

Changes to the rules on Solicitors Qualifying Examination (SQE) exemptions: Consultation

December 2023

Contents

About this consultation	3
Online questionnaire.....	3
Reasonable adjustment requests and questions.....	3
Publishing responses	3
Background to consultation	4
What change are we considering?	5
Why are we considering this change?	5
What is our justification for considering this change?.....	5

About this consultation

We are consulting on a new rule that would prevent qualified lawyers from being granted an exemption from part or parts of the SQE that they have previously attempted and failed.

We would like to hear your views. The consultation is open for your comments from 13 December 2023 until 24 January 2024.

We are separately consulting on proposals to change when and how we seek assurance that a qualified lawyer who has been granted an exemption from SQE2 has the English or Welsh language proficiency needed to practise as a solicitor of England and Wales. [Find out more about this consultation.](#)

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.](#)

Reasonable adjustment requests and questions

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

[Contact us](#) 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 the consultation

The SRA is the regulator of solicitors and law firms in England and Wales. We work to protect members of the public and support the rule of law and the administration of justice. We are the largest regulator of legal services in England and Wales, covering around 90 per cent of the regulated market. We oversee more than 201,000 solicitors and around 9,300 law firms.

The SQE is a centralised examination which must be passed by anyone wishing to become a solicitor in England and Wales. Introduced in September 2021, it tests aspiring solicitors' competence against the standards required for practice as a solicitor.

In certain circumstances, we may exempt qualified lawyers who wish to also qualify in England and Wales from passing parts of the SQE. We are consulting on a new rule that would prevent qualified lawyers from being granted an exemption from part or parts of the SQE that they have previously attempted and failed.

Only qualified lawyers are [entitled to apply for an exemption](#) from part or parts of the SQE. We will grant an exemption if we are satisfied that an individual's qualifications and/or experience are not substantially different in content and standard to the SQE. A qualified lawyer is someone who holds a professional legal qualification which confers rights to practise in England and Wales (eg barrister or licensed conveyancer) or in another jurisdiction.

To date, with the exception of lawyers from Northern Ireland and the Republic of Ireland who are entitled to full exemption from the SQE, we have granted one exemption from SQE1 (the test of functioning legal knowledge) and around 3,500 exemptions from SQE2 (the test of legal skills and knowledge).

The rules on SQE exemptions are set out in the SRA Authorisation of Individuals Regulations. Our current policy on exemptions is set out in [the Principles for Qualified Lawyers](#).

You can read our [proposed changes](#) to the SRA Authorisation of Individuals Regulations and the Principles for Qualified Lawyers. These also include the changes proposed in our [parallel consultation](#) on how we gain assurance that aspiring solicitors, including qualified lawyers, have the English or Welsh language proficiency needed to practise as a solicitor.

In addition to these changes proposed, we have also made minor drafting amendments to the Principles which aim to improve its overall readability.

What change are we considering?

We are considering changing our regulations and the principles for qualified lawyers to prevent qualified lawyers from being granted an exemption from part or parts of the SQE they have previously attempted and failed.

Why are we considering this change?

Since we introduced our exemptions policy in 2021, we have refined how we apply it in practice and have learnt lessons. We have also developed, in light of the Covid-19 pandemic, our transitional arrangements for qualified lawyers who had started to qualify through the Qualified Lawyers Transfer Scheme (QLTS).

Our experience since 2021 and the developments in the QLTS transitional policy have highlighted risks in the application of our exemptions policy that we did not foresee when we developed the original policy.

We did not anticipate that some qualified lawyers might attempt and fail an SQE assessment and subsequently apply for an exemption from that assessment. Our exemptions policy does not provide for us to take into account the evidence that they have failed an assessment when considering an application for exemption.

There are a number of possible situations in which someone might fail an assessment and subsequently apply for exemption. For example, where they had attempted SQE2 before we had agreed that their original legal qualification could give them exemption from SQE2. Or before they had sufficient work experience for us to determine that they should be granted an exemption.

Alternatively, a qualified lawyer may attempt SQE2 before they become eligible to apply for an exemption due to the phasing out of the previous QLTS qualification route.

What is our justification for considering this change?

The requirement for aspiring solicitors to pass the SQE makes sure anyone qualifying as a solicitor in England and Wales has demonstrated that they meet the standards of competence that we expect. This is to protect consumers of legal services and the wider public.

However, our exemptions policy recognises that:

- some qualified lawyers will have qualifications and experience that are not substantially different in content and standard to part or parts of the SQE
- to require lawyers who hold such qualifications and gained such experience to take the parts of the SQE which assess knowledge and skills that are not substantially different from that gained through their qualifications and/or

Changes to the rules on Solicitors Qualifying Examination (SQE) exemptions: Consultation

experience could be unnecessary, expensive and disproportionately burdensome.

Any policy which allows exemption from a regulatory requirement comes with some risk. There is a risk that we could grant SQE exemption to a lawyer who would not pass the assessment. When developing our exemptions policy, we considered this risk against the risk of imposing unnecessary regulatory burdens on qualified lawyers.

We took the view that the risk in granting exemptions, particularly from SQE2, would be minimal and tolerable because we would be granting these exemptions to lawyers who:

- were already qualified in their own jurisdiction
- had the same practice rights as solicitors
- had been deemed to have the skills necessary to practise as a lawyer in their own jurisdiction
- would typically have at least two years' legal work experience.

However, where someone has attempted an assessment and failed to demonstrate their competence through that assessment, we consider that it would be in the public interest to reassure ourselves of their competence to practise by requiring them to take and pass the SQE.

What could the potential impact of this change be?

If we decide to make this change, we would not grant a qualified lawyer an exemption from an assessment that they had previously taken and failed. For example:

- Anyone who had taken and failed the first part of SQE1 (FLK1) would not be granted exemption from FLK1.
- Anyone who had attempted and failed FLK2 would not be granted exemption from FLK2.
- Anyone who had attempted and failed SQE2 would not be granted exemption from SQE2.

The new rule would not apply to any applications for exemption received before the implementation date.

We considered whether we should allow lawyers who would be affected by this rule to be able to apply for an exemption after a specified period of time had lapsed after failing the assessment. We decided against this option because the proposed rule is not intended to address a problem with lack of experience. It would be intended to address evidence that a qualified lawyer had failed to demonstrate their competence through the SQE.

Changes to the rules on Solicitors Qualifying Examination (SQE) exemptions: Consultation

One of the benefits of the rule change would be that it could encourage lawyers who have failed an assessment to undertake further remedial training before attempting the assessment again.

Our discretion in relation to Swiss lawyers must take into account our international legal obligations under the Swiss Citizens Rights Agreement and, from 1 January 2025, the UK/Swiss Trade Agreement. We are bound by the obligations under these agreements, which have been entered into by government and ratified following scrutiny by the UK Parliament.

In line with these obligations, the proposed new rule would apply to a lawyer who has qualified in Switzerland where there exists a substantial difference between the qualified lawyer's professional qualifications and the essential knowledge or skills required to practise in England & Wales, as set out in [Statement of Solicitor Competence](#) (SoSC), and the knowledge of English and Welsh law set out in the Statement of Legal Knowledge.

We have set out our assessment of the potential impact of this rule change on qualified lawyers from particular groups in our initial [equality impact assessment](#). In summary:

- This rule change would apply to qualified lawyers from all jurisdictions, including qualified lawyers from England and Wales. It would not discriminate against any protected characteristic.
- While our proposed rule change would apply equally to both SQE1 and SQE2, it would be most likely to affect candidates who had taken and failed SQE2. This is because we have so far only approved one SQE1 exemption. It is possible that the proposed rule change could be more likely to affect qualified lawyers who are Black/Black British or Asian/Asian British, who are in older age categories or who attended schools outside of the UK. Our data shows that these candidates are more likely to fail SQE2 than those from the younger age groups (16-24 and 25-34), White and Mixed/multiple ethnic groups and or who attended a selective or non-selective state run or state funded school or an independent school.
- Qualified lawyers from lower socio-economic backgrounds may be negatively affected by this rule change as they would have to pay for an additional assessment and may incur other additional costs.
- We would aim to mitigate any impact of the changes by giving notice and providing clear rules and guidelines for qualified lawyers.
- We have not identified any other potential adverse impacts nor any potential adverse impacts on individuals from any other group.
- We will continue to interrogate our data. We will also use the consultation exercise to seek views on the potential impacts we have identified and whether there are further potential impacts we need to consider. We will

Changes to the rules on Solicitors Qualifying Examination (SQE) exemptions: Consultation

publish a final impact assessment alongside our consultation response document in 2024.

- If the potential risks we have identified materialise, we believe this impact would be justified. Where someone has attempted an assessment and failed to demonstrate their competence through that assessment, we consider that it would be in the public interest to assure ourselves of their competence to practise by requiring them to take and pass the SQE.

When would this change come into effect?

If we decide to implement this rule change after consideration of the consultation responses, it would not come into effect until after we had gained regulatory approval from the Legal Services Board and no earlier than 1 June 2024.

Consultation questions

Question 1: To what extent do you agree that we should change our regulations and the principles for qualified lawyers to prevent qualified lawyers from being granted an exemption from an assessment that they have previously failed?

Question 2: Can you see any other impacts, either positive or negative, from the introduction of this new rule?

Question 3: Alongside this consultation we have published tracked change versions of the amendments we propose to make to our current regulations and the Principles for Qualified Lawyers. To what extent do you agree or disagree that the proposed amendments would prevent a qualified lawyer who had failed any part of the SQE from being granted an exemption from that part?