

<b>To:</b>	Board
<b>Date of Meeting:</b>	30 September 2010
<b>Item:</b>	Paper (10) 61

<b>Title:</b>	The future of education and training for the legal workforce
<b>Workstream(s):</b>	2F – Developing a workforce for a changing market
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<b>Status:</b>	Protect

<b>Summary:</b>
<p>This paper sets out a number of issues with the current education and training requirements for the legal workforce. It proposes that an independent review should be commissioned, jointly with approved regulators (<b>AR</b>) and possibly other partners, to make proposals about changes to the existing framework. This will ensure that the framework remains relevant in the rapidly changing legal services market. It is proposed that the Chairman announces the intention to commission a review in the 2010 Lord Upjohn lecture which he will deliver to the Association of Law Teachers on 19 November 2010.</p>

<b>Risks and mitigations</b>	
<b>Financial:</b>	Funding for a review would need to be identified with ARs
<b>FoIA:</b>	Paragraphs 38-43 – exempt under s36 ('free and frank exchange of views')
<b>Legal:</b>	N/A.
<b>Reputational:</b>	There is a risk that the proposals set out in this paper are seen as too ambitious within the timescales and divert LSB and ARs from the core programme of delivering alternative business structures ( <b>ABS</b> ) and outcomes-focused regulation. On the other hand, there is an opportunity to demonstrate our strategic value in 'joining up' thinking across ARs.
<b>Resource:</b>	LSB would need to provide staff resources and funding to support a review.

Consultation	Yes	No	Who / why?
<b>Board Members:</b>	✓		Andrew Whittaker and David Wolfe.
<b>Consumer Panel:</b>	✓		Initial discussion with Steve Brooker; Panel to provide input as detailed proposal is developed.
<b>Others:</b>	N/A.		

**Recommendation(s):**

The Board is invited:

- (1) to endorse the principle of an independent review of education and training;  
and
- (2) to agree that the Executive should develop a fuller proposal, in consultation with Approved Regulators and wider stakeholders, to be presented for agreement to the Board on 30 November 2010.

## LEGAL SERVICES BOARD

<b>To:</b>	Board		
<b>Date of Meeting:</b>	30 September 2010	<b>Item:</b>	Paper (10) 61

### The future of education and training for the legal workforce

#### Recommendation(s)

1. The Board is invited:
  - (1) to endorse the principle of an independent review of education and training; and
  - (2) to agree that the Executive should develop a fuller proposal, in consultation with Approved Regulators and wider stakeholders, to be presented for agreement to the Board on 30 November 2010.

#### Background

2. This paper considers a number of issues with the current regulatory arrangements in relation to education and training (for authorised persons (**AP**) and the wider workforce) and the action required to address them. It proposes a fundamental and independent review of the existing framework. In particular, it highlights the need to:
  - align education and training requirements more closely to the standards of competence required to carry on particular activities at the appropriate level in a given area of law
  - maintain the integrity of the current general professional qualifications and professional titles, recognising the contribution they make to reinforcing cultural norms in relation to professional ethics
  - ensure that the statutory equality duties under the Equality Act 2010 are considered and addressed, for example through flexible pathways to qualification to open up opportunities for the widest pool of talent
  - ensure that unnecessary barriers to entry are removed (including the need to review whether the vocational stage of training (Legal Practice Course (**LPC**) / Bar Vocational Course (**BVC**)) remains fit-for-purpose
  - ensure that the wider legal workforce, including paralegals, has an appropriate level of competence to ensure consumers receive an adequate level of service.

#### Introduction

3. The Board has a specific duty under the Legal Services Act 2007 (“**the Act**”) to “assist in the maintenance and development of standards...in relation to the education and training of [APs]”<sup>1</sup>. In addition, an effective education and training framework for the whole legal workforce (not just APs) is required to support the regulatory objectives, particularly:

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<sup>1</sup> Section 4.

- RO4: protecting and promoting the interest of consumers
  - RO6: encouraging an independent, strong, diverse and effective legal profession
  - RO8: promoting and maintaining adherence to the professional principles.
4. There is a growing awareness (reflected in discussions with legal educators, ARs, firms and others) that the existing structures for legal education and training are outmoded and have failed to keep pace with a changing market – both in terms of their relevance to modern practice and coverage of the legal workforce. The legal services sector is changing rapidly, and ABS will be an additional catalyst for the development of new business models. Increasingly, different legal professionals are likely to work together within the same entity and the traditional distinctions between the branches of the profession, based on qualification routes, are likely to become increasingly blurred. Education and training requirements for the whole legal workforce need to change to reflect these new realities.
  5. We have identified the following particular issues with the current framework, which underline the need to re-evaluate the existing arrangements:
    - whether existing regulatory requirements (particularly, but not exclusively, post-initial qualification) are adequate to ensure lawyers have sufficient skills and technical competence to advise consumers
    - the mismatch between the numbers of students completing the vocational stage of training (LPC/BVC) and the number of training contracts / pupillages available, perceived as pressing not least because of the cost of that training
    - a concern that paralegals are increasingly providing services to consumers (with or without supervision from a qualified lawyer) with no regulatory requirements in terms of individual competency standards or training.

These issues are explored in more depth below.

6. In the future, regulation needs to place a greater emphasis on the competence of individuals within the legal workforce as a whole to carry on a particular activity, alongside the regulation of those holding (generalist) professional titles and the entities which provide legal services. There might be a number of different ways for individuals to demonstrate that they meet the appropriate standard of competence in relation to an activity – through formal qualifications or through experience. Greater flexibility in education and training will help open up the legal workforce to the widest pool of talent.
7. This is not about ‘fusing’ the profession or discarding existing approaches if they are still effective – it is about building on them to ensure the framework for education and training remains relevant and fit-for-purpose. The challenge will be to achieve this without undermining the value of the general professional qualifications and their credibility with consumers. The value of the professional qualification is greater than simply the training it provides in core skills and areas of legal knowledge. The admission of qualified lawyers to a professional title binds each branch of the profession together with a collective identity, and accords lawyers status and prestige. This sense of belonging to an elite profession arguably encourages lawyers to conform to the professional principles

and cultural norms of the profession in terms of professional ethics. The key is to isolate what it is about the initial training / qualification that produces this collective identity – for example, it is unlikely that requiring aspiring corporate lawyers to study conveyancing is essential to building this sense of shared professional obligations. It is also important to consider whether professionalism for lawyers is different in kind from professionalism in other disciplines – for example accountancy – and therefore the additional training that an accountant, for example, would require if they wished to carry on reserved probate activity.

8. There are three core characteristics of being a lawyer that are recognised internationally: ethics, independence and duty to the court. It is important that any changes to the general professional qualification do not undermine coverage of these core elements, or erode the international reputation and recognition of the England and Wales qualification in an increasingly global market (including mutual recognition within the EU).
9. A new education and training framework therefore needs to achieve the right balance between, on the one hand, a broad based qualification as an entry route to the profession; and on the other hand, appropriate specialist training and experience to ensure sufficient competence in the relevant areas of law. It also needs to address the appropriate balance between the responsibility of an individual to keep his/her skills and knowledge up to date and the responsibility of an employing entity to ensure that systems exist to do this for their entire workforce – and, flowing from that, to give a sense of where regulators should best address their monitoring and enforcement activity in this area. Significant further work will be required to determine the most appropriate way forward and it is recommended that an Independent Review of Education and Training is commissioned jointly with ARs for this purpose.
10. A review would build on the work that has already been done or is underway or planned by ARs. The purpose of a fundamental review is to look strategically at the whole framework for education and training rather than rely on piecemeal, incremental developments in the different branches of the profession. The review will also need to take account of the work we are doing on the boundary between reserved and unreserved activities and issues about the existing nature of regulation that could result. Importantly, it will also need to take account of broader developments in the world of Higher Education, notably the Browne Review of university funding and the Government's response to it and the Universities Minister's (the Rt Hon David Willetts MP (Department for Business, Innovation and Skills ) interest in non-graduate entry routes to professions.
11. An independent reviewer will be best placed to carry out a review which carries the confidence of educational institutions, regulators and the profession itself. It would also enable us to bring in capability and experience in the education sector that we and the ARs do not have in-house. It is envisaged that such a review would make recommendations that the ARs would then need to consider before making (and consulting on) proposals for change.

### **Objectives of education and training**

12. Any consideration of how legal education and training requirements should evolve to meet the changing needs of the market must begin with a clear idea of what the requirements are intended to achieve. At a high level, it is suggested

that the objectives of regulatory requirements in relation to education and training should be to:

- produce a legal workforce that has the appropriate level of:
  - a) technical knowledge and competence
  - b) practical skills and competenceto provide a good service to consumers in the relevant area(s) of work
- engender a culture that supports the regulatory objectives in general, and in particular promotes and upholds the professional principles
- provide flexibility in access to the legal workforce and modes of learning, ensuring restrictions and barriers to entry are proportionate and objectively justified in the public interest
- ensure access to the profession is fair and open to the widest pool of talent, regardless of background.

13. The objective of the education and training framework should not be to professionalise the whole workforce by introducing new mandatory requirements for examinations and academic qualifications. Such an approach would be likely to increase barriers to entry, restrict competition, reduce the flexibility of the workforce and gold-plate the service provided. Therefore it would be likely to increase costs for consumers.

14. Instead, the approach should be to define the competencies required to perform different activities in different areas of law and then consider appropriate ways for individuals to demonstrate these competencies at different levels (both pre- and post-professional qualification). Alongside this, the structure and content of the broad-based general professional qualification (linked to the award of professional titles) should be re-evaluated to ensure that it remains fit for purpose. Any changes should enable the collective identity of the branches of the profession to be maintained, as these are strong brands for consumers and can help reinforce obligations in terms of profession ethics. Demonstrating competence to carry on a particular activity could be achieved through formal training and assessment, but the relevant level of competence might also be demonstrated through experience or on-the-job training. For some activities and/or some areas of law, the general professional qualification need not be a pre-requisite for specialist accreditation – paralegals should therefore be able to demonstrate their competence through formal mechanisms which build on those already provided by Institute of Legal Executives (**ILEX**) and other providers.

### **Initial qualification to the professional title**

15. A qualification route map reflecting the existing arrangements for each category of AP is attached at **Annex A**.

16. The current arrangements for training solicitors and barristers are based on a generalist qualification consisting of three elements:

- i. the academic stage (qualifying law degree)
- ii. the vocational stage (LPC or BVC)

- iii. on-the-job training (training contract or pupillage), supplemented by additional classroom-based training for solicitors (Professional Skills course).
17. At each stage there is a requirement for students to obtain a breadth of legal knowledge and skills. At the academic stage, it is compulsory for students to cover the seven foundations of legal knowledge (contract, tort, criminal law, equity and trusts, EU law, property law and public law). At the vocational stage, the LPC includes compulsory study of business law and practice, property law and practice, civil and criminal litigation, taxation, and wills and the administration of estates. During a training contract, solicitors must gain practical experience in at least three distinct areas of English law and have opportunities to develop their skills in contentious and non-contentious work.
18. The generalist approach for the training of solicitors grew up in part to equip solicitors for articles (training contracts) in small high street firms, which were once the prevalent form of practice. A high street solicitor offering a full service across the whole range of legal services needed a breadth of knowledge of the law. The training also broadly reflects the range of reserved legal activities which a solicitor is entitled to carry out on qualification. However, this no longer reflects the realities of modern practice, which is characterised by increased specialisation and a plurality of business models – from large corporate firms with 400+ partners to small specialist ‘boutique’ practices and virtual law firms. Some law firms do exclusively transactional work and carry out almost no reserved legal activities, and it is much less common for practising solicitors do ‘a bit of everything’ in the way that traditional high street solicitors did in the past – even in small firms, individual partners and solicitors tend to specialise in a few areas of law. The result is that for most lawyers some elements of the training are not relevant – for example, company law in the LPC where an intending solicitor wishes to pursue a career in a personal injury firm – as the compulsory elements are so broad. The corollary is that the depth of knowledge provided is arguably insufficient to prepare the student for practice in a particular area of law.
19. The undergraduate law degree serves as an academic qualification for a wide range of students, some of whom do not aspire to qualify as solicitors or barristers (although the fact that the number who plan a legal career falls significantly in the course of undergraduate study is, of itself, perhaps worthy of attention). However, the balance in the undergraduate curriculum between academic study and the development of practical skills should be considered as part of the review. In addition, it should take account of the fact that elements of the legal education framework are used in other sectors – for example, training for company secretaries or accountants – and qualifications may be obtained as a ‘quality badge’ even where there is no regulatory requirement (for example, where an individual wishes to carry on only non-reserved legal activities).
20. There have been a number of changes to aspects of the education and training arrangements in recent years, which have increased flexibility to some extent. For example the work-based learning pilot (effectively a new approach to the training contract), and the development of different LPC routes (corporate / firm specific, commercial and private, legal aid) which teach the compulsory subjects in different contexts. Some firm-specific LPCs are now ‘fast track’, completed in seven months – but this option is not available to those without a training contract with a top firm. Part-time LPC study options over two years (weekday, evening or

weekend) are now widely available. In addition, full qualification integrated programmes have been developed covering all stages of training in one five year course. The ILEX route to qualification as a Fellow and subsequent qualification as a solicitor is also well established and offers flexible on-the-job training.

21. However, the 'traditional' route remains at the core of initial qualification and a fundamental re-evaluation of this framework is required to consider whether it is still fit-for-purpose and the regulatory requirements proportionate (for example, in relation to mandatory education about state systems and processes such as court rules and land registration). The suitability of alternative approaches needs careful consideration, with a view to developing a more modular approach. Possibilities include:

- developing an accountancy-style training model of day-release for study while in employment (as an alternative to, or replacement for, the LPC and training contract)
- separating entitlement to carry on the whole range of reserved legal activities from qualification as a solicitor or barrister (with additional study and assessment required to gain some or all of these entitlements if required)
- enabling more tailored specialist LPCs to be offered by removing requirement for such a broad range of compulsory elements.

22. While the discussion above focuses on solicitors, similar issues exist in other parts of the profession and there is also potential to open up new and more flexible routes of qualification in relation to the other branches. Consideration should be given to the specific requirements of the more specialised categories of AP (such as notaries) and the extent to which these specialist qualifications should be 'anchored' to a general professional qualification (since many but not all notaries are also solicitors).

23. In addition, there is the potential to develop common training approaches for lawyers training to perform a particular activity, regardless of their regulator / professional title. In this vein, Baroness Deech (Chair, Bar Standards Board (BSB)) has called for the entirety of professional legal education to be revisited. She has proposed that the LPC and Bar Professional Training Course could be merged into a common post-graduate diploma or Masters degree. This would allow aspiring lawyers to specialise later, having experienced different areas of practice, and allow greater flexibility.

24. As well as being internationally recognised, qualifications also need as far as possible to be 'portable' between ARs. So, for example, if an ABS wished to change licensing authorities, the qualifications of their individual employees would still be recognised. The impact on the Qualified Lawyers Transfer Scheme would also need to be considered.

### **Specialist training requirements**

25. Despite the increased specialisation within the profession, there are few compulsory training requirements on lawyers beyond initial qualification. There are continuing professional development requirements which can be fulfilled through attendance at a wide range of events, which need not be related to the



lawyer's practice area. Beyond initial qualification, there is a mandatory requirement on solicitors to complete a seven hour course known as "Management Stage 1" within three years; and a requirement on barristers to complete a "New Practitioners Programme" involving further advocacy training. Beyond that, no further assessment is required, unless a solicitor wishes to obtain Higher Rights of Audience. To a large extent, lawyers are trusted to fulfil their professional obligation not to act outside their competence. There is a range of voluntary quality marks and accreditation schemes available, which involve varying entry requirements from simply paying a fee to undertaking additional assessment.

26. It is not clear that this approach provides adequate safeguards for consumers in terms of competence – for example, concerns in relation to advocacy have led to the development of Quality Assurance for Advocates (**QAA**). Greater emphasis on post-qualification training is also likely to foster a culture of continuous improvement.
27. A fundamental review of education and training requirements should therefore examine the extent to which compulsory training and further assessment / revalidation related to area of practice is required beyond the initial qualification. It should also consider how a more integrated approach to training could work with emerging quality assurance mechanisms such as QAA to ensure that relevant training is available at the appropriate stages of a lawyer's career. In addition, consideration is needed about whether this specialist accreditation should be renewed periodically (as the Legal Services Consumer Panel ("**the Panel**") has advocated). The advice we have requested from the Panel on consumer perceptions and expectations of quality in legal services (including consumer research) will inform this analysis. The development of specialist qualification routes could provide an alternative to the traditional law degree-LPC-training contract route, and pathways could be established beyond qualification to develop advanced skills and gain enhanced accreditation in a given specialism.
28. In addition, consideration is needed about appropriate training and competence standards for managers of law firms – for example, whether the Head of Legal Practice in an ABS should be required to demonstrate their competence in practice management. This may link, among other things, to the obligations on directors under the Companies Act 2006.

## **Paralegals**

29. Another development in recent years is the increasing number of non-solicitors / barristers / other categories of "AP" working in the legal services sector. A proportion of these take ILEX qualifications and may qualify as Fellows or solicitors through this route. However, those who do not pursue the ILEX route perform a wide variety of roles and have a range of qualifications and experience (from GCSEs to law degrees and no experience to 20 years or more). This trend of using non-lawyers is likely to increase as different delivery models are developed and legal services are increasingly commoditised.
30. ARs regulate approximately 141,000 APs between them (some of whom will be the same individuals who are dual authorised – for example, as a solicitor and a notary). However, the Labour Force Survey carried out by the Office for National Statistics suggests that 331,000 work in the legal activities sector, suggesting that

there might be as many as nearly 200,000 'paralegals'. While those working for APs are captured by regulation and there are supervision requirements, some other paralegals will be carrying out non-reserved activities without supervision from an AP. There is a potential risk to consumers that there are no defined competency standards or formal training requirements for such a large proportion of the legal workforce.

31. A fundamental review should therefore address the extent to which competency standards and training requirements should be developed for paralegals beyond those which are already available via ILEX and other organisations. Skills for Justice is currently in the process of defining a national framework of competence standards for paralegals and the review should consider the extent to which regulatory requirements should be modified to require regulated entities to ensure their employees meet the relevant competency standards. The Law Society has also commissioned Nick Smedley to produce a report on whether it should develop paralegal qualifications.

### **Fair access**

32. The review should be underpinned by a consideration of the new statutory equality duties imposed by the Equality Act 2010, and how these can be addressed through changes to the education and training framework across the whole range of protected characteristics: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Some of the issues are likely to be structural and others cultural – but both could be addressed through a different approach to general and specialist training.
33. On the face of it, there is an over-supply of aspiring lawyers at the point of leaving formal training – significantly more students complete the LPC/BVC than are able to obtain a training contract / pupillage<sup>2</sup>. This has led the BSB to pilot an aptitude test to be taken as a condition of entry to the BVC, and The Law Society is considering calling for a similar test for aspiring solicitors. The Law Society and The Bar Council have also issued communications to manage the expectations of those applying for the LPC/BVC about the competitiveness of the profession. Restricting the supply of LPC places would be disproportionate, distort competition and deny access to education. (Just as such an approach at earlier stages of education (undergraduate degree or A-level) based on the availability of employment would clearly be seen as unjustifiable.) Interestingly, however, the new Government seems interested in aptitude testing as a way of broadening the base of entry to the professions, on the argument that aptitude testing is more likely to level the playing field at the point of entry between a disadvantaged but high potential candidate and those emerging from more traditional routes. A rounded view of the subject is clearly needed.
34. Despite this apparent over-supply, the existing education and training framework arguably imposes unnecessary barriers to entry to the legal profession. In particular, the expense of the vocational stage of training (approximately £10,000), and the scarcity of training contracts outside large corporate firms, raises questions about the extent to which the legal profession is open to the widest pool of talent. For example, there are real barriers for those from lower

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<sup>2</sup> According to Law Society statistics, in 2008/09 there were 13,955 LPC places available, but only 5,809 new traineeships registered.

socio-economic backgrounds who cannot necessarily afford to study and train full time; and those with caring responsibilities. The training contract / pupillage stage is also relatively fragmented and the content varies significantly by firm / chambers – it is not clear that there is sufficient benchmarking of standards.

35. The existing requirements are also relatively rigid with limited pathways into qualified lawyer roles. Greater flexibility in pathways to a legal career is likely to maximise the opportunities for a wider pool of talent to enter the legal workforce and, crucially, progress within it.
36. More formal structures for specialist training and accreditation could also help increase diversity by introducing an objective assessment of competence. This should create a more 'level playing field' when it comes to progression – it would enable individual practitioners to prove their competence at a particular level, regardless of their background.

### Relevant research

37. There are a number of academics active in the field of legal education, and some relevant research has already been carried out about some of the issues identified above. In particular, Professor Stephen Mayson (Legal Services Policy Institute) has published on the reform of the LPC<sup>3</sup> and Professor Richard Moorhead (Cardiff Law School) has written about the tension between specialisation and the general professional qualification<sup>4</sup>. We are currently seeking to collaborate on a PhD research project and bid for Arts and Humanities Research Council (**AHRC**) funding – if this is successful, the PhD student could carry out further original research to feed into the review.

### Proposal

38. The nature of the challenges outlined above is such that incremental change to existing structures is unlikely to produce a framework that meets the objectives outlined in paragraph 12. Rather, it is necessary to take a fundamental look at how the objectives are best achieved.
39. We propose that a senior figure is selected to head an independent review of education and training – both at entry level and post-qualification, and encompassing both APs and 'paralegals'. The individual would need substantial experience and credibility in the education and skills sector (perhaps a retired Vice-Chancellor), as well as experience of the legal sector to ensure the credibility of the review within the profession. An initial draft Terms of Reference for the review is attached at **Annex B**.
40. The review was not included in our 2010/11 Business Plan, and will have a resource impact which will need to be absorbed. If the Board agrees in principle that we should commission an independent review, the Executive will work through in detail what the implications would be in terms of resources and timetable, and Senior Management Team (**SMT**) will consider prioritisation within

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<sup>3</sup> <http://www.college-of-law.co.uk/About-the-College/Institute-Papers-PDFs/Training-20for-20the-20Future-20230909-1-/>

<sup>4</sup> <http://www.law.cardiff.ac.uk/researchpapers/papers/5.pdf>

the context of the wider work programme. The review is complex and will involve extensive research, analysis and stakeholder engagement. It is therefore likely to take 9-12 months to complete. Our initial view is that the reviewer should be supported by a small team, whose role would be to carry out research, engage stakeholders and draft the report. LSB would probably need to loan one member of staff to the team, and ARs would be asked to provide (and fund) the other three staff.

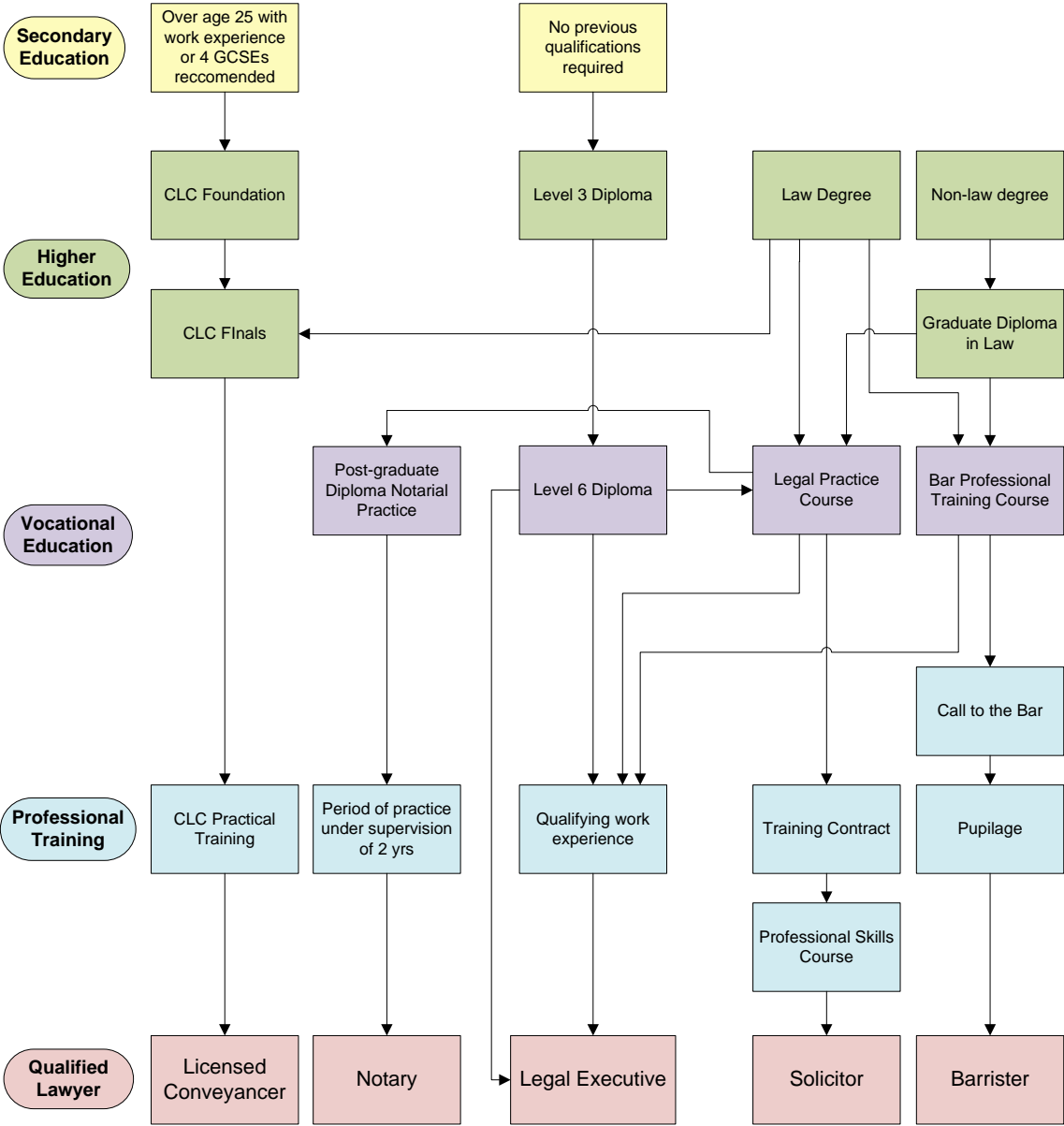
41. The fee for the reviewer might be in the region of £50,000 (approx. five days per month over 10 months, at £1,000 per day), and taking into account research costs, the costs of stakeholder events and website/printing/production costs, the overall costs might be £100,000. Given the current spending controls, it is likely that Ministry of Justice agreement would be required and the business case will need to be worked through in greater detail.
42. In relation to timetable, we consider that commissioning the review is urgent for the reasons outlined above about the current framework. We propose that the reviewer is appointed to begin work in January 2011, and requested to report in autumn 2011. This timescale will enable ARs to take account of the emerging picture in relation to ABS in formulating firm proposals for consultation in spring 2012. It is likely to take 3-5 years from commissioning the view to reaching a stage where fundamental changes are implemented. Delaying the review would delay the implementation of changes, compromising the regulatory objectives (particularly in terms of the consumer interest and encouraging an independent, strong, diverse and effective profession). An independent review with a dedicated team would minimise the resource impact on ARs at a time when they are already fully committed on implementing ABS and outcomes-focused regulation.

### **Next steps**

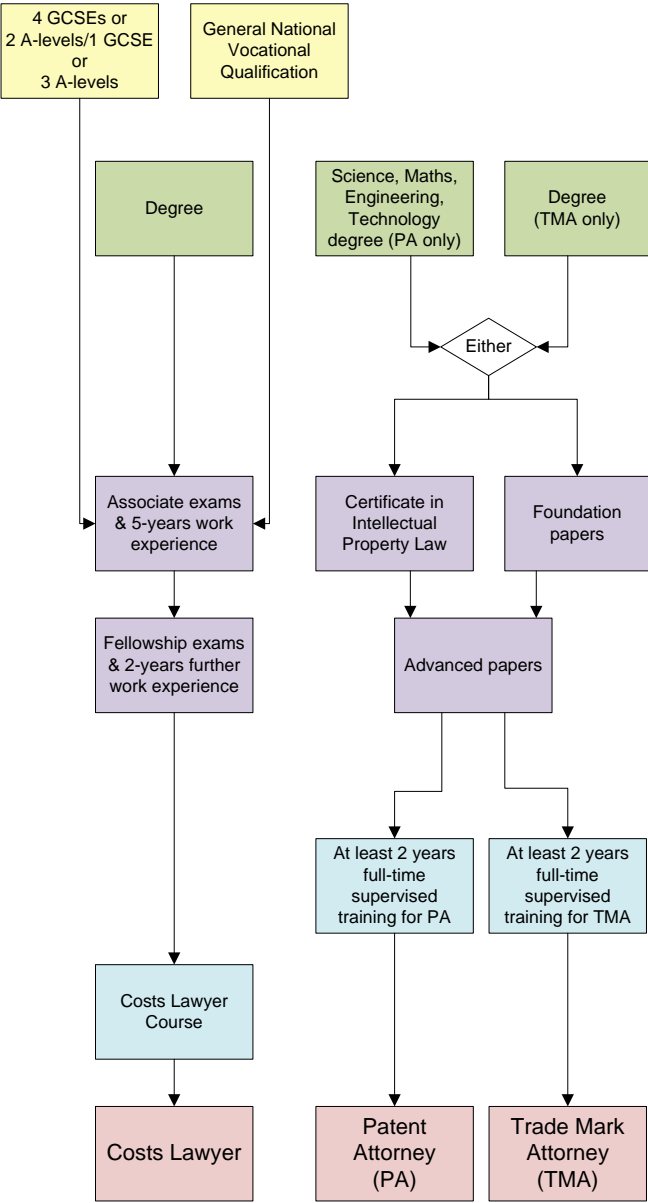
43. The Board is invited to endorse the principle of an independent review. The Executive will then develop a fuller proposal, in consultation with ARs and wider stakeholders, to be presented for agreement to the Board on 30 November 2010. This proposal will consider the resource impact of servicing the review and give the SMT's assessment of achievability in the context of the wider programme. Preliminary discussions with Solicitors Regulation Authority (**SRA**), BSB and The Bar Council suggest that they are likely to be supportive of a review, although we have not yet broached the issue of resources.
44. There are several opportunities over the coming weeks to expose our thinking to stakeholders. On 15-16 October, the Chief Executive is addressing a conference at Harvard Law School, entitled "FutureEd2: Making Global Lawyers for the Twenty-First Century". This will be a good opportunity to set out some of the challenges (with the speech published on our website). The Chairman is delivering the 2010 Lord Upjohn lecture to the Association of Law Teachers on 19 November. This would provide an excellent opportunity to announce our intention to commission a review and set out the likely terms of reference.
45. In the meantime, the Chairman and Executive will discuss the proposal informally with legal educators, ARs, professional bodies and potential candidates for heading the review.

21.09.10

# EXISTING QUALIFICATION ROUTES



# ANNEX A



### **Initial draft Terms of Reference for an independent review of education and training for the legal workforce**

The legal services sector is changing rapidly, and the framework for legal education and training needs to keep pace with this changing market – both in terms of its relevance to modern practice and business models; and coverage of the legal workforce beyond regulated practitioners. The following issues underline the importance of re-evaluating the existing framework:

- whether existing regulatory requirements (particularly post –initial qualification) are adequate to ensure lawyers have sufficient skills and technical competence to advise consumers;
- the mismatch between the numbers of students completing the vocational stage of training (LPC/BVC) and the number of training contracts/pupillages available
- a concern that paralegals are increasingly providing services to consumers (with or without supervision from a qualified lawyer) with no regulatory requirements in terms of competency standards or training.

The overall objectives of the education and training framework for the legal workforce are to:

- Produce a legal workforce that has the appropriate level of:
  - technical knowledge and competence; and
  - practical skills and competence
  - to provide a good service to consumers in the relevant area(s) of work;
- Engender a culture that supports the regulatory objectives in general, and in particular promotes and upholds the professional principles;
- Provide flexibility in access to the legal workforce and modes of learning, ensuring restrictions and barriers to entry are proportionate and objectively justified in the public interest;
- Ensure access to the profession is fair and open to the widest pool of talent regardless of background.

**Having regard to these objectives, the terms of reference for the review are:**

#### **To examine:**

- the effectiveness of current arrangements for the education and training of Legal Practitioners encompassing the diversity of work roles in legal practice at entry and specialist levels
- factors in the labour market that affect the employment of Legal Practitioners and issues of public protection
- the key factors governing the demand for, and supply of Legal Practitioner education and training.

**To make recommendations on:**

- models of Legal Practitioner education and training to meet the emerging labour force, including practical training, processes for articulation between different levels of competency and professional expertise and re-entry into the workforce
- the types of skills and knowledge required to meet the changing needs of the labour force and models of service delivery
- mechanisms for both attracting new recruits to Legal Practice professions and roles from diverse social groups and including those from different age groups, gender, BME and encouraging the commitment to lifelong learning of those already engaged in the legal practice professions
- the role of regulation in devising, maintaining, policing and updating an enhanced framework.

**To consider the following wider issues from the perspective of both the Legal Services Industry and education:**

- the changing context of work/ client service need and the levers influencing these changes
- the links between all groups in the Legal Practice workforce (including those with no formal qualifications) in the provision of legal practice services.

**To have regard to:**

- regional needs and circumstances
- relevant international experience
- financing arrangements
- the work of current research projects and reviews.