

## Red Tape Initiative - Phase 3: Changes to the SRA's education and training regulations

### Consultation questionnaire form

This form is designed to be completed electronically—in MS Word. Please save it locally before and after completing it.

#### Question 1

Do you foresee any impacts of our proposal?

No, we do not foresee any impacts on your proposal 1.

## **Question 2**

Do you agree with the proposal that we no longer require a check on character and suitability as a requirement to sit the assessment, provided that we retain the check at admission and we provide an opportunity to candidates to seek an early assessment if they wish?

We agree with the proposal that it is no longer necessary to require a check on character and suitability as a requirement to sit the QLTS assessment, on the basis the SRA retains the check before admission and if the SRA provides an opportunity to candidates to seek an early assessment if they wish. It seems an unnecessary duplication of time and effort and unnecessary expenditure for candidates.

### **Question 3**

Do you agree that in order to achieve parity between European candidates and International candidates we should on rely on the QLTS assessment as a means of ensuring that an appropriate level of English language skills has been achieved?

The crucial issue is to retain the requirement for a sufficient command of the English language as much as parity with European candidates. The SRA has rightly defined it to mean a level of competence sufficient to take accurate instructions and give clear and accurate advice, to understand and to be understood, to draft legal documents and exercise rights of audience. If English language skills are not to be tested by achieving an IELTS score of 7.5 in each of the skills of listening, reading, writing and speaking in a separate assessment, then it is crucial that it is tested within the QLTS itself. We agree that it is capable of being tested in the QLTS assessments, but only subject to the following.

If the test of English language skills forms part of the QLTS itself, the assessors would need to be trained to make the necessary judgments on a candidate's command of English and this would require a different skill to the skills they currently need to carry out the QLTS assessments. This is not mentioned as an additional requirement that the SRA intends to put in place, but we consider that it is necessary given that it would become the only check on English language skills.

If a sufficient command of English becomes part of the QLTS assessment, will it be possible to fail the QLTS or part of it, solely on those grounds? The SRA is not explicit on this point but it has to be a natural consequence of making the language requirement part of the QLTS.

## Question 4

Do you agree that we should remove the five year restriction on completing the entire suite of QLTS assessments?

The consultation states that by removing the period of five years (for validity of the Certificate of Eligibility), there is no rationale for retaining a restriction on the number of attempts a candidate may have. It is one thing to decide to abolish the requirement for an early Certificate of Eligibility but it is quite another to abolish the number of attempts at taking the QLTS within a defined period. The two things are totally separate and address totally different aims. The aim of limiting the number of attempts at the QLTS is to do with maintaining standards.

Candidates must complete the whole of the LPC within a period of five years from their first assessment. After five years if they have still not completed the LPC they must apply to the SRA for a dispensation to continue (usually granted we understand, on the grounds of health or similar circumstances but not competence). In addition, they may only attempt the LPC a maximum of three times. If they fail a stage 1 assessment three times, then they have to re-enrol and start again. There is therefore a recognition in the domestic route that if a candidate cannot pass after a number of attempts and in a defined period of time, they should not be allowed to qualify. Similarly, it must surely be the case that a candidate who has to have more than three attempts at taking the QLTS in a five year period should probably not be admitted as a solicitor on the grounds of lack of competence.

However, potentially, there is one difference between taking the QLTS and the domestic route to qualification in that an overseas lawyer intending to take the QLTS is likely to be in legal practice or otherwise a legal adviser and may find the constraint of a five year period difficult because of his or her busy practice, especially as the preparation for the QLTS is time consuming. We would therefore suggest that it is an unnecessary constraint to insist on the five year period, provided that if that restriction is removed, the limit on the number of attempts at the QLTS is retained as set out in consultation question 5 below.

## **Question 5**

Do you agree that we should no longer restrict applicants to a maximum of three assessment attempts?

No, we do not agree that the SRA should no longer restrict applicants to a maximum of three assessment attempts on the grounds that it provides a necessary check on standards of competence as outlined in our response to consultation question 4 above. Restriction exist in the domestic route as noted above. Therefore there is logic in maintaining a limit in relation to the QLTS also.

The consultation does not address the question of what happens if an applicant fails one paper but passes the other. We suggest that if that happens three times, then the applicant must retake the whole test again and pass the QLTS in its entirety at the next attempt. This would introduce parity with the domestic route to qualification.

## **Question 6**

Are there adverse impacts or risks to the public interest in removing these requirements that we have not identified?

By removing restrictions on the number of attempts at the QLTS the SRA does not appear to have addressed the issue that the restrictions are a good safeguard of levels of competence. The question also to be asked is if a client knew his or her solicitor had failed the QLTS more than three times would he or she have confidence that his or her solicitor was providing competent legal services.

Any issue going to competence and for that matter, confidence in the profession is a matter of adverse impact and risk to the public interest.

## Question 7

Do you foresee any impacts, positive or negative from the proposal to remove the requirement to undertake MCS1?

On the question of removing the requirement for solicitors to undertake Management Course Stage 1 (MCS1), we are not convinced by the justification on the grounds of cost alone and this should not be the driver for its removal. Nor are we convinced on the grounds that many solicitors say they do not desire to pursue a management position – all senior solicitors have a management role in some way.

However, we do agree with the proposal that it should be abolished provided that it does not imply that the profession does not need management skills training. Management skills are an essential part of a solicitor's life, especially with advancing seniority. There would most certainly be negative impacts if nothing was done to require the development of these skills. We know that the SRA does consider that management skills are an important part of the suite of skills that solicitors should possess and therefore we assume that skills in management issues will be built into the new approach to continuing professional development and be included in the Toolkit being published next Spring to be clear that it is an integral part of the competencies of solicitors.

Thank you for completing the **Consultation questionnaire form**.

Please save a copy of the completed form.

Please return it, along with your completed **About you form**, as an email attachment to [trainingconsultations@sra.org.uk](mailto:trainingconsultations@sra.org.uk), by **17 November 2014**.

Alternatively, print the completed form and submit it by post, along with a printed copy of your **About you form**, to

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