

Changes to the Principles for Qualified Lawyers: Consultation

March 2020

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About this consultation

We are consulting on proposals to make minor changes to our principles for two types of lawyers seeking admission in England and Wales after the Solicitors Qualifying Examination (SQE) is introduced:

- those who have qualified in a jurisdiction outside England and Wales
- any lawyer regulated by another approved legal services regulator in England and Wales ('qualified lawyers').

The changes are required to make sure that our principles align with Part 1 of our Authorisation of Individuals Regulations ('SQE admission regulations') and that all qualified lawyers are competent in the English or Welsh language.

The Principles for Qualified Lawyers (the principles) and SQE admission regulations were approved by the Legal Services Board (LSB) in March 2018. They will come into effect, subject to the outcome of our second LSB application, on a date to be determined by the SRA Board. This will not be before autumn 2021.

You can find:

- our initial impact assessment in annex 2
- the revised Principles for Qualified Lawyers, with proposed changes marked-up, in annex 3

This consultation is running from 25 March until 6 May 2020.

After this consultation closes, our next steps will be to collate and analyse all the responses. We will then decide what proposals we need to take forward and will produce a final impact assessment.

How to respond

Online questionnaire

Our online consultation questionnaire is a convenient, flexible way to respond. You can save a partial response online and complete it later. You can download a copy of your response before you submit it.

Start your online response now. <https://form.sra.org.uk/s3/qualified-lawyers>

Reasonable adjustment requests and questions

We offer reasonable adjustments. [Read our policy to find out more.](#)

Contact us (qualifiedlawyers@sra.org.uk) if you need to respond to this consultation using a different format or if you have any questions about the consultation.

Publishing responses

We will publish and attribute your response unless you request otherwise.

Background to consultation

1. We plan to introduce, subject to final approval from the Legal Services Board, a new centralised assessment for all would-be solicitors – the SQE - in 2021.
2. We want to obtain assurances that qualified lawyers who want to be admitted as a solicitor in England and Wales have the professional experience or qualifications that provide them with the necessary skills, knowledge and competence for practice as a solicitor.
3. Some qualified lawyers, depending on their level of experience and knowledge, may be able to get either a full or partial exemption from taking the SQE2 assessment.
4. The purpose of this consultation is to outline proposals to amend our [Principles for Qualified Lawyers](#) seeking admission in England and Wales after the SQE is introduced. The principles outline our overarching requirements, our approach to exemptions and the recognition of professional qualifications, professional experience and language knowledge requirements.
5. We are proposing to:
 - Remove the requirement for qualified lawyers seeking an exemption from the SQE to be from a jurisdiction we recognise.
 - Make clear that qualified lawyers can demonstrate the language requirement in either English or Welsh in line with our [Authorisation of Individuals regulations](#).
 - Extend the language requirement to qualified lawyers who are exempt from parts of SQE2 (as well as the whole of it, as originally drafted) where we have serious and concrete doubts about their language knowledge.
 - Remove the word “test” from the language requirement section.
6. We explore the impact and benefits of our proposals in our initial impact assessment (annex 2). We will use the consultation to engage stakeholders to further explore the impact of our proposals.
7. Our revised principles are in annex 3. We are also seeking views on our proposed guidance for qualified lawyers on how they can demonstrate English or Welsh language knowledge (annex 1).
8. These are minor changes and we consider a six-week consultation appropriate. We will engage with key groups and representative bodies, including those in jurisdictions overseas who will likely be interested in these changes, during the consultation but welcome views from all stakeholders.

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9. Subject to the outcome of this consultation and before any changes are made to our principles, we will seek approval from the LSB. If approved, our revised principles will come into force at the same time as the SQE is introduced, which will be no earlier than September 2021.

Consultation proposals

Remove the requirement for qualified lawyers seeking an exemption from the SQE to be from a jurisdiction we recognise

Our proposal

10. Our principles outline our approach to recognising the knowledge, skills and competences of qualified lawyers seeking exemption from the SQE.
11. They enable us to obtain assurances that the professional experience or qualifications of a qualified lawyer provides them with the necessary skills, knowledge and competence for practice as a solicitor.
12. We propose to remove the requirement for an overseas jurisdiction to be recognised by us when a qualified lawyer is seeking exemption from the SQE. Our objective is to make sure that the professional experience or qualification of a qualified lawyer is equivalent to the SQE, or the relevant part of it. We will do this through analysing and recognising the qualification they have obtained, together with the experience they have gained. This is assessed against the content and standard of the SQE, or the relevant part of it.
13. This emphasis on the qualification and experience means that we do not need separately to assess the particular features of the jurisdiction in which the qualification was obtained or in which the lawyer has been practising. Recognising the jurisdiction itself is not therefore a necessary part of the process.

Question 1

Do you agree with our proposal to remove the requirement for qualified lawyers seeking an exemption from the SQE to be from a jurisdiction we recognise?

Assessing the Welsh language knowledge of qualified lawyers

Our proposal

14. We regulate solicitors England and Wales and recognise that they may speak English, Welsh or both. Regulation 6.2(b) of the SRA Authorisation of Individuals Regulations provides that one of the eligibility requirements for a practising certificate is that the applicant has sufficient knowledge of written and spoken English or Welsh, depending on the language they use.
15. The Principles currently suggest that a qualified lawyer can demonstrate that they meet the language requirement through the medium of English, but do not mention Welsh. This is therefore inconsistent with that regulation.

16. We therefore propose to amend the Principles to make clear that qualified lawyers can demonstrate their language knowledge when applying for their practising certificate in either English or Welsh. This is reflected in the criteria we propose to use for assessing language set out in annex 1.
17. This proposal makes sure that Welsh speaking candidates who wish to demonstrate their language competence in Welsh are not disadvantaged. Candidates will be entitled to practise across both England and Wales regardless of whether they demonstrated their language knowledge in English or Welsh.

Question 2

Do you agree with our proposal to amend the principles to add a Welsh language test requirement so qualified lawyers have the option to demonstrate their language competence in either English or Welsh?

Extend the language requirement to qualified lawyers who are exempt from parts of SQE2

Our proposal

18. Our principles allow us to apply a language requirement to qualified lawyers whose professional qualification(s) or professional experience we have recognised as equivalent to **all** of SQE2.
19. We are proposing to amend our principles to extend the language requirement to those qualified lawyers who may be **partially** exempt from SQE2. This is because a qualified lawyer who is exempt from part of SQE2 may not have demonstrated all four elements of language knowledge (listening, speaking, reading and writing) in the part that they have sat. Therefore, we may be left with serious and concrete doubts about their knowledge of language.
20. Under the SQE admission regulations, qualified lawyers may be exempt from whole assessments within the SQE, but not from elements within an assessment. The model we have piloted for SQE2 envisages a single assessment with one overall pass/fail decision based on candidate performance across a range of tasks. However, depending on the final decision taken about the design of SQE2, and bearing in mind that the assessment design of any exam may change in the future, we wish to ensure that our Principles allowing us the flexibility we need to require evidence of language sufficiency where we have serious and concrete doubts, should this be required.
21. For the avoidance of doubt, qualified lawyers who are seeking admission on the basis of Article 10 of the Establishment Directive 98/5/EC (having practised as a Registered European Lawyer for a period of at least three years) will not be subject to an English or Welsh language requirement.
22. We expect that only a minority of qualified lawyers will need to demonstrate language knowledge through an English or Welsh language proficiency test.

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23. Most qualified lawyers will satisfy us as to their English language knowledge by completing all or parts of the SQE. If we offer the SQE assessment in Welsh, they can demonstrate language knowledge by passing the SQE in Welsh.
24. Our view is that our proposed measures will help reduce the cost faced by some qualified lawyers to whom the requirement applies. In addition, our approach will encourage the widest range of qualified lawyers to seek qualification whilst enabling us to maintain the high standards we expect.
25. However, our proposal could result in a cost to some qualified lawyers to demonstrate English or Welsh language competence through an English or Welsh language proficiency test.
26. We recognise that our proposal could indirectly discriminate on grounds of race or nationality for applicants born and/or brought up in a non-English or Welsh speaking country.
27. We will mitigate these risks by:
- Applying the language requirement only in cases where we have serious and concrete doubts about a qualified lawyer's English or Welsh language knowledge and giving due consideration to each individual personal experience and qualifications.
 - Enabling candidates to demonstrate English or Welsh language knowledge through a wide range of approaches (annex 1) including qualifications achieved in higher education in countries outside of UK.
28. If we adopt this approach, we propose to remove the word "test" from the language requirement section of our principles. We consider that it is unnecessary as a "test" does not reflect the flexibility in how a qualified lawyer can demonstrate their language knowledge if required.
29. Should we implement our proposals, we will monitor the impact to make sure there are no unintentional barriers to entry to the profession for qualified lawyers.

Question 3

Do you agree with our proposal to amend the principles to extend to qualified lawyers exempt from parts of SQE2?

Question 4 Do you agree with our proposed approach to demonstrating English or Welsh language competence and proposal to remove the word "test" from our principles accordingly?

Question 5

Do you have any further information on our proposals or how we propose to implement them to inform our impact assessment?

Consultation questions in full

We are keen to hear your views on our proposals. An uninterrupted list of our questions is below:

1. Do you agree with our proposal to remove the requirement for qualified lawyers seeking an exemption from the SQE to be from a jurisdiction we recognise?
2. Do you agree with our proposal to amend the principles to add a Welsh language test requirement so qualified lawyers have the option to demonstrate their language competence in either English or Welsh?
3. Do you agree with our proposal to amend the principles to extend to qualified lawyers exempt from parts of SQE2?
4. Do you agree with our proposed approach to demonstrating English or Welsh language competence and proposal to remove the word “test” from our principles accordingly?
5. Do you have any further information on our proposals or how we propose to implement them to inform our impact assessment?