Introduction of the Solicitors Qualifying Examination:

Monitoring and Maximising Diversity

BRIDGE
group

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How can it be right that the creation, development and enforcement of the law should be the exclusive preserve of those who happen to have been born to the 'right' parents? It cannot – so why perpetuate it? Let's be clear about this though. We must not lower standards. We cannot afford to do that. Instead, we must raise aspirations. We must give opportunities to the potential future leaders of our profession who would otherwise never get the chance to showcase their talent.

Nicholas Cheffings, Chair of Hogan Lovells
(Law Gazette, 2016)

We need to be careful about the filters we use to determine who enters our profession. The current filter is too skewed towards whether you have had a privileged secondary school education and, even more importantly, if you can access large amounts of finance after your degree. A single test should enable us to be more objective, and help us understand what is happening in the system…now it's just too opaque.

Interviewee: employer

Whilst talent is sometimes presented by firms as though it is an unproblematic concept, it is in fact highly ambiguous. Research suggests that this ambiguity is a key factor encouraging firms to rely on proxy measures of potential associated with middle-class status, thus accentuating rather than reducing, non-educational barriers to entry and, possibly, career progression.

Social Mobility Commission Report

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Executive Summary

Diversity in the legal profession is receiving much attention, motivated primarily by concerns about equality and access to talent, and in response to pressure from policy-makers and the media. Considerable research underscores the challenge and highlights the main contributing factors, which include educational attainment, the development of soft skills, careers guidance, university access, significant financial obstacles, access to work experience, and the recruiting practices of employers.

The Solicitors Regulation Authority (SRA) is consulting on proposals to introduce a common assessment that all intending solicitors would take before qualifying; the Solicitors Qualifying Examination (SQE) is designed to ensure that solicitors have consistently high standards and competences, and the skills to compete domestically and globally.

The proposals are highly likely to increase the number, and broaden the range, of training providers in the market, and provoke new models of training including online provision. Wider range of choice is both an important opportunity to support diversity, since it will enable students to chart more flexible pathways, and a risk. It will make the routes to qualification harder to navigate, especially for those students without access to good advice, and a tiered system may become quickly apparent, because some legal employers will give continued (or possibly increased) currency to traditional pathways, through which high performing candidates have been recruited for many years.

These risks are considered relative to the current system, in which most aspirant solicitors are obligated to pursue a uniform pathway to qualification that typically requires access to significant financial credit (to undertake the LPC), with no assurance about the value of this investment. There remain only a handful of professions in the UK that are built on a system of qualification where candidates are precluded to the same extent by financial means, or by their willingness to engage in high levels of borrowing at significant personal risk. Increased competitive pressures are likely to be introduced by the SQE, with an expectation this will drive down costs, potentially lowering this financial barrier for trainees.

The proposals will also introduce greater transparency through the datasets that a standardised examination will make available; once there are data in the system, there is the potential for students to access timely and dependable information about the outcomes they can expect from pursuing different routes into the profession, and for employers to access new information that could help support diversity in recruitment.

The SRA has already committed to activities, alongside the reforms, that we expect to increase the likelihood of realising these positive impacts on diversity; but we encourage the Regulator to shape these commitments more ambitiously, and to build on them within the scope of their role. This includes, but is not limited to: continuing to invest in, and further segmenting, communications about the reforms; considering carefully the pace and timing of implementation; ensuring rigour and accessibility in developing a toolkit to enable students from all backgrounds to navigate qualification routes; the robust collection of data, and associated analysis, to ensure that timely and dependable insight is accessible; and liaising increasingly closely with employers to secure and preserve confidence in the rigour and relevance of the SQE.

Increasing diversity in the profession is dependent critically on the actions of employers and training providers, and actions by the SRA will achieve only modest gains without corresponding action from stakeholders in the sector. A high proportion of these stakeholders have undertaken activities to promote diversity for many years, though evidence of impact on diversity is limited. The greater freedoms created by the reforms should enable this pursuit to be undertaken with increased agility and ambition. We reference good work already being undertaken, and areas in which increased activity would be welcome.

There is no silver bullet to address diversity in the legal profession, because lack of diversity is constructed of a complex range of factors at every stage on the journey to the profession. It follows that diversity implications cannot be precisely predicted, given the variety and multiplicity of these factors. We therefore place emphasis on the gathering and analysis of accurate data, throughout the implementation process and beyond, to review and evaluate impact, and take informed decisions regarding the continued development of the SQE.

Key Recommendations

A.   **Deliver the data strategy outlined herein,** to ensure that the greater transparency afforded by a standardised examination is accessible to all aspirant solicitors to help inform decisions about training, and to ensure the sector has an improved understanding of the causes, and potential solutions, to diversity. This includes:

- a specification for data monitoring;
- strategies to improve response rates amongst trainees;
- proposed modes of analysis, and
- ways in which these data should be shared.

B.   **Ensure that the proposed toolkit for students is accessible, robust and that there are resources in place to enable students from all backgrounds to navigate the increasingly complex range of qualification routes. It should include the following, and form the basis for a much more comprehensive and ambitious information platform for all students:**

- An overview of the profession, including:

    - information about who becomes a solicitor;
    - the typical work of a solicitor; and
    - case studies of solicitors, to provide role models for a wide readership.

- A clear outline of the requirements for individuals seeking to qualify as a solicitor in England and Wales, including:

    - an exposition of the SQE;
    - example routes to qualification, with clear guidance that this is not exhaustive;
    - a set of questions for prospective applicants to use apply when considering their options; and
    - details about other pre-requisites, such as character and suitability.

- Key data, as outlined in the previous section, with consideration to the limitations of these data in year one, and the management of the potential risks of publishing these.

- Examples of links to where further information can be sought about individual training providers, and costs of qualifying (in consideration of the more comprehensive system of information detailed below).

C.   **The credibility of assessments should be supported by considering carefully the timing of the reforms, and undertaking a transparent testing process that is accompanied by a communications strategy with differentiated messages to key stakeholders.** This will enable training providers and employers to prepare effectively, thereby maximising the possibility that they can consider impact on diversity in their planning.

D.   **Continue to liaise closely and frequently with employers to establish and preserve their confidence in the rigour and relevance of the SQE, to ensure that it is meeting their needs, alongside the immediate regulatory needs of the SRA.** It will be essential for employers to understand the wider range of qualification routes that the reforms will enable, and to be clear to prospective students about the relative currency placed on different qualification routes.

Scope and Methodology

1. This report is neither a review of the proposed SQE reforms, nor an equality and diversity impact assessment; these areas are to be covered by the wider consultation process being led by the Regulator. This study has been commissioned by the SRA to:

   - provide reflections and recommendations about how the SRA can monitor the impact of the SQE on candidates with protected characteristics, and those from lower socio-economic groups, through data collation and analysis; and

   - provide reflections and recommendations about practicable actions that can be taken by the SRA to maximise the positive impact of the SQE in relation to diversity, if the reforms are introduced in their current form.

2. To deliver the first objective, extensive desktop research has been undertaken, and the study draws on the nationally leading work from the Bridge Group in this area.[1]

3. To deliver the second objective, we have undertaken:

   - a review of the results from the earlier consultation undertaken by the SRA regarding the SQE, with a specific focus on responses relating to diversity;

   - eighteen individual and group interviews (25 participants in total) with a representative range of employers and training providers. Through semi-structured interviewing, we have explored further the views of key stakeholders; and

   - a synthesis of these findings, drawing on our experience within the law sector, and more broadly across the professions, and higher education. Further information about the Bridge Group is available online.[2]

4. Interviewees received a briefing before taking part in their individual conversation with researchers. The topic guides and protocol are available in Appendix A.

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[1] www.thebridgegroup.org.uk/bridge-group-supporting-leading-work-to-identify-national-measures-for-social-mobility/

[2] www.thebridgegroup.org.uk

The Role of the Solicitors Regulation Authority

5. The SRA is a regulatory body, with responsibility for regulating: solicitors of England and Wales; law firms of England and Wales; non-lawyer employees of firms that are regulated; and other types of lawyer, such as registered foreign lawyers and registered European lawyers. The SRA sets the Principles and a Code of Conduct that these groups must abide by to provide legal services. An outcomes-focused, risk-based approach is taken to regulation, such that regulated individuals and firms can operate independently in the interests of their clients and in the wider public interest.

6. The nature of this role has important implications with respect to this report, especially in consideration of the actions that are recommended to promote greater diversity, and where the primary responsibility for the delivery of those actions might rest. The SRA is neither a professional body, nor a regulator of education; therefore, the Regulator's involvement in assessment is to maintain that solicitors are competent and safe to provide services to members of the public.

> *"We are focused on the standards that you obtain before you can enter the profession, not on the way you obtain them…That is the priority for us as the regulator, not monitoring the processes by which new solicitors are developed."*
>
> *SRA*

7. However, whilst emphasising the role of the SRA in this regard, the Regulator also takes seriously the need to understand the potential impact on diversity of any reforms to assessment, and to explore actions across the sector that can be undertaken to maximise positive effects. The latter topic is the focus of this report.

8. To provide context for considering actions that might help to secure greater diversity in the profession under the proposed reforms, we reflect first on the key factors that have an adverse effect on diversity in the legal profession, and consider briefly the likely characteristics of the market for solicitor training that the reforms are likely to stimulate.

9. An outline of the proposed reforms is available on the SRA website.[3]

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[3] www.sra.org.uk/sra/policy/training-for-tomorrow.page

Factors Affecting Diversity in the Sector

10. Diversity in the legal profession is receiving increasing attention amongst educators and employers, motivated primarily by concerns about equality, access to talent, and in response to pressure from policy-makers and the media. In the public higher education sector, there is the additional imperative of regulation from the Office for the Fair Access (England), and the current Higher Education and Research Bill that emphasises equality of access and graduate outcomes.[4]

11. There is also a corporate imperative, built on the growing evidence about the positive relationship between diversity and commercial performance; an agenda that has historically been concerned with corporate social responsibility has matured into activity that is also driven by a more direct commercial interest.[5] Cox & Blake,[6] for example, outline six organisational benefits of workforce diversity, which are supported in the wider literature.[7]

Figure 1: Organisational benefits of workforce diversity (adapted from Cox and Blake)

Cost: A productivity advantage for those who best integrate diversity in their workforce
Staffing: Organisations with the best reputation for diversity appeal to the widest talent pool of prospective applicants
Understanding of the market: Staff with diverse backgrounds and perspectives will offer insights and cultural sensitivities about the widest range of stakeholders
Creativity: Higher levels of diversity encouraging less emphasis on conformity, increasing the chance of more creative ideas and solutions
Problem-solving: A wider range of perspectives means decisions are more thoroughly considered and better informed.

12. Alongside benefits associated with the effective management of diversity in aggregate, numerous studies have also focused on specific diversity characteristics, including gender, ethnicity, and socio-economic background.[8] The recent publication from Credit

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[4] services.parliament.uk/bills/2016-17/highereducationandresearch.html

[5] See, for example: www.mckinsey.com/business-functions/organization/our-insights/why-diversity-matters; www.gov.uk/government/uploads/system/uploads/attachment_data/file/246696/Business_Social_Mobility_Manifesto.pdf; · www.slideshare.net/creditsuisse/lgbt-the-value-of-diversity

[6] Managing Cultural Diversity: Implications for Organizational Competitiveness, Taylor H. Cox and Stacy Blake, *The Executive* Vol. 5, No. 3 (Aug., 1991), pp. 45-56

[7] For example, Subeliani & Tsogas, 2005, Urwin et. al., 2006 and empirical evidence in www.gov.uk/government/publications/the-business-case-for-equality-and-diversity-a-survey-of-the-academic-literature

[8] See, for example: www.mckinsey.com/business-functions/organization/our-insights/why-diversity-matters; and www.gov.uk/government/uploads/system/uploads/attachment_data/file/246696/Business_Social_Mobility_Manifesto.pdf

Suisse on the impact of LGBT diversity on corporate performance is noteworthy, since it explores the quantitative connection between this aspect of diversity and share price.[9]

13. Many employers also now actively pursue greater socio-economic diversity, partly stimulated by the Government (through the Social Mobility Business Compact, for example, and the creation of the Social Mobility Employer Index).[10] This emphasis also recognises that socio-economic inequality underlies some other diversity challenges including, to some extent, the under-representation of some ethnic minority groups.

14. Within the legal sector, 74% of the top judiciary were educated at independent schools and the same proportion went to Oxbridge.[11] Facilitated by the SRA, law firms provide data on diversity about solicitors: 32% of solicitors at partner level attended independent schools,[12] compared with 6.5% of the UK school population (rising to over 18% when considering pupils over 16).[13] Data can be explored via the SRA's diversity toolkit.[14] These data are critical in highlighting extent of the issue but, as the Legal Services Board highlights, they do little to help us understand, or address the diversity challenges.

> *"…publication of data has, in part, served to reinforce the received knowledge that there are substantial inequalities of background within law firms. The next step will be to use this information to continue to better target recruitment policies that change this."*

Legal Services Board

15. Research indicates that this lack of diversity is a construct of a wide range of factors. These include school education, university access, training, and gaining experience within a law firm. These factors vary considerably depending on the area of law, and the size and status of employer. The figure overleaf outlines these stages. It is not intended to be a comprehensive review of the factors, or of the literature associated with it, but it highlights the range of ways in which different factors affect access to the profession, to provide a backdrop for the later reflections.

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[9] www.slideshare.net/creditsuisse/lgbt-the-value-of-diversity

[10] www.gov.uk/government/news/top-firms-to-be-ranked-on-social-mobility

[11] www.suttontrust.com/wp-content/uploads/2016/02/Leading-People_Feb16.pdf

[12] www.sra.org.uk/solicitors/diversity-toolkit/promote-diversity.page

[13] www.isc.co.uk/research/

[14] www.sra.org.uk/solicitors/diversity-toolkit/diversity-toolkit.page

Figure 2: Factors affecting diversity in the legal profession

School attainment and information, advice and guidance	Attainment at school, or college, is critical to the prospects of aspiring solicitors, since high attainment is the ticket to selective universities, continues to be used as screening criteria amongst two thirds of leading legal firms, and affects candidates' ability to secure a training contract. There is a strong correlation between socio-economic background and school attainment, and this also applies to many minority ethnic groups.[15] Wider experiences at school matter, too: there is evidence that school pupils from less advantaged backgrounds make subject choices that negatively affect their prospects, and that the quality of information, advice and guidance is weaker for these pupils.[16]
University access	Lack of diversity in the legal sector is partly a construct of the corresponding lack of diversity in the applicant pool. Employers typically target the most selective universities, whose students apply in high numbers; students at these universities are more likely to have been educated at selective or fee-paying schools, or be from relatively affluent backgrounds.[17] Alongside ready access to employers, students who attend these universities also typically have access to: higher status professional networks; academic staff with links to leading firms; finance to support travel for placements and other work experiences; and are more likely to develop non-educational competencies that have premium in professions.[18]
Perception of the profession	Research indicates that students from lower socioeconomic backgrounds may self-select out of the application process in relatively high numbers, even when educated at Russell Group universities. "This can be explained in part because some of the activities conducted during campus visits may reinforce elite firms' image of exclusivity, so that students from these backgrounds may feel that they will not fit in, or that their academic credentials might not be acceptable".[19]

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[15] www.gov.uk/government/publications/state-of-the-nation-2016

[16] *Ibid*

[17] www.hesa.ac.uk/news/04-02-2016/performance-indicators

[18] www.gov.uk/government/uploads/system/uploads/attachment_data/file/434791/A_qualitative_evaluation_of_non-educational_barriers_to_the_elite_professions.pdf

[19] *Ibid*

Access to work experience	Work experience can aid entry to the legal market in many ways. The working knowledge and practical experience gained makes students more attractive to prospective employers, while providing direct links to firms who offer training contracts. However, access to work experience can be limited by networks that enable introductions (for example through their university, or family), and by the amount of time available (for example, an individual with caring responsibilities, or who has a need to earn additional income.)[20]
Completing the LPC	The LPC is a year-long course, when studied on full-time basis. It is a crucial part of the pathway leading to a career as a solicitor, and typically requires access to significant funds for those students who do not secure employer funding. There is also a great deal of risk attached to the investment; a high proportion of students who undertake the LPC do not secure a training contract.[21]
Training contract	Before a person who has completed the LPC can practise as a solicitor they must also complete a two-year training contract. Securing a training contract is much more competitive than gaining a place on the LPC. The firm in which a solicitor receives their training can affect pay, conditions and career prospects. Recruitment practices vary, usually dependent on the size of the firm, creating different barriers to the profession depending on the firm individuals apply for.
Recruitment practices of legal firms	Recruitment and selection processes typically deploy a specific notion of 'talent' which may further advantage candidates from higher socio-economic backgrounds. Firms seek out the "brightest and best", however, definitions are not uniform across the sector, or indeed within individual firms. The predictive validity and reliability of performance measures prior to entering the profession (such as type and name of institution attended, and qualification scores) is not as established as many assume. And the use of proxy measures of quality may disproportionately disadvantage those from lower socio-economic groups. A range of non-educational skills and attributes are also sought, most acutely by elite firms, including the capacity to present a "polished" appearance, display strong communication and debating skills, and act in a confident manner at interview.[22]
Progression in the legal profession	Increased diversity at entry to the legal profession is not the only objective. Individuals from lower socio-economic backgrounds may encounter more problems climbing the career ladder than their more privileged peers. Research has shown a negative correlation with numerous characteristics, such as ethnic origin, gender and social class, and the chance of progressing to high ranks within the profession, for example becoming a partner in a firm.

[20] https://research.legalservicesboard.org.uk/wp-content/media/2010-Diversity-literature-review.pdf

[21] https://www.sra.org.uk/sra/consultations/solicitors-qualifying-examination.page

[22] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/434791/A_qualitative_evaluation_of_non-educational_barriers_to_the_elite_professions.pdf

16. Understanding this 'pipeline of unequal access' is important in the context of the SQE: it highlights that much happens prior to assessment that affects who reaches this stage, and that inequalities persist beyond this point. This emphasises that while reforming qualification could make a significant contribution, it is not a panacea for solving deep-rooted, early educational inequalities, and those that persist into the profession.

17. Much is already being done to try to address the lack of diversity in the legal sector. Sometimes working with charities and third sector organisations, or as consortia, law firms have long-standing initiatives to promote diversity. There is usually a key focus on the 'supply-side', raising aspirations amongst students and school children from those underrepresented in law; examples are outlined below.

Figure 3: Examples of cross-sector programmes to promote diversity

PRIME, a programme whereby law firms offer work experience to students from less advantaged backgrounds, now has 89 members, offering more than 1,100 places on work experience schemes every year. PRIME firms such as Hogan Lovells and Bird & Bird also offer bursaries to those from deprived areas interested in a career in law.
The Law Society launched their Social Mobility Ambassadors programme in October 2015 to promote role models from non-traditional backgrounds to support young people coming through in the profession.
The Bar Council runs an annual Bar Placement Week for high-achieving Year 12 and 13 students from non-traditional backgrounds, which includes a placement with a barrister and a mock trial.

18. Individual firms are also making local efforts to promote greater diversity, particularly with respect to socio-economic background. Some firms, for example, no longer screen out applicants using prior school attainment (although almost two thirds of leading law firms continue with this practice).[23] Some firms are exploring the use of socio-economic data to contextualise academic performance at school,[24] and others have introduced 'CV blind' application. While these initiatives are important steps in the right direction, the extent to which they are supporting positive outcomes with respect to diversity at the point of qualification is much less clear. The latest research in this area highlights a concern that there has been a strong focus on the supply side (i.e. attempts to address deficits amongst the prospective trainee population), and much less focus on demand (i.e. interrogating definitions of talent and potential, and critically reviewing approaches to

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[23] www.thebridgegroup.org.uk/report-on-student-employability-and-social-mobility/
[24] www.thebridgegroup.org.uk/good-practice-in-contextual-recruitment/

marketing and selection in recruitment processes). This important concept is revisited later.

Despite their efforts to improve social inclusion over the past ten to fifteen years, these elite firms continue to be heavily dominated at entry level by people from more privileged socioeconomic backgrounds. This can be attributed primarily to a tendency to recruit the majority of new entrants from a narrow group of elite universities, where students are more likely to have attended selective or fee- paying schools, and/or come from relatively affluent backgrounds. In addition, elite firms define 'talent' according to a number of factors such as drive, resilience, strong communication skills and above all confidence and 'polish', which participants in the research acknowledged can be mapped on to middle-class status and socialisation.

Social Mobility Commission, Ashley et al

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19.   Action is also being taken more widely across the professions. Grant Thornton, for example, recently commissioned a review into its selection process over a three-year period and found that inflexible entry criteria such as degree classification and school attainment was not indicative of employee performance;[25] and The Fast Stream, the elite graduate civil service programme, has also introduced a wide range of recommendations to promote diversity amongst its intake with significant success.[26.]

20.   An encouraging trend in some professions is the introduction of new pathways, most notably through apprenticeships. There is some scepticism about these routes: "many are relatively small-scale compared to graduate entry and do not appoint high numbers of non-traditional students; expansion of these programmes is prevented in part as firms find it difficult to reach and attract suitable students".[27] However, there is the potential for this to develop differently in the legal sector, with the commencement of the programme in 2016.[28] The role of a standardised qualifying examination is important in this context, since it ensures that all intending solicitors are assessed to the same standard, regardless of their pathway to qualification.

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[25] www.consultancy.uk/news/12586/grant-thornton-celebrates-the-success-of-social-mobility-measures

[26] www.gov.uk/government/publications/socio-economic-diversity-in-the-fast-stream-the-bridge-report

[27] www.gov.uk/government/uploads/system/uploads/attachment_data/file/434791/A_qualitative_evaluation_of_non-educational_barriers_to_the_elite_professions.pdf. See also comments in the recent Social Mobility Commission report.

[28] https://www.gov.uk/guidance/legal-services-apprenticeships

Interviewees' Reflections on the Current System of Qualification

The current system just isn't fit for purpose…it's has legacy issues from a time when higher education was funded, and when the Law Society was overflowing with resource. Access to money has become such a strong filter…we talk about accessing the best…but that can only be true if we assume that the best are typically either wealthy, or willing to take a serious risk with borrowing and personal finance.

Interviewee: employer

21. Building on the context outlined in the previous section, interviewees were invited to offer views on the current system with respect to diversity, to encourage consideration of any new training environment relative to this.

22. There was a broad view that the current system was designed at a time when the educational landscape, and the associated system of funding, was very different. There was much focus on the "LPC gamble", where students hoping to secure a training contract typically require access to significant credit (in some cases more than £15,000), with a high risk associated with the return on this investment. Some interviewees also expressed concern about the increasing scarcity of training contracts, though this perception appears to be at odds with the evidence: training contract numbers increased from 5,001 to 5,457 in 2014-15 (a 9% increase). Just over half (51.5%) of these are based in London, and a third (33.8%) of all training contracts are offered by City firms.[29]

23. Sources of financial aid were highlighted (for example, the Law Society's Diversity Access Scheme)[30] though it was also thought that these are limited, and there is no central portal that students can access to explore opportunities, and receive impartial advice on applying. As outlined in the previous section, the requirement for access to significant funds, combined with a high level of risk about whether this investment will lead to employment, is almost unique to the legal profession. In accountancy, for example, candidates are typically recruited by employers at graduation, and then funded to qualify via one of the professional bodies. It costs around £220,000 to qualify to become a doctor,[31] but a very high proportion of the costs are borne by the NHS; some

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[29] www.lawsociety.org.uk

[30] www.lawsociety.org.uk/law-careers/becoming-a-solicitor/equality-and-diversity/diversity-access-scheme/

[31] https://www.bma.org.uk/news/2016/october/medical-student-plan-will-take-a-decade-to-produce-doctors

costs, such as tuition and accommodation are funded by the individual, for example during undergraduate study, but work is secured by almost all of those who qualify.

24. In addition to this main theme around cost, there was also some concern expressed about the lack of transparency within the current system, and how this can make it problematic for some students to make well-informed decisions. 110 institutions providing QLDs, GDLs, LPCs; and more than 5000 firms are authorised by the SRA to train solicitors. The lack of a standard approach to understand the quality of output from these providers concerned some interviewees. For example, little is understood about why pass rates for the LPC vary from under 50% to 100%, whereas fewer than 1% of full time students on GDL fail, and 2% of those with training contracts are not admitted.[32] The latest data on providers and qualification rates are available here.[33]

25. Furthermore, some interviewees were concerned that lack of transparency about pass rates and student destinations, contributing to concealing possible variations in quality, impact most adversely on students from less advantaged backgrounds.

If you don't have access to advice, through your family…your wider network…it is almost impossible to navigate your way through the current options and courses, and to discern whether the financial risk is worth it…and where to invest your efforts.

Interviewee: training provider

26. Lack of transparency in the system is exacerbated by the typically unspoken preferences of some employers. The relative currency placed on different routes, training providers, and student characteristics, are often unsaid, or articulated unclearly, and definitions of talent are problematic. There is no clear performance standard to help guide firms to make decisions about trainees, and proxy indicators are typically adopted, such as A-Level attainment, university attended, and prior access to work experience (all closely associated with socio-economic background, and with some minority ethnic groups).

27. There was a view amongst many interviewees that a standard examination is necessary, provided it is credible, rigorous and meets the needs of the profession. Interviewees agree that there are significant, potential advantages of delivering a standardised test for

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[32] https://www.lawgazette.co.uk/practice-points/sqe-high-standards-more-opportunities/5058269.article
[33] www.sra.org.uk/documents/SRA/research/monitoring.pdf

England and Wales, with some recognising this to be the case in other jurisdictions (for example, New York and New Zealand), and others commenting on the lack of transparency inherent in a system where multiple examination systems were in operation.

If you asked a person in the street 'should all solicitors be assessed against a standard test?' they'd likely ask why that wasn't already the case. In principle, it makes good sense, but the detail matters, and we need to be sure that the overall effect is positive…against what is currently available. But if we are going to have one method of examination, it needs to be robust, trusted, and meet the needs of employers.
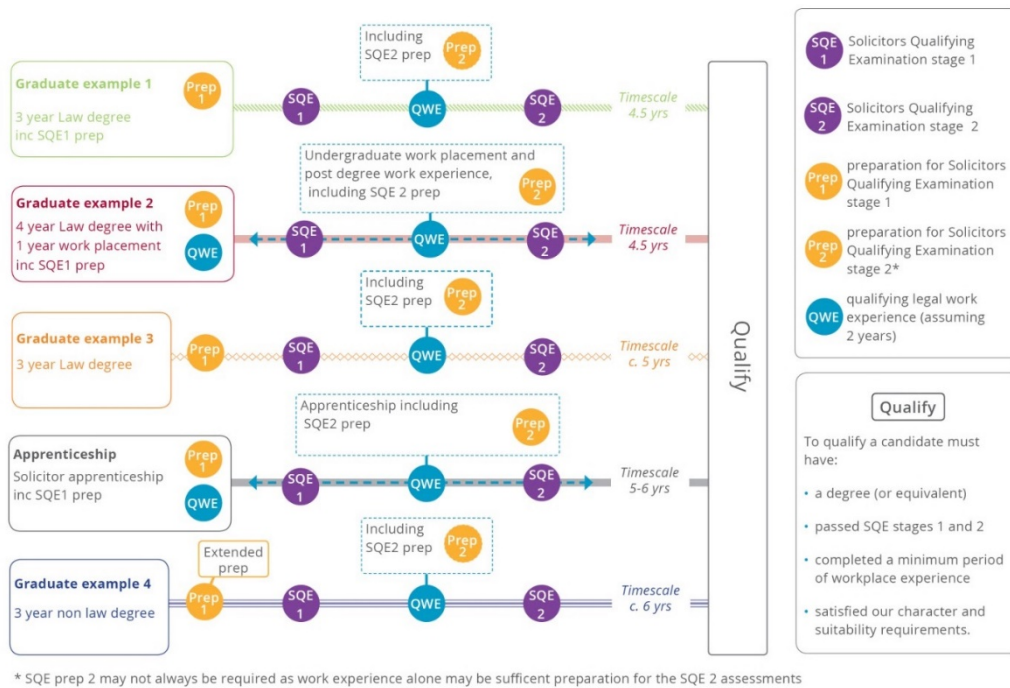

Interviewee: training provider

28.   Alongside this view, some interviewees also expressed strong reservations about the current proposals. These views are familiar to the SRA, and have been expressed through the consultation process. They include: the desire for greater justification about the proposed approaches to assessment (including the use of multiple choice questions) and marking; the breadth of topics covered at SQE stage 1; comparison against the more extensive qualification processes in some other jurisdictions (with reference to Germany, for example); the way in which assessment needs to account for the increased specialisation and diversification of career routes; and the increasing need for solicitors to be familiar with the ways in which technology is changing the profession.

29.   Interrogating these observations is outside the scope of this report, though they are inextricably linked to any recommended actions to support diversity, since the credibility of the assessment amongst stakeholders is critical in considering, for example, the extent to which the data derived from the assessment will help to inform employers' recruitment strategies, and may affect how educators choose to link the SQE to degree provision (which in turn has implications for cost and demands on additional study).

30.   Within the context outlined in the previous two sections, we now focus on the potential impact of the reforms on the market for legal training, and how potentially positive impacts can be secured, and negative impacts alleviated.

Key Themes: Diversity in the New Assessment Environment

31. In considering appropriate and impactful actions for supporting diversity in the profession, it is important to reflect on the way in which the reforms may impact on the market more generally. Subsequent sections explore these emerging themes in more detail.

32. The proposals are highly likely to increase the number, and broaden the range, of training providers in the market, and provoke new models of training, including online provision. This wider range of choice should promote diversity, since it will enable students to chart more flexible pathways; this is especially important for part-time and mature students, and for candidates currently under-represented in the profession whose circumstances (including financial and domestic) may restrict access to the current routes. A summary of possible routes from the SRA consultation is illustrated below.

Figure 4: Examples of possible routes to solicitor qualification under the new proposals

* SQE prep 2 may not always be required as work experience alone may be sufficent preparation for the SQE 2 assessments

33. These pathways may also be more affordable. The proposals are intended to introduce competitive pressures, and the expectation is that this will drive down costs.[34] This effect is important, since we know that while increases in undergraduate tuition fees have had

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[34] www.sra.org.uk/sra/consultations/solicitors-qualifying-examination.page

only a modest impact on access to higher education,[35] the cost of the LPC is prohibitive, or a major deterrent, for many talented students (and price sensitivity is exacerbated by the lack of certainty about whether it will lead to relevant employment).[36] To some extent, this burden is being alleviated by the increasing range of part-time LPC courses (during which time students can also work part-time), and the embedding of LPC courses within postgraduate study,[37] which means students qualify for funding from Student Finance England for all four years, and there is therefore no need to find extra funding to take the LPC. However, the wide research literature on barriers to postgraduate education, including the financial deterrent,[38] suggests that challenges to diversity will persist.

34.   The greater freedoms afforded to training providers and employers by the reforms is both an important opportunity to realise greater diversity, and a potential risk. With regards to the latter, the major concern expressed by interviewees is that a more open market will create a multi-tiered system, that continues to favour (or even intensifies the prevalence of) students with access to funding, networks, experience, and privileged information about the best pathways to pursue.

35.   This is perceived mainly because elite employers are likely to continue to favour trainees who have undertaken a traditional (and likely more expensive) route to qualification. Equitable access to relevant work experience is also likely to persist as a critical issue; a liberalised work experience market should encourage diversity, though there is a similar risk in this context that an associated tiered system will develop, where employers will put an increasingly high premium on certain types of experience, which are likely to be the least available. Several interviewees noted that differences in trainees' work experiences could also be exacerbated by some students paying for "top-up courses" to boost their SQE stage 2, including, for example, in family and employment law.

36.   Correspondingly, based on the evidence from our interviews, traditional training providers in the university sector are more likely to maintain existing curricula, with SQE preparation as an optional add-on; whereas newer training providers may take a different approach, tailored towards SQE outcomes, and with SQE preparation embedded in curriculum. Over time, changing demands from employers may shift this position, however, our experience is that demand-led changes, especially at the most competitive

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[35] www.ucas.com/corporate/news-and-key-documents/news/ucas-analysis-answers-five-key-questions-impact-2012-tuition

[36] https://research.legalservicesboard.org.uk/wp-content/media/2010-Diversity-literature-review.pdf

[37] At UCLAN, for example: www.uclan.ac.uk/courses/mlaw_law.php

[38] For example: https://www.york.ac.uk/education/research/cresj/researchthemes/higher-education/widening-access/

end of the higher education market, occur slowly, if at all. The potential implications of this are that: additional training is likely to incur significant additional cost, which could reinforce existing financial barriers; and supplementary training may be delivered outside of normal study hours (for example, at evenings, weekends, and holiday breaks), which may disproportionately disadvantage those who, for example, need to undertake paid work to maintain living income, or have caring responsibilities. Wider evidence shared with us by the SRA (derived from their own conversations with universities) suggests that this landscape may be more nuanced, with providers responding in a variety of different ways to test the market.

37. A final exacerbating factor is that a more complex map of routes to qualification is likely to be less navigable for students from less advantaged backgrounds, who are less likely to have access to high quality careers information, advice and guidance through their school and wider network.

38. The SRA is aware of these related concerns; they have been expressed during the consultation exercise.

39. However, the emergence of this multi-tiered system is neither inevitable, nor is it directly within the remit of the SRA to intervene; it would be constructed primarily of the views and associated behaviours of the training providers and employers who shape the market. It is also important to consider these risks relative to the current system (as outlined in the earlier sections). In principle, the creation of different pathways into the profession is progressive, since it will no longer mean that there is principally a single, high-cost pathway to qualification that every intending solicitor is obligated to take. There are limitations to consider, since performance on the SQE is highly likely to be influenced by the quality of preparatory training and experience (which may favour more affluent candidates, and those funded by employers), but a single qualification standard ensures that students on a multiplicity of pathways can be measured against one another.

40. Assuming these pathways (and the prospects associated with them) are clearly understood by all, this should increase access, and a single standard of assessment will maintain that everyone who is accepted to the solicitor roll has reached the required standard of competence. It is within the gift of training providers to craft the cost and shape of these pathways, and the prerogative of employers to resolve how each is differentially valued.

41. Another important consideration is that the proposals have the potential to introduce far greater transparency, because of the data that a standardised examination can make available. There are multiple aspects to this, with respect to pursuing increased diversity. Once there are data in the system, all students will potentially be able to access timely

and dependable information about the outcomes they can expect from engaging with training providers (recognising that some candidates may well be engaging with multiple providers as they progress).

42.   Data will also be available to the Regulator, to understand better patterns of diversity (and how this might correlate with performance, highlighting for example where candidates with protected characteristics might be observed to under-perform when taking account of other variables such as prior attainment), and to employers so that they might make assessments about applicants' competences to supplement, or even eclipse, current proxies such as university attended or prior attainment at school. It will also enable employers to identify which providers have a combination of high SQE performance, and high relative levels of diversity, which could encourage recruitment from a wider range of providers. These latter points are clearly dependent on employers' faith in the rigour and relevance of the assessment.

43.   Realising increased diversity in the profession is also dependent crucially on the actions of employers and training providers. A high proportion of these stakeholders have undertaken activities to promote diversity for many years. The greater freedoms created by the reforms provide these organisations an opportunity to undertake this activity with increasing flexibility and ambition, playing a critical role in supporting diversity in the new qualification landscape. Concurrently, the SRA recognise that they also have important responsibilities within the scope of their remit:

* The credibility of assessments could be supported by considering carefully the timing of the reforms, and undertaking a transparent testing process that is accompanied by a communications strategy with differentiated messages to key stakeholders. This will enable training providers and employers to prepare effectively, thereby maximising the opportunity to consider impact on diversity in their planning.

* It is important to ensure that data can be used to drive a functioning and transparent market to the benefit of all; the robust collection of data, and associated analyses, will ensure timely and dependable information is accessible to prospective students, current students and employers. This will in turn enable annual diversity impact assessments to be undertaken by the SRA.

* Ensure that the proposed toolkit for students is accessible, robust and that there are resources in place to enable students from all backgrounds to navigate the increasingly complex range of qualification routes. This should form the basis for a much more comprehensive and ambitious information platform for all students.

- Continue to liaise closely and frequently with employers to establish and preserve their confidence in the rigour and relevance of the SQE, to ensure that it is meeting their needs, and the immediate regulatory needs of the SRA. It will be essential for employers to understand the wider range of qualification routes that the reforms will enable, and to be clear to prospective students about the relative currency of different qualification routes.

Pace, Timing and Communication of the Reforms

44.   The issues of pace, timing and communication associated with the reforms might be perceived as tangential to issues regarding diversity. However, these matters are critical if training providers and employers are to give sufficient consideration locally to how the proposals may impact on diversity, and to design corresponding actions. Candidates, and those advising them (including schools), also need sufficient detail and time to make well-informed decisions.

45.   Interviewees expressed some concern about the pace of change, and the proposed timeline, as set out in the most recent consultation. Interviewees understand the SRA's desire to address what, for many, have been longstanding issues, and have involved protracted discussion about change. Much of the concern regarding the timeframe is linked to how prospective students and prospective employees can access timely and accurate information to inform their decisions. For example, training providers are sending their prospectuses to press in the coming months for students starting in autumn 2018, and recruiting firms, who are identifying students in their second year of study, are already engaged with those for whom SQE stage 1 will be a requirement.

> *"The lead time needed for explaining changes [to our prospective students] is long, and I am worried that misinformation may start to circulate in the absence of clear explanations. If things aren't clear, and remember that we're still trying to work out how to implement these changes locally, students will fill the void with their own assumptions. That's likely to be most dangerous for poorer students who don't have family or teachers to help them navigate."*

Interviewee: training provider

46.   This does not necessarily indicate a need to adjust the timeline (though there are stakeholders who would find that outcome favourable), but does clearly suggest the importance of providing high quality, reliable and valid information to allow the developing market to operate effectively and efficiently.

47.   Amongst some training providers, there is a feeling of pressure about the proposed timeline when it comes to deciding how to accommodate the new proposals, and anxiety in not knowing how the wider sector will respond. Of course, this is a natural consequence of the development and expansion of training provision, and one of the driving factors in the operation of a competitive market. The continued application of an effective SRA communication strategy has the potential to allay these fears, leaving space for some element of collaboration across training providers (where experience

across higher education has shown this to be an effective way of maximising efforts to improve diversity), and minimising the risk of applicants from under-represented backgrounds making career decisions on limited, or incorrect, information.

48.   Training providers and employers should be given the greatest opportunity to review, develop and embed their own practice, considering the implementation of the SQE. The SRA is well positioned to ensure that all key stakeholders are given the time, information and tools necessary to maximise the likelihood of positive impact on diversity. It is also important to consider the diversity of training providers and employers in the current market, and the need to differentiate messaging to ensure relevance in communications. The SRA has undertaken extensive activity to engage the sector, gathering information and opinions on the proposals, their implications and appropriate mitigations. However, our interviews suggest some lack of recognition, or misunderstanding, relating to the remit of the SRA and its responsibilities. This is not to suggest a failure of communication by the SRA, nor indeed a failure of understanding from training providers and employers; it does however indicate an opportunity for the SRA to further clarify, articulate and define where responsibility in relation to diversity lies (and by extension the shared endeavour that all in the sector need to embrace to address diversity concerns).

49.   Many stakeholders are concerned about the "missing detail" in areas of the current proposals, which is making it problematic for them to offer definitive views on the proposals, and on the potential ways in which it will affect their behaviours (and then, by association, enabling a full assessment of how these behaviours are likely to impact on diversity). This may indicate a mismatch of expectations between the SRA, training providers and employers, and a misunderstanding regarding the nature of the regulatory process and relationship. There is an opportunity for the SRA to address any such misunderstanding through the continued provision of clear and unambiguous communication that outlines where further detail will be made available, and where it will not be possible to do so. More simply, though, it is likely to be the case that the missing detail, including costs, sought by training providers and employers is unlikely to be provided as there are commercial sensitivities that could affect the procurement process, and the detail sought may include information that could dilute competitive pressures.

Data to Monitor Diversity and Drive Positive Action

50.   An important consequence of introducing a uniform examination is the opportunity for data to enable better understanding about diversity challenges, and for the publication of certain analyses to drive and inform actions aimed at realising greater diversity.

51.   The potential advantages, and risks, associated with 'open data' have been explored widely across government, provoked by the White Paper *Unleashing the Potential,*[39] which laid the groundwork for extensive open data across departments. A recent consultation from the Higher Education Statistics Agency also highlights the important value of data.

> *In practice there are a number of dimensions to the process of releasing open data to optimise access and re-use but the core principle is sound – data that is open promotes transparency…generates economic benefit… and stimulates innovation in the creation of new tools and services which benefit users and consumers.*[40]
>
> *Higher Education Statistics Agency*

52.   More recently, and specifically within the higher education context, Professor Sir Ian Diamond's report on *Efficiency, Effectiveness and Value for Money* [41] highlighted the commitment to sharing data within the higher education sector, and considered how more value might be derived by linking and assessing data held within and outside the sector.

53.   Consequently, datasets are increasingly being shared in the education sector to support greater scrutiny of providers, to drive up performance by creating transparent competition, and to support informed decision-making amongst students. For example, in 2012 the Key Information Set was introduced by the Higher Education Statistics Agency, curating information in areas that students indicated that they find most useful when making course choices. The full range of indicators is available, and the data are publicly

[39] https://www.gov.uk/government/publications/open-data-white-paper-unleashing-the-potential

[40] https://www.hesa.ac.uk/files/Open-data-consultation-summary.pdf

[41] www.universitiesuk.ac.uk/policy-and-analysis/reports/Documents/2015/efficiency-effectiveness-value-for-money.pdf

accessible, and searchable on the UniStats platform.[42] The wider datasets include information about background characteristics; and the outcomes from a recent review are considered below.

54.   The increased availability and use of data in the education sector to analyse diversity is reflected much more modestly in the publication of diversity recruitment data amongst some employers. For example, the Civil Service Fast Stream publish annual recruitment data,[43] including with respect to diversity indicators, disaggregated by higher education institution, and KPMG have recently begun to share similar data.[44] There are also collective efforts within some sectors to collate, analyse and publish data to gain insights into recruitment patterns with respect to diversity, including within the law sector.

55.   Recent reviews provide a growing evidence base for the way in which data can help strengthen accountability,[45] and drive positive behaviours within educational markets; the risks of sharing data are also highlighted. The sections that follow consider this, outlining: the purposes of the SRA collecting data in the new assessment landscape; details on which data fields to collect; how to encourage high response rates; modes of analysis; and how data might most usefully be shared, to understand and pursue diversity in the profession.

Purposes of Collecting the Data

56.   In approaching data collection and analysis, a framework identifying the key purposes of this exercise should be outlined as the reforms are introduced. Beyond serving the primary regulatory function, the collection of data associated with the SQE will enable new and more sophisticated insights into relative performance, and the assessment of the relationships between, for example, background characteristics, training provider, SQE performance, access to work experience and training, trainee destinations, and (in the much longer term) subsequent performance in the profession.

57.   With respect to diversity, there are multiple purposes associated with this data collection and analysis, each with distinct associated outputs. In the absence of these data being robustly collated, analysed, and shared, there is likely to be a vacuum of information

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[42] https://unistats.direct.gov.uk

[43] www.gov.uk/government/publications/civil-service-fast-stream-annual-report-2014

[44] https://home.kpmg.com/uk/en/home/media/press-releases/2016/12/kpmg-reveals-employees-parental-occupation-in-a-bid-to-increase-.html

[45] www.hefce.ac.uk/media/HEFCE,2014/Content/Pubs/2015/201527/HEFCE2015_27.pdf and see HESA report?

about the results and impact of the SQE, which stakeholders may fill with their own hypotheses.

Figure 5: Multiple purposes of collating and analysing SQE diversity data

Monitoring equality and diversity with respect to SQE performance in aggregate and by training provider	Aggregate insights to identify how the introduction of the SQE is impacting on diversity in the profession, including exploring relationships between SQE performance, access to work experience, prior attainment, and background characteristics.
	These data can help to identify any possible bias in assessment, in aggregate, and at the level of training provider (where groups are of sufficient size), by identifying any candidate groups who appear to be underperforming (when controlling for background factors, such as prior attainment).
	This analysis will also support better understanding about the factors affecting diversity, to build the evidence base for policy and evaluation, by making data available more widely to researchers and policy makers to help drive positive evidence-based change.
Making information accessible to support informed decision-making amongst students from all backgrounds	Providing SQE data points to help inform decision-making amongst all student groups, regardless of background.
Supporting employers in developing recruitment practices that support diversity	Providing employers with diversity and performance data on training providers, to help inform attraction strategies in recruitment aimed at realising greater diversity.

Data Fields

58. To undertake this analysis, the necessary data fields fall into four categories as outlined in the figure below.

Figure 6: Categories of data to support diversity analysis
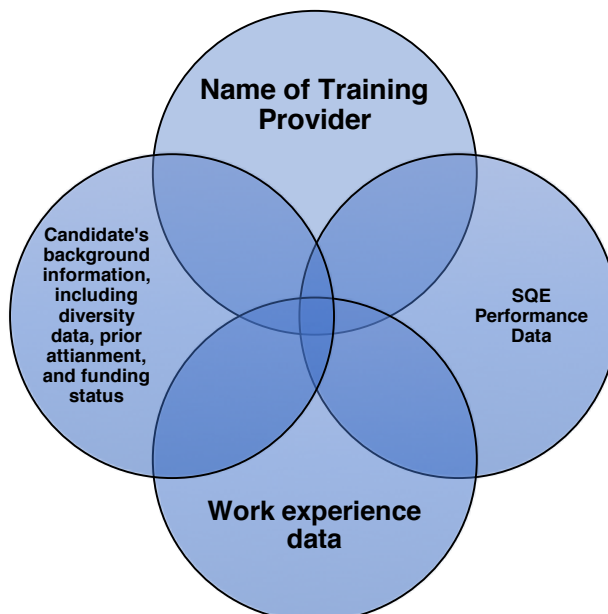
59. Specific data fields with respect to candidate's background information are outlined in Appendix C, with the expectation these are collated at point of assessment. This includes prior attainment as an important variable, since many studies highlight that this is the main predictor of future assessment performance (investigating performance by protected characteristics and socio-economic background without due consideration to prior attainment could result in partial, and potentially misleading findings).[46] Information on how a student has funded their SQE studies and examinations is also proposed to provide data to help test the hypothesis about the increased affordability of pathways to qualification.

60. The outline also includes the latest advice relating to collating and understanding data on students' socio-economic background, drawn from the recent consultation and review of research undertaken by the Bridge Group in partnership with the Cabinet Office.[47]

61. It is important that individuals have the option to participate in monitoring exercises without having to disclose any specific information, for example by giving the option 'prefer not to say'. We present information about data collection as an initial briefing, with the intention that it will be developed in liaison with colleagues at the SRA. There are factors that the SRA will need to consider carefully prior to implementing any additional aspects to diversity monitoring:

- That collection of the data is adequate, but not excessive
- That there are diversity policies in place, or in development, alongside data collection, such that the monitoring of data is legitimate
- That data security policies and infrastructure are in place to ensure the data are protected, and secure
- That there is at least some parity with data fields collated in previous years for benchmarking indicators over time. We understand that there is overlap with the current collection of diversity data, though our recommendations include additional questions, most particularly about socio-economic background
- Parity with the data collected more widely in the sector, and amongst other sectors. This has been considered by the Bridge Group in proposing specific fields

Increasing Response Rates

62. These data will be sought from candidates when they register to undertake the qualifying examination, and the data will be submitted voluntarily. In the current system, training

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[46] See, for example: www.bmj.com/content/324/7343/952.short

[47] https://www.gov.uk/government/news/civil-service-pilots-new-social-mobility-measures

providers submit diversity data to the SRA on LPC trainees; the onus is now on the SRA to define a more robust set of diversity monitoring questions, and to take a leading role in encouraging students to disclose data.

63. High response rates to diversity monitoring questions are important, because they: provide more accurate monitoring of the recruitment and retention of participants; indicate the impact of policies and practices on different groups; provide a greater depth of understanding of inequality or unfair treatment; and point towards areas for action. The Equality Challenge Unit [48] outline several factors which can influence an individual's decision to disclose equality information, including:

- understanding the relevance of the information to the organisation and their experiences at work or study;
- the culture of the institution – whether it is open and inclusive or if there are concerns about possible discrimination;
- availability of information on the uses and confidentiality of their details;
- opportunities to disclose information on an ongoing basis; and
- whether they relate to the options available in monitoring questions.

64. Trainees are more likely to engage with a diversity monitoring exercise if they see it as an integrated part of a strategy (within and beyond the SRA) for promoting diversity and inclusion. A proactive approach to making diversity commitments visible internally and externally, and celebrating achievements, will help to ensure that respondents feel positive about monitoring, and confident that it will be of benefit. Planning a monitoring exercise to coincide with other diversity activity, for example a 'diversity month', or a launch of a strategy, may help build an atmosphere for disclosure.

65. Some respondents may be concerned that information could disadvantage them, or encourage discrimination or harassment. It is important to explain why the data are being collected, how the data will be used, and who will have access. It is critical that any exercise to collect information communicates:

- whether individuals will be identifiable from the data;
- whether the information will be stored separately from personal details;
- whether the process recognises people's right to be open about their sexual orientation/transgender identity and their right to keep this confidential, and that this may have implications for monitoring;
- who will have access to the information;

- whether disclosure will lead to further contact (for example sharing information about support services or events related to a protected characteristic); and
- the systems and safeguards being used to safely store and analyse the data in line with the Data Protection Act 1998.

Analysing These Data

66. It is important to consider how monitoring data will be analysed and reported on: how the data be used to assess the impact of policy changes and provide an evidence base to inform any future changes. The metrics in the figure below are intended to support the SRA understand better progress with respect to diversity based on data analysis, and to potentially support the development of evidence-informed targets.

67. In the application of these metrics, it will be important to consider the extent to which segmentation of data is sensible, for example reporting disaggregated metrics by training provider, provider type, and (where possible) specialist areas. In some areas of analysis, segmenting by training provider may not provide accurate outcomes if there are small cohorts.

68. These analyses will require methods beyond descriptive statistics. Three primary modes of more sophisticated analysis are likely to be employed to understand these data:

- *Cluster analysis* to identify structures within the data and to explore in detail the diversity of the pool of candidates.

- *Regression analysis* to investigate relationships between variables and to quantify the effect of variables on performance. This approach also assesses the statistical significance of the estimated relationships, and would better enable an understanding of the relative effects of background characteristics on SQE performance, and including prior attainment.

- *Differential Item Functioning (DIF)* Analysis is an important first step in the assessment of test bias to establish the construct validity of examinations. DIF is present when examinees from different groups have differing probabilities of success on an item, after controlling for overall ability level, where this is possible. This analysis requires review and judgment, and it does not necessarily indicate the presence of bias.

69. In addition to the proposed analyses below, in the longer term, as the dataset builds, it may be possible to explore more sophisticated relationships in the data, to help inform policy and practice, such as:

- the relationship between the SQE and work experience;

- the relationship between the SQE performance and graduate career destinations; and
- the relationship between the SQE performance and longitudinal performance and progression in the profession.

70. These areas are not explored in detail here, but it will be helpful to detail the possibility of such research to the sector, to emphasise the value and potential power of the new datasets that can be derived from the SQE.

Figure 7: Metrics to assess diversity, and the impact of the SQE

Metric Type	Research Question	Key Metrics
Attraction: SQE Candidate Pool *Segmented by training provider, location and specialism areas where possible, taking account of limitations of small sample sizes and need for anonymity*	**How diverse is the pool of candidates completing the SQE, compared to the relevant eligible candidate pool?**	Proportion and number of candidates from under-represented, monitored groups over time. Cluster analysis can be applied to help understand fully the way in which the data is constructed.
		Proportion of candidates from under-represented, monitored groups against the eligible candidate pool (e.g. the higher education population).
		Proportion of candidates from under-represented, monitored groups benchmarked against peer professions (e.g. medicine, accountancy, architecture).
		Supporting metric - disclosure rate: the proportion of applicants who provide diversity monitoring data against each characteristic.
Access to work experience within the SQE	**What is the relationship between candidates' background characteristics and access to work experience?**	Relationship between background characteristics (including diversity, prior attainment and training provider) against SRA standard classifications of work experience.
Source of funding	**What is the relationship between candidates' background characteristics and their source(s) of funding?**	Relationship between background characteristics (including diversity, prior attainment and training provider) against funding source, and performance.
SQE Performance *Segmented by training provider, location and specialism areas where possible, taking account of limitations of small sample sizes and need for anonymity*	**What is the relationship between candidates' background characteristics and SQE performance?**	Regression modelling can be applied to assess the relative effect of background characteristics (including diversity, prior attainment, training provider) on SQE pass (binary) and scores (ordinal). Odds ratio will highlight the likelihood of pass/fail of different subgroups. Conduct DIF to look at performance variation across different sub-groups of candidates for each item, in addition to regression analyses for overall assessment marks, and SQE stage 1 / SQE stage 2.
Overall Representation Segmented by function, seniority and location, *where possible, taking account of limitations of small sample sizes and need for anonymity*	**How representative is the current solicitor workforce population against identified benchmarks?**	Proportion of employees from under-represented, monitored groups over time.
		Proportion of employees from under-represented, monitored groups against the eligible candidate pool (e.g. higher education population)
		Proportion of employees from under-represented, monitored groups benchmarked against peer professions (e.g. medicine, accountancy, architecture).
		Supporting metric - Analysis of representation of under-represented, monitored groups against seniority, function and location.
		Supporting metric - Disclosure rate: the proportion of the current workforce who provide diversity monitoring data against each characteristic.

Making Data Available

71.   The potential power of these data, and the associated analyses, to drive diversity in the system will only be realised if the intelligence derived is disseminated in a way that is timely, accessible, and responds to the risks inherent in the data sharing.

72.   These data need to be considered carefully and proportionately, and any findings should inform further scrutiny and investigation, rather than be handled as definitive answers. This move towards greater transparency, and the availability of data in the new market should also be considered in phases; there will be a lag in performance data, and an important initial period of piloting analytical approaches, prior to publishing data.

73.   During the first year of data collection, it will also be important to consider some of the potential risks of sharing the data outlined above, and ways in which these risks can be most effectively managed. Several recent exercises have been undertaken within the higher education sector to explore these, most notably the recent consultation from the Higher Education Statistics Agency.[49] The summary of risks for consideration in publishing data may include the following:

- Misinterpretation of data, resulting mainly from its consideration outside of the wider market context, or oversimplification in its interpretation (including by the media)

- Data protection and the handling of commercially sensitive data

- The potential for commercial use of data - certain types of open data licence could provide for the ability to block commercial use of open data resources, but since an aim of open data is to stimulate innovation in data use, it might be inadvisable to block an important source of innovation that could help create useful new products for a range of stakeholders, including prospective students and their advisors, providers and policy makers

- Findings reinforce existing perceptions, without consideration to the associated causal factors

- Transparent data detailing, for example, competitiveness and rates of success, deters the very students it was intended to encourage

- Limitations associated with early data publication (in year one and two, for example), including the volume of data and any effects that are a consequence of the market

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[49] https://www.hesa.ac.uk/files/Open-data-consultation-summary.pdf

adapting to a new system, and related limitations with small sample sizes if data are disaggregated by provider

74. In consideration of this final risk, it is unlikely to be productive to publish detailed data in year one. However, it is also likely to be unsatisfactory to stakeholders if no data are shared and, therefore, early aggregate data analysis (for example, the overall diversity of the SQE candidate pool, and any key aggregate findings about the relationship between background characteristics and performance in the SQE) might be outlined, along with a detailed briefing on how learning during the pre-implementation testing year is informing data collection, analyses and dissemination henceforth.

75. Furthermore, any findings on the relationship between access to work experience and background characteristics, and funding sources, is likely to be of great interest to the sector (again presented in aggregate). A supplementary consultation on this topic may also be appropriate to ensure maximum engagement with the exercise in subsequent years, and to maximise the credibility of future findings.

76. These headline data are likely to be useful in themselves, because they point towards how data in subsequent years can be maximally used, and provide insight into how the analyses can help the sector understand more fully how diversity is affected by pathways to qualification, and assessment, and to adopt evidence-based approaches in pursuit of greater diversity.

77. Making data available to employers about the SQE performance by training provider, and the relationship between performance and background characteristics could be invaluable in providing the additional intelligence for employers who are committed to recruitment strategies to increase diversity. The timing of SQE results mean that it is unlikely in the short-term that employers will assess these data to inform attraction and selection activities in recruitment. However, in the longer term, and beyond year one, such data could be used. For example, if the data reveals that candidates at a less prominent training provider (who are also likely to be more diverse) perform very well on the SQE, this could provide a more compelling evidence base for employers to recruit from a broader range of universities, or to ultimately adjust approaches to selection and critique previous definitions of, and proxies for, talent. As noted before, these actions are dependent on the employer having faith in the rigour and relevance of the assessment.

78. Furthermore, this same analysis can be applied to different routes to qualification, to understand how these routes might differently, or similarly, prepare students for the profession. This impact will not be immediate, but the potential for data to drive these behaviours should be explored in detail as the datasets are collated and analysed.

79. It may be that these data serve to reinforce some current perceptions. It is reasonable to expect that, to some extent, performance on the SQE will be influenced by the quality of preparatory training and experience (which may favour more affluent candidates, or those funded by employers, who can afford to access premium training and can gain breadth of experience). Differentiating candidate performance in this way may therefore not necessarily support the aim of increasing diversity, since whilst the assessment is standardised, candidates' experience in preparation for it will likely be far from equal.

80. These data must therefore be considered carefully, and any findings should provoke further investigation into diversity issues. If it is discovered, for example, that students from lower socio-economic backgrounds with high prior attainment are disproportionately clustered in training providers with lower costs, and lower SQE performance, this might then provoke further investigation into the way in which teaching quality, price, or access to local provision, may be affecting access to parts of the profession.

81. A final important purpose of more transparent data on qualification is the way in which this information can support prospective students to make well-informed decisions about qualification pathways, and choice of course and training provider. There is a concern that the broadening of routes to qualification will inevitably create a more complex landscape, which will be least navigable for students from less advantaged backgrounds, who have more limited access to information, advice and guidance through formal routes, and through more informal family and professional networks.

82. However, the transparent sharing of data, presented within a wider information toolkit (as proposed by the SRA), will be a key factor in addressing this, such that the net effect on diversity of developing more flexible and affordable routes to qualification is more likely be positive.

Ensuring All Students Can Navigate the Landscape

83.   The SQE proposals will afford a wider range of options to intending solicitors. In principle, this is positive, since it will certainly engender greater flexibility, and likely greater affordability. However, is important that employers have access to dependable information about how SQE performance and diversity are associated for each of these pathways, and with specific training providers, and that they are clear about the relevant currency placed on each.

84.   It is equally important that there is not information asymmetry in the market, and that aspirant solicitors from all backgrounds have access to objective information to help inform their decisions about which route to pursue, and with which training provider(s) to entrust these aspirations. This is relevant to achieving greater diversity, since a more complex landscape is likely to be least navigable for more disadvantaged students; the SRA is alert to this, and has committed to the development of a student toolkit to help guide all aspirant solicitors.

85.   The issue of the variable quantity and quality of careers advice available to pupils, and the impact of this on diversity, has been highlighted in much research.[50] In the short term, at least, the increased range of options and providers, and the initial lag in data (until SQE performance information is available) will make the qualification market more complex to navigate. Outside of the variable advice and guidance in schools, more informal and privileged sources are available disproportionately to those from more advantaged backgrounds, with other individuals less likely to have access to the cultural and social capital that can help steer career development, and inform decision-making.[51]

"In the current system candidates are held hostage to fortune by employers and by their traditional recruitment practices and ways...of talking about... selecting talent. This could free that up, empower candidates, put them more in control more, assuming they have access to good information, guidance and suitable financial support.

Interviewee: training provider

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[50] https://www.gov.uk/government/publications/state-of-the-nation-2016

[51] www.thebridgegroup.org.uk/report-on-student-employability-and-social-mobility/

86.   The diversified routes to qualification offer greater freedoms, but are also likely to place greater responsibility for career development, and career progression, on the trainee, with potentially less onus on training providers and employers. Those from more advantaged backgrounds are likely to benefit disproportionately from this shift in balance, since they will typically have greater access to social and cultural capital, through well-informed guidance and advice from peers and family members.[52]

> *"The uninformed candidate could be really disadvantaged in this proposed system…the old boys network has always been so powerful in the legal sector and we need to make sure that network gets shattered, not reinforced…students without that network need to have something in place that substitutes for it."*
>
> *Interviewee: employer*

87.   However, these potential risks should be balanced against the significant constraints of the current system (where the advantages of clarity about the route to qualification are sometimes undercut by financial barriers and lack of flexibility), and the potential for positive impact on diversity if routes are fully understood by all through effective information, advice and guidance. In exploring in further detail the responsibilities of stakeholders in the market, it is helpful to distinguish between the elements of information, advice and guidance.

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[52] www.thebridgegroup.org.uk/report-on-student-employability-and-social-mobility/

Figure 8: Distinguishing between information, advice and guidance

Information	Access to general detail about choices and routes.
Advice	Access to tailored and targeted information on specific progression routes, comparing options and providing clarity on questions that are personal to the student.
Guidance	Access to timely and bespoke expert assessment and diagnosis that provides students with competitive advantage and responds to the changing demands of the university admissions, and employment market.

88. In introducing the SQE, the SRA are alert to their responsibility, alongside employers and training providers, for ensuring that diversified routes to qualification are navigable for all. More specifically, whilst it is not appropriate for the Regulator to deliver personalised advice and guidance relating to training providers and routes, it does share a responsibility with training providers and employers to ensure that there is timely, relevant and accessible information available to enable this to be delivered by schools, universities, employers, and the wider community of independent student advisors.

89. As the regulatory body, independent of any individual training provider or employer, the SRA is uniquely placed to be clear and transparent about the SQE assessment and the process of qualification, and to provide independent and objective data to ensure that information about SQE performance and diversity are the bedrock of any wider system of information.

90. As such, the proposed SRA student toolkit should include at a minimum (building on the Student Information Pack published in 2014)[53] the key elements listed below:

- An overview of the profession, including:

  - information about who becomes a solicitor;
  - the typical work of a solicitor; and
  - case studies of solicitors, to provide role models for a wide readership.

- A clear outline of the requirements for individuals seeking to qualify as a solicitor in England and Wales, including:

  - an exposition of the SQE;

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[53] https://www.sra.org.uk/students/resources/student-information.page

- o example routes to qualification, with clear guidance that this is not exhaustive;
- o A set of questions that prospective applicants should apply when considering their options; and
- o details about other pre-requisites, such as character and suitability.

- Key data, as outlined in the previous section, with consideration to the limitations of these data in year one, and the management of the potential risks of publishing this.

- Examples of links to where further information can be sought about individual training providers, and costs of qualifying (in consideration of the more comprehensive system of information detailed below).

91.   Additionally, this toolkit should include a guidance pack aimed at careers advisors in schools and colleges, and an associated communications campaign to reach the widest possible audience throughout England and Wales in this respect.

92.   The toolkit may be most appropriately developed with other partners in the sector, however, it will also be critical that this information provides the basis for a more comprehensive resource for students, parents and advisors. This endeavour may be most appropriately led by organisations that are established in this area, such as Prospects,[54] or LawCareers.net.[55]

93.   It will be important that the sector has a collective view on how students can be best equipped to navigate the new routes to qualification, by ensuring there is a platform in place, through which prospective students can access the primary data generated by SRA on SQE performance and diversity. This also needs to include wider information on course information, cost, progression routes, and prospects. Developing materials, online and in hard copy, that detail the purpose and process of the SQE, can equip students to ask the right questions in engaging with training providers, and signpost them towards further information, including about financial aid.

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[54] Specialising in graduate careers information, helping to guide students and graduates with curated and analysed information, advice and opportunities.

[55] The site contains several key elements: editorial content on becoming and working as a lawyer; directories of employers and legal educators; updated news and features; and practical tools designed to help users manage their research and maximise their chances of accessing the profession.

The Role of Training Providers and Employers

94.   As outlined earlier, whilst the SRA has important responsibilities within the remit of its statutory role, the actions of training providers and employers are critical in realising diversity gains in the profession. In this final section, we reflect briefly on the activity already undertaken by these stakeholders to support diversity, and the potential for this activity to increase in scale and ambition under the freedoms afforded in the new assessment landscape.

95.   In consideration of the evidence about the barriers to the legal profession, many universities have well-established programmes of work intended to alleviate these; some of this work is undertaken in partnership with peers, often with a third sector organisation playing a funding and facilitating role (the Sutton Trust Pathways to Law programme, for example). At undergraduate level, the activity of publically funded institutions to widen access is monitored by the Office for Fair Access, whose website offers information about the focus, scale, and reach of this work.[56] There is limited evidence about the extent to which these programmes ultimately provide increased access to the professions amongst under-represented groups.

96.   Historically, the primary focus of this work has been on outreach activity, to raise awareness and aspiration amongst pupils from under-represented groups, and to encourage applications to university, and into the profession. Evidence in this area suggests that interventions should be targeted, sustained, and should engage parents and teachers. Role models are especially important at this stage, and engaging employers in university-led school outreach work is also important, since it enables pupils to understand better the links between continued study and employment.

97.   In the context of the qualification reforms, an increasingly important component of this outreach work will be the transmission of robust and timely information to pupils about the SQE, and possible pathways to qualification, hopefully deploying the SRA toolkit and any associated resources as the basis for this. This work, in many instances, is likely to be most impartial and efficient if it is undertaken collaboratively across institutions, including through institutional consortia led by third sector organisations.

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[56] https://www.offa.org.uk

98.   Whilst the risks to publishing data outlined earlier may legitimately be of some concern (particularly in the short term), transparency in the market will only be achieved if training providers embrace the principle that making available a wider range of data to prospective applicants and employers is a good thing. As students undertake assessment, training providers might encourage examinees to disclose relevant information that will ultimately enable the sector to build a more substantial evidence base to understand the lack of diversity in the profession.

99.   There is precedent here: the use of data to interrogate access challenges in university admissions processes is increasingly common practice at institutions, and (at undergraduate level) is also being explored by UCAS.[57] Only by fully critiquing these data can a training provider diagnose challenges, to identify possible biases and create actions that respond in the most effective way. With accurate, valid and reliable data, it is subsequently possible to target activities to develop policy changes that are based on evidence.

100.   The use of contextual admissions in higher education (typically defined by an approach whereby a candidate's attainment is considered, at least to some extent, in relative terms against their peer group, rather than in absolute terms against the populous) is an area for further exploration. Recent reviews have indicated that prior attainment is a good predictor for success in higher education, and in subsequent assessments, and that contextual admissions can achieve gains in diversity without compromising this predictive validity.[58] This has significant implications in considering the way in which legal employers screen applicants based on prior attainment; some universities are removing blocks that are reinstated when students apply for graduate positions.

101.   In considering shaping training pathways, current and new providers in pursuit of increased diversity will consider carefully obstacles associated with course costs, and associated living costs - with respect to pricing, and to any financial aid that is made available. In addition to direct costs, students' opportunity costs are also important: those undertaking some modes of study (summer courses, or additional weekend sessions, for example) may be unable to undertake paid work as they progress through their training.

102.   More generally, debates about access to education have matured from a concentrated focus on access, to a commensurate concern about student retention, success, and

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[57] www.ucas.com/corporate/news-and-key-documents/news/ucas-publishes-first-equality-reports-individual-universities
[58] www.spa.ac.uk/resources/what-contextualised-admissions

graduate outcomes; this is apparent in the Higher Education Bill that is currently being considered in Parliament,[59] which emphasises student outcome measures, and the increased weighting in institutional assessments given to this. Under the SQE reforms, training providers have greater freedoms to shape more flexible and affordable routes to qualification. However, there is a likely tension, particularly for those institutions with law degrees that confer positive outcomes for graduates in a wide range of professional areas. Those law schools considering whether to embed SQE assessment within the curriculum will likely have concerns that a degree engineered primarily towards solicitor training could result in a significant proportion of students who are unable to secure a job in this profession (since supply significantly exceeds demand), and may also be less attractive to other employers because of the way in which their education has necessarily concentrated on specific competences; though, of course, these may well be transferable to other occupations.

103. The existing, intimate relationships between training providers and legal employers will become increasingly important in the context of diversified routes to qualification, since training providers will play a key role in supporting employers to understand clearly the wider range of student pathways.

104. Amongst legal employers, there has also been much activity to encourage diversity, examples of which are outlined in the earlier section. As detailed earlier, much of the focus has been on outreach activity with school and university pupils from underrepresented backgrounds; as such the focus has largely been on the supply side of the diversity challenge, often built on the concept that deficits in, for example, confidence, aspiration and awareness, amongst under-represented applicants can (and should be) remedied. This focus on the supply side, rather than on demand, is the topic of much recent research; these studies emphasise that some legal employers are less willing to challenge their definitions of talent, proxy indicators associated with identifying this, and dominant organisational cultures.[60]

105. In the diversified landscape of routes to qualification, for all students to make well-informed decisions, it will become increasingly important for employers to be transparent about the way in which premium is placed on different pathways to qualification and, as

[59] services.parliament.uk/bills/2016-17/highereducationandresearch.html

[60] /www.gov.uk/government/uploads/system/uploads/attachment_data/file/434791/A_qualitative_evaluation_of_non-educational_barriers_to_the_elite_professions.pdf

data builds in the longer term, to potentially share (alongside diversity data) information about the routes taken by new hires.

106. Legal employers should also engage critically with the data that will be made available by a standard examination, and to consider in the longer term the data that are generated about training providers. For example, a less prestigious training provider that can boast high SQE performance, and high levels of diversity should, in principle, be a desirable target for a legal employer seeking greater diversity, but who are equally committed to not compromising quality (assuming there is faith in the rigour and relevance of the SQE).

107. A recurrent theme from interviewees is risk aversion amongst legal employers. This concept is closely associated with diversity, with interviewees citing that risk aversion expresses itself through the maintenance of conservative concepts of talent, and traditional selection practices, both of which can disadvantage under-represented groups.[61] This dynamic varies significantly across the sector and, where it is apparent, there are clear explanations for it. Risk aversion is partly a construct of the high cost to some legal firms in recruiting and training staff (one interviewee referenced a figure of £250,000), an understanding that supply of talent far outweighs demand, lack of evidence to support the commercial benefits of new approaches, and concerns about client perceptions. There is also a compounding factor, which is most acute for larger employers, that homogeneity in the experiences and education of new hires results in more certain transition into the firm, compared, for example, to hiring a community of trainees who are equally expected to qualify, but whose prior experiences and pathways are diverse. Greater exploration is required to understand the ways in which these dynamics may be limiting progress in pursuit of diversity and, indeed, underlying some responses to proposed reforms.

108. A more worrying, and pragmatic, view was expressed by a small number of interviewees. It was felt that some employers may be reluctant to encourage paralegal employees to qualify as solicitors, since they are an "invaluable and cost-effective resource, which many employers are anxious about losing, especially if once they are qualified, there are no positions within the firm" (interviewee; employer). This appears to be in opposition to some employers' commitments to diversity, and requires greater exploration. The implication is that some candidates, including likely those disproportionately from under-

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[61] www.gov.uk/government/uploads/system/uploads/attachment_data/file/434791/A_qualitative_evaluation_of_non-educational_barriers_to_the_elite_professions.pdf

represented groups, could face barriers created by their employer on this important route to qualification.

109.   There may be distance between the expressed intentions of employers to consider a wider range of entry routes, and their actual behaviour in recruiting. Ultimately, whilst much good work is being undertaken by employers, the potentially positive effects of opening routes to qualification will only be realised if they are clear about the currency they will place on these routes, and if all applicants are acquainted with these views.

Closing Remarks

The Bridge Group has now undertaken several pieces of significant research on equality and diversity in the professions, and has helped design strategies to promote reform amongst many leading employers. This experience has informed this study, and the recommendations we propose are designed to minimise any potential negative consequences, and maximise the positive consequences of this new approach to qualification on employee diversity, and to ensure this is monitored robustly.

There is no silver bullet to address diversity concerns, given the embedded nature of social inequality. But the recommendations herein offer positive steps that the SRA, and the sector more widely, can take to progress their ambition to achieve greater diversity. However, it is important to keep in mind that diversity implications cannot be precisely predicted given the complexity and multiplicity of variables. We have therefore placed emphasis on the gathering and analysis of accurate data, throughout the implementation process and beyond, to review and evaluate impact, and take informed decisions regarding the continued development of the SQE.

Effective communication will play a crucial role in engaging all stakeholders, particularly during the difficult period of transitioning to new arrangements. The SRA needs to empower a collegiate community of individuals and organisations, who are committed to addressing the lack of diversity in the sector. This transition can be navigated with effective communication, and key right data to inform decision making.

Alongside the immediate topic of the qualification reforms, we encourage the SRA, and the wider legal community, to consider more generally the importance of realising greater diversity in the profession, and the significant, wider range of actions that will be required to achieve this. Reforming solicitor qualification may make a significant contribution to improving diversity, but it is not a panacea for diversity, and a commensurate focus is required on the deep-rooted inequalities in the education system, and the inequalities in the profession that persist well beyond qualification. In encouraging a more diverse community of trainees into the law, it is also incumbent on the profession to operate inclusively, such that all talents can excel. The prize is a more representative legal sector, that is better equipped to understand, and respond to, contemporary demands.

In undertaking this work, we are grateful for the enthusiastic and engaged commitment of interviewees, and the SRA staff, who offered their time and opinions generously, freely and constructively.

Appendix A: Interview Protocol and Topic Guides

Interview Protocol

The interviews are aimed at generating data to provide insights into the potential impact of the SQE on diversity (with specific reference to the perceptions and behaviours of employers and training providers), and to make recommendations about actions that can be taken to maximise a positive impact on diversity.

The interviews steer clear of standardised questions, in order to create a framework that can accommodate personal narratives and tangential stories within the data collection. Each interview will use the interview topics listed below as a framework upon which to build the discussion. Interviewers will work to ensure each topic area is discussed, though the specific questions used will be determined at the interviewer's discretion in response to the narrative direction chosen by the interviewee. The interviewers are experienced in this methodology and capable of steering the discussion back to the framework structure as necessary.

All interviews will be run by experienced researchers who are independent of the SRA. Participants are assured that their views, opinions and comments will not be attributed to them as individuals. This assurance forms an important part of the trust relationship between researcher and participant.

Collated data will be coded using QSR Nvivo software to identify themes and patterns. As interviews progress, these patterns may be used to shape subsequent interviews as a way of cross-checking and sense-checking potential issues.

Topic Guide for Law Firms

- Please describe your firm, and your role within it.

- Why is diversity important to your firm, and what broad steps do you take to promote it?

- Are you familiar with the current reforms to solicitor qualification that include the introduction of the SQE?

- What role do you feel the SQE and the new approach to qualification could play in promoting diversity within the profession?

- In particular, if the SQE is introduced, what steps could your firm take in its recruitment and selection strategy to promote diversity?

- Do you have any thoughts on how the SRA, and the wider profession, can increase the likelihood that the publication of data on candidate and training providers' SQE performance will have a positive impact on diversity?

- How might the introduction of the SQE affect the ways in which you engage with legal training providers and develop your staff?

- What support might candidates need to fully understand the SQE and the new approach to qualification, and the variety of training options and pathways (and the relative value placed on these by employers)?

- What other action might the SRA usefully take to support employers in increasing the likelihood that the SQE, and the new approach to qualification, will positively impact on diversity in the sector?

- Are there areas that we have not covered, that you feel are important to discuss?

Topic Guide for Training Providers

- Please briefly describe your institution's approach to legal training, and your role within this.

- What broad steps does your institution take to promote diversity, with regard to admissions, and with regard to securing progression to the legal profession amongst students from all backgrounds?

- Are you familiar with the current reforms to solicitor qualification that include the introduction of the SQE?

- What role do you feel the SQE and the new approach to qualification could play in promoting diversity within the profession?

- In particular, if the SQE is introduced, what steps could training providers and employers take to promote diversity?

- Do you have any thoughts on how the SRA, universities, and employers, can increase the likelihood that the publication of data on candidate and training providers' SQE performance could have a positive impact on diversity?

- How might the introduction of the SQE affect the ways in which employers engage with universities?

- What support might candidates need to fully understand the SQE and the new approach to qualification, and the variety of training options and pathways (and the relative value placed on these by employers)?

- What other action might the SRA usefully take to support universities and employers in increasing the likelihood that the SQE, and the new approach to qualification, will positively impact on diversity in the sector?

- Are there areas that we have not covered, that you feel are important to discuss?

Appendix B: SQE Consultation Summary

October 2016

A new route to qualification: The Solicitors Qualifying Examination (SQE)

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Introduction

The SRA Training for Tomorrow programme is reviewing the education and training of solicitors to better assure their competence. As part of Training for Tomorrow, we have already published a Statement of Solicitor Competence, which sets out what solicitors need to be able to do to perform their role effectively and which provides consumers of legal services with a clear indication of what they can expect from their solicitor.

We have consulted in general terms on a new approach to qualification, through a standardised assessment for all intending solicitors. This is the second consultation on how to assure consistent and comparable high quality standards at the point of admission. It sets out more detail about our proposals as to how solicitors might qualify in the future.

We propose that in order to be admitted as a solicitor, individuals would need to pass a new centralised exam, called the Solicitors Qualifying Examination (SQE). This would be divided into two parts. The first stage would test a candidate's ability to use and apply legal knowledge and the second stage would test legal skills. In addition to passing the SQE, new solicitors would need to:

- hold a degree, apprenticeship (or equivalent)
- have undertaken a substantial period of workplace training (probably 24 months, certainly no less than 18 months)
- pass a character and suitability test.

Benefits

It is vital that we have a qualification that justifies the high reputation of English and Welsh solicitors around the world. The proposals in this consultation will help maintain and improve the international standing of English and Welsh solicitors by introducing a consistent, high standard at a time of rapid change to the legal services market.

Our proposals would provide a more reliable and rigorous test of competence than is possible under the current system. At present, the numbers of organisations involved in assessing prospective solicitors make it unlikely everyone is assessed to a fair, consistent standard.

- About 110 universities assess students on the Qualifying Law Degree, Common Professional Examination and Legal Practice Course (LPC).
- Pass rates vary on the LPC from below 50 percent to 100 percent, for reasons which we do not fully understand.

- Over 5,000 law firms are authorised to take trainees. At any one time about 2,500 firms employ trainees.
- There is no clear performance standard to help guide firms to make decisions about whether their trainees are competent to qualify.

The new model would introduce transparency and competitive pressures to increase quality and reduce cost. Prices for the LPC have risen inexorably since it was introduced, in part (at least) because price is used as a proxy for quality. The proposals would remove the LPC gamble in which some students pay up to £15,000 for an LPC in the hope of securing a training contract.

About the SQE

SQE stage 1 would assess functioning legal knowledge through a series of six examinations. The SQE stage 1 assessments would integrate substantive and procedural law, with ethics pervading all assessments. SQE stage 1 would also assess basic legal research and written communication skills.

Overview of the SQE	
Stage 1	**Stage 2**
6 x Functioning Legal Knowledge Assessments: • Principles of Professional Conduct, Public and Administrative law, and the Legal Systems of England and Wales • Dispute Resolution in Contract or Tort • Property Law and Practice • Commercial and Corporate Law and Practice • Wills and the Administration of Estates and Trusts • Criminal Law and Practice. - **1 x Practical Legal Skills Assessment** • Legal Research and Writing	**2 x 5 Practical Legal Skills Assessments:** • Client Interviewing • Advocacy/Persuasive Oral Communication • Case and Matter Analysis • Legal Research and Written Advice • Legal Drafting. All five assessments must be taken and passed in the same two practice contexts of the candidate's choice, making a total of ten assessments. The practice contexts are: Criminal Practice; Dispute Resolution; Property; Wills and the Administration of Estates and Trusts; Commercial and Corporate Practice.

Candidates would be tested on the processes and transactions of core practice areas, as well as how underpinning legal principles apply to them. For example:

- In Commercial and Corporate Law and Practice, candidates would need to be able to apply principles of company law relevant to business start-up and apply contract law in the context of common commercial transactions.

- In Dispute Resolution, candidates would have to be able to evaluate possible causes of action in contract or tort, as well as know how to use different dispute resolution processes and understand civil litigation.
- In Property Law and Practice, candidates would be assessed in land law as well as conveyancing and commercial property.

Stage 2 of the SQE would assess candidates' skills. The assessments would not be designed to test recall of legal knowledge. Candidates would be provided with relevant primary legal materials. They would need to be able to assimilate this information and use it to give accurate legal advice. They would fail if they got the law wrong.

The SQE stage 2 would include assessment of core legal skills (client interviewing, advocacy, case and matter analysis, legal research, written advice and drafting) through a series of five assessments repeated in two separate legal contexts. For example, an assessment might test whether a candidate can conduct an interview with a client who is confused, forgetful, emotional, unreliable, or with whom the candidate has to establish their credibility. Candidates would be tested on ethical principles throughout.

We would not require candidates to be assessed in SQE stage 2 in the context of both contentious and non-contentious work.

Procurement

We would procure an independent assessment organisation to run and deliver the SQE. Standards would be set through the use of expert panels, made up of academics and practitioners.

Cost

We have modelled costs, but the exact level of fees will be set as a result of the procurement exercise. However, our modelling suggests that the SQE (and training) would cost students less than the LPC. The SQE stage 1 assessment would be fairly inexpensive as a result of the assessment methods used. Students would have a chance to secure a training contract or qualifying work experience ahead of sitting the more expensive SQE stage 2 assessment.

Preparatory training

We do not propose to specify how candidates prepare for the SQE, but we would instead regulate training providers through publishing data about their performance on the SQE. We believe this new approach would create a more open market which would allow candidates to choose the training which best suits their circumstances, and where competitive pressures could raise standards and reduce cost. At the same time, the SQE would ensure high standards were maintained. Initially, we would publish 'exemplar pathways' demonstrating some, but by no means all, of the ways in which candidates could choose to qualify. This might look like the diagram on the following page (A new possible approach to solicitor qualification). We would also publish a toolkit to make students aware of their options and help guide their choices about what the best training might be for them.

Work-based learning

We would continue to require intending solicitors to complete a period of pre-qualification work experience. The experience a candidate obtains through the period of work based learning should enable them to develop the competences in the Statement of Solicitor Competence. It could be acquired under a formal training contract, through working in a student law clinic, as an apprentice or a paralegal or through a placement as part of a sandwich degree. We would require trainees to maintain a record of their qualifying legal work experience, and we would issue guidance that they should record what competences they have acquired during that period, and how they have done so. We wouldn't require candidates to obtain experience in three areas of practice, or both contentious and non-contentious. We would test whether candidates had acquired sufficient skills to practise through the SQE part 2.

Candidates would typically complete the SQE stage 1 before undertaking their period of work experience and we would expect candidates to take the SQE stage 2 at the end of their period of work based learning.

We are considering a range of options for the length of workplace learning. We are unconvinced that 12 months is enough to develop the appropriate experience and skills and we see significant merit in maintaining the current requirement for 24 months. However, some have made the case for either 18 months or a more flexible approach. While we are minded to require 24 months, we will make a decision on timescale in the light of feedback from this consultation.

A possible new approach to solicitor qualification
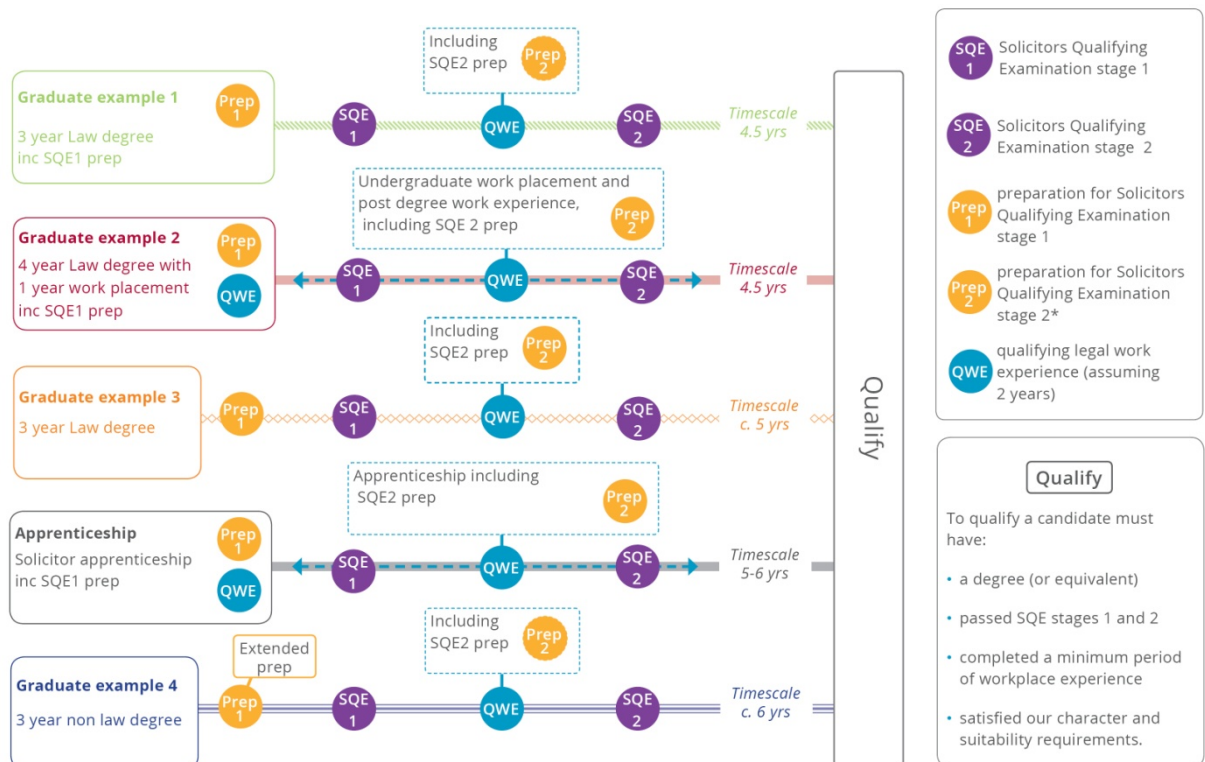
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Appendix C: Guidance on Diversity Monitoring

Background

Data monitoring is fundamental to any strategy for diversity and inclusion, to:

- inform, and by extension help, an organisation to meet its diversity and inclusion policy (which will include not discriminating under the Equality Act 2010[62]);

- build an evidence base and diagnose any diversity challenges, including benchmarking against peers and eligible candidate populations to understand progress; and

- evaluate the potential impact of policy changes and programmes.

The SRA has already established diversity monitoring practices. We include the latest guidance with respect to each of the protected characteristic, and for the additional area of socio-economic background.

The focus of this briefing is the monitoring of socio-economic background, including the recommended data points, and the way in which to solicit these from applicants and employees. In this initial briefing, we do not go into detail about recommended messaging surrounding the data collection, metrics, or modes of analysis and reporting; these are areas we propose to cover in the full report.

Diversity Characteristics

There are well established approaches to diversity monitoring in relation to most of the protected characteristics within the Equality Act 2010 listed below:

Age	Measure of time, in years, since birth.
Disability	A physical or mental impairment which has a substantial and long-term adverse effect on a person's ability to carry out her normal day-to-day activities.
Gender	Female, male, or individuals may prefer to use their own term.
Gender reassignment	The process of transitioning from one gender to another.
Marriage and civil partnership	Marriage is no longer restricted to a union between a man and a woman but now includes a marriage between a same-sex couple. Same-sex couples can also have their relationships legally recognised as 'civil

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[62] www.legislation.gov.uk/ukpga/2010/15/contents

	partnerships'. Civil partners must not be treated less favourably than married couples (except where permitted by the Equality Act).
Pregnancy and maternity	Pregnancy is the condition or period of being. Maternity refers to the period after the birth, and is linked to maternity leave in the employment context. In the non-work context, protection against maternity discrimination is for 26 weeks after giving birth, and this includes treating a woman unfavourably because she is breastfeeding.
Race	Refers to the protected characteristic of Race. It refers to a group of people defined by their race, colour, and their nationality (including citizenship), ethnic or national origins.
Religion and Belief	Systems of faith and worship, including religious and philosophical beliefs as well as non-belief or a lack of religion. A belief must be cogent, serious and apply to an important aspect of human life or behaviour, and must also be worthy of respect in a democratic society and not affect other people's fundamental rights.
Sexual orientation	Whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes.

In addition, many employers also now collect information on applicants':

Socio-economic background	The combination of social and economic circumstances from which a person has come, in relation to others.

This is in response to the evidence of under-representation of lower socio-economic groups in higher education, and in the higher professions.

Monitoring Socio-economic Diversity

Socio-economic background (SEB) is the set of social and economic circumstances from which a person has come. There is a significant body of research to show that SEB is closely correlated with individual and societal outcomes, including occupation, wealth, education, and health.

This should be differentiated from measuring social mobility *per se,* and from measuring socio-economic status (SES, which is a measure of a person's current circumstances). How we measure SEB is important, but it is also challenging, not least because no single measure can comprehensively reveal an individual's SEB. The socio-economic circumstances affecting progression to, and within, the legal profession come in multiple forms, including financial, cultural, geographical and educational.

There are many criteria against which any measure of SEB should be assessed. These are outlined in the table below.

Accurate measure of disadvantage
Reflects what it purports to measure, i.e. socio-economic background, such that lower status can be reasonably assumed to have the potential to adversely affect educational progression and access or progression in the workplace.
In the context of the SRA, consideration should also be given to the applicability of the measure to those who were not raised in the UK.
Comparability
Measures can be compared across employers, by an employer over time, and against eligible candidate populations (e.g. populations in higher education).
Likely to elicit a response
Measures are not considered so sensitive or intrusive that they lead to a low response rate, or the information may be hard to recall. Answers to the measures could easily be recalled or obtained. This is not a matter concerning individual measures, but also in aggregate.
Clarity of the measure
The measure is easily understandable, allowing consistent application and consistent interpretation by employees and applicants.
Longevity of measure
The measure (and where relevant its underpinning data) will be available and relevant in the foreseeable future.

Using these criteria as its basis, the Bridge Group recently collaborated with the Cabinet Office to deliver a wide consultation on the topic of how employers can most appropriately identify the socio-economic background of applicants and employees. We have applied extensive analysis to these responses, to inform best practice advice.

Socio-economic Monitoring Questions and Associated Options

We apply the criteria outlined above, including consideration of the international nature of the SRA's workforce, to reach our recommendations below.

Question 1	Which type of school did you attend for the majority of your time between the ages of 11 - 16?

Options	A state-run or state-funded school
	    o Selective on academic, faith or other ground
	    o Non-selective
	Independent or fee-paying school
	Attended school outside the UK
	I don't know
	Prefer not to say

Notes	This measure is well-established and can be used to benchmark against UK populations and peer employers. The main limitation is its international applicability, and the wide range of schools that feature within each category.

Question 2	At age 14, had any of your parent(s) or guardian(s) completed a university degree course or equivalent (e.g. BA, BSc or higher)?
Options	Yes No I don't know Prefer not to say
Notes	This measure is well-established and can be used to benchmark against UK populations and peer employers. The main limitation is its binary nature, i.e. it does not give a sense of scale beyond whether or not a degree course was completed.

Question 3	Please tell us about the occupation of your main household earner when you were aged fourteen.
Notes	This methodology for classifying parental occupation is well-established in the academic literature, and used in the national census, the workforce labour market survey. NS-SEC is a measure of employment relations and conditions of occupations, published by the Office of National Statistics. These are central to showing the structure of socio-economic positions in modern societies and helping to explain variations in social behaviour, progression and other social phenomena.
Question 3a	At age 14, did the main household earner in your house work as an employee or were they self-employed?'
Options	Employee Self-employed with employees Self-employed/freelance without employees (go to question 3d) I don't know Prefer not to answer questions about parental occupation (skip remaining questions)
Question 3b	*Where 3a is employee*: **How many people worked for your main household earner's employer at this time?**

	Where 3a is self-employed with employees: **How many people did your main household earner employ at this time? Move to question 3d when you have completed this question.**
Options	1 to 24 25+ I don't know
Question 3c	**Did they supervise employees?**
Options	Yes No I don't know
Question 3d	**Please tick one box to show which best describes the sort of work your primary household earner undertook at this time.**
	Modern professional occupations such as: teacher, nurse, physiotherapist, social worker, musician, police officer (sergeant or above), software designer. **Clerical and intermediate occupations** such as: secretary, personal assistant, clerical worker, call centre agent, nursery nurse. **Senior managers or administrators** (usually responsible forplanning, organising and co-ordinating work, and for finance) such as: finance manager, chief executive. **Technical and craft occupations** such as: motor mechanic, plumber, printer, electrician, gardener, train driver. **Semi-routine manual and service occupations** such as:postal worker, machine operative, security guard, caretaker, farm worker, catering assistant, sales assistant. **Routine manual and service occupations** such as: HGV driver, cleaner, porter, packer, labourer, waiter/waitress, bar staff. **Middle or junior managers** such as: office manager, retail manager, bank manager, restaurant manager, warehouse manager. **Traditional professional occupations** such as: accountant, solicitor, medical practitioner, scientist, civil / mechanical engineer.

Additional relevant background characteristics

To ensure more sophisticated insights, it will be important to collect data on the prior attainment of candidates.

There are established methodologies for quantifying school attainment, and recognised challenges with international comparisons. These are outlined in the latest guidance from the Department for Education.[63]

Capturing the way in which examinees have funded their preparatory study will also provide useful data to explore whether more affordable routes have been created. We are happy to support the SRA in this investigation and to advise on the how to solicit and interrogate this information.

Monitoring Protected Characteristics

Age

What is your date of birth?

Typically date of birth is requested and then assessed in age brackets; ONS standard census classifications are as follows (with lower end <16 removed, and higher end >65 merged).[64]

- 15–19
- 20–24
- 25–29
- 30–34
- 35–39
- 40–44
- 45–49
- 50–54
- 55–59
- 60+

Disability

Under the Equality Act 2010, a person has a disability 'if they have a physical or mental impairment, and the impairment has a substantial and long-term adverse effect on his or her ability to carry out normal day-to-day activities'. 'Substantial' is defined by the Act as 'more than minor or trivial'.[65]

An impairment is considered to have a long-term effect if:

- it has lasted for at least 12 months
- it is likely to last for at least 12 months, or

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[63] www.gov.uk/government/uploads/system/uploads/attachment_data/file/556911/KS4_and_16to18_performance_points_practical_guide.pdf

[64] Age brackets used by ONS and in the latest census, e.g. https://www.ons.gov.uk/census/2011census
[65] www.legislation.gov.uk/ukpga/2010/15/contents

- it is likely to last for the rest of the life of the person

Normal day-to-day activities are not defined in the Act, but in general they are things people do on a regular or daily basis, for example eating, washing, walking, reading, writing or having a conversation.

Only serious visual impairments are covered by the Equality Act 2010. For example, a person whose eyesight can be corrected through the use of prescription lenses is not covered by the Act; neither is an inability to distinguish between red and green.
This information is typically outlined alongside the question relating to disability to ensure the respondent is clear about the definition.

Do you have an impairment, health condition or learning difference?

- No known disability
- Two or more impairments and/or disabling medical conditions
- A specific learning difficulty such as dyslexia, dyspraxia or AD(H)D
- General learning disability (such as Down's syndrome)
- A social/communication impairment such as Asperger's syndrome/other autistic spectrum disorder
- A long standing illness or health condition such as cancer, HIV, diabetes, chronic heart disease, or epilepsy
- A mental health condition, such as depression, schizophrenia or anxiety disorder
- A physical impairment or mobility issues, such as difficulty using arms or using a wheelchair or crutches
- Deaf or serious hearing impairment
- Blind or a serious visual impairment uncorrected by glasses
- A disability, impairment or medical condition that is not listed above
- Prefer not to say

This question could be supported by further questions around providing reasonable adjustments.

Gender

Advice in this section, and the next, is based on published guidance[66] and the latest advice received from Stonewall.[67]

What best describes your gender?

- Male
- Female
- If you prefer to use your own term, please provide it here…..
- Prefer not to say

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[66] www.ecu.ac.uk/
[67] www.stonewall.org.uk/

Including the options 'Other' and 'Prefer not to say' alongside male and female allows anyone who associates with terms including intersex, androgyne, intergender, ambigender, gender fluid, polygender and genderqueer to complete the question.

Gender reassignment

Is your gender identity the same as the gender you were assigned at birth?

- Yes
- No
- Prefer not to say

Questions about gender identity should always be asked separately from questions about sexual orientation, sex or gender. Gender identity has nothing to do with who a person is attracted to, nor is it appropriate to offer a choice between identifying as male, female, or trans. Most trans people do not consider themselves to be a 'third sex', and may take offence at questions worded in this way.

There are special legal provisions to ensure that data on gender identity are stored securely and this information is not passed onto third parties without express permission. When data concerning gender identity are collected, employers should ask for permission to store this information by including a follow-up question such as the one below:

Information about gender identity is considered sensitive personal data under the Data Protection Act. We want to make sure that we have permission to store these data for the purposes of monitoring and advancing equality and diversity in our organisation. Please indicate if you give us permission to store this information and use it in this way.

- Yes
- No

Marriage and civil partnership

Are you married or in a civil partnership?

- Yes
- No
- Prefer not to say

Ethnicity

There are well established ONS categories that apply.[68]

What is your ethnic group? Choose one option that best describes your ethnic group or background

White

- English / Welsh / Scottish / Northern Irish / British
- Irish
- Gypsy or Irish Traveller
- Any other White background, please describe

Mixed / Multiple ethnic groups

- White and Black Caribbean
- White and Black African
- White and Asian
- Any other Mixed / Multiple ethnic background, please describe

Asian / Asian British

- Indian
- Pakistani
- Bangladeshi
- Chinese
- Any other Asian background, please describe

Black / African / Caribbean / Black British

- African
- Caribbean
- Any other Black / African / Caribbean background, please describe

Other ethnic group

- Arab
- Any other ethnic group, please describe

Prefer not to say

[Religion and belief](#)

Similarly, these categories are based on ONS best practice.

What is your religion?

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[68] www.ons.gov.uk/peoplepopulationandcommunity/culturalidentity/ethnicity

- No religion
- Buddhist
- Christian
- Hindu
- Jewish
- Muslim
- Sikh
- Spiritual
- Any other religion or belief
- Prefer not to say

Sexual orientation

Based on the ECU definitions, derived from ONS.[69]

What is your sexual orientation?

- **Bisexual**
- **Gay man**
- **Gay woman/lesbian**
- **Heterosexual**
- **If you prefer to use your own term, please provide it here…..**
- **Prefer not to say**

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[69] www.ecu.ac.uk/

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The Bridge Group is a charitable policy association researching and promoting diversity in education and the professions.

Since its launch in 2010 at Google UK, the Group has established itself as an authoritative, independent voice, and has undertaken a wide range of high profile commissions, including from the Cabinet Office, the Wellcome Trust, and KPMG.

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