

## Annex 3

**Analysis of our application for the approval of Regulations 1.1-4.1 of the SRA Authorisation of Individuals Regulations [20XX] against LSB guidance on regulatory arrangements for education and training issued under section 162 of the Legal Services Act 2007 (Version 1: 4 March 2014)**

**Education and training requirements focus on what an individual must know, understand and be able to do at the point of authorisation.**

We have developed the SRA Competence Statement to define what an individual must know, understand and be able to do at the point of authorisation.

The current system does not guarantee on a consistent basis that individuals meet the Competence Statement at the point of qualification:

- there is no end-point assessment against the Competence Statement
- pass rates on the LPC (which is, anyway, typically two years before the point of admission) vary significantly.

The SRA Authorisation of Individuals Regulations [20XX] will provide for the SQE to ensure consistent end-point assessment against the Competence Statement.

*Requirements may be role or activity specific, with certain universal requirements being consistent regardless of regulator. These universal requirements may focus on areas such as professional principles and ethics.*

The Competence Statement closely reflects the actual legal practice of solicitors, with a clear focus on the reserved activities. The BSB has mapped our Competence Statement against their Professional Statement (see annex seven). They match closely.

*Regulators move away from 'time served' models that focus predominantly on inputs rather than outcomes as a default position.*

Our new approach in the SRA Authorisation of Individuals Regulations [20XX] does not (with minor exceptions) contain 'time served' requirements. Applicants for admission must achieve four key outcomes:

“(a) satisfactorily pass the SQE

- (b) hold a degree or qualifications or experience which the SRA is satisfied are equivalent to a degree;
- (c) complete qualifying work experience; and
- (d) be of appropriate character and suitability to be a solicitor.”

The Regulations do include a requirement that qualifying work experience should be of two years' duration. However, time is a natural factor in work experience, for professional socialisation and acquiring hands-on experience. Assessment of *competence* is done entirely through the SQE: we do not take time-served work experience as a proxy for competence and we will not specify the training that must be undertaken in preparation for the SQE.

*Requirements exist only where needed to mitigate risks posed by the provision of a legal activity. We would therefore expect regulators to review their approach to the regulation of students. It is difficult to see how the regulatory burdens and costs involved can be justified when students are acting under the supervision of a qualified person and in many cases within a regulated entity.*

We will no longer regulate the education process. The SRA Authorisation of Individuals Regulations [20XX] move our focus onto ensuring that qualifying persons do not present a risk to consumers. We will do this through the end-point assessment. Candidates will apply to us only when they have passed the SQE and completed Qualifying Work Experience.

*Regulators act to facilitate easier movement between the professions, during training, at the point of qualification and beyond.*

We will no longer regulate pathways or impose educational restrictions that affect movement between professions. We have developed principles for recognition of the qualification and experience of other qualified lawyers, including barristers and Cilex. Anyone who has undertaken a law degree, CPE or BPTC with the intention of becoming a barrister will be able to use the learning from that course to help them prepare for the SQE if they subsequently decide to train as a solicitor. Anyone who takes an SQE-ready degree but later decides to qualify as a barrister will have met the BSB's requirements for the academic stage of training.

*Regulators review requirements regularly to ensure that education and training stays current and relevant to modern practice.*

The Competence Statement is based closely on the demands of current practice as a solicitor. We will keep the Competence Statement under review. We will also evaluate the impact of the new system of qualification.

**Providers of education and training have the flexibility to determine how to deliver training, education and experience which meets the outcomes required.**

The SRA Authorisation of Individuals Regulations [20XX] do not state training requirements, nor will these be stated within our supporting materials. Providers of training will be able to develop solutions to meet the training market's needs. Would-be solicitors will have a choice of training options to suit their circumstances.

*Approval of education and training routes is dependent on providers' ability to demonstrate how their approach enables candidates to achieve the required outcomes*

We will no longer approve pathways or providers, but only require the outcomes stated in the SRA Authorisation of Individuals Regulations [20XX]. We will contract with our appointed assessment provider who will deliver the SQE to ensure that all those who pass meet the outcomes set out in the Competence Statement.

*Regulators take care not to predetermine approval by prescribing particular routes.*

We will no longer prescribe routes to qualification.

*Multiple routes to authorisation are able to emerge, with no one route being the 'gold standard'.*

We expect that a spectrum of typical routes will become common. Individuals will be licensed by us to practise not on the basis of their pathway but on their passing the SQE. As a result, market perceptions (for example, by employers) should, over time, move away from a focus on an individual's route to qualification. All candidates will be assessed on the same consistent basis to the same standard through the SQE regardless of the route they have taken.

*Approval processes for new routes to authorisation support providers in their delivery of the required education and training outcomes and do not put in place unnecessary obstacles (for example, not requiring burdensome authorisation and reporting requirements, repeated waivers or exemptions from regulators).*

We will no longer authorise training provision.

*Regulators complement rather than duplicate existing quality assurance processes such as those undertaken by higher education institutions themselves and those carried out by the Quality Assurance Agency (QAA). We would expect all regulators to undertake a review of their existing quality assurance processes to identify where changes can be made.*

We will no longer prescribe training or authorise training providers. We will have systems in place to manage the contract with the assessment supplier and assure standards. This will not duplicate any other quality assurance systems.

**Standards are set that find the right balance between what is required at the point of authorisation and what can be fulfilled through ongoing competency requirements.**

The Competence Statement focuses on rights to practise as a solicitor. Our continuing competence requirements are based on individual circumstances, but still refer to the Competence Statement so that individuals can measure their current knowledge and skills against it, and address any issues.

*Education and training requirements should be set at the minimum level at which an individual is deemed competent for the activity or activities they are authorised to do.*

The Competence Statement is based on solicitors' practice rights and sets out the minimum requirements for safe practice.

*Requirements beyond the minimum are only in place where they can be justified by the risks. We would expect regulators to review all available evidence to determine the likelihood of the risk occurring and to monitor the impact of any requirements over time. This may lead to an ongoing review cycle with strong links to regulatory supervision functions.*

We will be testing and piloting the SQE and taking account of the feedback and evidence from that process to ensure that all our arrangements around the SQE are fit for purpose. We also plan, following introduction of the SQE, to have a five-year cycle for review of the Competence Statement. We will also evaluate the impact of the new qualification system.

*The balance between initial and ongoing requirements for education and training should be determined in accordance with the risks posed by that activity.*

The Competence Statement is based on solicitors' practice rights and sets out the minimum requirements for safe practice. Our continuing competence requirements are focused on the personal development needs of individual solicitors.

*Regulators should consider whether broad based knowledge of all areas of law needs to be a prerequisite for authorisation in all areas. For example, there may be areas where the risks allow for authorisation in a specific activity and a broad base of knowledge is not necessary.*

We license all solicitors to practise all the reserved activities. This is reflected in our Competence Statement which is generic to all solicitors and based on the underpinning legal knowledge necessary to practise as a solicitor.

*On the job training is utilised where knowledge can be obtained effectively in this way rather than requiring all knowledge to be obtained before authorisation.*

At point of qualification, we license solicitors to undertake the reserved activities. The requirements of the Competence Statement reflect this and aim to prevent risks to consumers. Ongoing development – keeping up to date, and developing specialist skills if necessary – is catered for under our continuing competence requirements.

*Continuing Professional Development (CPD) participants are required to plan, implement, evaluate and reflect annually on their training needs. A robust approach to monitoring is developed and aligned or integrated with existing supervision functions.*

This is not applicable to this application.

*Regulators are risk based in relation to reaccreditation and make a clear assessment about its use. Significant risk based requirements at the point of authorisation are likely to indicate sufficient risk to require some form of reaccreditation. However, this does not mean that wherever there is an initial requirement this must be duplicated at a later date.*

Our continuing competence requirements ensure that, once qualified, solicitors reflect on their competence and undertake appropriate development to address any development needs. Where we have evidence that a solicitor is not competent and has not complied with these requirements we will take robust regulatory action.

**Regulators successfully balance obligations for education and training between the individual and the entity both at the point of entry and ongoing.**

Individual solicitors and regulated entities have a responsibility under our Code of Conduct to ensure staff are competent. Firms are responsible for training staff and signing off that candidates have met our requirements for the period of qualifying work experience.

*Regulators move towards obtaining assurance from entities that day-to-day competency requirements are being met. This means a shift away from low risk decisions (e.g. about staff secondments) being made by regulators themselves.*

We make appropriate requirements on entities to train and supervise their staff under our Code for Conduct (and will continue to do so under the new Handbook provisions being developed through our Looking to the Future programme).

*When authorising an entity to provide reserved legal activities, regulators focus on ensuring the appropriate controls and supervision arrangements are in place to ensure the competence of all those employed to provide legal services and not only those with professional titles. For the avoidance of doubt, we do not see that a licensing regime for individual paralegals is needed in the context of entity regulation.*

This is not applicable to this application.

*The systems and processes required of entities vary depending on the business model or nature of the services provided, and to whom services are provided. For example, we would expect regulators to take account of the proportion of reserved and unreserved services being provided.*

This is not applicable to this application

**Regulators place no inappropriate direct or indirect restrictions on the numbers entering the profession.**

The SRA Authorisation of Individuals Regulations [20XX] will promote flexibility both for candidates and employers. They will remove the current system's barriers - primarily the cost of training, the 'LPC gamble' and the 'training contract bottleneck'. Currently, those barriers may restrict numbers and adversely impact on the legal services market and on the diversity of the profession.

*Regulatory arrangements promote competition and the interests of consumers through the availability of a range of qualification options.*

The SRA Authorisation of Individuals Regulations [20XX] will remove the artificial prescription of options for qualifying as a solicitor. We expect a range of training options to emerge in response to the needs of the market.

*Regulators should not impose limits on numbers entering the profession either directly or indirectly (for example by restricting places on vocational training courses to those that have successfully obtained a pupillage or training contract).*

Our proposals do not impose limits on numbers entering the profession. They are designed to promote flexibility and remove barriers.

*Any education and training requirements are sufficiently flexible to meet the needs of a developing market, enabling businesses to make decisions about who they employ.*

By focusing on point-of-qualification competence to deliver legal services, our proposals create flexibility in the markets for legal education, training and employment. Firms will have access to data on SQE pass marks which might inform their recruitment. As we will not specify detailed requirements for the period of qualifying work experience, firms will also have the flexibility to develop training for their trainees to meet the needs of their own business.