

SRA BOARD**CLASSIFICATION – PUBLIC****SOLICITORS REGULATION AUTHORITY
Minutes of the SRA Board meeting
held on 2 June 2020 at 10.30 by Microsoft Teams**

Subject to final approval by the SRA Board at its meeting on 22 June 2020

Present: Anna Bradley (Chair)
David Heath (for items 1 to 4)
Peter Higson
Paul Loft
Barry Matthews
Geoff Nicholas
Dame Denise Platt
Selina Ullah
Elaine Williams
Tony Williams
David Willis

In attendance: Paul Philip, Robert Loughlin, Jane Malcolm, Juliet Oliver, Liz Rosser, Tracy Vegro, Julie Brannan, Chris Handford, Dominic Tambling

1 WELCOME AND APOLOGIES

1.1 The Chair welcomed Board members to the meeting. There were no apologies.

2 MINUTES OF PREVIOUS MEETING ON 11 MAY 2020

2.1 The minutes of the meeting held on 11 May 2020 were approved as a true and accurate record. There were no matters arising.

3 COMMITTEE CHAIR REPORTS

3.1 The Board was asked to consider written updates from the Chair of the Finance and Audit Committee (FAC), which had met on 12 May 2020, and the Chair of the People Strategy Committee (PSC), which had met on 27 May 2020.

3.2 The Board noted the reports and that these were the final meetings of these committees in this form. The new Audit and Risk and Remuneration Committees, which have been put in place as part of the move to establishing the SRA as a distinct legal entity, would be holding their first meetings in June. The committee Chairs noted that a number of issues which had been the responsibilities of FAC and PSC would now be the primary responsibility of the Executive which would report on them to the Board.

3.3 The Chair thanked David Wills and Dame Denise Platt, as the longstanding chairs of FAC and PSC respectively, for their leadership and for work over an extended period of time, including on the transitions to the new committees. In turn the

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committee Chairs thanked all of the members of their committees with whom they had worked with over a number of years.

NB: the paper relating to this item will not be published as it relates to issues that are commercially sensitive.

4 SRA NET FUNDING REQUIREMENT 2020/21

- 4.1 The Board was asked to consider the SRA net funding requirement (NFR) for 2020/21 to inform the setting of the 2020/21 practising certificate fee
- 4.2 The Board noted the key movements between current budget and 2020/21 NFR and some minor adjustments which had been made since the paper was circulated.
- 4.3 Board members commented on the possible implications of the Covid-19 pandemic legal sector as well as the wider economy. The Board also noted the impact which any potential drop in the numbers of holders of practising certificates might have on the overall NFR, which contributes to the funding of several organisations including Legal Services Board, the Legal Ombudsman, the Solicitors Disciplinary Tribunal and the permitted purposes work of the Law Society.
- 4.4 The Board noted that the SRA NFR would form part of a consultation issued by TLS on the overall funding requirement for the Law Society Group as well as an SRA consultation on the 2020/21 business plan.
- 4.5 The Board approved the SRA net funding requirement for 2020/21 to inform the setting of the 2020/21 practising certificate fee.

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5 IMPLEMENTING THE SOLICITORS QUALIFYING EXAMINATION (SQE)

- 5.1 The Board was asked to agree the final SQE design and methodology, looking at the SQE as a whole across SQE1 and SQE2, ahead of an anticipated final application to the Legal Services Board in July.
- 5.2 The Chair noted that this was likely to be the penultimate discussion which the Board would have in relation to this significant piece of work. There were three key decisions to make - on the assessment of skills in SQE1, whether to use a uniform assessment model in SQE2 and on the phased introduction of the SQE in Welsh. The Board would then also need to take an overall decision on whether to give the go ahead for an application for the approval of the SQE to be made to the Legal Services Board (LSB) in July.

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- 5.3 Board members were reminded that the decisions which it was being asked to take should be made against the four criteria of being valid, reliable, manageable and cost effective and supported the two objectives of:
- delivering greater assurance of consistent, high standards at the point of admission
 - encouraging the development of new and diverse pathways to qualification.

SQE1 skills

- 5.4 The Board noted that the SQE1 pilot had included an assessment of candidates' legal research and writing skills. Careful consideration of the outcome indicated that assessing skills at this point was not reliable or valid, and that it was preferable to assess skills at SQE 2. For these reasons, and in the context of further analysis set out in paragraph 54 of the paper for this item, the Board agreed that we should not include a skills assessment in SQE 1

Uniform or optional design

- 5.5 Board members were reminded that when we consulted on SQE in 2016 we proposed an assessment design which gave candidates the opportunity to choose two out of the five legal contexts within which to be assessed. Kaplan had, however, been concerned about whether a consistent standard could be achieved in SQE2 if candidates had a choice of contexts and we therefore used the SQE2 pilot to test whether we could standardise an optional model.
- 5.6 Following the pilot, Kaplan (the assessment supplier), the SQE Independent Reviewer and the SQE External Psychometrician identified three areas of risk inherent in both optional models tested. They therefore recommended that a uniform exam was the most valid and reliable assessment design for what is a single entry point into the solicitors profession, ensuring public protection
- 5.7 The recommendation to the Board was therefore that we should adopt a uniform model because:
- a) It is aligned with the skills needed for the wide-ranging practice rights that solicitors acquire on admission, recognising that these may not be wholly generic and may vary between practice areas
 - b) It is demonstrably fair to all candidates
 - c) It meets our objective for the SQE of a consistent assessment of the high professional standards needed for practice as a solicitor, reflected in our Threshold Standard
 - d) It supports our criteria of being valid, reliable, cost effective and manageable.
- 5.8 Board members had a discussion about the complex factors involved and the decision went to a vote. Most Board members supported the recommendation in the light of the expert views that a uniform assessment was the best way forward. It was also noted that many professionals were trained in areas that they did not use in practice, so this was not a novel approach. They also noted that reliability

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and validity were key to the SQE and that the advice was that his could only be achieved through the uniform approach. Some Board members supported the recommendation while expressing disappointment that it had not proved possible to design an assessment that offered candidates optionality.

- 5.9 Two Board members of the ten members present were, however, not supportive of the recommendation. Geoff Nicholas voted against, including because he saw a uniform assessment as a retrograde step in that it tested candidates skills in contexts in which many of them would never practice, having already demonstrated their legal knowledge across all relevant areas of practice as part of SQE 1. He also drew attention to the fact that the agreed purpose of the SQE was to provide greater, rather than absolute, assurance of consistent high standards at the point of entry into the profession, something he felt could be demonstrated through a skills assessment undertaken by reference to the candidates chosen contexts. Barry Matthews felt that the requirements were disproportionate and created a potential barrier to entry for individuals from low income backgrounds, so he too voted against the proposal.
- 5.12 The Board agreed by a majority of eight to two that SQE2 should take the form of a uniform assessment model, in which all candidates take the same skills assessments set in five areas of practice.

SQE in Welsh

- 5.13 The Board was reminded that it had discussed SQE in Welsh in September 2019 and had agreed to undertake a feasibility study and seek stakeholder views on an emerging position.
- 5.14 A number of meetings had since been held with key Welsh stakeholders such as the Welsh Government and the Welsh Language Commissioner. We had also written to all six Welsh universities who teach law degrees and/or the Legal Practice Course to ask about their Welsh language provision.
- 5.15 The delivery of services in Welsh is one of the Welsh Government's key priorities. Its strategy – Cymraeg 2050 – aims to achieve one million Welsh language speakers in Wales by 2050, by promoting and facilitating the use of the Welsh language. At the end of October the Welsh Justice Commission published its report *Justice in Wales for the People of Wales* at the end of October. It recommended that: "Professional legal education for those wishing to practise in Wales must be available in the Welsh language with the phased introduction of the availability of all professional examinations in Welsh".
- 5.16 The Welsh stakeholders we had spoken to were all very clear that they would wish to see full parity of approach between English and Welsh on the SQE. Pragmatically, they accepted a phased introduction (in line with the recommendations of the Welsh Justice Commission), on the basis of a clear timetable leading to full parity.

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- 5.17 The Board noted that we were not currently subject to a legal requirement to offer SQE in Welsh. However, the Welsh Parliament was currently consulting on bringing the health regulators and others into the Welsh Language Measure and we anticipate that when Parliamentary time can be found, we would also be put under such a requirement.
- 5.18 The Board agreed unanimously that there should be a phased introduction of SQE in Welsh leading to full English/Welsh parity by year four of the SQE as follows:
- Phase 1: 2021 (from start of SQE). Candidate can provide their *responses* to written assessments in Welsh
 - Phase 2: 2022/3 (in second year of SQE). Candidates can provide their *responses* to SQE2 oral and written assessments in Welsh
 - Phase 3: 2023/4 (third year of SQE). Questions for oral and written skills assessments will be translated into Welsh, and candidates can respond in Welsh. This means complete parity for SQE2.
 - Phase 4: 2024/5 (fourth year of SQE). Introduce translation of FLK questions. Full parity achieved for both SQE1 and SQE2 within 4 years after introduction of SQE
- 5.19 Board members noted that the introduction of SQE in Welsh would have an impact on costs for all candidates and that in order to minimise the impact on those candidates on low incomes we should continue to look at ways to ensure that the SQE was as accessible as possible.

LSB application

- 5.20 Following these decisions the Chair asked Board members if they were happy for an application for approval of the SQE to be made in July. A vote was taken and all Board members with the exception of Barry Matthews, who abstained because he had not supported the uniform assessment at SQE 2, agreed that the application should be made.
- 5.21 The Chair thanked Board members for their commitment and rigorous approach to what was a landmark piece of work for the SRA that had taken some years to come to fruition. She also thanked the Director of Education and Training, Julie Brannan, and her team for all of the work they had put into achieving this.

6 SOLICITORS QUALIFYING EXAMINATION REGULATIONS

- 6.1 The Board was asked to make regulations and amendments to regulations necessary for the introduction of the Solicitors Qualifying Examination (SQE) following the decisions made under item 5 of the agenda.
- 6.2 The Board noted the responses to a consultation held earlier in the year on proposals to make minor changes to the Principles for Qualified Lawyers. These principles set out the basis on which we would admit qualified lawyers as solicitors of England and Wales.

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- 6.3 Board members discussed whether the changes which had been proposed could conflict with any agreements on mutual recognition of legal qualifications which might be made as part of any agreement with the European Union. It was noted that the mutual recognition agreement which was currently in place allowed for regulators to make adjustments where it was adjudged that gaps in the necessary knowledge and expertise existed but if the position changed with any new agreement then these Regulations might need to be revisited.
- 6.4 On this basis the Board made the minor amendments to paragraphs 1, 6, 7, 8 and 9 and the addition of new paragraph 11 in the Principles for Qualified Lawyers.
- 6.5 The Board was also asked to consider the Assessment Regulations which would need to be approved by the LSB as part of our final SQE application. Within the Assessment Regulations, the awarding rules specified the requirements which candidates must meet in order to pass the SQE assessments. They also included the usual provisions for mitigating circumstances, the fit to sit requirement, reasonable adjustments, appeals and candidate malpractice and improper conduct. It was noted that these were standard academic provisions in line with similar provisions for the Qualified Lawyers Assessment Scheme and the Legal Practice Course.
- 6.6 The Board made the draft SQE Assessment Regulations subject to two points of clarification relating to membership of the Assessment Board and the status of observers attending it.
- 6.7 The Board also made the SRA Authorisation of Individuals Regulations Commencement Order [2020] at, bringing them into force on 1 September 2021. This would enable us to run the first live SQE1 assessment in autumn 2021 and the first live SQE2 assessment in spring 2022.

7 REVIEW OF MEETING AND ANY OTHER BUSINESS

- 7.1 There was no other business. The next meeting would be held on 22 June 2020 at 10.00.