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Dear Miss Lyn

Consultation on Approaches to Quality issued by the Legal Services Board (the 'LSB') (the 'Consultation')

On behalf of the Regulatory Committee (**Committee**) of the Tunbridge Wells, Tonbridge & District Law Society (**Society**) I present its response to the Consultation. The Committee is comprised of members all of whom have considerable expertise and professional experience in regulatory matters.

The Society represents Solicitors and other lawyers who practice or live in the counties of Kent and East Sussex. The law firms to which the Society's members belong advise a variety of clients from individuals to multi-national companies, from trustees to financial institutions in all manner of legal issues.

1. **Question 1: In your experience, when consumers do not receive quality legal services, what has usually gone wrong? Where problems exist, are these largely to do with technical incompetence, poor client care, the service proving to be less useful than expected by the client – or something else?**
 - 1.1 The Committee is of the view that the vast majority of complaints received from clients result from a failure of the client and Solicitor to communicate effectively.
 - 1.2 Rarely are there instances of poor or negligent advice, in the experience of the firms represented on the Committee.
 - 1.3 Often there are allegations of poor service from disgruntled litigators who have not achieved everything they had hoped for, irrespective of the advice received. In such cases there is often a complaint concerning the level of costs being too high.
 - 1.4 The vast majority of clients are happy with the service received from firms represented by the Society. Client satisfaction surveys regularly indicate that 99% of respondents would recommend the services of a firm to their family and friends.

2. **Question 2: Would it be helpful if the regulators approached issues of quality by looking separately at different segments of the legal services market? Which segments do you perceive as being greatest risk to consumers?**

2.1 The legal profession is complex, as are client requirements. Under Outcomes Focused Regulation (OFR) there has to be an appropriate level of response to individual risks.

2.2 It is inappropriate to make generalisations concerning particular sectors of business being inherently more risky than others.

2.3 The LSB is at great risk of making the regulatory environment far too complex by any insistence on the intervention of regulators based on market sectors.

2.4 The Committee is of the view that to identify any sectors as posing a threat of poor service to clients is wholly unnecessary, unhelpful and is likely to be counter-productive.

2.5 For example, the level of service offered by a call centre for discount residential conveyancing will clearly differ from that of a bespoke, face to face service. So, in this example, one should not generalise about this market sector, as some conveyancing services have a better quality of service than others. Price is often an indicator as to this.

3. **Question 3: How can regulators ensure that regulatory action to promote quality outcomes does not hinder (and where possible encourages) innovation?**

3.1 More regulation will stifle innovation.

3.2 The Committee is of the view that further regulation is not required at this juncture.

3.3 Regulators should be allowed to assess the actions of legal services providers on the basis of OFR. If there is a problem, the issue can be revisited.

4. **Question 4: What balance between entry controls, on-going risk assessment and targeted supervision is likely to be most effective in tackling the risks to quality that are identified?**

4.1 Under OFR, as all circumstances differ each should be treated as unique.

4.2 The Committee suggests that there is no reason for the LSB taking a proscriptive route to this issue.

5. **Question 5: Quality can also be affected by external incentives and drivers. Some examples include voluntary schemes (for example the Association of Personal Injury lawyers (APIL) Accreditation), consumer education and competition in the market place. How far do you think these external factors can be effective in tackling the risks to quality that exist? Which external factors do you think are most powerful?**

5.1 Under OFR, as all circumstances differ each should be treated as unique.

5.2 Some external drivers will be relevant in some cases. In many others, they will not.

- 5.3 The Committee suggests that there is no reason for the LSB taking a prescriptive route to this issue. Regulators should be given time to assess if there is a negative impact on quality before making further interventions.
- 5.4 The Committee is of the view that a more educated clientele will drive up quality through the effect of market forces without further regulation being necessary.
6. **Question 6: Another possible tool for improving quality is giving consumers access to information about the performance of different legal services providers. How far do you think this could help to ensure quality services? How far is this happening already?**
- 6.1 Those of us engaged with client service are aware of how easy it is for clients to share their experiences. Word of mouth recommendations are the finest form of marketing. Imposing auditable performance metrics will increase compliance costs to firms that will be passed on to consumers. The Committee believes this to be wholly unnecessary and contrary to the interests of clients.
- 6.2 Law firms differ as much as do clients. What works for one client may not for another. Without disclosing all the nuances of the issues involved, there could never be a reasoned comparison of the quality of one entity with another. This is the engagement of OFR to the quality of legal services, not mere price comparison.
- 6.3 Clients have different concepts of value for money. What may be an expensive service to one person may be astoundingly good value to another, depending upon how the result of the work done is perceived.
7. **Question 7: What do you believe are the greatest benefits of such transparency? What are the downsides and how can these be minimised?**
- 7.1 If the profession thought that there was a need for an independent reviewer of firms and chambers there would be one already.
- 7.2 If an owner thought that there was a value in a comparison website of firms and chambers there would be one already.
- 7.3 If consumers were clamouring for a comparison website of firms and chambers there would be one already.
- 7.4 The legal profession is not a branch of the civil service, despite the incorrect presumption that it is in the Opinion Leader report, **Legal Services Board: Developing measures of consumer outcomes for legal services** and the Consultation.
- 7.5 The point of an independent reviewer of services in the NHS is that those services should be freely available to all the population. There may be an argument that there is an analogy where the quality of services offered to publicly funded clients is concerned. However, this does not apply to the vast majority of client services.
8. **Question 8: The table (Figure 3) gives some examples of how risks to quality can be mitigated and actions that can be taken by regulators to ensure this happens. Can you suggest any other actions that can be taken?**
- 8.1 No.

9. **Question 9: Which of the possible interventions by regulators do you think likely to have a significant impact upon quality outcomes?**

9.1 It is necessary to allow OFR to bed down before making assumptions based on no empirical evidence.

10. **Question 10: To what extent should the LSB prescribe regulatory action by approved regulators to address quality risks?**

10.1 The LSB should not prescribe regulatory action by approved regulators to address quality risks, for the reasons set out above.

I hope the foregoing is of assistance to you.

Yours sincerely

Martin Varley
Chairman