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CLEO: CLINICAL LEGAL EDUCATION ORGANISATION

QUALIFYING WORK EXPERIENCE GUIDANCE FOR UNIVERSITY LAW CLINICS

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1. Introduction

In order to help law clinics navigate the new regulations, a small working group from CLEO have put together this draft guide to the QWE. In developing this guide, we recognise that the new routes to qualification are controversial and we are not endorsing or expressing approval for these routes to qualification. As an organisation, CLEO is committed to developing clinical legal education as a rich and innovative method for teaching law. Legal education, in particular for undergraduates, is about much more than qualifying as a solicitor and indeed many law graduates do not go onto qualify as legal professionals. However, we are aware that many of our members will be offering qualifying work experience, or may be asked by senior management to offer qualifying work experience and we therefore want to develop guidance for our members to assist with navigating the new regulations. This guidance is to assist university law clinics only, when encountering a student's claim for QWE.

Many thanks to the members of CLEO and beyond who have contributed to this guidance.

In this guidance these terms have the following meaning:

Clinic Lead: Solicitor who confirms QWE

Competencies: those listed within the Statement of Solicitor Competence.

SQE: Solicitors Qualifying Exam

QWE: Qualifying Work Experience

2. What is Qualifying Work Experience?

Under the SQE, individuals wishing to be admitted as a solicitor need to complete QWE.

The SRA define QWE as

any experience of providing legal services that offers a candidate the opportunity to develop some or all of the competences needed to practise as a solicitor

The definition of QWE should also be read in conjunction with the guidance issued by the SRA:¹

- QWE involves experience of providing legal services which enables an individual to develop some or all of the competencies outlined in the Statement of Solicitor Competence, including professionalism and ethics needed to practice as a solicitor.
- QWE may be obtained in England or Wales or overseas.
- In total, QWE must be at least two years working full time or the equivalent on a part time basis. There is no minimum or maximum prescribed length of each individual placement or stage.
- QWE can be obtained in up to four separate organisations providing legal services, including non-SRA regulated organisations, including university law clinics.
- QWE is confirmed by a solicitor.
- Historic QWE can be claimed.

¹ <https://www.sra.org.uk/solicitors/guidance/colps-confirming-qualifying-work-experience/>

Candidates register their two years QWE with the SRA by the time they apply to be admitted as a solicitor. However, a candidate can register any completed QWE from now.

For a candidate employed by a firm of solicitors following a traditional training programme, satisfying the definition of QWE will not cause issue. However, different issues arise for students wanting to claim QWE for time spent in university law clinics. This guidance provides these clinics an opportunity to consider whether they can confirm QWE.

3. Legal Services

QWE can only be claimed when engaged in the provision of legal services and that QWE must be grounded in ‘legal work’. Whilst the term ‘legal services’ is not defined within the QWE guidance, for the purpose of this guidance, ‘legal services’ will be interpreted as having the same definition as ‘legal activity’ under the Legal Services Act 2007 s12(3)(b) & (d)²:

- (b) any other activity which consists of one or both of the following –*
 - (i) the provision of legal advice or assistance in connection with the application of the law or with any form of resolution of legal disputes;*
 - (ii) the provision of representation in connection with any matter concerning the application of the law or any form of resolution of legal disputes.*
- (d) but ‘legal activity’ does not include any activity of a judicial or quasi-judicial nature (including acting as a mediator).*

The use of the words ‘advice’ ‘assistance’ and ‘representation’ have been interpreted to include most activities undertaken by university law clinics (including Support

² Since the initial distribution of this guidance in October 2021, the SRA now refer candidates to s12 Legal Services Act to assist in deciding whether their role involves delivering legal services.
<https://www.sra.org.uk/become-solicitor/sqe/qualifying-work-experience-candidates/>

through Court projects). What has been excluded from this guidance are clinics that engage in 'quasi-judicial' activities such as mediation or arbitration clinics and clinics which do not provide live-client work, such as simulation clinics. In these circumstances, students will not be able to claim QWE, even if they are working under the supervision of a solicitor and are provided with an opportunity to develop some or all of the competencies.

The following will need careful consideration:

- Policy Clinics: If the clinic has an identifiable client that has asked for legal advice/assistance, this would be classed as QWE. However, if a policy clinic were looking at an issue created by a clinic member of other academic, this lack of identifiable client would prevent the confirmation of QWE.
- The term 'Street law' is used for a multitude of projects which can vary greatly in nature. Universities running Street law projects need to give careful consideration as to whether these are capable as being classed as QWE. Whilst the projects will give students an opportunity to develop all or some of the competencies, not all will be engaged in the provision of 'legal, advice or assistance'. If a project gives information rather than legal advice/assistance to a non-specific client, it would be difficult for this to be classed as QWE. Clinics/universities should also check how their Street law activities are viewed by their insurers; projects may be classed as '*information only*' as opposed to '*advice provision*' for insurance purposes.
- Multi-disciplinary clinics: QWE will only be able to be claimed for the legal advice given. For example: a joint tax/business law clinic will only be able to confirm QWE for the time spent engaged in the provision of legal advice.

4. Confirmation of Qualifying Work Experience

For the period claimed, the candidate must obtain the following confirmation to register the QWE:

1. The period of time being claimed;
2. There was an opportunity to develop some or all of the prescribed competencies for solicitors; and
3. No issues arose during the period being claimed that raise questions over the candidate's character and suitability to be admitted as a solicitor.

The SRA are unequivocal that if a candidate has been given the opportunity to develop some or all of the competencies, QWE must be confirmed. Clinics need to be aware there is no choice about whether or not to confirm QWE claimed. If the opportunity to develop has been arisen, QWE can be claimed and must be confirmed. Any clinics who are not wanting to confirm QWE may have to look to changing their clinic provision to one which does not offer a legal activity, as this is the only way in which clinic activities will not amount to QWE.

A solicitor must confirm QWE. Importantly, this person does not need a current practising certificate. However, a barrister or a foreign qualified lawyer cannot confirm QWE. There is no way (at present) to allow a non-English or Welsh solicitor the ability to confirm QWE unless they were themselves to qualify under the SQE.

Clinics will need to decide who will confirm the QWE claimed by the candidate. When dealing with external clinic activities (such as placements), consideration should be given to whether the clinic can confirm the QWE rather than the host organisation. If the latter were to confirm the student has potentially used one of their four stages of QWE. QWE can also be confirmed by solicitors external from the University, as long as they have personal knowledge of the student's work and feedback.³

Clinics should be reminded that confirming QWE is not the equivalent to confirming the competence of the claimant. The test of competence is SQE 2. The solicitor is confirming the candidate had the opportunity to develop the Competencies. QWE

³ <https://www.sra.org.uk/become-solicitor/sqe/qualifying-work-experience/qualifying-work-experience-employers/>

would be able to be confirmed in the event a student failed a credit bearing clinic module, as the solicitor is confirming facts rather than passing judgement on the student's ability.

When confirming QWE, 'the solicitor should confirm they are complying with the Principles within the Solicitors Code of Conduct to act honestly, fairly at all times and not to abuse your position by taking unfair advantage of an individual'.⁴ A refusal to confirm QWE that meets the criteria will be a breach of the SRA Principles. However, solicitors can also rely on the same principles if they cannot, with all honesty, confirm the QWE.

For example, a claim for historic QWE may be refused if:

- No records have been kept
- The claim goes beyond the organisation's data retention period
- There are no individuals from that time still employed who can verify the experience.

5. An 'opportunity to develop'

QWE must include the opportunity to develop all or some of the Competencies assessed in SQE 2. Whilst there is no exact definition of what exactly is an 'opportunity to develop', the SRA have given guidance on what 'good QWE' could look like for non-SRA regulated organisations (which would include law clinics).⁵

- a) Carrying out a diverse and varied work, giving exposure to some or all of the Competencies.
- b) Regular opportunities for candidates to reflect on their performance.
- c) Support through the work experience.

⁴ <https://www.sra.org.uk/solicitors/guidance/colps-confirming-qualifying-work-experience/>

⁵ <https://www.sra.org.uk/solicitors/guidance/meeting-standards-good-qualifying-work-experience/>

- d) Develops professionalism and exposure to ethical issues.
- e) Learn from experienced solicitor-role models within and outside of the organisation.
- f) Effective supervision, to include support in collating evidence to record QWE.

For university law clinics, demonstrating compliance with points b-f will be achievable as these will be expected outcomes of time spent engaged in clinic. However, point a, is more problematic and will be the focus of this section. The SRA acknowledge that repetitive and limited administrative tasks and legal transactions are unlikely to help development, as is undertaking a task on a single occurrence. However, if a candidate undertakes an activity on a couple of occasions and this provides an opportunity to develop a competence, QWE can be claimed. This is a purposefully low bar threshold to allow the maximum amount of activities to be claimed as QWE.

Some clinics may be able to offer an opportunity to develop **all** the Competencies, but all clinics will be able to offer **some**. The individual clinic will have to decide whether the clinic activities are provided to a requirement sufficient to allow an opportunity to develop a competence. To have confidence in the QWE being confirmed, clinics are advised to conduct a full audit of the activities carried out and map these against the Statement of Solicitor Competence. For inter-curricular clinics, this mapping exercise could be linked with the module aims and objectives. (See Appendix 1)

Clinics will then be able to confirm at the start of a candidate's engagement, the exact competencies the candidate will have an opportunity to develop and importantly which competencies they will not. This list of competencies could be included within the initial clinic recruitment meetings or within the contract/agreement signed by the students. Consideration should also be given as to whether this is mentioned in any external communications to prospective students. By limiting the number of

competencies available to be claimed, protection is afforded to the clinic by the prevention of any disagreements with the student.

Students will have to be forewarned that situations may arise where they are prevented from being given an opportunity to develop. For instance, if 'live' clients do not attend meetings and simulation interviews are conducted instead. Here, no QWE can be claimed due to the lack of 'provision of legal service'.

6. Time awarded

There is no minimum time threshold for claiming QWE and no guidance given on how to calculate the time spent; only that QWE must equate to two years FTE. Consequently, the amount of QWE claimed by a candidate in university law clinics for a single placement, may only equate to a small amount of time – days or even hours. The SRA is clear that even a very small amount of time can be claimed as QWE.

Given the lack of lower time limits for QWE, clinics need to counsel their students that just because they CAN claim QWE does not always mean they SHOULD. Claiming QWE for time spent in clinics will count as one of the 'four stages' of QWE. The candidate should be counselled as to the implications of using one of their 'four stages' for what could arguably be a small amount of time. Clinics would be well placed to remind students about the intrinsic value of time spent in clinic generally as work experience, the employability benefit and the social justice arguments.

Students will also need to be counselled that even though QWE claimed in clinic would lead to an earlier qualification date under SQE, some employers may not reduce the length of any formal training programme. Whilst an employer has no discretion about when a candidate will qualify if they have amassed 2 years FTE QWE, this may have no consequence regarding the employment contract (and salary) in place.

When deciding what time should be awarded, university law clinics can use a 'common-sense approach' of confirming average hours. The SRA do not prescribe

what 'full time or equivalent is but expect QWE providers to take a common-sense view of what they mean by full time'. If clinics want to proceed on an average hour basis for awarding QWE, this would be acceptable with the current SRA rhetoric. Clinics are advised as part of the competency mapping exercise to consider how long, on average, a student would be engaged with clinic. Clinics should communicate the hours capable of being claimed to students at the start of any clinic activity. Circumstances may arise where the average hours need to be deviated from, but it is expected these will be the exception rather than the norm. For example, if a student was not in attendance for all the sessions, the clinic may consider apportioning the time awarded on a pro-rata basis.

Clinics may also consider offering a portfolio of QWE to students. If various clinic activities are offered, these can all be rolled together to create one larger and perhaps more substantial amount of QWE and importantly be categorised as only 'one stage' of the potential four. Added to this portfolio could also be time spent on placements (if they meet the QWE criteria and the solicitor confirming has personal knowledge of the student's work and feedback given). Clinics would need to make sure their internal reporting systems allow for numerous segments of QWE to be claimed throughout a student's university career which would be classed as just one 'stage'.

7. Character and Suitability

When confirming QWE, the solicitor must also confirm that no character and suitability issues regarding the candidate arose during the period of QWE claimed.

The SRA guidance confirms:

You are not making a judgement on an individual's suitability to be a solicitor. Instead, if any issues came up during the placement you are confirming, please give us the

details and the SRA will consider them under their character and suitability requirements.⁶

This is slightly more complicated for university law clinics, as staff involved in the clinics may be aware of information about students from outside of the law clinic and this could lead to inconsistencies in the disclosure of character and suitability issues. For example, a solicitor signing off QWE could be aware of such an issue through their role as a course lead/module lead/academic lead, personal tutor and not through their supervision in clinic. As a solicitor, the person confirming the QWE is under an obligation to raise this with the SRA.

The most common example would be an awareness of an academic/assessment offence. Assessment offences are included within the SRA's Assessment of Character and Suitability Rules (Part 2, Rule 4):

You have been adjudged by an education establishment to have committed a deliberate assessment offence which amounts to plagiarism or cheating, in order to gain an advantage for you or others.

The following is a non-exhaustive list of serious academic offences which should be referred to the SRA:

- **Cheating** is a form of examination malpractice relating to formal invigilated exams or other assessments. This could take the form of unauthorised communicating with others in or outside the exam; impersonating a student due to sit the exam, copying/attempting to copy from another exam candidate; possession of prohibited materials (written or electronic).
- **Plagiarism** occurs when a student copies words or ideas from another person and presents these words or ideas as their own in an assessment without properly acknowledging and citing the source. This does not include poor

⁶ <https://www.sra.org.uk/solicitors/guidance/colps-confirming-qualifying-work-experience/>

academic practice, where a student has failed to understand the concept of good academic practice by inadequate referencing, omission of quotation marks and may occur in the early stage of the student's programme of study.

- **Collusion** is an attempt to deceive the examiners by disguising the true authorship of an assessed piece of work in full or part. All students involved will be jointly liable.
- **Commissioning or Contract Cheating** which is asking another person to rewrite their work, such as other students, friends, relations or providers that offer such services for payment. This does not extend to proof reading.
- **Representation** where a student submits the same piece of work (in full or in part), which has already been submitted for academic credit.

Students should be informed at the start of their time in clinic that if they claim QWE, any issues regarding assessment offences, together with any character and suitability issues, will be referred to the SRA. The student will also be under an obligation to disclose these offences at the point of admission. The clinic should make it clear that it is the SRA who makes the decision and not the clinic.

We suggest that students are provided with a privacy notice, when they start their clinic engagement, summarising the procedure the clinic will adopt. This privacy notice should be written in discussion with the relevant parties that will have access to this data, as well as the Institution's data protection officer.

Clinics may wish to adopt the following internal procedures:

- Prior to confirming QWE, the clinic lead is given access to the academic profiles of the students to check whether any academic offences are present

OR

- The clinic lead sends a list of students' names to a designated nominee within the School/Department/University to check whether any academic offences are present.

In both instances, if an academic offence is present on a student record, the Clinic Lead should discuss this with the student and explain if the student chooses to register the QWE with the SRA, the Clinic Lead will disclose the academic offence. The Clinic Lead should also remind the student that even if this portion of QWE is not registered with the SRA, the student is still personally responsible for disclosing the academic offence at the point of admission. The student should understand the Clinic Lead is not making a judgement on the individual's suitability.

8. Registering QWE

This diagram shows the process for a student registering QWE. Students do not have to register QWE within a certain time after completion. Rather they can register all QWE at the point of admission.



The timeline from a student's QWE being 'confirmed' in the clinic to the solicitor 'confirming' with the SRA could be many years. We recommend that clinics are open and upfront with their students about what they believe is a reasonable time in which to 'confirm' QWE with the SRA. This could be linked with the university's own data retention period.

Applicants can claim historic QWE. If a candidate has been given the opportunity to develop one or more of the competencies the claim must be confirmed. Historic QWE does cause issues for university law clinics as it may be many years since a candidate has been at the clinic. In this situation, the responsibility is placed on the student to produce a full breakdown of the time and competencies being claimed. If a solicitor in clinic is being asked to confirm QWE that cannot be adequately evidenced, for example, due to the time elapsed, a solicitor would be acting within their professional duties not to confirm. Clinics may want to consider encouraging students to register confirmed clinic QWE as soon as possible but this should be balanced against the merits of registering a (potentially) small amount of QWE.

As an addendum to this, a student is not under an obligation to register all their confirmed QWE. For example, they could accrue 6 pieces of confirmed QWE but choose which 4 to register.

9. Clinic Compliance

9.1. Insurance

Confirming QWE will not change the activity of the clinic, however clinic leads should make sure the university insurer is aware of the regulatory requirement to confirm QWE. Clinic leads should also check whether insured clinic activities are classed as advice or information, as this may influence whether QWE can be legitimately claimed and thus whether it can be 'advertised' to students.

9.2. Record Keeping and GDPR

Detailed records of QWE confirmed in clinic will be key to enable smooth confirmation with the SRA. When designing their internal records, clinic may perhaps consider:

- The platform used to keep student records needs to be secure but also sustainable to survive any staff turnover. Clinics should consult their

internal IT departments for compatible platforms. This will be separate to any case management system used.

- Checking the compliance of keeping student data for the purpose of confirming QWE with the GDPR and any internal data retention policies.
- QWE records should include the competencies developed, the hours awarded, confirmation a character and suitability check has been made etc, for each amount of QWE claimed.
- Developing a robust system where QWE is internally confirmed by more than one solicitor to allow for staff turnover/absence.
- Incorporating a privacy notice into clinic handbooks/literature, so students are aware of how their data will be held and for what purpose, together with the agreed character and suitability policies.

9.3. Non-English and Welsh Clinics

QWE can be claimed in jurisdictions outside England and Wales if a solicitor regulated by the SRA is present. These clinics need to be aware that students could ask for QWE to be confirmed. In this situation, the clinics should follow this guidance and be aware that these claims cannot be refused if the criteria is met.

Appendix 1: Competency Mapping⁷

Competency	Description	Opportunity to develop in clinic?
A Ethics, professionalism and judgement		
A1	Act honestly and with integrity, in accordance with the legal and regulatory requirements and the SRA standards and Regulations, including: a. Recognising ethical issues and exercising effective judgment in addressing them b. Understanding and applying the ethical concepts which govern their role and behaviour as a lawyer c. Identifying the relevant SRA principles and rules of professional conduct and following them d. Resisting pressure to condone, ignore or commit unethical behaviour e. Respecting diversity and acting fairly and inclusively	
A2	Maintain the level of competence and legal knowledge needed to practise effectively, taking into	

⁷ <https://www.sra.org.uk/solicitors/resources/cpd/competence-statement/>

	account changes in their role and/or practice context and developments in the law, including: a. Taking responsibility for personal learning and development b. Reflecting on and learning from practice and learning from other people c. Accurately evaluating their strengths and limitations in relation to the demands of their work d. Maintaining an adequate and up-to-date understanding of relevant law, policy and practice e. Adapting practice to address developments in the delivery of legal services	
A3	Work within the limits of their competence and the supervision which they need, including: a. Disclosing when work is beyond their personal capability b. Recognising when they have made mistakes or are experiencing difficulties and taking appropriate action c. Seeking and making effective use of feedback, guidance and support where needed	

	d. Knowing when to seek expert advice	
A4	Draw on a sufficient detailed knowledge and understanding of their field(s) of work and role in order to practice effectively, including: a. Identifying relevant legal principles b. Applying legal principles to factual issues, so as to produce a solution which best addresses a client's needs and reflects the client's commercial or personal circumstances c. Spotting issues that are outside their expertise and taking appropriate action, using both an awareness of a broad base of legal knowledge (insofar as relevant to their practice area) and detailed knowledge of their practice area	
A5	Apply understanding, critical thinking and analysis to solve problems, including: a. Assessing information to identify key issues and risks b. Recognising inconsistencies and gaps in information c. Evaluating the quality and reliability of information	

	d. Using multiple sources of information to make effective judgments e. Reaching reasoned decisions supported by relevant evidence	
B Technical Legal Practice		
B1	Obtain relevant facts, including: a. Obtaining relevant information through effective use of questioning and active listening b. Finding, analysing and assessing documents to extract relevant information c. Recognising when additional information is needed d. Interpreting and evaluating information obtained e. Recording and presenting information accurately and clearly.	
B2	Undertake legal research, including: a. Recognising when legal research is required b. Using appropriate methods and resources to undertake the research	

	c. Identifying, finding and assessing the relevance of sources of law d. Interpreting, evaluating and applying the results of the research e. Recording and presenting the findings accurately and clearly.	
B3	Develop and advise on relevant options, strategies and solutions, including: a. Understanding and assessing a client's commercial and personal circumstances, their needs, objectives, priorities and constraints b. Ensuring that advice is informed by appropriate legal and factual analysis and identifies the consequences of different option	
B4	Draft documents which are legally effective and accurately reflect the client's instructions including: a. Being able to draft documents from scratch as well as making appropriate use of precedents b. Addressing all relevant legal and factual issues c. Complying with appropriate formalities d. Using clear, accurate and succinct language	

B5	Undertake effective spoken and written advocacy, including: a. Preparing effectively by identifying and mastering relevant facts and legal principles b. Organising facts to support the argument or position c. Presenting a reasoned argument in a clear, logical, succinct and persuasive way d. Making appropriate reference to legal authority e. Complying with formalities f. Dealing with witnesses appropriately g. Responding effectively to questions or opposing arguments h. Identifying strengths and weaknesses from different parties' perspectives	
B6	Negotiate solutions to clients' issues, including: a. Identifying all parties' interests, objectives and limits b. Developing and formulating best options for meeting parties' objectives c. Presenting options for compromise persuasively	

	d. Responding to options presented by the other side e. Developing compromises between options or parties	
B7	Plan, manage and progress legal cases and transactions, including: a. Applying relevant processes and procedures to progress the matter effectively b. Assessing, communicating and managing risk c. Bringing the transaction or case to a conclusion	
C Working with other people		
C1	Communicate clearly and effectively, orally and in writing including: a. Ensuring that communication achieves its intended objective b. Responding to and addressing individual characteristics effectively and sensitively c. Using the most appropriate method and style of communication for the situation and the recipient(s) d. Using clear, succinct and accurate language avoiding unnecessary technical terms	

	e. Using formalities appropriate to the context and purpose of the communication f. Maintaining the confidentiality and security of communications g. Imparting any difficult or unwelcome news clearly and sensitively	
C2	Establish and maintain effective and professional relations with clients, including: a. Treating clients with courtesy and respect b. Providing information in a way that clients can understand, taking into account their personal circumstances and any particular vulnerability c. Understanding and responding effectively to clients' particular needs, objectives, priorities and constraints d. Identifying and taking reasonable steps to meet the particular service needs of all clients including those in vulnerable circumstances e. Identifying possible courses of action and their consequences and assisting clients in reaching a decision f. Managing clients' expectations regarding options, the range of possible outcomes, risk and timescales	

	g. Agreeing the services that are being provided and a clear basis for charging h. Explaining the ethical framework within which the solicitor works i. Informing clients in a timely way of key facts and issues including risks, progress towards objectives, and costs j. Responding appropriately to clients' concerns and complaint	
C3	Establish and maintain effective and professional relations with other people, including: a. Treating others with courtesy and respect b. Delegating tasks when appropriate to do so c. Supervising the work of others effectively d. Keeping colleagues informed of progress of work, including any risks or problems e. Acknowledging and engaging with others' expertise when appropriate f. Being supportive of colleagues and offering advice and assistance when required g. Being clear about expectations h. Identifying, selecting and, where appropriate, managing external experts or consultants	

D Managing themselves and their own work		
D1	Initiate, plan, prioritise and manage work activities and projects to ensure that they are completed efficiently, on time and to an appropriate standard, both in relation to their own work and work that they lead or supervise including: a. Clarifying instructions so as to agree the scope and objectives of the work b. Taking into account the availability of resources in initiating work activities c. Meeting timescales, resource requirements and budgets d. Monitoring, and keeping other people informed of, progress e. Dealing effectively with unforeseen circumstances f. Paying appropriate attention to detail	
D2	Keep, use and maintain accurate, complete and clear records including: a. Making effective use of information management systems (whether electronic or hard copy), including storing and retrieving information	

	b. Complying with confidentiality, security, data protection and file retention and destruction requirements	
D3	Applying good business practice, including: a. Demonstrating an adequate understanding of the commercial, organisational and financial context in which they work and their role in it b. Understanding the contractual basis on which legal services are provided, including where appropriate how to calculate and manage costs and bill clients c. Applying the rules of professional conduct to accounting and financial matters d. Managing available resources and using them efficiently	