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Qualifying work experience: do Street Law projects provide a “legal service”?

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Introduction

The advent of qualifying work experience (QWE) in September 2021 allowed prospective solicitors the possibility to use time spent working in university law clinics towards the two-year full time equivalent (FTE) mandated time period.¹ *Prima facie* this appears to be an attractive development, that allows students to use time spent advising and helping vulnerable members of the community to assist their own qualification journey. Yet, not all activities carried out under the clinical legal education (CLE) umbrella can provide QWE. There are questions surrounding Street Law and QWE, that centre around whether Street Law recipients are provided a “legal service”. This article will look at the definition of QWE under the Solicitors Qualifying Examination (SQE) and then address the phenomena that relate to Street Law from a perspective of obtaining QWE and offer some practical advice to those running Street Law projects.

Street Law

Many will be familiar with Street Law and the contribution made to justice education worldwide.² The method of “law students under the supervision of suitably qualified academics and practising lawyers, going into various community settings by invitation and delivering interactive sessions on law and related issues affecting everyday life”³ was the most commonly reported activity in the 2020 LawWorks Law School Report.⁴ Street Law is so popular that in 2020, over 68% of law schools in the UK were running Street Law projects.⁵

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¹The inclusion of law clinics as a place where QWE can be obtained is an excellent validator of clinical legal education.

²Richard Grimes and others, “Street Law and Social Justice Education” in FS Bloch (ed), *The Global Clinical Movement: Educating Lawyers for Social Justice* (Oxford University Press 2010) 225.

³Richard Grimes, *Public Legal Education: The Role of Law Schools in Building a More Legally Literate Society* (1st edn, Routledge 2021) 1.

⁴James Sandbach and Richard Grimes, “Law School Pro Bono and Clinic Report 2020” (LawWorks and CLEO (Clinical Legal Education Organisation) 2020) 12 <www.lawworks.org.uk/sites/default/files/files/LawWorks%20Law%20Schools%20Report%202020_0.pdf> accessed 25 September 2022.

⁵*ibid.*

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Street Law is “dedicated to hands-on, student centred and interactive teaching strategies”,⁶ where all participants are involved and are equal in nature. Projects and programmes vary in delivery, recipient, mode and content and reflect what Arbetman has described as a “global family of Street Law”.⁷ However, the lack of pre-existing standards within this “global family” together with the entrenched freedom to innovate⁸ mean it is impossible to offer one single definition for what a Street Law project is. This is where the relationship between QWE and Street Law becomes problematic. At the centre of this problem is whether Street Law engages in legal advice/assistance or legal awareness raising. To understand this distinction further, a brief review of QWE in the context of CLE follows.

Qualifying work experience

To qualify as a solicitor through the SQE route, in addition to passing both stages of the SQE assessment, two years’ full-time (or equivalent) QWE is required.⁹ QWE can be claimed for time spent in law clinics and university clinical programmes. The Solicitors Regulation Authority (SRA) defines QWE as:

experience of providing legal services which enables an individual to develop some or all of the competencies outlined in the Statement of Solicitor Competence¹⁰

Aspects of this definition are problematic for Street Law projects. Before these specific issues are explored, a deeper dive into this QWE definition will ensue.

QWE can only be claimed when providing a “legal service”. The SRA leaves the decision of whether a role involves delivering legal services to the individual student.¹¹ It does, however, provide assistance by directing individuals to s.12 of the Legal Services Act 2007. For students involved in Street Law Projects, s.12(3)(b)(i) of the Legal Services Act 2007 is the most relevant, when deciding whether they are able to claim for QWE:

legal advice or assistance in connection with the application of the law ...¹²

The interpretation of “advice or assistance” will include most activities undertaken by university law clinics.¹³ Street Law has primarily been about “raising awareness of

⁶Amy L Wallace, “Cyberspace Back to the Classroom: Taking Lessons Learned from Teaching Street Law During the Pandemic Back to In-Person Instruction” (2021) 28(2) *International Journal of Clinical Legal Education* 149, 149.

⁷Grimes (n 4) vii. Until 2021, Arbetman was Executive Director of Street Law Inc, a US-based NGO which has developed and implemented numerous law-related educational programmes and worked in every state in the US.

⁸*ibid.*

⁹An undergraduate degree (or equivalent) is also required along with the meeting of the Solicitors Regulation Authority (SRA) character and suitability requirements. Solicitors Regulation Authority, “Solicitors Qualifying Examination (SQE) Route” (Solicitors Regulation Authority, September 2021) <www.sra.org.uk/become-solicitor/sqe/> accessed 25 September 2022.

¹⁰Solicitors Regulation Authority, “Meeting Our Standards for Good Qualifying Work Experience” (Solicitors Regulation Authority, September 2021) <www.sra.org.uk/solicitors/guidance/meeting-standards-good-qualifying-work-experience/> accessed 26 September 2022.

¹¹Solicitors Regulation Authority, “Qualifying Work Experience for Employers” (Solicitors Regulation Authority, April 2022) <www.sra.org.uk/become-solicitor/sqe/qualifying-work-experience-employers/> accessed 25 September 2022.

¹²Legal Services Act 2007, s12(3)(b)(ii) refers to representation and Street Law does not engage in any guide of client representation.

¹³Including projects aimed solely at providing assistance, such as Support through Court <www.supportthroughcourt.org/> accessed 26 September 2022.

legal rights and responsibilities” rather than “tackling individual problems”.¹⁴ So if students are engaged in activities that raise legal awareness this work will not be QWE.

QWE must include the opportunity to develop at least two of the competencies set out in the Statement of Solicitor Competence.¹⁵ Repetitive and limited administrative tasks are unlikely to aid this development.¹⁶ Whether an individual has developed a competence is a question of fact rather than judgment on an individual’s performance. No verdict is required on whether the student is competent or not; this is the purpose of the SQE2 assessment.

Street Law and QWE: issues

Street Law has become a generic term of use.¹⁷ Universities running Street Law-style projects need to give careful consideration to whether these projects will permit students to claim QWE. If QWE can be claimed, then QWE must be confirmed by a solicitor when requested by the student – there is no choice and universities cannot “opt out” of confirming QWE.¹⁸ All Street Law projects will give students an opportunity to develop at least two of the competencies. For example, competencies such as applying “understanding, critical thinking and analysis to solve problems” and communicating “clearly and effectively, orally and in writing” will be developed within Street Law projects.¹⁹ However, not all projects will be engaged in the provision of “legal advice or assistance”. If a project is awareness raising rather than providing legal advice or assistance to a non-specific client, QWE cannot be claimed even if the student has had an opportunity to develop two or more of the competencies.

The time permitted to be claimed as QWE cannot include the time a student spends in receiving direction or teaching from a lecturer in preparation for the session. For example, if a module consists of four weeks of training and four weeks of Street Law delivery by the students, only the latter could amount to QWE.²⁰ International Street Law projects need to have an understanding of QWE, as QWE can be claimed in jurisdictions outside England and Wales.²¹ Again, if QWE can be claimed it has to be confirmed irrespective of geographical location of where the work was undertaken and this *could* have an impact on international law schools.

¹⁴Grimes and others (n 2) 228.

¹⁵Solicitors Regulation Authority, “Statement of Solicitor Competence” (Solicitors Regulation Authority, August 2022) <www.sra.org.uk/solicitors/resources/continuing-competence/cpd/competence-statement/> accessed 25 September 2022.

¹⁶Solicitors Regulation Authority (n 10).

¹⁷Grimes (n 3) vii.

¹⁸Lucy Blackburn, “Qualifying Work Experience Guidance for University Law Clinics” (2022) 29(1) *International Journal of Clinical Legal Education* 81, 85.

¹⁹Competencies A5 and C1 within the Statement of Solicitor Competence. Solicitors Regulation Authority (n 15).

²⁰Even then this would be subject to the application of a full-time equivalency, as students will not have spent the entire four-week period delivering the project.

²¹For example a dual qualified lawyer, or a solicitor who qualified in England and Wales but works in a separate jurisdiction. There is no need for the solicitor to hold a current practising certificate issued by the SRA.

Street Law examples

In an effort to assist law schools to decide whether their Street Law projects can award QWE, three examples will be given of Street Law activities, which occupy different parts of the QWE sliding scale.

Example 1.

Students design and deliver Street Law sessions to groups of classes in local secondary schools. The sessions aim to educate young people on the law and issues surrounding the sharing of intimate images. Each workshop is specifically designed for the needs of the school or organisation and tailored to adapt for different sized groups of young people (eg assemblies, classes, small target groups).

The aims of this project are to educate and raise awareness rather than to provide legal advice or assistance. The lessons are tailored for individual sessions but this is unlikely to affect the educational aspect of the project. The rationale and recipients of the sessions should also be queried. Has a direct request to deliver the sessions been made of the students? The answer would appear to be no; they are delivering the sessions to more than one secondary school on a rather broad public information topic. This example is legal awareness raising and is unlikely to be QWE.

Example 2

Students deliver the same Street Law sessions each fortnight to litigants in person who are pursuing claims in the Employment Tribunal. The presentations provide an overview of steps in the Tribunal process (disclosure, drafting witness statements, etc) and the format of the Final Hearing.

Even though students are engaged in repetitive delivery of the same session, it is still likely that there is an opportunity to develop two or more of the competencies. The scenario is similar to Support through Court projects which provide free, independent assistance to people facing legal proceedings without legal representation.²² The work of this Street Law project is capable of being classed as both assistance and information, allowing for QWE to be claimed.

Example 3.

Students design and deliver Street Law sessions to young people at a local youth club on legal issues that the youth leaders have identified as being relevant to their participants: police stop and search powers, lawful protest, cyberbullying, etc.

In this example, the age of the recipient is relevant. The young age of those involved in the youth club would align with awareness raising rather than the provision of legal advice or assistance. Even though the subject of the sessions has been identified as relevant by the youth leaders, this still would not amount to assistance or advice. However, if an organisation as a charity or local community group approached a law school with a specific request for bespoke Street Law sessions that could only be run for

²²Support through Court (n 13).

their members, this *could* amount to assistance. The difference in the latter example is the identifiable recipient, the direct approach and the specific content of the sessions.

Conclusion

There is no definite answer that can be provided in this article about whether Street Law amounts to a “legal service” for the purposes of QWE. Street Law projects need to be examined on a case-by-case basis. There are many factors that project leaders will need to consider, such as the level of awareness, advice or assistance provided; the identity of the recipients and whether the project has been specifically requested/designed for those particular recipients.²³ What should not be forgotten in the discussion about Street Law and QWE is the value and benefit of the Street Law method. Street Law provides students with the opportunity to “apply knowledge, develop skills and begin to grasp what it means to behave professionally” and provides the community with “a valuable addition to existing legal services and a flexible appropriate tool through which wider social justice can be addressed”.²⁴

Whilst the ability to accrue QWE is an attractive prospect for students, the motivation for participation in Street Law should always be providing a service to the local community and where sought, the inherent personal and skills development opportunities that it can provide participating students with. Whether or not the project provides a “legal service” for the purpose of QWE should not be a deciding factor for students’ participation.

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Disclosure statement

No potential conflict of interest was reported by the author.

²³Street Law project leaders may want to consult their university’s insurance provider if they conclude advice/assistance is being provided.

²⁴Grimes and others (n 2) 238.