

Mahtab Grant,  
Legal Services Board,  
7th Floor, Victoria House,  
Southampton Row,  
London  
WC1B 4AD

10 December 2009

Dear Mahtab,

### **ALTERNATIVE BUSINESS STRUCTURES: APPROACHES TO LICENSING**


I have read with interest your consultation paper 'Alternative business structures: approaches to licensing'. While I do not think it is appropriate for the Judicial Appointments Commission to respond in detail, we do have an interest in one particular aspect.

In their paper on the benefits of the multiple ownership models in law services, prepared for the Department for Constitutional Affairs in 2005, James Dow and Carlos Lapuerta observed that 'lawyers today have direct financial incentives to sacrifice service quality and ethics for the sake of significant short-term financial gains. The introduction of outside equity could mitigate such problems, as the separation between ownership and management reduces the incentives of the manager to maximise profits.'

The JAC is particularly aware of this problem in the context of solicitors applying for judicial office. It appears that some firms actively and aggressively discourage their partners and associates from applying for fee paid (i.e. part time) judicial appointments. They fear the loss of these lawyers' earnings for the firm because of the time they will spend sitting as a judge. This is short term because it fails to take into account the benefits to a firm from having part time judges on the staff and there is an ethical problem, because lawyers who could make an important contribution from the Bench are being prevented from doing so, and from realising their own potential.

This problem has wider diversity implications, as women and BME lawyers are more concentrated in the solicitors than in the barristers branch of the legal profession. There are therefore important considerations for the LSB and licensing authorities and approved regulators, who have a duty to promote the public interest, improve access to justice and promote diversity and quality. Inasmuch as alternative business

structure and the licensing arrangements for them can help to end this regrettable culture against judicial appointment among solicitors, the JAC would welcome them

Yours sincerely  


**NIGEL REEDER**  
Director, Strategy & Outreach