

A new route to qualification – the Solicitors Qualifying Examination

A response by
The Chartered Institute of Legal Executives

6 January 2017

For further details

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January 2017

ABOUT CILEx

The Chartered Institute of Legal Executives (CILEx) is the professional association and governing body for Chartered Legal Executives, other legal practitioners and paralegals. CILEx represents around 20,000 members, which includes approximately 7,500 fully qualified Chartered Legal Executive lawyers. CILEx is also a nationally recognised Awarding Organisation, regulated by the Office of the Qualifications and Examinations Regulation (Ofqual), Qualifications Wales and CCEA.

CILEx has reviewed the information contained within the consultation documentation, has considered the questions posed and provided responses to these questions.

1. To what extent do you agree or disagree that the proposed SQE is a robust and effective measure of competence?

CILEx agrees that this is a robust series of assessments.

The syllabus for the SQE Part 1 is extensive and although it is stated that this is not intended to be an academic test, but one of professional competence, it is assumed that there must be a significant amount of knowledge retention required across a syllabus, which takes in the current foundations of legal knowledge and the LPC, in order to be able to pass the assessments. To require this and to require that all tests from each stage be sat in the same session is indeed a challenging exercise for candidates. Although it does not appear to be specified, it is assumed that the tests are 'closed book' as there is a requirement that the examination centre is 'secure', although this does not necessarily follow. The proposal to use variations on the MCQ, through for example, single best answer questions, may prove challenging for an assessment organisation to develop and administer and it would be helpful to see sample assessments to understand how the SRA envisages the questions to be structured. In addition, the time taken and expertise needed to develop and test such assessments cannot be underestimated. Although CILEx has not reviewed the syllabus in detail, it is noted that the criminal law syllabus does not cover homicide, although the partial defences are included within the defences section.

SQE Part 2 appears to effectively test knowledge, skills and competence in an integrated way, simulating the experience of legal work undertaken by a solicitor through the use of role play and computer-based testing. The use of actors and more than one assessor may limit the ability to standardise the assessment and it is unclear from the documentation whether the assessments would be filmed to enable standardisation of assessment to take place, in

addition to the borderline regression model proposed to grade candidates. Such information will also be essential for the processing of enquiries and appeals.

In addition, a 6 year limit on qualification may disadvantage apprentices, as they will be required presumably to develop the knowledge over the first 4 years of the apprenticeship, which will only leave them 2 years to pass all elements of the SQE 1 and SQE 2 or extend the apprenticeship period beyond the 6 years stipulated. Whereas for those following a more traditional route to qualification i.e. undertaking a degree at University, the clock will not start ticking on the 6 years until they attempt the SQE 1 for the first time.

2a. To what extent do you agree or disagree with our proposals for qualifying legal work experience?

CILEx agrees that there is significant benefit in including qualifying legal work experience as part of the admission requirements and the proposed 2 year period reflects the current requirements of the training contract. The increased flexibility on recognition of types of work which would qualify under the definition may reduce the bottleneck for admission created by the current requirement to obtain a training contract and therefore is likely to have a positive impact on equality and diversity. The requirement for employers to identify and therefore appreciate the need to develop outcomes within the competence framework provides further benefit to individuals seeking to qualify as solicitors. The SRA could consider including a requirement to have all qualifying legal work experience undertaken in one of the 2 specialist areas selected for assessment in the SQE Part 2, as this may assist candidates in preparation for the final assessment.

2b. What length of time do you think would be the most appropriate minimum requirement for workplace experience?

CILEx does not offer a view on the time scale. However, Chartered Legal Executives require a minimum of 3 years of qualifying employment, with at least 12 months of that time spent in qualifying employment after the completion of the academic and vocational qualifications.

3. To what extent do you agree or disagree with our proposals for the regulation of preparatory training for the SQE?

There are risks inherent in not accrediting training providers for the SQE. Reliance on market forces and data from previous cohorts runs the risk that those organisations considered to

achieve better results will be able to charge more for the supporting courses and therefore create a tiered system based on performance, which may in turn negatively impact on social mobility.

4. To what extent do you agree or disagree that our proposed model is a suitable test of the requirements needed to become a solicitor?

CILEx does not offer an opinion on the suitability of the test of the requirements to become a solicitor. However, the competency framework and related documents have been consulted upon previously and these tests assess the competencies identified in those documents.

5. To what extent do you agree or disagree that we should offer any exemptions from the SQE stage 1 or stage 2?

CILEx offers no view on the exemptions proposed for the new SQE. CILEx Regulation welcomes the opportunity to discuss the future of the current exemption of CILEx Fellows from the training contract.

6. To what extent do you agree or disagree with our proposed transitional arrangements?

CILEx offers no view on the transitional arrangements beyond the observation that the timescales for the introduction of the proposed changes seem reasonable. The timetable will depend on the appointment of the assessment organisation as the development of the SQE Parts 1 and 2 will take a significant period of time, owing to the challenging nature of the assessments to be developed.

7. Do you foresee any positive or negative EDI impacts arising from our proposals?

Having reviewed the proposals, CILEx offers the following issues for consideration in relation to equality, diversity and social mobility impacts:

- The requirement for a degree or equivalent Level 6 qualification: this requirement is in addition to the completion of the SQE, as this will not be levelled and therefore successful completion of the SQE will be in addition to any preceding qualification. This is likely to mean that the routes to qualification may be amended but are unlikely to change in the vast majority of cases. This will involve a significant cost implication

to the individual, particularly to those who are unable to access informal information sources as to the 'best' route to qualification. This is also likely to perpetuate a 'gold standard' route to qualification.

- The institution against which success in the SQE will be measured: it is not clear from the documentation whether this will be the degree awarding institution or subsequent training organisations, which are likely to emerge as a result of these changes. If the former, then the lack of accreditation of training providers is likely to result in a plethora of training organisations against which no data will be available and which may enable the unscrupulous from profiting from those less able to access information. If the latter, then costs for this additional training is likely to rise for those which achieve the best outcomes from the individuals they train and again, this may enable wealthier candidates to access the best tuition and therefore have a negative impact on social mobility.
- Apprenticeships: the requirement to complete all elements of the SQE in a 6 year period, which has been chosen to reflect the 6 year solicitor apprenticeship, may in fact negatively impact on apprentices. This is because the 6 year time limit does not start until the candidate sits the SQE Part 1 for the first time. For those candidates who have completed a degree or equivalent through the 'traditional' route, the 6 years will not begin until they have completed the academic requirements. Whereas the development of academic knowledge and skills will be embedded within the 6 year timeframe for apprentices, effectively reducing the available time to complete both parts of the SQE to 2 years (or extend the apprenticeship accordingly) in which case the reasoning for the 6 year time limit is not justified.
- Further investigation of the relative success rates of different protected groups when taking multiple choice assessments is recommended once the sample assessments have been developed.
- Enabling a wide variety of work placement opportunities to count towards the qualifying legal work experience is beneficial and likely to have a positive impact on equality, diversity and social mobility.