

Response by the Solicitors Regulation Authority to the Consultation by the Costs Lawyer Standards Board on the Costs Lawyer Competence Test

The Solicitors Regulation Authority is the regulator of solicitors and law firms in England and Wales, protecting consumers and supporting the rule of law and the administration of justice.

Since 2014, we have been reviewing the education and training of solicitors of England and Wales.

As the Costs Lawyer Standards Board (the Board) says, part of this programme of reform involves the introduction of a new licensing examination for solicitors of England and Wales – the Solicitors Qualifying Examination (SQE) and ceasing to specify particular underpinning qualifications or routes to admission.

Our consultation response is written in the light of our experience from this programme of work.

Question 1: Do you agree with the principles of the proposal?

We do. The focus of a regulator's attention should be on assuring that those they admit are competent.

- Therefore, it needs to identify the competences needed for safe practice and satisfy itself that those it admits can demonstrate those competences.
- It needs to be able to do so on an accurate, consistent, fair, transparent and cost-effective basis.
- It does not need to specify how candidates acquire these competences, or how they should be taught. Its focus should be on assessing the outcomes of education and training, not specifying inputs.
- The professional assessment it requires for admission to the profession needs to be the minimum amount of assessment needed to ensure candidates are safe to practise. It should cover core competences only and be set at the minimum standard (which of course does not necessarily imply a low standard). Otherwise it creates unjustifiable barriers to admission and restricts consumers' access to legal services.
- This leads to the conclusions that
 - The regulator's focus must be on assessment, not training.
 - A single, national professional assessment is the best way to demonstrate fairness and consistency, rather than a distributed assessment model in which it is difficult to ensure consistent standards.

The Board's proposals are sensibly in line with this approach, and we would therefore endorse them.

However, we would raise two practical issues for the Board to consider:

- (a) We do not know how many candidates for admission the Board has each year. If the numbers are very small, this may affect the statistical reliability of the standard setting processes needed to provide confidence in the accuracy and consistency of the proposed assessment.
- (b) Developing and delivering a centralised assessment and writing good quality assessment materials is expensive. The numbers of candidates, and the fee they can reasonably be charged, may therefore affect the commercial viability of the proposed contract with the assessment provider. It may be that this can be addressed by

awarding a long-term contract, which gives the assessment provider time to recover the development costs. But, to test this hypothesis, the Board will need to model both development costs and ongoing annual delivery costs against a range of fee levels.

Question 2: Do you agree with the access criteria (Annex 1)?

We agree that, as solicitors will have been assessed in the SQE on the skills and knowledge comprised within the Part 1(a) and Part 2 of the CLCT, an exemption from these elements seems appropriate.

Question 3: Do you agree with the standard criteria (Annex 2)?

We agree with the principle of targeting the assessment around the three areas of authorised legal activity for costs lawyers under the Legal Services Act 2007.

As stated, a professional assessment should be the minimum necessary for safe practice. Each element of it needs an objective justification. We would suggest the Board might wish to review the standard to ensure it is as tightly drawn as possible. We would question, in particular, the justification for including a knowledge of contract and tort law in the assessment.