

**Legal Services Commission response to the Legal Services Board consultation:  
“Draft: Business Plan 2013/14”**

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Thank you for providing the Legal Services Commission (LSC) with the opportunity to respond to this consultation.

**Legal Services Commission**

The LSC is currently a non-departmental public body sponsored by the Ministry of Justice<sup>1</sup>. The LSC is the biggest single purchaser of legal services in England and Wales with an annual spend of around £2 billion. We are responsible for the operational delivery of civil and criminal legal aid.

**Legal Services Board**

The LSB is the independent body responsible for overseeing the regulation of legal services in England and Wales. The LSB is accountable to Parliament through the Lord Chancellor and is sponsored by the MoJ.

**Draft: Business Plan 2013/14**

The Legal Services Board (LSB) has asked for views and comments on all aspects of the Draft: Business Plan 2013/14.

The introduction to the Draft: Business Plan 2013/14 sets out the LSB’s vision of what legal services regulation must strive to deliver. The LSB’s starting point is that a competitive legal services market, underpinned by appropriate regulation, will deliver the regulatory objectives most effectively. The LSB believe that such a market will be characterised by:

- greater competition and innovation in service delivery
- access to justice for all
- empowered consumers, able to choose a quality service at an affordable price
- an improved customer experience with swift and effective redress when things go wrong
- constantly improving and consistently ethical legal professions, as diverse as the communities they serve
- clear and proportionate regulation, that protects fundamental principles, removes barriers to entry, targets market failure and commands wide confidence in the public and the market

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<sup>1</sup> The MoJ will transfer the LSC’s functions to an Executive Agency from 1 April 2013. .

The Foreword to the Draft: Business Plan 2013/14 focuses on “change” and the upcoming challenges facing the legal professions and regulators:

We’ve talked about change that has happened: such as change in the legislative environment, with the introduction of the Legal Services Act 2007; change in regulatory structures, with the establishment of independent regulators; and change in the legal landscape, with new forms of organisation, staffing and technology in legal business practice emerging. Yet change is still needed: regulators need to improve their effectiveness; legal services providers must improve the way they resolve complaints about their services; and culture must evolve to ensure that barriers to developing a truly diverse workforce are eradicated.

Change, and the need to respond and adapt to change, has also been at the forefront of the LSC’s agenda over the last year and will continue to be so as we complete the transition to Executive Agency status and become the Legal Aid Agency and deliver the Government’s Legal Aid Reform Programme.

The LSC’s response to the Draft: Business Plan 2013/14 therefore focuses on those areas of common interest where both the LSB and LSC will be tasked with shaping and responding to the changing landscape.

### **Developing a changing workforce for a changing market**

The LSB will continue “to monitor regulators’ progress in relation to success criteria set out in our quality consultation response document, as well as the introduction, ongoing development and evaluation of the new Quality Assurance Scheme for Advocates (QASA).”

The LSC recognises the high quality of service provided by very many publicly funded advocates and the important role that they play in the effective operation of the justice system. It is also important to recognise that the need for a quality assurance scheme is not just about identifying those less conscious of their own abilities.

The LSC believes that the introduction of the Crime Quality Assurance Scheme for Advocates (QASA) will play a vital role in supporting the market and the professions and enabling consumers and procurers to have confidence in the advocacy services they purchase. In the current economic climate, ensuring value for money is paramount.

The legal services market is changing; the acceptance of new and alternative business structures and trends to keep criminal advocacy (including prosecution advocacy) in-house has seen an increase in competition for advocacy services, with less reliance on the self-employed advocate. This will continue to offer benefits to some and create challenges for others, but for all there is the need for a common quality standard to ensure a level playing field.

Since, the regulators took responsibility for the development of a scheme in 2010 the LSC has continued to work with the Joint Advocacy Group (JAG) on the development of the operational proposals, responding to consultations and sitting on the Quality Assurance Advisory Group (QAAG). The LSC is committed to continuing this positive working relationship with the regulators as QASA moves from its development to operational phase.

## Developing Standards and Performance

In 2013/14, the LSB “will monitor regulators’ adherence to their [legal services regulation] action plans closely and, where appropriate, take action for failure to keep to them without good reason. Progress on implementing the plans will be a key factor in making decisions on changes to regulatory arrangements and designation applications.” The action plans are intended to embed better regulation principles and comprise four constituent parts:

- an outcomes-driven approach that gives the correct incentives for ethical behaviour and has effect right across the increasingly diverse market
- a robust understanding of the risks associated with legal practice and the ability to profile those regulated according to the level of risk they pose
- supervision of the regulated community at entity and individual level according to the risk presented
- a compliance and enforcement approach that deters and punishes appropriately

The LSC is committed to ensuring that clients have access to quality legal advice and the approach to developing standards and performance as defined by the LSB matches the LSC’s expectations in terms of a clear delineation between the roles and responsibilities of the professions’ regulators on the one hand and the LSC as purchaser of services on the other.

By 2009/10 the LSC had, in effect, become a quasi-regulator of the legal professions. However, reforms in the market, including the Legal Services Act 2007, the creation of the LSB, the introduction of new business structures and the separation of the professions’ regulatory and representative functions have provided a new context.

The LSC’s 2010 “Legal Aid Quality Framework” set out the revised approach with the clear messages that assessment of quality should be the responsibility of the regulators and professions and that quality measures should be proportionate, not adding cost to providers beyond that required to assure quality at the requisite level.

The LSC supports the approach set out by the LSB in the Draft: Business Plan 2013/14 and is committed to work with the LSB and individual regulators to ensure that the quality of service provided to legally aided clients remains fundamental in the delivery of publicly funded services.

**Further information**

Our response is not confidential and can be shared with third parties if appropriate.

If you have any queries about this response, please do not hesitate to contact

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Yours sincerely

A handwritten signature in black ink, appearing to read "Hugh Barrett". The signature is written in a cursive style with a large initial 'H' and a long horizontal stroke.

Hugh Barrett  
Director of Legal Aid Commissioning and Strategy  
Legal Services Commission