Creating a more *flexible* approach to education and training

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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- Draft guidance to regulators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
  

- 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