



Consultation on proposals to change how the English or Welsh language proficiency of qualified lawyers is assured: Initial equality impact assessment

December 2023

Introduction

Language proficiency is key to the role of a solicitor. Their work is high stakes; they are acting on behalf of clients who may be vulnerable and/or who could have a lot at stake if the solicitor cannot understand the client, if the client cannot understand them or the advice given, or if that advice is incorrect or articulated incorrectly. All solicitors also have rights of audience in the lower courts. It is, therefore, imperative that all solicitors have the required level of language competence.

For brevity, we refer in this document only to English language proficiency. However, anyone who is required to demonstrate proficiency in English could choose to demonstrate their proficiency in the Welsh language instead.

Here we explore the potential equality impacts of our proposals to amend our regulations and Principles for Qualified Lawyers (the Principles) for all aspiring solicitors seeking admission in England and Wales. Where we have identified a potential risk, we have set out how we will manage it. We will publish a final impact assessment alongside our consultation response document in spring 2024.

While we have maintained language requirements for all aspiring solicitors since 2010, we have adapted our approach over the years aligning with various routes to qualification. For those who qualify through sitting both SQE1 and SQE2, we are assured of a candidate's language proficiency because the SQE assessments are designed to test a candidate's ability to meet all of the competences in the Statement of Solicitor Competence; this includes language competence.

SQE1 assesses candidates' functioning legal knowledge, through a single best answer multiple choice assessment. SQE2 assess candidates' legal skills and their ability to apply their legal knowledge. To pass SQE2, candidates must be able to read and understand lengthy text and to provide extended answers, both orally and in writing.

Qualified lawyers may qualify as a solicitor of England and Wales by sitting the SQE1 and SQE2, in which case the language requirement is deemed to be met. However, if a qualified lawyer receives an exemption from SQE2, we require them to provide evidence of their language proficiency using one of the alternative methods set out in the Principles.

For the purposes of the consultation and this equality impact assessment, our focus is on qualified lawyers who have received an exemption from SQE2 and who choose to qualify using this exemption. If a qualified lawyer chooses not to sit SQE2 and their professional legal qualification was not assessed in English, they will need to provide evidence of their language proficiency by achieving an appropriately high score on a Secure English Language Test (SELT).

What is our current approach for qualified lawyers?

Our approach to qualified lawyers seeking to practise as solicitors of England and Wales is set out in the Principles for Qualified Lawyers; this was last amended in 2020. Since this time, the UK has left the EU and we have begun processing SQE exemption applications for qualified lawyers.

Due to the changes in circumstance following the UK's withdrawal from the EU and based on the knowledge we have gained since the policy was introduced, we believe this is a good time to update our approach relating to the English language proficiency requirements.

What are we proposing to change?

We are proposing to:

- a) Seek evidence of English language proficiency at the point of admission, rather than on application for a first practising certificate.
- b) No longer accept as evidence the award of any degree taught in English unless that degree was also the qualified lawyer's professional legal qualification. We will accept as evidence of English language proficiency the qualification of a lawyer which has been used to seek exemption from SQE2, where that qualification was assessed in English.
- c) Accept as evidence of English language proficiency a score of at least 7.5 in an IELTS or a score at an equivalent level in an alternative [Secure English Language Test](#) (SELT). We do not propose to specify when the test must have been taken. We propose, instead, only to accept such test scores when the body that provided the test believes the test to be valid at the time the qualified lawyer presents it to us as evidence of their English language proficiency.

Equality impacts of the proposed changes

The point at which we seek evidence of English language proficiency

As discussed in the consultation document, we currently check evidence of a qualified lawyer's English language proficiency after they have been admitted as a solicitor, when they apply for their first practising certificate. This approach was adopted to comply with EU derived regulations on the mutual recognition of qualifications. As such, we were not previously permitted to seek such evidence from a lawyer qualified in another EU member state at the point they were applying to have their qualification recognised. This meant we needed to seek such assurances at a later point.

We are now able to decide when to undertake the English language proficiency checks. We believe this important competence should be evidenced, alongside other related checks, at the point of admission to the profession.

The Principles, as currently drafted, allow qualified lawyers to have evidence of their language proficiency assessed at a different point than those who qualify ordinarily through the SQE assessments.

We have not identified any adverse impacts nor any potential adverse impacts on any protected groups due to this proposal. Our proposal would make sure all solicitors have their language proficiency evidenced at the same point. The consistency of approach may have a positive impact in this regard and help to foster good relations among different groups.

Academic and legal professional qualifications as evidence of appropriate English language proficiency

As noted in the consultation, we currently accept a degree taught in English (or an alternative qualification at UK FHEQ Level 6) awarded at any point, in any country and in any subject. We consider that this approach risks undermining our assurance that a candidate is fully proficient in English to the standard required of a solicitor, especially if they have not used their language skills for some time.

The proposed changes would mean that all qualified lawyers who do not to qualify by sitting SQE1 and SQE2, whether they are UK nationals or otherwise, will need to provide evidence of English proficiency in one of the other prescribed ways, unless the qualification they have relied on for their exemption from SQE2 was assessed in English.

We believe there is a lower risk that the English language proficiency of a qualified lawyer who holds a professional legal qualification assessed in English will have unacceptably declined since they gained that qualification, as they are likely to have been working in the English language. Such a qualification would also provide stronger assurance that the qualified lawyer has the English language proficiency needed to provide legal services in English.

Based on our data relating to qualified lawyers who have been admitted to the profession using an exemption from SQE2, we believe this change will mean that more qualified lawyers would need to provide evidence of English language proficiency by taking a language assessment.

Our data shows that of the 640 qualified lawyers granted an exemption from SQE2 who have been admitted since we began providing exemptions, 605 provided evidence of language proficiency using a degree taught in English. The remaining 35 provided evidence of a language assessment (29) or were granted by alternative means (6). We think it likely that the professional legal qualification of many would also have been assessed in English, although we do not have the data to confirm this. If their professional qualification was assessed in English, they would not have been affected by the changes on which we are consulting.

From our data set, the vast majority of qualified lawyers who were admitted to the roll are in the age group of 25-34 (415). There were 214 qualified lawyers aged 35-44, 49 qualified lawyers aged 45-54 and 3 aged 55-64.

This data is heavily influenced by the number of lawyers from Hong Kong over this period as 164 of whom were aged 25-34, 64 were aged 35-44 and 11 aged 45-54.

While we acknowledge a higher number of qualified lawyers aged 25-34 may be affected by this change, we believe the impact on all qualified lawyers will be similar. We believe this proposal to be a proportionate means of achieving a legitimate aim of protecting clients and the public.

The table below shows the top ten jurisdictions by numbers being admitted and the evidence provided to satisfy the language requirement.

Table 1: Qualified lawyers admitted with SQE exemption by jurisdiction and language evidence provided since 2021

Jurisdiction name	Language evidence (degree)	Language evidence (SELT)	Count
Australia	32	1	33
Brazil	13	2	15
Hong Kong	205	5	210
India	21	2	23
Nigeria	18		18
Scotland	19		19
Singapore	56	3	59
South Africa	24	5	29
Turkey	31	1	32
United States of America	57	1	58

Table 1 shows that the vast majority of qualified lawyers satisfy our language requirements by having completed a degree taught in English. This change may result in the potential for an adverse impact on qualified lawyers born and/or brought up in a country in which English is not the first language as they would be less likely to have gained their legal professional qualifications in English. This could result in a potential adverse impact based on ethnicity – using a home jurisdiction as a proxy.

We think that most of the applications we receive are likely to come from qualified lawyers who come from a jurisdiction where their qualification is assessed in English.

We believe that our proposal is a proportionate response to protect clients and the public by making sure that qualified lawyers who are exempt from SQE2 have the requisite proficiency in English.

Unfortunately, the available data relating to gender for this group was not sufficient to provide any meaningful insights. This is because there were too many 'unknown' fields which means it failed to meet our threshold for the data to be reported.

We do not have sufficient data on qualified lawyers who identify as having a disability. We, therefore, have not been able to fully assess whether there are any potential adverse impacts associated with this proposal on qualified lawyers with a disability. However, we recognise that some disabled qualified lawyers who need to take a SELT will require reasonable adjustments. We expect and understand that SELT providers will have policies for dealing with requests in line with the Equality Act 2010.

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

What are we doing to mitigate these impacts?

While we cannot mitigate the impacts highlighted above, we will be re-wording the regulations and Principles so that it is clearer to understand when additional evidence is needed and how candidates can obtain the evidence required. This is in response to feedback we have received from qualified lawyers that the current policy, among other things, is not clear when a SELT is necessary.

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

- Our proposals would not prevent qualified lawyers from being admitted as solicitors of England and Wales. However, qualified lawyers must, like any other candidate, provide evidence of language proficiency in one of the following three ways:
 1. Passing SQE2
 2. Providing evidence of a professional legal qualification assessed in English or
 3. Taking a language assessment.
- Our proposed changes are not targeted at lawyers who qualified in any specific jurisdiction. Should we proceed with our proposals, all qualified lawyers will be required to provide evidence of language proficiency (at the point of admission) in one of the three ways described above.

A Secure English Language Test (SELT) score as evidence of appropriate English language proficiency

We currently accept as evidence of English language proficiency a score in an English language test that aligns with [level C2 on the Common European Framework of Reference](#)

[for Languages](#) (CEFR), which is the equivalent to 8.5 for the most common referenced SELT test for candidates, the International English Language Testing System (IELTS).

As discussed in the consultation, we have received representations from some qualified lawyers who have been unable to achieve a SELT score that corresponds with level C2 on the CEFR, despite evidence that they are working effectively in English in a legal practice setting.

Having considered their representations, and the standard of English language required for other professions, we are consulting on changing our requirement. We believe it would be appropriate for us to accept as evidence an IELTS score of at least 7.5 or the equivalent standard in an alternative SELT.

We currently require any SELT score put forward as evidence of English language proficiency to have been achieved within two years of the date it is submitted. Many SELT providers put a limit of two years on the validity of the score. In other words, they indicate that a score awarded more than two years previously should not be relied upon as evidence of English language proficiency to the original standard. Rather than impose our own time limit of two years, we propose we should accept any score that the original test provider considers to be valid at the point it is submitted to us.

We believe that the current standard and the two-year validity requirements have created unnecessary barriers. Moreover, we do not consider that our proposed changes would adversely impact any qualified lawyers. The proposed change in standard (to IELTS 7.5) places us on equal footing to the requirements of other legal and non-legal professional regulators.

Our proposed changes to the standard described above and validity of SELT certificates would also help to mitigate against the potential equality impacts which we have found that may adversely affect qualified lawyers born and/or brought up in a non-English speaking country.

We have not identified any adverse equality impacts of this proposal on qualified lawyers sharing any other protected characteristic.

Conclusion

The package of proposed changes has been designed, in part, to address the potential disadvantages created by the current policy. Moreover, we believe the changes will have a net positive equality impact on those most likely to need to evidence their English language proficiency by submitting a SELT certificate; this is due to our proposal to change the standard from C2 on the CEFR to a score of 7.5 on the IELTS (or equivalent), which will make the assessment more accessible to qualified lawyers, reducing the costs and time incurred. This will mean more qualified lawyers will be able to obtain a practising certificate.

We recognise that some qualified lawyers whose degree was taught in English but whose professional legal qualification was not taught and assessed in English would, under our proposals, be required to gain an appropriate score in a SELT. Our proposed reduction in the SELT score required would reduce the impact of this change.

As mentioned above, we propose to make sure the regulations, the Principles and our website guidance are articulated more clearly, to improve understanding of when additional evidence is required and how this can be provided. We believe this will result in qualified lawyers having a better experience in their journey to qualify and practise as a solicitor.

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