

Information for briefing for Andrew Felton, Commission on Justice in Wales – follow up from meeting with the SRA on 6 December 2018

Solicitors Qualifying Examination (SQE)

Executive summary

- A new national, standardised assessment for admission as a solicitor sets the standard and unlocks greater flexibility of training routes.
- Law firms will have greater opportunities to recruit and train in ways which suit their own needs and those of their clients. In Wales this could include recruiting and training locally, to ensure recruits know and understand the local community and to encourage retention.
- We are looking at whether and how the SQE can be offered in Welsh and at what cost.
- Currently, there are no significant differences between the Welsh and English law assessed in the SQE.

A. Welsh law and the SQE

The SQE will test candidates' competence to be a solicitor through two stages of assessment: an assessment of functioning legal knowledge (Stage 1), and an assessment of practical legal skills (Stage 2). A summary of the SQE is at annex 1.

SQE Stage 1 will test functioning legal knowledge - candidates' ability to understand and apply law in context. Candidates will be required to:

- identify relevant fundamental legal principles or rules
- apply them appropriately and effectively to client-based and ethical problems and situations likely to be encountered in practice by a newly qualified solicitor.

The SQE will not be a memory test and will not ask questions where in practice the competent solicitor would look up or research the law.

In the areas which the SQE assesses, English and Welsh law diverge only very slightly. For example, Stamp Duty Land Tax rates are different. But rates of taxation would never be the subject of an SQE assessment question: this is an example of where a competent solicitor would look up the relevant rate. The Renting Homes (Wales) Act 2016 will introduce substantial differences between Welsh and English residential housing law. Housing is outside the curriculum assessed through the SQE. The SQE assesses core knowledge and skills only.

Because the SQE assesses candidates' functioning legal knowledge, successful candidates will know how to look up the law, understand what it says and apply fundamental legal principles to common situations. These skills will be transferable to Welsh law.

B. Welsh language

We are engaged in ongoing dialogue with Kaplan, our assessment provider. We are exploring whether there is a proportionate, affordable and fair way of offering assessments in Welsh. We are looking at factors including the production costs and the reliability and comparability of the assessment questions, to ensure that all entrants to the solicitors' profession, whether assessed in English or Welsh, could demonstrate they had met the same high standard.

Supporting and developing a sustainable profession

A key aspect of our thinking behind the SQE is that the process of qualifying should not be a barrier to qualification for competent candidates. The SQE admission requirements are intended to remove the barrier of limited access to training contracts and to encourage the introduction of new, more flexible and more cost-effective training routes.

We believe these changes should benefit the provision of and access to legal services in Wales.

SQE and Qualifying Work Experience

Under the SQE, the traditional training contract will no longer be a prerequisite for qualification. Candidates who pass the SQE can be admitted as solicitors if they have

completed Qualifying Work Experience in legal services which enables them to develop competence in relevant skills. This could include working as a paralegal, or as an apprentice. It could also include working in a University law clinic or taking a placement in legal services as part of a sandwich degree.

This greater flexibility will benefit law firms in Wales. For example, we granted a waiver from our current training regulations to a small firm in rural mid-Wales to permit them to offer non-standard training contracts in view of their limited resources and a client base in remote rural communities. In future, a waiver application will no longer be required. Firms will be free to recruit and train potential solicitors in ways which suit their businesses.

Flexible training

We will not prescribe training courses for the SQE. Providers will instead develop a range of courses to meet different candidates' circumstances.

Future pathways to qualification which are now opening up include the following examples:

- Apprenticeships. Post-A level school leavers are already being recruited as solicitor apprentices in England. The solicitor apprenticeship lasts six years. Law firms who are involved say they are recruiting talented candidates from more diverse backgrounds. Retention rates are high.
- Greater integration of degree and work experience. For example, **Reed Smith** and the **School of Law at Queen Mary University of London** (a member of the Russell Group) already offer a four year LL.B. Law in Practice degree including an immersive, year-long placement at Reed Smith - <https://www.qmul.ac.uk/law/news/2015/items/reed-smith-and-queen-mary-university-of-london-first-in-russell-group-to-offer-degree-with-apprenticeship-in-law.html>. Under SQE, the year in practice could count as Qualifying Work Experience.
- Paralegals could study for their SQE qualifications while they were working. Their paralegal work would count as Qualifying Work Experience. **Herbert Smith Freehills** already run a similar scheme in their Belfast office. Their Respond team are permanent employees who join the office as an agile paralegal resource to help manage peaks in demand. Members of the team are eligible to apply for England and Wales training contracts, including seats in the London office -

<https://careers.herbertsmithfreehills.com/uk/belfast/alternative-legal-services/what-we-offer>

- Qualifying work experience could combine experience in pure legal work, with exposure to other parts of the business. For example, under our existing training regulations, we gave **EY Riverview** approval to include a technology services seat of up to 6 months as part of their training contract programme - <http://www.riverviewlaw.com/category/press-release/> In future, our permission for this arrangement would not be required.

In addition, our current reforms will allow solicitors greater freedom in the ways they offer legal services to the public:

- they will be able to offer non-reserved services to the public outside a regulated law firm (either through existing or new services or businesses)
- they will be able to offer a full range of legal services (including reserved legal activities) to the public without being authorised as a “firm”, if they are practising on their own as freelance solicitors.

We believe that the overall effect of our education and regulatory reforms will allow a much wider range of training and service delivery options for legal sector employees and employers. In turn, these options may benefit the public in Wales, by allowing legal service provision to be more accessible and affordable.

Data on legal apprenticeships in England and in Wales.

In September 2018, there were 133 solicitor apprentices in England. There are six other legal apprenticeship types also available, including chartered legal executive, licensed conveyancer and paralegal. However, there are currently no solicitor apprenticeships in Wales.

Summary of SQE

1. The SQE is a two-stage assessment. Stage 1 will assess functioning legal knowledge through three separate question papers. These will take the form of single best answer questions which require candidates to apply fundamental legal principle to common situations or scenarios. Stage 2 assesses practical legal skills, through simulations of practical tasks which solicitors undertake. Some of these will be written exercises (legal research, writing and drafting). Others will be oral role-plays (client interviewing, advocacy and case and matter analysis).

2. SQE 1, and SQE 2 written assessments, will be widely available through the Pearson Vue testing centres. So as to ensure standardisation, SQE 2 oral assessments will be offered in a limited number of venues in England and Wales.

3. More detail is available on our website, including our draft [Assessment Specification](#). We will be running pilots of the SQE in 2019. Sample questions will be published once the pilots have been completed.

SQE stage 1
<p>Functioning Legal Knowledge Assessments</p> <ul style="list-style-type: none"> . Principles of Professional Conduct, Public and Administrative law and the legal systems of England and Wales . Dispute Resolution in Contract or Tort . Property Law and Practice . Business Law and Practice . Wills and the Administration of Estates and Trusts . Criminal Law and Practice <p>Practical Legal Skills Assessment</p> <ul style="list-style-type: none"> . Legal Research . Writing Skills

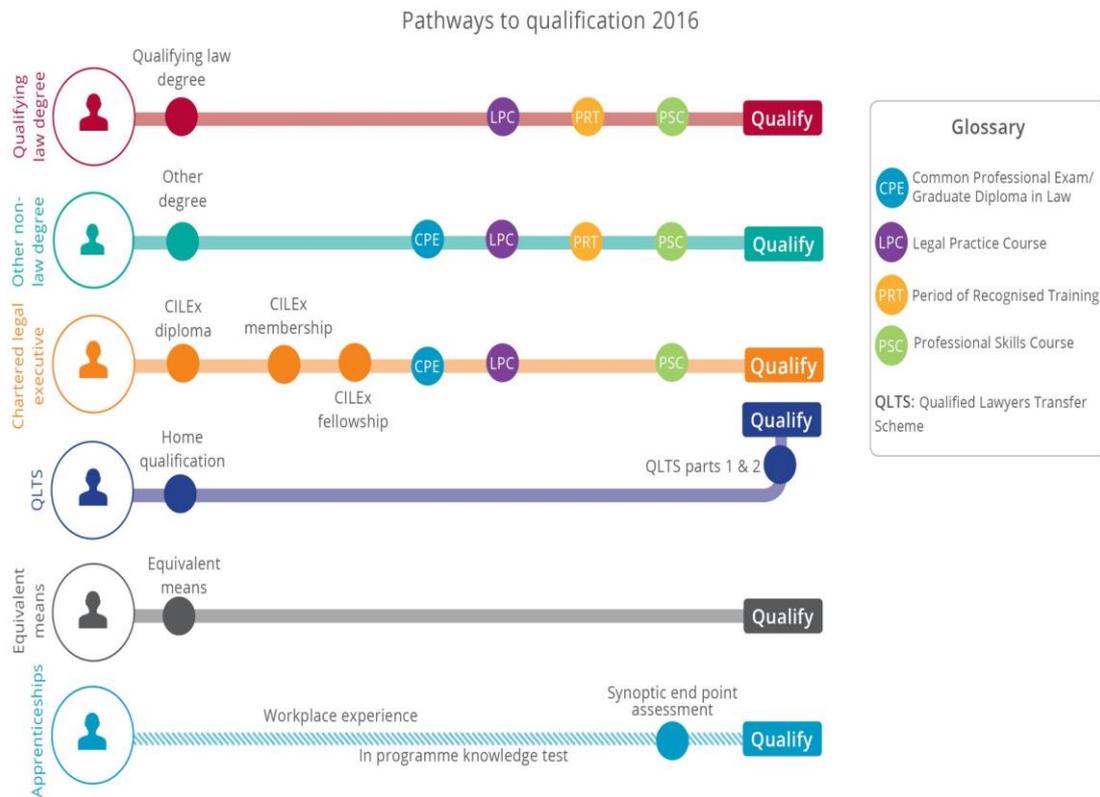
SQE stage 2
<p>Practical Legal Skills Assessments</p> <ul style="list-style-type: none"> . Client Interviewing . Advocacy/Persuasive Oral Communication . Case and Matter Analysis - including Negotiation Planning . Legal Research and Written Advice . Legal Drafting <p>Assessed in the following contexts:</p> <p>Criminal Practice; Dispute Resolution; Property; Wills and the Administration of Estates and Trusts; Commercial and Corporate Practice</p>

4. Satisfactory completion of the SQE will be one of four requirements for admission as a solicitor of England and Wales:



5. Qualifying work experience must last at least two years. Any legal services work experience which enables a candidate to develop the competences in the Statement of Solicitor Competence will count. This could include working as a paralegal; an apprenticeship; a training contract; a placement in industry as part of a 4 year sandwich degree; working in a student law clinic.
6. Candidates must have a degree, or equivalent qualification or experience. This may be a degree in any subject, or may qualify via a legal apprenticeship. Candidates will no longer need to undertake any postgraduate course, or preparatory training for the SQE, if they do not wish to.
7. The requirements for qualifying as a solicitor – a degree or apprenticeship, passing the SQE, two years' work experience (for example, as a paralegal) and meeting our character and suitability requirements – may be attained in any order.

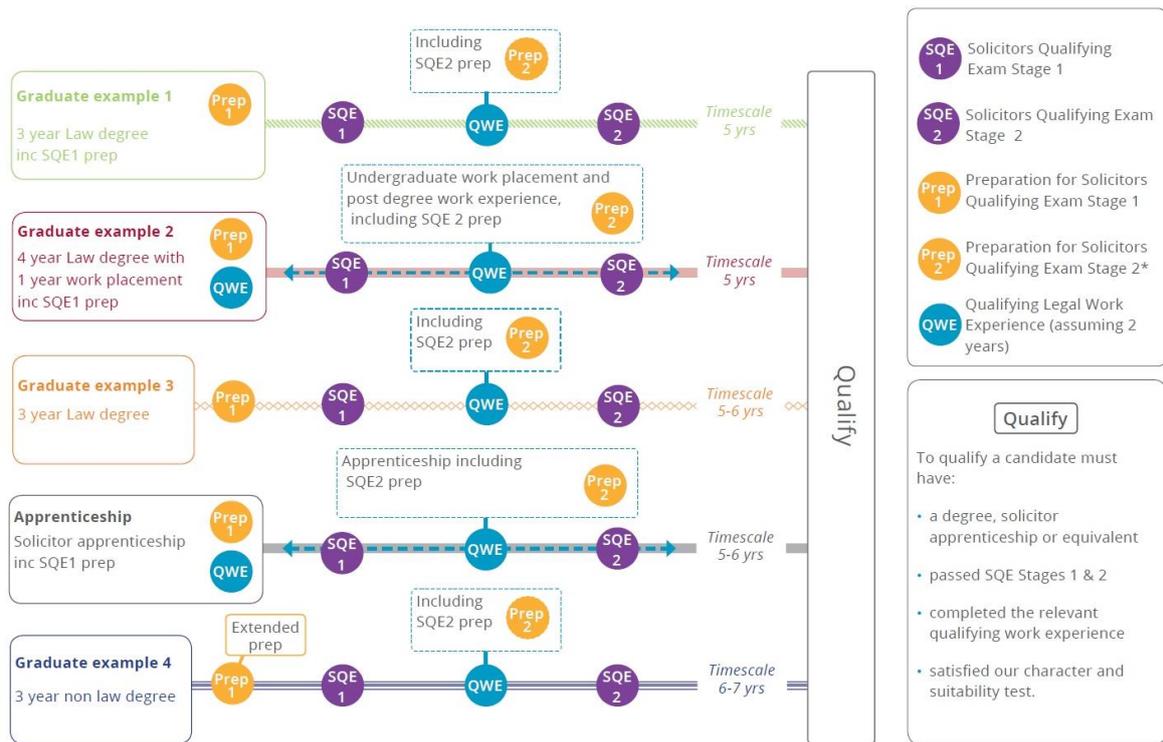
Current pathways to qualification



SQE pathways to qualification

Under the SQE, there will be wider options. See attachment 2 below.

A possible new approach to solicitor qualification



* SQE prep 2 may not always be required as work experience alone may be sufficient preparation for the SQE 2 assessments