

Education, training and activity based regulation

Crispin Passmore, Director of Strategy, LSB

So what is the relationship between the profession and regulation?



- Independent regulation has changed the traditional role of the profession
- Changing business structures are changing the mix of individuals carrying out legal services
- The profession retains a significant role in maintaining professional standards e.g. Quality schemes
- Regulators are ultimately responsible for meeting the Regulatory Objectives

Balancing consumer needs against the cost of regulation



- Regulatory objectives create significant responsibilities for regulators
- Consumers and wider public have clear expectations about legal services
= **More regulation**
- Desire to increase access to justice
- Need to be aware of Better Regulation Principles
= **Less regulation**

Regulation imposes cost – a diversion into economics



- Minimum education and training standards are a form of regulation
- As a form of regulation, minimum education and training standards impose a cost for those offering legal services
- This cost is passed on to consumers of legal services
- Increased cost makes legal advice unaffordable to some consumers

How do you best assess standards required?



Better regulation requires targeted interventions only



Identifying risk has a cost so some aggregation required



Most intrusive/costly regulation at most serious/likely problems

OXERA segmentation suggested targeting by customer/activity/type of work



Activity may be the best way to identify areas where regulation can have biggest impact



Activities?

- Key is to find ways to group risks that require similar regulatory interventions
- Legal activities offer clear groupings that allow regulators to simplify risk analysis
- Legal activity is defined in the Legal Services Act 2007
- Must ensure grouping by activities with similar risks
- Type of consumers will have a big impact on risk in practice

Activity based regulation

- Activity based educational standards have already arrived e.g. QASA
- Question is how far further differentiation is helpful between activities
- What happens when a single regulator regulates different types of professionals carrying out different activities?
- What are the right levels of skills for an activity?

Activity and quality

- Activity based regulation could improve focus of regulation on the quality of legal services e.g. Will-writing
- Quality is influenced by a range of factors including education and training
- Regulation of activities may require different balance of education and training and other regulatory interventions
- LSB illustrated alternative approaches to quality in recent consultation paper [http://www.legalservicesboard.org.uk/what we do/consultations/open/pdf/20120311 approaches to quality consultation.pdf](http://www.legalservicesboard.org.uk/what_we_do/consultations/open/pdf/20120311_approaches_to_quality_consultation.pdf)
- Quality itself should be fit for purpose – too much regulation of quality comes at the price of access

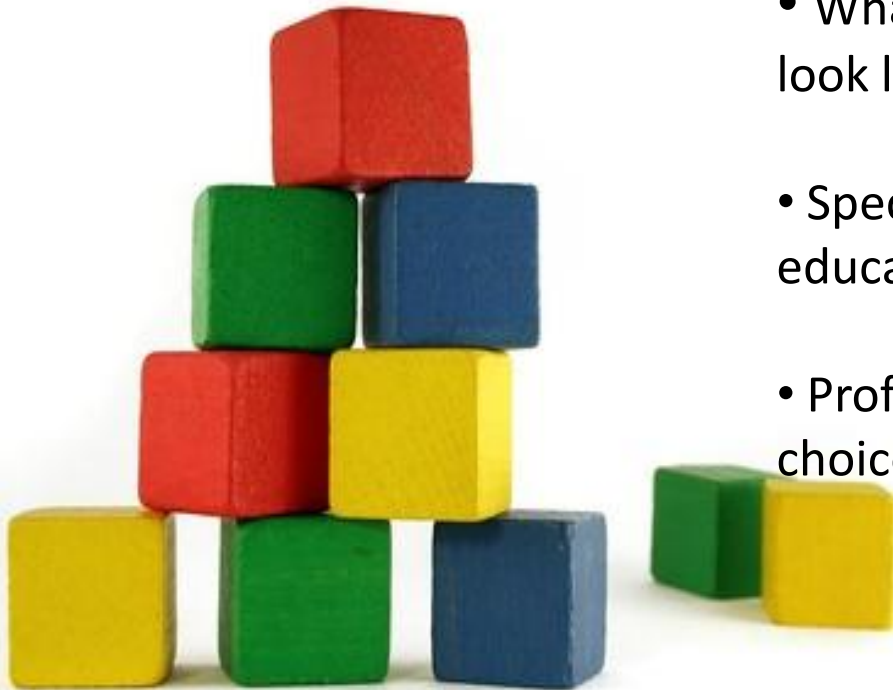
Changing firms require a flexible approach



- Law firms employ a wide range of individuals
- Law firms outsource work
- Consumers look for legal help online
- Legal tasks are disaggregated and carried out by different individuals
- Regulators may authorise a range of individuals from different professions

**How should education and training standards be set?
What will the relationship between professional titles and regulated activities?**

How will it work in practice?



- What will a general basic legal qualification look like
- Specific activities are likely to have specific education and training requirements
- Professional qualifications/titles may offer a choice of specific activities
- Regulators would look at the total package of education and training against the authorised activities

Crispin Passmore, Director of Strategy, LSB

Crispin.Passmore@legalservicesboard.org.uk

<http://www.legalservicesboard.org.uk>

Tel. 020 7271 0086