QLTS assessment methods

3 September 2012

Executive Summary

The regulatory model and the SRA role

Key drivers for the regulatory model

Different regulatory models are deployed in various professional contexts and other legal jurisdictions, driven by context-specific needs and drivers:

- The level of risk: The key variation in approaches to admitting international professionals is in relation to the level of regulatory risk in each case. There are arguably relatively few „high risk" professions in which the public protection considerations of the regulator lead to a high level of scrutiny of international professionals.
- The type of professional regulation: The regulatory model is also a function of the type of professional regulation enforced within a given jurisdiction or profession (i.e. the basis on which a professional might seek recognition). Where there is no requirement to undergo a professional recognition process in the host country, the professional status that is conferred takes on slightly different characteristics and this can lead to a process with quite extensive regulatory „hoops" for candidates. QLTS is an interesting counterpoint here in that the scheme design is notable in its accessibility and relatively low threshold for lawyers wishing to access the assessment (even though the assessment itself is challenging).
- The approach to regulatory reform: Most well-established professions within a country or jurisdiction might be regarded as conservative in nature. The maintenance of professional standards in this context is, in part, based on their perceived impermeability and this creates the conditions for a risk-averse approach to reform. With notable exceptions in the medical field, it means that the basis for confidence in the process for admitting international professionals is past experience rather than objective assessment of the reliability and validity of the process itself. This also means that there is much more ad hoc refinement of admission processes than wholesale reform. There were arguably a fairly unique set of drivers for reform facing the SRA prior to the introduction QLTS (the volume of applicants through the international route, combined with a recognition that the existing system was not fit for purpose and

linked to wider reform of the regulatory landscape as set out in the Legal Services Act 2007).

- External factors: different professional entry routes depending on country of origin: There are numerous professions where, in practice, the process for candidates is determined by country of origin. The significance in the context of QLTS is that, based on the regulatory principle of nondiscrimination, the model generally envisages the same route for applicants irrespective of country of origin. This is not always the case in other professions. It might be argued that the absence of different requirements attuned to the specific education and training of applicants may lead to disproportionate entry requirements on some candidates. However, in practice, the existence of different access routes depending on country of origin tends to operate more to exclude than to include. While it is not inherently discriminatory to offer a 'fast track' route for applicants from some countries, there needs to be an objective evidence base for setting these requirements. There are cases that appear to be proportionate, generally applicable and based on robust analysis of different education, training and professional systems, but these are exceptional. It is not realistic to expect many regulators or professions to have the resource to be able to develop this kind of complex, global evidence base.

Download QLTS assessment methods (PDF 49 pages, 616KB)

[https://referral.sra.org.uk/globalassets/documents/solicitors/qlts/qlts-research-final.pdf]