



# **Changes to the rules on Solicitors Qualifying Examination (SQE) exemptions: Initial equality impact assessment**

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December 2023

## Introduction

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A qualified lawyer is someone who holds a professional legal qualification which confers rights to practise in England and Wales or in another jurisdiction.

Qualified lawyers who wish to become solicitors of England and Wales are entitled to apply for an exemption from part or parts of the SQE. We will grant an exemption if they can demonstrate that their qualifications and/or experience are not substantially different in content and standard to the SQE. Our current policy on exemptions is set out in the [Principles for Qualified Lawyers](#) (the Principles).

To date, with the exception of lawyers qualified in Northern Ireland and the Republic of Ireland, who are entitled to an exemption from both SQE1 and SQE2, 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) to qualified lawyers.

As noted in the consultation, we have been monitoring how our older Qualified Lawyers Transfer Scheme route for qualified lawyers and our new exemptions policy (from the SQE) have been working. This monitoring activity has highlighted risks in the application of our exemptions policy which we did not foresee when we developed our current 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 currently provide for us to take into account this evidence when considering an application for exemption.

## What changes are we proposing?

We are proposing changes to our regulations that would:

- prevent qualified lawyers from being granted an exemption from a part, or parts, of the SQE assessment which they have previously failed; and
- require those lawyers to re-sit and pass the part, or parts of the SQE assessment which they failed in order to qualify as solicitors of England and Wales.

## What are the potential equality impacts of our proposed rule change?

This rule change would apply to qualified lawyers from all jurisdictions, including those 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 thus far only approved one SQE1 exemption.

Our most recent monitoring data, from the third round of SQE2 sittings - in April and May 2023 - shows that 27% of the candidates were qualified lawyers. Their mean score was 6% lower than non-qualified lawyers, and their pass rate was 69%, 16% lower than non-qualified

lawyers. This data does not show qualified lawyers' pass rates by protected characteristics, so we do not know if qualified lawyers from any particular group are more likely to fail.

However, data from SQE2 assessments typically shows that candidates from some specific groups perform less well than others on SQE2. For example, candidates from these groups generally perform better on SQE2:

- the younger age groups (16-24 and 25-34)
- a White and Mixed/Multiple ethnic background
- candidates who attended a selective or non-selective state run or state funded school or an independent school.

This is compared to those in older age groups, Black/Black British and Asian/Asian British candidates, and those who went to school outside of the UK, respectively.

It is possible, therefore, that this rule change could be more likely to affect qualified lawyers from these groups. This is particularly so as qualified lawyers may be more likely to fall into the older age categories, to have attended school outside of the UK and some are from a Black/Black British or Asian/Asian British background.

We will explore our data further to see whether there is any evidence that qualified lawyers from any particular group are more likely to pass or fail the SQE2 assessments and we will update our impact assessment before making a final decision.

The impact of the changes on those for whom the policy applies would mean they would incur additional cost. The cost of SQE1 is £1,798 (£899 for each assessment) and £2,766 for SQE2. The assessment fees apply to anyone who is required to resit an assessment, not just qualified lawyers. They might also choose to pay for preparatory training.

Lawyers based outside of England and Wales who fail SQE2 would also need to travel to England and Wales to resit the oral components of SQE2. There is a risk that the change could act as a barrier for qualified lawyers from lower socio-economic backgrounds, therefore.

Other than the impacts described above, we have not identified any other potential adverse impacts nor any potential impacts on any other protected groups.

## What would we do if the potential risks materialise?

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.

We think our proposed rule changes are a proportionate means of achieving the legitimate aim of protecting clients and the public for the following reasons:

- Our proposed rules would not prevent those who are competent to do so from qualifying as solicitors of England and Wales. Like other candidates who fail an assessment, they would be required to sit the assessment again and pass it before they can be admitted to the profession.

- Our proposed rules would not be targeted at lawyers who qualified in any specific jurisdiction; the rules would be targeted where there is evidence that a qualified lawyer does not meet the standard of the SQE.

We aim to mitigate any impact by ensuring changes to our rules and the Principles are clearly articulated so that qualified lawyers understand that we will not grant an exemption where someone has previously failed an assessment.

We will clearly explain that if they had failed to meet the standard of the SQE, we would not consider them to be competent to practise as a solicitor in England and Wales. We would also give notice of the change by implementing the policy in line with the date proposed in the consultation. Moreover, we will continue to recognise previously issued exemption decisions made before the changes come into force.

## Provisions for lawyers from Switzerland

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 and Wales, as set out in Statement of Solicitor Competence, and the knowledge of English and Welsh law set out in the Statement of Legal Knowledge.

## Conclusion and next steps

These rule changes would apply to qualified lawyers from any jurisdiction and would not discriminate against any particular protected characteristic.

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.

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.

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 protected group.

We will continue to interrogate our data. We will also use the consultation exercise to engage with stakeholders to seek views on the potential impacts we have identified and whether there are further potential impacts we need to consider.

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