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*Regulatory Reform in England and
Wales – An Opportunity to Embed
CLE further into the Law
Curriculum?*

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Northumbria Law School

Solicitors Qualifying Examination

SQE 1
Functioning Legal
Knowledge

Qualifying
Work
Experience

SQE 2
Practical Legal
Skills

**Clinic 'counting' as
qualifying work
experience?**

**Clinic as preparation
for SQE2 legal skills
examinations?**



Why change the current system?!

- Solicitors Regulation Authority want consistency across providers and pathways
- Quality control and consumer protection
- To increase diversity and access to the profession (although it is questionable whether this aim will be achieved)

An opportunity to further embed clinic in the curriculum?

“the law schools that have embraced CLE, particularly those that run vocational training courses and where practising lawyers play a core teaching role, appear best placed to adapt to the proposed changes.”



(Kemp et al 2016)

CLE in the UK



Clinic as 'Qualifying Work Experience' (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 CLE suitable to count as QWE?

- Some suggest CLE is better than experience gained in a law firm (Smetanka 2001; Lowenthal 1981; Maranville 2000) whilst some studies suggest experience in a law firm is better (Sonsteng and Camarotto 2000; Sandefur and Selbin 2009).
- ‘...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.’ (Ching and Henderson 2016)

Arguments against offering clinic 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 contract
- 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 full time equivalent

Arguments for offering clinic 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.
- 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 clinic as QWE

- Signing off – who does it?
- How much FTE should students be credited with?
 - 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.)

What does SQE 2 entail?

Stage 2

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.



Clinic as preparation for SQE 2

- Live client clinics should offer students the opportunity to develop the kind of legal skills tested in SQE 2.
- However, some of the SQE 2 practice areas are not normally covered in clinic (such as estates and property) and many areas commonly covered in clinic are not tested in SQE 2 e.g. family.
- If it is part of an undergraduate degree, then SQE 2 *may* be far off for the students, if they do it after QWE...

Clinic as preparation for SQE 2

- At Northumbria's Student Law Office , we currently use clinic to sign off LPC competences, so we could potentially adapt our experience for SQE 2 prep
- Difficulties in providing a consistent experience though – be wary of over promising and under-delivering
- Simulated work would have the advantage of consistency.
- Does have its limitations though - will students see it as being as good as 'real' experience?

Will clinic become further embedded?

- Will probably depend on the institution – further gulf between traditional and newer universities?
- QWE may further embed it, if institutions are prepared to sign off
- SQE 2 prep also/alternatively an opportunity for CLE to play a part – giving students practical experience for their SQE2 practical examinations
- Next paper will consider the other side of the coin – why changes may have the opposite impact

Questions and Contact Details

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