

CLT Response to Legal Education and Training Review (LETR) Call for Evidence and general views and recommendations on the future of legal education and training

This paper has been produced by CLT to give our initial general views on the future of legal education and training. In addition, following the publication of the LETR Discussion Paper and Call for evidence on Key Issues (1), we are submitting this paper as a response to the call for evidence. In particular, we believe that our recommendations below dovetail with the Review's aims of ensuring that:

- Education and training systems in the legal sector deliver high quality, competitive legal services, high ethical standards and are flexible
- Qualification routes are responsive to emerging needs
- The education and training system is responsive to different career paths and promotes mobility and diversity in the profession
- The formal regulation of legal education and training extends to other groups providing legal services, such as paralegals

CLT may supplement these initial views with further papers submitted to the LETR in the future.

Introduction

CLT is one of the leading and largest providers of professional development education and training to the legal profession in the UK. It provides all forms of training, both pre and post qualification, as well as assessed, accredited and degree level training programmes. CLT provides all formats of training to the legal profession including CPD courses, conferences, e-learning, in-house programmes and qualifications. We train solicitors, barristers, legal executives, paralegals and others involved in the provision of legal services.

With over 25 years of experience in the legal profession training market, CLT is keen to participate in the LETR and to contribute to the debate and review on how the future of legal education and training is best placed to serve the needs of the profession and the public. CLT welcomes this important review initiative and hopes that its voice will be heard in shaping the future of legal training provision.

Whilst the review is welcomed, CLT feels that it is important that the review also takes into account the current changing nature of the legal profession, with the entry into force of the Legal Services Act and the advent of new forms of business model, including ABS's. New structures and employment practices will no doubt have a profound impact over the coming years on the shape of the legal profession, the qualifications that will be required for it, the people entering it and therefore the type of training best suited to the new legal landscape.

The introduction of OFR, which also concerns itself with ensuring the competence of the profession through its requirements on how legal business is conducted, needs to work hand-in-hand with a focused education and training system. We believe that our proposals below would be in line with the OFR philosophy of appropriate regulation and training for different types of organisations and lawyers and others operating in the legal marketplace.

CLT also feels that any review of the current training system and its regulation needs to be one that is both easy for the SRA and other regulators to administer, proportionate, and is not prohibitively expensive or inconvenient for firms and lawyers to put in place and undertake. It should deliver lawyers who are able to do their jobs to a high standard and which allows their careers to develop. It should be a system that adapts as the legal services market changes.

Pre-Qualification Training

Currently there are three routes to qualification as a solicitor. The route chosen by most aspiring young lawyers is via the Legal Practice Course (LPC) followed by a traditional training contract. For those individuals who do not hold a law Degree but identify law as a potential career, taking the Graduate Diploma in Law (GDL) allows them to convert to law and move onto the Legal Practice Course followed by a traditional training contract. The third route is via the Institute of Legal Executives which follows a vocational course of study complemented with formal study and assessments.

There has been a great debate around the number of training contracts available compared to the number of LPC places taken up. Over supply and career opportunity are clearly a great concern both to the legal profession and students alike. With less training contracts available and as many as 70% of students funding their pre - qualification training, this whole area of Legal Education is an area that requires careful consideration. The whole question of training and regulation will be further impacted by the introduction of Alternative Business Structures in which it is anticipated paralegal staff will undertake legal work, and of course we have the development of legal Apprenticeships which will introduce vocational training schemes.

The key consideration is whether the Pre - Qualification training currently available is fit for purpose. CLT believes the LPC in its current framework does equate to the right level of training and provides would be solicitors with the foundation skills necessary to enter the legal marketplace. The bigger question in our view is whether the training and regulation of non qualified legal staff is fit for purpose and clearly it is not. There needs to be a regulatory framework which ensures anyone who undertakes legal work is trained to the appropriate level and supervised accordingly to the role they undertake.

Standards are required to reflect the work undertaken. In order to ensure individuals are working to those standards appropriate training should be a mandatory requirement and additionally an appropriate assessment/accreditation should underpin that. There must be a mechanism for assessing a person's ability whether that is working at paralegal level or undertaking a legal apprenticeship that is done in the same methodology as in the LPC and CPD framework.

There is no reason why the LPC could not be the standard employed to develop appropriate outcomes from which you train and measure individuals who choose to undertake a career in the legal sector. There are thousands of law graduates who are having to compete in a declining job market for traditional roles in the legal sectors. Access to the profession is something the regulatory bodies are keen to promote but this should be through sensible structured training and regulation which gives opportunities to those individuals such as LPC graduates who will have satisfied the regulatory outcomes required to work in the legal marketplace and truly deserve to be given the opportunities that the emerging legal landscape will make available.

Post – Qualification Training

CLT welcomes the review of the CPD training scheme which has been in place since the mid 1980's. It is an important area of for review given the nature of the legal profession now compared to previously. In particular there is a much more segmented legal market place and varying needs in relation to training, both technical and in management skills, to operate successfully as a lawyer and to run a viable legal business.

CLT is one of the largest providers of CPD training to the profession putting on over 3000 accredited face to face and online training events a year, attracting some 40,000 lawyers from all branches of the profession.

The current system of requiring solicitors and barristers to undertake a minimum numbers of compulsory CPD training each year has been a valid method to ensure that continuous training takes place, albeit giving wide flexibility to lawyers as to what training they undertake. This type of approach could be extended to smaller firms as well with an appropriate public training regime.

The current levels of required hours of training, particularly the 16 hours per annum relating to solicitors, is much lower than for many other professions. Bearing in mind that a primary objective of CPD is to ensure that standards of competence are maintained within the profession, as well as giving confidence to the public and clients that the legal profession is maintaining its status at the forefront of legal and business expertise, this level may be regarded as being too low. In addition the flexibility in the current system, whereby lawyers can choose what they do without any necessary relevance to their specialist practice areas, can mean that the training undertaken is not effective to maintain competence in relevant areas.

However, flexibility is also important in enabling lawyers to decide upon what is the best training for them at different stages of their career. It is worth bearing in mind that a lot of larger law firms will do their own internal training related to their lawyers' specialist areas, and indeed often do many more hours of training per fee earner than the minimum 16 hours required.

In our view what would be preferable to an open 16 hours of required training on any topic would be an increased minimum number of hours (e.g. 50 hours would be in line with other professions such as dentists), coupled with some guidance on the type of training and outcomes expected at different stages of a lawyer's career in relation to their specialist areas. We feel that an outcomes-focussed approach, outlining the competencies and standards required to carry out particular roles and at different levels of seniority, would create a robust yet flexible system of education and training. Achievement of the required standards could be validated by testing schemes which we elaborate on below.

Similar to Day 1 outcomes for the newly qualified, outcomes for junior, mid-level and senior practitioners in different fields could be issued as guidance on the type of knowledge and competence that would be expected in relation to their specialist subject area. Some of these outcomes would be generic, e.g. drafting and negotiating skills for non-contentious practitioners, advocacy skills for contentious practitioners. Lawyers would then need to certify each year that they had done training that covered the basis of their professional practice. This system would still allow

lawyers some flexibility as to the precise training they undertake, but the skill level and topic areas required for their practice would be more defined.

In order for the system to be practicable, we feel that lawyers would need to certify their training annually against the required skills and competency framework for their branch of the profession and level of qualification, and also explain why their training is relevant to maintaining and improving standards of practice in their chosen field. Training providers would need to show how what they offer fits into the overall framework. Whilst there would be some initial work for the regulator in defining some of the core competency levels expected for different lawyers, this is a common practice in many law firms today who plan training around competency frameworks to develop their fee-earners. This move would therefore align the regulatory CPD system with best practice in law firms to ensure that lawyers remain at the forefront of the legal practice in their fields.

As well as self-certification of the training undertaken, it may also be prudent for the regulator to assess individuals at certain stages of their career, e.g. mid-level, when coming up to partner, etc, in relation to the training they have undertaken to ensure that certain standards are being maintained.

CLT would not propose a heavy assessment system here but some method of assessment beyond pure self-certification would add some rigour to the system to give the necessary confidence that there is a robust system in place for ensuring competence. Any such solution must, however, work for the professional in terms of costs as well as convenience, so we would not propose that there are annual assessments at all stages for every individual, but rather at say 3-5 year intervals in a person's career path. Assessment could be from selected a random pool of lawyers rather than every individual lawyer as well, to keep the system manageable. Accreditation schemes similar to those currently in place for certain activities could be extended (and provided by training providers) to areas that require special assurance of competence.

As to the methods of training available, we agree with the Review that e-learning or online training is and will continue to be an important part of the training mix going forward. However, it should only be used where the objectives of the particular training can be met by online delivery, e.g. information giving and where limited interaction between presenters and learners is required; some skills, e.g. negotiating, are still best taught in a face-to-face environment.

Management Skills and Ethics Training

As well as the legal technical training required for CPD, we believe that there is a need for compulsory training for all solicitors in ethics and also greater compulsory management training at different stages of a lawyer's career.

At present the only compulsory management training is Management Course Stage 1, which takes place during the first three years of a lawyer's qualification, arguably when they have less need of management skills. As they progress through their career they will take on more responsibility for people and managing their law firms or in-house practices according to effective management principles. We know from years of experience that this is an area where many lawyers have inadequate training compared to commerce and industry and other professions which routinely put graduates through MBA courses on top of their technical discipline.

One has only to consider that most of the complaints against the legal profession relate not to lack of technical expertise, but to poor project management, finance skills, and handling the client relationship well, etc, to understand that lawyers, in running their businesses and practices, equally need an ongoing level of management training throughout their careers.

We therefore propose that, in addition to Management Course Stage 1 training, that there be further compulsory training for lawyers at 3 -5 years qualified as they start to take responsibility for managing parts their practice and people, and also as they become new partners where they need to be educated to a much higher degree in running their business.

Paralegal training

CLT, in association with the University of Strathclyde, the University of the West of England and Edexcel, delivers specialist training to paralegals and support staff in eleven practice areas. The Society of Specialist Paralegals (SSP) is the alumni organisation which represents our 6,000 graduates. CLT and the SSP would be happy to join in meetings with the LETR research team on the unregulated sector in this capacity.

We believe that the paralegal sector should become a regulated branch of the profession, as it will become a larger segment of the market, with similar proposals to those outlined above in relation to recognised qualifications and ongoing CPD. The training structure for paralegals should be focussed on setting standards of competency.

CLT delivers comprehensive, practical paralegal training for legal support staff in association with the University of Strathclyde and the University of the West of England.

Delivered by distance learning, the courses are practice-area specific, supported by qualified solicitors/barristers and endorsed by leading academic institutions. With the introduction of the Legal Services Act and the emergence of ABS's, CLT sees paralegal training as essential by providing a solid foundation for successfully operating within the new legal landscape. Paralegal training that leads to a recognised qualification increases client confidence, reduces risk and provides a career path for valuable support staff.

In 2010, the Registered Paralegal Scheme was initiated in Scotland. This scheme is designed to professionalise the paralegal sector by providing structure and a recognised career path for those working in legal roles who are not qualified solicitors. The scheme highlights the important role of the paralegal and sets high standards for them to attain. The scheme currently covers eight areas of practice:

- Civil Litigation: Debt Recovery
- Civil Litigation: Family Law
- Civil Litigation: Reparation Law
- Commercial Conveyancing
- Criminal Litigation
- Domestic Conveyancing
- Liquor Licensing
- Wills & Executries

There is a requirement for those who register as paralegals to have undertaken an academic qualification and commit to completing 10 hours of CPD each year.

CLT believes it is important that support staff, who frequently operate in complex areas of law, are fully trained in both legal ethics and their specific areas of practice. Paralegals should also be expected to keep up to date with changes in the law, through continuing professional development obligations, in a similar manner to that of solicitors.

CLT would therefore recommend the implementation of an approach similar to the existing Scottish Registered Paralegal Scheme. This route would provide an identifiable standard and structure which would support the professional development of the paralegal while ensuring compliance with current professional standards.

Qualifications and Accreditation Schemes

CLT is probably the largest provider of Accredited Schemes in England and Wales. We are validated to deliver the Police Station Accreditation Scheme, the Criminal Litigation Accreditation Scheme and we are the sole provider of the Immigration and Asylum Accreditation Scheme.

The Police Station Accreditation scheme paved the way back in 1994, but despite the regulatory bodies attempts to introduce schemes across a number of discrete practice areas, not surprisingly there has been great resistance to Accreditation from the profession, and only a few have actually commenced.

However we feel that there are practice areas that do require a specific skill set and knowledge base that should be tested especially where there are high levels of impact on individual members of society e.g. in criminal justice. It cannot be assumed that qualification as a Solicitor equips someone to undertake all forms of legal work. Indeed as a testing organisation CLT has often witnessed at first hand the disappointingly low level of expertise displayed by some candidates. Accreditation ensures that scheme members maintain relevant standards of competency and expertise, by means of periodic reselection and re - accreditation. It also ensures attendance at relevant training CPD courses. As we have noted elsewhere current CPD regulations do not lend themselves to ensuring practitioners attend the most appropriate course in order to develop their expertise and demonstrate their fitness to practice and we feel that across the spectrum of CPD training an outcome based approach more in line with the concept of Accreditation should be developed.

Accreditation by its very nature promotes high standards in legal service provision and ensures that consumers are easily able to identify legal practitioners with proven competency in given areas of law and therefore protects the public interest.

Conclusion

We hope that you find our above ideas useful and we are happy to discuss them further and indeed participate in any committees or sub-committees relevant to the LETR.

We welcome the opportunity to participate further in the Review and if you have any questions or would like to discuss further please contact Karen Battersby on 0121 362 7522

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