

Attn:- Neil Buckley
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Dear Neil

Response to Consultation – LSB Business Plan 2016/17

Thank you for the opportunity to participate in the consultation process regarding the LSB Business Plan 2016/17.

The CLSB acknowledges that the Business Plan is a continuation of previously announced strategy with a single approach to all sectors of the legal profession.

The CLSB has no major issues with the contents of the Business Plan but is, however, concerned at the absence of certain initiatives which, when suggested to your predecessor and Sir Michael at a meeting last year seemed to receive an enthusiastic reception and significant levels of support.

I am referring to the pressing need to focus LSB oversight resources on to areas of key risk within the legal professions and to deliver a significantly reduced burden upon those aspects of the legal profession where risk is minimal or non-existent. I believe I referred to it as “optimum and proportionate levels of oversight”

Sadly, the Business Plan perpetuates the ongoing “one size fits all” approach to regulation – a not entirely satisfactory approach for either the consumer or the legal professions. This suggests to the outside world that neither the individual regulators nor the LSB have the dexterity to deliver anything else. I believe this impression is unfair on all of us – including yourselves.

I suppose my blunt question is “Does the LSB have the will to move to this optimum and proportionate level of regulatory oversight?”

At the recent meeting between three of your colleagues and our CEO Lynn Plumbley following our self-assessment, there was little or no evidence of any move from the current rigid formula. Indeed, it was even suggested at one point that we should consider having a field based audit capability to carry out audit work on individual Costs Lawyers. At a conservative estimate, we would need to double our annual budget and the fee charged to individual Costs Lawyers to achieve this. This for a profession which has proven itself, on a percentage of regulated population basis, to be the lowest risk of all of the legal professions, having generated no professional conduct complaints to the CLSB and only three service complaints to the Legal Ombudsman since 31st October 2011.

I don't doubt for one moment that these suggestions are well intentioned but they pinpoint exactly the issue we have been trying to address – that a single approach to all regulators simply cannot succeed.

Furthermore, as you are aware, the title "Costs Lawyer" is not a protected title under the Legal Services Act. As a result, Costs Lawyers do not need to be regulated to practice. In the circumstances, it is critical that the burden and cost of regulation is both realistic and proportionate. The CLSB works hard to sell the benefits of being part of a regulated community but we should not underestimate the possibility of large numbers of Costs Lawyers "leaving the tent" if the cost or burden of regulation was to increase unreasonably.

I can only speak for the CLSB but I feel that two or three more years of the current approach is a pretty daunting prospect for the smaller low risk regulators.

At our meeting last year, we suggested the creation of a two-tier format for regulators arranged with those organisations who hold client funds being the subject of "Tier 1" oversight and all others being relieved of any demands and requirements which are either inappropriate given the level of risk within their specific aspect of legal services or are unreasonable given the limited number of individuals and firms under their control.

I would like to resume discussions regarding this proposal and would be grateful if you could suggest some dates in the near future when we could meet with yourself and Sir Michael.

I look forward to hearing from you in due course.

A handwritten signature in black ink, appearing to be 'Steve Winfield', written in a cursive style with a large loop at the end.

Chair CLSB