Legal Services Institute

November 2011

ENHANCING CONSUMER PROTECTION, REDUCING REGULATORY RESTRICTIONS

Response to the Legal Services Board's Discussion Document

1. The nature of this response

This response is submitted on behalf of the Legal Services Institute and addresses the policy and public interest issues raised by the discussion document.

2. Introduction and summary

We generally support and commend the Legal Services Board's (LSB) approach to regulation as set out in its discussion paper. We express some general comments and concerns later in this paragraph, and our more detailed views are articulated in response to the specific questions in the document. We have tried, however, not to repeat at length the arguments we have made in relation to regulation and reservation in our two LSI papers[1].

Before addressing the questions in the discussion document, we wish to make some general observations.

Paragraph 14: we agree that regulation must be in the public interest, and that 'the public interest' is not static and means different things to different people. We share the view expressed in this paragraph that legal services are part of a much broader framework of society and that their contribution to the fabric of society puts them in a different position to many other professional services. We also endorse the comment in footnote 8 of the paper that "costs and benefits in the context of legal services extend beyond hard financial

[1] Legal Services Institute (2010) *The Regulation of Legal Services: Reserved Legal Activities – History and Rationale* and Legal Services Institute (2011) *The Regulation of Legal Services: What is the case for reservation?*, both of which are available at www.legalservicesinstitute.org.uk. We are grateful to the LSB for the references to these papers in the discussion document.

considerations". However, we disagree strongly with the view expressed in the paper (in paragraph 14 and repeated in paragraph 44) that all of the regulatory objectives in section 1 of the Legal Services Act 2007 "together define the public interest". There are actual or potential conflicts among the separate objectives, which would in itself deny the regulatory objectives any possibility of being, in their aggregation, a 'definition'. Further, it would be an odd drafting device for one of the separate objectives to be defined by reference to others, including itself. The Director of the LSI has elaborated on these issues, and the meaning of the public interest in a recent paper[2].

Paragraph 15: for similar reasons, we disagree with the import of this sentence in paragraph 15: "Consideration will be given to the public interest and whether this is wider in its implications than the consumer interest alone in relation to the specific issue." In our view, the public interest is always and necessarily wider than the consumer interest alone. If it were not, there would be no need for distinct regulatory objectives to protect and promote each of the public and consumer interests. Further, consumers can only ever be a subset of (rather than equivalent to) the public. These issues are explored in more depth elsewhere[3].

3. Responses to the Questions

***Question 1*: What are your views on the three themes that we have put at the core of our vision for the legal services market? If different, what themes do you believe should be at the core of our vision?**

The three themes placed at the core of the LSB's vision are that:

(1) consumer protection and redress should be appropriate for the particular market;
(2) regulatory obligations should be at the minimum level to deliver the regulatory objectives; and
(3) regulation should live up to the better regulation principles in practice[4].

We agree with the idea underlining theme one: that a different regulatory mix of before-the-event and after-the-event measures will be appropriate for each given situation. Furthermore, we think it is right for the LSB to take a case-by-case approach to each issue it is presented with rather than trying to introduce broad-brush rules.

We also agree with keeping regulatory intervention at the minimum level possible to ensure that the regulatory objectives are secured. Reservation is a blunt instrument that can have serious negative consequences for competition within the market for legal services. Reserving a legal activity to certain groups of authorised persons should therefore be kept at the very end of the scale of available regulatory tools, and only utilised where fully appropriate. We would stress the need to keep in mind that 'no intervention' and

[2] Mayson (2011), *Legal Services Regulation and 'the Public Interest'*, available at www.legalservicesinstitute.org.uk.
[3] See Mayson (2011), *Legal Services Regulation and 'the Public Interest'*, para 4.
[4] We note that the European Commission is now promoting a move from 'better regulation' to 'smart regulation' (see: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52010DC0543:EN:NOT).

'reservation' are only two possible courses of action for the LSB, and that there are other options.

In addition to the three key themes suggested by the LSB, and consistent with our view expressed in paragraph 2 above, we feel that the promotion of the public interest should also be expressly included. In our first paper on the origins of the reserved legal activities, we quoted both the Royal Commission on Legal Services and the Office of Fair Trading favouring regulation based principally on the public interest[5]. This was also the view expressed in Sir David Clementi's final report[6]. Further, we have argued that, of the Legal Services Act's eight regulatory objectives, the promotion and protection of the public interest should take precedence over the other seven, including that of protecting and promoting the consumer interest[7]. We consider that the public interest should have a higher – indeed, overriding – place in the LSB's deliberations and decisions about regulation generally and reservation in particular[8].

***Question 2*: What is your opinion of our view that the purpose of regulation is to ensure appropriate protections and redress are in place and above this there are real competitive and cultural pressures for legal services to deliver the highest possible standards with a range of options for consumers at different prices? If different, what do you consider that the role of regulation should be?**

In principle, we agree that the purpose of regulation should be to assure a minimum level of competence and protection in the delivery of regulated legal services – though in our view the LSB must emphasise that a 'minimum level' is not to be equated with 'low'. We therefore see no objection to providers or professional bodies seeking to provide or encourage higher standards of service than those required by regulation, and it is quite likely that competitive forces will result in a range of providers of services and options available to consumers.

We doubt, however, that those forces will inevitably lead to 'the highest possible standards'. Some providers will no doubt aspire to perform at that level; others – and their target market – might be content with 'good enough'. Provided that the regulatory minimum meets the regulatory objectives in the Act, as well as assuring competence and offering protection for consumers, we believe that the market will determine what levels of quality above that minimum level are appropriate for its clientele.

We touched on the 'cultural pressures' present within the legal professions in our second paper on reservation[9]. We agree that membership of a profession creates amongst most members a strong ethos and culture that will shape behaviour. However, we would argue that these factors may act both positively and negatively and, although it might often be the case, they should not be regarded as always or necessarily acting to raise standards of performance. A deeply ingrained attitude within a profession of resistance to change (such

[5] Legal Services Institute (2010) *The Regulation of Legal Services: Reserved Legal Activities – History and Rationale,* para 5.7.
[6] Clementi, D. (2004) *Review of the Regulatory Framework for Legal Services in England and Wales*, at p. 28.
[7] See Legal Services Institute (2011) *The Regulation of Legal Services: What is the case for reservation?*, para 1.10.
[8] For a more detailed discussion on the public interest and its place in legal services regulation, see Mayson (2011) *Legal Services Regulation and 'the Public Interest'*.
[9] See Legal Services Institute (2011) *The Regulation of Legal Services: What is the case for reservation?*, para 2.3.3.

as to alternative business structures) might be just as influential as formal rules explicitly prohibiting certain actions. Altering the rules may therefore be necessary but not sufficient to implement the innovations intended.

Consequently, we would agree that there rightly are cultural pressures to deliver high standards, but suggest that those forces can equally apply in the opposite direction and may in fact work against the interests of consumers. They therefore cannot be relied on to enhance a drive towards liberalisation, greater competition, better quality, or increased value. In certain situations, regulation might act simply as a first step in encouraging a shift away from inhibiting attitudes. In short, competitive and cultural pressures present both challenge and responsibility for approved regulators.

***Question 3*: In light of the changing market do you think that specific action may be needed to ensure that more legal services activity can unequivocally be included within the remit of the Legal Ombudsman and, if so, how can this best be achieved?**

We believe that the current regulatory arrangements within the legal services market must seem confusing to a layperson. The situation cannot simply be summarised as one in which only certain types of authorised persons are able to undertake certain legal activities; it is more complicated than that. For example, the rights of audience awarded to legal executives are not absolute; they depend on the type of law and the court involved. The LSB compares this with notaries, whose activities are defined very broadly by the Act[10].

In our opinion, the issue is not so much the patchwork nature of legal services regulation in itself, even bearing in mind how convoluted it is in certain places. The key weakness is that many consumers will be unaware of the inconsistencies in approach to regulatory coverage, and consequently that they only have protection with certain groups of service providers, or in relation to certain legal activities. As a result, consumers might purchase a service assuming that because it is legal it will be undertaken by a 'lawyer', that their 'lawyer' will be appropriately regulated, and that if necessary they can take any grievances to the Legal Ombudsman. Indeed, the Legal Ombudsman has stated that this will be increasingly likely to happen as the market for legal services continues to diversify[11]. If consumers were fully informed about the differing levels of protection available to them before they purchased legal services, they would be able to make an informed decision themselves about whether or not to engage a cheaper – but possibly unregulated – provider.

The current patchwork of legal services regulation becomes a problem when considering how consumers can be made aware of the differing levels of protection open to them. The existing arrangements under and beyond the Legal Services Act are complex and defy easy explanation. Simplifying the situation is not merely an administrative exercise for regulators but is rather one of significant importance for consumers.

[10] For a simple table outlining which reserved activity each category of authorised person may undertake, see the Appendix to Legal Services Institute (2010) *The Regulation of Legal Services: Reserved Legal Activities – History and Rationale*.

[11] The LSB has made a s. 120 request to the Office of Legal Complaints for a report detailing the complaints received by the Legal Ombudsman from people who mistakenly thought they were buying a service from a provider that would enable recourse to the Ombudsman.

In the Opinion Leader research[12] for the LSB, there is no specific mention of consumers saying that they think the Legal Ombudsman should be accessible in respect of a wider range of legal services or providers. However, this is possibly because they did not realise that recourse to the Ombudsman is sometimes available to them. The recommendations in that research under the heading of 'complaints' simply state that consumers would like to be made more aware of how they should go about complaining if they need to.

If one starts from a proposition that the general public would assume that anything that can be reasonably defined as a 'legal service' should allow recourse to the Legal Ombudsman, it would follow that extending the Ombudsman's jurisdiction should be considered seriously. The Legal Services Act could provide some basis for achieving this if the jurisdiction under Part 6 of the Act were to be extended to all 'legal activities' within section 12, and not restricted to respondents who are authorised persons.

There might be a case for some exemptions, for example, in relation to McKenzie friends or for those who do not carry out the activity in question for, or in expectation of, any fee, gain or reward (although we are not inclined to think that some not-for-profit special bodies should inevitably qualify for exemption from investigation by the Ombudsman for inadequate service, especially where giving legal advice is their principal activity, or one of them).

***Question 4*: What are your views of our diagnosis of the weakness of the existing system and the problems within it?**

We agree with the LSB's analysis of the current weaknesses and have nothing to add.

***Question 5*: What do you see as the benefits and downsides of regulating through protected title such as solicitor and barrister?**

The benefits of regulating through protected titles include a degree of understanding (if only in a loose sense) that consumers will have of the nature of the provider they are dealing with. Consumers can also be assured that any providers holding themselves out as such will be appropriately regulated (and that those who falsely claim the title could be subject to criminal sanctions). Further, there are the 'consequential' benefits[13] that accrue to clients in terms of regulation of all activities (whether reserved or not), complaints procedures and potential access to the Legal Ombudsman, and indemnity and compensation arrangements.

To our mind, the possible downsides arise principally from the 'blanket' authorisation that is given to those with a protected title – particularly solicitors. Just because someone is (for example) qualified and practising as a solicitor does not mean that he or she is sufficiently experienced to undertake everything a solicitor is presently authorised to do. For example, a corporate lawyer may have no recent, relevant or practical knowledge or experience of conveyancing, or will writing. A professional will-writer who is not legally qualified or authorised *could* have vastly superior knowledge of that area, but as the situation stands

[12] Opinion Leader (2011) *Legal Services Board: Developing measures of consumer outcomes for legal services*.
[13] These additional protections arising from the authorised person status of providers were considered in detail in Legal Services Institute (2011) *The Regulation of Legal Services: What is the case for reservation?*, para 2.4.1.3.

cannot be an authorised person, let alone one with a protected title. We have addressed this situation generally in a strategic discussion paper on the education and training of solicitors[14]. Consistent with the views expressed in that paper, we believe that it would be more appropriate and proportionate to require separate and additional authorisation, and periodic re-accreditation, in respect of each reserved activity. We hope that the current review of education and training being conducted on behalf of the Solicitors Regulation Authority, Bar Standards Board and ILEX Professional Standards will explore this.

Our other concern about protected titles is that the protection applies currently only to barristers and solicitors, and not to all authorised persons (apart from a broad 'holding out' offence in section 17). In our view, protection should be given on a consistent basis.

***Question 6*: What are your views on whether there should be a consistent approach to the allocation of title to authorised persons? What are your views on whether the title should be linked directly to the activities that a person is authorised to undertake or linked to the principal approved regulator that authorises them?**

We have already expressed our approval of the protection of titles because of the possible detriment to clients that could be caused by those falsely claiming to be qualified when they are not[15]. Further, as stated in our response to Question 5, we would argue that there is no obvious reason for this protection to be confined to barristers and solicitors; all of the authorised persons' titles should receive equivalent and consistent treatment. A general offence of using a title awarded by an approved regulator when not entitled to do so would be sufficient, rather than separate offences for each title; such an approach would in our view be a logical extension of section 17 of the Act.

As with other aspects of legal services regulation, these current differing levels of protection have the potential to be confusing for consumers. Protection of title alongside protection of authorisation to carry out a reserved activity is not necessarily incompatible or duplicative. A consumer should be in a position to assume that someone claiming to offer a regulated activity is in fact authorised to do so; if that person also claims the use of a title, the consumer should also be able to assume that such a person is additionally entitled to that use. There should be no burden on the consumer to distinguish among titles that are protected and those that are not.

For the reasons set out above, we do not believe that the entitlement to the use of a title should necessarily and inevitably carry with it the authorisation to perform a reserved activity.

[14] See Legal Services Institute (2010) *The Education and Training of Solicitors: Time for Change*, available at www.legalservicesinstitute.org.uk.
[15] See Legal Services Institute (2011) *The Regulation of Legal Services: What is the case for reservation?,* para 2.2.

***Question 7*: What are your views on our proposal that areas should be examined "case-by-case", using will-writing as a live case study, rather than through a general recasting of the boundaries of regulation? If you disagree, what form should a more general approach take?**

We generally support the LSB's case-by-case methodology. Any general rules that are created may suit the market now but be inappropriate for any unforeseen developments that occur in the future. Taking a case-by-case approach will allow any issues pertinent to a particular legal activity to be taken into account, and will allow the LSB some flexibility to keep up with the changing perception of what constitutes the public and the consumer interest.

A case-by-case approach would also, we believe, better suit any assessment of whether the public good and consumer protection tests we set out in our second paper on reservation were met. Further, the framework of the Act itself seems designed for this type of methodology: sections 24 and 26, and Schedule 6 to, the Act a process for recommending whether specific legal activities should be reserved or not.

There are some consequential challenges that arise from a case-by-case assessment. First, the training requirements set up by approved regulators might need changing on a more regular basis as the LSB reviews activities that are, or are not, to be within the scope of reservation or regulation. However, our view (expressed above) is that authorisation should attach to activity rather than title, and if this view were adopted, the training requirements should be better able to reflect activity-based authorisation.

Second, the activities that fall within the scope of reservation currently determine the ability of non-lawyers to apply for an ABS licence. The piecemeal approach to reviewing the reserved activities will inevitably create some uncertainty for commercial organisations and investors who will be left wondering whether activities for which they are, or currently wish to contemplate being, licensed will remain within the ABS framework. Equally, decisions taken on the basis of the current reservations to structure a business which falls outside the regulatory reach might later prove to have been undermined. We do not, however, regard these risks to be such as to warrant any more general approach: it will be incumbent on the LSB to continue its practice of being transparent in its intentions to review certain legal activities so that those who are considering their structures are, to the appropriate degree, placed 'on notice' that their planning assumptions might need to be changed.

***Question 8*: What are your views on our proposed stages for assessing if regulation is needed, and if it is, what regulatory interventions are required?**

We agree that the starting point for any investigation should be ensuring that regulation delivers solutions in the interests of the public and of consumers. This would seem to us to add weight to our suggestion that the public interest should be one of the key themes of the LSB's vision alongside the consumer interest (see our response to Question 1).

Where the justification for regulation is based on consumer protection, we support the emphasis that the LSB is placing on compiling actual evidence of harm by involving stakeholders, allowing interested parties to submit their views, and undertaking empirical

research if necessary. As suggested in our second paper on reservation, however, we are not convinced that such evidence is necessarily required to support regulation or reservation intended to secure a public good[16].

We also support there being a separate step for considering the efficacy of existing mechanisms, as this seems to acknowledge that reservation can have a significant effect on the operation of a market and should only be used if strictly necessary.

***Question 9*: What are your views on the implications of our approach for professional privilege?**

We offer no view in response to this Question.

***Question 10*: Do you believe that any of the current reserved legal activities are in need of urgent review? If so, which activities do you think should reviewed and why?**

We have already outlined our views on the status of the current reserved activities in our paper, *The Regulation of Legal Services: What is the case for reservation?* We argued that reservation could be justified where this secures either one, or both, of public good or consumer protection, and *either* other responses to regulation are less effective *or* reservation provides additional protection.

Of the current list of reserved legal activities, we consider that there are two requiring review: property-related reserved instrument activities, and probate activities – and the latter is, in our opinion, most urgently in need of review.

We therefore support the LSB's investigation into will writing and estate administration. The current reservation is restricted simply to the preparation of papers for the grant of probate or letters of administration. As with reserved instrument activities, we would argue that this is currently wrongly framed[17]. There does not appear to be any logical reason, based on the public good, for the probate activities reservation to focus on the one narrow step in the probate process that it currently covers. There are numerous tasks that require completion during the administration of an estate, such as preparing the estate accounts, collecting assets due, and paying any debts accrued. Each of these seems more open to abuse by an unscrupulous executor than that which is reserved. Consequently there appears to be no compelling consumer protection or public good argument that supports the narrow nature of the current reservation.

However, we believe that there is a consumer protection argument to be made for safeguarding an estate's assets against misappropriation or maladministration by any person receiving payment or reward for administering that estate. We would therefore support expanding the current reservation to include will writing and the administration of an estate following a grant of probate or letters of administration for the reasons set out in our second paper[18].

[16] See Legal Services Institute (2011) *The Regulation of Legal Services: What is the case for reservation?,* para 3.2.
[17] Legal Services Institute (2011) *The Regulation of Legal Services: What is the case for reservation?*, para 3.3.2.
[18] See the paper at para 3.3.1.

It is arguably quite difficult to ascertain what problem the present property-related reserved instrument reservation is in place to address. Our first paper showed that the background to this reservation is one of professional self-interest, rather than any concern for the public or consumer interest[19]. Nonetheless, before the introduction of land registration, or on first registration of title, it would be logical for both the State and the consumer to have sought some assurance that the person verifying a property's title should be appropriately qualified to do so. If such a guarantee is required for the initial registration of unregistered land, we believe that it follows, because of the intricacies of unregistered title, that every transaction involving this type of land should also be covered.

However, we would not restrict the application of a property-related reservation solely to unregistered land for two main reasons. First, despite a State-supported 'guarantee' of registered title, there may still exist other obligations or restrictions that could affect the use or value of a property (such as local land charges or overriding interests). The possibility of detriment to the client involved would not be alleviated simply by registration of title, but could be by suitably experienced advice. Secondly, there is a distinct aspect of the conveyancing process that is supported by the involvement of authorised persons. At the time of completion there is often an existing mortgage on a property. Until sellers receive the proceeds of the sale, they might be unable to repay their mortgage, but buyers need to be sure that the charge has been discharged before they will release the money to purchase the unencumbered title to the property. This problem is solved by the binding nature of conveyancers' undertakings. The seller's conveyancer can give an undertaking that moneys received will be used to pay off the mortgage, providing the buyer with the confidence to release funds despite there being an existing charge on the property. In this way, conveyancing chains can operate in confidence, with the knowledge that even if misappropriation of funds does occur, parties will be protected by the relevant approved regulator's arrangements for the security and repayment of client money[20].

The efficiency of the conveyancing market and confidence in its smooth operation is therefore based on the involvement of authorised persons, and such assurance should arise as the direct result of a relevant reservation. We would argue that there are both consumer protection and public good grounds for the reservation to be drawn more broadly to encompass 'conveyancing services', which could be defined using section 11 of the Administration of Justice Act 1985[21].

***Question 11*: What are your views on our analysis of the regulatory menu and how it can be used?**

We agree in principle with the LSB's analysis. The LSB is promoting the consideration of every possible tool in the regulatory menu, both remedial and preventative. The discussion documents states at paragraph 131 that the task is to find the right mix to address the particular risks and concerns. We agree with this approach, and support the flexibility that

[19] See Legal Services Institute (2010) *The Regulation of Legal Services: Reserved Legal Activities – History and Rationale*, para 2.4.2.

[20] For a more detailed discussion on this point, see our second (2011) reservation paper at para 3.2.3.

[21] This section states that conveyancing services include 'the preparation of transfers, conveyances, contracts and other documents in connection with, and other services ancillary to, the disposition or acquisition of estates or interests in land.'

it allows the LSB to take into account any particular issues in the market for each legal activity it considers. In the context of Question 7, this flexibility would not be available if the boundaries of regulation were more generally recast, rather than addressing each case individually.

Question 12: **Do you have any comments on our thoughts on other areas that might be reviewed in the period 2012-15, including proposed additions or deletions, and suggestions on relative priority?**

The LSB has suggested looking at:

(a) services typically delivered by special bodies and trade unions (where special bodies are not for profit or community interest companies);

(b) residential conveyancing;

(c) general legal advice;

(d) corporate law (including banking and finance); and

(e) immigration.

In addition, ***will writing*** is being treated as an initial priority. As part of the ongoing investigation by the LSB into will writing, the Legal Services Consumer Panel has provided an opinion and report on that market, and we agree with the conclusion reached by the Panel. Unregulated provision might cause detriment to consumers in this market in the form of incompetent or inadequate advice, an invalid will, or one that does not properly give effect to the testator's wishes. Indeed, research has shown that low-quality wills are being prepared by both unregulated and regulated providers. There is therefore evidence of consumer detriment, and this would, in our view, most effectively be dealt with by reservation (and we justify this conclusion on our consumer protection test for reservation).

It could, of course, be argued that the current evidence suggests that both regulated and unregulated will-writers are just as likely as each other to produce wills that are not valid or do not give effect to the testator's intentions and that, accordingly, there is not a sufficiently strong case to support regulation to protect consumers. Our position, however, is that although regulation might not give any guarantee of the efficacy or quality of a will, regulation would guarantee the testators or beneficiaries access to the Ombudsman and compensation schemes.

Such after-the-event recourse and compensation is an appropriate long-stop protection, because problems with a will might often only be discovered after the death of the consumer of the will-writing service, who therefore cannot clarify or achieve their original intention. However, we should also expect that reservation would provide before-the-event assurance to testators that their wishes are more likely to be fulfilled because the provider would be appropriately qualified to offer his or her services.

Of the other areas, our concerns in relation to ***reserved instrument activities*** and ***conveyancing*** more generally are summarised above in response to Question 10. We would not restrict any change to residential conveyancing.

General legal advice at first glance seems to us to be too imprecise an area to regulate. We presently struggle to see where a clear line could be drawn (in terms of drafting the 'legal activity' sufficiently precisely for the purposes of section 24). We also consider that this would be casting the regulatory net too broadly, as well as being possibly unnecessarily restrictive of competition.

In relation to ***corporate law***, a large thrust of our strategic discussion paper on the education and training of solicitors (see footnote 14) addresses the interplay of regulation and 'transactional' law. We certainly believe that it is not necessary to consider corporate law (however that might be defined) for either reservation or deregulation. We accept that a key reason for regulation in legal services is the asymmetry of information and power between clients and providers. We would therefore offer a caveat or qualification to the statements in paragraphs 33 and 154 of the LSB's discussion document about evidence of sophisticated decision-making by corporate clients: we would express this as a tendency rather than a given. There is, to our mind, a similar degree of asymmetry and infrequency of use of corporate law services in many owner-managed and small businesses as there is of 'retail' legal services among general consumers. For this reason, we would counsel against any rush to 'deregulate' corporate law.

Immigration advice and services enjoy a special status as regulated, but not reserved, legal activities. The White Paper preceding the Act recommended that these activities should become reserved[22], though this was not followed through. However, we have posited that the current situation could usefully be reviewed[23]. We consider that the notion of the 'public interest' must be framed with regard to some territory or State. A citizen's status, to which we attach the right to participate in society, is an integral part of whether that person is to be included as part of the society in relation to which the public interest is judged.

It is therefore in the public interest that advice and representation in relation to citizenship status should only be provided by those who are suitably experienced and qualified. This safeguard will help to promote the public interest by ensuring that only those entitled to citizenship are able to reap the benefits of that condition. In addition, the consumer interest is at stake in immigration matters given that after-the-event redress is unlikely to be adequate recompense for someone who is deported to another country or denied a right to enter. For these reasons, we suggest that only those who are appropriately trained should be allowed to offer immigration advice and services. However, we do not suggest that such authorised persons would have to hold a full legal qualification, or that individuals should be prevented from representing themselves.

Accordingly, we would support a review of immigration advice and services.

***Question 13*: Do you have any comments on the approach that we have adopted for reviewing the regulation of will-writing, probate and estate administration?**

We welcome the LSB's review of these legal activities, and support the approach being taken.

[22] Department for Constitutional Affairs (2005) *The Future of Legal Services: Putting Consumers First*, Cm. 6679, App. B.
[23] Legal Services Institute (2011) *The Regulation of Legal Services: What is the case for reservation?*, para 3.2.4.

Legal Services Institute

The Legal Services Institute (originally the Legal Services Policy Institute) was established by the College of Law in November 2006 as part of its charitable activities. Its principal objectives are to:

(a) seek a more efficient and competitive marketplace for legal services, which properly balances the interests of clients, providers, and the public;

(b) contribute to the process of policy formation, and to influence the important policy issues, in the legal services sector and, in doing so, to serve the market and public interest rather than any particular party or sectional interest;

(c) alert government, regulators, professional bodies, practitioners and other providers, and the wider public, to the implications of these issues; and

(d) encourage and enable better-informed planning in legal services by law firms and other providers, government, regulators and representative bodies.

The Institute seeks to form and convey independent views that it believes reflect, support and promote the public interest rather than the preferences or views of other interested parties. Where the College might have views as a provider of education, these are expressed separately.

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