

Association of Law Teachers Statement on the SRA Application for Regulatory Change to education and training.

The Association of Law Teachers fully endorses the joint response submitted by the Learned Associations (SLS, SLSA, CHULS and ALT). In addition to and by way of *expansion* of the points raised in that document, the ALT would like to comment in relation to the following matters. The concerns expressed in this response focus on those aspects of the Application which relate to SQE1. It should not however be assumed that we therefore positively support other aspects of the Application.

1. Equality and Diversity Concerns
2. Impact on the Law School Curriculum and the knock-on effect on areas of practice
3. The timing and scope of the SRA's application

1. Equality and Diversity Concerns

The joint response indicates some concern regarding access to the profession as well as cost. We will not restate those concerns here save to say that in our view the introduction of the SQE as proposed is likely to increase the divisions within the profession as well as reducing access for non-traditional applicants further.

In addition, no thought appears to have been given to the fact that the SQE1 is dominated by a single method of assessment which has been shown to disadvantage certain groups of students.¹ Not only will this discriminate against those groups at the stage where they are taking the SQE1, it may also do so earlier if they are enrolled on programmes which purport to produce SQE-ready graduates (see below at 2).

2. Impact on Curriculum and Practice Areas

The ALT has significant anecdotal evidence from our members that the SQE is already having a significant prospective impact on the law school curriculum in some law schools. We are

¹ Gender and language (physical sciences): Hazel, Logan and Gallagher 2007, <https://doi.org/10.1080/0950069970190402>

Non-traditional learners (dentistry) Hay, Tan and Whaites 2010, <https://doi.org/10.1080/02602931003782525>

Fairness generally (meta-analysis of 150 studies) Rasooli, Zandi and DeLuca 2018 <https://doi.org/10.1016/j.stueduc.2017.12.008>

aware that modes of assessment are being changed, that new pathways and new degrees are being created which suggest to students that they will be 'SQE ready' on completion. In our view SQE ready degrees present the following potential problems – the extent to which these issues arise depends on the extent to which the degrees are changed and how law schools interpret 'SQE ready'.

- a) The SQE promotes a particular type of learning. Learning is driven by assessment and as such the sort of learning required to pass MCQs and other CAA questions does not foster critical thinking and deep reflection. An approach to assessment that fails to address the principle of constructive alignment (as explained in the joint response) is not fit for purpose.
- b) The SQE is anti-intellectual – it requires the learning of law and its application and does not require the ability to critique the law, think about it, evaluate it or apply any higher order thinking skills. SQE ready degrees in the truest sense therefore are unlikely to meet the demands of the QAA subject benchmark statement.
- c) The Statement of Legal Knowledge that underpins the SQE covers a very wide range of subject matter with a particular approach focussing on its application in practice. Law degrees designed to make students 'SQE ready' will have extremely limited scope for addressing other areas of law or for addressing these areas of law with the contextual and critical perspective that has always characterised a quality academic legal education. This will have a related impact on the ability of such degrees to offer a distinctive programme. At the same time the Statement of Legal Knowledge ignores areas of law which are common practice areas for High Street firms in particular. Family Law, Employment Law and specialist areas such as social welfare law and medical negligence no longer have a place. This will tend to skew the content of the degree towards those parts of the law of most significance to an economic élite and away from those areas of civil law of most significance to ordinary people. In addition some of the areas important to commercial practice may also suffer, with topics such as intellectual property, banking, insurance, international trade law and others not having a place in the curriculum.

3. The scope and timing of the application

In our view the SRA is overreaching in its regulatory objective. While it has repeatedly claimed it intends to take a more hands off approach to academic legal education than it has previously done, this is clearly not actually the case as its proposals have far reaching consequences for the academic stage of education and training. This approach has been adopted despite the Legal Education and Training Review making it clear that the academic stage of training is fit for purpose.

The SRA's legitimate regulatory objective, namely to ensure that solicitors entering the profession are fit to practise can be achieved in a way which is more focused and more obviously within its remit – that is to say that its efforts of reform should be focused on the vocational stage and should identify issues with the LPC and training contract regime and aim to solve those. The suggestions contained in the joint response as to how this may be achieved are useful.

In addition we are extremely concerned that the LSB is being asked to take a leap of faith in approving the SRA's application at this point. The SQE has not yet been fully devised, never mind tested and independently evaluated. We do not yet know how it would be administered and run or exactly what format it would take. In spite of repeated requests there has not been a full equality impact assessment of the proposals as a whole and the type of test in particular. Without this detail we simply cannot know whether the SQE can deliver what the SRA promises it can (although educational expertise and evidence would suggest it cannot). Unless and until the SQE has been properly tested and independently evaluated it would be inappropriate for the LSB to approve the SRA's application.

Association of Law Teachers

29th January 2018