

SRA response

The Future of Training for the Bar: Academic, Vocational and Professional Stages of Training consultation

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Introduction

The Solicitors Regulation Authority (SRA) is the independent regulator of solicitors and law firms in England and Wales. We regulate individual solicitors, certain other lawyers and non lawyers with whom they practise, solicitors' firms and their staff.

We are writing in response to the [Bar Standards Board](http://www.barstandardsboard.org.uk/) (BSB) consultation on the Future of Training for the Bar.

We support much of the approach outlined in the consultation, particularly the shift of focus onto assuring the outcomes of legal education. But there are two issues where we have taken a different approach in our review of the education and training of solicitors. We therefore thought it might be helpful to explain the reasons for our thinking. Please treat this as the SRA's formal response to the BSB consultation.

1. Requiring a minimum 2i degree

QA1: Does possession of a lower second class degree provide good evidence that an individual possesses the intellectual abilities that are consistent with those described in the draft Professional Statement (paragraph 63 above)?

QA2a: If an individual does not hold a degree, or the degree that they hold was not passed at the required level, are there alternative means by which these abilities can be demonstrated?

QA2b: If so, how?

QA3: Are there any other issues in relation to intellectual abilities and degree classification, as set out above in paras 65 to 74, which we have failed to identify?

In [Training for Tomorrow](https://higher-rights.sra.org.uk/sra/policy/solicitors-qualifying-examination/) [https://higher-rights.sra.org.uk/sra/policy/solicitors-qualifying-examination/], one of the core objectives of our work is to assure standards

more consistently. This means not only assuring standards on a comparable basis across different pathways to qualification, but also dealing with the issue of consistency between different higher education institutions. We have been influenced in this work, in part, by the BSB's own experience of centralising the BPTC assessment.

Our concern about consistency has led us to the emerging view that a new Common Professional Assessment for all intending solicitors is the best way to assure entry to the profession. We are considering whether we need to set any entry requirements for the assessment, such as particular qualifications. However, were we to do so, it is unlikely we would specify the attainment of a particular degree classification, because of our doubts about consistency of classification boundaries between different universities.

There is evidence from the work of the Higher Education Funding Council for England (HEFCE) and Higher Education Academy of a lack of consistent standards in Higher Education.

The 2015 report of the Higher Education Academy¹ stated that there was "variability in examiners' academic standard" and concluded that there is "little evidence to support the view that external examiners are an effective means to safeguard academic standard".

The same report found: "clear evidence of the inconsistency and unreliability of higher education assessors"; an increase in the number of first and upper second class degrees in the UK; and that over 40% of institutions had changed their award algorithm in the last five years in order to ensure that their students were not disadvantaged compared to those in other institutions.

The HEFCE consultation on Future Approaches to Quality Assessment in England, Wales and Northern Ireland² stated even more emphatically: "the current quality assessment system does not provide direct assurance about the standard of awards made to students, or their broad comparability".

In view of this evidence, we question whether degree classification (whether 2i or 2ii) can be relied upon as a consistent or fair measure of the intellectual abilities required for competent practise as a barrister.

2. Three stage approach to qualification as a barrister

We note that the BSB are not currently contemplating abandoning a fundamentally "three stage" approach to qualifying and becoming authorised as a barrister.

As our work to develop a possible Common Professional Assessment for solicitors has developed, it is becoming increasingly clear to us that one of the key benefits of the approach is that it could lead to greater integration



of academic, professional and work place learning and that this could provide a richer academic experience as well as the development of more sophisticated practical skills. For example, it could address the current practice whereby students learn contract law cases and statutes years before they see a written contract.

We recognise that the more traditional universities may wish to continue to operate exclusively within the academic stage of training – and that is entirely a matter for them. However, the design of our assessment could have the result of encouraging more universities to adopt an integrated approach.

Notes

1. HEA (2015). A review of external examining arrangements across the UK. Report to the UK higher education funding bodies by the Higher Education Academy, commissioned by the Higher Education Funding Council of England.
2. Future approaches to quality assessment in England, Wales and Northern Ireland, HEFCE June 2015.