CITY OF LONDON LAW SOCIETY

Minutes of the open meeting for CLLS firms at 4.30 pm on 30 November 2016 at Allen & Overy, One Bishops Square, London E1 6AD

In the Chair
Caroline Pearce (CLLS Training Committee, Chair)
Edward Sparrow (CLLS, Chairman)
David Hobart (CLLS, Chief Executive)

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1. Introduction

The meeting was convened to discuss the SRA's second consultation on a new route to qualification. A briefing note summarising the key points for CLLS firms had been circulated before the meeting.

David Hobart opened the meeting with the following points:

1) To view the proposals in the context of international training competitiveness. Will the SQE make us more or less competitive that our US colleagues who have qualified under, for example, the New York Bar Examination?
2) To encourage firms to submit individual consultation responses to the SRA in addition to the CLLS's planned response.

Caroline Pearce noted the overwhelmingly negative response to the SRA's first SQE consultation. Whilst the second consultation has retained a centralised assessment, the SRA has listened and made some modifications. However there remain key areas of concern:

1) The standard setting for the SQE 1 and 2.
2) Minimum competence versus City competence.
3) The beginning of the end for a fixed mandatory term of qualifying legal workplace experience.

2. A summary of the questions raised and points discussed

To note: references to 'the SRA's view' are to views expressed by representatives of the SRA at previous meetings with SRA.

1) SQE: the following concerns were noted:

a) The standard setting in SQE1 and SQE2.

b) That MCQs would not effectively test a candidate's ability to digest complex arguments and to apply the law and that this core skills-set would not be adequately assessed through MCQ style questions alone. The case for not using long form questions has not been made. The SRA's view is that the requirement for a degree (or equivalent) will ensure the candidate has developed this skills-set through their degree level education.

c) As to how SQE2 assessments will impact on trainees on international or client secondments and in a 'niche seat' where there would be limited other resources in the group.

d) Arising from the SRA’s view, that the SQE2 could be taken early or before workplace experience, which would relegate the standing of workplace experience.

e) The wisdom of assessments taken in areas of law that trainees had not experienced.

f) The absence of the traditional City elective subjects, leaving firms to make up the gap and a gold-plated SQE1. There is an expectation that firms will put future joiners on additional non-regulated courses. The consequences of which were:

   i) the risk of creating a two tier profession, which would manifest itself when hiring junior lawyers (as seen in the accountancy profession); and

   ii) Qualification not being cheaper than the existing assessment regime (a risk for access to the profession unless a sponsored student).

g) Firms expecting law graduates to need an SQE1 preparation course and non-law graduates to need a GDL equivalent.

h) On SQE1 specifically:

   i) The New York (and California) Bar uses MCQs, but (1) a law degree is a pre-requisite and (2) MCQs do not form the whole of the Bar Examination, there is an essay element. With MCQs, the written analysis piece is missing.

   ii) 120 MCQs in 180 minutes which does not allow for in-depth analysis.

   iii) The SRA expecting the fail rate to be higher for the SQE than the LPC. The QLTS pass rate is around 54%.

   iv) There was no confidence that SQE1 syllabus is broad enough nor that the examination is robust enough to deliver quality across the profession.

However, it was also noted that the QLTS MCQ assessment could be a comprehensive test of legal knowledge and legal principles. A US qualified lawyer who had taken the QLTS remarked that for the MCQs it was necessary to know the law. Whilst MCQ testing has the potential to be effective it is limited and no sample questions have been published, for reassurance purposes.

2) Regulatory oversight of training providers:

a) The SRA has no plans to exercise any regulatory oversight of the providers of SQE1 or 2 courses. In the SRA's view, publishing data on the performance of providers and SRA guidance for students to help them make their choice is sufficient.

b) It was suggested that pass rates would be the way that students make their choice of provider, rather than price. But published results would not be graded with no ability to distinguish between a provider with a high number of low grade passes from a provider with a high number of high grade passes.

c) There was a general concern about the ability of students to choose the right course with unlimited options and closing off career options by early choices and the implications for diversity and access to the profession.

3) Workplace experience: the following concerns were noted:

a) The proposed sign-off procedures, in particular, because there is only a requirement to have experience of "some or all of the competencies" in the Statement of Solicitors Competence and where a trainee undertakes his/her workplace experience with different employers.

b) The standard required to pass SQE2, especially if the assessment can be taken before the workplace experience.

c) Reduced mobility within the profession if a trainee has not trained at a City firm and for work place experience if the trainee has completed part of it elsewhere.

d) The fact that workplace experience need no longer be a continuous period and may be taken at different times and with different employers does not achieve the SRA's uniformity of quality that it is striving for with a centralised assessment.

4) Social mobility and diversity: whether the proposed model will have positive or negative benefits for social mobility and diversity:

a) In addition to the above, there was a general feeling that the proposals could have the opposite outcome to that intended.

b) City gold-plate courses was raised again and the likely disadvantage for those without a City training who may find it hard to join a City firm as a lateral hire.

c) It was noted that most universities (the Russell Group universities) have indicated that they will not alter their law degrees to include SQE1 preparation. The cost of having to sit SQE1 (and in effect be tested twice) and stage 2 assessments potentially creates an additional cost that is likely to have diversity implications.

5) Transitional arrangements

a) There was general concern about the short time frame and the fact that the recruitment cycle had already started for 2019.

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Chair