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Neil Buckley
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Dear Neil

Response to LSB Draft Business Plan 2016

I write to comment on the LSB's Draft Business Plan 2016, which was sent to us on 25 January 2016.

The CLC has just published its own Business Plan 2016. At it explains, we are committed to carrying out major strands of work on our financial protection and regulatory arrangements, the latter to ensure that our rule book is keeping pace with changes in the market place and consumer expectation. We will be using the opportunity not simply to look for ways to reduce the burden of regulation but also to do more to support innovation and competition in the delivery of legal services. We shall implement reform in the provision of education leading to qualification as a CLC Lawyer.

We are increasing engagement with stakeholders, continuing to deepen our understanding of the market place and risks in relation to the delivery of legal services, and making the CLC as open and transparent as possible to foster better understanding of our work and approach.

Turning to the LSB's Business Plan, we believe that there are important issues which are well overdue for detailed scrutiny, particularly the scope of legal services which should be regulated and/or reserved. It is also increasingly clear that it is not possible to carry out a meaningful review of the costs of regulation unless and until a decision has been made as to what activities should be regulated and what should be the appropriate level of oversight and scrutiny by regulators of those providing legal services.

In his foreword, Sir Michael highlights the CMA's Market Study and the Government's forthcoming consultation on removing barriers to entry for ABSs in legal services and on making legal services regulators independent from their representative bodies.

The Government is also committed to a review of the Legal Services Act 2007 by the end of this Parliament. We hope that the collective outcome from these reviews will be a fundamental review of the scope of regulated legal services and of their regulation to further the regulatory objectives.

I also hope that CMA market study will help the Legal Services Board will address issues around competition and market access arising from quasi-regulatory activity that takes place outside its direct area of oversight. We have raised these often with the Legal Services Board and urge you to engage with the relevant players to ensure that there are no disproportionate burdens or obstacles for legal service providers and as little duplication of overlap of regulation as can be achieved.

To answer the specific questions raised in the Consultation:

1. We consider that the relationship between regulators and their representative bodies should now be finally determined whether by LSB or by Government. Since the LSB decided not to lead on review of financial protection arrangements¹, the CLC is taking its own initiatives, as had been discussed at the CEO Regulators Forum. We believe that the LSB should concentrate its resources on the review of legal services regulation, rather than on the performance of legal regulators and of the costs of regulation. It seems to us that an investigation at this stage by the LSB into unregulated legal services with the aim of deciding whether to assist in the development of voluntary arrangements is at best likely to be of limited value and potentially a duplication, as we understand the CMA Market Study will also be looking at the lines of reservation/regulation of services. Of much more direct importance is to ensure that the Legal Ombudsman makes an early application to become an ADR entity. We believe that the LSB has an important role to play in this area, to bring life to the intentions of the ADR provisions including considering whether and what it wishes to mandate for the sector as a whole.
2. We welcome the research programme that the Legal Services Board has set out. The projects cover some areas of priority for the CLC. Given the resource demands of carrying out detailed research of the kind that is proposed, we believe that this is a core role for the LSB. We urge the LSB to work closely with the front line regulators to define that research so that we can ensure its findings will be of immediate practical benefit in the delivery of regulation. Close cooperation in this area will not damage the LSB's objectivity of independence of oversight of the front line regulators and will ensure that the maximum benefit is derived from research.

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http://www.legalservicesboard.org.uk/news_publications/LSB_news/PDF/2013/20131023_Financial_Protection_Arrangements_LSB_Response_To_Consumer_Panel_Advice.pdf

3. We would be interested in understanding more about the scope of the advice the LSCP is being asked to provide on information remedies before we are in a position to comment further. This is an area that is full of complexities and one in which there has been a notable lack of willingness to engage constructively with the front line regulators to work towards an effective solution or menu of options.
4. Any steps taken by the LSB to reduce its costs are welcome. The CLC itself is undertaking a review of its own fees and costs in 2016.

I would, of course, be happy to discuss any of this further.

Yours sincerely



Sheila Kumar
Chief Executive