

**SRA BOARD**  
19 March 2024

**CLASSIFICATION – PUBLIC**



*This paper will be published*

**Requirements on qualified lawyers seeking admission as a solicitor in England and Wales: post-consultation recommendations**

<p><b>Reason for paper</b></p>	<p>This paper sets out our recommendations following two recent consultations on:</p> <ul style="list-style-type: none"> <li>• exemptions from the Solicitors Qualification Examination (SQE) for qualified lawyers; and</li> <li>• the way we gain assurance of the English or Welsh language proficiency of qualified lawyers who receive an exemption from SQE2.</li> </ul>
<p><b>Decisions(s)</b></p>	<p>The Board is asked to note the two consultation response documents (annexes 1 and 2).</p> <p>The Board is asked to agree:</p> <ol style="list-style-type: none"> <li>a) that we proceed, subject to approval from the Legal Services Board (LSB), with all the proposed changes in the language proficiency consultation, except for the proposal to remove our current two-year expiry of language certificates.(full details in paragraph 12 below).</li> <li>b) that we change, subject to approval from the LSB, our regulations to accept a <a href="#">Secure English Language Test (SELT)</a> certificate, or the equivalent for those wishing to demonstrate proficiency in Welsh, that is no more than three, rather than no more than two years' old (paragraph 13 below).</li> <li>c) that we proceed, subject to approval from the LSB, with the proposed rule change in the consultation on SQE exemptions, which would mean qualified lawyers can no longer receive an exemption from parts of the SQE they have previously attempted and failed (paragraph 15).</li> <li>d) to approve the proposed changes to the Authorisation of Individual Regulations and the Principles for Qualified lawyers in annex 3, which combines</li> </ol>

**SRA BOARD**  
19 March 2024



**CLASSIFICATION – PUBLIC**

	proposed changes for both consultations (paragraph 15).
<b>Previous Board and committee consideration</b>	As part of a workshop item at its meeting on 16 October 2023, the Board discussed what we should do when a qualified lawyer has taken and failed a component of the SQE and then applies for an exemption from that assessment. During the same item, the Board also considered how we should check a qualified lawyer's language proficiency when they have been exempted from SQE2. The Board's feedback and discussion informed the development of both consultations.
<b>Next steps</b>	Subject to Board approval of the recommendations, we plan to: <ul style="list-style-type: none"> <li>• publish the consultation response documents (annexes 1 and 2) in April</li> <li>• submit an application to the LSB for approval of the proposed changes. We will aim to implement the changes in the summer, no earlier than 1 June 2024</li> <li>• If the policies are implemented, we will conduct a communications campaign to alert all stakeholders, including qualified lawyers, to the changes.</li> </ul>

**If you have any questions about this paper please contact: Aileen Armstrong, Executive Director – Strategy, Innovation and External Affairs, [aileen.armstrong@sra.org.uk](mailto:aileen.armstrong@sra.org.uk)**

**SRA BOARD**

19 March 2024

**CLASSIFICATION – PUBLIC**



**Requirements on qualified lawyers seeking admission as a solicitor in England and Wales: post-consultation recommendations**

**Summary**

- 1 This paper sets out recommendations following two consultations we ran between December 2023 and January 2024 on requirements for qualified lawyers seeking admission as a solicitor in England and Wales. One consultation put forward several proposed changes to how we assure English or Welsh language proficiency for qualified lawyers when they receive an exemption from SQE2.
- 2 The other consultation proposed a rule change that would prevent qualified lawyers from being granted an exemption from parts of the SQE that they have previously attempted and failed.

**Background**

- 3 The consultation on English/Welsh language proficiency put forward proposals to:
  - seek evidence of English/Welsh language proficiency at the point of admission, rather than on application for a first practising certificate.
  - no longer accept as evidence the award of any degree taught in English/Welsh, unless that degree was also the qualified lawyer's professional legal qualification.
  - accept as evidence of English/Welsh language proficiency a professional legal qualification which has been used to seek exemption from SQE2, where that qualification was assessed in English/Welsh.
  - accept as evidence of English language proficiency a score of at least 7.5 in an International English Language Testing System (IELTS) or a score at an equivalent level in an alternative SELT for English, or the equivalent in Welsh. We did not propose to specify when the test must have been taken. Instead, we proposed only to accept such test certificates when the body that provided the test believes them to be valid at the time the qualified lawyer presents it to us as evidence of their English/Welsh language proficiency.
- 4 We received 20 responses to this consultation. At the time of our consultation, we published an equality impact assessment. No respondents raised new equality considerations which were not explored in the original consultation document.

**SRA BOARD**  
19 March 2024



**CLASSIFICATION – PUBLIC**

- 5 In parallel to this consultation, we ran a consultation on a proposed rule change that would prevent qualified lawyers from being granted an exemption from parts of the SQE that they have previously failed. We proposed this change because if someone fails an SQE assessment, there is clear evidence that they have not met the necessary standards and competences required for that assessment or, therefore, for admission. We received six responses to this consultation.
- 6 Alongside both consultations, we published combined draft rules changes to implement the policy proposals (annex 3). There were no suggestions in the responses to either consultation to improve the drafting of the regulations.

## **Discussion**

*Changes to how the English or Welsh language proficiency of qualified lawyers is assured*

- 7 Having considered the responses to our consultation on English/Welsh language proficiency, we recommend that we proceed, subject to approval from the LSB, with all the proposed changes in the consultation, except for the proposal to remove our current two-year expiry of language certificates. For an analysis of the responses to individual proposals and questions, see the annexed consultation response document (annex 1).
- 8 In the consultation, we sought views on a proposal to remove our requirement that SELT certificates must have been issued within two years of the date they are submitted for admission. We noted at the time that some SELT providers (including IELTS) validate certificates for two years anyway. Rather than imposing our own limit of two years, we proposed to accept test certificates that test providers consider to be valid at the time it is submitted.
- 9 After analysing the responses to the consultation and gathering more evidence, we do not recommend proceeding with this proposal. Although the evidence is not conclusive, there is some research which suggests second language ability declines exponentially after three years, if the language is not used. Because we are not in a position to know how much a person continues to learn and use English after taking a test, we believe it remains necessary to impose an expiry date for language certificates. Given the evidence, on balance, we believe we should take assurance about language proficiency from certificates that were issued no more than three years previously. This would strike the right balance between our need for such assurance and the potential burden on candidates of having to re-test.
- 10 Should we extend the expiry date to three years, this would mean that we would accept certificates with a validation limit of two years for an additional year. It would also mean that candidates with a certificate from a provider that

**SRA BOARD**

19 March 2024

**CLASSIFICATION – PUBLIC**

does not put an expiry date on a certificate would need to ensure that the test certificate was issued within three years of their admission.

**Recommendation: the Board is asked to agree that, subject to approval from the LSB, we proceed with the proposed regulatory changes to:**

- **undertake the English/Welsh language proficiency check of qualified lawyers at the point of admission instead of at the point of application for a first practising certificate.**
- **accept as evidence of English/Welsh language proficiency the qualification as a lawyer which has been used to seek exemption from SQE2, where that qualification was assessed in English.**
- **no longer accept as evidence the award of any degree taught in English/Welsh, unless that degree was also the qualified lawyer's professional legal qualification.**
- **change the standard required for English language tests from CEFR level C2 to IELTS 7.5 or an equivalent in an alternative SELT.**
- **allow qualified lawyers to take a SELT with any provider on the Government's list of approved SELT providers that provides a test that enables a candidate to achieve a standard equivalent to or above an IELTS score of 7.5.**
- **For those who wish to demonstrate their language proficiency in Welsh, the alternative SELT standard is Uwch (advanced).**

**Recommendation: the Board is asked to agree that, subject to approval from the LSB, we change our regulations to extend the validity period of a SELT certificate put forward by a qualified lawyer as evidence of English language proficiency, provided it is achieved within three, rather than two, years of the date it is submitted.**

*Changes to the rules on SQE exemptions for qualified lawyers*

- 11 Qualified lawyers can apply for exemptions from parts of the SQE if they wish to qualify as solicitors in England and Wales. We will grant an exemption if we are satisfied that an individual's qualifications and/or experience are not substantially different in content and standard to the SQE.
- 12 Under our current exemptions policy, qualified lawyers can attempt and fail a component of the SQE and subsequently apply for, and be granted, an exemption from that assessment. Our policy does not allow us to take into

## SRA BOARD

19 March 2024

### CLASSIFICATION – PUBLIC



account the evidence that they have previously failed the assessment when considering their exemption application.

- 13 In our consultation on SQE exemptions, we proposed a rule change that would amend our regulations and exemptions policy so that we could take this evidence into account. It would mean that qualified lawyers could no longer receive exemptions from components of the SQE they have previously attempted and failed. Instead, they would have to resit and pass the part of the SQE they have failed in order to qualify as a solicitor in England and Wales.
- 14 We received six responses to this consultation, and most agreed with our proposed rule change. For a more detailed analysis of the responses to individual questions, see the annexed consultation response document (annex 2).
- 15 After considering the responses to this consultation, we recommend that we proceed with the proposed rule change. The majority of respondents agreed with our rationale that if someone fails an SQE assessment, they have demonstrated that they have not met the required standards and competences needed to pass the assessment and they should not, therefore, receive an exemption from that assessment.

**Recommendation: the Board is asked to agree that, subject to approval from the LSB, we proceed with the proposed regulatory change to prevent qualified lawyers from being granted an exemption from parts of the SQE that they have previously attempted and failed.**

**Recommendation: the Board is asked to approve the proposed changes to the Authorisation of Individual Regulations and the Principles for Qualified lawyers in annex 3 (which combines proposed changes for both consultations).**

**SRA BOARD**

19 March 2024

**CLASSIFICATION – PUBLIC****Supporting information****Links to the Corporate Strategy and/or Business Plan**

- 16 These proposals will contribute to priority one in our Corporate Strategy ('We will deliver high professional standards'). The proposed rule change for SQE exemptions will promote high professional standards by requiring qualified lawyers who have failed the SQE to demonstrate their competence by retaking and passing the assessment. The proposed changes to the way we gain assurance of language proficiency will also contribute to this priority as setting high standards at the point of admission is critical to achieving high professional standards.

**How the issues support the regulatory objectives and best regulatory practice**

- 17 In relation to our Regulatory Objectives, these proposals will protect the public interest and promote the interests of consumers. The rule change for SQE exemptions will help to ensure solicitors' competence when they qualify. If a qualified lawyer attempts and fails a component of the SQE, they will need to demonstrate that they have the required skills and competence to qualify in England and Wales by retaking and passing the assessment. Our proposed changes to the way we gain assurance of language proficiency will promote the interests of consumers by helping to ensure that solicitors working in England and Wales have sufficient knowledge of the English or Welsh language.
- 18 In relation to the Better Regulation Principles, the proposed rule change for SQE exemptions would be a targeted and proportionate means of ensuring solicitors' competence. It would only directly impact qualified lawyers when we have evidence that they have not met the standards of the SQE. They would still be able to demonstrate their competence by retaking and passing the assessment. The proposed changes to the way we gain assurance of language proficiency is in keeping with the Better Regulation principle of being proportionate, as the changes ensure that our requirements are not overly demanding or restrictive.

**Public/Consumer impact**

- 19 The proposed rule change for SQE exemptions will protect the interests of consumers and clients by helping to ensure that those who qualify as solicitors are competent.
- 20 The proposed changes to the way we gain assurance of language proficiency will protect the public interest and promote the interests of consumers by ensuring all solicitors are sufficiently proficient in English or Welsh.

**SRA BOARD**

19 March 2024

**CLASSIFICATION – PUBLIC****What engagement approach has been used to inform the work and what further communication and engagement is needed**

- 21 We promoted both consultations through a range of communication channels, including through SQE Update. We also engaged with various stakeholders during the consultations, such as The Law Society.
- 22 Should the Board agree the final policy positions, we will develop a communications strategy to communicate the changes more generally with the profession, and with qualified lawyers in particular.

**What equality and diversity considerations relate to this issue?**

- 23 For the consultation on language proficiency, we carried out an impact assessment prior to the consultation. No new equality impacts were raised by respondents that we had not already considered in the consultation document.
- 24 Following the consultation closing, exemptions, we updated our original impact assessment using extra data to assess whether this rule change is more likely to affect qualified lawyers with protected characteristics. This rule change would apply to all qualified lawyers, regardless of jurisdiction, and would not directly discriminate against any protected characteristic. Although it would apply equally to both SQE1 and SQE2, it would mainly affect those who have taken and failed SQE2 since we have only approved one exemption for SQE1 so far.
- 25 However, while this rule change would not directly discriminate against any groups with protected characteristics, our data on SQE2 suggests that it could indirectly disadvantage qualified lawyers with certain protected characteristics. The data shows that SQE2 pass rates for qualified lawyers are generally lower for those who are male, in older age brackets or from a Black/Black British background or 'other' ethnic group. As a result, there is a risk that qualified lawyers from these groups will be more affected by this rule change. If this risk materialises, this rule change would still be a necessary and justified means of protecting clients and the public. It is in the public interest to require a qualified lawyer to pass the SQE when we have evidence which raises a concern about their competence. An updated equality impact assessment can be found at the end of the consultation response document (annex 2).

**How the work will be evaluated**

- 26 If we proceed with the changes relating to language proficiency, we will evaluate any changes two years after their implementation to understand if there have been any unintended consequences arising from them that need to be reviewed again.



**SRA BOARD**

19 March 2024

**CLASSIFICATION – PUBLIC**



27 If we proceed with the changes to SQE exemptions, we will evaluate the proposed rule change two years after its implementation by using our data to see if any qualified lawyers are still attempting components of the SQE they are eligible for an exemption from. If they are, then we may consider increasing our communications around this rule change to alert qualified lawyers to it.

**Annexes**

- |                |   |
|----------------|---|
| <b>Annex 1</b> | <b>Changes to how the English or Welsh language proficiency of qualified lawyers is assured: consultation response document</b> |
| <b>Annex 2</b> | <b>Changes to the rules on SQE exemptions: consultation response document</b>   |
| <b>Annex 3</b> | <b>Combined rule changes and amendments to the Principles for Qualified Lawyers</b>   |

*NB: the annexes to this paper will be published as part of the consultation response in April 2024.*