

**Bridge  
Group**  
research  
action  
equality

# **SQE: monitoring and maximising diversity**

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# Introduction

1. As the Solicitors Regulation Authority (SRA) builds towards the introduction of the Solicitors Qualifying Examination (SQE) in 2021, now is a critical time to undertake a refreshed assessment of the implications for diversity - considering the additional data and stakeholder views now available.
2. This update, in line with the earlier report, is neither a review of whether the proposed SQE reforms should proceed, nor a full equality and diversity impact assessment. Our reflections here are designed to inform the latter, which is being covered by the wider consultation process being led by the Regulator.
3. To inform this report, which builds on our 2017 submission, we have drawn on the latest evidence relating to diversity and inclusion in the legal sector (including various primary Bridge Group research on this topic), studied the latest policy and communications documents (including the website) on SQE, and undertaken further interviews with:
  - a) a range of relevant colleagues at the SRA;
  - b) the Law Society;
  - c) the Junior Lawyers Division;
  - d) Kaplan; and
  - e) Geoff Coombe, independent reviewer for the SQE.
4. Information about the Bridge Group is available in the appendix.

# The Bridge Group's 2017 report on the SQE

5. Our earlier report<sup>1</sup> to the SRA was informed by the study of various SQE and related policy documents, and interviews with a representative sample of 25 employers and training providers. In this section, we reflect briefly on the findings in that paper, since much of the commentary that follows builds on these themes.
6. This earlier report outlined the various factors contributing to the lack of diversity amongst solicitors (and where challenges are most acute). While recognising that the introduction of the SQE cannot address all of these challenges that affect diversity, we concluded that it could help. We advised that the SQE:
  - a) can help the sector to understand better the causes of, and potential solutions to, the lack of diversity, due to the greater standardisation and transparency the SQE affords;
  - b) has the potential to increase the range and choice of legal training, while maintaining high standards; and
  - c) may drive down costs for trainees through competitive pressures in the market.
7. However, we also made clear in the report that these positive outcomes are likely to be realised only if the introduction of the SQE is coupled with a wide range of associated actions.
8. We identified the risk that greater choice of training, whilst of itself a good thing, could make the training market more difficult for students to navigate. We emphasised the need for effective information, advice and guidance; and indicated that if data from the SQE is collected and analysed effectively, it will allow closer monitoring of the performance and progression of particular groups. The report also highlighted the role for employers and education and training providers to take advantage of better information and new freedoms to promote greater diversity in recruitment.
9. We recommended that the SRA ensure that a toolkit of resources is accessible, robust and includes material to enable students from all backgrounds to navigate the increasingly complex range of qualification routes. Additionally, we advised that continued close and frequent liaison with employers, to establish and

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<sup>1</sup> [www.sra.org.uk/globalassets/documents/sra/research/monitoring-maximising-diversity.pdf?version=4a1ace](http://www.sra.org.uk/globalassets/documents/sra/research/monitoring-maximising-diversity.pdf?version=4a1ace)

preserve their confidence in the rigour and relevance of the SQE, was critical.

10. Amongst the other recommendations was the strong steer that the SRA adopt a more robust approach to the collection and analysis of data, throughout the implementation process and beyond – to enable review and impact evaluation, and to take informed decisions regarding the ongoing development of the SQE.
11. We consider here both the extent to which these recommendations, and others in the report, are addressed in the latest plans for SQE introduction; and discuss new considerations that have emerged since our engagement in 2017.

## An updated review for 2020

12. In the sections that follow we consider the additional information now available to update our commentary on diversity and inclusion with respect to the introduction of the SQE.

## Collection, analysis and publication of data and evidence

13. At the heart of the report in 2017 was a recommendation to place emphasis on the gathering and analysis of accurate data, throughout the implementation process and beyond – to provide robust information to prospective students, to enable the SRA (and stakeholders) to review and evaluate equality and diversity impact, and to take informed decisions regarding the further development of the SQE.
14. The introduction of the SQE has the powerful potential to introduce greater transparency through the datasets that a standardised examination will generate. If collated and analysed effectively, this will generate dependable and comparable evidence (not available in the current fragmented system), to support all stakeholders to better understand, and to take evidence-informed action to advance, equality and diversity in the system.
15. There is a welcome commitment in the latest SQE EDI Assessment to “...monitor performance by protected characteristics in the SQE on an ongoing basis and ... report on the profile of SQE candidates and newly qualified solicitors by protected characteristic and socio-economic background.” Alongside the monitoring of protected characteristics,<sup>2</sup> we strongly advise the continued additional inclusion of socio-economic background in the characteristics monitored in relation to access, performance and SQE outcomes. The SRA should be specific about which indicators will be collected, drawing on the guidance in our earlier report and the measures outlined in Appendix A (which accounts for our research undertaken in 2018 in partnership with the Cabinet Office).<sup>3</sup>
16. It will be critical that data collection approaches are consistent across the assessment stage (i.e. the data collected by Kaplan by SQE entrants), the data collection managed by the SRA through mySRA,<sup>4</sup> and the SRA's biennial firm

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<sup>2</sup> [www.equalityhumanrights.com/en/equality-act/protected-characteristics](http://www.equalityhumanrights.com/en/equality-act/protected-characteristics)

<sup>3</sup> [www.gov.uk/government/publications/socio-economic-background/socio-economic-background-seb](http://www.gov.uk/government/publications/socio-economic-background/socio-economic-background-seb)

<sup>4</sup> Solicitors and other regulated individuals have an account on mySRA where they can provide diversity data which the SRA can use on an anonymous basis for analysis

diversity survey.<sup>5</sup> Ideally, of course, data from the former would routinely map over to the latter.

17. The SRA has an increasingly important leadership role to play in advising legal employers on how to collate this data, and encouraging solicitors to share confidentially their diversity details. There is also a role for the SRA to play in encouraging employers to apply analysis to their own data, to understand equality and diversity in relation to access, progression and pay within their own organisation.
18. The SRA has committed to a long-term evaluation of the SQE. Plans are in place for: an initial evaluation after two years; a full evaluation after 5-7 years; and a further full evaluation after 7-10 years. This is additional to the routine data collation and analysis to take place at the end of each SQE examination cycle.
19. The Regulator has additionally committed to publish interim findings of this overarching ten-year evaluation within the first two years after implementation, exploring (among other things) differential performance of candidates against all protected characteristics and socio-economic background.
20. It will be important in all of this analysis not only to assess the relationship between each characteristic and access to (and performance in) the SQE, but to consider carefully their relative effects using statistical techniques including multiple regression. This will help inform a more granular approach to understanding the factors contributing to differential participation rates and performance, and how these vary by group.
21. We are reassured by the approach to data collection and analysis in the SQE1 and SQE2 pilot studies, considering the specific metrics collated and the way in which the relationship between these and performance has been scrutinised. We recognise some stakeholders' challenges around sample size, but also appreciate that large samples in such studies are typically impractical – see, for example the experiences of the General Medical Council in reforming the General Practitioner Licensing Examination.<sup>6</sup>
22. We encourage the SRA to prioritise sharing with key stakeholders how this research will be planned and undertaken as a matter of urgency. We also encourage the SRA to be explicit in confirming for stakeholders that this is a discrete piece of research that will help inform, but that is additional to, the long-term evaluation planned.
23. In all analyses where sample sizes permit, we strongly recommend the disaggregation of the conflated BAME group (e.g. separating Black, Asian,

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<sup>5</sup> [Law firms are required to collect and publish diversity data](#) in relation to their workforce every other year and report this to the SRA. The [firm diversity data](#) from this exercise is published on the SRA's website

<sup>6</sup> [https://www.gmc-uk.org/-/media/documents/06\\_\\_\\_National\\_Licensing\\_Examination.pdf\\_57876215.pdf](https://www.gmc-uk.org/-/media/documents/06___National_Licensing_Examination.pdf_57876215.pdf)

Mixed/Other and White candidates) to enable more meaningful assessment, and to inform future practices.

24. More broadly, the SRA has yet to widely disseminate the timeline for the overarching evaluation work. It is necessary, but not sufficient, to include this in the EDI assessment: these plans should be made more clearly available and actively disseminated.
25. Additionally, we understand that the SRA is planning a phased approach starting in Autumn 2020 (contingent on formal approval through the Legal Services Board) that will involve the commissioning of an external consultant to support development of a logic model evaluation framework. This should again be a matter of significant urgency, to provide assurance to stakeholders and to ensure that evaluation is embedded in the SQE from inception.
26. Considering the full suite of evaluation it would further build confidence if, within the EDI Assessment and beyond, the SRA is as specific as possible about the remit and range of the evaluation analysis that will be applied to the available data, and publish as much of the timeframe as possible – alongside how these findings will be shared. We advise sharing an example, which should be informed by the practical advice detailed in our earlier report (see pp29-31).
27. The SRA should also make reference in the EDI Assessment to the potential, in the longer term as the dataset builds, for more sophisticated relationships in the data to be explored by stakeholders. Crucially, the data collated from a standardised examination will enable more advanced and nuanced analysis, compared to the more fragmented data available in the current system.
28. These types of analyses would be enabled by SQE, through the enhanced collection, availability, dependability and connectivity of the data; though we do not envisage the SRA undertaking such research themselves. The growing and detailed data resource should help inform policy and practice, and we expect analyses such as:
  - a) the relationship between performance in the SQE and the type/form of QWE;
  - b) the relationship between performance in the SQE and graduate career destinations; and
  - c) the relationship between performance in the SQE and longitudinal performance and progression in the profession.
29. We have also discussed with stakeholders and the SRA the pursuit of a model similar to the development of the UK Medical Education Database.<sup>7</sup> This provides a platform for collating data on the performance of UK medical students and

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<sup>7</sup> <https://www.ukmed.ac.uk>

trainee doctors across their education and future career. It is the first time that undergraduate and postgraduate data has been brought together in this way. Whilst recognising the important difference in the regulatory relationship (and the larger number of law schools compared to medical schools), we encourage the SRA to explore the options for a legal education equivalent of UKMED, convening key stakeholders from across the sector.

30. There has been some concern expressed by stakeholders about the extent of analysis made available through the pilot evaluations, in particular with SQE1. Kaplan responded to this concern by publishing a more detailed psychometric and statistical analysis.<sup>8</sup> Wherever feasible with all future evaluation, we encourage SRA to share anonymised raw data.
31. However, we appreciate the need to balance this with the fact that evaluations of this type are primarily beneficial for exploring specific issues of examination design and logistical testing. The extent to which pilot examinations can affirm or challenge the relevance of the overarching methodology of examination is more limited. In that context, we are reassured that the SRA, with encouragement from the independent reviewer, have looked to parallel professional contexts and psychometrics, including analysis of more than 16,000 Qualified Lawyers Transfer Scheme (QLTS) candidate attempts spread across 19 MCQ and 18 legal skills assessments.
32. It is essential that the SRA explain more clearly the relevance and application of these additional considerations, rather than focussing exclusively on the pilot process. Clarifying these additional considerations should have the effect of offering reassurance to key stakeholder groups. Sharing evidence and confirmations from the independent reviewer is likely to offer additional reassurance for stakeholders.

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<sup>8</sup> <https://kaplan.co.uk/about/solicitors-qualifying-examination>

# Fair assessment and differential performance

33. We are clearly interested in the findings in the SQE1 pilot that White candidates generally perform better than BAME candidates in assessment of Functioning Legal Knowledge (FLK) - and particularly in the skills assessment aspect of the SQE.
34. One of the fundamental principles of the SQE is that it is “fair”. The findings relating to differential performance by ethnic group give rise to the risk that the fairness of the SQE could be contested. Differential performance by socio-economic background, if found, would run the same risk.
35. The EDI Assessment understandably notes that differential performance by ethnic group is not unique to the SQE: differential performance in assessment by different protected characteristics and by socio-economic background is a wider challenge in higher education<sup>9</sup> and in other professional examinations including medicine,<sup>10</sup> pharmacy<sup>11</sup> and architecture.<sup>12</sup>
36. Through the legally mandated submission of Access and Participation Plans, many higher education providers in England are required to set targets and take action to address such attainment gaps.<sup>13</sup> The SRA needs to demonstrate too that it is pro-actively addressing them. We commend the SRA’s decision to undertake more analysis and to embed an understanding of the factors contributing to differential performance by ethnic group. The analysis should ensure it contains:
  - a) a larger sample size (which will become evident as SQE progresses) considering statistical significance generally, but to also enable the disaggregation of the homogenised ‘BAME’ group to understand whether different ethnic groups are affected more or less than others (as found in

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<sup>9</sup> [Universities UK: Closing the Gap; https://www.officeforstudents.org.uk/advice-and-guidance/promoting-equal-opportunities/](https://www.officeforstudents.org.uk/advice-and-guidance/promoting-equal-opportunities/)

<sup>10</sup> “Ethnicity and academic performance in UK trained doctors and medical students: systematic review and meta-analysis” (<https://www.bmj.com/content/342/bmj.d901>): “Ethnic differences in academic performance are widespread across different medical schools, different types of exam, and in undergraduates and postgraduates. They have persisted for many years and cannot be dismissed as atypical or local problems. We need to recognise this as an issue that probably affects all of UK medical and higher education. More detailed information to track the problem as well as further research into its causes is required.”

<sup>11</sup> ([https://www.pharmacyregulation.org/sites/default/files/2017-09-07\\_-\\_17.09.c.02a\\_june\\_2017\\_performance\\_breakdown\\_by\\_characteristic.pdf](https://www.pharmacyregulation.org/sites/default/files/2017-09-07_-_17.09.c.02a_june_2017_performance_breakdown_by_characteristic.pdf)- see p.3

<sup>12</sup> RIBA (Education Statistics 2017-18) (<https://www.architecture.com/-/media/GatherContent/Education-Statistics/Additional-Documents/Education-Statistics-2017-18.pdf>)

<sup>13</sup> <https://www.officeforstudents.org.uk/advice-and-guidance/promoting-equal-opportunities/access-and-participation-plans/>

comparable studies);<sup>14</sup>

- b) collection and analysis of indicators relating to prior academic performance, age and socio-economic background (since these factors are as likely as ethnic group to influence performance, they may underpin differential performance by BAME and Russell Group graduates and are important in their own right). This may also be helpful in building evidence of the relative predictive validity of academic performance and SQE performance in relation to performance in the profession; and
  - c) qualitative research to understand better the factors contributing to the data findings, and the possibly different 'lived experience' of candidates from minority ethnic backgrounds completing the assessment.
37. The obligations in the contract with Kaplan, requiring an approach to equality, diversity and inclusion that is at least equivalent to that taken by the SRA, is essential. However, we advise including more detail here specifically on what that means and how the SRA will transparently monitor and update this. Wherever feasible, we encourage the SRA to publish policy and procedure to ensure consistency of application, as well as provide reassurance to key stakeholders. It will be important firstly that both parties are clear on both of these matters, and also that prospective and current students, training providers, and employers have confidence in this.
38. For example, policies on reasonable adjustments should be published urgently by the SRA, alongside the strategy for the collection, analysis and publication of diversity data. Furthermore, the SRA are exploring the best options for assessor training, which is likely to initially involve unconscious bias training; this should then be extended to other forms of training that complement and build on this approach. Once investigations into the best approaches have been finalised (prior to the first SQE2 assessments taking place with live marking in April 2022) they should be shared for consultation.
39. We remain satisfied that single best answer tests (SBA), conditional on enough care and attention being paid to question setting and cultural context, are as objective an evaluation methodology as possible (i.e. less subject to differential performance by background, and examiner bias). SBA tests have been identified as an accurate means of assessing higher levels of knowledge such as decision making, data interpretation and problem solving. SBA tests also have a clear advantage over a typical true/false multiple-choice examination, with SBA questions making it explicit that although more than one option may have

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<sup>14</sup> See for example: [www.gmc-uk.org/education/standards-guidance-and-curricula/projects/differential-attainment](http://www.gmc-uk.org/education/standards-guidance-and-curricula/projects/differential-attainment) and [www.universitiesuk.ac.uk/policy-and-analysis/reports/Documents/2019/bame-student-attainment-uk-universities-closing-the-gap.pdf](http://www.universitiesuk.ac.uk/policy-and-analysis/reports/Documents/2019/bame-student-attainment-uk-universities-closing-the-gap.pdf)

validity, there is a single option that is superior. Extensive research into assessment for the medical profession<sup>15</sup> has demonstrated the advantage of SBA.

40. This learning from other professional sectors is encouraged. Sharing evidence and confirmations from the independent reviewer are also likely to offer additional reassurance for stakeholders - in particular building on the independent reviewer's expertise in evaluation methodologies.

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<sup>15</sup> Tan, LT; McAleer, JJ (2008). "The introduction of single best answer questions as a test of knowledge in the final examination for the fellowship of the Royal College of Radiologists in Clinical Oncology". *Clin Oncol (R Coll Radiol)*. **20**: 571–6. [doi:10.1016/j.clon.2008.05.010](https://doi.org/10.1016/j.clon.2008.05.010)

## Monitoring the market

41. A critical aspect of the 2017 report was our acknowledgement that introduction of the SQE is highly likely to introduce an increasingly market-led approach - thereby increasing the number and range of training providers, the variety of routes to qualification, and the flexibility within these routes.
42. This greater degree of choice is instinctively positive for diversity, since greater flexibility will increase accessibility to qualification on the basis of, for example, affordability and life stage. The SQE is highly likely to generate more flexible and accessible routes to qualification, combined with a consistently applied assessment.
43. However, echoing our assessment in 2017, there is also a significant risk that this will mean that qualification routes are harder to understand and evaluate, especially for prospective candidates with more limited access to good advice and personal contacts. The creation of more options, and a more flexible overall framework for qualification, therefore demands a corresponding focus on providing timely, transparent and dependable information that is equally available to all. This is discussed in more detail in the later section.
44. As the SRA notes in the latest EDI Assessment, these risks should be considered relative to the current system, in which most aspirant solicitors have to pursue a uniform pathway to qualification that typically requires access to significant financial credit (to undertake the LPC), with no certainty about the value of this investment. We highlighted in our earlier report that there persist only a handful of professions in the UK that are built on a system of qualification in which candidates are precluded to the same extent by financial means, or by their willingness to engage in high levels of borrowing at significant personal risk. (We consider costs more specifically below.)
45. The SQE has the powerful potential to level the playing field for candidates – assessing them in a standardised and comparable way, regardless of entry route and prior access to opportunities.
46. However, as we have heard from stakeholders in this study and as noted in our earlier report, some legal employers may continue to use the conventional pathways through which they have recruited high performing candidates for many years. If leading law firms continue to recruit directly from a limited pool of highly selective universities, with little focus on relative SQE performance, this is likely to dilute the positive impact on diversity that could be realised by these reforms.

47. Some stakeholders are concerned that there will be a prejudice against candidates who have taken certain pathways: for example, a perception that those who gained their qualifying work experience as a paralegal or working in a legal advice centre may not have reached the same standard of competence, compared to those who had followed a more traditional training contract route.<sup>16</sup> It is important to address this prejudice, particularly since candidates gaining qualifying work experience in this way are more likely to come from less advantaged groups.
48. The reality is that the market is not yet fully formed. It may be slow to develop, though it is positive to observe that (at the point of this report's submission) 34 providers have confirmed that they will provide SQE training. In the context of Covid-19, the university sector is likely to respond cautiously to pressure to reform legal programmes significantly. As this market unfolds, it will be critical for the SRA to be candid with the legal and education sectors about its scope of influence, where it can appropriately intervene, and where it cannot. Ultimately the SRA needs to be clearer with all stakeholders about the scope of its regulatory role.
49. The SRA has a responsibility to monitor, analyse and contextualise any emerging effects on diversity and inclusion, and then to take action within the scope of its regulatory powers to maximise any positive effects. This demands, as referenced in the EDI Assessment, continuous and deep engagement with the profession to explain the potential benefits of the new system, and evaluating the market impact of the changes both in the short term and over the longer term.
50. The SRA needs to define this latter commitment much more clearly, outlining more specific actions to build confidence across the sector and to anticipate questions that will arise. It would be helpful, for example, for the SRA to be explicit about the actions that will help to stimulate a diverse market of providers.
51. More generally, we observe assertions in the current EDI Assessment, especially in relation to 'the market', that cannot yet be fully evidenced. This is an expected consequence of the market still being in the development stage<sup>17</sup>. It is important that the SRA continue to monitor, collate and disseminate robust and compelling evidence, as the market develops, to support the expectation that a range of SQE-inclusive law degrees will emerge, and the expectation that there will be more choices involving online provision.

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<sup>16</sup> Letter to SRA from Paul Tennant, CEO The Law Society of England and Wales, and Amy Clowrey, Chair, Junior Lawyers Division of England and Wales, 5 September 2019 (Annex paragraph 33)

<sup>17</sup> Early indications are positive, with 23 organisations confirming plans to provide SQE1 Support, 11 confirming plans to offer SQE2 support, 15 universities making plans to introduce SQE1 inclusive law degrees, and a further four planning to offer additional, optional top-up modules. It is also the case that a small number of private providers plan to offer SQE1 and/or SQE2 training, with a further 20 private providers considering SQE1 training, and 22 considering SQE2 training.

## Information, advice and guidance

52. We reiterate a point from our earlier report relating to the responsibilities of the SRA in introducing the SQE: working alongside employers and training providers, the SRA has a responsibility to ensure not only that there are diverse routes to qualification, but also that all candidates can navigate them.
53. It is not appropriate for the SRA to deliver personalised advice and guidance relating to training providers and routes, but it does share a responsibility with training providers and employers to ensure that timely, relevant and accessible information is available.
54. As the regulatory body, independent of any individual training provider or employer, the SRA is uniquely placed to be accurate and transparent about the SQE assessment and the process of qualification, and to ensure that independent and objective data about performance, price, process and diversity underpin the wider ecology of information.
55. We are aware that the SRA have launched a Facebook based resource aimed at the 16+ age group. But the SRA should also proactively share this information with schools' outreach programmes, universities, employers and the wider community of independent student advisors. Although it is not the explicit responsibility of the SRA to provide advice and guidance, they are well placed to encourage candidates to ask of providers the sort of pertinent questions that will elicit the information they need to make an informed and appropriate decision.
56. The EDI assessment references a 'toolkit' of resources, which appears mainly to build on the existing website and the higher level of wider communications work. We welcome the additions to the toolkit of resources, tailored to the needs of different stakeholder groups, explaining the new routes to qualification. The SRA commitment to clearly define and target stakeholder groups and make sure materials are inclusive is especially welcome.
57. The existing, interdependent relationships between training providers and legal employers will become increasingly important in the context of diverse routes to qualification, since training providers will play a key role in helping employers to understand clearly their individual, wider range of student pathways. It will be essential that any developed materials (by the SRA, training providers or employers, online and/or in hard copy), detail the purpose and process of the SQE, ensuring students are equipped to ask the right questions in engaging with training providers, and are appropriately signposted towards further information, including about financial aid.

## SQE2 assessment: uniform assessment

58. SQE Stage 2 will assess candidates' legal skills through practical examinations and assessments; all applicants sit these assessments, regardless of existing qualifications. All candidates will sit the full range of modules.
59. We support this decision for a uniform assessment, given that the potentially beneficial impacts on diversity of this approach outweigh those associated with optional assessment. However, this is conditional on there being policies in place amongst training providers to mitigate some of the additional training costs.
60. The SRA has rightly acknowledged that candidates with protected characteristics may be disproportionately represented in some specialist areas (mirrored in diversity within particular areas of legal practice),<sup>18</sup> and that having optionality may make it harder to be confident that they are being assessed fairly. This disproportionate representation was found in the SQE2 pilot and has been reported in detail in the published SQE2 pilot report.
61. Reflecting on the disproportionate representation of some groups within some areas of law, the uniform assessment approach offers an important opportunity to counteract the effects of some candidates 'selecting out' of areas that are perceived to be aligned with particular demographic characteristics. Bridge Group research shows this career self-sorting to be a systemic challenge in many professions, including law, and is a significant factor contributing to differential pay, progression and attrition.<sup>19</sup>

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<sup>18</sup> [www.sra.org.uk/solicitors/resources/diversity-toolkit/law-firm-diversity-tool/](http://www.sra.org.uk/solicitors/resources/diversity-toolkit/law-firm-diversity-tool/)

<sup>19</sup> [www.thebridgegroup.org.uk/research](http://www.thebridgegroup.org.uk/research)

## Qualifying work experience

62. In the current system, access to work experience is challenging both in relation to access (many candidates are unable to secure it); and in terms of standards (since there is no standardisation in the way that it is signed off).
63. All candidates will need to complete at least two-years' full-time (or equivalent) qualifying work experience (QWE) to qualify. It is important to reassert the SRA's role in relation to QWE: a professional conduct duty on firms and solicitors the SRA regulates not to take unfair advantage of their employees, including anyone doing QWE.
64. Related to this, it is important to ensure that all parties fully understand that solicitors (or compliance officers) sign off candidates' qualifying work experience, not whether a candidate is competent to practice; it is for the SQE to assess competence. This context is critical for stakeholders to understand the scope of the SRA's influence on the accessibility (including the affordability) of QWE, and to moderate concerns about 'lowering standards' by recognising poor quality work experience.
65. It is clear that the SRA have carefully considered whether a requirement should be in place for QWE to be completed prior to SQE2. Without any such restriction on when SQE2 can be taken, firms may require SQE1 and SQE2 before offering QWE, with a consequential increase in training costs which may deter those from lower socio-economic backgrounds from qualifying. However, if a restriction were put in place, this could result in candidates being in limbo between completing QWE and taking SQE2. We encourage the SRA to continue to monitor the variety of approaches taken in the sector regarding this issue of timing, and to review their position as necessary. If it does become the case that firms are requiring SQE1 and SQE2 prior to offering QWE, the SRA may well need to reconsider their position.
66. The flexibility of QWE will provide opportunities for firms to provide work experience in circumstances where – because of their size, resources, or niche areas of law - they might currently not be able to provide a period of recognised training.
67. Stakeholders have highlighted challenges associated with candidates' securing QWE in the context of the effects of Covid-19, and with particular reference to lockdown and the associated restrictions that are expected to continue for many months. While the impact of Covid-19 should not be underestimated, overall we do not anticipate these impacts warrant rethinking the proposed arrangements – nor should they delay the current implementation plan. We anticipate that the

increased breadth of QWE opportunities that will be available as a result of introducing the SQE will mitigate some of the effects of the pandemic.

68. We acknowledge that the pandemic is likely to reduce individuals' ability to obtain any form of work experience, irrespective of the assessment process. However, the breadth of opportunity for QWE under SQE will be greater than that available under the existing system. Although the pandemic will reduce the ability for individuals to identify, secure and benefit from work experience, the impact is likely to be lower under SQE than under the existing system. Therefore, the introduction of the SQE offers an opportunity to address some of the anticipated negative effects of the pandemic on recruitment to the legal sector, and on diversity and inclusion.

## Reasonable adjustments

69. We are reassured that the SRA has considered effective practices in relation to reasonable adjustment. We note that effective practices are underpinned by the requirement in the contract with Kaplan that each SQE assessment centre is compliant with all applicable equalities' legislation. We would expect this requirement to be routinely in place, since it is a standard legal requirement. We do not believe that any additional independent oversight or additional regulation of this is necessary.
70. However, to build confidence and anticipate further questions, the SRA must link to and promote the Kaplan policies and practices for reasonable adjustment; and detail the process for students applying for adjustments. Once again, the principle of greater specificity to stakeholder confidence applies here. It is necessary but not sufficient to have policies and procedures in place, and to act on them; it is also essential to make them easily accessible and open to scrutiny from stakeholders. This provides an opportunity for critique and challenge, with the dual effect of demonstrating transparency and rigour, as well as acknowledging the potential for incremental improvements over time.
71. Concerns have been raised, in particular with reference to candidates with disabilities, regarding travel to centres (in particular the costs involved) and the potential impact of the specific evaluation method. We understand that the SRA continues to engage with representative disability groups and is actively exploring how best to mitigate any adverse implication of the move to SQE. This does not mean that the SRA (and Kaplan) must outline an exhaustive range of specific mitigations and adjustments that will be made, but rather make clear the commitment to engage promptly, consistently and fairly with relevant candidates on a case by case basis. We strongly encourage the SRA to: continue its liaison and engagement with key groups, fully articulating any concerns these groups raise; clearly and succinctly explain the legal duties and the policies that are in place; and provide a detailed timeline for the publication of any policies that are not currently in the public domain – and with reference to the sharing of Kaplan's reasonable adjustment policy in August.
72. We are reassured that the SRA Independent Reviewer is well placed to identify any further reasonable adjustments that need to be in place and hold the SRA to account on these. We encourage the SRA to redouble its efforts to ensure that it (and/or Kaplan): develops appropriate and thorough policies and practices; publishes information about these policies and practices; and considers and evaluates the support for candidates with a disability on an ongoing basis.
73. While we observe that some stakeholders may still have concerns relating to reasonable adjustments for candidates with a disability, we are reassured that

there is movement in the right direction. This includes a commitment to publish further guidance on reasonable adjustment on the SRA website in mid-July. This movement must continue if the SRA is to offer candidates with a disability the clarity, certainty and reassurance necessary.

## Cost

74. We have already noted the SRA's expectation that the SQE will result in a reduction in the cost of training. The SRA expects that courses and training products will emerge at a range of price points, with competitive pressures driving down costs and lowering the financial barrier for trainees. While this feels instinctively right, and while the market is still developing, only limited evidence currently exists to substantiate this.
75. An especially positive development is the confirmation from the Institute for Apprenticeships and Technical Education that graduates can join an apprenticeship programme to complete QWE and SQE. In this case, the cost of their training and assessment (on a *pro rata* basis) is recoverable through the apprenticeship levy. It is also encouraging that where a candidate requires SQE training over and above a law degree and their QWE, early market indications (such as the Barbri course), suggest that training costs could be substantially lower than the LPC, in the region of £7,000.<sup>20</sup>
76. It will be critical to monitor and analyse pricing as it becomes available, and to be explicit and objective about how the new market pricing compares to the current pricing.
77. The commitment in the EDI Assessment to publish SQE results by training provider is welcome, since it may well have the effect of encouraging training providers to offer high quality courses at competitive prices. However, this information needs to be carefully contextualised, and there are market risks that need careful consideration. For example, higher SQE performance for a particular training provider may encourage them to increase price; and correspondingly lower performance might encourage other providers to lower prices in an effort to boost recruitment.
78. In the EDI Assessment, the SRA recognises that student loan funding and Disabled Students Allowances are not currently available for the cost of the SQE assessment itself, nor for the cost of private courses that a candidate may choose to take.
79. We are aware that there is government funding for degree courses that incorporate SQE training, and that, to date, fifteen Institutions have committed to incorporating SQE preparation and assessment within their degree programme. Some stakeholders are mounting a call to Government to make loans available for those sitting the SQE. The SRA is not a position to advocate or lobby for this, but is well placed to engage in constructive and supportive discussions with Government.

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<sup>20</sup> Barbri International has estimated its SQE 1 and 2 fees at £7,000.

## Process for introducing the SQE

80. In order to safeguard diversity and inclusion in introducing the SQE, the SRA needs to include in the EDI Assessment a detailed and transparent timeline for specific actions relating to diversity and inclusion, as well as links to relevant policies. Where such policies are yet to be finalised, providing a timetable for their publication is likely to offer some reassurance to stakeholders.
81. We re-emphasise the key point in our earlier report that increasing diversity in the profession is dependent critically on the actions of employers and training providers, and actions by the SRA will achieve only modest gains without corresponding action from stakeholders in the sector.
82. A high proportion of these stakeholders have undertaken activities to promote diversity for many years, though evidence of their impact on diversity is limited. The greater freedoms created by the reforms should make it easier for stakeholders to promote diversity and to do so with greater impact. For example, if employers decided to wait for SQE data to be available before making recruitment decisions, they would no longer have to rely on A-level and degree results (which are not directly related to solicitor competence).
83. The SRA is right to highlight the narrow recruitment practices of some firms and employers, and may also wish to draw attention to the lack of diversity in some universities and/or their law schools. The fact that some employers place less value on some of the new routes to qualification is not a compelling reason to retain the traditional two-year period of recognised training.
84. The SRA recognises that employer trust in the SQE is key to realising the benefits arising from more flexibility in training and in QWE. We believe that the quality of the assessment and the SRA's ongoing engagement with stakeholders will develop that confidence.
85. We strongly encourage the SRA to be more specific about what will be involved in a study to examine stakeholders' perceptions of the SQE two years after introduction (and in the fuller evaluations to be carried out five years after introduction). As part of this, it will be valuable to understand how perceptions have changed over time, benchmarking them now, after two years and after five years.

## Closing remarks

86. As we noted in the 2017 report, there is no silver bullet to address diversity in the legal profession, because it is constructed of a complex range of factors at every stage on the journey to the profession. It follows that diversity implications cannot be precisely predicted, given the variety and multiplicity of these factors. This absence of precise prediction is not a reason to delay moving forward.
87. This absence of precise prediction is our main driver for encouraging the SRA to: redouble its emphasis on the gathering and analysis of accurate data, throughout the implementation process and beyond; robustly and transparently review and evaluate impact; and take evidence-informed decisions regarding the continued development of the SQE.
88. We reiterate that increasing diversity in the profession is dependent critically on the actions of employers and training providers, with actions by the SRA likely to achieve only modest gains without corresponding action from stakeholders in the sector. Therefore, managing stakeholder relationships, and increasing and maintaining employer confidence in SQE, must remain a top priority.

## Appendix A: monitoring diversity characteristics

### **Age**

#### **What is your date of birth?**

Typically, date of birth is requested and then assessed in age brackets; ONS standard census classifications are as follows.<sup>21</sup>

- 16 – 24
- 25 – 34
- 35 – 44
- 45 – 54
- 55 – 64
- 65+
- Prefer not to say

### **Disability**

Under the Equality Act 2010, a person has a disability 'if they have a physical or mental impairment, and the impairment has a substantial and long-term adverse effect on his or her ability to carry out normal day-to-day activities'. 'Substantial' is defined by the Act as 'more than minor or trivial'.<sup>22</sup>

The Equality Act defines a disabled person as someone who has a mental or physical impairment that has a substantial and long-term adverse effect on the person's ability to carry out normal day-to-day activities.

If you have a condition which fits the Equality Act definition, please tick 'Yes' even if you are not limited by your condition.

#### **Do you consider yourself to have a disability according to the definition in the Equality Act 2010?**

- Yes
- No
- Prefer not to say

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<sup>21</sup> Age brackets used by ONS and in the latest census, e.g. <https://www.ons.gov.uk/census/2011census>

<sup>22</sup> [www.legislation.gov.uk/ukpga/2010/15/contents](http://www.legislation.gov.uk/ukpga/2010/15/contents)

**Are your day to day activities limited by this disability?**

- Yes, limited a lot
- Yes, limited a little
- No
- Prefer not to say

**Do you have any of the following conditions?**

- Visual impairment (blind or sight loss)
- Hearing impairment (deaf or hearing loss)
- Physical impairment which impacts on mobility - eg difficulty walking short distances or climbing stairs
- Physical impairment which impacts on manual dexterity
- Learning disability, where a person learns in a different way - eg dyslexia
- Mental health condition - eg schizophrenia, depression
- Speech impairment
- Cognitive disability - eg brain injury, autism, ADHD or Asperger's syndrome
- Other: please specify
- None
- Prefer not to say

**Sex**

What is your sex?

- Non-binary
- Male
- Female
- If you prefer a different term, please provide it here.....
- Prefer not to say

**Gender**

This area is evolving; our advice here is based on the latest research and guidance.<sup>23</sup>

**Is your gender identity the same as the sex you were assigned at birth?**

- Yes
- No
- Prefer not to say
- If you have entered no, please specify how you describe your gender

Questions about gender identity should always be asked separately from questions about sexual orientation, sex or gender. Gender identity has nothing to do with who a person is attracted to,

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<sup>23</sup> <http://www.ecu.ac.uk/>

nor is it appropriate to offer a choice between identifying as male, female, or trans. Most trans people do not consider themselves to be a 'third sex' and may take offence at questions worded in this way.

There are special legal provisions to ensure that data on gender identity are stored securely and this information is not passed onto third parties without express permission. When data concerning gender identity are collected, employers should ask for permission to store this information by including a follow-up question such as the one below:

**Information about gender identity is considered sensitive personal data under the Data Protection Act. We want to make sure that we have permission to store these data for the purposes of monitoring and advancing equality and diversity in our organisation. Please indicate if you give us permission to store this information and use it in this way.**

- Yes
- No

### **Ethnicity**

There are well established ONS categories that apply, specific to the UK.<sup>24</sup>

**What is your ethnic group? Choose one option that best describes your ethnic group or background**

- Asian/ Asian British
- Black/ black British
- Mixed/ multiple ethnic group
- Other ethnic group
- White
- Prefer not to say

***After selecting the high level category, the relevant sub category appears***

<b>Asian/ Asian British</b> Bangladeshi Chinese Indian Pakistani Any other Asian background – please specify
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<sup>24</sup> <https://www.ons.gov.uk/peoplepopulationandcommunity/culturalidentity/ethnicity>

<p><b>Black/ black British</b>  African  Caribbean  Any other Black background – please specify</p>
<p><b>Mixed/ multiple ethnic groups</b>  White and Asian  White and black African  White and black Caribbean  Any other mixed/multiple ethnic background – please specify</p>
<p><b>Other ethnic group</b>  Arab  Any other ethnic group – please specify</p>
<p><b>White</b>  British  English  Welsh  Scottish  Northern Irish  Irish  Gypsy or Irish Traveller  Roma  Any other white background – please specify</p>

### Religion and belief

Similarly, these categories are based on ONS best practice.

#### What is your religion?

- No religion or belief
- Buddhist
- Christian
- Hindu
- Jewish
- Muslim
- Sikh
- Other - please specify
- Prefer not to say

### Sexual orientation

Based on the ECU definitions, derived from ONS.<sup>25</sup>

### What is your sexual orientation?

- Bi
- Gay/Lesbian
- Heterosexual/straight
- Other preferred description - please specify
- Prefer not to say

### Considerations When Monitoring Socio-economic Background

Socio-economic background (SEB) is the set of social and economic circumstances from which a person has come. There is a significant body of research to show that SEB is closely correlated with individual and societal outcomes, including occupation, wealth, education, and health. This should be differentiated from measuring social mobility *per se*,<sup>26</sup> and from measuring socio-economic status (a measure of a current circumstances).

How we measure SEB is important, but it is also complex, not least because it is well established in the literature that no single measure can comprehensively reveal an individual's SEB. The socio-economic circumstances affecting progression to, and within, the workplace come in multiple forms, including financial, cultural, geographical and educational; this builds on the theories of capital, espoused by Bourdieu and others.

Our research highlights that there are five key criteria against which any measure of SEB should be assessed. These are outlined in the table below.

#### Accurate measure of disadvantage

Reflects what it purports to measure, i.e. socio-economic background, such that lower status can be reasonably assumed to have the potential to adversely affect educational progression and access or progression in the workplace. Consideration should also be given to the applicability of the measure to those who were not raised in the UK.

<sup>25</sup> <http://www.ecu.ac.uk/>

<sup>26</sup> A measure of people's ability to move between different socio-economic strata, usually assessed in relative inter-generational terms.

<p><b>Comparability</b></p> <p>Measures can be compared across employers, by an employer over time, and against eligible candidate populations (e.g. populations in higher education).</p>
<p><b>Likely to elicit a response</b></p> <p>Measures are not considered so sensitive or intrusive that they lead to a low response rate, or the information may be hard to recall. This is not a matter concerning only individual measures, but also whether the package of measures is likely to elicit responses (for example, is the number of questions overwhelming to the extent that none are completed?).</p>
<p><b>Clarity of the measure</b></p> <p>The measure is easily understandable, allowing consistent application and consistent interpretation by employees and applicants.</p>
<p><b>Longevity of measure</b></p> <p>The measure (and where relevant its underpinning data) will be available and relevant in the foreseeable future.</p>

### Socio-economic Monitoring Questions and Associated Options

We apply the criteria outlined above, including consideration of the international nature of the workforce, to reach our recommendations below.

<b>Question 1</b>	<b>Which type of school did you attend for the most time between the ages of 11 - 16?</b>
<b>Notes</b>	Across most sectors this is the measure of SEB that has been in place for the longest time. It is well-established and can be used to benchmark against UK populations and peer employers.
<b>Options</b>	<ul style="list-style-type: none"> <li>State-run or state-funded school - selective on academic, faith or other grounds</li> <li>State-run or state-funded school - non-selective</li> <li>Independent or fee-paying school – bursary</li> <li>Independent or fee-paying school - no bursary</li> <li>Attended school outside the UK</li> <li>Don't know</li> <li>Other - please specify</li> <li>Prefer not to say</li> </ul>

<b>Question 2</b>	<b>What is the highest level of qualifications achieved by either of your parent(s) or guardian(s) by the time you were 18?</b>
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<b>Notes</b>	This measure is well-established and can be used to benchmark against UK populations and peer employers. There has been a persistent wage differential between those that are educated to a higher level and those that were not <sup>27</sup> , which could limit access to higher education for non-university attendant's children.
<b>Options</b>	<ul style="list-style-type: none"> <li>At least one has a degree level qualification</li> <li>Qualifications below degree level</li> <li>No formal qualifications</li> <li>Don't know</li> <li>Not applicable</li> <li>Other - please specify</li> <li>Prefer not to say</li> </ul>

In relation to the question below, the Office for National Statistics' guidance on the derivation of NS-SEC from the four questions on parental occupation is available [here](#).

<b>Question 3</b>	<b>Thinking back to when you were aged about 14, which best describes the sort of work the main/ highest income earner in your household did in their main job?</b>
<b>Notes</b>	NS-SEC is a measure of employment relations and conditions of occupations, published by the Office of National Statistics. These are central to showing the structure of socio-economic positions in modern societies and helping to explain variations in social behaviour, progression and other social phenomena. This measure provides some sense of scale of disadvantage, and parental occupation is a strong determinant of someone's life chances. <sup>28</sup> The methodology for classifying parental occupation is well-established in the academic literature, and used in the national census, and the Labour Force Survey.
<b>Please tick one box to show which best describes the sort of work your primary household earner undertook at this time.</b>	
	<ul style="list-style-type: none"> <li><input type="checkbox"/> Modern professional occupations such as: teacher/lecturer, nurse, physiotherapist, social worker, welfare officer, artist, musician, police officer (sergeant or above), software designer</li> <li><input type="checkbox"/> Clerical and intermediate occupations such as: secretary, personal assistant, clerical worker, office clerk, call centre agent, nursing auxiliary, nursery nurse</li> <li><input type="checkbox"/> Senior managers and administrators usually responsible for planning, organising and co-ordinating work and for finance such as: finance</li> </ul>

<sup>27</sup> Rising Wage Inequality and Postgraduate Education, Lindley and Machin (2011)

<sup>28</sup> Erikson, Robert & Goldthorpe, John H., 2009. "Income and Class Mobility Between Generations in Great Britain: The Problem of Divergent Findings from the Data-sets of Birth Cohort Studies," Working Paper Series 4/2009, Stockholm University, Swedish Institute for Social Research.

	<p>manager, chief executive</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Technical and craft occupations such as: motor mechanic, fitter, inspector, plumber, printer, tool maker, electrician, gardener, train driver</li> <li><input type="checkbox"/> Semi-routine manual and service occupations such as: postal worker, machine operative, security guard, caretaker, farm worker, catering assistant, receptionist, sales assistant</li> <li><input type="checkbox"/> Routine manual and service occupations such as: HGV driver, van driver, cleaner, porter, packer, sewing machinist, messenger, labourer, waiter / waitress, bar staff</li> <li><input type="checkbox"/> Middle or junior managers such as: office manager, retail manager, bank manager, restaurant manager, warehouse manager, publican</li> <li><input type="checkbox"/> Traditional professional occupations such as: accountant, solicitor, medical practitioner, scientist, civil/mechanical engineer</li> <li><input type="checkbox"/> Short term unemployed (claimed Jobseeker's Allowance or earlier unemployment benefit for a year or less)</li> <li><input type="checkbox"/> Long term unemployed (claimed Jobseeker's Allowance or earlier unemployment benefit for more than a year)</li> <li><input type="checkbox"/> Inactive (excluding those that are retired)</li> <li><input type="checkbox"/> Retired</li> <li><input type="checkbox"/> Not applicable</li> <li><input type="checkbox"/> Don't know</li> <li><input type="checkbox"/> Other – please specify</li> <li><input type="checkbox"/> Prefer not to say</li> </ul>
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### Driving up Response Rates

High response rates to diversity monitoring questions are important, because they: provide more accurate monitoring of the recruitment and retention of staff; indicate the impact of policies and practices on different groups; and provide a greater depth of understanding of inequality, and areas for action. The Equality Challenge Unit<sup>29</sup> outline several factors which can influence an

<sup>29</sup> <http://www.ecu.ac.uk>

individual's decision to disclose equality information, which are corroborated in our own work, including:

- understanding the relevance of the information to the organisation and their experiences at work;
- the culture of the institution – whether it is open and inclusive or if there are concerns about possible discrimination;
- availability of information on the uses and confidentiality of their details;
- opportunities to disclose information on an ongoing basis; and
- whether they relate to the options available in monitoring questions.

Applicants and staff are more likely to engage with a diversity monitoring exercise if they see it as an integrated part of an organisation's strategy for promoting inclusivity and increasing accessibility. A proactive approach to making diversity commitments visible internally and externally, and celebrating achievements, will help to ensure that respondents feel positive about monitoring, and confident that it will be of benefit. Planning a monitoring exercise to coincide with other diversity activity, for example a 'diversity month', or to help inform the launch of a strategy, may help build an atmosphere for disclosure.

Visible senior management involvement can have a positive impact. Share examples of how diversity monitoring information has informed initiatives, and helped to remove barriers for staff and other stakeholders.

Some respondents may be concerned that information could disadvantage them, or encourage discrimination or harassment. It is important to explain why the data are being collected, how the data will be used, and who will have access. It is critical that any exercise to collect information communicates:

- whether individuals will be identifiable from the data;
- whether the information will be stored separately from personal details (i.e. in applications, and / or in the HR system);
- who will have access to the information;
- whether disclosure will lead to further contact from the organisation (for example sharing information about support services or events related to a protected characteristic), this is generally discouraged; and
- the systems and safeguards being used to safely store and analyse the data in line with the Data Protection Act 1998.

Additional questions that demonstrate commitment to understanding the issues affecting particular groups might help to persuade staff of the benefits of disclosure. For example, 'How well does [our organisation] enable you to meet your religious obligations while at work?' or 'We want our workplace to be inclusive and welcoming of all staff – is there more we could do to improve your experience?', can go a long way in reinforcing this commitment.

## Appendix B: about the Bridge Group

The Bridge Group is a non-profit consultancy that uses research to promote equality, diversity and inclusion. We do this by supporting organisations of all kinds with independent expertise, research and practical know-how to enable them to make real and lasting impact on socio-economic diversity and social equality.

Our objective is to make real and meaningful change, now. And our vision is a higher education system and labour market where outcomes are determined by competence and hard work, and not by socio-economic background. We focus across a range of diversity characteristics, including gender, ethnicity and socio-economic background.

In the last year we have been commissioned by more than one hundred organisations including the Cabinet Office, KPMG, BBC, Linklaters, Clifford Chance, the Chartered Institute of Public Finance and Accounting, and BlackRock.

<https://www.thebridgegroup.org.uk>