Creating a more *flexible* approach to education and training

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The Futures of Legal Education and the Legal Profession

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This presentation

• Role of the LSB
• Regulation, not education
• Goal of a more flexible labour market
• What is the problem?
• Where are we now?
• What does the LSB expect?
• Draft guidance to regulators
• Some principles and summing up
Introduction to the LSB

• Oversight regulator created by Legal Services Act 2007
• Up and running since 2009
• Small organisation (circa 30 people)
• Whole legal services market - 8 approved regulators
Why education and training?

- Important regulatory tool
- Primary means by which regulators control who can provide reserved legal services
- Historically this has meant high barriers to entry
- A proxy for quality?
- Educational inputs tend to be easier to measure
- But they also impose costs
- Those costs need to be justified in reference to their impact on the regulatory objectives
Our statutory role

- LSB duty to “assist” (Section 4 of LSA 2007)
- Regulatory objectives – none are left untouched by education and training
- Focus tends to be on *Independent, strong, diverse and effective legal profession*
- But we must not forget about the rest, particularly:
  - Promoting competition
  - Interests of consumers
It’s about regulation – what do we mean?

• Any requirements should be better targeted towards risks
• What are the risks that education and training requirements are designed to address?
• Barriers to entry only where needed
• Aligned with better regulation principles: transparent, accountable, proportionate, consistent and targeted
• LSB regulatory standards framework
The goal?

A more *flexible* labour market

- A more modern approach to regulation
- Less prescription from regulators
- Greater focus on the risks
- Outcome focused
- More freedom for legal businesses to develop and grow
- Better services for consumers
- Regulators better placed to respond to new and emerging risks
So what is the problem we are trying to fix?

• Significant numbers of consumers (individuals and small businesses) aren’t getting access to the services they need
• Price is the most common barrier
• Access to justice means enabling providers of more accessible legal services to emerge and flourish
• Liberalisation of ownership was the first step
• Reducing unnecessary costs and restrictions in regulation is essential – this includes education and training
But this does not mean declining standards

- Regulators focus on competence
- Clear outcomes for what is expected
- Holding firms to account for their workforce decisions
- Resource focused on assessing risks rather than ‘box ticking’
- Greater emphasis on post qualification where the risks require it, for example enhanced CPD or reaccreditation
So where are we now?

- Research phase of the LETR has concluded and produced a very thorough analysis
- Fired the gun for action from the regulators
- Significant milestone
- But – has taken three years to get to this point
- Nor does LETR exist in a vacuum
What does the LSB expect?

- Momentum to be maintained
- Modernisation in line with regulatory standards framework
- Early progress where possible
- Remember consumers
Draft guidance

- LSB consultation – closes 11 December 2013
  
  [Link to LSB consultation paper](http://www.legalservicesboard.org.uk/what_we_do/consultations/open/pdf/20130918_consultation_paper_on_guidance_for_education_and_training_FINAL_for_publication.pdf)

- Proposals for guidance to be issued under section 162 of LSA 2007

- Requires regulators to develop a more detailed and time-bound blueprint for change over the medium term

- Submit plans to us in April 2014
Five principles - from our draft guidance

• Education and training requirements focus on what an individual must know, understand and be able to do at the point of authorisation

• Providers of education and training have the flexibility to determine how best to deliver the outcomes required

• Standards are set that find the right balance between what is required at entry and what can be fulfilled through ongoing competency requirements

• Obligations in respect of education and training are balanced appropriately between the individual and entity, both at the point of entry and ongoing

• Education and training regulations place no direct or indirect restrictions on the numbers entering the profession
**Outcome 1:** What an individual must know, understand and be able to do at the point of authorisation

**What it is?**

- Outcome focused requirements at the point of authorisation, for example a competency framework
- May differ depending on the activity with some universal requirements, for example professional principles or ethics
- Greater consistency across regulators and easier movement between professional titles

**What it isn’t?**

- ‘Time served’ models where regulators specify how long it takes to demonstrate the outcomes
- Extending regulation to students
**Outcome 2:** Providers of education and training have the flexibility to determine how best to deliver the outcomes required

**What it is?**

- Providers of education have to demonstrate how their courses and curricula meet the outcomes that have been set by regulators
- Multiple routes to authorisation are able to emerge, with no one route becoming the “gold standard”
- Mix of ‘on the job’ and ‘off the job’ options, may depend on activity

**What it isn’t?**

- Regulators prescribing particular routes
- Regulators duplicating existing sector specific quality assurance, such as the Quality Assurance Agency (QAA)
Outcome 3: *Balance between entry and ongoing requirements*

**What it is?**

- Entry requirements set at minimum level to assure competence, supported by ongoing competency requirements where appropriate
- Requirements beyond the minimum only where justified by the risks
- Reaccreditation where justified by the risks

**What it isn’t?**

- Broad based legal knowledge requirements for all types of authorisation
- Reaccreditation in all areas
Outcome 4: *Balance between individual and the entity*

**What it is?**

- Entities play a role in assuring competence where possible, for example in relation to CPD requirements where they may be relied on to ensure individuals complete appropriate CPD.
- Regulators look at whether a firm has in place appropriate controls and supervision arrangements.
- Requirements vary depending on the type of services being provided—many areas will still require demonstration of individual knowledge.

**What it isn’t?**

- No individual knowledge requirements at all.
- Reaccreditation in all areas.
Outcome 5: Regulators place no direct or indirect restrictions on the numbers entering the profession

What it is?
• Any qualification route that meets the outcomes is permitted

What it isn’t?
• Regulators setting a limit on the number of routes to qualification, places or training providers
• Regulators creating inadvertent restrictions, for example requiring that an individual must have obtained a training contract or pupillage before they can complete the preceding stages of training
Summing up

• This is about regulation and delivering the regulatory objectives
• A modern regulatory framework demands a different approach
• Liberalisation of ownership + significantly more flexible labour market = a legal services market which functions more effectively for consumers
• Can be achieved without compromising professional standards