Indicative economic impacts of a new qualification framework for solicitors

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A report for the SRA

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October 2015

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Table of Contents

Executive Summary

Economics, Policy and Competition (EPC) was appointed by the Solicitors Regulation Authority (SRA) to undertake an economic impact assessment of proposals for a new framework for solicitor qualification.

The research for this report was conducted at the stage in the policy development process when proposals were only set out at a high level, and the proposals have changed over time in the light of comments from stakeholders. The proposals tested in this report should therefore be seen in the context of the SRA carrying out work to develop their policy ahead of even formal consultation. Further analysis may be necessary once proposals are refined, but this early economic impact assessment is intended to help guide the SRA by highlighting issues and identifying appropriate questions for subsequent consideration.

Current qualification framework

There are currently different pathways to qualification as a solicitor. Consistency of standards can not be assumed *within* different components for a given cohort or over time, and there is no mechanism in place to ensure consistency *between* different pathways. "Equivalent means", the new Solicitor Apprenticeship Standard, and the expectation of continued demand for new pathways mean concerns about inconsistency are likely to increase in the future. The SRA simply does not know whether, or to what extent, inconsistency arises and does not have control of the point of qualification into the regulated status which it conveys on individuals. It also relies, in part, on regimes of other regulators to provide flexibility of pathways.

Despite these concerns, comprehensive evidence does not exist that links low quality advice to the qualification requirements, although the quality of advice of advice is very difficult to measure. However, concerns about inconsistent standards have the potential to damage the reputation of the profession. A further issue is that access to legal advice may be limited if requirements either artificially restrict the number of solicitors or lead to unduly high prices.

New qualification framework

The SRA is proposing a new qualification framework and is considering a range of different options regarding pathways to qualification. The proposal which was tested for the purpose of this report involves two components:

- Common Professional Assessment of Solicitors (CPAS) – a centralised assessment aligned to the SRA's competence statement. Part 1 of CPAS would assess legal knowledge, and Part 2 the application of knowledge, skills and behaviours in different areas and legal contexts; and
- Flexible pathways – no specific academic and vocational requirements would be applied leaving flexibility in how individuals receive education and training, other than the potential need to complete some work-based learning.

Bringing in flexible pathways has the potential to exacerbate inconsistency but the CPAS would place the SRA in control of the point of qualification. This concentrates risk on the CPAS which would need

to bear the full weight of the assessment of competence compared to today's framework which involves different assessments arising over a period of time.

The impact of the new framework will be determined by the effectiveness of the CPAS and whether it *can* be designed to assess the necessary skills and knowledge, which the SRA has commissioned separate technical research on. This current report assumes that such an assessment mechanism is possible (otherwise the case for the new framework falls away). Further development and testing of the CPAS is critical both to ensure the calibration of the CPAS is set at the appropriate level and also to gain the confidence of the profession and education providers in doing so.

Impact on the education and training sector

At this stage in the policy making process the SRA still has more work to do to develop the detail of the assessment; the breadth of subject areas to be covered; the depth and detail of teaching required; the academic level used for testing; and the frequency and times at which assessments will be available. For this reason there is also considerable uncertainty surrounding how, whether, and when, the education sector would adapt to the new framework.

Nonetheless, a number of providers of law degrees have indicated that they would seek to include professional and practice skills (referred to for convenience as core Legal Practice Course or "CLPC" components) into their law degree to make a "Part 1 ready" degree. This is likely to be straightforward for providers who already offer both Qualifying Law Degrees (QLDs) and LPCs and should reduce costs of education. It is likely to reduce the breadth of teaching compared to a 3-year QLD and 1-year LPC but could represent a more effective educational experience through combining academic and practical learning. Providers are unlikely to pay for the Part 1 exam due to constraints of fixed tuition fees and perceived unfairness to students who do not take the exam. The likelihood of sandwich courses being widely developed depends on whether, and how, the SRA alters work-based learning requirements and whether the year of work would count towards them.

Some other providers are much more reluctant to change their degrees. This reflects concerns for academic freedom, their lack of LPC skills, and their desire to meet the needs of the bar as well as solicitors. Whether market forces would lead them to change over time depends on factors such as the behaviour of their closest competitors, the structure of the Part 1 assessment (whether it would have separate modules for QLD topics and LPC topics) and the behaviour of firms. Large firms are likely to continue to recruit from the universities they consider to be the best irrespective of whether the universities integrate the CLPC. As now, such firms would fund students through any courses after a degree.

New courses are expected to emerge including the possibility of combining the Common Professional Examination (CPE)/Graduate Diploma in Law (GDL) and CLPC into a shorter course compared to today. Such a course could be taken on a full-time basis by graduates but spread over many years for others such as those taking the apprenticeship route. Other courses are also expected to be developed including for lawyers from other jurisdictions, routes which build the CLPC on top of the CILEx route, and those focused on preparation or mocks before CPAS exams. A wider variety of Master's degrees (LLMs) that include CLPC components may also develop which is also

likely to be aided by student loans becoming available for these degrees. The impact on demand for different courses and on assessment numbers is uncertain at this stage of the policy process.

The total cost of qualification will vary considerably by different routes. Some individuals and firms will continue with broadly the same route as today but face the additional CPAS exam costs. Other routes to qualification would offer significant cost reductions although some of these routes would be available without changing the regime.

Concerns about the standards in the new framework are significant among some of those likely to be affected by change and it is important that the SRA signals, and ensures, standards are set at graduate level or it will face criticism for lowering standards. Testing the CPAS to ensure it is appropriately calibrated will be vital.

Transitional arrangements need to prevent unintended consequences that might arise from individuals artificially trying to accelerate or delay qualification in advance of change. Until such a point that the SRA makes firm decisions on the new framework, students need to have confidence in their current pathways.

Some of the risks of change could be reduced through applying the CPAS regime to some, but not all, routes to qualification on an interim basis although this would delay the SRA's aim of ensuring consistent and comparable standards.

Impact on firms

In 2014, roughly 20% of firms took trainees. The great majority of these took only one trainee, while the top 1.5% of firms were responsible for over 50% of trainees.

With the context of increasing use of paralegals and non-qualified staff compared to qualified solicitors, many firms are in favour of flexibility and believe the new apprenticeship route will encourage diversity in the profession. They nonetheless highlight the lack of a SRA route to qualification for non-graduates. However, at this stage firms are generally unable to identify new specific pathways that they would seek to use.

The lack of activity based qualifications (in which individuals qualify to give legal advice in only specific areas) and the inability of some firms to offer three areas of law and practice during a period of recognised training (PRT) cause clear constraints. The SRA's current proposals do not involve a route for activity based qualification, but given the demand for it, the SRA should consider its merits.

Other firms are content with the existing framework (incorporating apprentices) and some city firms expressed reluctance to change their recruitment behaviour. Over time, they may need to respond if new pathways followed by their competitors are seen to be successful. However, the ability to create different pathways does not guarantee their success - currently those who take training contracts part-time are substantially less likely to be admitted than those who take them full-time although this may change if courses are specifically designed around the needs of those in part-time work and study.

Stakeholders (including those who deal most closely with consumers) are overwhelmingly supportive of the need for pre-qualification work-based learning. There are, however, concerns about the impact of current PRT requirements on ethnic minorities who represent 37% of law degree students but only 24% of those newly admitted to the roll.

The SRA's decisions about work-based learning requirements will also impact whether around 15,000 individuals who have taken QLDs and LPCs but not obtained a PRT would be able to complete CPAS and qualify as a solicitor. This could have substantial transitional impacts and could raise management challenges for firms whose paralegal staff obtain solicitor qualification. Further, firms may be unwilling to pay for the practising certificate and professional indemnity insurance where the firm does not consider the individual to be in a solicitor role.

A significant issue regarding the Part 2 assessment is the tension between what will be tested and when. Arguably, all of the reserved activities should be assessed in Part 2. Yet, the reality today is that individuals already begin to specialise during their PRT. Increasing the number of contexts in which individuals could demonstrate skills in Part 2 would align more closely to today's PRT, but this would increase the challenge of ensuring consistency and comparability, and increase the cost of the CPAS exams.

Impact on demand and international considerations

The impact on the price and demand for legal services is uncertain but is expected to be modest in the short-term since these issues depend on a range of factors not just the qualification framework.

International considerations are important. International students make up 25% of law degree students and many will study in England and Wales (E&W) because their home regulator recognises the regime. The SRA's own rules require graduate level qualifications for equivalence of other jurisdictions, and signalling that CPAS would also be set at graduate level may be important for international recognition of the E&W regime. It is possible that the flexibility of the new framework could lead to greater demand from international students for courses such as LLMs.

Removing the regulated status of the QLD, or loss of international recognition of the regime as a whole, could damage both the number of international students and have longer-term effects on international clients seeking advice from E&W firms. Yet at the same time, concerns about inconsistency have the potential to damage the reputation of the profession internationally if unaddressed.

Recommendations

This research has been conducted at an early stage in the policy making process and therefore further work on the impact of any new framework will be required when more detail is developed. The report provides a range of specific recommendations for the SRA to consider as it continues to develop its approach.

1 Introduction

Economics, Policy and Competition (EPC) was appointed by the Solicitors Regulation Authority (SRA) to undertake an economic impact assessment of proposals for a new framework for solicitor qualification.

The SRA is concerned that the current framework for solicitor qualification leads to inconsistencies both within, and between, different pathways to qualification such that the SRA can not be confident that all those who qualify as solicitors are in fact competent to do so. The SRA is also concerned that specifying pathways to qualification constrains flexibility and innovation. The SRA is therefore considering a new qualification framework incorporating flexible pathways to qualification along with a centralised assessment of competence.

The research for this report was conducted at the stage in the policy development process when proposals were only set out at a high level, and the proposals have changed over time in the light of comments from stakeholders. The proposals tested in this report should therefore be seen in the context of the SRA carrying out work to develop their policy ahead of even formal consultation. Further analysis may be necessary once proposals are refined, but this early economic impact assessment is intended to help guide the SRA by highlighting issues and identifying appropriate questions for subsequent consideration.

The research draws on various sources of evidence including published reports, data specifically provided to EPC by the SRA and 33 discussions with different stakeholders. In addition a number of discussions arose with individuals with different responsibilities at the SRA. EPC's thanks are due to those who participated in these discussions.

Table 1: Discussions with stakeholders

	Number of discussions
Law firms of which	15
- Large	8
- Small, specialist, ABS	7
Education and training providers	12
Associations and other organisations	6
Total	**33**

The rest of the report is structured as follows:

- Chapter 2 covers the current qualification framework for solicitors including evidence on the extent of (in)consistency between pathways and the resulting outcomes;
- Chapter 3 covers the new qualification framework which the SRA has proposed and some of the anticipated outcomes from this;
- Chapter 4 examines the impact on the education and training sector including on existing courses, the potential for new courses, the cost of courses, quality and demand as well as transitional considerations;

- Chapter 5 examines the impact on firms including whether they would expect to pursue flexible pathways, issues surrounding work-based learning and the integration of the new assessment;
- Chapter 6 considers the impact on the demand for legal services and international considerations with respect to both law students and international legal advice; and
- Chapter 7 summarises the recommendations for further work made throughout the report.

2 Current qualification framework for solicitors

This Chapter examines the current framework for qualifying as a solicitor. Section 2.1 explains the current requirements that must be met. Section 2.2 examines the evidence regarding inconsistencies in the current approach and section 2.3 considers the outcomes that arise from this.

2.1 Current pathways

This section sets out the current approach to qualification as a solicitor.[1] It examines first the academic and vocational requirements (in sections 2.1.1 and 2.1.2 respectively) that most commonly lead to qualification. Section 2.1.3 explains the route to qualification for those who are already qualified lawyers in another jurisdiction or for barristers in England and Wales (E&W). Section 2.1.4 covers the apprenticeship standard, section 2.1.5 covers other routes to qualification and section 2.1.6 notes requirements post-qualification.

2.1.1 Academic stage

This section provides an overview on the academic stage in the qualification process.

Qualifying Law Degrees and Common Professional Examination

A Qualifying Law Degree (QLD) is one which meets requirements which used to be set through the Joint Academic Stage Board (JASB) run by the SRA and the BSB. Although the JASB has now been abolished, the requirements set by the JASB regarding the content of the QLD have remained largely unchanged.[2] In particular, QLDs must cover the seven Foundations of Legal Knowledge and involve training in legal research.[3] The seven Foundation subjects are: Public Law, including Constitutional Law, Administrative Law and Human Rights; Law of the European Union; Criminal Law; Obligations including Contracts and Restitution; Tort; Property Law; and Equity and the Law of Trusts. The SRA believes that nearly all law degrees, other than some joint honours degrees, are QLDs.

Some institutions combine the requirements of the Legal Practice Course with the QLD to offer an "exempting law degree" (ELD) usually lasting four years. For many years only one provider offered an ELD and there are now six providers of ELDs, one of which offers it over three years.[4]

Those who take a degree, but not a QLD, are required to take the Common Professional Examination (CPE), also referred to as the Graduate Diploma in Law (GDL), which typically takes one year full-time. The JASB requires the CPE to cover the seven Foundation subjects and one further area of law.

Since January 2014, providers of the QLD/CPE have self-declared their compliance with academic stage requirements. The SRA and the BSB now rely on the Quality Assurance Agency (QAA) to ensure

[1] This section draws on information from: The future of legal services education and training regulation in England and Wales, LETR, 2013 (the LETR Report) as well as various publications from the SRA. Further information on the cost of courses and the associated sources can be found in section 4.1.1.

[2] The SRA has proposed minor amendments to remove the requirement that studying the seven Foundations of Legal Knowledge comprise at least 180 credits (with 3-year degrees typically comprising 360 credits).

[3] Source: Academic Stage Handbook, BSB and SRA, July 2014 available from: http://www.sra.org.uk/documents/students/academic-stage/academic-stage-handbook.pdf

[4] The increase from one to six may have been a result of the raising of the tuition fee cap to £9,000.

that degree standards are maintained.[5] Although it has not occurred, absent other changes, the SRA (and the BSB) would be expected to remove QLD status if the QAA removed degree awarding powers from a provider.

As with most degrees, the QLD typically costs £9,000 per year for three years; the CPE costs £5-10,000.

2.1.2 Vocational stage

The vocational stage of training currently comprises the Legal Practice Course (LPC), a Period of Recognised Training (PRT) and the Professional Skills Course (PSC).

Legal Practice Course

The LPC is a 10 month (full-time) course set at a post-graduate level although "accelerated" courses, typically taken by individuals sponsored by large city/corporate firms, take 7-8 months. The LPC has two stages:

- Stage 1 covers: Professional Conduct and Regulation, Wills and Administration of Estates, and Taxation; Three "core practice areas" of Business Law and Practice, Property Law and Practice, and Litigation; and Course Skills including: practical legal research, writing, drafting, interviewing and advising, and advocacy.[6]
- Stage 2 covers three elective subjects that focus on specialist areas of law and practice. There are over 25 different types of law from which electives can be chosen.

Stages 1 and 2 can be offered as separate courses. The SRA specifies in considerable detail the amount of time to be spent on different components of the LPC and in face-to face learning, although these requirements have been reduced over time. The LPC can also be taken alongside the Period of Recognised Training or combined with a law degree to make an ELD. Although providers of the LPC do not need to be degree awarding bodies that would be overseen by the QAA, in fact all LPC providers are now in this position.[7] Many LPCs can be extended to become LLMs (i.e. Master's degrees) by adding on a research project often building on chosen electives.

The cost of the LPC ranges from £7,250-£14,750 depending on provider and location, with London more expensive than other locations.

[5] Joint Academic Stage oversight, available from: https://www.barstandardsboard.org.uk/qualifying-as-a-barrister/academic-stage/joint-academic-stage-board/. The SRA and BSB had previously validated the providers of the QLD. JASB pre-dated the creation of the Quality Assurance Agency (QAA) which has oversight of higher educational standards generally. JASB was abolished in December 2013 because of the overlapping role with the QAA.

[6] Legal Practice Course Outcomes 2011, SRA, September 2011.

[7] Historically two of the larger providers, BPP and University of Law (previously the College of Law) did not have degree awarding powers.

Period of Recognised Training

Individuals are required to undertake a Period of Recognised Training (PRT) for two years (if on a full-time basis) with an authorised training establishment.[8] Any firm authorised by the SRA can apply to become authorised, as well as in-house legal departments in institutions such as local and central government, commercial firms and other firms.

The authorisation process relies on a one-off self-declaration by a firm that they will undertake certain activities during the PRT. Authorisation to the firm is given permanently although it can be revoked by the SRA. The SRA used to monitor the PRT on a random basis but now only monitors the PRT in response to other supervisory information that raises concerns about the firm. Firms are required to notify the SRA about each individual commencing the PRT.

Trainees are required to undertake training in at least three different areas of law and practice, with guidance (but not rules) that each area should last not less than 3 months, and to cover contentious and non-contentious work.[9] Trainees must have oversight and feedback from a training principal who must hold a current practising certificate or be a practising barrister. The trainee must keep a record of training which can be examined by the training principal. At the end of the PRT, the training principal is responsible for certifying to the SRA that the trainee has completed the recognised training and that the individual is competent to meet the SRA's Practice Skills Standards and competent to comply with the SRA's Principles.[10]

Professional Skills Course

The Professional Skills Course (PSC) must be completed before the training principal can sign off that the individual has completed their PRT. The SRA authorises PSC providers and specifies details such as minimum hours of teaching that different components of the PSC must entail. The PSC covers three core subject areas: Financial and Business skills; Advocacy and Communication skills; and Client Care and Professional Standards. In addition, an elective subject must be taken with a variety of options available. The course normally takes 8 days for the core components and 4 days for the electives and many large firms will run it in-house. It usually costs £1,200-£1,600.

[8] The two-year period can be reduced to 18 months if the individual has relevant prior experience and the time period is pro-rated to be longer for those working part-time. Formally, the PRT is viewed as an apprenticeship which gives individuals additional protection such that they can only be terminated in particular circumstances namely: where there is serious misconduct; the trainee is so incapacitated that they are incapable of being trained; or where the business has closed or fundamentally changed. Source: Authorised Training Provider information pack, SRA, 18 August 2014.

[9] Secondments are acceptable if the firm cannot offer a sufficient range of experience. Firms unable to provide training in contentious areas can send individuals on a (short) litigation course.

[10] Changes in 2014 included: removal of the requirement for the PRT to take place under a standard contract specified by the SRA; removal of an SRA specified minimum salary for trainees, replaced with the requirement to comply with the Minimum Wage Act; removal of a maximum limit of 2 trainees to 1 partner or senior solicitor; and removal of the requirement for training principals to have held a practising certificate for at least four previous years as well as currently holding a practising certificate at the point of training. Stakeholders did not highlight any significant impacts arising from these recent changes and therefore they are not considered further in the report. Source: Training for tomorrow regulation review, SRA, April 2014.

2.1.3 QLTS

The QLTS has a central assessment, delivered by Kaplan, which enables barristers qualified in E&W, as well as lawyers qualified in other, recognised, jurisdictions, to become qualified as a solicitor. Barristers and others who pass the QLTS do not need to complete a PRT or the PSC.

Barristers qualified in E&W are required to have completed the QLD/CPE, the Bar Professional Training Course (which takes one year full-time) and then take pupillage for one year. At this point barristers could apply to take the QLTS.

Qualification requirements for lawyers in other jurisdictions vary. The SRA requires that individuals must have: rights of audience, generalist (non-specialist) legal education and training, and qualified in a jurisdiction with lawyer-specific education and training equivalent to a degree.

There are two stages within the QLTS:

- Stage 1: A multiple choice test which tests legal knowledge equivalent to the QLD/CPE; and
- Stage 2: An Objective Structured Clinical Examination (OSCE). The first part of this tests client interviewing, the completion of attendance notes and case analysis as well as advocacy and oral presentation. The second part tests legal research, writing and drafting. Both parts test three practice areas of: business; property and probate; and civil and criminal litigation.

Combined, the QLTS exams cost around £4,200. Specific training courses cost around £700-2,600.

2.1.4 Apprentices

In September 2015, the SRA approved the Apprenticeship Standards as an additional route to qualification.[11] Apprenticeships are expected to last 5-6 years although training providers must recognise prior equivalent, assessed experience which can reduce the length of the apprenticeship. The detail of training or assessment during the apprenticeship is not prescribed, but training providers or employers will be expected to certify completion of work-based assessment to the level of competence specified in the SRA's Threshold Standard. The Apprenticeship Standard requires individuals to pass a centralised assessment of competence set by the SRA.

2.1.5 Other routes and requirements

Individuals may be able to obtain exemptions from parts of the qualification requirements. "Block exemptions" are available to individuals who have pursued certain prescribed routes including: those with qualifications from the Chartered Institute of Legal Executives (CILEx) – further details below; Assistants Justices' Clerks; and mature applicants.[12]

In addition, education providers can seek a general exemption in relation to a particular programme of study. The SRA also allows individuals to obtain exemptions from academic and vocational requirements on an individual basis through application to the SRA such that they can qualify through "equivalent means".

[11] See Apprenticeship standard for a solicitor and Assessment plan for a solicitor available from https://www.gov.uk/government/publications/apprenticeship-standard-solicitor.
[12] Further details can be found in Equivalent means information pack, SRA, 5 June 2015.

CILEx

The Chartered Institute of Legal Executives (CILEx) offers a range of different qualifications for legal executives and can lead to exemptions from the SRA's requirements:[13]

- CILEx Diploma in Law and Practice which is set at an equivalent level to a degree (Level 6) exempts individuals from the need to take a QLD or alternative degree; those who have passed corresponding papers in the CILEx Diploma are exempt from the CPE. They are still required to complete the LPC, PSC and PRT in order to qualify as a solicitor;[14] and
- Fellowship or chartered membership of CILEx also exempts individuals from taking the PRT (although they would still need to complete the LPC and PSC). This can be obtained by those who have completed three years of qualifying employment, one of which has to be completed after obtaining the CILEx Diploma.[15]

CILEx also offers an apprenticeship route which leads to the CILEx Level 3 Professional Diploma in Law and Practice. This could ultimately be built upon to reach the CILEx Level 6 Diploma in Law and Practice over time. New Trailblazer apprenticeships have recently been developed for paralegals and chartered legal executives alongside the solicitor apprenticeship.[16]

2.1.6 Post qualification

All newly qualified solicitors are required to be supervised for the first three years after qualification. Solicitors may not become sole practitioners, or manage or own a firm until after this period.

2.2 Inconsistency in current approach

Although the SRA sets requirements for the current pathways, the LETR report highlighted that the current approach gives "insufficient assurance of a consistent quality of outcomes and standards of assessment".[17] This section considers the evidence regarding consistency of standards both *within* components of the current qualification process and also *between* pathways.

2.2.1 Inconsistency in university education

QLD and CPE

There are over 100 providers of the QLD and around 40 providers of the CPE.[18] Higher education standards are benchmarked to different "Levels" of educational attainment.[19] The LETR report notes that in practice the majority of the Foundation subjects are taught in the first two years (i.e. at Level

[13] Equivalent means information pack, SRA, 5 June 2015.
[14] Level 3 represents A levels, Level 6 represents a Bachelor's degree and Level 7 a Master's degree. See: Compare different qualifications: https://www.gov.uk/what-different-qualification-levels-mean/overview.
[15] Qualifying employment is defined as work of a wholly legal nature for at least 20 hours per week. This is assessed through submission to CILEx of a work based learning logbook and portfolio of evidence.
[16] See https://www.gov.uk/government/publications/apprenticeship-standard-paralegal and https://www.gov.uk/government/publications/apprenticeship-standard-chartered-legal-executive.
[17] LETR report, page xii.
[18] Data Report 2013-14 Education and Training: a report on authorisation and monitoring activity for the period 1 September 2013 to 31 August 2014, SRA.
[19] Level 3 represents A levels, Level 6 represents a Bachelor's degree and Level 7 a Master's degree: Compare different qualifications, available at: https://www.gov.uk/what-different-qualification-levels-mean/overview.

4 and Level 5).[20] Hence while the QLD qualification would be considered to be at a Level 6 overall, many of the requirements set through the JASB are not actually taught or assessed at this level.

Higher education does have a system of quality assessment, however, a recent report for the higher education funding bodies found:[21]

- "clear evidence of the inconsistency and unreliability of higher education assessors";
- an increase in the number of first and upper second class degrees in the UK; and
- over 40% of institutions had changed their award algorithm in the last five years in order to ensure that their students were not disadvantaged compared to those in other institutions.

Indeed, the report states that,

"A logical conclusion is that, if providers are continuously benchmarking their awards against others in the sector (a consequence of league tables) and others are changing their algorithms, there is bound to be an upward movement in award outcomes irrespective of changes in student performance." [22]

Despite the report finding that consistency and comparability are stronger where subjects are regulated by a professional body, the upward trend in higher classification degrees is also seen within law degrees.[23] The number of students graduating has doubled over the last twenty years, but statistics from HESA show a six-fold increase in the number of firsts and a more than doubling of the number of 2:1 law degrees such that 67% of graduates achieve at least a 2:1.[24]

The overall conclusion regarding a lack of consistency is not new. In 2006, the QAA stated that,

"it cannot be assumed that students graduating with the same classified degree from different institutions having studied the same subject, will have achieved similar academic standards."[25]

It is not the role of this report to comment on standards within higher education generally, but this evidence does indicate that consistency of standards within QLDs cannot simply be assumed.

LPC

The LETR report also highlights concerns about the LPC with only 45% of respondents in their survey stating that the LPC was fit for purpose and around 30% considering it unfit.[26] Representatives of the

[20] Some providers may offer the same course to undergraduates in multiple years with those in the higher years typically likely to do better at the course.
[21] A review of external examining arrangements across the UK, Report to the UK higher education funding bodies by the Higher Education Academy, June 2015, commissioned by HEFCE, p5.
[22] A review of external examining arrangements across the UK, Report to the UK higher education funding bodies by the Higher Education Academy, June 2015, commissioned by HEFCE, p55.
[23] A review of external examining arrangements across the UK, Report to the UK higher education funding bodies by the Higher Education Academy, June 2015, commissioned by HEFCE, p8. Although the SRA does not regulate QLDs, and the report does not make clear which subjects are considered to be regulated by a professional body, it is likely that law would have been included in this set since the SRA is a member of the QAA's Professional, Statutory and Regulatory Bodies Steering Group.
[24] As reported in The Law Society, Annual Statistics 2014, pages 37 and 38.
[25] Background briefing note: The classification of degree awards, QAA, September 2006.

largest corporate firms are not typically concerned about the LPC as they have worked with the largest LPC providers to design bespoke courses. Such firms, either individually or in consortia, have considerable buyer power given their predictable, annual need for a large number of prospective trainees to take the LPC. Large firms can therefore ensure they receive the quality of training they deem necessary, but the same can not be assumed for smaller firms.

There are around 26 providers of the LPC, but two providers (BPP and the University of Law) have around 70% of the students (they have a similar share for the CPE).[27] Although both providers operate across a number of geographical sites, compared to an even more diverse set of providers, this would be expected to limit the extent of inconsistency in the provision of these courses. Nonetheless these firms offer the accelerated LPC as well as the standard LPC, and also have differences in core modules e.g. conveyancing may be examined in either a residential or commercial setting.

2.2.2 Inconsistency in the Period of Recognised Training

An equally important issue of consistency is raised in respect of the provision of the PRT where there are limited quality assurance processes in place other than the high level requirements set out by the SRA.[28] The likelihood of inconsistent standards is increased by the large number of firms that are involved in offering the PRT. Over 4,000 firms are authorised to offer the PRT and in 2014, over 2,000 different firms took on at least one trainee.[29]

While the great majority of firms are expected to take the supervision of their trainees seriously, consistent standards cannot be assumed to result from such a large number of firms. Some firms that rotate trainees across a number of distinct seats have acknowledged that different supervisors within their own firm vary in their effectiveness indicating that consistency is hard to achieve even within a single organisation. Firms have also stated that they observe variation in quality and skills when recruiting newly qualified solicitors from other firms. Firms do not have to offer a permanent job to their trainees at the point of qualification and Table 2 shows what happens to trainees after their PRT.

Table 2: Routes after training contracts[30]

	Proportion of training contracts
Admitted and at training organisation	63%
Admitted and at different organisation	26%
Admitted and at no organisation	9%
Not admitted	2%

[26] LETR p30
[27] Data Report 2013-14 Education and Training: a report on authorisation and monitoring activity for the period 1 September 2013 to 31 August 2014, SRA and information provided to EPC by the SRA.
[28] There are 16 providers of the PSC and no evidence is available on the (in)consistency of it.
[29] Based on data provided to EPC by the SRA.
[30] The data is based on information provided to EPC by the SRA. It covers all individuals who started a training contract from 2009-2012 and would therefore have been expected to have completed their training contract by the end of 2014 whereas data was extracted in August 2015 (i.e. proximity to the end of the training contract is unlikely to be the cause of lack of admission).

Some caution must be applied to the figures in Table 2 due to the manner in which the SRA records information and the difficulty of matching trainees to firms particularly where their firm has merged and taken on a new SRA identification number. However, the data shows that around one-third of trainees do not get employed by the firm at which they trained. Alternative sources of evidence suggest that larger firms may employ a greater proportion of their trainees at around 85%.[31]

There are a wide range of reasons why firms may choose not to permanently employ a trainee. Some firms may actively take more trainees than newly qualified positions in order to be able to select the best of their trainees; some firms may face changing business requirements. Similarly, individuals may choose to change firm at the point of qualification. It would therefore be very misleading to suggest that one-third of trainees are not competent. However, the fact that such a significant proportion of trainees do not subsequently find employment with the organisation at which they trained indicates that the SRA can not *rely on* the self-interests of firms to ensure trainees reach an appropriate level of competence.

2.2.3 QLTS

The QLTS regime uses a centralised assessment. As such, assuming that it is effective, this ensures consistency and comparability of all of those qualifying through this route for a particular cohort. A standard setting group is used to help ensure that the threshold is set at an appropriate point and this approach should also help with consistency over time.

2.2.4 Equivalent means

The SRA has determined a number of agreed block exemptions for those following routes such as Assistant Justices' Clerks, mature applicants or with CILEx qualifications (for which the SRA relies on CILEx to ensure consistency).

The SRA has also introduced the possibility for individuals to obtain exemptions from academic and vocational requirements on an *individual* basis. The SRA makes a case by case judgement by using a set of external assessors to consider whether the evidence submitted by individuals indicates that their experience is equivalent to the step for which the individual is seeking an exemption. Currently the SRA has received few applications for individual exemptions through equivalent means.[32]

2.2.5 Inconsistency between pathways

As well as a lack of consistency within particular pathways, of equal concern is that the SRA does not know whether the *different* routes to qualification are in fact equivalent in practice. For example, there is no ongoing mechanism in place to ensure that those who take the QLTS route reach the same level of competence to those that go through the more traditional QLD, LPC, and PRT route, or to ensure that the equivalent means route is, in fact, equivalent to other routes. Further, within these routes, formal examinations take place at different stages with this arising at the point of

[31] Information from Roll on Friday: http://www.rollonfriday.com/InsideInfo/CityFirms/tabid/68/Default.aspx.

[32] The small numbers may be because of the difficulty of gathering the necessary evidence for exemptions after the event whereas now that the SRA has specified what would be required for exemptions under equivalent means, individuals can gather this information as they meet the necessary criteria. Alternatively, it may reflect a lack of knowledge about the route, how to apply for it and the need for references from employers that experiential learning was equivalent to a PRT.

qualification for QLTS and the new Apprenticeship Standard, but arising before the PRT for those taking a traditional route.

These different pathways to qualification have arisen over time in order to meet the changing needs of the profession and demands for additional flexibility as well as European needs for recognition of qualifications. However, the range of routes increases the concern that they may not be equivalent. The recent creation of the equivalent means route, the Apprenticeship Standard and the expectation of demand for continued flexibility in the future means that concerns about inconsistency at the point of qualification are likely to increase in the future.

2.3 Outcomes of current framework

2.3.1 Lack of regulatory control of competency at qualification

Given the evidence in section 2.2, the SRA simply do not know whether inconsistency arises at the point of qualification and if so, whether:

- inconsistency in standards arises only above the appropriate level of competence so all those admitted are competent, but some may be trained to a higher level than needed for regulatory purposes. This may also imply that some individuals fail to qualify when they are competent e.g. some firms may set too high a level for signing off the training contract (likely to only affect the 2% who do not get admitted);
- some individuals qualify when they should not because some pathways set too low a standard and, where PRTs are required, firms sign them off because doing so does not convey any employment responsibilities (where the SRA lacks knowledge beyond the data that 35% of trainees are admitted but do not work for their training organisation); and/or
- some firms set a standard for trainees which is suitable for their own purposes but may actually be lower than the SRA's threshold of competence.

This all highlights the fact that in the current regime the SRA does not have control of outcomes related to the point of qualification into the regulated status which the SRA itself conveys on individuals.

2.3.2 Restrictive pathways

Alongside the issue about the lack of control at the point of qualification is a concern that the current prescribed routes to qualification are unduly restrictive. This may mean that individuals who are capable of qualifying as a solicitor are prevented from doing so. The cost of the current pathways may be prohibitive for some students, with associated implications for the diversity of the profession. In addition, firms may be prevented from using training patterns that better suit their business.

Although the equivalent means route does enable greater flexibility, block exemptions are currently only available to a small number of routes. Education providers could seek a general exemption in relation to a particular programme of study although individuals must apply for the exemptions at the end of the experience that they consider to be equivalent and not before.

Further, the SRA relies, in part, on flexibility being offered by other approved regulators. For example, various stakeholders have identified the CILEx route as an attractive route to pursue for individuals who are not law graduates. Similarly, the Council for Licensed Conveyancers offers an activity based qualification. It is unclear whether the SRA should need to rely on the regimes of other regulators to deliver flexibility or whether the SRA's own regime, which it can control, should itself be able to support a similar level of flexibility.[33]

2.3.3 Provision of legal services

Quality

Despite the evidence above on the potential for inconsistency in competency at the point of qualification, it is not clear that the resulting combination of requirements leads to widespread detriment to consumers of legal services. Comprehensive evidence does not exist that links low quality advice to the qualification requirements. As noted in section 2.3.1, this could be because the inconsistency all arises above the competency threshold but it could also be because:

- newly qualified solicitors face a period of supervision for 3 years after qualification and therefore consumers receive a level of quality influenced by the combination of the newly qualified solicitor and the quality of supervision; and
- after the 3-year post-qualification experience (PQE), few solicitors set up as sole practitioners immediately, whereas most solicitors will remain in a firm in which partners and other senior staff continue to provide oversight for the work of the 3-year PQE solicitor, indicating that the quality of advice continues to be based on the firm's overall model of quality assurance rather than only the 3-year PQE solicitor's skills.

The quality of legal services is a challenging issue to assess and it is not possible to identify a single measure that examines quality. Measures such as the cost of professional indemnity insurance (PII), cases at the Solicitors Disciplinary Tribunal and the number of complaints to the Legal Ombudsman can all capture some components of quality of legal services. However, they are likely to cover a range of issues, not all of which relate to competence as a solicitor, and only a proportion of these would relate to issues of the competence of solicitors at the point of qualification.

In the case of PII it is not possible to assess what the "right" average cost of PII should be in the abstract. It may be a useful measure to examine over time in order to identify whether average quality is changing over time in certain areas – for example, PII providers had previously raised concerns about the Qualified Lawyers Transfer Test (QLTT) regime which was the predecessor to the QLTS because they saw higher claims arising from individuals who had qualified through this regime compared to individuals who had qualified through other regimes.[34] PII providers have indicated that it is currently too early to tell whether the QLTS has raised the level of competence and will lead to improvements in relation to claims. The SRA could consider examining these different measures

[33] At the same time it can be questioned whether duplication of similar pathways to those seen by other regulators would represent an efficient way of regulating the wider legal services market and whether it also runs the risk of introducing regulatory arbitrage between different Approved Regulators.

[34] Review of SRA client financial protection arrangements; Kyla Malcolm, Tim Wilsdon and Charles Xie, CRA, September 2010.

of quality over time and assessing whether they are systematically linked to the pathways to qualification of the individuals concerned.[35]

Access

In addition to issues of the quality of advice, concerns have also been raised about access to legal services which may, in part, be limited by the cost of legal services. For example, research for the Legal Services Board found that 38% of small businesses faced a problem which could be characterised as a legal problem, but only 16% of these cases resulted in demand for legal services (only 12% from solicitor firms).[36] This suggests that there may be an unmet need for legal advice.

As well as the risk that inconsistent standards may result in low quality advice, the SRA is therefore also concerned that standards that are artificially set too high may either constrain the number of solicitors that could provide advice or may lead to higher prices for legal advice which itself may constrain access to legal advice.

2.4 Conclusion

There are currently different pathways to qualification as a solicitor. Consistency of standards can not be assumed *within* different components for a given cohort or over time, and there is no mechanism in place to ensure consistency *between* different pathways. "Equivalent means", the new Solicitor Apprenticeship Standard, and the expectation of continued demand for new pathways mean concerns about inconsistency are likely to increase in the future. The SRA simply does not know whether, or to what extent, inconsistency arises and does not have control of the point of qualification into the regulated status which it conveys on individuals. It also relies, in part, on regimes of other regulators to provide flexibility of pathways.

Despite these concerns, comprehensive evidence does not exist that links low quality advice to the qualification requirements, although the quality of advice of advice is very difficult to measure. However, concerns about inconsistent standards have the potential to damage the reputation of the profession. A further issue is that access to legal advice may be limited if requirements either artificially restrict the number of solicitors or lead to unduly high prices.

[35] It may be that the QLTT route was unusual in the ability of PII providers to link this route to the quality of advice and claims. That is, there may be insufficient information collected on other routes to qualification to be able to link these to PII costs, complaints or cases at the Solicitors Disciplinary Tribunal.

[36] In Need of Advice? Findings of a Small Business Legal Needs Benchmarking Survey, A report to the Legal Services Board, Pascoe Pleasence and Nigel Balmer, April 2013.

3 New qualification framework

In the light of the evidence in Chapter 2 the SRA is concerned that it is not possible for it to be sure that solicitors are assessed on a consistent and comparable basis. The SRA is therefore considering changing the requirements needed to qualify as a solicitor.

3.1 Proposal tested in research

This section sets out the main components of the SRA's proposal as specified at the time of the research. It should be noted that the SRA's proposals were only set out at a high level, are still being developed and may therefore change. The SRA is considering a range of different options regarding pathways to qualification but it is the proposals described below that were tested in this report.

There are two components to the proposal tested:

- Common Professional Assessment of Solicitors (CPAS) – a centralised assessment aligned to the SRA's competence statement. Part 1 of CPAS would assess legal knowledge, and Part 2 the application of knowledge, skills and behaviours in different areas and legal contexts; and
- Flexible pathways – no specific academic and vocational requirements would be applied leaving flexibility in how individuals receive education and training, other than the potential need to complete some work-based learning.

3.1.1 Common Professional Assessment of Solicitors

The proposal tested involves the use of a centralised assessment aligned to the SRA's competence statement. The CPAS will have two components:

- Part 1: Functioning Knowledge Tests; and
- Part 2: Standardised Practical Legal Examinations.

Part 1 must be passed before Part 2, and Part 2 can only be completed after the candidate has undertaken any minimum length of work-based learning. The assessments for Parts 1 and 2 will be delivered by an assessment organisation appointed by the SRA.[37] It is intended that Part 1 would test an individual's ability to apply knowledge and legal processes, in particular that they are competent to meet the SRA's Statement of Legal Knowledge. Assessment for Part 1 is expected to be computerised. Broadly, Part 1 will incorporate what is currently done through the QLD and the compulsory components of the LPC.

Part 2 will assess the application of knowledge, skills and behaviours in the following areas: interviewing and advising; advocacy/oral presentation; negotiation; writing; drafting; and legal research. The assessments are intended to simulate the real demands of practice and are expected to use a combination of role plays and online case studies.

The current proposals are that there will be 5 different contexts in which each skill area can be assessed which are: civil litigation, criminal litigation, property law and practice, wills and probate, business law and practice. These contexts correspond to the reserved areas of practice under the Legal Services Act 2007 along with the business law and practice (as the SRA considers the latter a

[37] It is possible that more than one organisation could be selected or that more than one organisation could be used in the delivery of the assessment even if the assessment questions are identical.

large part of the legal services market). Each skill area will be assessed in 2 different practice contexts. Candidates must choose both contentious and non-contentious elements and cover 3 out of the 5 contexts across the range of assessments. Part 2 will be set at the level of knowledge, skills and behaviour equivalent to the end of the PRT today.

The SRA will publish a comparison between the existing requirements, the competence statement and CPAS to aid understanding of what is expected to be tested, or not tested, through the CPAS. In comparison to today, the electives within the LPC are one of the main parts that will no longer be assessed.

3.1.2 Flexible pathways

The SRA is considering a range of different options regarding pathways to qualification ranging from maintaining the existing pathways, updating current requirements to meet the Statement of Solicitor Competence, or not specifying education and training requirements other than the potential need to complete some work-based learning. The proposal tested in this report is to have no requirements specified.

Academic and vocational stage

The proposal tested involves having no requirements set in relation to any academic or vocational stage. As such the concept of a QLD or CPE will no longer be relevant from the perspective of regulatory requirements set by the SRA. Similarly the new approach will not require individuals to take the LPC or the PSC.

Period of Recognised Training

Individuals may be required to have a period of pre-qualification work-based learning. Although different options are still under consideration by the SRA, for the purpose of the report, it is assumed that the SRA is likely to specify some element of work-based experience and learning. The SRA is still developing its proposals in relation to whether, and if so how, it regulates or assesses any pre-qualification work experience

As now, those with qualifications from other jurisdictions (barristers in E&W, internationally qualified lawyers) and those with chartered membership of CILEx would not be required to undertake work-based learning. They would be required to pass the CPAS.

3.1.3 Comparison of approaches

Table 3 below compares the current and proposed approach to qualification.

Table 3: Current and proposed approach to qualification[38]

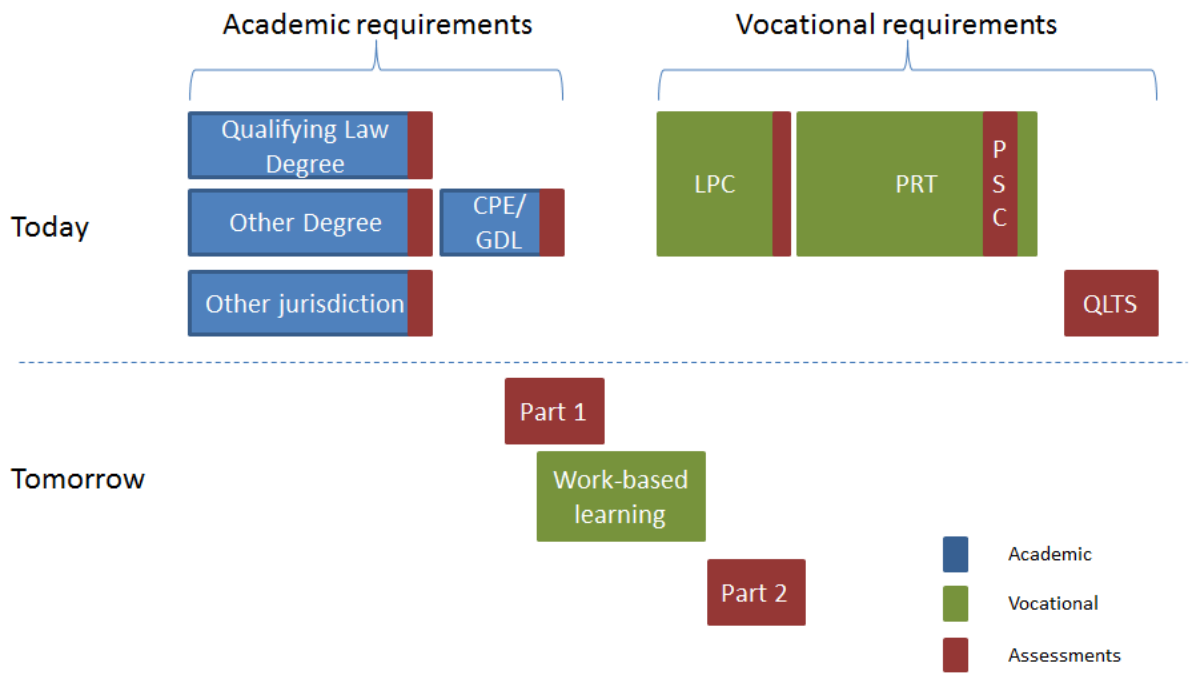
	Current approach	Current approach – QLTS	Proposal tested
Academic qualification	Qualifying Law Degree or Another degree and Common Professional	Equivalent to degree expected to have been passed	Not required

[38] For simplification Table 3 does not include the various equivalent means to satisfy requirements.

	Examination		
Vocational qualification	Legal Practice Course	Not required	Not required
Period of recognised training (PRT)	Two years with authorised training establishment, signed as competent by training principal, three areas of law and practice.	Not required	Minimum length likely to be required
Professional Skills Course	PSC during PRT	Not required	Not required
Common Professional Assessment of Solicitors	Not required	Not required	Required: would cover the Foundation areas (from current QLD), and the core LPC areas as well as application of knowledge and skills
Post qualification	Three years employed practice before an individual can run a firm		

Figure 1 below sets provides an overview of the proposals.

Figure 1 Overview of proposed changes[39]



Other than the requirement that the Part 2 test could only be taken after any work-based learning, there would be no restriction on the timing at which the Part 1 test was taken compared to the work-based learning. Training courses to help pass Part 1 or Part 2 could arise at any time.

[39] For simplification Figure 1 does not include the various equivalent means to satisfy requirements.

3.2 Impact of the proposed framework

Chapters 4 and 5 consider the main impacts on education providers and firms from the proposed framework for qualification. This section provides some overarching comments on the impact on quality and consistency as well as the impact on consumers.

3.2.1 Greater regulatory control of competency at qualification

One of the core reasons for the SRA's proposals is their concern about inconsistency in standards that result from the current arrangements. Yet, the introduction of flexible pathways, by virtue of increasing the number of routes to qualification, brings *greater* risk of inconsistency. Flexible pathways would mean that the constraints that are placed on providers through the existing framework, by regulating the inputs of educational requirements, would be removed and therefore a greater variety of outcomes would be expected to result.[40] The SRA therefore considers the CPAS as an important tool to meet the SRA's aim to ensure consistency.

In addition, over time there may be a need to adapt requirements regarding the threshold for competence. For example, new areas of law or new ways of delivering legal advice may develop with these necessitating additional knowledge or skills compared to those that are tested today. Since the CPAS will be under the SRA's control, the SRA should be able to modify the CPAS over time to ensure that levels of competency remain appropriate in the future.

3.2.2 Concentration of risks around control of competency at qualification

The overall impact on consistency of competence will be determined by whether the CPAS *can* effectively test for the appropriate level of competence for solicitors. This issue applies both in terms of whether it can test the range of different skills, competencies and knowledge at the point of qualification but also to whether the quality standard that is applied through the test is at an appropriate level for qualification.

As is clear from Figure 1, in today's routes to qualification, individuals must go through a series of different forms of assessment in the shape of passing the QLD/CPE, LPC and PRT.[41] Flexible pathways combined with a centralised assessment (even one which is modularised with multiple exams) imply that the CPAS will bear the full weight of the assessment of competence.

In addition, the current routes to qualification (other than the QLTS) involve assessment arising at different intervals over a period of time since the routes to qualification typically take 4-6 years. Hence the current pathways have the possibility of low thresholds at one stage of the process being picked up in a later stage of the qualification process. Further, the progress of time and the need to demonstrate ability over time may lead to embedding of knowledge and also increase commitment to the standards of the profession.[42] Such assessment over time may embed commitment to a long-term career as a solicitor as well as providing the opportunity to take on board behavioural characteristics such as ethics. Other than the potential need for work-based learning, a requirement for learning over time is not a feature of the proposed framework.

[40] This assumes that the individuals or firms that pay for the training would not be able to assess quality more effectively than today.
[41] The QLTS route is similar to CPAS in relying on a single moment of assessment.
[42] One PII provider suggested that having less invested in the system because of less experience in the system could result in higher PI claims.

The calibration of the centralised assessment will be critical since this will be determinative of whether individuals pass or fail the CPAS and become solicitors. As such the risks associated with the wrong calibration of the CPAS have a much wider impact than incorrect calibration of a single stage in the current regime since an entire cohort of potential solicitors will be affected by it.

3.2.3 Consistency and level of competency at qualification

Ultimately, the overall impact on the consistency and level of competency at the point of qualification will be determined by the effectiveness of the CPAS. If the CPAS *can* be designed in a way that can assess the various skills, competencies and knowledge that is required at the point of qualification, then the SRA can be sure of consistency of standards and can calibrate the test appropriately.

Alongside this research, the SRA has commissioned a technical assessment from AlphaPlus in order to examine whether, and how, a centralised assessment can be designed which is valid and reliable and can therefore meet the needs of the SRA. From the perspective of this economic impact assessment, it needs to be assumed that such an assessment *can* be designed – if such an assessment *cannot* be designed then the case for the current proposals falls away.

If the CPAS is able to ensure consistency, then this should mean that:

- Individuals who are currently able to obtain solicitor qualifications when in fact they are not competent would no longer qualify and this would therefore raise the level of competency of newly qualified solicitors; and
- Some individuals who currently fail to qualify even though they do have the appropriate level of competence may be able to do so depending on the reason for their failure to qualify currently (e.g. if they cannot afford to take the current qualifications then improvements would only be seen if the future process is cheaper than today). The qualification of such individuals would not reduce the level of competency below the necessary level.[43]

3.2.4 Impact on consumers and the quality of advice

Clearly the quality of legal services is of considerable importance to the consumers of legal services and the SRA must have primary concern for protecting individual consumers. As has already been explained, measuring the quality of legal advice is challenging and relates to more than simply the qualification regime.

Discussions with stakeholders who deal most closely with individual consumers indicate that such consumers are likely to simply assume that solicitors are appropriately qualified rather than to be aware of, let alone distinguish between, different pathways to qualification. These same stakeholders indicated that consumers take comfort from solicitors having a regulated status and assume that competence is assured through this. (This assumption highlights the importance of the SRA's regime actually assuring such competence and addressing the consistency issues set out in Section 2.2.)

[43] The impact on the average quality above the level of competence is hard to predict given that such financially constrained individuals may be, on average, above or below today's average quality of qualifying solicitor.

Stakeholders working most closely with individual consumers state that consumers would expect solicitors to have undertaken formal qualifications as well as work-based experience and learning before qualification. It is unlikely that consumers will notice any direct effect from the changing qualification regime other than if it was to systematically fail to ensure solicitors were competent.

However, it seems inevitable that *change* brings the worry among the profession and education providers that the new approach will not deliver something that is better than the current tried and tested approach. If such worries were to lead to concerns being raised in the mainstream media then this could develop into damage to the profession's reputation in the eyes of consumers.

It is therefore essential that the new regime is both capable of ensuring consistency and the appropriate level of competence, and is also considered *credible* in doing this. The development and testing of the new approach will therefore be of critical importance not only to ensure that calibration is appropriate but also to gain the confidence of the profession and education providers in doing so. Once in place, the SRA should also be able to build the confidence in, and credibility of, the CPAS as consistency can be measured and publicised over time as well as demonstrating that best practice assessment techniques are being used.

3.3 Conclusion

The SRA is proposing a new qualification framework and is considering a range of different options regarding pathways to qualification. The proposal which was tested for the purpose of this report involves two components:

- Common Professional Assessment of Solicitors (CPAS) – a centralised assessment aligned to the SRA's competence statement. Part 1 of CPAS would assess legal knowledge, and Part 2 the application of knowledge, skills and behaviours in different areas and legal contexts; and
- Flexible pathways – no specific academic and vocational requirements would be applied leaving flexibility in how individuals receive education and training, other than the potential need to complete some work-based learning.

Bringing in flexible pathways has the potential to exacerbate inconsistency but the CPAS would place the SRA in control of the point of qualification. This concentrates risk on the CPAS which would need to bear the full weight of the assessment of competence compared to today's framework which involves different assessments arising over a period of time.

The impact of the new framework will be determined by the effectiveness of the CPAS and whether it *can* be designed to assess the necessary skills and knowledge, which the SRA has commissioned separate technical research on. This current report assumes that such an assessment mechanism is possible (otherwise the case for the new framework falls away). Further development and testing of the CPAS is critical both to ensure the calibration of the CPAS is set at the appropriate level and also to gain the confidence of the profession and education providers in doing so.

4 Impact on the education and training sector

This section covers information about the current education and training sector (in section 4.1). The impact of the new framework is considered in section 4.2 (on law degrees) and 4.3 (on other courses). Section 4.4 considers the costs of different courses both now and under the new framework. Section 4.5 examines other impacts such as on the quality of courses, and demand for courses and the CPAS assessments. Section 4.6 covers issues to do with testing and transitional arrangements. The impact on the education and training sector regarding international students is considered in section 6.1 along with other international considerations.

In terms of identifying the impacts of the new framework in section 4.2 onwards, nearly all stakeholders indicated that they could not be confident in how they would respond to the new approach until more detail was available. They stressed the importance of needing to understand: the detail of the assessment; the breadth of subject areas that would be covered; the depth and detail of teaching that would be required; and the academic level at which this would be needed. For example, currently, many stakeholders are unable to determine whether any changes to their QLDs would actually be needed to meet those aspects of the Part 1 CPAS assessment which are based on the QLD. More generally it is not yet clear how any modules in the Part 1 assessment would be structured e.g. whether there would be some modules which draw on the current QLD requirements and others which draw on the LPC requirements, or whether requirements from both the QLD and LPC would be tested in the same module.

The lack of detail simply reflects the stage of the policy development process at which this project has been conducted, but this needs to be taken into account in this and subsequent chapters as there is considerable uncertainty surrounding how, whether, and when, the education sector would adapt to the new regime. Further work will be required when more detail is available.

4.1 Current education and training sector

4.1.1 Cost of training and education

Traditional routes

Information has been gathered on the cost of different types of courses. For the QLD, not every provider's fees have been checked but the great majority of universities are thought to charge the maximum tuition fees of £9,000 per year. For the CPE and LPC, information from all current providers has been analysed where this is publicly available. An unweighted average has been used to estimate the current costs, and the published fees will not take into account the discounts that large firms receive on the CPE or LPC.[44] Table 4 sets out the current costs.

Table 4: Current cost of formal teaching stages

	QLD route	CPE route
Undergraduate degree	£27,000	£27,000

[44] Most of the students at large firms that receive discounts will be based in London. The London prices of the two largest CPE and LPC providers are above the (unweighted) average. Given some information on the size of discounts, if discounts and weighting were taken into account they could roughly cancel each other out.

CPE		£7,250
LPC	£11,000	£11,000
PSC	£1,500	£1,500
Total	**£39,500**	**£46,750**

Some LPCs can also be extended to LLMs so that individuals receive a Master's degree. This is offered by around 20 of the current LPC providers and, on average, the LLMs cost a further £2,500.

Typically the QLD, CPE and LPC will be completed on a full-time basis before individuals enter the workplace. Hence individuals also need to be able to fund ongoing living expenses during this time. Estimates of the cost of this vary and are particularly dependent on accommodation costs but are around £10-12,000 per year for undergraduate students.[45] The impact of costs, and the associated importance of sources of funding, will be reduced for any students who live at home or take part-time qualifications while working.

Contributions by firms

Large firms commonly pay for the CPE and LPC and often provide grants to their future trainees while studying these courses. At least 55 of the largest national and regional firms offer grants to their prospective trainees and these firms take on around 2,000 trainees.[46]

Table 5: Average grants by firms where made[47]

	Average grant where made
CPE	£6,600
LPC	£6,900

QLTS

The QLTS separates teaching and assessment. The SRA does not regulate QLTS teaching providers, but three providers (BPP, QLTS Advantage and QLTS School) are identified on the SRA's website.[48] Each provider has a range of different packages and an average of the costs of providers and courses has been used in the table below. Individuals must also take the QLTS assessment, the fees for which are agreed through the contracting process between the SRA and Kaplan.

Table 6: Average cost of QLTS

	Course fees	**Assessment fees[49]**

[45] NUS What are the costs of study and living? http://www.nus.org.uk/en/advice/money-and-funding/average-costs-of-living-and-study/

[46] Information from Roll on Friday http://www.rollonfriday.com/InsideInfo/CityFirms/tabid/68/Default.aspx. (This is consistent with information provided to EPC by the SRA regarding the number of trainees per firm.)

[47] Information from Roll on Friday http://www.rollonfriday.com/InsideInfo/CityFirms/tabid/68/Default.aspx.

[48] FAQs - QLTS http://www.sra.org.uk/faqs/contact-centre/solicitors/qualified-lawyers-transfer-scheme-qlts/03-the-assessments/training-available-prepare-assessments.page

[49] Stage 1 costs £565 plus VAT where applicable at the local rate – this stage can be taken in non-UK locations but the UK cost has been included in Table 6.

Stage 1	£1,500	£678
Stage 2	£1,950	£3,510

The cost of the QLTS is substantially cheaper than either the QLD or CPE routes but QLTS costs will be *in addition* to the costs the individual has faced for qualification in their original jurisdiction.

Apprenticeship

The cost of apprenticeship training is currently unknown as it has not yet been developed. The cost for firms will be reduced by the availability of Government subsidies of up to £18,000 per apprentice with further funding available for firms with fewer than 50 employees (an additional £2,700) and for successful completion of the standard (an additional £2,700).[50] The core funding applies at a level of Government contribution of £2 for every £1 paid by the employer. It is worth noting that while individuals pay for the QLD, it would be firms who are expected to pay for apprenticeship training including any formal qualifications obtained during this time.

SRA charges

Part of the cost of training is affected by charges made by the SRA for authorising education providers. Currently the SRA authorises providers of the QLD, CPE, LPC and PSC but not providers of teaching for the QLTS or for the apprenticeship route:

- The SRA runs the self-declaration process for QLDs and CPEs on behalf of both the SRA and the BSB.[51] Providers wishing to offer a QLD/CPE face a one-off charge of £500 per institution (for one or both of the QLD/CPE) and £200 per specific degree course recognised by the SRA and BSB as a QLD/CPE. As part of this process the SRA reviews details of the validation report from by the provider and relies on the QAA to ensure standards are maintained.[52]
- For the LPC, the SRA charges each institution £15 per student which is a recent reduction from £120 per student reflecting a revised external assessor scheme.[53]
- The SRA charges PSC providers £125 plus £450 for each subject area of the compulsory core that they offer. Reauthorisation must be obtained after 3 years and then every 5 years.

4.1.2 Funding for qualifications for individuals

The impact of the cost of training depends on who bears that cost and whether any other funding is available. Many large firms already pay for the CPE and LPC but funding for individuals include:

- Student loans which are available for the QLD and other undergraduate degrees with both tuition fee loans and maintenance loans available.[54] Tuition fees are capped at £9,000 per

[50] Trailblazer Apprenticeships Funding Rules 2015 to 2016, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/452935/Trailblazer_Funding_Rules_2015_to_2016_version_1.pdf
[51] The SRA does not charge the BSB for this.
[52] Such a report is required for QAA purposes.
[53] This charging structure reflects the way The Law Society charged LPC providers when the LPC first started.
[54] Maintenance grants for those from low income families will be replaced with maintenance loans from the academic year 2016-17. Sources: Student finance available at: https://www.gov.uk/student-finance/loans-and-grants; Student Finance England available at: http://media.slc.co.uk/sfe/1516/ft/sfe_new_ft_guide_1516_d.pdf; Summer Budget 2015 available at

year although some institutions will be able to increase this by inflation from 2017-2018. Maintenance loans will be available for sums up to £8,200 (£10,702 for those living away from home and studying in London). All of these loans will be repaid at a rate of 9% for earnings above £21,000. The income-contingent nature of student loans and the fact that interest rates are typically set at RPI plus 3% means that they are likely to be the cheapest form of loans available to students. Student loans are also available for courses such as a Foundation Degree, Certificate of Higher Education, Diploma of Higher Education (DipHE), Higher National Certificate (HNC) and a Higher National Diploma (HND). Student loans are also being expanded to cover up to £10,000 for a taught Master's degree which may influence whether LPCs will be combined with LLMs.[55]

- Professional and Career Development Loans (PCDLs) are available for up to £10,000 to cover 80% of the cost of courses (not their first degree) lasting up to 2 years (or 3 if they include 1 year of work experience) if the provider is registered with the scheme.[56] They are bank loans but the government pays interest on the loan during the period of study and are therefore likely to be cheaper than commercial loans. Such loans could currently be used to cover the cost of the LPC, but any students taking LPCs as part of an LLM would be expected to take a student loan rather than a PCDL in the future.
- Other commercial loans are available from banks and others who specialise in lending to students. Some education providers have partnerships with providers of loans to help students gain access to funding. For example, the University of Law partners with Metro Bank where loans of up to £25,000 are available for individuals studying the CPE or LPC (or indeed the BPTC). Repayments start 6 months after completion of the course and students can have up to 5 years to repay the loan.[57]
- A small number of grants and bursaries are available from training providers, The Law Society, educational charities and other sources although their availability is limited.

4.2 Impact on content of law degrees

Given the value of degrees generally and the availability of funding for formal courses, it is expected that studying a law degree will remain a common route for individuals to take. This section considers the impacts on the provision of undergraduate law degrees while section 4.3 considers the impact for other courses. The resulting impact on the quality of education and training is considered in section 4.5.1.

Stakeholders who currently offer law degrees are polarised in their views on how they would respond to the new qualification regime. Some providers would be very reluctant to alter their existing course, while others are much more willing to do so and are already showing signs of adapting their course to more closely fit SRA requirements. Over the course of the research there

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/443232/50325_Summer_Budget_15_Web_Accessible.pdf

[55] Consultation on Support for Postgraduate study, Department for Business Innovation and Skills, March 2015. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/416243/BIS-15-185-consultation-on-support-for-postgraduate-study.pdf

[56] Career Development Loans, available at https://www.gov.uk/career-development-loans/overview.

[57] Professional Studies Loan, https://www.metrobankonline.co.uk/personal/borrowing/professional-studies-loan/. The loan currently has a representative APR of 7.9% interest.

was some indication that providers were becoming more likely to consider how they could adapt courses or develop new courses to meet the proposed framework. The SRA's consultation process can be used to identify the balance between responses of different providers.

4.2.1 Flexibility from some university providers for Part 1

Some universities have indicated that they would aim to deliver a "Part 1 ready" 3-year law degree by integrating the professional and practice skills into their existing law degrees. For convenience these professional and practice skills are referred to as "core LPC" (CLPC) components. The 26 providers who already offer both the QLD and LPC are at an advantage in being able to combine courses in this way, but the expectation of adapting courses was identified from a range of different universities including those from the Russell Group. The plausibility of universities responding in this way is increased by the following evidence:

- One provider already offers a 3-year ELD and the new framework would involve integrating the CLPC not the full LPC which will be easier;
- Most universities teach the Foundation subjects in the first two years, hence it is reasonable to assume the CLPC could be accommodated within in the third year of a degree; and
- Evidence from the accounting profession shows that a number of universities have been willing to integrate professional training within their degrees. These typically teach 7-12 of the 15 modules that are required for ACA qualifications under ICAEW regulations.[58]

In addition, two of the largest accounting firms have partnered with specific universities to offer school leavers a degree programme in which individuals combine periods of: full-time work; part-time work and study; and full-time study. It is unclear whether a similar approach would arise in the legal sector since large accounting firms take on around ten times as many junior staff as the largest law firms.

Changing the law degree to include CLPC components would take time for course directors and teaching staff but mainly time is needed to go through governance procedures of universities. Further, while universities could choose to make changes to their degrees soon after any decisions by the SRA, some may choose to wait until their next scheduled review cycle before doing so. Hence the SRA should recognise that the effect on course design may materialise over a number of years.

In addition to changes that simply add the CLPC to the QLD, other flexibility might also be expected to arise within undergraduate degrees. For example, degrees which are related to the law but do not currently fulfil QLD requirements could be adapted to include training for some Part 1 modules.

Fees and practicalities of taking CPAS while at university

Despite willingness to offer a Part 1 ready degree, no provider indicated that they would be willing to pay for students to take the Part 1 exam out of existing tuition fees for law degrees. Various stakeholders highlighted that paying for some students to take the exam while others, who did not take the Part 1 exam, did not receive an equivalent benefit, would be considered to be unfair.

[58] See http://careers.icaew.com/school-students-leavers/Entry-routes/University-and-higher-education

Further, the practicalities of *when* the Part 1 exam could be taken would also need to be considered. Universities are unlikely to want to disrupt their own exam timetables but students will want the CPAS assessment to take place as soon as possible after the relevant teaching. EPC recommends that the SRA consider the timing and frequency of CPAS exams in detailed development work.

4.2.2 Reluctance by some providers to alter degrees for Part 1

There are four issues raised by some providers of QLDs which make them reluctant to adapt their courses to make them Part 1 ready.

Constraining academic freedom

The use of a centralised assessment leads to a need for a detailed syllabus to be developed such that training providers can compare their current teaching programme to that required by the Part 1 CPAS assessment. Developing a detailed syllabus leads to concerns that this would constrain the freedom of academics to teach what they want in their law degrees. This tension is inherent in the separation between teaching and assessment. However, universities would not be compelled to alter the content of their course if they thought the CPAS syllabus was inappropriate or unduly constraining and so could continue to teach as they saw fit (this is considered further below).

Lack of LPC skills

Some universities that do not currently offer the LPC thought it unlikely that they would integrate the CLPC components into their degree for three main reasons:

- They could have offered the LPC in the past but had actively chosen not to.
- They currently lack the requisite staff with experience of the LPC components and would have to recruit such staff. (Whether or not there would be a capacity constraint relating to LPC depends on what happens with the LPC and the number of students who might take Part 1 exams.)
- LPC subjects tend to be focussed on the practical application of knowledge and this raises tensions within universities regarding practical compared to academic skills and also the role of research. Research is an important element of university recruitment and staff teach the areas of their research interests.[59] It is unclear whether a degree timetable would permit QLD and CLPC subjects and also have room for the research interests of staff.

Level of academic knowledge

Some providers are concerned that the depth of knowledge required under Part 1 may not be equivalent to a law degree. If so, universities would not want to be limited to teaching at this level (and the SRA will face reputational risk from "dumbing down" the quality of the assessment).

Notwithstanding the fact that many of the SRA's requirements are taught and assessed in the first two years of most undergraduate degrees, and therefore are at Levels 4 and 5, not at Level 6, any movement away from graduate level knowledge would face criticism. Assuming that the SRA does

[59] The potential development of a Teaching Excellence Framework to sit alongside the Research Excellence Framework may alter the balance between the importance of research and teaching in the future. https://www.gov.uk/government/speeches/teaching-at-the-heart-of-the-system

not intend to reduce the academic standards, EPC recommends that the SRA both signal, and ensure, that the CPAS test is of graduate standard.[60] The importance of testing the CPAS to ensure that it is appropriately calibrated is considered in section 4.6.1.

Importance of the Bar

QLDs are currently jointly described as that by both the SRA and the BSB. Although there are only around 15,000 barristers (around 1,500 BPTC enrolments) compared to over 130,000 solicitors, many universities want to ensure that, as now, their degrees meet the needs of both professions. This is likely to be of greatest concern to the Russell Group of universities.

The BSB is also currently consulting on its qualification framework.[61] They have highlighted that routes other than a law degree, including through the current CPE route, may be possible in the future, although they are at an early stage of their process.

There is a risk that the SRA and BSB take divergent approaches to qualification in relation to the QLD components. This could prevent the same law degree being used to meet both BSB and SRA requirements. This would lead students either to specialise during their degree (taking modules that suit one profession rather than the other) or to require additional training after their degree to meet new requirements. Alternatively, if the SRA no longer prescribes input requirements for a QLD, but the BSB does continue to do so, over time law degrees could reflect the needs of the bar rather than the needs of solicitors.

EPC recommends that the SRA work with the BSB to ensure that similarities between the regimes are identified such that, as far as possible, law degrees and other courses can meet the needs of both professions.

4.2.3 Integration of Part 2 into law degrees

In some subjects, 4-year sandwich degrees are common in which individuals spend their third year working in industry before returning to study in their fourth year. Historically this has been rare for law degrees but it is possible that the revised framework would prompt greater use of sandwich degrees in law.[62]

The likelihood of sandwich courses being widely taken up depends in part on whether, and how, the SRA alters requirements for work-based learning and whether such a year would count towards the requirements. The fact that such a year does not currently count towards part of the PRT in its

[60] There is a complex issue surrounding whether the appropriate level is Level 6 or Level 7. Some LPCs will be combined with LLMs which implies they are at Level 7; others are integrated into undergraduate degrees which implies they are at Level 6; the apprenticeship standard is set at Level 7.

[61] Future Bar Training, Consultation on the Future of Training for the Bar: Academic, Vocational and Professional Stages of Training, July 2015. They have set out a range of options from specifying considerable detail in training requirements, prescribing subjects or study time or relying on existing university quality assurance schemes. They are also considering requiring at least a 2:1 classification in degrees (the current requirement is for at least a 2:2) in the light of the increase in the proportion of students who achieve a 2:1.

[62] Queen Mary University of London has recently developed such a degree which offers a placement at Reed Smith for 5 students in 2016-17 and 10 students in 2017-18. Students will be required to take particular modules and assessments in their first two years in order to be eligible to apply for the placements. Source: http://www.law.qmul.ac.uk/news/2015/145915.html.

entirety is believed by some stakeholders to be one of the reasons that these courses have not been widely taken up in the past.

However, some universities have cautioned that they can not guarantee placements for students, and firms would need to be willing to offer them. Partnerships between firms and universities inevitably take time to develop and the number of placements available would be affected by the business cycle. Similarly, some universities that offer work experience through their own clinics anticipate having sufficient work for only a handful of students on a sandwich year.

Whether individuals would be capable of passing their Part 2 exams by the end of such a degree would be affected by the type of work that individuals would be capable of conducting during their year in the workplace and therefore whether they were able to develop the necessary skills to meet the Part 2 standards.

Calibration of the CPAS to the appropriate level, as well as stakeholders being confident in this, will be important to credibility of the new regime if students systematically leave a 4-year sandwich course having completed Part 1 and Part 2 (since today's standards are met after a 3-year QLD/1-year CPE, 1-year LPC and 2-year PRT).

4.2.4 Summary impact on law degrees

Overall, a mixed response is expected from providers of law degrees. Some will incorporate the CLPC components to deliver a Part 1 ready degree although they are unlikely to pay for students to enter the assessment.

Others will not incorporate the CLPC. Whether they will face pressure to either alter their law degree or to incorporate the CLPC over time depends on a number of factors including:

- If Part 1 has modules associated to the QLD and others associated to the LPC, universities may not need to adapt their degrees and individuals would be able to take some Part 1 modules after their law degree even if they could not take all Part 1 modules.
- If the best universities do not offer a Part 1 ready degree, firms may continue to recruit from them and pay for the CLPC training. This is plausible given the fact that firms currently pay for students to take the CPE when they could choose to only recruit from individuals with law degrees (and thereby save the cost of funding the CPE), and they fund the LPC when they could recruit from those individuals who pay for it themselves
- For some universities, international students are an important source of students and they will want to ensure that their course meet the needs of these students. For example, Singapore recognises law degrees only from 11 institutions which they are understood to believe to be the best.

Depending on which universities actively decide to incorporate CPAS requirements, and the behaviour of firms (particularly large firms), the career prospects of individuals from different universities may change compared to today. If students are aware of this, it would be expected to alter their preferences for particular universities and other universities may need to respond to this. Further, the example of accountancy indicates that even where some universities have chosen to

include some of the professional examinations, they vary in the number of modules that are covered indicating that other factors are important in the choice of universities by both individuals and firms.

Whether sandwich courses will develop in a significant way is likely to depend on the SRA's decisions regarding work-based learning.

4.3 Impact on content and provision of other courses

This section considers the impact of the new approach on courses other than law degrees including the possibility for new courses to be created that are tailored to the needs of the CPAS.

4.3.1 Professional and Practice Courses /CLPC

If universities integrate professional and practice CLPC components into law degrees, this will clearly limit the demand for stand-alone LPC-type courses. However, since not all universities are expected to do this, demand is expected to remain for a separate course that focuses on professional and practice skills. Designing this new course, described for convenience as a CLPC course, would be relatively straightforward for current LPC providers. Electives are already in separate teaching modules and therefore can simply be dropped and providers would be free to design the content and approach of the core modules to best meet the CPAS requirements.

Firms that currently pay for LPCs are expected to continue to pay for students through this route if students have not completed a Part 1 ready degree. Indeed, many firms may continue to require something very similar to the full LPC since the fact that they currently prescribe some, if not all, of the electives that individuals must take indicates that firms value the specific teaching on these electives. Further, large firms have partnered with large LPC providers to ensure that the current LPCs meet their needs and value the fact that all of their trainees have completed the same training. Small firms, however, are not expected to work in local or regional consortia to design new LPC courses as they have not done so for the current LPC and take too few trainees to overcome the cost of such engagement, but providers would be free to design courses to meet the needs of different types of firms.

For individuals that have to pay for the LPC themselves, there will be a trade-off between the expected lower cost of a CLPC, and any benefits in the job market related to taking specific electives (e.g. to gain detailed knowledge or to signal interest in a particular area) along with any formal higher education qualification (e.g. an LLM) that could be achieved from doing so. Formal qualifications are useful for signalling purposes and may enable access to sources of funding.

Nonetheless, since elective components would no longer be compulsory the demand for them will fall; and students will be more price sensitive in respect of those that are taken. Hence providers will face pressure on profit margins for electives and some elective courses will close.

4.3.2 LLMs

As well as changes to undergraduate law degrees it is also expected that some LLMs would seek to include Part 1 modules, particularly those that relate to the CLPC components. It is already the case that some LPCs are offered in combination with LLMs (typically through adding a research project or dissertation on one of the elective subjects). The increased flexibility of the new framework could also give the possibility that LLMs which focus on other subjects associated to the law could be

adapted to include some of the Part 1 modules related to either the QLD or CLPC alongside the main focus of the LLM. Embedding the professional and practical legal skills within an LLM may also be of benefit since the value of a Master's Degree may be more widely understood (including internationally) in comparison to the LPC. In addition, the widening of student loans to include funding for a Master's degree may also lead to an increase in the extent to which LLMs are pursued.

4.3.3 PSC

Few stakeholders offered views on the PSC; those that were prompted to comment were usually fairly indifferent to it. Large firms often integrate it into their induction programmes for new trainees. Small firms typically leave it to closer to the end of the PRT because they are less willing to pay for it until the trainee has demonstrated some degree of capability in their position. It is unlikely that a stand-alone PSC course would remain under the new framework, but what is taught may be combined into new Part 2 "top-up" courses –see section 4.3.6 below.

4.3.4 QLTS / other jurisdictions

The QLTS assessment would be replaced by the CPAS which will cover slightly wider issues than the current QLTS including covering civil and criminal litigation and probate in Part 1. Nonetheless, demand for specific training courses for those with legal qualifications from other jurisdictions is expected to remain since the needs of these individuals differ from those who have no legal education. The three providers that currently offer QLTS training should be in a good position to offer slightly adapted courses. In addition, since the CPAS route will be required across the board, providers of other Part 1 and Part 2 training would be able to adapt future courses to meet the needs of the QLTS candidates. Hence this is expected to lead to greater competition in the provision of courses for these students.

4.3.5 Part 1 specific courses

Since law degrees and the LPC will no longer be a regulatory requirement, new courses will be developed to meet the needs of individuals and firms. In particular, demand for Part 1 (and Part 2) training will arise quickly for those taking apprenticeships.

A number of education providers, especially those who offer more than just law degrees, have indicated that they would design new courses to meet Part 1 requirements. Stakeholders could not be more precise than this due to the lack of detail at this stage of the policy making process.

Combined CPE/CLPC courses

To the extent that the detailed syllabus for Part 1 represents only a proportion of what is typically covered in a QLD (and LPC), this is expected to lead to courses which deliver *only* the content of the syllabus and not the breadth and depth of existing law degrees. Such courses could be considered to be similar to the CPE, which teaches in one year those components of the QLD considered essential. It is plausible that providers could create a course which combines the CPE with the CLPC components. Since the CPE can be done in 10 months and the accelerated LPC (with electives) can be done in 7 months, such a course could last around 18 months on a full-time basis.

Currently the profession seems to consider the CPE a credible route to qualification. Indeed, some large firms actively target an even mix of QLD and CPE graduates among their trainees. There is a

question of why it is necessary to hold an alternative degree before taking the CPE rather than simply being able to demonstrate the capability to be able to complete a CPE. (Firms generally value the maturity, or possibly simply the age, that comes from completing a degree, but this is not the same as saying that a degree is *necessary* to being capable of taking the CPE.)

Providers are likely to combine a CPE/CLPC course with some formal qualification that they can convey on their students rather than relying solely on the qualification that students would get from passing Part 1 CPAS. Recognised educational qualifications are of value to individuals and may also affect whether funding is available. Identifying the academic level of this route is complicated if the route will be offered to both graduates (as the CPE is today) but also non-graduates.

Whether non-graduate CPE courses or combined CPE/CLPC courses would attract the description of being "crammer courses" is likely to depend on the overall content that needs to be taught, the wider credibility of the CPAS and may well also vary by provider of these courses.

If a combined CPE/CLPC is modularised, this could also build in flexibility such that modules can be taken over a longer period of time, including in combination with time in the workplace. For example, individuals, including apprentices, would be able to take some of the modules each year for a number of years, while graduates of other disciplines might take the course over a more condensed period.

A modular approach is also likely to make it easier for providers to offer "stepping-off" points with associated qualifications. This can both help in encouraging students to see that they have made progress, and also help those students who, for whatever reason, are unable to complete the whole course. Whether a combined CPE/CLPC course can be modularised in an effective way will depend on the way in which components of the Part 1 exam are designed since teaching modules will need to be consistent with the assessment modules.

Work-based routes

An alternative way of viewing teaching for Part 1 could be a work-based route similar to that used in CILEx in which a series of levels and qualifications are achieved over time while individuals work at the same time – such a route could end up rather similar to delivering a modular CPE or QLD. The current CILEx route already offers different qualifications as students make progress towards their Level 6 exams and therefore offers the stepping-off points that are seen as desirable. The CLPC components are not covered in existing CILEx qualifications but a similar modular teaching approach could be pursued or these components could be delivered through on the job training rather than through separate formal teaching.

The potential flexibility of Part 1 courses and the ability to integrate working and learning is also illustrated by reference to the accounting profession where most large accounting firms have school leaver programmes that sit alongside their graduate programmes. In general, school leavers take around 5 years to complete the necessary training to obtain professional qualifications whereas graduates would undertake similar training in only 3 years (after completion of a degree). Both routes involve attaining qualifications as individuals make progress through the programmes rather

than having an all or nothing approach at the end. Large accounting firms usually pay for all of the formal teaching and assessment costs in these programmes.[63]

The trailblazer legal apprenticeships appear very similar to the school leaver programmes of the accountancy profession. The large accountancy firms take on around ten times as many graduates as come through their school leaver programme. If law firms behave in a similar way, this suggests they would continue to favour the bulk of their junior staff coming from graduate routes even if they offer apprenticeship schemes as well.

Stakeholders highlighted two distinct advantages with respect to work-based routes of training:

- Integration of theory and practice in which, for example, individuals learn about contract law and grapple with the practicalities of drafting contracts at the same time; and
- Earning while learning such that funding pressures are reduced which may itself bring benefits regarding diversity of the profession.

Part 1 modules

More generally, depending on the design of the Part 1 tests it would be expected that specific courses would be designed around different Part 1 modules. This is particularly likely to be required if, for example, university courses (at both undergraduate and postgraduate level) cover some, but not all, Part 1 subjects.

The teaching and training content for such modules may be very similar to that for the work-based routes described above, but with individuals choosing specific modules in order to fill any gaps in the training and education that they have received rather than taking all of the modules.

4.3.6 Part 2 specific courses

The training related to gaining Part 2 skills currently come through experience in the workplace which could indicate that there would be no need for formal Part 2 courses. However, various stakeholders have argued that whenever an exam needs to be taken there will always be a demand for some form of training or revision courses in advance. As such demand is expected to arise for preparatory courses which focus on "topping up" skills and mock exams. Such courses may be similar to the current training for Stage 2 of QLTS where training packages are seen which provide mock interviews/practice stations and advocacy training which are similar to the needs of the Part 2 CPAS. It should be straightforward for existing QLTS providers to adapt current QLTS courses to meet Part 2 CPAS requirements. In addition, once other providers have designed Part 2 courses (the demand for which will be greater than the current demand for QLTS Stage 2), it would not be difficult for them to adapt them to meet the needs of QLTS candidates.

An important issue which has been raised by a number of firms is that individuals may be tested in contexts which they have not encountered in the workplace. If this occurs then more context specific training will be needed i.e. Part 2 courses would be more than just mocks. This issue is considered further in section 5.3.2.

[63] Individuals may have to pay for re-sits.

4.4 Impact on the cost of education and training

It is clear that various different courses might emerge in the future. It is not possible to predict the precise cost of these, but this section gives an indication of the magnitudes of costs involved. Section 4.4.1 examines the cost of different types of courses, section 4.4.2 considers the costs associated to the CPAS assessments and section 4.4.3 considers the overall impact on costs.

4.4.1 Indicative cost of different training components

The indicative costs are based on the information already provided in Table 4 and Table 6 as well as the following assumptions:

- CLPC costs are based on the average LPC cost minus three electives estimated as costing £750 each.[64]
- Part 1 and Part 2 mocks – these would be aimed at an individual who had received appropriate education and training to be able to take the Part 1 and Part 2 exams but wanted some mock exams first. Costs are estimated as one-third of the current QLTS costs.
- Part 1 and Part 2 QLTS – these would be aimed at an individual who had qualified elsewhere but needed training in advance of taking the CPAS in E&W. It is based on slightly higher costs compared to the current QLTS reflecting the slightly greater coverage of the CPAS.
- Work-based route – this is based on the current cost of the CILEx requirements which lead to a Level 6 qualification over four years.

Table 7: Indicative costs of possible courses

Courses	Indicative cost
3 year undergraduate degree including a Part 1 ready law degree	£27,000
LPC including electives	£11,000
CLPC	£8,750
CPE and CLPC	£16,000
Work-based route	£7,850
Part 1 mocks	£500
Part 1 – QLTS	£2,000
Part 2 mocks	£700
Part 2 – QLTS	£2,700

Section 4.4.3 below considers different course combinations that might lead to qualification.

Funding

As with the existing framework, the availability of funding is important particularly where individuals pay for the courses themselves:

[64] Electives range in cost from around £750-1,500. The figure of £750 is less than the average cost of an elective (£1,000) because there will be some fixed costs associated with offering a stand alone elective and therefore removing three electives from the LPC would not reduce the cost of the CLPC has by as much as three times the cost of the separate electives.

- Student loans - the availability, level and cost of student loans is determined by Government policy, which can change but continued support for degrees and other courses seems likely. Education providers are expected to combine teaching with a formal higher education qualification, including at Master's level, to enable students to access student loans.
- PCDLs are not available for foundation courses that lead to another course and are therefore not expected to be available for Part 1-specific training and would not be available for the actual CPAS assessments.[65]
- It is unclear whether lenders would enter partnerships with education providers to offer commercial loans to students other than for courses that are commonly used in qualification pathways and where completion of those courses was associated with a high probability of obtaining a job that would make repaying the loan likely.
- Grants and bursaries are expected to remain limited under the new approach.

Where the Part 1 assessment is combined with courses that do not face price constraints (i.e. not undergraduate degrees) some education providers might increase course fees to include the cost of assessment in order that students could also access funding for the assessment.

The availability of funding is particularly important where individuals face the costs of studying before they earn an income that can be used to pay for the costs of studying. However, one of the potential advantages of flexible pathways is that this may facilitate the development of training and education suited to a model of learning while earning. To the extent that individuals can earn in advance of, or at the same time as, learning this should reduce the financial burden for them.

4.4.2 Cost of CPAS

The cost of CPAS will be determined by the breadth and depth of what needs to be assessed and the associated number and style of assessments. Providing different modules to facilitate greater flexibility of taking the exams over time, or taking particular sets of exams, will also affect the overall cost. Overall, the complexity of the exams that are needed to validly and reliably test for the threshold level of competency is also not yet known.

Cost of assessments

Bidders to become the delivery organisation will need to consider the price at which they will be able to deliver the regular assessments, but the existing QLTS route provides a guide to this with the following observations:

- CPAS aims to test more than is currently tested in the QLTS and would therefore be expected to be more expensive compared to today.
- It may be possible to exploit technology to a greater extent in CPAS compared to today which would reduce the cost of CPAS compared to the QLTS.
- Since the CPAS will apply across the whole profession, economies of scale are expected to arise. This is likely to particularly benefit Part 1 which will mainly involve online testing. Some of the Part 2 assessment is expected to involve written assessments in which

[65] Professional and Career Development Loans, Learning Provider List- Requirements for Inclusion, Skills Funding Agency, March 2014.

electronic testing could lead to lower costs, but other parts are likely to involve a face-to-face assessment for which actors are involved and assessors operate on a one-to-one basis and therefore economies of scale would be more limited in these assessment modules.

Overall, costs are expected to be of a similar magnitude to the current QLTS costs.

4.4.3 Overall costs

Some possible scenarios regarding routes to qualification are set out in the table below. This is not intended to represent an exhaustive set of combinations but is rather to give a flavour of some of the potential combinations and their costs. It should be noted that the cost of the CPAS exams would be in addition to those in the table.

Table 8: Indicative costs of different education routes – excluding CPAS

Course combinations	Indicative cost
Today - Law degree, LPC, PSC	***£39,500***
Law degree, LPC, Parts 1 and 2 mocks	£39,200
Law degree, CLPC	£35,750
Today - Other degree, CPE, LPC, PSC	***£46,750***
Other degree, CPE, LPC, Parts 1 and 2 mocks	£46,450
Other degree, CPE, CLPC	£43,000
Other approaches	
QLD/CLPC degree, Part 2 mocks	£27,700
Non-graduate CPE/CLPC, Part 2 mocks	£16,700
Work-based route, on the job training, Parts 1 and 2 mocks	£9,050
Today-QLTS	***£7,630***
Parts 1/2 QLTS	£4,700

As can be seen from the above, some options would be more expensive compared to today particularly when plausible magnitudes of the CPAS cost are included. As such it is not possible to unambiguously conclude that the new approach would lead to lower average costs of qualification. However, a number of the routes are significantly cheaper compared to today which gives the real possibility for flexible pathways to be developed that enable individuals to reach the point of qualification at substantially lower cost. Some of the cheaper pathways will already become available without changing the qualification framework.

In each case the impact on individuals compared to firms will vary according to whether firms would be willing to pay for training for their current or future employees or whether the individual would be expected to do so. To the extent that the CLPC components move into a degree, but firms would have paid for the LPC, it is firms, rather than individuals, who would save from this.

The timing of training also needs to be taken into since those who undertake full-time training and education may face funding constraints. Those who combine studying with working are less likely to face funding constraints (although they are more likely to face the time-challenges associated with this which may have implications for pass rates – see section 5.2.4). Further, to the extent that

individuals and firms pursue routes that integrate working and learning, firms would no longer offer grants as large firms currently do for those studying the CPE and LPC full-time.

4.5 Impacts on quality and demand

The indicative impact on education and training providers are considered below.

4.5.1 Quality of education and training

The impact of the new framework on the quality of education and training is unclear at this stage since the overall quality of legal education, particularly law degrees, will be influenced by a range of factors only one of which is the SRA's requirements to qualify as a solicitor.

In terms of the content of degrees, if universities integrate the CLPC components into their law degrees then this would involve dropping other modules. This will reduce the breadth of knowledge of students but it is not known whether these other modules would have been of higher or lower academic quality or value to individuals. By virtue of not being in the QLD requirements they could be considered to be irrelevant to qualification as a solicitor although it is arguable that it is better to know more law than less law. The reduced breadth of a combined QLD/CLPC degree could also be detrimental to those who pursue academic legal paths if options more suited to an academic path are removed.

Similarly, as highlighted earlier, whether non-graduate CPE courses or combined CPE/CLPC courses and other new Part 1 courses would be seen as low quality "crammer courses" will depend on the overall content that needs to be taught, the wider credibility of the CPAS and may vary by provider. To the extent that Part 1 tests are considered valid and reliable and have credibility in the eyes of the profession then courses that enable students to pass these tests should also be appropriate.

At the same time, the new qualification framework provides the opportunity for providers to deliver training in a manner which is free from the constraints of the current framework. In particular, the current framework may have led to an artificial separation of academic and vocational stages whereas the new framework would enable these to be delivered in a more integrated manner. This may lead to a higher quality and more effective educational experience which could be of benefit regarding the development of knowledge and skills needed for the profession. For example, various stakeholders have highlighted educational advantages from combining the ability to learn about the theory behind the law at the same time as developing understanding of the practical application of the law.

Assessing provider performance

Some stakeholders have suggested that performance "league tables" which report candidate CPAS outcomes by provider could help assure quality of education and training. Since the CPAS would be an external assessment, this may overcome concerns from other areas that league tables lead firms to lower standards, or distort other criteria in order to achieve high league table rankings.

League tables are likely to be most effective when they capture a small number of factors. For example, if universities offer Part 1 ready degrees, then a comparison of Part 1 outcomes can assess how effectively they have done this (although clearly would not assess how effective the university is at delivering all other aspects of education).

It is more complicated when candidates take Part 1, and particularly Part 2, after training from a number of different providers and from different firms. With sufficient data it may be possible to conduct statistical analysis to identify the quality of different providers but there are likely to be sample selection biases between them. Further, it is not possible to disentangle firm-specific effects unless firms have a large number of trainees (as shown in the next chapter the majority of firms who take trainees take only one).

League tables would present a risk that admission criteria of education providers or firms could be altered in order to preserve league table standings. Some stakeholders have also raised concerns that individuals from disadvantaged backgrounds might only just pass and firms may be reluctant to take a risk on such individuals if it could count against them in league table comparisons.

An alternative approach to ensuring provider quality could be the use of kitemarks to identify approved providers or courses. This approach can help to overcome concerns about illegitimate or very low quality providers. Kitemarks can help individuals who have insufficient information to be able to assess the quality of different providers although the basis of the kitemark would need to be clearly set out and to focus on characteristics that are actually of value to the individuals taking courses. In some sectors the regulator would provide such a kitemark, but if the SRA decides not to regulate training providers, it seems more likely that such a role would fall to The Law Society. In respect of law degrees, the QAA should prevent illegitimate training providers from becoming a university.

4.5.2 Impact on demand for different courses

As has been highlighted above it is very difficult to predict the demand for different courses at this stage of the policy development process. A range of factors are likely to feed into this including:

- Wider cultural factors regarding university education which are highly likely to lead demand for law degrees to remain high.
- The lower cost route offered by universities who integrate the CLPC into their law degree may be more attractive to individuals for whom the cost of education is of greatest concern. This may change demand for different universities even if the overall demand for law degrees remains the same. The extent of this effect, and the universities that will be affected by it, will depend on the preferences of firms, the wider reputation of institutions and the availability of information for potential students.
- The availability of lower cost routes would be expected to help people from lower income backgrounds. However, this depends on the availability of funding to be able to take flexible pathways as well as the willingness of firms to use these routes or employ staff who have pursued these routes.

4.5.3 Assessment numbers

In as far as universities integrate the CLPC into their law degree this may lead to a much higher demand to take the Part 1 test compared to the current number of LPC students. In particular, students who do not obtain offers of training contracts during their degree, and are unable to afford the LPC, may be able to afford the Part 1 assessment and consider it an investment to be able to obtain a job in the legal sector. In addition, individuals who may not intend to pursue a solicitor

qualification immediately at the end of university but have had the teaching for Part 1 may take the exam on the basis that it could be helpful to them in their later career.

The effect of resits in determining the number of individuals taking the Part 1 and Part 2 assessments is impossible to predict at this stage - the ease with which training providers can determine what would be tested in the assessment, the calibration of the test and any decisions regarding limits on the number of resits will all have an influence on this.

The number of individuals taking Part 2 is closely connected to the SRA's decisions regarding work-based learning which is considered in the next chapter.

4.6 Transition and testing

Risks associated to introducing a new regime can be partly mitigated through careful design of transitional arrangements and through testing.

4.6.1 Testing

As highlighted earlier, the credibility of the new framework is a significant issue for the SRA to be able to ensure. Testing the CPAS is essential to both building the credibility of the new regime with the profession and also to calibrating the CPAS to the appropriate level of competence (which itself is likely to build credibility). Testing needs to ensure both that those who ought to be able to qualify as solicitors do so, but also that those who ought not to be able to qualify do not e.g. if Part 1 exams can systematically be passed by individuals in the first year of a law degree, or if Part 2 can be systematically passed by individuals without any work experience, this would suggest that the level of competence is not aligned to today's standards.

Testing is made easier by virtue of the presence of the QLTS which already incorporates a number of features that are expected to be used in the CPAS, but since the CPAS will apply across the entire solicitor profession, ensuring that there is sufficient time for effective testing and for making any necessary changes to the assessment approach will be vital. EPC recommends that the SRA consider the interaction of transition and testing carefully, and should not remove current routes to qualification until that it is confident it has a robust assessment methodology.

One potential way to reduce the risks associated to testing and the transition would be to target the CPAS on certain routes in the short-term. In particular, the apprenticeship route requires some form of centralised assessment to be developed, the QLTS already uses a centralised assessment and the equivalent means route, through the greater variety of pathways it covers, may face greater risk of inconsistency than other routes. Testing the CPAS on these routes in the short-term would reduce risks associated to inappropriate calibration due to the smaller number of individuals involved, but also provide the ability to demonstrate the credibility of CPAS before it applies across the board. It would, however, delay the SRA's objective of ensuring consistency and comparability.

4.6.2 Transition

Individuals starting law degrees should not assume that the commencement of a degree means that they have an automatic right to qualify as a solicitor. However, it is important that individuals have as clear an understanding as possible of routes to qualification.

The SRA will not be in a position to reach firm conclusions regarding the benefits of the CPAS until more detailed work is completed. Until such a point, individuals and training providers must assume that existing routes to qualification will continue. For example, a university prospectus will need to be agreed around Spring 2016 for those who commence their law degree in September 2017 and it will be legitimate for the prospectus to still describe these as *Qualifying* Law Degrees. Transitional arrangements should therefore ensure that students who have started law degrees while they are QLDs are able to count this towards qualification. Otherwise, the uncertainty about the future changes can lead to real effects arising now such as unintended fluctuations in the number of individuals taking law degrees.

Transitional arrangements could involve individuals taking QLDs gaining exemptions to components of the Part 1 exam, although this assumes that the Part 1 exam would be structured to have QLD modules and CLPC modules. Alternatively, existing routes to qualification could remain in place without the need to take the CPAS assessments until all students who commenced these routes had completed them. Failing to account for transitional considerations runs the risk of a cohort of individuals starting on the current path to qualification and not receiving education and training adapted to the CPAS but also not being able to qualify at the point they would expect under the current regime either.

Transitional arrangements may delay some universities from adapting their courses although for universities that are attracted to offering a 3 year combined QLD/CLPC this change would be expected to arise anyway with universities marketing this as a degree which is suitable for the new requirements when they come in, cheaper than the traditional route, but still offering everything other than the LPC electives (which are already available on a standalone basis) for today's route.

Delivery constraints

It will also be important to ensure that capacity constraints on the regular assessments do not prove to be a constraint on the ability of individuals to qualify. Transitional arrangements in particular will need to take this into account as it may be challenging to predict the number of individuals who would wish to take each assessment and when.

For example, the switch from the QLTT to the QLTS was associated with a considerable reduction in the number of individuals taking the exam. This reflected a combination of a reduction in the number of individuals taking the QLTS because of the higher price of the exam, perceptions of increased difficulty, and decisions by firms that individuals could continue to work without being a qualified solicitor in E&W (so having the badge of the solicitor title may have been considered not worth the higher price for some). In addition, transitional effects were observed with an increase in individuals taking the QLTT just before the switch to the QLTS in order to get in ahead of the changes and take the exams which were more familiar (and perceived as easier); and a decrease in the numbers taking the QLTS just after the switch as individuals (or their firms) were unwilling to take the QLTS in its early years because of a lack of familiarity with it.

Capacity constraints ought to be of less concern for an online Part 1 test although even with the QLTS, Kaplan gives warnings about the importance of booking assessment slots early due to the risk

that places may be full. It is likely that this is less about the constraint on available computer terminals and more about the need for this to be planned.

Capacity constraints are of greater concern for the Part 2 assessments. The complexity of these assessments requires trained assessors, and actors, to be available. Constraints may therefore arise with respect to having a sufficient number of trained assessors available to be able to run assessments at the same time in multiple locations.

4.6.3 Tender process

The SRA will also need sufficient time to be able to design, and run, a tender process to appoint a supplier(s) of the CPAS.[66]

Potential bidders

There are existing legal education providers who would consider tendering to be the CPAS provider and assessment organisations from other sectors may also consider tendering. With the QLTS, the SRA requires that the assessment organisation, currently Kaplan, can not also provide teaching courses for the QLTS. If such a constraint is applied for the CPAS, this could potentially rule out anyone who provides legal education of any kind. Providers who currently offer legal training and education are clear that they would continue with training and education rather than seek to become the assessment organisation. Assessment organisations who do not currently offer legal training and education would be expected to be willing to bid.

If, on the other hand, the SRA did not impose the constraint then the assessment organisation would be perceived as having a relative advantage compared to others. "Functional separation" or Chinese walls could be required between the assessment part and the teaching part of the firm, but EPC recommends that the SRA consider carefully what would be required to prevent the perception that the CPAS assessment organisation had an advantage in teaching compared to other providers.[67]

Costs for SRA

Running a tender process will impose some costs on the SRA in terms of designing the tender and engaging with potential bidders. Legal advice, including the use of external legal advisers, is likely to be required by the SRA in the contracting process to ensure that the bidder will deliver the needs of the SRA. One feature that is commonly problematic in single source tenders is the ability to switch provider at the end of the agreed term. The ability to switch is important to ensure that the second tender process remains competitive such that bidders, including the incumbent, have to maintain quality and value for money. EPC recommends that the SRA consider how best to run the CPAS procurement process in a way which minimises incumbency advantages for future tenders.

In addition, the SRA will probably require data to be provided by the assessment organisation over time. Various processes will need to be designed to ensure that such information is delivered in the most effective manner which is likely to have IT implications for the SRA.

[66] It is clear that there could only be one exam set but this does not prevent a consortium of multiple providers delivering the exam or the assessments in different physical locations.
[67] The SRA will also need to consider whether any constraints are required on individual assessors such as not marketing the fact that they are assessors.

The SRA will need to consider the cost of IT changes and the cost of running the tender process as part of the considerations of the merits of changing the qualification framework.

4.7 Conclusion

At this stage in the policy making process the SRA still has more work to do to develop the detail of the assessment; the breadth of subject areas to be covered; the depth and detail of teaching required; the academic level used for testing; and the frequency and times at which assessments will be available. For this reason there is also considerable uncertainty surrounding how, whether, and when, the education sector would adapt to the new framework.

Nonetheless, a number of providers of law degrees have indicated that they would seek to include professional and practice skills (referred to for convenience as core Legal Practice Course or "CLPC" components) into their law degree to make a "Part 1 ready" degree. This is likely to be straightforward for providers who already offer both Qualifying Law Degrees (QLDs) and LPCs and should reduce costs of education. It is likely to reduce the breadth of teaching compared to a 3-year QLD and 1-year LPC but could represent a more effective educational experience through combining academic and practical learning. Providers are unlikely to pay for the Part 1 exam due to constraints of fixed tuition fees and perceived unfairness to students who do not take the exam. The likelihood of sandwich courses being widely developed depends on whether, and how, the SRA alters work-based learning requirements and whether the year of work would count towards them.

Some other providers are much more reluctant to change their degrees. This reflects concerns for academic freedom, their lack of LPC skills, and their desire to meet the needs of the bar as well as solicitors. Whether market forces would lead them to change over time depends on factors such as the behaviour of their closest competitors, the structure of the Part 1 assessment (whether it would have separate modules for QLD topics and LPC topics) and the behaviour of firms. Large firms are likely to continue to recruit from the universities they consider to be the best irrespective of whether the universities integrate the CLPC. As now, such firms would fund students through any courses after a degree.

New courses are expected to emerge including the possibility of combining the Common Professional Examination (CPE)/Graduate Diploma in Law (GDL) and CLPC into a shorter course compared to today. Such a course could be taken on a full-time basis by graduates but spread over many years for others such as those taking the apprenticeship route. Other courses are also expected to be developed including for lawyers from other jurisdictions, routes which build the CLPC on top of the CILEx route, and those focused on preparation or mocks before CPAS exams. A wider variety of Master's degrees (LLMs) that include CLPC components may also develop which is also likely to be aided by student loans becoming available for these degrees. The impact on demand for different courses and on assessment numbers is uncertain at this stage of the policy process.

The total cost of qualification will vary considerably by different routes. Some individuals and firms will continue with broadly the same route as today but face the additional CPAS exam costs. Other routes to qualification would offer significant cost reductions although some of these routes would be available without changing the regime.

Concerns about the standards in the new framework are significant among some of those likely to be affected by change and it is important that the SRA signals, and ensures, standards are set at graduate level or it will face criticism for lowering standards. Testing the CPAS to ensure it is appropriately calibrated will be vital.

Transitional arrangements need to prevent unintended consequences that might arise from individuals artificially trying to accelerate or delay qualification in advance of change. Until such a point that the SRA makes firm decisions on the new framework, students need to have confidence in their current pathways.

Some of the risks of change could be reduced through applying the CPAS regime to some, but not all, routes to qualification on an interim basis although this would delay the SRA's aim of ensuring consistent and comparable standards.

5 Impact on firms

This chapter considers the impact on firms of the proposed qualification framework. Section 5.1 provides information on firms that currently take on trainees. Section 5.2 sets out different views of firms regarding flexible pathways. Section 5.3 examines work-based learning. Section 5.4 considers activity based qualifications.

5.1 Current position

The legal services market is far from uniform. There are significant differences between firms regarding their areas of practice, their size and specialties, their mix of staff and, important for this work, their approach to taking on junior staff. This section provides some basic facts regarding the firms which do, and do not, take on trainees which provides important context for the rest of the chapter.

5.1.1 Proportion of firms that take trainees

In 2014 roughly 2,100 or 20% of firms took on trainees out of a regulated population of around 10,300.[68]

Figure 2 Average number of trainees and proportion with trainees by number of partners of firm[69]

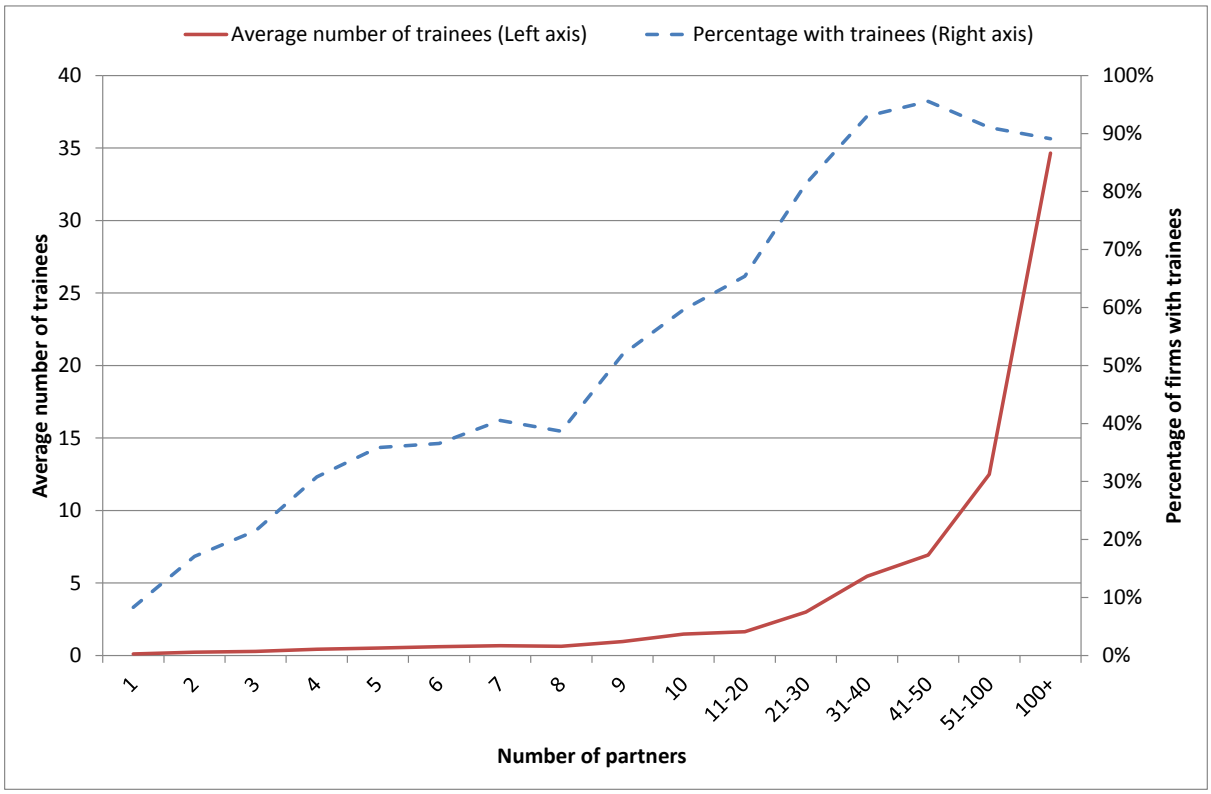


Figure 2 above shows clearly that firms are increasingly likely to take on trainees as the number of partners increases - only around 10% of sole practitioner firms have a trainee compared to 90% of

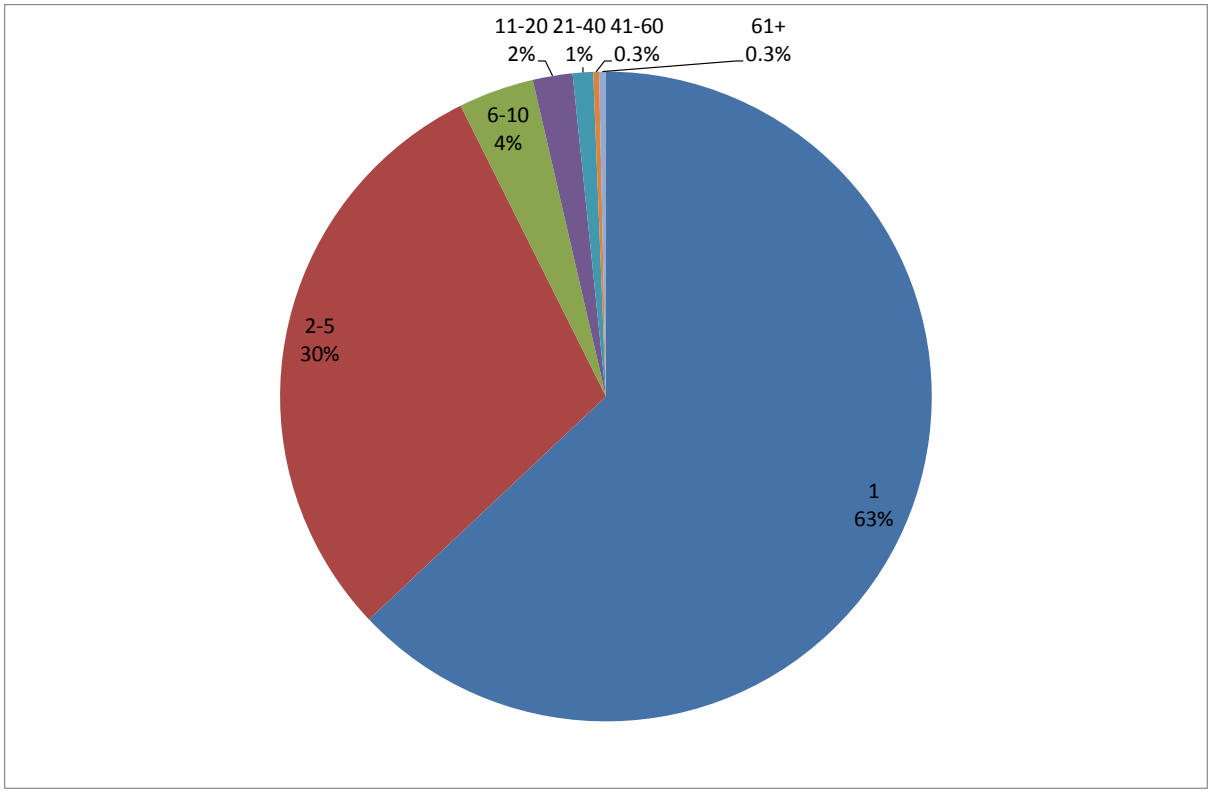
[68] Number of trainees based on information provided by the SRA to EPC. Number of firms based on SRA regulated population statistics available at: http://www.sra.org.uk/sra/how-we-work/reports/data/solicitor_firms.page

[69] Data provided by the SRA to EPC.

firms with over 30 partners. Similarly the average number of trainees (in any given year) increases with the number of partners, and is less than one for firms with fewer than 10 partners, but increases to over 30 for firms with over 100 partners.

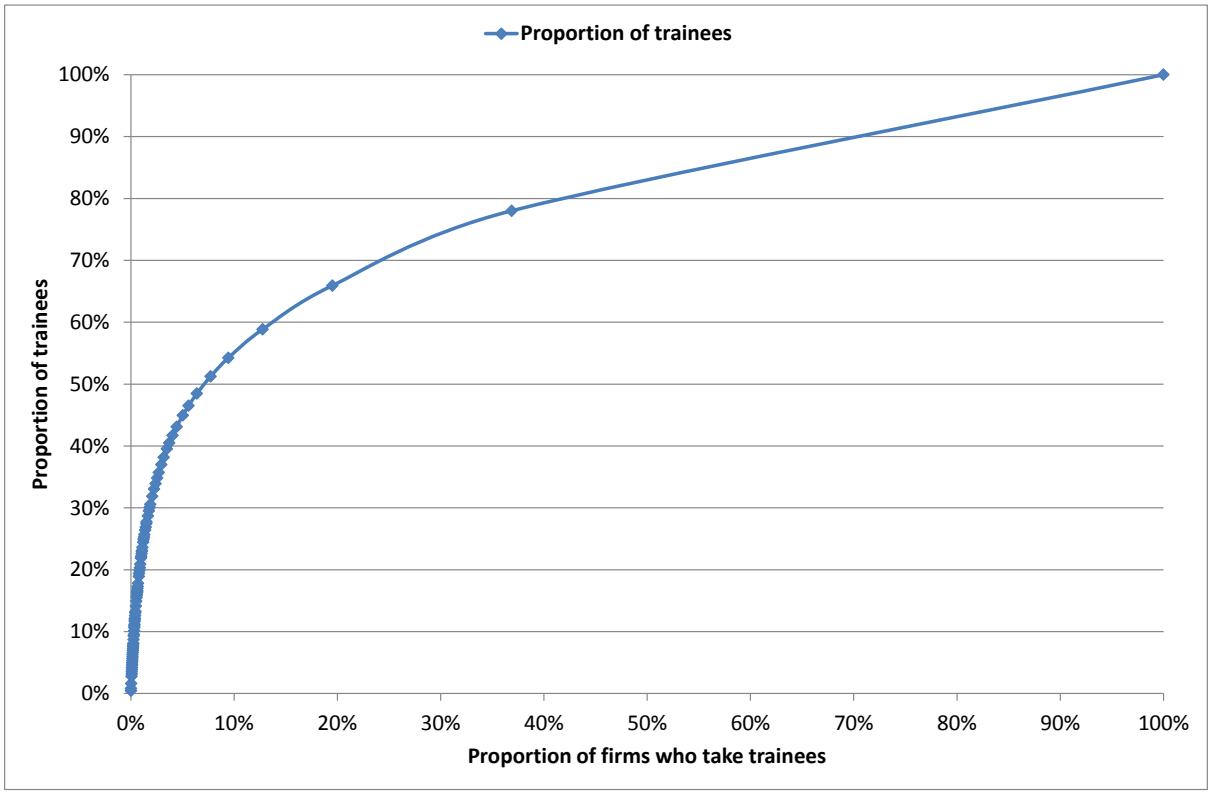
Figure 3 below shows the breakdown of the number of trainees taken compared to the proportion of firms that take any trainee - 63% of firms that take trainees take only a single trainee, with 30% of firms taking 2-5 trainees.

Figure 3 Proportion of firms with trainees by number of trainees, 2014[70]



[70] Data provided by the SRA to EPC.

Figure 4 Proportion of trainees by proportion of firms who take trainees[71]

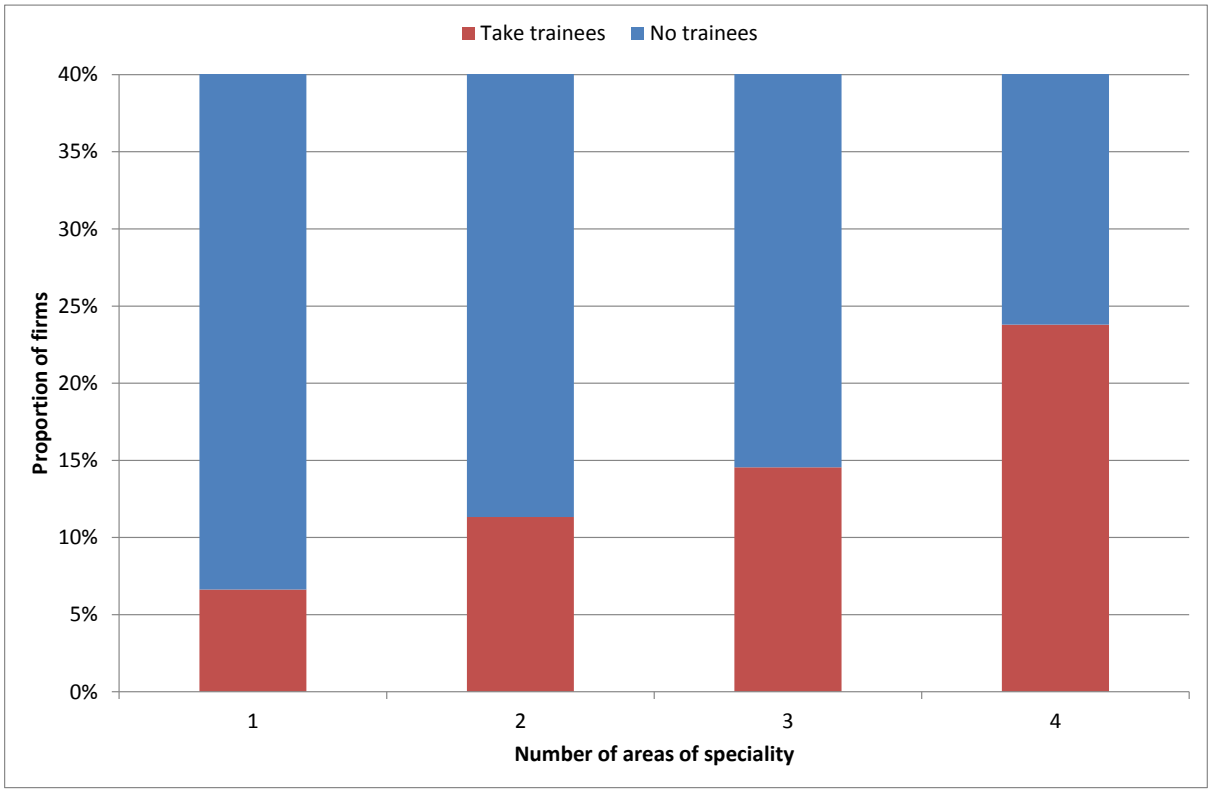


Although the majority of firms that take on trainees take on only one, equally striking is the importance of a small number of firms that take on a large number of trainees. Less than 8% of firms that take trainees (around 140 firms) are responsible for over 50% of all training contracts. It is clear therefore that the decisions of a very small proportion of firms (1.5% of all firms) in relation to the new approach to qualifications will have very significant consequences for trainees as a whole.

It is also useful to consider the impact of the requirement for trainees to conduct three different areas of law and practice during their PRT.

[71] Data provided by the SRA to EPC.

Figure 5 Proportion of firms with specialisms who take different numbers of trainees[72]



[72] Data provided by the SRA to EPC.

Figure **5** above shows the proportion of firms that take on trainees by different numbers of specialisms. The majority of all firms do not take on any trainees as already explained above. However, of those firms that have only one specialism only 7% of firms take on trainees compared to firms with four or more areas of specialism where nearly 25% of firms take on trainees. This result mainly reflects the fact that larger firms have more areas of speciality than smaller firms. Additional analysis indicates only small differences when considering both the size of firms and areas of speciality. There is indicative evidence of differences for some medium firms which suggests the requirement for trainees to cover at least three different areas of law and practice may impose a constraint on the ability of these firms to take trainees.

5.1.2 Current recruitment approaches

Firms were consistent in citing business requirements as the determining factor for the number of trainees that they employ. With the exception of issues to do with activity based qualification, which are covered in section 5.4 below, firms did not identify specific regulatory constraints relating to qualification pathways as limiting the number of trainees that they took on.

Firms have a mixture of approaches to recruiting trainees, although three broad groups can be discerned including:

- Small firms that typically wait until individuals have completed their LPC, recruit them as a paralegal first, and then offer a training contract once the firm has had the chance to assess the skills of the individual.
- Firms of a variety of sizes but not usually the very largest firms who recruit junior staff with some, or sometimes no, legal qualifications but who are willing to fund part of the cost of qualifications. Often this will involve making a contribution towards CILEx fees or, for those who already have a QLD/CPE, making a contribution towards an LPC.
- Large firms who recruit for their training contracts before legal qualifications have been obtained. These firms typically recruit at the end of the second year of a QLD or at the start of the third year of an alternative undergraduate degree for those who will go on to study a CPE. They often seek a roughly even split of trainees with the QLD and CPE, arguing that this provides a mix of skills within their trainees. They prescribe, and pay for, particular CPE and LPC courses through bespoke arrangements with the larger providers of these courses and also offer grants to students while studying.

Changes in the mix of individuals

There are a number of areas of legal services where there are ongoing changes in the mix of individuals employed. In particular, many different types of firms are increasingly using paralegals and administrative staff to conduct activities which qualified solicitors would have done in the past.

Such trends are most pronounced in areas where there are significant elements of routine work which lend themselves to efficient arrangements of processes and which technology can now facilitate. Market pressures, including from reductions in legal aid, have forced greater focus on the efficiency with which work can be delivered and greater use of (cheaper) non-qualified staff leaving qualified solicitors to conduct functions for which detailed legal knowledge and skills are required. There was no suggestion from stakeholders that this trend would end soon. As such the number of

qualified solicitors is expected to fall in proportion to the number of total fee earners in the firm. This does not imply that there will be a fall in the overall number of solicitors since legal services appears to have been a growth sector for a very considerable length of time.

5.1.3 SRA costs

Firms that wish to take on trainees face modest costs from the SRA regarding obtaining authorisation. Currently, any firm authorised by the SRA can apply to become an authorised training establishment for which the SRA charges £100. Firms are required to notify the SRA about individuals commencing the PRT for which the SRA charges £100 per individual enabling a process in which the SRA links the individual to the specific training establishment. Firms offering the PRT must pay for an individual's first attempt of the PSC.

5.2 Flexible pathways

Firms are polarised in their views of the benefits of flexible pathways.

5.2.1 Attractiveness of flexibility

Many firms are in favour of flexibility assuming that the CPAS is effective in ensuring consistency. In general these are the same firms that are already pursuing a range of different approaches to the education and training of their junior staff. They commonly mention existing qualifications through CILEx as a route to help with career progression for those who are not graduates. They state that the SRA regulations are lacking through not having an equivalent work-based route to qualification for individuals that have not taken degrees.

However, with the exception of the issue of activity-based qualifications, which is covered in section 5.4, firms were unable to identify particular routes to qualification that they would use in the future but which they are currently unable to offer. For example, firms see the flexibility that is offered through the CILEx route, CILEx apprenticeships and also the new trailblazer apprenticeships as sufficient for their current needs. Hence, if available, greater flexibility would be exploited only as their needs change over time.

A number of firms already use existing apprenticeships, plan to use the trailblazer legal apprenticeships or run the LPC and PRT concurrently. These firms are generally more willing to experiment with different approaches to the training of junior staff. However, even these firms have, or plan to have, only a small proportion of any trainee cohort allocated to new approaches to qualification compared to those taking more traditional graduate routes. These small intakes are aimed at testing out new approaches to see whether or not they work for both individuals and firms. Few firms have rapid expansion among these schemes planned as they recognise that it will take a number of years before the impact of the training is observed. In addition, firms commonly state that they would continue to want to take graduates to be the leaders of their firms even where they want to have more effective career paths for non-graduates.

Many of these firms also see these alternative approaches as ways to enable greater diversity in the profession. They typically welcome the CPAS as representing a way to ensure a level playing field for those qualifying through new pathways as individuals from all pathways would have taken the same assessment to demonstrate competence.

Firms that wish to use different pathways will face the cost of changing their training and recruitment processes to facilitate these pathways. For example, recruiting school leavers necessitates recruiting at a different point in an individual's education and implies not relying on university careers services. Similarly, some large firms would seek to work with providers to design new courses much as they have done with the LPC which would also impose a cost of change.

5.2.2 Conservative approaches by other firms

Other firms, however, do not perceive flexibility of pathways to bring them any advantages and also typically raise concerns about the credibility of the CPAS (considered in section 3.2). These firms are generally less likely to consider the existing CILEx route as a credible alternative route to solicitor qualification and consider that firms using apprenticeship schemes (whether through CILEx or through the trailblazer scheme) are likely to be doing this for diversity, rather than commercial, reasons. (It is important to note that, in contrast, those who use, or are planning to use, apprenticeships consider it to be both a valid commercial proposition as well as bringing diversity to the profession.) Typically these firms state that they are content with the existing framework (incorporating the apprenticeship route). In addition, firms may value a particular graduate/non-graduate mix reflecting the expectations of their clients.

Further, many of these firms have highlighted that they value the maturing process that occurs at university not only in terms of the academic knowledge that is learned but also other skills such as: the ability to absorb detail, analyse it and put an argument together, including under time pressure. Firms note that individuals grow up at university so they do not have to deal with immaturity in the workplace – this is acknowledged as a challenge by firms that do take school leavers.

Firms that wish to continue to follow traditional routes to qualification may be able to continue to do so and would not need to incur the cost of changing recruitment programmes beyond the issues explained in section 5.3 regarding the integration of work-based learning. However, it is possible that even these firms may be forced to adapt at least some of the training programmes if the majority of the education sector (particularly universities) alters their courses e.g. through integrating the CLPC components into law degrees. Given the timing of discussions in relation to the development of the policies, and the uncertainty for firms regarding the response by education providers, stakeholders from firms had not typically considered this possibility.

5.2.3 Changes over time

Over time all firms may have to adapt to changes including responding to the actions of their competitors. If new pathways emerge at some firms and these are seen to be successful then other firms may need to respond to this or risk losing business.

There are clearly different parts of the legal sector, so, for example those areas of law which have a greater proportion of routine, repeated functions, a high volume of small value cases and lend themselves to a greater degree of processing (as discussed in section 5.1.2) may well take a different approach to parts of the legal sector where there are more bespoke, low volume and high value cases.

As noted in section 5.1.2, there is an ongoing trend to the use of non-qualified compared to qualified staff which will also affect employment of different staff over time. Qualification issues are expected

to have only a limited effect on this trend. If the new framework significantly reduces the cost of qualification and the salaries of qualified staff, then firms may choose to use qualified rather than non-qualified staff which could, in theory, slow the trend towards non-qualified staff. However, some stakeholders cautioned that the career prospects of these roles would be more appealing to those without, rather than with, legal qualifications. It is also conceivable that disruption to the qualification regime could accelerate the trend to the use of non-qualified staff if the new framework was perceived as unduly costly.

Given the proportion of trainees represented by the large city firms, changes by these firms will have the most dramatic impact on the market as a whole, although based on discussions with a variety of stakeholders some of these firms are more likely to take a conservative approach suggesting that significant changes will take time to emerge.

5.2.4 Success of different pathways

Many stakeholders are attracted to the idea of enabling a pathway where individuals can study at the same time as working. This is typically for two reasons:

- Individuals will put into practice the things that they are learning such that the learning takes place in the context of the legal advice that individuals will be expected to give, rather than learning in isolation from the workplace followed by putting into practice the things learned some time ago; and
- The opportunity for individuals to earn at the same time that they learn such that the financial burden of paying for education and training is not a constraint for the individual.

However, the creation of different pathways does not mean that these pathways will automatically be successful. One issue that should be noted in this regard relates to the proportion of individuals who are admitted when taking different routes. It is clear from Table 9 below that those taking part-time training contracts or taking training contracts in parallel with study are substantially less likely to be admitted than those who are on full-time training contracts.

Table 9: Admission by different routes[73]

	Not admitted
Full-time	1.3%
Part-time or in parallel with study	12%

The cause of the difference it not fully known and may not necessarily persist if flexible pathways are specifically designed around the needs of those taking part-time training contracts or doing them in parallel with study. Nonetheless, the significant difference in admission rates could reflect the challenges of studying and working at the same time. Hence even if new routes to qualification are

[73] The data is based on information provided to EPC by the SRA. It covers all individuals who started a training contract from 2009-2010 and would therefore have been expected to have completed their training contract by the end of 2014 whereas data was extracted in August 2015 (i.e. lack of admission is unlikely to arise due to proximity to the end of the training contract). Data for subsequent years was not used as it showed a clear drop off in those being admitted for part-time training contracts commencing in 2011 onwards which is likely to reflect the fact that individuals had simply not reached the end of their training contract.

cheaper than the current routes, if they are not effective then individuals and firms would simply be wasting resources by following them. Firms may not offer flexibility if the reality is that it does not fit with the pressures of client demands. Indeed, some city firms have highlighted the challenges of mixing studying with the demands of corporate clients and the expectations of senior staff.

5.3 Work-based learning

The SRA is still considering the best approach to take regarding work-based learning.

Stakeholders are overwhelmingly supportive of the need for pre-qualification work-based learning as part of the qualification process. This was consistent both across firms and also those who deal most closely with consumers where representatives believed that consumers would expect solicitors to have a mixture of formal education and work-based learning before qualifying.

5.3.1 Diversity concerns

A small number of stakeholders, however, have reservations about the need for a formal PRT as they believe that this imposes constraints on firms and on individuals who would otherwise be able to qualify. In particular, one issue of concern relates to diversity measures because there is a substantial difference between the proportion of individuals from ethnic minority backgrounds who study a law degree (37%) compared to those who end up admitted to the roll (24%).[74]

The underlying reason for this difference is unclear and it has been suggested that a disproportionate number of individuals from ethnic minority backgrounds end up as paralegals rather than getting training contracts. Further work may be needed on this issue to establish the reasons for the differences. It was also noted that changes to the need to cover three areas of law and practice could benefit these individuals if they had only specialised on one area of law as might be the case as a paralegal. Some stakeholders have highlighted the attractiveness of the BSB approach where the title of barrister is conveyed after the BPTC but individuals are described as "non-practising" until they have gained work experience.

The attractiveness of the apprenticeship route for individuals from lower income backgrounds was highlighted not only for cost reasons but also cultural reasons. The apprenticeship route provides a longer period of time in which individuals can assimilate information and also get used to an unfamiliar culture of a corporate environment. It was thought that apprenticeships may be a more forgiving environment in early years compared to graduate routes and by the time graduates arrive at the same firm, those from lower income backgrounds have the advantage of knowing the firm better than the new trainees. There was some suggestion that school leaver programmes in accountancy firms had lower turnover of staff at the point of qualification although this would need to be assessed over time.

5.3.2 Integration of work-based learning and Part 2 CPAS

A very significant issue regarding the Part 2 qualification is the tension regarding what will be tested through the Part 2 CPAS and the reality that individuals currently specialise in particular areas of the law as soon as they start their PRT depending on the law firm with which they train.

[74] The Law Society, Annual Statistics 2014, pages 36 and 50.

There is therefore a significant issue regarding the timing of the Part 2 assessment at the point of qualification as a solicitor which aims to match the position at the end of today's two year PRT. The current proposals suggest that individuals would be tested in various skills in 3 out of 5 different contexts. However, individuals will not necessarily gain experience in these particular contexts when they are in the workplace.

A further issue with this is the interaction with the six reserved matters that only qualified lawyers can undertake.[75] The SRA needs to be assured that all qualifying solicitors are of the appropriate competence in *all* of the reserved matters before the point of qualification since it is these reserved matters that only qualified lawyers can practise in. Arguably, therefore, all of these activities should be assessed in Part 2 at the point of qualification.

It is clear that under the current training arrangements many individuals will not gain experience of all of these activities during their PRT. EPC recommends that the SRA carefully consider what aspects of competence in the reserved activities need to be assured through Part 2. Clearly this decision will have significant implications for whether Part 2 competence can be gained through the workplace alone compared to requiring students to gain additional exposure of different contexts either through other firms or through additional training courses.

Depending on which issues need to be assured through Part 2, one possible approach could be to increase the number of contexts in which individuals could demonstrate the skills that are to be tested in Part 2 although a wider set of contexts will increase the challenge of ensuring consistency and comparability between the different contexts. There will also be a trade-off between the increased cost of developing additional tests and the associated training materials for the assessment method, compared to the alternative costs that individuals and firms would need to incur in seeking out formal training programmes. Firms have expressed concern regarding the need to train individuals in areas in order to pass the Part 2 test when they are not going to practise in these areas within their current employer. This is a similar issue to that raised by those who value narrow, or activity-based, qualifications as discussed in section 5.4.

5.3.3 Transitional effects

One very significant transitional effect which relates to the SRA's decisions regarding work-based learning is the potential for individuals with existing legal education but no PRT to be able to take the CPAS exams. In particular there are a large number of individuals who have QLDs and the LPC but no training contract.

The Law Society commissioned previous work which found that in 2010/11 there were around 15,000 individuals with an LPC but who have not qualified because they had not obtained a training contract or PRT.[76] This number is likely to have grown further since then point, although, as is recognised in the report, some individuals will have left the legal sector and others may no longer wish to qualify as a solicitor. Yet, many of these individuals are likely to be working in paralegal roles and therefore it seems very plausible that many of them will seek to take the Part 1 exam. Whether

[75] The reserved matters are: the exercise of rights of audience; the conduct of litigation; reserved instrument activities; probate activities; notarial activities; and the administration of oaths. Source: Legal Services Board available at: http://www.legalservicesboard.org.uk/can_we_help/faqs/

[76] Entry to the solicitor's profession for The Law Society, David Dixon, May 2012.

they would be able eligible to take the Part 2 exam depends on whether their experience in the workplace would count towards any SRA regulatory requirements for work-based learning. Hence there is potential for a very substantial transition effect which would need to be taken into account by the SRA as well as by the assessment provider, firms and individuals who are currently on existing pathways to qualification.

However it is possible that this will lead to individuals attaining solicitor qualifications even though firms are not willing to employ them in a solicitor role which would bring management challenges for firms and potentially lead to large numbers of qualified solicitors doing paralegal jobs. Difficulties may also arise for employees and employers since all solicitors that are on the roll and are engaged in legal activities require both a practising certificate and professional indemnity insurance. Firms may be unwilling to pay for the practising certificate for someone in a position that the firm does not consider a solicitor position. EPC recommends that the SRA provide clear information for firms and individuals on the regulatory position with respect to individuals who are qualified but not employed in solicitor roles. In particular, it would not be desirable for individuals to assume completion of Part 2 would make them a solicitor only to discover that their firm would not be willing to employ (or insure) them as a solicitor and they needed to remove their name from the roll.

5.4 Activity based qualifications

The one area that causes a clear constraint which was highlighted by a number of firms is the need for activity based qualifications in which individuals would qualify to give legal advice in one (or more) area but not in all of the reserved activities as required to be a solicitor today.

5.4.1 Constraints in current regime

Currently firms need to be able to offer training in three different areas of law and practice in a PRT. Although firms can use secondments to obtain understanding of other areas, this requirement can prevent highly specialist firms from being able to take on trainees. A number of these firms would like to be able to take on trainees, or to take on trainees without the need to enter into reciprocal arrangements with other firms specialising in different areas. For firms that are growing rapidly this can also cause problems because the number of trainees that they want to employ is constrained by the number of other firms that they can partner with to offer secondments.

Other firms that specialise are able to recruit paralegals to conduct junior level work, but can not subsequently provide a career route for those individuals who are capable of becoming solicitors. Such firms lose trained staff when the individuals find training contracts elsewhere.

In addition, a number of firms that do offer training contracts have highlighted the wastefulness of individuals being trained in areas that they are not going to practise in.[77] This issue is similar to the concern of other law firms regarding Part 2 testing in contexts that have not been covered in the workplace.

5.4.2 Concerns about specialisation

Those who disagree with specialisation typically make three points:

[77] Wills and probate was the typical area cited as unnecessary by those who do not specialise in family law.

- Having some level of general understanding of the whole law is important so that individuals recognise problems in areas beyond their speciality and refer this to others with appropriate expertise;
- There are benefits to individuals and firms of seeing a range of areas of law and practice so as to test out which areas individuals are most interested in and to which firms think they are best suited; and
- Early specialisation constrains the ability of individuals to change to another speciality later.

With respect to the first bullet, it is clear that some understanding of the law in general would be required. However, that does not imply that the general level of understanding needs to equate to the level of knowledge of today's standards of qualifying as a solicitor. The appropriate level of general understanding would need to be examined in any further considerations of this issue.

With respect to the second and third points, the reality is that firms focus on some areas of the law and not others, and therefore joining a firm inevitably means individuals focus on some areas of law and not others. If firms are highly specialised then individuals employed by that firm will also become highly specialised at the point of employment (which could in theory come before or after the point of qualification).

Other firms may advise on a range of areas of law and will want individuals to experience different areas in their early years of employment. These firms are likely to continue to rotate individuals around a series of seats much as many non-legal firms run graduate trainee schemes that operate in the same way. Yet even where large firms offer a range of different services, the *individuals* within those firms still typically specialise into a particular department at the point of qualification, hence after a few years their ability to move into another area of law may also become constrained.

5.4.3 Link to current proposals

The current construct of the SRA's proposals does not involve a route for activity based qualification. However, in the research conducted for this project, the lack of such a route has been the primary tangible example of where the existing regime limits the behaviour of firms. It is clear that some firms are facing real constraints with real costs associated to them due to the current qualification regime. Therefore, EPC recommends that the SRA consider the merits of developing an activity based qualification. This includes the need to examine:

- Which components of both Part 1 and Part 2 CPAS would be considered essential for any type of qualification – this would need to address the concern that some level of general understanding of the law is required for all areas of the law;[78]
- How Parts 1 and 2 would be structured to deliver essential components for specialists alongside the needs of those seeking the general qualification;
- Whether certain modules could provide the foundation for a range of different specialisms, while other modules provide a foundation for other specialisms;

[78] It is possible that activity based qualification could necessitate such a fundamentally different approach that the CPAS framework would not be workable in practice. This would bring into question the comparability between any activity based qualification regime and the CPAS.

- The number of different types of specialist qualifications that could be available e.g. whether they would be at broad categories such as personal/family law compared to corporate law or much narrower categories such as personal injury, wills and probate etc;
- How, and whether, activity based qualifications would link to the reserved activities;
- How consistency of standards would be assured between the different modules; and
- How specialist components would combine to make a generalist approach i.e. the ease of building out from a narrow position by taking additional assessment modules to obtain the general qualification.

It will also be useful to consider the tensions between the breadth and depth of assessments and the language that is used to describe them. For example, "narrow" qualifications could be more suited to the approach where individuals take only a subset of modules taken by a generalist; by contrast, "specialist" qualifications may indicate that individuals have a greater depth of knowledge than those with a general qualification. The two should not be seen as mutually exclusive but could be seen as different levels of knowledge in certain subject areas. Specialist qualifications in the areas that individuals actually practise in could also be one form of assuring continual professional development over time.

The availability of courses to meet specialist needs could also help to address the concern that early specialisation constrains the later career choices of individuals since individuals would be able to retrain in a different area at a subsequent point in time.

5.5 Conclusion

In 2014, roughly 20% of firms took trainees. The great majority of these took only one trainee, while the top 1.5% of firms were responsible for over 50% of trainees.

With the context of increasing use of paralegals and non-qualified staff compared to qualified solicitors, many firms are in favour of flexibility and believe the new apprenticeship route will encourage diversity in the profession. They nonetheless highlight the lack of a SRA route to qualification for non-graduates. However, at this stage firms are generally unable to identify new specific pathways that they would seek to use.

The lack of activity based qualifications (in which individuals qualify to give legal advice in only specific areas) and the inability of some firms to offer three areas of law and practice during a period of recognised training (PRT) cause clear constraints. The SRA's current proposals do not involve a route for activity based qualification, but given the demand for it, the SRA should consider its merits.

Other firms are content with the existing framework (incorporating apprentices) and some city firms expressed reluctance to change their recruitment behaviour. Over time, they may need to respond if new pathways followed by their competitors are seen to be successful. However, the ability to create different pathways does not guarantee their success - currently those who take training contracts part-time are substantially less likely to be admitted than those who take them full-time although this may change if courses are specifically designed around the needs of those in part-time work and study.

Stakeholders (including those who deal most closely with consumers) are overwhelmingly supportive of the need for pre-qualification work-based learning. There are, however, concerns about the impact of current PRT requirements on ethnic minorities who represent 37% of law degree students but only 24% of those newly admitted to the roll.

The SRA's decisions about work-based learning requirements will also impact whether around 15,000 individuals who have taken QLDs and LPCs but not obtained a PRT would be able to complete CPAS and qualify as a solicitor. This could have substantial transitional impacts and could raise management challenges for firms whose paralegal staff obtain solicitor qualification. Further, firms may be unwilling to pay for the practising certificate and professional indemnity insurance where the firm does not consider the individual to be in a solicitor role.

A significant issue regarding the Part 2 assessment is the tension between what will be tested and when. Arguably, all of the reserved activities should be assessed in Part 2. Yet, the reality today is that individuals already begin to specialise during their PRT. Increasing the number of contexts in which individuals could demonstrate skills in Part 2 would align more closely to today's PRT, but this would increase the challenge of ensuring consistency and comparability, and increase the cost of the CPAS exams.

6 Demand for legal services and international considerations

This section covers international considerations (in section 6.1), and the impact on consumers regarding the price and overall demand for legal services (in section 6.2).

6.1 International considerations

International considerations are important when examining the possibility of changing the qualification regime due to the significant proportion of law students who are international as well as the importance of international business to the legal profession in E&W.

6.1.1 International students

International students make up 25% of law degree students which is a higher proportion than all other undergraduate degree subjects other than engineering and business administration.[79] More specifically, 18% of students are from non-EU countries with 7% from EU countries. International students, by definition, are mobile in their choice of educational location and therefore must be considered to be at risk of making alternative choices if changes are made without due consideration for their needs and preferences.

There are a range of reasons that lead international students to want to study law in the UK including the quality of tertiary education generally, the use of English, the content of particular degrees, and the use of common law. The regulatory status of the law degree is also important in some jurisdictions.

Some international students are able to obtain exemptions to qualifying in their home countries if, for example, they can show a transcript of a law degree which demonstrates that they have taken a particular module such as commercial law or tort. In these cases it is the *content* of the degree rather than the *regulatory status* of it that will be important. Assuming that the majority of law degrees continue to offer a wide range of options, changing the qualification regime would not be expected to affect students from countries that take a modular approach.

However, in other countries it is the fact that a *regulatory* status attaches to the law degree, or the institution providing that degree, that makes it acceptable to a student's home regulator. For example, the New York Bar (NYB) exam requires a degree to be from a law school recognised by a competent accrediting agency of the government.[80] By contrast, Singapore has identified a small number of institutions (understood to be based on league table positions), from which a law degree would count towards a qualification in Singapore. Singapore made recent changes to reduce the number of institutions from 19 to 11.[81] Where countries currently rely on the fact that the law degree has some form of *SRA-approved* status, there is a risk that regulators in those countries would no longer consider an E&W law degree to be sufficient if the SRA no longer approves the degree. Further, uncertainty created by the SRA's proposals may itself lead to a reduced take-up of E&W degrees by international students.

Despite these concerns, a number of other factors should also be taken into account including:

[79] Data for 2013/14, Table F from HESA.
[80] Foreign Legal Education http://www.nybarexam.org/foreign/foreignlegaleducation.htm. It is possible that the QAA could be the relevant agency rather than the SRA.
[81] StudyAbroad available from http://www.studyabroad.sg/study-a-law-degree/

- Regulators in other countries could change their regulatory requirements in the light of any changes made by the SRA in order to preserve recognition of particular courses;
- If the SRA's new framework leads to higher quality law degrees, then this could lead to greater recognition of E&W educational courses (e.g. Singapore could expand the number of institutions that it recognises) alternatively this could prevent some other international jurisdictions from removing recognition from E&W if those other jurisdictions think that existing quality controls are insufficient; and
- Flexibility brought in through the new qualification framework could lead to greater international demand for some courses such as the LLM since a Master's Degree qualification could be more attractive to international students than an LPC which may seem overly specific to E&W.

It is not the SRA's primary responsibility to protect educational and training establishments in the market for international law students. Nonetheless, given the very significant proportion of law students who are international, and the link with international business, EPC recommends that the SRA examine in further detail the consequences for international students of removing a regulatory status from the law degree and changing the qualification regime.

6.1.2 Equivalence of E&W status

The section above considered whether an E&W law degree would be recognised in another jurisdiction for the purpose of qualification in that jurisdiction. A closely connected question is whether the revised qualification criteria as a whole would be recognised by other jurisdictions. For example, many jurisdictions require that a law degree is taken on route to qualification and if the SRA no longer requires this, those jurisdictions may decide either to not recognise individuals who have not taken a law degree or, of greater concern, to not recognise the E&W regime as a whole as equivalent to their home regime.

For example, for the NYB, individuals must have taken a programme of study that is both "durationally and substantively equivalent to…an approved law school in the United States".[82] One of the consequences of this is that currently the NYB recognises those who have taken the QLD but not the CPE as eligible to take the NYB exam.

Consideration of equivalence internationally is also something that the SRA currently does. The SRA itself requires that those qualifying in other jurisdictions need to have specific education and training equivalent to a Bachelor's degree.[83]

The SRA has responsibility for ensuring appropriate standards for those qualifying under its own regime and not for the regimes in other countries. However, if other countries systematically fail to consider the E&W system as of equivalent status to their own, this will be damaging to the reputation of legal services in E&W. In as far as there is an expectation in other countries that lawyers should be of graduate level, it is therefore important that the SRA should signal this about the revised qualification framework.

[82] Bar Exam Eligibility available from http://www.nybarexam.org/Eligible/Eligibility.htm

[83] Key features of the Qualified Lawyers Transfer Scheme http://www.sra.org.uk/solicitors/qlts/key-features.page

Yet at the same time, the concerns about inconsistency that have the potential to damage the reputation of the profession domestically could also damage the reputation internationally if they are unaddressed. Indeed, international challenge to the current regime is already clear from the decisions of the NYB to recognise the QLD but not the CPE indicating that the NYB does not consider these routes to be equivalent. The CPAS assessment, if clearly seen to be calibrated at the appropriate level, may therefore have the potential to establish the consistency of routes to qualification.

6.1.3 International legal advice

Internationally, the UK has a good reputation for legal services, and significant numbers of international clients choose English law as the governing law for contracts. There are a number of reasons for clients to choose E&W as the jurisdiction for legal advice as noted in a recent report by The Law Society,

"perceptions and experiences relating to the courts, judiciary, the practicality of the law itself, the education system and the calibre of the law firms which operate internationally. The strength of the UK's financial industry is clearly fundamental to the success of UK law, as is its position for the international community as a gateway to Europe. The attraction of London and the fact that the English language is so widely used were also cited as reasons for the UK's legal reputation and success."[84]

The role of the qualification regime will also play a role in the legal sector's reputation reflecting both of the two sections above. Hence changing the regime brings risks to the extent of international legal advice that the E&W sector provides.

First, with respect to the education and training regime, given 25% of law students are international this represents a large number of individuals who are familiar with the E&W legal landscape. It is highly likely that this familiarity generates demand for legal services in E&W. If fewer international students come to the UK, it is unlikely that this will reduce the demand for English law in the short-term. However, over the longer-term, a reduction in the export of individuals with familiarity of English law may lead to a reduction in international clients choosing English law.[85]

Second, the current E&W qualification regime is recognised to be equivalent to local requirements in a wide set of jurisdictions. E&W qualified solicitors may need to take an additional test to demonstrate competence in the local legal system (much like others would need to take the QLTS), but their existing qualifications make them eligible to do so. Should the revised qualification regime fail to be recognised by other jurisdictions, there is a risk that the UK's reputation will be damaged and clients in those countries seeking international legal advice choose an alternative jurisdiction. Unlike the impact from international students which would only arise over time, the impact of this risk could, if it materialises, happen much faster.

[84] Report into the global competitiveness of the England and Wales solicitor qualification, The Law Society, July 2015.

[85] This effect may be tempered by familiarity with the E&W regime that is built up through ongoing international use of the regime due to the preferences of more senior lawyers or cultural norms in other countries which have led to the use of English law as the governing law.

6.2 Price and demand for legal services

Impacts on the price and demand for legal services are hard to predict given the stage of the policy making process and the uncertainty regarding the responses of education providers and firms.

As described in section 3.2.4, consumers of legal services are overwhelmingly expected to simply assume that solicitors have the appropriate level of competence to advise them. As such there is highly unlikely to be a significant demand effect directly because of changes to the qualification regime. The only exception to this is if the changes dramatically and detrimentally impact the reputation of the profession because of a lack of credibility of the CPAS.[86]

Consumer representatives do not believe that any increase in diversity of the profession (if this arises) will impact the demand for legal services i.e. they do not believe that consumers currently fail to seek legal advice because of a lack of diversity. For those consumers who are dependent on pro bono work and the charitable sector, it was noted that the profession conducted this work even when it was less diverse than today. Stakeholders with experience in this sector did not suggest that pro bono work had altered in response to changes in diversity.

With the exception of the potential impact on international legal advice, changing the qualification regime is expected to have, at most, only a modest impact on the price and quantity of legal services used in the short-term. As noted in section 4.4.3 there are different scenarios regarding the routes that individuals may take to qualification and therefore different scenarios both in the overall costs but also in terms of the costs that will be faced by individuals compared to firms.

From the firm's perspective, if the cost of training falls and/or if the salaries for junior and newly qualified staff falls, then some of that reduction in costs would be expected to be passed on to their clients. As noted in section 5.1.2 there is already a trend to use non-qualified staff in certain areas, but this is a trend that is already ongoing rather than an effect related to the new qualification regime. In addition, the prices which clients face are not simply based on prices associated to junior staff but reflect prices associated to senior staff as well as other costs such as rent and operational staff. Hence the impact on the overall prices would be expected to be modest in the short-term as the majority of the firm's cost base would be expected to remain the same as today.

Further the demand for many, although not all, areas of law reflects a particular need and therefore the overall quantity demanded will be relatively invariant to the overall price of the service (although the demand for the services of different firms may nonetheless reflect price competition between them). Other areas of law will be more price sensitive where individuals or corporates can choose whether to engage legal advice or not, but for the reasons explained above, significant effects are not anticipated.

6.3 Conclusion

The impact on the price and demand for legal services is uncertain but is expected to be modest in the short-term since these issues depend on a range of factors not just the qualification framework.

[86] It should be recognised that there could also be damage to the reputation from failing to make changes in the light of the LETR report.

International considerations are important. International students make up 25% of law degree students and many will study in England and Wales (E&W) because their home regulator recognises the regime. The SRA's own rules require graduate level qualifications for equivalence of other jurisdictions, and signalling that CPAS would also be set at graduate level may be important for international recognition of the E&W regime. It is possible that the flexibility of the new framework could lead to greater demand from international students for courses such as LLMs.

Removing the regulated status of the QLD, or loss of international recognition of the regime as a whole, could damage both the number of international students and have longer-term effects on international clients seeking advice from E&W firms. Yet at the same time, concerns about inconsistency have the potential to damage the reputation of the profession internationally if unaddressed.

7 Recommendations for further work

This research has been conducted at an early stage in the policy making process and therefore further work on the impact of any new framework will be required when more detail is developed. The report provides a range of specific recommendations for the SRA to consider as it continues to develop its approach. These include that the SRA should:

- consider the timing and frequency of CPAS exams in detailed development work;
- both signal, and ensure, that the CPAS test is of graduate standard;
- work with the BSB to ensure that similarities between the regimes are identified such that, as far as possible, law degrees can meet the needs of both professions;
- consider the interaction of transition and testing carefully, and should not remove current routes to qualification until that it is confident it has a robust assessment methodology;
- consider carefully what would be required to prevent the perception that the CPAS assessment organisation had an advantage in teaching compared to other providers;
- consider how best to run the CPAS procurement process in a way which minimises incumbency advantages for future tenders;
- carefully consider what aspects of competence in the reserved activities need to be assured through Part 2;
- provide clear information for firms and individuals on the regulatory position with respect to individuals who are qualified but not employed in solicitor roles;
- consider the merits of developing an activity based qualification; and
- examine in further detail the consequences for international students of removing a regulatory status from the law degree and changing the qualification regime.