going to a university, only 18.2% were earning more than £40,000,

⁴⁰ Solicitors Regulation Authority, *Solicitors Qualifying Examination (SQE) Briefing* (n 7).

⁴¹ <<https://www.lawsociety.org.uk/topics/hr-and-people-management/recommended-minimum-salary-for-trainee-solicitors>> accessed 19 August 2020.

⁴² Chambers Guide, ‘How Much Do Trainee Lawyers Earn? - Chambers Student Guide’ <<https://www.chambersstudent.co.uk/where-to-start/newsletter/how-much-do-trainee-lawyers-earn>> accessed 10 July 2020; ‘The 2020 Firms Most List Goes Live’ (*Legal Cheek*, 25 September 2019) <<https://www.legalcheek.com/2019/09/the-2020-firms-most-list-goes-live/>> accessed 10 July 2020.

compared to 50.6% of respondents whose parents or previous generations had attended university”.⁴³

The SRA also found that the type of school attended made a difference:

“The survey data shows that on average respondents who attended UK state schools tend to be paid relatively lower trainee salaries. 41.0% of respondents who attended a state school are earning less than or equal to £18,590. In contrast, the majority (63.3%) of respondents who attended a UK private or fee paying school are earning more than £40,000.”⁴⁴

In practice, trainee and young solicitor salaries vary markedly, with a pay gap repeatedly found according to the university attended by law graduates. One 2016 Government report found that the median salary of law graduates (five years after graduation in 2008/9) was £61,500 for those who had attended the University of Oxford and £17,500 for law graduates from the University of Bradford.⁴⁵ The most recent figures in 2020 reveal that this gap has widened, with law graduates from the University of Oxford now even better paid with a five year median salary of £72,600, while law graduates from the University of Bradford are now on a five year median salary of £17,900.⁴⁶

Government data on income by degree shows that law has a particularly high degree of variation (in common with business and administration/subjects allied to medicine). Using data from a graduating cohort 2010/11, the Department for Education have indicated a strong correlation with prior attainment.⁴⁷ They also find that Law, alongside Business and Management, Computing and Economics, has a far wider range of median earnings – with differences of over £40,000 – compared with a difference of less than £10,000 for Medicine and Dentistry.⁴⁸

Research by the private sector group Chambers has indicated that 76.5% of trainees at the leading 130+ firms are Oxbridge and Russell Group graduates. The so-called Magic Circle firms recruit nearly 80% of their trainees from Oxbridge or Russell Group universities. In particular,

⁴³ Solicitors Regulation Authority, ‘Impact Assessment of the Deregulation of the Prescribed SRA Trainee Minimum Salary’ (2017) 9.

⁴⁴ Ibid.

⁴⁵ Department for Education, ‘Graduate Outcomes (LEO): Subject by Provider, 2016 to 2017’ <<https://www.gov.uk/government/statistics/graduate-outcomes-leo-subject-by-provider-2016-to-2017>> accessed 19 August 2020.

⁴⁶ ‘Graduate Outcomes (LEO): Subject by Provider 2017 to 2018’ (GOV.UK) <<https://www.gov.uk/government/statistics/graduate-outcomes-leo-subject-by-provider-2017-to-2018>> accessed 10 August 2020.

⁴⁷ Department for Education, ‘Median Earnings across Providers Five Years after Graduation’ <<https://www.gov.uk/government/statistics/graduate-outcomes-leo-subject-by-provider-2016-to-2017>>.

⁴⁸ Department for Education, ‘Schools, Pupils and Their Characteristics’ 1.

Oxbridge, Durham, Bristol, Nottingham, Manchester, King's, Warwick and Exeter have dominated trainee solicitor recruitment, underpinning Chambers' conclusion on research in the period up to 2015 that: "The university you attend does determine your employability and earning power."⁴⁹ In its research on training contract disparities, the SRA concluded that "the salary of trainees is likely to be determined more on the characteristics and practices of firms and other factors such as social mobility rather than some of the protected diversity characteristics of trainees."⁵⁰ This raises the question how any regulator might engage with recruitment practices that appear to advantage some applicants by gender, ethnicity, family background and university attended.

Raising this concern, one of our survey participants flagged these potential interactions within the SQE proposals, noting that the abolition of the requirement to have a law degree or a GDL may favour aspiring solicitors from some universities even more than they are favoured at present:

"I think more prestigious firms/chambers will still favour Oxbridge/Russell Group graduates and will now potentially have a wider pool of people applying given that there will be no requirement to have a law degree. I also think that tiered provision of SQE training will develop, and those from less well-off socio-economic backgrounds will not be able to afford the same type of training as people from wealthier backgrounds."

The dominance by some universities in legal recruitment undoubtedly underlies a widespread desire to reform legal education and training. Yet, we found a striking lack of publicly funded research on this issue to develop a robust evidence base that might inform educational and training reforms. Academics have repeatedly researched these questions⁵¹, emphasising the

⁴⁹ Chambers Guide, 'Law Firms' Preferred Universities 2019 - Chambers Student Guide' <<https://www.chambersstudent.co.uk/where-to-start/newsletter/law-firms-preferred-universities-2019>> accessed 10 July 2020.

⁵⁰ Solicitors Regulation Authority, 'Impact Assessment of the Deregulation of the Prescribed SRA Trainee Minimum Salary', (2017) 10.

⁵¹ Dr Andrew Francis and Hilary Sommerlad, 'Access to Legal Work Experience and Its Role in the (Re)Production of Legal Professional Identity' (2009) 16 *International Journal of the Legal Profession* 63; Hilary Sommerlad and Louise Ashley, 'Diversity and Inclusion in Professional Service Firms' in Laura Empson and others (eds), *The Oxford Handbook of Professional Service Firms* (Oxford University Press 2015); Hilary Sommerlad and others, 'Diversity in the Legal Profession in England and Wales: A Qualitative Study of Barriers and Individual Choices' 84; Hilary Sommerlad, 'Minorities, Merit, and Misrecognition in the Globalized Profession' 80 33; Jennifer Tomlinson and others, 'Structure, Agency and Career Strategies of White Women and Black and Minority Ethnic Individuals in the Legal Profession' (2013) 66 *Human Relations* 245; Hilary Sommerlad, 'The Commercialisation of Law and the Enterprising Legal Practitioner: Continuity and Change' (2011) 18 *International Journal of the Legal Profession* 73; Hilary Sommerlad and others, 'The Futures of Legal Education and the Legal Profession' (Bloomsbury Academic 15AD); Andrew Francis, "'I'm Not One of Those Women's Libber Type People but...": Gender, Class and Professional Power within the Third Branch of the English Legal Profession' (2006) 15 *Social & Legal Studies* 475.

“dominance of market-based rationality”⁵² in legal employment which is part of a “negotiated and situated process”.⁵³ Lisa Webley has written that the Legal Services Act 2007 encourages greater role and status differentiation between lawyers, cautioning that the “new model obfuscates the barriers that face non-white and working class law graduates who wish to become fully admitted members of the profession”.⁵⁴

These differentials beg the question: how should regulators engage with recruitment practices that appear to advantage some applicants by gender, ethnicity, family background and university attended? It is not straightforward to decide how we should respond to differences in identity, educational establishment and educational attainment that currently characterise legal education and training. These issues are particularly difficult where a publicly recognised qualification follows a period of recognised training or QWE generally with a private company, with its own market-driven recruitment practices. Yet it is critical that we do address these questions if regulators, including the LSB, are to meet the regulatory objectives to provide a “diverse” legal profession.⁵⁵

As one of our research participants noted responding in favour of the SQE proposals:

“The status quo has utterly failed in terms of EDI in the profession. This at least has the potential to level the playing field a little.”

We do not disagree. However, the SQE will miss an opportunity if offers of work placements, internships and QWE remain overly reliant on current signifiers of esteem as well as privileging some social and educational networks over others.

Bottleneck

There is widespread agreement that the current education and training system, in particular the requirement of the LPC, is leaving many students with expensive, paper qualifications no or limited possibility of completing a training contract.

We have found no reliable research investigating why students withdraw from the CPE/GDL. The SRA acknowledged this lack of causal evidence in their short Annex on training contracts (1.5 pages) to the SRAs submission to the LSB for SQE Approval in 2018.⁵⁶ Here, the SRA note

⁵² Sommerlad and others, ‘The Futures of Legal Education and the Legal Profession’ (n 51) 4.

⁵³ Andrew Francis, ‘Legal Education, Social Mobility, and Employability: Possible Selves, Curriculum Intervention, and the Role of Legal Work Experience’ (2015) 42 *Journal of Law and Society* 173.

⁵⁴ Lisa Webley, ‘Legal Professional De(Re)Regulation, Equality, and Inclusion, and the Contested Space of Professionalism Within the Legal Market in England and Wales’ (2015) 83 *Fordham Law Review* 2349, 2350.

⁵⁵ Legal Services Act 2007, s1(f)

⁵⁶ Solicitors Regulation Authority, *Response to LSB 2013 Consultation.Pdf* (2013) responding to Legal Services Board, ‘Increasing Flexibility in Legal Education and Training: Summary of Responses to Consultation on

that the number of training contracts registered with them is close to the number of LPCs completed. However, this does not account for the critical – and very high – number of CPE/GDL and LPC withdrawals as the SRA note:

“We do not know, for example, how many people take a law degree with the intention of becoming a lawyer but decide not to continue on to the LPC because of the difficulty with finding a training contract. We do not know how many of the people who secure training contracts in any given year actually completed their LPC the year before.”⁵⁷

Anecdotally, we have heard that students studying on the LPC may withdraw after tens or even hundreds of rejections for training contracts, particularly if their educational institutions are not regarded as having sufficient cachet. The assumption of a training contract bottleneck is very plausible (though given the lack of evidence we can put it no higher than this).

Quality control/signing off

Solicitors currently need to complete a period of recognised training (usually known as a training contract) which gives individuals supervised experience in legal practice. This, coupled with the LPC, is the vocational stage of the process of qualification as a solicitor. The current regulations have simplified the process somewhat, including dropping the requirement that trainees are required to gain experience in at least three distinct areas of English and Welsh law.⁵⁸

Regulations require that a training provider must undertake regular reviews and appraisals of the trainee’s performance and development, including a review of their record of training. While there is no mandated number of appraisals, the SRA suggest that three would constitute good practice: one in the first year, one in the second year and one at the end of the contract.⁵⁹

The SRA require trainee solicitors to develop and apply the “practice skills”⁶⁰ they will use as qualified solicitors. Supervisors are obliged to ensure that, over the course of their training,

Proposals for Draft Statutory Guidance to Be Issued under Section 162 of the Legal Services Act 2007 and LSB Response’ (2014).

⁵⁷ Ibid.

⁵⁸ the [Authorisation of Individuals Regulations](#) and the [Education, Training and Assessment Provider Regulations](#).

⁵⁹ Solicitors Regulation Authority, ‘What You Can Expect as a Trainee’ (18 May 2020)

<<https://epipreprod.sra.org.uk/trainees/period-recognised-training/your-period-recognised-training/expect-trainee/>> accessed 11 August 2020.

⁶⁰ Developed by the SRA, <<https://www.sra.org.uk/trainees/period-recognised-training/managing-trainees/practice-skills-standards/>> accessed 19 August 2020.

the amount and type of work given to trainees adequately covers each skill and is of an appropriate level and complexity for the trainee in question.⁶¹

The SRA have expressed concern that there is no process for benchmarking or standardising a Training Principal's decision to sign off a training contract. The SRA note that it is highly unusual for an individual not to be signed off, concluding that "this is a problem because we cannot be sure decisions are being made against a consistent assessment of professional competence."⁶² This criticism is a little unclear as the SRA could develop such a benchmark and has developed the practice skills required of trainees) and take steps to scrutinise the decisions of Training Principals in more detail. We also do not know of any published evidence on risks or harm arising from insufficient oversight of periods of recognised training.

Equivalent Means Exemptions

The equivalent means route to qualification was introduced by the SRA in late 2014. The exemptions can apply to any part of the qualification process (ie. the requirements to have a degree before starting the CPE, to complete the CPE, to complete the LPC Stages 1 or 2 or both, to complete a period of recognised training (training contract) or to complete any of the Professional Skills Course core modules).⁶³

Equivalent means is a way of qualifying as a solicitor without completing a training contract. Sometimes known as the "paralegal shortcut", applicants must complete an application form alongside providing a portfolio of evidence demonstrating:

- two years' experience, whether in voluntary or paid roles (the relaxation of the requirement to gain experience in three distinct areas of legal work may help future applicants);
- that the applicant has developed and applied the practical skills that a trainee solicitor would have acquired at the point of qualification as a solicitor;
- Supervision corroborated by references (if supervisors are not solicitors, the applicant must supply a statement of the supervisors' skills, experience and qualifications).

There is limited guidance on how to submit a portfolio to qualify by equivalent means on the SRA's website but some information can be gleaned from media interviews. One successful

⁶¹ Solicitors Regulation Authority, 'Practice Skills Standards' (18 May 2020)

<<https://www.sra.org.uk/trainees/period-recognised-training/managing-trainees/practice-skills-standards/>> accessed 11 August 2020.

⁶² Solicitors Regulation Authority, *Solicitors Qualifying Examination (SQE) Briefing* (n 7) 17.

⁶³ 'Equivalent Means Information Pack' (25 June 2014)

<<https://www.sra.org.uk/students/resources/equivalent-means-information-pack/>> accessed 13 July 2020.

applicant said that his portfolio exceeded 300 pages⁶⁴, another noted that he had “attached corroborating evidence (emails, telephone notes, drafts) redacting any personal or commercially sensitive information”, whilst also being careful to delete any irrelevant backstories from his portfolio.⁶⁵

In many ways, the equivalent means exemption provides something of a blueprint for the QWE. It would be fascinating to know the numbers of applicants, both successful and unsuccessful, including breakdowns by gender, ethnicity and disability. Given the similarity between equivalent means and QWE it would also be useful to understand both the experiences of successful applicants, the level and type of support they were offered, the experiences of their line managers (as well as the experiences of any unsuccessful candidates). Research might also tell us how employers view these alternative means of qualification, again giving an indication into how the QWE might be perceived. There is some anecdotal suggestion that “some firms offer a lower NQ salary to a solicitor who has qualified with them by equivalent means than to a solicitor who has completed a training contract”.⁶⁶ There is much to be learned from the undoubtedly progressive equivalent means route and the possibility of scaling it up for QWE, which has yet to be publicly analysed in any depth.

Professional Skills Training

Applicants qualifying as a solicitor currently need to pass the Professional Skills Course (PSC). While the assumption is that trainees will attend the course during their period of recognised training, with firms sometimes paying for the £1,500-2,000 cost, some firms require the course to be completed before arrival at the office.⁶⁷

The course takes the equivalent of 12 full-time days of attendance, covering three core subject areas that must be taught face-to-face for a minimum number of hours:

- financial and business skills (18 hours)
- advocacy and communication skills (18 hours)
- client care and professional standards (12 hours)

⁶⁴ ‘Equivalent Means: How I Qualified as a Solicitor without a Training Contract’ (*The Lawyer | Legal insight, benchmarking data and jobs*, 22 August 2017) <<https://www.thelawyer.com/equivalent-means-paralegal-shortcut/>> accessed 13 July 2020.

⁶⁵ Camilla Uppal, ‘Interview with Oliver Byrne: Equivalent Means Route to Qualifying as a Solicitor’ (*The Student Lawyer*, 27 January 2020) <<https://thestudentlawyer.com/2020/01/27/interview-with-oliver-byrne-commercial-property-solicitor/>> accessed 15 July 2020.

⁶⁶ ‘When Training Contracts Are Like Hens Teeth...Qualifying by Equivalent Means’ (*BCL Legal*) <<https://www.bcllegal.com/knowledge-base/from-the-team/training-contracts-like-hens-teethqualifying-equivalent-means>> accessed 15 July 2020.

⁶⁷ ‘The SQE and the Challenges Ahead’ (*Legal Cheek*) <<https://www.legalcheek.com/lc-careers-posts/the-sqe-and-the-challenges-ahead/>> accessed 13 July 2020.

Students must also complete 24 hours of elective courses from a number of options, up to half of which have always been available via distance learning.

Although the PSC is a requirement for training contracts, we know next to nothing about this – anecdotally it is said to be quite difficult to fail. There is little evidence on whether it is useful or worthwhile though it appears that the SQE proposals would drop this aspect of training and assessment.

As with the SRA's concerns with the QLD, CPE and LPC as well as completion rates for the CPE/LPC, there is a lack of evidence indicating why the PSC should no longer be required. It is difficult to understand why it was introduced or exists today in the absence of such a discussion.

3. Uncertainty re the SQE proposals

While the SRA have slowly clarified key aspects of the SQE process, there are still significant areas of uncertainty.

SQE 1

Following the SQE1 Pilot (n=300) in 2019, the SRA decided to require only MCQs for SQE1 & FLK. With marks for the SQE1 skills assessment ranging from 8% to 100%, the SRA took Kaplan's advice that "for reasons of the robustness and resilience of the exam as well as reliability, accuracy, validity, fairness and equality of opportunity, a Stage 1 skills exam in its current form should not be part of the SQE".⁶⁸

While some uncertainty remains about how research and writing skills will be examined in SQE2 (in particular, whether candidates will have to research on their own or will be given "information packs" from which to identify the relevant legal provisions), we do now know that SQE1 will consist solely of 2 x 180 single best answer multiple choice questions to test functioning legal knowledge.⁶⁹ In our survey, 83% of respondents considered the proposed multiple choice test in SQE1 is likely to worsen professional standards and the competence of the solicitor's profession. Only 6% of respondents considered that multiple choice testing would improve the situation, while 9% stated it would make no difference. Although our sample is not statistically representative, the survey responses suggest widespread concern about only MCQs to assess foundational legal knowledge.

At the time of writing we also do not yet know how many questions will be allocated to individual aspects of legal education in SQE 1. Dividing the 180 questions for FLK 1 it is possible that 25 questions or so might be devoted to examining the law of contract, though this is unknown at present. There are also anecdotal reports that these MCQ questions can be passed with recourse to "common sense" and, in one case, by a volunteer with a PhD but no legal training.⁷⁰ Other than from the sample questions released, we also do not know the level to be expected in the questions or their quality. When the SRA released some sample multiple choice questions for the FLK, errors were identified, including one flagged up on Twitter.⁷¹

⁶⁸ Kaplan, 'Report on SQE Stage One Pilot' 10.

⁶⁹ Solicitors Regulation Authority, 'SQE1 and SQE2 Assessments' (18 May 2020) 2 <<https://www.sra.org.uk/students/sqe/sqe-assessments/>> accessed 15 July 2020.

⁷⁰ Monidipa Fouzder, 'Junior Lawyers Tell SRA to Delay Solicitor Super-Exam' *Law Society Gazette* (12 June 2020) <<https://www.lawgazette.co.uk/practice/junior-lawyers-tell-sra-to-delay-solicitor-super-exam/5104627.article>> accessed 11 August 2020.

⁷¹ Monidipa Fouzder (n 70).

The SQE1 pilot also revealed troubling differences in performance that are not well understood. Scores ranged from 17.5% to 85% in FLK, with an average mark of 50% (this appears to be the mean). The SRA have said that the “pass mark for the SQE will vary between exams, to make sure that the standard of the assessment remains consistent from one sitting to the next. However, on these pilot questions the pass mark would likely have been above 50%. It can be expected that the performance of candidates will improve significantly for a live licensing assessment as opposed to a pilot. In the live assessment, candidates will be more motivated and training aligned to the SQE will be available”.⁷² This confidence contrasts with an earlier recorded consensus of the SRA’s reference group’s view that “there is still a need for a preliminary assessment of writing and research skills in SQE1.”⁷³

While there were many confounding variables that were not explored in the pilot for SQE1 (where the raw data was not released), Kaplan and the independent successor both concluded that higher pass rates were correlated with completion of a GDL and, to a lesser extent, completion of a law degree at a Russell Group university. As the assessors conclude:

“Initial tentative indications are that educational factors (having successfully completed the Graduate Diploma in Law (GDL) and having undertaken a law degree in a Russell Group university in England and Wales) were key predictors of success in the exam. While this provides concurrent validity for the exam, it is also a cause for concern, given the confounding of these educational factors with membership of minority groups protected under the Equality Act 2010.”⁷⁴

Candidates for the SQE will be able to avail themselves of a choice of training materials (in addition to anything covered in an undergraduate degree), ranging from just a book to a course that closely resembles the current GDL/LPC. As part of their preparation resources (and presumably in future for the SQE) BarBri also advertise their use of algorithms for predicting questions on exams.⁷⁵ The publication of different providers’ pass rates is potentially positive, given the current lack of transparency in relation to CPE/GDL and LPC pass, commendation, distinction, failure or withdrawal rates, but it remains to be seen how this will operate in practice. In particular it is currently unclear whether passing the SQE will be sufficient to obtain employment as a solicitor or whether some employers may prefer a particular form of training (perhaps analogous to an LPC). In other words, even if all aspiring employees have passed the SQE, there may be hidden hurdles to recruitment depending on the type of preparation for assessments.

⁷² ‘SRA Response to the SQE1 Pilot’ (30 July 2019) <<https://www.sra.org.uk/sra/policy/sqe/pilot/sra-response-sqe1-pilot/>> accessed 28 April 2020.

⁷³ ‘SRA Response to the SQE1 Pilot’ (n 72).

⁷⁴ SM Case and others, ‘The Solicitors Qualifying Examination Pilot of the Assessment of Functioning Legal Knowledge: A Psychometric and Statistical Analysis’ 20.

⁷⁵ ‘Your Intuitive Study Assistant and Coach | Meet ISAAC | Pure Genius in Helping You Pass the Bar - YouTube’ <<https://www.youtube.com/watch?v=mCv3komw2rw>> accessed 18 July 2020.

There are also very real concerns about the attainment gap in the SQE pilots, which clearly raise questions. While Kaplan statisticians point to multiple variables including race, attendance at a Russell Group University and/or completion of the GDL, the SRA's response was more succinct:

“As Universities UK have recently pointed out in their report '[Closing the Gap](#)', an attainment gap by ethnicity is reported in most universities, so the FLK results are, sadly, not surprising.”⁷⁶

We find this response profoundly disappointing. An existing attainment gap in university education seems a poor justification for an expected and acknowledged attainment gap in solicitors' education proposed in 2020.

A further, also relatively underexplored, issue is the balance between statistical reliability and professional competence. One question on the SQE pilot on joint ownership of land (perhaps similar to question 64 on the sample questions provided by the SRA⁷⁷) was passed by only 9% of candidates. The assessors noted that:

“... one item which just 9% of candidates answered correctly (difficulty = 0.09) and was negatively discriminating (CITC = -0.03), tests a fundamental principle of land law concerning joint ownership of land. This would feature at an early stage in any programme of study, and practitioners and academics would regard it as simple and essential in understanding the ownership of land. Selection of any of the distractors represents a clear misunderstanding of the position at law”.⁷⁸

The concern here is that a question, which is considered fundamental to understanding how property law is governed in England and Wales, was answered correctly by only 9% of the cohort. It would be tempting to remove such a question on the basis that it seems to be a statistical outlier, however, from the perspective of legal education point of view, this knowledge is critical to understanding how property law works. An analogy would be removing a difficult anatomy question from a medical MCQ on the basis that few students pass it.

This balance between statistical reliability and professional competence becomes incredibly important where MCQs are the only way of testing foundational legal knowledge and has not yet received much consideration despite the repeated emphasis on “reliability” of MCQs in statistical terms. The sample questions released for SQE1 have raised many concerns about their scope and just what, in a common law legal system, can adequately be assessed solely

⁷⁶ 'SRA Response to the SQE1 Pilot' (n 72).

⁷⁷ Solicitors Regulation Authority, *Sqe1-Functioning-Legal-Knowledge-Sample-Questions.Pdf* (2019).

⁷⁸ Case and others (n 74).

by MCQ. We believe that questions should be selected according to their significance for legal competence rather than for statistical reliability. We doubt that the SRA would disagree with this point but it would be useful to see it made more explicitly in their materials (particularly since the sample assessment questions for SQE2 have not yet been released).

SQE2

The results of the pilot tests for SQE2 (n=167) were published in May 2020 with the assessment specification released in July 2020, days before the submission to the LSB. The sample questions, marking and moderation guidance for SQE2 assessment have yet to be published.⁷⁹

The SQE have confirmed that candidates will take 16 written and oral tasks for SQE2. Some hints have been given on marking. In July 2020 the SRA said on their webpage that: “criteria will be assessed on a scale from A – F by trained assessors making global professional judgments related to the standard of competency of the assessment”.⁸⁰

Significantly, equal marks will be awarded to marks for skills (marked by actor-assessors) and marks for application of law (marked by solicitors). The SRA state that this “is to make sure that adequate weighting is given to the quality of the advice provided”.⁸¹ This raises a risk, however, that poor quality legal advice could – potentially - be counter-balanced by a particularly strong role-playing performance. Given the lack of raw data released from the SQE2 pilots, we do not know whether some, more confident applicants, with particular educational backgrounds might outperform others or even whether a drama qualification improves an applicant’s results. While skills assessment is undoubtedly critical to assessing aspiring solicitors’ competence, as the raw data from the pilots has not been released, with the SRA relying on their own experts, there is a lack of evidence here to help regulators understand how SQE2 assessments might operate for a diverse cohort.

In our survey, there was less concern about SQE2 than about SQE1 or QWE but many respondents noted that they did not know much about what was proposed (at the time of the survey, we were still awaiting the assessment specification for SQE2). In this section of our survey, we asked whether the proposed skills test in SQE2 is likely to improve, worsen or have no impact on professional standards and the competence of the solicitor’s profession, 11% stated it would improve the situation, 35% considered it would worsen professional standards and competence while 32% stated it would have no impact.

⁷⁹ ‘SQE Update – July 2020’ (30 July 2020) <<https://www.sra.org.uk/sra/news/sqe-update/july-2020/>> accessed 10 August 2020.

⁸⁰ ‘SQE Update – July 2020’ (n 79).

⁸¹ Solicitors Regulation Authority, ‘SQE2 Assessment Specification: Solicitors Qualifying Examination’ (2020) 8.

QWE

While QWE has progressive potential in terms of opening up opportunities for individuals to get into legal practice, there are still a number of uncertainties. These include:

- The use of internships for QWE and how potential employers may perceive QWE obtained outside a law firm;
- How two years full time equivalent could be translated into part-time volunteering;
- Whether the training contract bottleneck will translate into a qualification bottleneck;

Use of Internships

Under its Q&A for aspiring solicitors, the SRA answer the question “Can I count a paid or unpaid internship as QWE?”⁸² as follows:

“Yes, so long as it:

- provides you with the opportunity to develop some or all of the competences in the [Statement of Solicitor Competence](#)
- can be signed off by a solicitor (inside or outside your organisation) with direct knowledge of your work. If it they work externally, there are additional requirements in our rules (see 2.2c)

The Sutton Trust have information on unpaid internships that you might find useful:

[Internships Unpaid, unadvertised, unfair](#) and [Internships – Pay as you go?](#).”

These hyperlinks are rather peculiar. These Sutton Trust reports are critical of the internship model. One key finding from the January 2018 *Internships Unpaid* briefing is that:

“Even if transport costs are provided, our new analysis shows the minimum cost of carrying out an internship in London unpaid is £1,019 per month (or £827 in Manchester). This is higher than we estimated in our last report in 2014, largely as a result of rising rents and inflation.”⁸³

⁸² Solicitors Regulation Authority, ‘Qualifying Work Experience Q&A’ (16 July 2020)

<<https://www.sra.org.uk/trainees/qualifying-work-experience/qualifying-work-experience-trainees/qa/>> accessed 24 August 2020.

⁸³ ‘Unpaid, Unadvertised, Unfair’ (*Sutton Trust*) 1 <<https://www.suttontrust.com/our-research/internships-unpaid-unadvertised-unfair/>> accessed 10 August 2020.

The key finding in the November 2018 *Pay as you go?* Report is that:

“Internships are an increasingly integral part of the graduate job market, yet are characterised by many features that are socially exclusive and afford advantages to those from better off backgrounds, serving as a drag on social mobility.”⁸⁴

Undoubtedly, the current situation in the legal profession is deeply problematic. The Sutton Trust’s 2019 report *Elitist Britain*, found that 64% of people working in law come from higher socio-economic backgrounds.⁸⁵ The Bridge group state that “the breadth of opportunity for QWE under SQE will be greater than that available under the existing system”⁸⁶, an aspiration we agree with, but there is once again a lack of analysis of how internships (which they do not discuss) might contribute to QWE for some. The question is whether QWE has yet been sufficiently fully developed to address issues of inequality to enable it to live up to its undoubtedly progressive potential.

One ongoing concern with internships is how to fund the time spent, particularly if with QWE this could consist of two years unpaid experience. It is unclear whether aspiring solicitors would be able to claim universal credit during their period of QWE. The Universal Credit Regulations 2013 state that claimants have “a work search requirement to take all reasonable action for the purpose of obtaining paid work in any week” (r. 95(1)). In a freedom of information request clarifying whether an internship would breach this requirement (there are specific exceptions for voluntary work under r95(2)(a)), the following guidance was given by the Department of Work and Pensions, giving an insight to the rather complex questions internships for QWE would raise:

“Jobseekers on Universal Credit can have their weekly work search hours reduced by up to 50 per cent to accommodate voluntary work. Claimants are not prevented from spending more time volunteering but similar to those who are working, they need to manage combining voluntary work with other work-related activities. This will give claimants the best chance of moving into sustainable work more quickly.

All cases are dependent on the individual circumstances of each claimant and it is advisable that individuals discuss with their work coach before committing to participate in any scheme”.⁸⁷

⁸⁴ The Sutton Trust, ‘Pay As You Go?’ (*Sutton Trust*, 18AD) 3 <<https://www.suttontrust.com/our-research/internships-pay-as-you-go/>> accessed 24 August 2020.

⁸⁵ The Sutton Trust and Social Mobility Commission, ‘Elitist Britain 2019: The Educational Backgrounds of Britain’s Leading People’ (2019) 11.

⁸⁶ The Bridge Group, ‘SQE Monitoring and Maximising Diversity’ (2020) 16.

⁸⁷ ‘FOI Request: Charity Internships & Universal Credit’ (14 December 2016) <<https://www.whatdotheyknow.com/request/371828/response/909463/attach/html/2/4359%20Reply.pdf.html>> accessed 10 August 2020.

As this advice illustrates, volunteering whilst claiming universal credit is somewhat uncertain. We recommend that the SRA consults with the Government and prepares a document outlining how internships might fit with universal credit and other public support.

We also recommend that the SRA also considers whether aspiring solicitors undertaking QWE might be considered “employees” or “workers”, thereby becoming entitled to the minimum wage. The assumption is that this is not the case, though we have seen nothing in the SRA’s materials explicitly addressing this question. It would be preferable to have a clear starting point for all individuals and organisations to avoid discrepancies and difficulties later. As the Sutton Trust noted in their 2018 on internships: “There are concerns that some employers are either unaware that their interns should be paid, or that some employers are exploiting the lack of clarity in the law to avoid paying their interns.”⁸⁸ This is a risk that should not bedevil QWE.

There is already some anecdotal suggestion that solicitors who qualify through the equivalent means exemptions are sometimes paid less than solicitors qualifying via training contracts. This is a research question that should be followed up as it clearly has implications for the QWE that aspiring solicitors should be aware of if they choose to qualify through voluntary placements.

Two years full-time equivalent

The SRA have repeatedly said that they wish to move away from a “time served” basis of assessment, towards outcome focused assessment. We appreciate this difference but in practice the two are highly interlinked. Particularly where some aspiring solicitors, including some more disadvantaged applicants, may wish to volunteer for their QWE we think that some indication of what is sufficient is required.

The SRA state simply that:

“We do not prescribe what full time (or equivalent) means. We expect employers or those signing off qualifying work experience to take a common-sense view of what this means.”⁸⁹

Given that some candidates will be undertaking voluntary QWE, perhaps at evenings and weekends, we think that more guidance on this point would be appropriate. The SRA is,

⁸⁸ ‘Unpaid, Unadvertised, Unfair’ (n 83) 1.

⁸⁹ Solicitors Regulation Authority, ‘QWE Q&A July 2020’ (16 July 2020)

<<https://www.sra.org.uk/trainees/qualifying-work-experience/qualifying-work-experience-trainees/qa/>> accessed 10 August 2020.

effectively, delegating assessments of competence to solicitors associated with the QWE. This contrasts with the admission by equivalent means process, where the SRA makes the assessment of candidates.

At the time of writing there are some indications that the SRA might maintain a central list of QWE vacancies if the system comes into force. This would be a progressive step. Even more progressive, however, would be the abolition of using social networks work experience, internships and QWE, which so advantages some candidates over others. Anecdotal and qualitative evidence indicates that legal work experience and vacation schemes, which can lead to training contracts, are often procured through social networks that are rarely equally or transparently distributed.⁹⁰ If these patterns continue, it seems highly unlikely that access to both paid and unpaid QWE will be equally available to all.

While it is ten years old now, this lengthy quotation from Hilary Sommerlad's qualitative research into the legal profession remains telling:

“the HRM officer of a Magic Circle firm volunteered that they still had:

a lot of informally arranged placements. So for example, my daughter came here for a week. And many of her friends who were interested in becoming lawyers used their contacts to get work experience in appropriate law firms or barristers' chambers. That's something that I think has increased over the last ten years or so. Is it useful? I think it's an indication. The reality though I think is that although some (whether the parents, child or school) work quite hard to actually do it properly, there's a fair degree of 'my daddy knows so and so and he can get you in somewhere'. If it's that kind of arrangement (in so far as we can pull that out) then it's probably not a very good indication that somebody is thinking very carefully about the profession. The one I should say, is 'what does your daddy do and how did you get the placement', but they usually offer the explanation – 'I was at school, the school said I needed experience, my father's lawyer helped'. We also find that quite a lot of clients will say 'my son, my daughter, my contact is interested in becoming a lawyer can they come and sit with you Mr Partner'. And that kind of informal arrangement often happens. Does that lead to jobs? Not necessarily. If they are good enough, they will come through the assessment process. But I think there are a few of those instances within all firms. I'm not saying that we would want to stop this necessarily.”⁹¹

As academics we hear similar, anecdotal stories in our work lives as well.

⁹⁰ Sommerlad, 'The Commercialisation of Law and the Enterprising Legal Practitioner' (n 51); Sommerlad and others, 'The Futures of Legal Education and the Legal Profession' (n 51).

⁹¹ Sommerlad, 'The Commercialisation of Law and the Enterprising Legal Practitioner' (n 51) 92.

Qualification Bottleneck

One consistent concern with the SQE is that the training contract bottleneck will translate into a qualification bottleneck. Aspiring solicitors may qualify, and be admitted to the profession, but then if they struggle to find work as a practising solicitor, they will have invested even more money and time into a professional qualification that they cannot use. For good reasons, solicitors can only operate as sole practitioners with three years post-qualification experience. A new qualification gap may emerge and we have been unable to find any evidence or research investigating whether this is likely or not.

4. Survey Analysis on Quality, Cost and Diversity

The SLSA survey was designed to focus on the two issues which the LSB had identified with the SQE, cost and diversity, as well as the question of the impact of the SQE on competence of the profession. This latter issue has emerged as a widespread concern for both academics and professionals, particularly given the lack of any requirement for a law degree or equivalent, with testing of foundational legal knowledge only by single best answer multiple choice tests.

The survey was open from 29 April 2020 to 31 May 2020, and it should be noted that various parts of the proposals have changed since that time. For example, at the time the survey was undertaken, the SRA was still considering offering optional pathways through SQE2 and had not yet released the assessment specification.

The survey was circulated through social media and via learned societies which many academics are members of, including the Socio-Legal Studies Association, the Society of Legal Scholars and the Association of Law Teachers.

We received 192 responses. In an Annex to this report, we set out the methodology we used, the questions and a breakdown of respondents. We are also willing to provide an anonymised copy of the full set of answers given upon request, and in particular, we extend this invitation to the SRA to consider the complete set of responses. Clearly, this is a limited survey, but we have used the responses to identify avenues for further research and include data here as illustrating perspectives on the SQE in early-mid 2020. Given both time constraints on writing this report and the absence of a proper sample, we have used responses to illustrate matters, including those we found most revealing or which reflected a number of different responses, rather than draw any ostensibly reliable conclusions.

The survey respondents were in general very aware of the proposed changes, with an overwhelming majority stating that they were aware of the plans and substantial majorities stating they were aware of many of the details of the proposals. 97% of participants (184) confirmed they were aware of the proposal to introduce the SQE and abolish the current system of qualification. 2% (4 responses) were not, and 1% (2 responses) were unsure.

In relation to the details of the plans, 94% (171) were aware of the plan for SQE1 to be a centralised test consisting of multiple choice best answer questions, and 64% (116) were aware that the skills part of SQE1 might be dropped. 84% (153) were aware that a law degree (or GDL) would no longer be required in order to qualify as a solicitor. 84% (152) were aware of the plans relating to QWE, and 80% (145) stated they were aware of the proposal that SQE2 would be a centralised assessment of skills. 67% (121) were aware of the flexibility proposed

– that the elements could be undertaken in almost any order, and 64% (116) were aware of the costs estimate.

Quality

Our respondents differed significantly in their views on the quality of the proposed SQE assessments. However, while we present quotes illustrating the range of perspectives, the majority of our respondents were extremely concerned about the sole reliance on MCQs for SQE1. They did not agree with the SRA that dispensing with the requirement of a law degree or equivalent, replacing this with two, long MCQ tests, would provide evidence of a high quality legal education. While the comments about SQE2 were often less critical, this was often due to the fact that information on SQE2 has been released so late in the approval process (with sample questions for SQE2 still not released). Most of our respondents were also concerned about the quality of some forms of QWE, given the proposed lack of consistent oversight, with the possibility that legal work experience could vary considerably.

MCQs and SQE1

As the SQE will abolish any requirement for a law degree or equivalent, the reliance on competence takes on particular significance for assessments of quality. Perhaps the most controversial aspect of the SQE is the abolition of any requirement to study law at university level or equivalent, replacing this with SQE1 multiple choice testing for foundational legal knowledge (FLK).

There was widespread criticism of the sole reliance on MCQs in SQE1 to test FLK, with many forthright comments. One respondent felt that the use of MCQs in this way:

“reduces the knowledge required to a relative lottery and undermines the role of solicitor if there is no need to know cases (as barristers can be asked about that). MCQs can be very valuable but the test questions do not raise confidence and an endurance test of so many questions over a long time in limited locations play to a different skill set than advising clients.” Another said that: “It's unlikely that a multiple choice answer will be able to capture the full range of issues at stake. It'll also be entirely possible to guess an answer.”

A further, related, recurring concern is the focus on memorisation required for MCQs. One critic claimed that “MCTs do not assess anything other than recall”, while another suggested that “... multiple choice questions do not allow students to indicate where the law is unclear, or where there could be two or more perfectly reasonable and correct interpretations of the law.”: “Lawyers need to write. Well-designed MCQs are by no means a soft option but they offer little chance for being tested on your ability to convey legal concepts with clarity”.

Some respondents felt that the MCQs would be more difficult to pass. One noted that:

“I was part of a group of professionals who tried these out. The outcome was that only a [f]ew were able to answer the questions. It tests a certain type of understanding and in my opinion does not necessarily test someone's ability to be a competent legal professional.”

Conversely, other respondents thought that MCQs would be easier with one [suggesting] that the released MCQs represented: “[t]oo narrow a curriculum assessed at a fairly basic standard”, while another responded that: “Law is not multiple choice. It’s the worst way to assess law students. I have delivered MCQs to students and pass rates are significantly high.” Another felt that:

“Multiple choice is not a difficult enough assessment type for the profession”, while another said that “Even as a unpractising Barrister, I cannot fathom how MCQs are the sole way to centrally assess the competencies of a solicitor at stage 1.”

Yet another wrote that: “Hav[ing] successfully passed the NY Bar at my first attempt with only a BarBri prep course behind me I am aware now how little I actually knew about NY Law.” A further respondent felt that the “current question is design [is] significantly easier than traditional degree”.

Another respondent focused on the nature of legal knowledge and the suitability of MCQs, writing that: “Legal concepts can be complicated. They are often not black and white and whilst SQE 2 will provide some assessment of skills, the skill of legal argumentation cannot be assessed in an MCQ.” Another noted that “No analysis possible with MCQs - as conceded by SRA and Kaplan”, while yet another said that “Critical thinking is out of the window. We are back at learning things by heart. Besides, this method doesn't even start to reflect the complexities of certain law provisions”.

International comparisons – and the risk to the credibility of the English and Welsh system were raised, for example by one respondent:

“There is a reason that every other jurisdiction in the world requires a law degree. Multiple choice questions do not assess, however they are written, an understanding of the culture of the law and legal tradition. It encourages rote learning without imbuing students with the legal logic that enables one to project a ‘legally likely’ scenario.”

Such reliance on MCQs alone will render England and Wales out of step with other jurisdictions.

Many respondents thought that MCQs cannot effectively capture the legal knowledge required by a solicitor (whilst noting the further assessments in SQE2, though the details for this were not released at the time of the survey in April-May 2020). “A multiple choice does not reflect life as a solicitor!”. Another respondent said simply that: “I believe that 2 x 3 hour MCQ assessments cannot adequately assess the range of knowledge and skills required”, while another wrote that “[r]elying on one assessment method is inherently flawed. Just using MCQs in relation to a discursive subject like law is plainly wrong”.

Another felt that “[t]his form of assessment is the antithesis of what the law is about. Law as a discipline is full of nuances and to reduce the discipline to a set of MCQs is doing a disservice to the discipline and consequently the legal profession. Students need to think and critique the law”. Yet another respondent suggested that (while they were not sure): “the MCT seems to be a test of speed reading and speed thinking rather than knowledge. This is no[t] reflective of practice where a lawyer would give 'considered' thought to a problem. Obviously I'm not suggesting that the time is unlimited but a test without thinking time is not a good test.”

Some commentators were more reserved in their comments. One said that “It is difficult to assess as yet, but my experience with students undertaking MCQs as prep on an QLD is that they learn discrete packages and [cannot] use this knowledge critically or in a joined up fashion”. Another wrote that they were:

“[a]mbiguous here, as legal writing and research skills are also likely to be tested as well. This could be helpful in standardising knowledge levels, but I worry that the knowledge required is being taught without awareness of a wider social context which is frequently covered in LLB classrooms and which makes for better advocates and solicitors.”

A further respondent felt that “There is a risk that it might worsen things, but I do not think this is inevitable. It depends whether 'teaching to the test' for SQE overshadows everything else”.

Again, an international comparison was made:

“Americans do it. And maybe good practice is developed on the field, not via tests and standardised practice courses. However, legal practice has always been regarded as a prestigious profile, and one reason for this has been the presumption of higher education background; the development of deeper intellectual faculties - in other words, the core subject of legal pedagogy and the mandate of HE law education. While democratising the profession, the MCQ diminishes the quality of demonstrated intellectual depth that an individual with responsibility towards clients, the justice system and society should have.”

For this respondent, the perception of English and Welsh legal education is significant.

A few respondents (though not many) were concerned about aspiring solicitors with disabilities. One noted that: “Multiple choice questions aren't necessarily bad for equality and diversity - it depends on how they're designed. There are, however, some types of disability for which questions will need to be very carefully designed, and there's no evidence that the SRA is even slightly interested in meeting its statutory duties towards people with those disabilities.” The relatively small size of the SQE pilots has meant that disability could not be reliably assessed.

Other research participants thought MCQs weren't necessarily inappropriate but might be constructed in a rigorous and inclusive way. One respondent said that:

“Multiple choice can be created so that it is difficult and requires evidence of knowledge and understanding, but I don't think it leads to deep learning. There are some concerns about whether it would be possible to pass with only a very surface knowledge of the law and how difficult it might be for a person to adjust to practice in this situation. It may also disadvantage people who simply struggle to think in terms of multiple choice but would actually be very good lawyers due to their writing skills/ability to construct an argument and/or their interpersonal skills.”

A participant who had seen early versions of the MCQs responded:

“Some of the questions I have seen in draft form - eg, the civil procedure or evidentiary requirements related to an obligations form - will really improve a student's understanding of the law. However, most of the questions are very narrow and do not encourage or facilitate critical thought processes or problem solving abilities.”

Such concerns about the type of material sample MCQs address were expressed by several respondents in the survey.

In contrast, some respondents were enthusiastic about relying on MCQs for SQE1. One said that “The narrative of 'dumbing down' has been very over-played”, while another suggested that SQE “would be a good test of legal knowledge and can be taken by people with and without previous legal education alike”.

While many were critical of the EDI aspects of MCQs none of our participants linked to studies or other evidence supporting their views on this. This was also true of respondents in favour of MCQs:

“MCQs provide a level of objectivity to the testing regime such that we can be more confident in the integrity of the results of the tests for entry into the profession”.

One compared MCQs positively with the status quo: “I don't think the LPC was a good test. I think that SQE1's MCQs has the potential to be fairer - especially to non-traditional students.” Another thought that “Multiple choice already forms part of GDL” although clearly this is not the case with many CPEs/GDLS and MCQs are not the sole form of assessment for those qualifications (unlike the Qualified Lawyers Transfer Test, which has formed the basis for the SQE).

SQE2

Our respondents were both less critical, but also more uncertain about SQE2 (not least because the assessment specification had not been released at the time of the survey, with the sample questions or marking/moderation guidance not due to be released until later in 2020).

This uncertainty came through many responses, with respondents often explicit about their lack of knowledge on this point. As one noted, the “[c]urrent system has skill testing elements, it is unclear how the proposals would have any greater or lesser result on standards or competence”. Another suggested that “there is a value in the use of role plays with hired actors. But, assessment in the form of role play may undermine the nuances that clients will have when seeing a solicitor”. A third suggested that:

“I think it is too early to say. I think that removing some parts will worsen, but as this is having, arguably, a less radical overhaul (compared to SQE1), it may stay the same overall. However, added that there is no 'provider' a student must go to, it may worsen as students will have less consistent 'teaching' and application of the law, meaning providers have students with less consistent standards/attainment, making it more difficult to 'teach' and assess”.

There was repeated comparison with the LPC. One respondent thought that: “It will depend on what is expected, but my understanding of the LPC is that students get a lot of practice in developing skills and without this, will the exam have a lower standard?” Another said simply that: “The SQE2 is not a proper replacement for the LPC and Training Contract.”

Many thought that the translation of SQE processes from the QLTS regime to aspiring solicitors without an existing legal background, raised concerns. One said that “the proposed SQE2 has a lot to recommend it, so will not clearly worsen standards. It may indeed improve them to some degree, so will not have no impact. However, to assume that assessment methods appropriate to test the competence and standards of qualified lawyers seeking to

transfer to the solicitors' profession will work equally with new entrants is untested and facile." Another participant said that: "Most employers will provide relevant skills training to new recruits anyway".

Considering both SQE1 and SQE2 together, one lawyer was critical:

"Just not thought through as to how this impacts in practice. As a training principal who routinely selects 10 trainees a year this is useless. We are planning our own skills and knowledge testing for candidates so we can judge for ourselves how good a candidate is. No faith in SQE."

While we are all speculating as to how a future market would operate, it is striking that there is no research with firms or universities to see how they are anticipating adapting to the SQE.

QWE

Our participants had concerns about the significance of QWE as a time and space to acquire the skills needed to become a competent solicitor, if these are assessed by SQE2 before the QWE is undertaken.

In our survey, asked whether QWE is likely to improve, worsen or have no impact on professional standards and the competence of the solicitor's profession, 19% stated it would improve things, 46% considered it would make things worse, and 28% felt it would make no difference. There is still considerable uncertainty around QWE, as one broadly supportive proponent noted:

"this depends on how this is assessed by the SRA. There seem to be fewer requirements on the providers of experience, leading to the question of how the value of this time spent in a legal environment will be judged. I suspect there will be, similar to now, examples of good and less-good practice. However, the QWE does offer an alternative to the training contract and this should improve access to the legal profession overall."

There is undoubted progressive potential in the QWE, yet our participants expressed considerable concern. One respondent suggested that: "Law firms with a profit agenda will likely find a way to undermine recruitment drives and if nepotism could be monitored that would be great", while another wrote that:

"If work experience can be completed without pay, then we may find that the objectives of increasing access, diversity and equality will be defeated as trainees

have to borrow money to support themselves during QWE stages. It will inevitably be those least able to afford to do so who have to.”

Another felt that “[a]t the bottom end, students can be forced to work for less than free market rates in sectors that qualify for the QWE tag”, another wrote simply that: “Time spent labouring without guarantee of income is a serious problem.” Another submitted that: “Those without formal PQE will be tempted to do pro bono work in order to build their portfolio of QWE. There is a danger we shall see people so desperate to qualify that they self finance long periods of work experience. This is not progress.”

The concern here is the differential, that some aspiring solicitors will be on incredibly high salaries for their level of qualification, while others may be unpaid. In a private employment market, this is of course widely accepted. In a training system that confers a publicly recognised qualification (analogous to doctors, dentists or accountants) this raises more difficult questions.

A related concern is about the variability between different types of QWE, with all leading to a professional qualification. One participant suggested that: “One assumes that work as a paralegal will constitute QWE. However, I really hope that "QWE" does not equate to a 2-year "internship" either at minimum wage or below. Again, detail about how this will be assessed is lacking.”

Another participant thought that aspiring solicitors might be at risk: “Students will be exploited or gain insufficient proper client handling experience and then end up working as paralegals for longer”. This was echoed by another respondent:

“I worry about the lack of accountability for places and pay. With a training contract the positions are legitimate positions governed by HR rules and properly advertised salaries. I worry about students being taken advantage of, especially those from lower income backgrounds.”

Yet another respondent was more forthright: “You could work as a crap paralegal for two years, moving between firms 6 months at a time and then qualify as a solicitor - absurd!”

As these comments on quality illustrate, there are real concerns that have not been addressed with evidence. Legal education is multi-faceted yet only one method of assessment is proposed for foundational legal knowledge. While MCQs may well have a role as part of a testing scheme, very few of our respondents thought that this method could be sufficient in and of itself to assess legal education. There were also multiple concerns about the quality of QWE, particularly given the lack of detail provided on how this would be assessed in terms of time and the emphasis placed on solicitors signing off the opportunity to gain SQE2 skills in QWE, rather than the quality of the QWE itself.

Cost

Many respondents to our survey thought that the SQE process would be cheaper for some but noted that costs would still vary widely, depending on the form of preparation sought (particularly if this becomes a hidden hurdle to recruitment). Some of our survey respondents also pointed to potential costs of QWE for aspiring solicitors without the support of a law firm, costs that have so far rarely been discussed in debates on the SQE.

Costs of SQE

Under the current system, some students qualify for free (if Law firms are paying for their GDL and/or LPC, associated living costs and Professional Skills Course), while others face significant costs to study for an LPC (approximately ranging from £9,750 to £17,500 + living costs), possibly on top of about £10,000 for the GDL + associated costs. Firms must also pay £1,500–£2,000 for the Professional Skills Course. As trainee solicitors all must be paid at least the minimum wage and ideally the Law Society’s recommended minimum salary.

The assessment costs for SQE1 and SQE2 are cheaper than the current fees for the LPC. The SRA have confirmed the final cost would be £3,980, comprising £1,558 for SQE1 and £2,422 for SQE2.⁹² Even so, some of our participants did feel that the proposed costs of the assessments were unreasonably high:

“The costs of the SQE are ridiculous. Compare the \$250-\$750 for the New York Bark Exam. How is that different from SQE1?”

For students who choose to prepare for the SQE by themselves (with anticipated published materials) or via online providers (such as BarBri (who use algorithms to predict questions) or the College of Legal Practice), SQE1 and SQE2 would certainly prove cheaper than the current costs of an LPC (+ possibly also a GDL).

For some of our participants this is undoubtedly a progressive reduction:

“It makes the process of qualifying more cost efficient, which should make the profession more accessible.”

However, with more training options available, those who can afford to pay more may receive better training in terms of passing the SQE. As one participant noted:

⁹² Solicitors Regulation Authority, ‘SQE Moving Closer’ (n 10).

“I would be concerned about whether there might be advantages in passing these tests to those who can afford to pay more and who are getting better access to exam prepping.”

Referring to the different level of training likely to be available, another participant suggested that:

“Those affluent students will access the gold standard of training and others may not access any guidance at all.”

It will also take a long time to discover whether future employers would have a preference for one form of SQE training over another when recruiting qualified solicitors. It is already evident that aspiring solicitors recruited by large law firms who then pay for their training are likely to benefit from a more generous educational provision, not dissimilar from the current LPC.

For those not funded through a training course, £4,000-6,000 is certainly cheaper than the current system, the possibility of loans or government funding for solicitors taking the SQE has not yet been confirmed. Law Society president Simon Davis, quoted in the *Law Society Gazette* as welcoming the SRA’s certainty on SQE assessment costs, emphasises that these questions should be resolved:

“... the issue still remains that loans have not been made available to help students meet the cost of qualifying, which could have significant implications for social mobility and access to the profession. We have been having productive conversations with the government on this issue and we will continue to push for the provision of loans for SQE applicants.”⁹³

This is clearly critical. The uncertainty about how candidates would fund themselves if they are not supported by law firms provides yet another reason for delaying the introduction of the SQE.

Government-backed loans are currently available for Masters degrees and some LPCs have been rolled into masters programmes for both educational and cost reasons (as students can then borrow the money to pay for the qualification). However, one anecdotal suggestion for the high LPC withdrawal rates is that candidates who have chosen to study an LPC rolled into a master’s programme in order to gain the funding have withdrawn in part because of the

⁹³ Jemma Slings, 30 July 2020, ‘Solicitor Super-Exam to Cost £3,980’ (*Law Gazette*) <<https://www.lawgazette.co.uk/news/solicitor-super-exam-to-cost-3980-/5105213.article>> accessed 10 August 2020.

extra workload that they didn't necessarily desire. Some participants were concerned about this possibility and its differentiated impacts:

“funding will be an issue for a lot of people as they will not be eligible for the government grant”.

While cheaper options for legal training are undoubtedly progressive, if some applicants are privileged in educational terms over others on the basis of how much they pay, with possible implications for future career prospects, then this is concerning. Further qualitative research with training partners, young solicitors and the professional bodies would be useful here.

Costs of QWE

A further unknown is whether aspiring solicitors would be able to fund themselves through QWE whilst undertaking voluntary work experience (perhaps full-time, perhaps in the evenings and/or at weekends). For unfunded aspiring solicitors, qualification may still be an expensive process, albeit through indirect costs. This concern was raised a number of times by our research participants:

“the fact that QWE can be undertaken on an unpaid basis carries enormous risks of pricing poorer candidates out of the market. They will either have to live at home with their parents whilst undertaking QWE (which will be simply impossible for some) or have to take on a second job whilst undertaking QWE, in order to fund themselves. That will mean the whole process takes longer for those candidates than for wealthier ones ... I am gravely concerned that dropping the requirement for QWE to be paid will simply close off the legal profession to disadvantaged candidates. Having a minimum salary for trainee solicitors does at least enable them to keep a roof over their heads, (hopefully) without needing to obtain additional paid work”.

It is important to remember that universal credit or other forms of financial assistance are not available if a person is committed to undertaking full-time voluntary work.

Diversity

Many of our research participants were concerned about diversity in the legal profession, be that under the current systems or in light of the proposals for the SQE. Some criticised the SQE assessments on this basis suggesting that:

“It is a test that can be trained for. Disadvantaged/underrepresented groups may not be able to identify/access the best training. High status employers will continue to select on social and general educational criteria, with SQE as a necessary evil. The pilot indicated differential performance.”

Another noted that “The SRA’s pilots have shown that scores in tests themselves are affected by background. The introduction of the SQE will mean that those who can afford to take cramming courses will have an improved chance of success.”

The lack of a requirement for a legal degree or equivalent may make qualification easier for non-law graduates, particularly at universities considered more prestigious by employers. One respondent expressed their concern as follows:

“I think more prestigious firms/chambers will still favour Oxbridge/Russell Group graduates, and will now potentially have a wider pool of people applying given that there will be no requirement to have a law degree. I also think that tiered provision of SQE training will develop, and those from less well off socio-economic backgrounds will not be able to afford the same type of training as people from wealthier backgrounds.”

Another suggested that: “It all looks like it's going to cost just as much, and the top firms will still train graduates from Oxbridge to pass it”, while yet another submitted that “Those affluent students will access the gold standard of training and others may not access any guidance at all”.

Not all agreed with this critique on diversity. One respondent, for example, made the converse point: “On the face of it, I would hope that making the profession less elitist and more accessible will encourage people who may previously been deterred to consider the profession.”

Another participant saw a balance:

“There are pros and cons here. The SQE offers a more accessible route into the profession for those wishing to switch. But anyone thinking of going to university who knows they want to study law will likely look for a course that covers the SQE

requirements, meaning they only need to get the experience and sit the exam. Otherwise the process becomes lengthier and costlier.”

One of the difficulties when considering the SQE from a diversity point of view is that the current legal jobs market for young graduates is so uneven (see above Section 2). Yet the QWE could be a progressive step, alleviating the training contract bottleneck. As one of our research participants noted:

“By creating routes outside the traditional training contract, it makes it much easier for people from non-traditional backgrounds to do work that counts towards qualification.”

However, there are concerns about variation. One respondent thought that:

“it's also quite likely that it will lead to further stratification within the legal profession, with students who already have access to prestigious work experience more likely to have access to plum jobs and more lucrative careers. Inequalities that currently exist will be exacerbated.”

Another was also uneasy about hierarchy:

“I worry that there will be a two-tier system. I also worry that excellent students who can get training contracts will settle for less comprehensive experience and not have the confidence to apply to prestigious firms / services offering QWE.”

From the profession came the concern that if the QWE is not more closely specified, employers of newly qualified solicitors would have to take quite a lot on trust, leading them to prefer applicants with more traditional QWE that more closely mirrors a training contract, privileging applicants with that set of experiences:

“I do not believe that this potentially disjointed and disparate training will provide any sort of cohesive training environment for any trainee. Given what we know about the lack of equality and diversity within the profession already, I am at a loss to see how giving trainees less security and continuity will help.”

However, some participants were enthusiastic. One wrote that QWE would be an:

“[e]normous step forward. A real challenge to the current appointing in one's own image approach that currently dominates the sector.”

Despite the undoubted possibilities for unpaid QWE, however, far more of our participants were apprehensive. One wrote of their concern that “the range of recognised work

experience could prejudice the less well-off as compared to those with independent means”, while another was emphatic that “[t]he unpaid element will also assist the advantaged. We should not be supporting unpaid labour”. A third participant suggested that “[t]hose from less advantaged backgrounds cannot afford to do the unpaid work which is their only option if they cannot get what will surely be scarcer paid work”. One concluded that: “Wealthy and well connected applicants will still have advantages”.

Survey Conclusions

While this survey was not representative, it revealed widespread concerns about the SQE proposals in respect of quality, cost and diversity. The greatest concern was with the sole use of MCQs to test foundational legal knowledge, although this approach had some proponents. There were also widespread concerns about possible inequalities arising from differential routes to passing SQE2 and the nature of QWE, with implications for diversity. While the SQE assessments will be cheaper than the current compulsory costs of the LPC, these will vary according to the training approach sought and cheaper upfront options may lead to lower salaries later. Throughout all of these debates run the acknowledged but often under-researched questions of social as well as educational signifiers and the use of networks in legal recruitment.

5. Conclusion

This report has outlined the concerns of SLSA members and respondents to our survey about quality, cost and diversity in relation to the SQE proposals. Most respondents were deeply concerned about the sole reliance of MCQs to test foundational legal knowledge and the abolition of the requirement to hold a law degree or equivalent. Many respondents worried about the lack of prescribed content for QWE, with very variable experiences possible, with possible implications for later recruitment that are not always made clear to aspiring solicitors. Several respondents suggested that the training contract bottleneck might be replaced by a qualified employment bottleneck where aspiring solicitors may qualify, using cheaper assessment methods to pass SQE1 and SQE2, funding themselves through QWE, yet later cannot find paid employment as a solicitor and do not yet have the requisite experience to work for themselves.

One litmus test for approving the SQE proposals is whether they would make it easier or more difficult for certain types of candidates to qualify as a solicitor. While the SQE process - particularly the introduction of QWE - certainly has the potential to open up profession, there are also risks for diversity. In particular, the SQE proposals could enable students with greater social and educational resources to use their networks to obtain periods of QWE. Qualification does not guarantee paid work as a solicitor and the voluntary QWE route remains a risk for all candidates. It is possible, however, that the SQE as currently formulated will confer the greatest advantages on well-connected and resourced candidates who have not previously studied law at degree level or equivalent.

This links to the concern repeatedly identified by our research participants that under the SQE system as currently proposed, signifiers of ability (educational establishments, degree results, social networks, identity, location and nature of work experience) may become even more influential in the solicitors' profession than they are today.

The SRA's proposals for the SQE have progressive potential. However, there is as yet a lack of evidence to support the allegation (and it has been put no higher than that) that the system of qualifying law degrees or CPE/GDL does not produce lawyers with a good quality legal education. The case for relying solely on MCQs in SQE1 has not been rigorously made. Similarly, the lack of available sample questions and marking/moderation guidance for SQE2 makes it difficult to assess. The refusal to release the raw data from the SQE pilots prevents academic analysis of the acknowledged attainment gaps.

The most progressive aspect of the SQE proposals is perhaps QWE. Our respondents think that there is real potential here, particularly unleashing the capacity of law schools to work on public legal education, to collaborate with communities and law centres in providing practical advice and support as well as developing skill-based learning for students. There is a huge opportunity here.

As it stands however, QWE is open to influence from social and educational networks. The SRA have indicated informally that it might maintain a central list of QWE vacancies. Regulating the recruitment decisions of private law firms is undoubtedly difficult, however, where the employment confers a qualification there are good reasons to implement systems facilitating oversight and transparency. A research project, perhaps with the Sutton Trust, could draw on the experiences in medical, dental or accountancy professions where employment and qualification are also interrelated. Such an investigation might reveal creative solutions to ensuring that these opportunities are not unevenly distributed.

We suggest the next steps in developing and assessing the SQE:

- Wait for more details on SQE2 sample questions, marking and moderation;
- Wait for more details on QWE including how many weekly hours are required (particularly when undertaken voluntarily and/or on a part-time basis);
- Require an analysis of the social security (universal credit) rules and employment law framework for internships to assist both aspiring solicitors and organisations;
- Require evidence on how informal recruitment networks operate in the legal profession and how these might be ameliorated with the introduction of the QWE, perhaps in collaboration with the Sutton Trust;
- Require a detailed pilot study of SQE1 and SQE2 with those solicitors' apprentices finishing in 2021-22, allowing a more extensive analysis of SQE assessment processes;
- Require the release of the raw data for the SQE1 and SQE2 pilots. The SRA have acknowledged an attainment gap in SQE assessments and the LSB should require more evidence that the SQE will not exacerbate existing inequalities;
- Require analysis of the SRA's experience with the equivalent means route of qualification, including data on protected characteristics for applicants;
- Confirm data gaps for the GDL/CPE, LPC and training contracts as well as for the SQE and QWE. Data on aspiring solicitors should include markers of both protected characteristics and other aspects of concern, including first in family to attend university, history of free school meals, type of school attended for GCSE & 'A' levels, ethnicity, gender and disability.

In the meantime, we recommend pausing the implementation of the SQE to enable further reflection on the proposals, or at the very least, phase out the abolition of the current route to qualification more slowly while ensuring the new proposals are analysed in detail.

We understand the concerns raised by any postponement: the current system is undoubtedly imperfect. However, there is already an alternative route to qualification (the “equivalent means” process), which could be better advertised.

A delay would mean continuing with the LPC, with all its difficulties, for a further year. We recognise the difficulties with this and believe that applicants should be informed about withdrawal rates and the difficulty of finding a training contract during or even shortly afterwards. This data should be transparently released in a readable format to students and prospective students.

There are many positive aspects to the SQE proposals, particularly around QWE, however we think that given the evidence we have collected, analysed and presented, a pause is the best option to fully anticipate the implications of the proposed changes to legal education and training for quality, cost and diversity.

Annex: Quantitative Survey Results and Methodology

This research was governed by the Statement of Ethical Principles promoted by the Socio-Legal Studies Association with ethical approval for the questionnaire obtained through the University of Kent Law School's ethics committee.

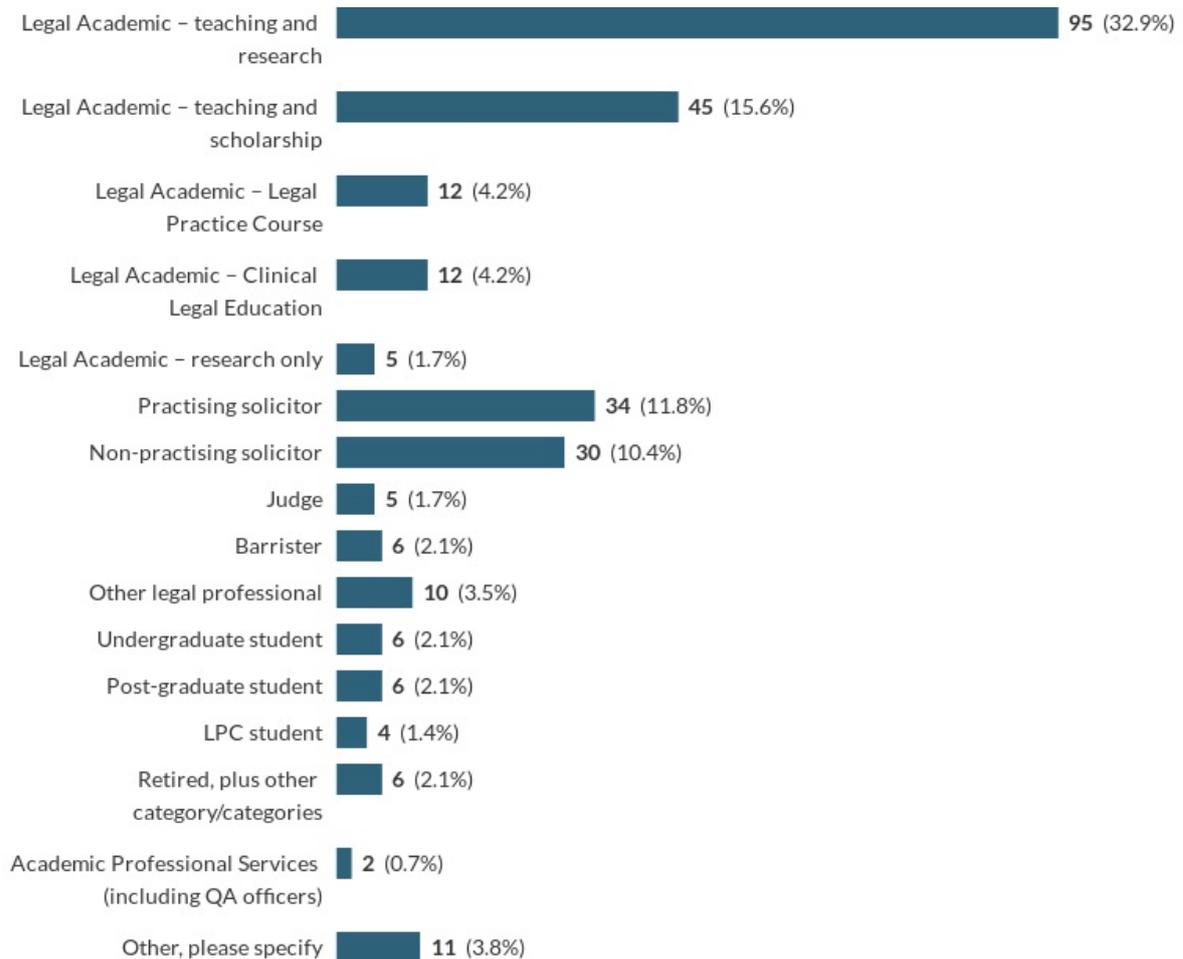
There are important limitations to the survey's dataset. Given that the research was unfunded, undertaken in the authors' own time and running only for a limited timescale, the survey did not seek a representative sample of the user groups or issues but rather to provide a snapshot of the issues and gather views from SLSA members and anyone else kind enough to fill out the survey. Undertaken online, the survey was also likely to exclude participants who were without access to the web. The answers to the survey questions generated quantitative results, which we treat with caution, given the unrepresentative sample of survey respondents. The survey also provides qualitative, discursive responses, to key questions.

Despite its limitations, the survey was useful for two reasons. First, it generated research questions, providing information on a range of issues relevant to SLSA members. Second, while the responses cannot be claimed to be representative they indicated that there were far greater concerns about some aspects of the SQE proposals than others. In particular, criticisms of the SQE process were far more marked in relation to SQE1 than to SQE2 (for which the assessment details had not been released at the time of the survey) or QWE.

Percentage figures given in the report are rounded to the nearest number, and the graphs included state the actual numbers of respondents for each question. We enabled respondents to skip questions, and not all respondents answered all questions.

In relation to those who participated, we asked respondents to tick whichever term(s) best described their role (allowing them to select more than one).

The breakdown is as follows⁹⁴:



The remaining participants were Law graduate, tax advisor; Training provider; Local law society Council member, having regular contact with a wide range of practitioners on this topic; Employability Professional within a University Law School; and LPC graduate.

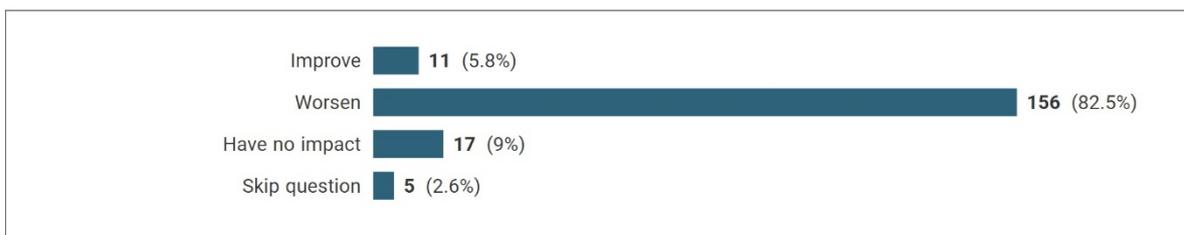
Competence

The first questions focused on surveys perceptions of the SQE in relation to competence, the core criterion for solicitor regulation.

Competence & SQE1

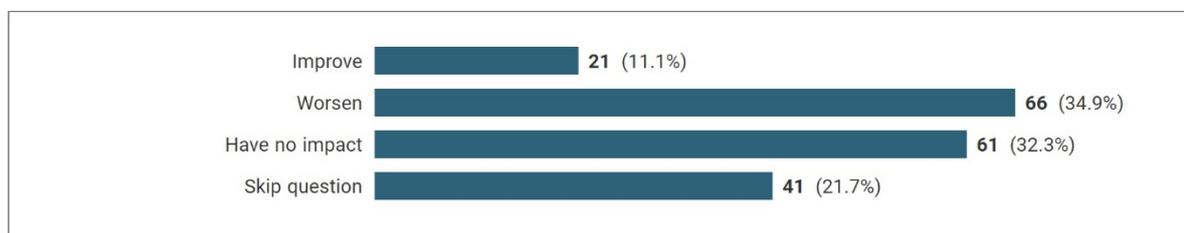
83% of respondents considered the proposed multiple choice test in SQE1 is likely to worsen professional standards and the competence of the solicitor's profession. 6% considered it would improve the situation, and 9% stated it would make no difference.

⁹⁴ Note that as respondents were permitted to select more than 1 category, the total number of answers given is 289 from 192 respondents.



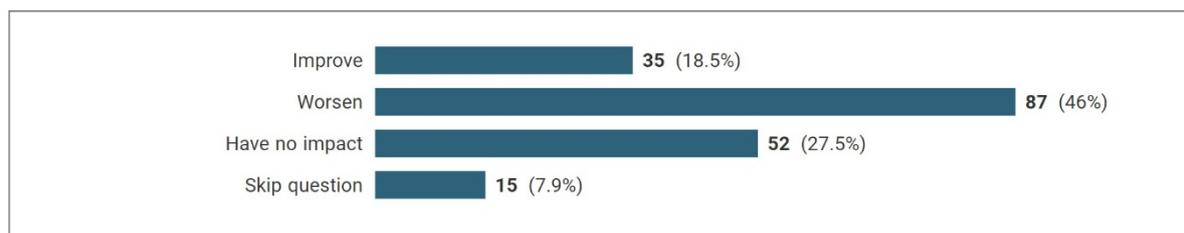
Competence & SQE2

Asked whether the proposed skills test in SQE2 is likely to improve, worsen or have no impact on professional standards and the competence of the solicitor's profession, 11% stated it would improve the situation, 35% considered it would worsen things while 32% stated it would have no impact.



Competence & QWE

Asked whether QWE is likely to improve, worsen or have no impact on professional standards and the competence of the solicitor's profession, 19% stated it would improve things, 46% considered it would make things worse, and 28% felt it would make no difference.

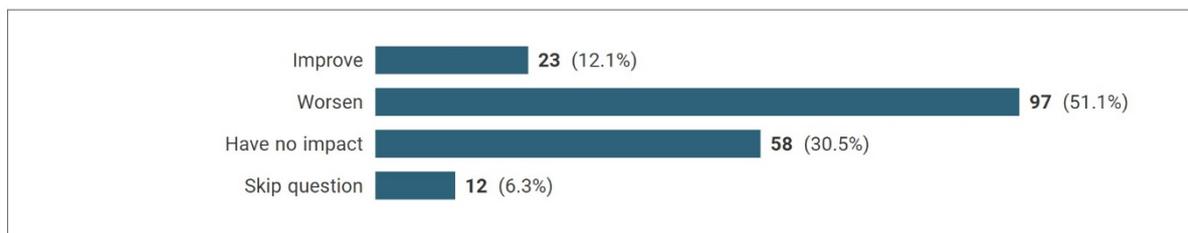


Equality and Diversity

The survey broke down the elements of the SQE proposals, to interrogate views on the ways in which equality and diversity would be impacted by the distinct elements of the planned new route to qualification.

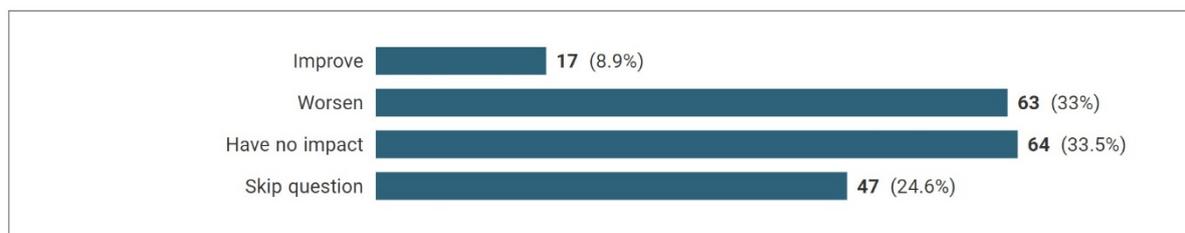
Equality, Diversity & SQE1

Asked whether SQE1 would have an impact on the equality and diversity of the legal profession, 51% considered it would make things worse, 31% believed it would make no difference, and 12% stated it would improve the equality and diversity of the profession.



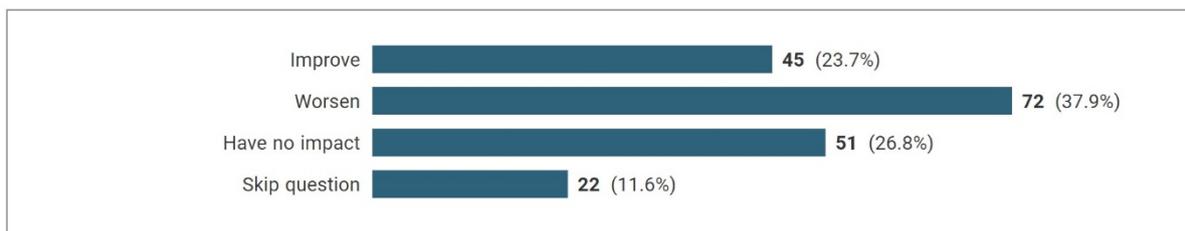
Equality, Diversity & SQE2

In relation to the impact of SQE2 on equality and diversity, 34% considered it would make no difference, 33% believed it would make things worse, and 9% suggested it would improve things.



Equality, Diversity & QWE

When asked if QWE would have an impact on equality and diversity, 38% considered it would make the profession less equal and diverse, 27% did not think it would make any difference, and 24% stated it would improve the equality and diversity of the profession. (Q10)

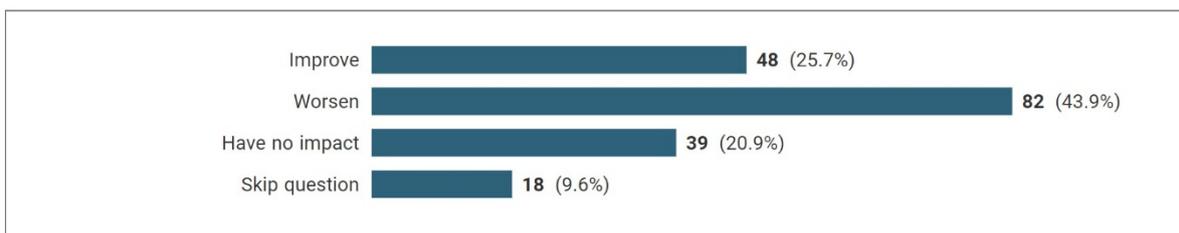


Costs

The survey broke down the elements of the SQE proposals, to interrogate views on the likely costs implications of the distinct elements of the planned new route to qualification.

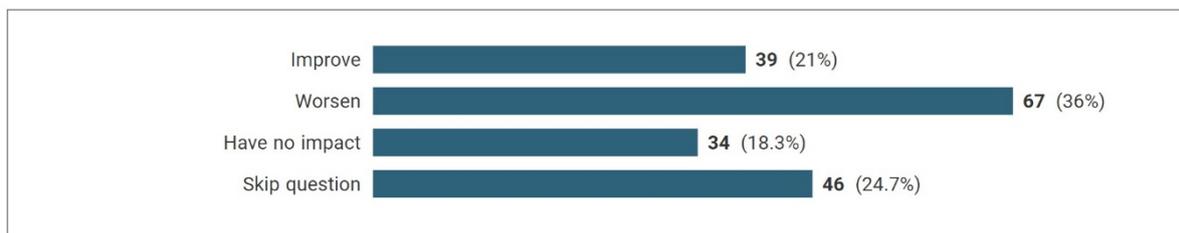
Costs & SQE1

44% considered that SQE1 would make qualification more expensive, 21% believed it would have no impact, and 26% stated it would improve the costs of qualification. (Q11)



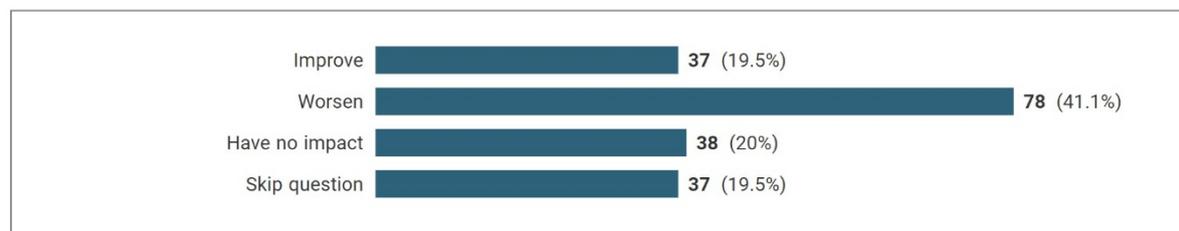
Costs & SQE2

In relation to SQE2, 36% stated it would make qualification more costly, 18% stated it would not have an impact, and 21% considered it would reduce the cost of qualifying. (Q12)



Costs & QWE

41% stated that costs would go up if QWE was introduced, 20% did not think it would make much difference, and 20% considered it would reduce the costs of qualification. (Q13)



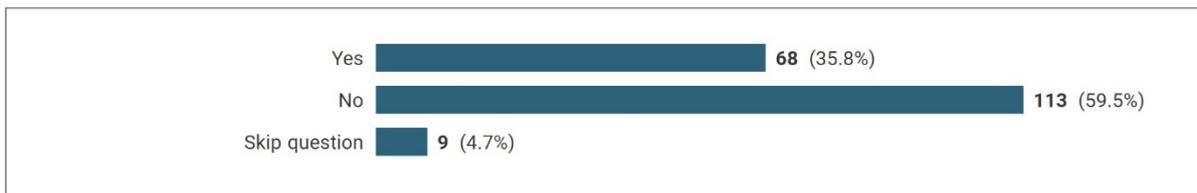
Advantages v Disadvantages

We closed the survey with three questions; asking if there were any advantages or disadvantages which had not already been covered, and then asking if there were any final comments.

Advantages

We asked first about advantages, asking whether, other than any comments already made, respondents thought that the SQE proposals will have any advantages compared to the current system (in particular, the route requiring a Qualifying Law Degree/GDL and

completion of the Legal Practice Course)? 36% did see additional advantages, while 60% did not. (Q14)



Disadvantages

We then asked about disadvantages, asking whether, other than any comments already made, respondents thought that the SQE proposals will have any disadvantages compared to the current system (in particular, the route requiring a Qualifying Law Degree/GDL and completion of the Legal Practice Course). 87% saw further disadvantages, while 7% did not. (Q15)

