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# Clinical Legal Education as Qualifying Work Experience

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# LETR and Qualifying Work Experience (QWE)

- Recommendation 15\* of the LETR Report stated "arrangements for periods of supervised practice should also be reviewed to remove unnecessary restrictions on training environments and organisations and to facilitate additional opportunities for qualification."

\* At page 300.

# SRA Response to LETR

- The LETR Report did not in itself determine the future of legal education and training but, 'rather the future will be determined by what the three commissioning regulators decide to do in response to, because of, or notwithstanding the LETR Report.'<sup>\*</sup>
- SRA's response to LETR was the Training for Tomorrow programme which has involved various consultations on the education and training of solicitors. The SRA has also decided to:
  - Introduce centralised assessments – SQE 1 and 2
  - Retain a two-year training period but, in the spirit of Recommendation 15, allow a greater range of work experience to count as QWE in the future
- In March 2015 the SRA published a Statement of Solicitor Competence<sup>\*</sup> – this lists numerous attributes that a solicitor should be able to demonstrate upon qualification

\* "Should we or not to prescribe? That is the question," (2014) 48:1 The Law Teacher 69-78, 69



# SRA's proposals in relation to QWE

The SRA has issued draft regulations\* stipulating that:

2.1 Qualifying work experience must:

- (a) comprise experience of providing legal services which provides you the **opportunity** to develop the prescribed competences for solicitors;
- (b) be of a duration of a total of at least **two years full time** or equivalent; and
- (c) be carried out under an arrangement or employment with no more than four separate firms, **educational institutions** or other organisations.

\* <https://www.sra.org.uk/sra/consultations/new-regulations.page>

# Is Clinical Legal Education (CLE) Suitable for QWE?

- There are different kinds and models of CLE, which may not all be suitable for QWE
- Key question – does the CLE in question allow students to develop some or all of the prescribed competences for solicitors?

# Mapping Competencies - Example

- We have undertaken a mapping exercise for Northumbria's Student Law Office and we believe it would satisfy this key question. E.g.:

Competency	Competence Description	Mapping to activities in Student Law Office	Mapping to assessment criteria
C5	Keep, use and maintain accurate, complete and clear records, including...	Students are required to maintain a client file and make attendance notes of meetings and telephone calls.	Organisation: time and file management.

# Arguments against offering CLE as QWE

- Some CLE may be too short/informal etc.
- Not useful to those students who don't wish to practise
- Probably not useful to students who obtain a training contact
- Potential to further exacerbate/add another complicating factor to, the existing tension between education and social justice in CLE
- Won't likely amount to many months FTE



# Arguments for offering CLE as QWE

- Whilst a student is unlikely to obtain 2 years FTE solely through clinic, some may be able to combine it with other work experience (paralegal work, placements etc.) Also note multiple CLE with one institution counts as a single arrangement under the Draft Regulations.
- '...a number of [solicitor] competences (e.g. legal research, taking responsibility for one's own learning, taking steps to obtain help, communicating clearly, analysing problems, obtaining facts and drafting) appear in most kinds of work experience.'<sup>\*</sup>
- CLE deserving of recognition/unfair not to sign off on QWE, when this could count
- Supports diversity agenda
- The competition might decide to offer it

# Practicalities of CLE as QWE – Supervision/Sign Off

- The Draft Regulations do not prescribe supervisory arrangements for QWE.
- However, there are specific rules about who can sign off on QWE (referred to as providing 'confirmation' in the Draft Regulations):

# Practicalities of CLE as QWE – Supervision/Sign Off

2.2 In respect of each organisation under Regulation 2.1(c) above you must arrange for confirmation in the prescribed form ...to be given by a person specified in (a) to (c) below who has taken sufficient steps to satisfy themselves as to those matters:

- (a) the **organisation's COLP** [Compliance Officer for Legal Practice];
- (b) **a solicitor working within the organisation;** or
- (c) if neither (a) or (b) are applicable, **a solicitor working outside of the organisation who has direct experience of your work** and...

# Practicalities of CLE as QWE – Supervision/Sign Off

... and who has, in order to be so satisfied:

(i) **undertaken a review of the work you have done during the relevant period of work experience**, which may include review of a training diary or portfolio of work;

and

(ii) **received feedback from the person or persons supervising your work**



# How much FTE should students be credited with?

- The SRA has stated that they expect people to take a 'common sense approach' to deciding how long the period of qualifying work experience should be if the candidate does not work on a full time basis or if a candidate has to take any extended time off, for example, through illness.\*
- SRA have indicated they would require organisations to consider each student individually and the amount of time they have worked (can't take average hours for module etc.)

\*Solicitors Regulation Authority. A New Route to Qualification: New Regulations. Consultation Response. Page 14.

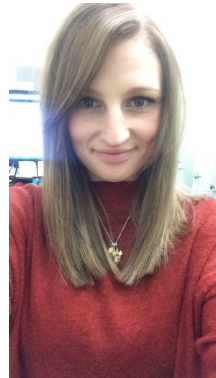
# How much FTE should students be credited with?

- Institutions should consider developing clear policies
- Scope for organisations involved in CLE, like the Clinical Legal Education Organisation, to issue best practice guidance, possibly following consultation with members.
- More robust systems for documenting attendance and absence may be required where these are not already in place.



# Questions and Contact Details

Feel free to contact us with any thoughts, queries or comments:



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