

Professor Julian Webb
Legal Education and Review Team
Sent by email

23 October 2012

Dear Julian

Discussion Paper 02/2012 – Key issues II: Developing the detail

The Panel submitted a detailed response to the first discussion paper, in which we set out the key principles that should underpin the future of legal education and training. Rather than repeat what we said then, or address some of the more technical questions in the second discussion paper, we wish to use this opportunity to emphasise four key strategic points that we hope will influence the team's thinking as it draws up its recommendations. In addition, I know that Neil Wightman, our Panel lead in this area, will be meeting with you shortly to provide further consumer insight.

Our first point is: be bold. This is a once-in-a-generation review coinciding with a period of upheaval in the delivery of legal services. Whatever view is taken about whether the existing system is fit for purpose – and our initial submission highlighted some clear failings – it needs to change to equip professionals with the tools to serve consumers in the future market place. The review team must not be dragged down by vested interests striving to protect the status quo, but instead set out a bold blueprint for the future. This opportunity will not come along again soon and cannot be missed.

The debate over reaccreditation is a case in point. It comes as no surprise to us that surveys of the profession conducted for this review reveal a strong preference for solutions based around a reformed CPD framework. We are delighted that the review has identified the need to reduce reliance on passive competence approaches and move towards a system based on measuring active competence. We agree that technical competence must be demonstrated regularly through evidence, not assumed. Yet CPD, even if reformed, is not a sufficient assurance of competence by itself as it does not include an objective assessment based on a wide portfolio of evidence. The review rightly identifies the need to close skills gaps with respect to client relations, but surely this will only be addressed if the experiences of clients are made an integral part of the process for reviewing lawyer performance. In this context, we note the revalidation proposals for doctors announced last week include a requirement to obtain feedback from at

least 35 patients and colleagues every five years. Therefore, it is not enough for lawyers to attend training courses and the like to keep their knowledge and skills up-to-date; there must be a much more rounded and evidenced view of their continuing fitness to practise.

A key argument in the Panel's original submission was the need for an activity-based authorisation system. The latest discussion document suggests that it goes beyond the remit of the review team to advance a preferred regulatory approach which has implications beyond legal education and training. That may be so, but we hope your final report will acknowledge three things in this context: firstly, the legal education and training system should be principally designed around what regulators require to ensure competent and ethical legal services for consumers; secondly, the general practitioner versus activity-based authorisation debate is critical to decisions about individual elements of the legal education and training framework; and, thirdly, that regulators should tackle this issue directly when taking forward your report's findings.

Finally, the team's final report will represent only 'the end of the beginning' of the review process. Research indicates that the consumer protection framework must be fit for purpose before consumers will have confidence to play the role of driving competition through their purchasing behaviour that is expected of them by government and regulators. This makes it vital that consumers continue to have a voice in the decision-making process led by the approved regulators that follows the publication of your report. Therefore, while the overall process will be for others to determine, we hope your report will recommend this should involve continued stakeholder input which explicitly includes discrete consumer representation.

Yours sincerely



Elisabeth Davies
Chair