

This paper will be published

Report on the second full year of the Solicitors Qualifying Examination (SQE)

Reason for paper	This paper updates the Board on the second year of the delivery of the Solicitors Qualifying Examination.
Decisions(s)	The Board is asked to: <ul style="list-style-type: none"> a) consider the second year of the SQE, b) note developments since the reporting period covered by the annual reports (paragraphs 24 to 27) c) consider the position on SQE fees for 2024/2025 (paragraphs 28 and 29) d) note future planned developments.
Previous Board and committee consideration	The Board frequently considered the SQE during its development. Representatives from Kaplan last attended a Board meeting in February 2023.
Next steps	We will hold a webinar on the SQE on 22 March 2024, after which the reports will be published in early April.

If you have any questions about this paper please contact: Aileen Armstrong, Executive Director, Strategy, Innovation and External Affairs, 07999 165496, aileen.armstrong@sra.org.uk

Report on the second full year of the Solicitors Qualifying Examination (SQE)

Summary

- 1 This paper invites the Board to consider the second year of the Solicitors Qualifying Examination (SQE). The following reports covering this period have been shared with the Board and will be published in early April: Kaplan's annual report; the annual report of the Independent Reviewer; our quality assurance report; the responses to a survey on experiences of Qualifying Work Experience (QWE); and an updated Equality Impact Assessment.
- 2 The Board is also invited to note the SQE fees for 2024/2025, which, in accordance with our contract with Kaplan, will be increased in line with inflation, with a supplementary increase for Welsh translation costs.
- 3 The paper also summarises some developments since the reporting period concluded.
- 4 Kaplan's UK and Ireland Chair, Peter Houillon, and its Director of Qualifications, Zoe Robinson, will present key aspects from Kaplan's report to the Board and take questions.

Background

- 5 The SQE has been available since November 2021. The SQE is delivered in two parts. SQE1 was delivered on two occasions in the year covered by the reports (January and July 2023). SQE2 was also delivered on two occasions during the reporting period (October 2022 and April 2023). The reports cover assessments for which results were issued during the reporting period.
- 6 The focus of this paper is on the assessments covered by the reports. However, there is also information on sittings subsequent to the reporting period: SQE1 in January 2024 and SQE2 in July and October 2023 and January 2024. This is included to provide more up to date information for the Board.
- 7 During 2022/23 more than 8,000 individuals took part in the SQE. To illustrate the scale at which take-up of the SQE is growing, almost 6,500 candidates took SQE1 in January 2024 alone, the results for which will be released to candidates shortly before the Board's meeting.
- 8 A number of solicitors have now been admitted having taken one or both parts of the SQE, including, to the end of February 2024, approximately:
 - a. 130 who qualified through the solicitor apprenticeship route

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- b. 1,900 who were already qualified as a lawyer in England and Wales or another jurisdiction
- c. 710 who qualified using the standard SQE route.

Discussion**How the assessments and candidates have performed**

- 9 Kaplan's annual report draws together materials previously presented in statistical reports published after each exam sitting. It includes analyses of how the assessments performed, on how candidates overall have performed, including with reference to their prior attainments and experience and their demographic and protected characteristics.
- 10 The analyses show the assessments have performed well. The assessments are valid and reliable, successfully differentiating between candidates who are competent and those who are not. The Independent Reviewer's report supports this conclusion. Our quality assurance report summarises the steps we take to assure ourselves the assessments are fit for purpose.
- 11 The overall pass rates for both SQE1 sittings for which results were issued during the reporting period were 54% and 56% for candidates taking SQE1 for the first time. The overall pass rates, including re-sitting candidates, were 51% and 53%.
- 12 The overall pass rates for the two SQE2 sittings for which results were released during the reporting period were 71% and 77%. The pass rates were higher for candidates taking the assessment for the first time: 72% and 80%. The pass rates were higher still for candidates who had first taken (and passed) SQE1, at 83% and 89%. The pass rates of candidates qualifying through the transitional route who were not required to take SQE1 were 69% and 60%.
- 13 The overall pass rate for SQE2 taken in October 2023 (outside of the reporting period) was lower than that previously seen. Results were issued to 642 candidates. The pass rate of candidates taking the assessment for the first time was 69%. The overall pass rate, including resitting candidates, was 64%.
- 14 October 2023 was the last time qualified lawyers who had started to qualify as solicitors through the Qualified Lawyers Transfer Scheme could take SQE2 under the transitional arrangements. These candidates did not have to pass SQE1. There were 203 candidates who took SQE2 in October 2023 in this category, and they had a pass rate of 37%. The number of such candidates and their pass rate had a significant impact on the overall pass rate. The pass rate of qualified lawyers who had taken SQE1 was 66%.

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- 15 A further 268 candidates were not qualified lawyers and had passed SQE1, in other words they were 'standard' SQE candidates. Their pass rate was 86%, which is more in line with the pass rates previously seen. Solicitor apprentices had a pass rate of 100%.
- 16 The October 2023 SQE2 outcomes illustrate how overall outcomes can vary considerably as the background of the candidate cohort changes. This highlights the need to look behind the headline results before drawing conclusions about what they are showing.
- 17 We now have a good volume of data about candidates' SQE performance and have had sufficient sittings to see some emerging trends, including that, generally:
- Candidates who have not passed SQE1, because they are qualifying under the transitional arrangements, perform less well on SQE2 than those who have passed SQE1.
 - Candidates who are not qualified lawyers perform better than those who are.
 - Candidates with higher university degree classifications perform better than those with lower degree classifications.
 - Solicitor apprentices perform well, especially in SQE2.
 - Younger candidates perform better than older ones.
 - Men perform better than women in SQE1, with the position reversed for SQE2.
 - Candidates who have declared a disability and candidates who have a reasonable adjustment perform at least as well as those without a disability and/or a reasonable adjustment.
 - The differential outcomes by ethnicity seen in the LPC are continuing on the SQE.
- 18 The reasons why outcomes in legal professional assessments vary by ethnicity are being investigated on our behalf by the University of Exeter. The first part of this commissioned research resulted in the publication in spring 2023 of a systematic literature review. The final part of the research, informed by the literature review, is aimed at understanding the extent to which the lived experience of candidates has an impact on their performance. We expect to publish the final report by the early summer.
- 19 The increased volume of SQE candidate data will enable us both to analyse outcomes at a more granular level and to undertake multivariate analyses to better understand how different candidate characteristics interact and combine in relation to performance.

CLASSIFICATION – PUBLIC**Delivery of the assessments**

- 20 During the reporting period the written assessments were taken in 63 countries. The oral assessments in SQE2 are only available in England and Wales. In October 2023, outside of the reporting period, oral assessments were available for the first time in Birmingham (in addition to Cardiff, London and Manchester). The introduction of this new assessment venue increased capacity and provided additional choice for candidates.
- 21 In the main, the delivery of the assessments went to plan. One exception occurred in the July SQE1 sitting when 53 candidates had to be rescheduled because of a failure at a test centre. Having learned lessons from previously disrupted assessments, Kaplan was quickly able to offer a rescheduled assessment to affected candidates and to provide a package of support to compensate them for additional costs and inconvenience experienced.

Marking of SQE2

- 22 While SQE1 is automated, SQE2 is marked by trained and standardised assessors. Despite a range of quality checks, an error in the marking of some of the scripts for one of the 16 SQE2 stations that occurred in the April 2023 sitting went undetected until after results had been released. Following a review, one candidate's result was changed from a fail to a pass.
- 23 The Independent Reviewer reports his confidence that the matter, once identified, was appropriately dealt with. However, he finds that there was statistical information available to Kaplan during the marking that could have prompted an investigation into the number of candidates scoring zero. He is satisfied lessons have been learned. He recommends the need for further development of Kaplan's academic team to build their technical expertise and to cement effective working between the psychometric and academic teams. We will keep progress with this under review.

SQE developments since the reporting period

- 24 January 2024's SQE1 was the first forms-based SQE1 assessment. The assessments were available over a total of ten days – five days for each of Functioning Legal Knowledge (FLK)1 and FLK2. Multiple exam papers were used, allocated randomly to candidates. Spreading the assessments over this period increased capacity, gave candidates a choice of dates and provided greater availability of test centres. A forms-based SQE1 will facilitate rescheduled assessments if these are necessary because of disruption at a test centre – something that was not required in January 2024.
- 25 Candidates' scores will be scaled for January 2024's SQE1, to make it easier to understand and compare candidates' results. The standard required to pass SQE1 will not be changed. For the first time, candidates who took SQE1 in

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January 2024 will be given a break-down of their performance by practice area. This will be particularly helpful for candidates who need to re-sit. We held a webinar (available to view on demand) at the end of February to explain scaled scoring and the presentation of results.

- 26 There has been criticism from candidates and training providers about the booking experience and concerns about the ability of candidates to progress from SQE1 in January to SQE2 in April 2024. In response, Kaplan redesigned its booking arrangements for these candidates. Candidates have been invited to tell Kaplan that they want to take April's SQE2 and their preferred test location. Kaplan will allocate a seat to candidates who passed SQE1 in January 2024 and who want to progress in this way. This will greatly streamline the booking experience for candidates. Booking for July's SQE1 and SQE2 will also be changed, to make the experience easier for candidates.
- 27 Kaplan published additional SQE1 sample questions in December. It also published additional materials to help candidates understand the standard of performance expected for SQE2.

Recommendation: the Board is asked to:

- **note developments since the reporting period covered by the annual reports.**

SQE fees for 2024/2025

- 28 The contract with Kaplan provides for an annual increase in the fees for the SQE to reflect inflation. The contractual figure to be used is that for October 2023, published in November 2023, which was 4.6%. Last year, the inflation-link increase was around 11%.
- 29 The Board will want to consider the impact on candidates of fee increases in light of wider cost-of-living pressures, although of course the actual rate of inflation going forward isn't known. CPI was 4% in January 2024, the Bank of England's current projection is for it to fall further in the coming months.

Recommendation: the Board is asked to:

- **consider the position on SQE fees for 2024/2025.**

Survey of experience of Qualifying Work Experience (QWE)

- 30 In autumn 2022 we invited candidates, firms, training providers and other interested parties to share their perceptions of both SQE and QWE after the first year of implementation. In November 2023 we conducted a second on-line survey, repeating the QWE questions.

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- 31 We received 280 responses to the survey, the majority of which were from candidates, either those who had taken, or who were preparing to take, the SQE. Most candidates who responded had undertaken all or some of their QWE.
- 32 Feedback on QWE was generally positive, with 90% of candidates who had completed some QWE saying they were satisfied or very satisfied with it. 3% were dissatisfied or very dissatisfied.
- 33 We were able to compare responses with those given to the same questions last year. The direction of travel was broadly positive, including with regard to exposure to a broad range of competences and the ease of getting QWE confirmed.

Future developments

- 34 Following a pilot in summer 2023, SQE1 will be available to take in Welsh in January 2025, meaning candidates can take the whole SQE in Welsh.
- 35 Kaplan continues to explore with Pearson Vue the options for providing spell-check functionality on the test platform for the written assessments that form part of SQE2, a matter flagged by the Independent Reviewer. The Pearson Vue test platform does not currently support this functionality.
- 36 We had planned to publish by the end of 2023 data on candidate outcomes, linked to the training provider (if any) with which they prepared for the SQE.
- 37 However, we had insufficient data at that time to be able to publish it at course level. We were concerned that publishing the data at provider level could encourage providers with multiple courses to withdraw their shorter/cheaper options in response to a concern that these would depress their average results.
- 38 It is likely (although not guaranteed) that we will have sufficient data to publish during 2024 - at least for SQE1. We are taking advantage of the delay to develop an interactive tool that will allow users to select the data combinations they view, providing a better user experience and more useful information than would have been possible at the end of last year. We are also building in more data fields on prior academic achievement to better show the 'value added' by different courses.
- 39 We are updating the material on our website on the wide range of SQE courses and materials available, using information supplied by the training providers. This shows there is a welcome range of options.
- 40 We are considering other ways by which we could provide information to help candidates identify training provision that might be suitable for them. We are

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considering, for example, the possibility of a survey of candidates on the extent to which their expectations of any course undertaken were met.

- 41 We plan to make some small changes to the assessment regulations. These will provide additional clarification about some of the rules. They will also make it easier for Kaplan to provide timely assurance about their options to candidates who have been unable to undertake an assessment because of disruption at a test centre.

Conclusion

- 42 The scaling up of the SQE during 2022/2023 has been a success. The assessments performed well and were generally safely delivered. The number of candidates is likely to increase further. Indications are that we are prepared for this.
- 43 Kaplan has responded to feedback to improve the candidate experience, as set out in the annual report.
- 44 The training market is evolving, providing a range of choices for candidates.

Recommendations: the Board is asked to:

- **consider the second year of the SQE**
- **note future planned developments.**

Supporting information

Links to the Corporate Strategy and/or Business Plan and impact on strategic and mid-tier risks

- 45 The SQE was introduced to make sure all solicitors were assessed against the same high standard before being admitted to the profession, in line with our strategic priority to set and maintain high standards for the profession.

How the issues support the regulatory objectives and best regulatory practice

- 46 When we introduced the SQE we removed unnecessary regulatory barriers to qualification and placed our regulatory focus on making sure solicitors had demonstrated their competence before they qualified, rather than on prescribing the education and training route they had to follow.

Public/Consumer impact

- 47 The SQE provides an assurance to the public that all newly qualified solicitors have demonstrated their competence to practise.

What engagement approach has been used to inform the work and what further communication and engagement is needed?

- 48 The survey reported on in the paper enabled us to capture the perceptions of key stakeholders on QWE after the second year of implementation.

What equality and diversity considerations relate to this issue?

- 49 The troubling gap in attainment between candidates of different ethnicities that was seen in the legacy qualification arrangements has been found in the early cohorts to take the SQE. The results, so far, do not flag concerns with regard to the relative performance of males and females or the relative performance of candidates with or without a disability. We will continue to review the performance of candidates and their demographic characteristics and seek to understand whether we can learn from the findings of the research we have commissioned from the University of Exeter of differential outcomes.
- 50 The updated Equality Impact Assessment provides fuller information on the factors we have considered and the evidence we have gathered to provide assurance that the SQE is fair and accessible.

How the work will be evaluated

- 51 The QWE survey is an early part of a ten-year evaluation programme. The evaluation framework has been published and will include a range of evaluative activities including further stakeholder surveys. We will commission an

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independent evaluation of a number of aspects of the reforms later this year, in line with our evaluation framework.