

4 November 2013

Consultations
Legal Services Board
7th floor, Victoria House
Southampton Row
London WC1B 4AD

Consultation: Increasing flexibility in legal education & training

Dear Sirs,

We write further to the above consultation paper (undated).

Question 1

Do you agree these outcomes are the right ones?

- Outcome (i) refers to the point of authorisation yet outcome (iii) refers to entry, should (iii) not be authorisation?
- We are concerned "flexibility" under (ii) could result in differing standards from providers.
- We would be concerned if the expectation for "*on-going competency*" under (iii) was to grow into a more onerous and expensive arrangement than is currently operated under CPD. Unless it has been proven that the current system of CPD is inadequate (we have seen no evidence of this) then there is no basis for change.
- Outcome (iv) would again provide for potential differing standards across entities. As it is the role of the individual regulators to both set & maintain standards, this outcome would make it difficult for regulators to maintain them.

Question 2

Do you think that all the outcomes should have equal priority?

No, this would be too prescriptive. It should be for each regulator to judge based on their individual professions.

Question 3

Do you agree with our guidance that a risk based approach to education and training should focus more on what an individual must know, understand and be able to do at the point of authorisation?

The need is for both qualification and training to be current and relevant, having covered all required knowledge and appropriate skill sets at the point of authorisation. This is where, in our view, the “earn and learn” model of the Costs Lawyer qualification comes in its own.

Question 4

What are the specific obstacles that need to be removed to facilitate movement across different branches of the profession?

A standardised set of exemption criteria cannot be achieved because each qualification is achieved by very different methods and means. To ensure an informed decision is made on each exemption it should be for the regulator to assess their own professions qualification and approve exemptions to ensure they are appropriate.

Question 5

Do you agree that regulators should move away from ‘time served’ models?

No. In our view this would be detrimental to the consumer as it is an important part of ensuring competence.

Question 6

Do you agree that the regulation of students in particular needs to be reviewed in light of best practice in other sectors?

Regulators need to be allowed to regulate their trainees as is appropriate to their branch of the legal profession, qualification routes and risks. Whilst it does no harm to establish best practice principles in other sectors, they are just that ... other sectors.

Question 7

Do you agree that regulators should allow more flexibility in the way that education and training requirements are delivered by no longer prescribing particular routes?

Our concern here is that this could lead to varying standards of a particular legal qualification.

Question 8

Do you think such a change will impact positively on equality and diversity?

This question is unclear, what change is being referred to here? If it relates to question 7 then quality & fairness (cost to and expectation of students) has to be balanced with equality & diversity.

Question 9

Do you agree that regulators should review their approach to quality assurance in light of developments in sector specific regulation of education providers?

In our view, quality assurance should be under constant review anyway.

Question 10

Do you agree that entry requirements set by regulators should focus on competence?

Again, does the question relate to entry or authorisation. It should not be overlooked that employers are the main judge of competence, they will not continue to employ/support someone who is not up to the job regardless of academic success.

Question 11

Do you agree with our proposal that there may be areas where broad based knowledge is not essential for authorisation? Can you provide any further examples of where this happens already?

In the Costs Lawyer profession knowledge is as broad as is required in the field of costs.

Question 12

Do you agree that reaccreditation requirements should be introduced in areas where the risks are highest?

No. As stated above, employers are a secondary judge of competence.

Question 13

Do you agree that in most circumstances an entity is better placed than the regulator to take responsibility for education and training?

No. Employers should form one aspect of a three prong approach:

- Approved Regulator: Sets & oversees maintenance of standards
- Authorised Study Provider: Maintains academic standards
- Employer: Maintains practical standards

Question 14

Can you think of any circumstances in which this may not be possible?

N/A.

Question 15

Do you agree that it is not the role of the regulator to place restrictions on the number of people entering the profession?

Yes. This should be dictated by market forces.

Question 16

Can you provide any examples for review where the current arrangements impose such restrictions and may be unnecessary?

No, not in the Costs Lawyer profession.

In conclusion

- We are pleased that the need to balance cost/benefit has been acknowledged in the paper.
- Any requirement for change needs to be evidence based not opinion based to avoid change for changes sake.
- We are pleased this is proposed guidance only and not the original "*concrete recommendations*" suggested by David Edmonds.

- The LSB also needs to acknowledge that the review of legal education and training is a significant task for regulators to undertake and that if it is to be undertaken properly then it should not be rushed for the sake of box ticking.
- We do not agree with David Edmonds suggestion of “cross sector application.” Regulator’s need to be allowed to assess what is required of their individual professions based on their in-depth knowledge and understanding to ensure a sensible and workable outcome.

Yours faithfully,

Lynn Plumbley
(Chief Executive)

c.c. Graham Aitken, CLSB Chair