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The Solicitor Apprenticeship

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The Solicitor Apprenticeship

Introduction

The Solicitors Qualifying Examination (SQE) was introduced in September 2021. It is part of the Solicitors Regulation Authority (SRA) reforms to legal education, which followed the Legal Education and Training Review (LETR).¹ In their Training for Tomorrow policy, the SRA set out several priorities. One of these being the opening up of pathways to qualification as a solicitor.² The solicitor apprenticeship is one of these pathways.

Whilst the Legal Services Board approved the introduction of the SQE in October 2020, and its implementation did not occur until the latter part of 2021;³ the use of a two stage, centralised assessment has been the assessment method for the solicitor apprenticeship since the Solicitor Apprenticeship Standard was approved in September

¹ Julian Webb and Others, *Setting Standards: The Future of Legal Services Education and Training Regulation in England and Wales* (2013)

² SRA, 'Policy statement: Training for Tomorrow' (*Solicitors Regulation Authority*, 2013) <<https://www.sra.org.uk/sra/policy/training-for-tomorrow/resources/policy-statement/>> accessed 12 January 2022

³ Legal Services Board, 'Legal Services Board approves significant changes to how solicitors qualify' (*Legal Services Board*, 2020) <<https://legalservicesboard.org.uk/news/legal-services-board-approves-significant-changes-to-how-solicitors-qualify>> accessed 17 February 2022

2015.⁴

With the first solicitor apprentices registering in 2016,⁵ this pathway can arguably no longer be classed as ‘new’. So, in 2022 what do we know about the solicitor apprenticeship route to qualification in England?

Higher Apprenticeship

An apprenticeship is “a real job where you learn, gain experience and get paid.”⁶ Government funding is available to cover all or part of the training costs associated with the apprenticeship.⁷ Apprenticeships can incorporate a degree (a degree apprenticeship)

⁴ Apprenticeships, *Solicitor Apprenticeship Standard* (Institute for Apprenticeships 2015)

⁵ Solicitors Regulation Authority, 'Kaplan approved to be the end-point assessment organisation for solicitor apprenticeships' (*Solicitors Regulation Authority*, 2020)
<<https://www.sra.org.uk/sra/news/press/2020-press-release-archive/kaplan-appointment-solicitor-apprenticeships/>> accessed 17 February 2022

⁶ HM Government, 'Becoming an apprentice' (*gov.uk*,
<<https://www.apprenticeships.gov.uk/apprentices/becoming-apprentice#>> accessed 17 February 2022 Contains public sector information licensed under the Open Government Licence v3.0.

⁷ GOV.UK, 'Employing an apprentice' (*Crown*, <<https://www.gov.uk/employing-an-apprentice/get-funding>> accessed 17 February 2022

or not (a higher apprenticeship). Apprenticeships have an equivalent academic level.⁸ This level is detailed on the Apprenticeship Standard.

It was noted in the LETR that its key recommendations will “support and monitor the development of higher apprenticeships at levels 6-7 as a non-graduate pathway into the regulated sector.”⁹ The solicitor apprenticeship is a non-graduate pathway into the legal profession.

Solicitor Apprenticeship Standard

The Richard Review into the future of apprenticeships in 2012,¹⁰ led to the creation of Trailblazers, groups of employers who join to create a standard, for specific roles within their fields.¹¹ They are employer designed and employer led; the intention being that this new form of apprenticeships adapts to the needs of the profession, providing them with employees who are competent with the FS skills to perform the role.

⁸ GOV.UK, 'Become an apprentice' (*Crown*, <<https://www.gov.uk/become-apprentice>> accessed 13 January 2022

⁹ Julian Webb and others, 'Legal Education and Training Review: Executive Summary' (*Legal Education and Training Review*, 2013) <<https://letr.org.uk/the-report/executive-summary/executive-summary-english/index.html>> accessed 17 February 2022

¹⁰ Doug Richards, *The Richards Review of Apprenticeships*, 2012)

¹¹ H M Government, *The Future of Apprenticeships in England: Implementation Plan* (Crown 2013)

The required content of the apprenticeship is contained within the Solicitor Apprenticeship Standard which was created by the legal trailblazers.¹²

An apprenticeship standard should set out the knowledge, skills and behaviours (KSBs) required for the role. The Solicitor Apprenticeship Standard is based on the SRA Statement of Solicitor Competence.¹³ The Standard itself appears as a less detailed version of the competence statement. The assessment plan however states that:

The Apprenticeship standard should be identical to the standard specified for qualification as a solicitor by the SRA, as set out in the SRA's Statement for Solicitor Competence ("the Competence statement"), the Threshold standard and Statement of legal knowledge.¹⁴

The knowledge and skills required of the solicitor apprentice are evident and mapped to the assessment of the apprenticeship through SQE1 and SQE2. There is a further requirement for on-programme, work-based assessment of the apprentice against

¹² Apprenticeships, *Solicitor Apprenticeship Standard*

¹³ Solicitors Regulation Authority 'Statement of Solicitor Competence'

www.sra.org.uk/competence accessed 31 January 2022.

¹⁴ Trailblazers, 'Apprenticeship standard leading to qualification as a solicitor

Assessment Plan' (*Institute for Apprenticeships*, 2021)

<<https://www.instituteforapprenticeships.org/media/5124/solicitor-apprenticeship-assessment-plan-v4-280521.pdf>> accessed 17 February 2022 P.1 Contains public sector information licensed under the Open Government Licence v3.0.

the competencies, however responsibility for the form of this is left to the discretion of the employer or training provider.¹⁵

The behaviours required of the solicitor apprentice, which tend to be detailed and mapped to the assessment in most apprenticeship standards, are less evident in this Standard. It is noted that the solicitor apprenticeship assessment plan was revised in May 2021 and the Standard is currently being revised. We may see clearer mapping to the behaviours in the updated version.

The apprentice must receive sufficient legal knowledge training to enable them to pass the SQE1 Functioning Legal Knowledge assessment. Due to the teaching required to deliver this content, training providers with degree awarding powers, may offer the apprentice the opportunity to obtain a law degree.

Regulation and Oversight

Notably the SRA has no direct involvement with the regulation of this apprenticeship. This aligns to the proposal presented in their Policy Statement: Training for Tomorrow, “Stripping away a number of the technical regulations which require unnecessary SRA involvement in the detail of the education and training process.”¹⁶ It does not however make the apprenticeship completely flexible and free of any restrictions, oversight or regulation. There are several organisations responsible for the

¹⁵Ibid

¹⁶ SRA, 'Policy statement: Training for Tomorrow'

quality of this apprenticeship. Their roles and responsibilities are contained in the Apprenticeship Accountability Statement.¹⁷

As previously stated, the Standard prescribes the KSBs that the apprentice should develop over the course of their apprenticeship. The Standard is aligned to the assessment plan, ensuring the assessment of those KSBs. The training provider must ensure that they structure their apprenticeship programmes to deliver this substantial content of both legal knowledge and skills to enable completion of the SQE assessment. The Institute for Apprenticeships and Technical Education is responsible for supporting the development of the Standard and accompanying assessment plan.¹⁸

The solicitor apprenticeship is an approved English apprenticeship under s.A1 of the Apprenticeships, Skills, Children and Learning Act 2009. As a result, the apprenticeship must also meet the conditions specified by the Secretary of State in the Apprenticeships (Miscellaneous Provisions) Regulations 2017, Regulation 3 of which makes it a requirement that the apprentice must receive off-the-job training in addition to any on-the-job training that is provided within the workplace.

¹⁷ Department for Education, *Apprenticeship Accountability Statement* (Crown 2021)

¹⁸ Ibid

The overall responsibility for the quality and regulation of the apprenticeship is the Education and Skills Funding Agency (ESFA).¹⁹ The ESFA funding rules are extensive and updated yearly.²⁰

A key requirement of funding pertains to the off-job-training element of the apprenticeship delivery. The apprentice must spend 20% of the total time of their apprenticeship off the job²¹. The ESFA requires that any off-the-job training must provide the apprentice with new KSBs which are directly relevant to the Apprenticeship Standard.²² This means that KSBs that are not new are not eligible for funding.

Whilst control of the apprenticeship delivery patterns is for the training provider and employer to agree, it is likely that most solicitor apprentices spend most of their week in the workplace utilising and developing their knowledge and skills and, one day

¹⁹ Ibid

²⁰ Education and Skills Funding Agency, 'Apprenticeship funding rules' (*Gov.UK*, 2019)
<<https://www.gov.uk/guidance/apprenticeship-funding-rules>> accessed 17 February 2022

²¹ Department for Education, *Apprenticeship off-the-job-training: Policy background and examples* (Crown 2019)

²² Education and Skills Funding Agency 'Apprenticeship Funding Rules for Main Providers: August 2021 to July 2022' (November 2021)
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1037429/2122_Provider_Rules_Version_2_To_Publish.pdf accessed 31 January 2022, P41-P42

a week 'off the job', which will mainly consist of their academic study of legal theory and their legal skills training.

Whilst the ESFA will ensure that off the job time is being taken by the apprentice, the quality of that off the job training is the responsibility of the Office for Standards in Education, Children's Services and Skills (Ofsted). They assumed responsibility for inspecting and reporting on the quality of level 6 and 7 apprenticeships in April 2021. Ofsted's apprenticeship inspection will follow their education inspection framework (EIF).²³ Ofsted's role is to ensure that the delivery of the apprenticeship is high-quality; that the apprentices are progressing and developing as they should over the course of the apprenticeship and that employer and apprentice needs are being met by the training provider.²⁴ They will review the quality of the education and the leadership and management of the provider, as well as the personal development and behaviour and attitudes of the apprentice.²⁵

²³ Ofsted, 'Education Inspection Framework' (*Crown*, 2021)

<<https://www.gov.uk/government/publications/education-inspection-framework/education-inspection-framework>> accessed 17 February 2022

²⁴ Education and Skills Funding Agency, 'Ofsted Inspection and ESFA intervention' (*Crown*, 2021) <<https://www.gov.uk/government/publications/provider-guide-to-delivering-high-quality-apprenticeships/ofsted-inspection-and-esfa-intervention>> accessed 17 February 2022

²⁵ Ofsted, 'Education Inspection Framework'

Designing the Solicitor Apprenticeship Programme

As may have become apparent, the delivery of the solicitor apprenticeship is very different from the more traditional educational offer that is familiar to most HEIs. This is due firstly to the fact that it is an apprenticeship which is subject to certain statutory requirements, and secondly to the fact that it is a higher rather than a degree apprenticeship.

Together, the on-the-job training and off-the-job training must ensure that the apprentice achieves the standard set out in the approved Solicitor Apprenticeship Standard.

The Solicitor Apprenticeship Standard does not require the award of a degree, meaning that its content and delivery is predicated on the Standard approved by the Institute for Apprenticeships and Technical Education and therefore much of the traditional process of structuring and approving a Programme is taken out of the hands of the HEI.

Many institutions now adopt a framework for awards which sets out the skills, attributes and knowledge which a student would be expected to show in order to achieve an award from the institution. This, in turn, is linked to national frameworks for awards including the UK Quality Code for Higher Education²⁶ and the Higher Education Credit Framework for England.²⁷

²⁶ QAA, UK Quality Code for Higher Education (QAA 2014)

²⁷ QAA, Higher Education Credit Framework for England: Advice on Academic Credit Arrangements (2nd Edition, QAA 2021)

For higher apprenticeships, which do not require the award of a degree, the focus must be on the apprentice developing the KSBs required in the Apprenticeship Standard to the requisite level. In this sense, the apprenticeship does mirror the traditional frameworks used by HEIs, as the level of the apprenticeship links to the levels defined by the UK Quality Code.

In practice this means that learning outcomes must mirror the KSBs required for the apprenticeship, namely the contents of the Statement of Solicitor Competence and the Statement of Legal Knowledge. The module and the programme essentially become secondary to the apprenticeship and if existing content is being drawn on in the delivery of the apprenticeship, then existing learning outcomes are relevant only in so far as they contribute to the Statement of Competence and Statement of Knowledge.

Mapping the legal knowledge delivered through the programme to the Statement of Legal Knowledge is therefore key, but so is the need to map the skills developed through both academic work and in the workplace to the Statement of Competence. This may require specific provision to provide apprentices with the tools needed to learn from practice, including reflective theory.

Constructive Alignment

With this in mind, it is essential for any HEI delivering the solicitor apprenticeship to approach the design of the programme with these key elements in mind:

- By the time of the end point assessment, the apprentice must have covered the content set out in the Statement of Legal Knowledge²⁸ and the Statement of Solicitor Competence²⁹ to the Threshold Standard;³⁰
- Any knowledge, skills or behaviours delivered must be new to the apprentice (individually, rather than as a cohort);
- Progress must be monitored throughout the programme to ensure continual progress towards the KSBs; and
- The HEI and employer must have sufficient information by the time the apprentice enters the gateway in order to certify that they are ready to sit the end point assessment.

Constructive alignment is a useful tool in this respect. As Biggs and Tang note “constructive alignment goes one step further than most outcomes-based approaches in that, as well as assessment tasks, teaching and learning activities are also aligned to the outcomes”.³¹

²⁸ Solicitors Regulation Authority ‘Statement of Legal Knowledge’ www.sra.org.uk/knowledge accessed 31 January 2022.

²⁹ Solicitors Regulation Authority ‘Statement of Solicitor Competence’ www.sra.org.uk/competence accessed 31 January 2022.

³⁰ Solicitors Regulation Authority ‘Threshold Standard’ www.sra.org.uk/threshold accessed 31 January 2022.

³¹ John Biggs and Catherine Tang, *Teaching for Quality Learning at University* (4th Edition, Open University Press 2011), 14

As is discussed above, much of the learning on the apprenticeship takes place in the workplace. Each workplace is its own entity, conducting different areas of work and for different groups of clients. The concept of constructive alignment in respect of the solicitor apprenticeship therefore needs to be applied not only to the programme of study to ensure that the learning activities are targeted at the Statement of Knowledge and the Statement of Competence, but also in respect of each individual apprentice.

This requires an initial skills assessment in respect of each apprentice.³² The funding rules make clear that the KSBs taught as part of the off-the-job training must be new, and therefore apprentices' prior knowledge and skills must be acknowledged and any elements of the programme that have already been met must be discounted in respect of that individual apprentice.

This means that any apprenticeship programme must be able to deliver a flexible, individualised approach.

Assessing Progress

As has already been highlighted, any degree awarded by the HEI is additional and secondary to the apprenticeship itself which, at Level 7, is a higher qualification than a standard undergraduate law degree. On programme assessment is therefore primarily targeted at ensuring that the apprentice makes sufficient progress in order to

³² Education and Skills Funding Agency 'Apprenticeship Funding Rules for Main Providers:

August 2021 to July 2022' (November 2021)

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1037429/2122_Provider_Rules_Version_2_To_Publish.pdf accessed 31 January

2022, P23

provide them with the best chances of passing both the on-course and end point assessments.

That said, the apprenticeship assessment plan recognises that “training providers and employers may wish to offer additional external or internal accreditation of on-programme assessment”,³³ thereby enabling HEIs to recognise credit value for the study undertaken and to make additional or lower awards depending on the point at which the apprentice ends their studies.

This means that the focus of assessment for the apprenticeship needs to be on progress. This is not to say that the grading of modules is irrelevant. Clearly, traditional grading methods are a useful tool to identify whether the apprentice has retained and understood the legal principles which relate to the Statement of Knowledge. Additionally, where a degree is awarded separately, grading is a recognition of achievement and enables the degree to be classified.

Alongside this, though, there needs to be a robust system to ensure that the apprentice is making sufficient progress towards the Statement of Competence as well as the Statement of Knowledge. This will include self-assessment by the apprentice but also a robust review by the employer and the training provider to ensure that the assessment is accurate and objectively justified.

³³ Apprenticeships, Solicitor Apprenticeship Standard (2015) Contains public sector information licensed under the Open Government Licence v3.0.

Conclusion

The solicitor apprenticeship is a complex method of providing legal education which is subject to rules and a level of oversight that may be unfamiliar to those who are more used to the traditional University degree offer.

However, the changes to the route to qualification introduced by the SRA have meant that the apprenticeship now closely aligns with the system of centralised assessment. An increasing number of law firms are seeing the benefits of the apprenticeship route (either the full six year route, or a truncated post-graduate route) as a means of securing the training needed in order for their prospective future solicitors to qualify.

It is important not to enter into delivery of such a programme blind, though. The requirements of the ESFA and Ofsted means that providers must ensure that they adopt the correct mindset, namely that the apprenticeship is an entity in its own right, and not an add-on to already available educational provision.

