

Direction 182 under Part 3 of Schedule 4 to the Legal Services Act 2007 to the Solicitors Regulation Authority (SRA)

1. This is a direction issued pursuant to paragraph 19(3) of Schedule 4 to the Legal Services Act 2007 (the Act).
2. Unless stated otherwise, words in this direction are used as they are defined in the Act.
3. In accordance with paragraph 19(3) of Schedule 4 to the Act, the Board has directed that the following alterations by the SRA to its regulatory arrangements be treated as exempt alterations for the purposes of paragraph 19(2)(c) of Schedule 4:

Amendments to:

Schedule to the SRA SQE Assessment (Amendment) Regulations 2022

Proposed changes

4. The SRA is proposing to reflect lessons learnt from the first sitting of the SQE in November 2021. The proposed changes reflect the way the SQE Assessment Board applied the SQE Assessment Regulations in considering mitigating circumstances applications following the November 2021 sitting. The proposed changes amend the regulations with the intention of improving the clarity of the regulations for the benefit of candidates.

Regulation	Proposed change	Reason
Reg 2.2	Remove regulation: All candidates who sit the SQE assessment after 1 September 2021 are bound by these Regulations.	This regulation duplicates regulation 2.1
Reg 4.2	Amend regulation: 'SQE1 consists of two <u>assessments</u> exams, FLK1 and FLK2. Both FLK1 and FLK2 must be taken in a single assessment window. Both must be passed to pass SQE1. SQE2 consists of a single exam '	The amended regulation allows the introduction of regulation 4.3 (and 4.3.1-3) which make it clear that there are exceptions to the requirement that FLK1 and FLK2 must be taken in a single assessment window.
Reg 4.3	Add new regulation: ' <u>FLK1 and FLK2 must be taken in a single assessment window, except where the candidate:</u>	This regulation makes it clear there are mitigating circumstances where exceptions can be made to the single assessment window.
Reg 4.3.1	Add new regulation: <u>3 4.3.1 has attempted both FLK1 and FLK2 and, having passed one of these assessments and failed the other, is having a further attempt at the assessment that they failed</u> ;	This is the first of three criteria, one of which must be met, to be allowed to take the assessments over two separate assessment windows.
Reg 4.3.2	Add a new regulation: <u>has passed either FLK1 or FLK2 but failed to attempt the other assessment in a single assessment window and,</u>	This is the second of three criteria, one of which must be met, to be allowed to take the assessments

	having had a successful application for mitigating circumstances under Regulation 12 in relation to the failure to attempt, is having an attempt at that other assessment; or'	over two separate assessment windows.
Reg 4.3.3	Add a new regulation: ' has made a request for reasonable adjustments under Regulation 11 and the adjustments that have been made allow the candidate to attempt FLK1 and FLK2 in different assessment windows'	This is the third of three criteria, one of which must be met, to be allowed to take the assessments over two separate assessment windows.
Reg 4.4	Add a new regulation: SQE2 is a single assessment divided into two parts, SQE2 oral and SQE2 written, both of which must be taken in a single assessment window' .	The amendment makes it clearer that SQE2 is one assessment and both the oral and written parts must be taken in the same assessment window.
Reg 12.1.3	Amend Regulation: 'subject to the Fit to Sit Policy and these Assessment Regulations a candidate's illness or other personal circumstances beyond their reasonable control which have, or are likely to , materially and adversely affect s a candidate's marks or performance in the assessment'	The amendment adds the words "are likely to". This clarifies the scope of the SQE Assessment Board's judgment and decisions.
Reg 12.2	Amend Regulation: 'Candidates who consider that their marks or performance in any SQE assessment have been, or are likely to have been , materially and adversely affected by any of the circumstances outlined in 12.1, or who consider that their failure to attend an assessment can be attributed to any of those circumstances , may make a claim for mitigating circumstances. For the avoidance of doubt, candidates who fail to attend both FLK1 and FLK2 cannot make a claim for mitigating circumstances under this Regulation' .	Amendments to clarify that: • candidates who do not attend either FLK1 or FLK2 for reasons which can be attributed to any of the circumstances set out in Regulation 12.1 can make a claim for mitigating circumstances under Regulation 12.2 • candidates who do not attend both FLK1 and FLK2 cannot make a claim for mitigating circumstances under Regulation 12.2. These candidates should proceed instead under the cancellation provisions of the Candidate Terms and Conditions, which make allowance for withdrawal on medical evidence).

Reason for exemption direction

5. The amendments to the SRA's rules are intended to improve the clarity of the regulations for the benefit of candidates and do not reflect a change of policy. These are minor alterations with low risk of prejudice to the regulatory objectives.
6. A copy of the alterations was submitted to the Board on 12 April 2022.
7. This direction is to be deemed made on and to be effective from 22 April 2022.

For and on behalf of the Legal Services Board
22 April 2022