



16 Glebe Road Chelmsford  
Essex CMI 1QG  
DX121925 Chelmsford 6  
t: 01245 349599  
f: 01245 341300  
e: [clc@clc-uk.org](mailto:clc@clc-uk.org)  
w: [clc-uk.org](http://clc-uk.org)

Mr Chris Kenny  
Chief Executive  
Legal Services Board  
7<sup>th</sup> Floor  
Victoria House  
Southampton Row  
London  
WC1B 4AD

4 March 2010

Dear Chris,

**RE: Response to LSB Draft Business Plan 2010/2011**

The CLC welcomes the opportunity to respond to the LSB's consultation on the draft business plan 2010/2011.

Partnership Approach

The CLC supports the direction and ambitious agenda in the plan. We welcome the LSB's commitment to deliver its challenging ambitious work programme by working constructively in partnership with Approved Regulators (ARs) and other relevant partners, particularly taking into account the relative resources at our disposal.

Putting consumer and public interest at the heart of regulation

The CLC continues to support this aspect of the proposed work programme. We welcome the LSB's approach in consulting as to appropriate areas of research which we hope also applies to agreeing the priorities for the Consumer Panel.

Widening access to the legal market

We remain committed to continue working with the LSB and other legal regulators to ensure that the first licences are issued to ABSs by October 2011. However, we hope that this target date will not compromise the development of appropriate solutions to address some of the unresolved challenging issues, particularly relating to indemnity and compensation arrangements.

Improving service by resolving complaints effectively

We agree the approach the LSB has taken to ensure that the quality of complaints handling by legal providers is improved for the benefit of consumers. We also agree that the progress made should be tracked. We are equally keen to see that a right balance is struck between sufficient data on which to base decisions and not imposing unnecessary burdens on the providers of that information. Otherwise the increased volume of data which legal providers will be required to submit in order that the ARs can provide the evidence required will be an issue of concern.



INVESTOR IN PEOPLE

In setting out its proposed approach we understand careful consideration will be taken to ensure that the data required by the LSB in discrete areas is strictly focused and that a regular overview is taken to ensure that the total volume of data required remains appropriately targeted and is not unduly onerous.

#### Developing excellence in legal services regulation

We agree the LSB should have a role in helping ARs in maintaining and developing standards in regulation. Given the different sizes (and consequently resources) of the different regulators, we trust that the LSB will take full account of the Hampton Principles, particularly of proportionality. One effect of the reforms has been to bring greater transparency as to the evidence required when new ARs are designated or where existing regulators (such as the CLC) are applying to extend the reserved legal activities which they regulate. It is already clear to us that substantial resources (both in terms of staff and cost) will need to be incurred in order to have a reasonable prospect of making a successful application. Whilst the CLC is confident that it is able to supply the necessary resources there is, in our view, a real risk that these changes will act as a significant barrier for other applicants to become ARs which may have an unintended effect of putting at risk one or more of the regulatory objectives (eg improving access to justice and encouraging an independent, strong, diverse and effective legal profession).

#### Securing independent regulation

We welcome the approach taken by the LSB in dealing with each AR on a one to one basis and look forward to working with the LSB to obtain approval of the CLC's Practising Fees Rules in good time before the beginning of the CLC's next licence year.

#### Developing a workforce for a changing market

We welcome the clarity on the key areas of focus to inform the development of the workforce strategy. We welcome the LSB's initial focus on quality assurance of advocacy as this work activity should provide increased confidence for consumers of legal services particularly when new entrants (Approved Regulators) are authorised by the LSB to regulate this reserved activity.

#### Improving Access to Justice

We are concerned that the areas which the LSB has chosen to research may be too narrowly focused. For example, the first consultation undertaken by the LSB's Consumer Panel on Referral Arrangements centres on the relationship between the lawyer and the consumer. We consider that the scope of the consultation could have been wider and undertaken in conjunction with regulators in other sectors. In its Market Study on Home Buying and Selling, the OFT concluded at paragraph 6.62 that it was "nonetheless sufficiently concerned to recommend that Government consider a statutory response to the issue [of referral arrangements], perhaps as part of its review of the future of estate agency regulation". Furthermore we hope that the LSB's policy on referral arrangements is not exclusive to civil litigation and embraces non contentious areas like conveyancing.

Similarly, we understand that the LSB is considering whether to undertake research around reserved activities and in particular whether Will Drafting should become a reserved activity. We consider that the LSB should be taking a broader perspective and looking at reserved legal activities in the round, including whether regulation of lawyers should centre around definitions of reserved legal activities which arguably have now become outdated.

### The levy

We are grateful for the LSB agreeing to an adjustment in the payment of implementation costs by instalments. As we indicated in responses to the Levy Consultation we considered then (and our view remains) that a proportion of the OLC costs should be paid by the ARs in proportion to the number of lawyers they regulate and the balance in proportion to the number of complaints received. We hope that this suggestion will be further explored in future consultations to determine how to levy to recoup ongoing costs for the OLC.

### Summary

We repeat our commitment to the overall direction of the plan and we look forward to continued engagement and partnership with the LSB. We recognise the plan requires us to continue to make significant changes in the way we operate as a regulator and we hope that the LSB continue to be supportive as we progressively adapt to the new regulatory landscape.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'V. Olowe'.

Victor Olowe  
Chief Executive