

Response: LETR Discussion Paper 02/2012 (Key Issues II: Developing the Detail)

Name of responding person: Joy Harcup

Name of organisation (If responding on behalf of an organisation): Harcup Consulting – Executive Coaching

Your named response will be published (but without contact details) on the LETR website unless you indicate to the contrary, below:

I wish my response to be published wholly anonymously

I DO NOT want my response to be published

If you are willing to be contacted by the research team with respect to any of your responses below, please provide the following contact details

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Are you responding as a:

- | | |
|--|---|
| <input type="checkbox"/> Barrister | <input type="checkbox"/> Licensed conveyancer |
| <input type="checkbox"/> Barrister's clerk | <input type="checkbox"/> Other non-lawyer |
| <input type="checkbox"/> BPTC/LPC student | <input type="checkbox"/> Other provider of legal activities |
| <input type="checkbox"/> BPTC/LPC tutor | <input type="checkbox"/> Paralegal |
| <input type="checkbox"/> Chartered legal executive | <input type="checkbox"/> Practice manager |
| <input type="checkbox"/> Claims manager | <input type="checkbox"/> Registered foreign lawyer |
| <input type="checkbox"/> Client/consumer of legal services | <input type="checkbox"/> Regulated immigration adviser |
| x <input type="checkbox"/> CPD provider | <input type="checkbox"/> Regulator of legal services |
| <input type="checkbox"/> Law student (undergraduate) | <input type="checkbox"/> Solicitor/Notary |
| <input type="checkbox"/> Law teacher (school/FE) | <input type="checkbox"/> Trade mark/patent attorney |
| <input type="checkbox"/> Legal academic (university) | <input type="checkbox"/> Trainee solicitor/Pupil barrister |
| <input type="checkbox"/> Legal advice worker | <input type="checkbox"/> Trainee legal executive |
| | <input type="checkbox"/> Will writer |

Question 1: in the light of limited evidence received so far we would welcome further input as regards the preferred scope of QLD Foundation subjects, and/or views on alternative formulations of principles or outcomes for the QLD/GDL (We would be grateful if respondents who feel they have already addressed this issue in response to Discussion Paper 01/2012 simply refer us to their previous answer).

Question 2: Do you see merit in developing an approach to initial education and training akin to the Institute of Chartered Accountants of England and Wales? What would you see as the risks and benefits of such a system?

Question 3: we would welcome views on whether or not the scope of the LPC core should be reduced, or, indeed, extended. What aspects of the core should be reduced/substituted/extended, and why?

Question 4: should greater emphasis be placed on the role and responsibilities of the employed barrister in the BPTC or any successor course? If so, what changes would you wish to see?

Question 5: do proposals to extend rights to conduct litigation and the extension of Public Access to new practitioners require any changes to the BPTC, further education or new practitioner programmes, particularly as regards (a) criminal procedure (b) civil procedure (c) client care, and (d) initial interviewing (conferencing) skills?

Question 6: we would welcome any additional view as to the viability and desirability of the kind of integration outlined here. What might the risks be, particularly in terms of the LSA regulatory objectives? What are the benefits?

Question 7: We would welcome additional evidence as regards the quality of education and training and any significant perceived knowledge or skills gaps in relation to qualification for these other regulated professions.

Question 8: As a matter of principle, and as a means of assuring a baseline standard for the regulated sector, should the qualification point for unsupervised practice of reserved activities be set, for at least some part of the terminal ('day one competence') qualification at not less than graduate-equivalence (QCF/HEQF level 6), or does this set the bar too high? (Note: 'qualification' for these purposes could include assessment of supervised practice). What are the risks/benefits of setting the standard lower? If a lower standard is appropriate, do you have a view what that should be (eg, level 3, 4, etc)?

Question 9: Do you consider that current standards for paralegal qualifications are fragmented and complex? If so, would you favour the development of a clearer framework and more coordinated standards of paralegal education?

Question 10: If voluntary co-ordination (eg around NOS) is not achieved, would you favour bringing individual paralegal training fully within legal services regulation, or would you consider entity regulation of paralegals employed in regulated entities to be sufficient?

Question 11: Regarding ethics and values in the law curriculum, (assuming the Joint Announcement is retained) would stakeholders wish to see

(a) the status quo retained;

(b) a statement in the Joint Announcement of the need to develop knowledge and understanding of the relationship between morality and law and the values underpinning the legal system

(c) a statement in the Joint Announcement of the need to develop knowledge and understanding of the relationship between morality and law, the values underpinning the legal system, and the role of lawyers in relation to those values

(d) the addition of legal ethics as a specific Foundation of Legal Knowledge.

In terms of priority would stakeholders consider this a higher or lower priority than other additions/substitutions (eg the law of organisations or commercial law)?

Would you consider that a need to address in education and training the underlying values of law should extend to all authorised persons under the LSA?

Question 12: Do you agree the need for an overarching public interest test in assessing the aims and outcomes of LET? If so do you have any view as to the form it should take?

Question 13: we would welcome any observations you might wish to make as regards our summary/evaluation of the key issues (as laid out in paras. 127-31 of the Paper)

I have experience in working in or for the legal sector over the past 20 years. This includes experience as a former Head of Learning in a City law firm, a former Chair of Legal Education and Training Group and a former practising solicitor. I currently work as an Executive Coach with lawyers in law firms and industry and also I coach executives in other industries that instruct lawyers. I am also a Director in the UK of the International Coach Federation, the largest global professional coaching body. However, I am answering these questions in my personal capacity. I have also conducted published research, in two law firms, into how coaching of lawyers, who have a leadership role, can lead to team and organisational learning, as the lawyers demonstrate new skills and behaviours to their teams. The case studies in this research are published with my co-author in the academic journal *Management Learning**.

Based on this experience and research, I agree that the issues identified in paragraph 127 of the Paper are the key issues for future legal education. In particular, in response to paragraph 127(a), I concur that there is currently a gap in the legal profession between technical competence and management and business competence. The concentration on technical competence in education, at the early stages of a legal professional's career, often leads to the undervaluing of the management and business skills that are needed to effectively provide high quality legal services. It encourages a narrow mind set and the viewing of legal issues, without reference to the context

including commercial issues. A broader initial educational base would lead to greater understanding of the importance of eg managing risk/project management, the development of client relationship skills and dealing with a constantly changing business environment. The development of a more holistic mindset, from the start of legal professional training, that understands the complex non-legal perspectives of the consumer purchasing legal services, would help legal professionals to be more effective quicker in providing tailored legal services to clients.

*'If I learn do we learn?': The link between executive coaching and organizational learning. Juani Swart and Joy Harcup, Management Learning published 12 June 2012, 10.1177/1350507612447916 <http://mlq.sagepub.com/cgi/content/abstract/1350507612447916v1><<http://mlq.sagepub.com/cgi/content/abstract/1350507612447916v1?papetoc>>

Question 14: Do you agree with the assessment of the gaps (now or arising in the foreseeable future) presented in this paper in respect of the part(s) of the sector with which you are familiar? If not, please indicate briefly the basis of your disagreement. [If you feel that you have already responded adequately to this question in your response to Discussion Paper 01/2012, please feel free simply to cross-refer]

Yes, I agree with the assessment of the knowledge, skills and values gaps in the LET system identified in para 133 of the Paper. In my experience, in the areas of organisational and commercial skills there is also a gap in developing strategic thinking and an ability to manage change. The inclusion of these skills would help legal professionals to be better able to anticipate and develop responses to changes in the market for the provision of legal services. This is particularly important in this fast paced, technological society. This underlying ability to look at a broader perspective, as well as the detail, from an earlier stage, would help to develop in legal professionals more resilience to change and help them to understand the changes that the client is experiencing and to deal with these. These skills are important in different ways at the various stages of a legal professional's career. For example they are important at the trainee and junior lawyer stage in understanding the client's overall aims and objectives and the outcomes sought in individual legal case management. At the senior and partner level they are crucial to running effectively a team, department or organisation to deliver legal services.

Question 15: do you consider an outcomes approach to be an appropriate basis for assessing individual competence across the regulated legal services sector? Please indicate reasons for your answer.

Yes, in my experience as a former Head of Learning and Development at a City law firm, the current system of a number of hours of CPD per annum is outdated. It does not encourage lawyers to take responsibility for their own learning and to become reflective practitioners and relate what they have learnt to their day to day practice. I was a previous Chair of the Legal Education and Training Group in the early 2000's when we lobbied for an outcome based system, to encourage a change in lawyers' behaviours and attitudes to learning in the office. There are still today examples of lawyers collecting CPD hours in a rush at the end of a CPD year, instead of attending relevant courses to develop their day to day skills and practice as a lawyer. The current hours based system hampers the good work of many HR professionals and CPD providers that aims to develop individuals and organisational cultures in which legal professionals continually learn from experiences, and see this as important in progressing in an ever changing legal environment. It is a barrier to a more open and inquiring and developmental way of working that is crucial in the current and future working environment. The use of a simple learning log by practitioners by which they can reflect on what they have learnt and relate this to their practice, would help to show the outcome of their learning

and the progress that they have made. This would support individual practitioners and firms in encouraging legal professionals to :

- attend or undertake relevant CPD for their individual and professional development;
- understand better what they have learnt and apply and practise the use of new knowledge, skills and attitudes in their daily work;
- take responsibility for their own development and understand the importance of this in maintaining standards and delivering legal services that fulfil the needs of the consumers.

Question 16: in terms of the underlying academic and/or practical knowledge required of service providers in your part of the sector, would you expect to see some further specification of (eg) key topics or principles to be covered, or model curricula for each stage of training? If so do you have a view as to how they should be prescribed?

In my working experience and from my research, lawyers in private practice and industry at partner, and at a more junior level, seek support in developing the following skills:

- Project management skills – in scoping/pricing, scheduling/timetabling, resourcing, delivery and evaluating lessons learnt;
- Team building and leadership skills – influencing their peers, personal communication style, team management including motivating and delegating to their team;
- Business development skills - providing excellent client service for existing clients and marketing, networking, raising profile to obtain new clients.
- Strategic thinking and managing change – how firms and individuals adopt a longer term approach, set clearer overall objectives/visions and manage the phases of individual and organisational change.

In my view, as mentioned in my answer to the questions above, it would make a considerable impact if these skills were introduced at each stage of a lawyer's development (eg at trainee stage, junior lawyer and senior stage) to develop rounded lawyers and to counter the onset of a narrow technical mind set. Each of these skills/approaches could be taught in a different context. For example, they could be taught in: i) a file/case management context at a trainee level; ii) a team management and multi- file or larger case management context at the junior lawyer level; and iii) at partner/leader level in the context of managing departments or organisations in delivering excellent client service.

If these skills are not introduced early on then a set of behaviours and values are developed that encourage a fixed mindset rather than a growth mindset, which looks at wider perspectives, outlooks and solutions that encompass the customer's needs and commercial and market issues.

Question 17: Would you consider it to be in the public interest to separate standards from qualifications? What particular risks and/or benefits would you anticipate emerging from a separation of standards and qualifications as here described?

Question 18: Decisions as to stage, progression and exemption depend upon the range and level of outcomes prescribed for becoming an authorised person. A critical question in respect of existing systems of authorisation is whether the range of training outcomes prescribed is adequate or over-extensive. We would welcome respondents' views on this in respect of any of the regulated occupations.

Thank you very much for your contribution. Please now e-mail your response to letrbox@letr.org.uk, putting 'Developing the Detail response' in the subject line.