

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

Name of responding person: Dr Philip Roberts, Head of Programme Development - on behalf of Kaplan Law School

Name of organisation (If responding on behalf of an organisation): Kaplan Law School, Palace House, 3 Cathedral Street, London SE1 9DE

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

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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:

- | | |
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| <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 |
| <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 |
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| <input type="checkbox"/> Will writer | |

Legal education and training provider – this response is on behalf of Kaplan Law School

We have focused our response on a small number of issues arising from questions 1, 2, 3 and 6 of the LETR paper.

Our general position on legal education and training was informed by the LETR July 2012 conference, at which delegates were invited to consider alternatives to the present system of title-based regulation. In common with others, while we recognise the need for change, we did not find compelling reasons to endorse the more radical alternatives that were on offer, and our response assumes a version of the current basis of regulation.

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).

We would like to see the current set of Foundation subjects enlarged to include coverage of company law or the law of business associations. Currently, in our experience, there is some initial disparity in the speed at which students (who have/have not studied company law as part of a QLD) pick up the business law elements of the LPC and BPTC. Being able to assume this knowledge at the beginning of the vocational stage would allow for deeper, broader treatment of topics within business-related modules of these programmes. Our experience also suggests that a grounding in company and business law is a requirement for success in any type of legal practice.

For the GDL, an enlargement of the scope of the Foundation subjects would not necessarily mean prescribing that a new company law course has the same credit weighting as other GDL Foundations, i.e. it need not be a "full" module. However, we do believe that it should be a compulsory additional area of study at an appropriate level of detail for those intending to progress to the current vocational stage of legal education.

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?

The ICAEW prescribes centralised examinations for its 'knowledge modules'. As a provider of accountancy courses, Kaplan has considerable experience of preparing students for centralised examinations. In addition, we are the sole SRA-approved provider of QLTS assessments, and a key player in the development in the UK of rigorous, measurable and defensible assessment methodology. We offer the BPTC, a programme which provides preparation for a mixture of centrally and locally set examinations.

We would approve of centralised examinations, not for the academic stage of legal education, but for the LPC (as the LETR reports, there is broad commitment to the current QLD (which, in any event, can be regarded as a liberal arts degree that may not be amenable to the exemption model) and strong employer support (for a variety of reasons) for the GDL).

The vocational stage of education for solicitors is currently characterised by varying standards of provision across those institutions that offer the programme. While the providers are currently 'policed' by SRA external examiners, LPC assessments are nevertheless of variable standard and content. This can be confusing for employers and students.

In our view a 'mixed model' of centrally and locally set examinations may provide a step in the right direction. It would provide a set of common standards, while recognising that there are different forms of legal practice, preparation for which require concentration on particular areas of expertise that may be found 'locally'. This in turn could give individual institutions the opportunity to differentiate themselves in the way they attract applications from students and endorsement from employers. It could also allow providers to devote more time and resources than at present to innovate in their areas of expertise.

We offer no comment for the time being on the nature of the central/local split, although candidates could include (respectively) core areas/electives and knowledge/skills. Similarly, we do not have particular assessment mechanisms in mind, although there could be an argument for training and certificating individuals and/or institutions to conduct assessments locally.

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?

We think that the scope of the current LPC core is about right, subject to our comments for Question 2. However (and this is also relevant to Question 6), we believe that there is justification for being able to integrate the second, non-core stage of the LPC into the training contract, a structure that is already being piloted. For those firms and providers that are able to provide the flexibility and learning environment required, this combines targeted education and training with on-the-job experience. As well as benefiting students/trainees, it enables both legal educators and practitioners to gain valuable insights into what can be achieved at the early stages of professional careers.

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?

The proposal for an initial training course for both solicitors and barristers has attractions – for example, it could result in a paralegal qualification and it may help students to manage the risk and cost attached to pursuing a legal career by providing a recognised exit point and postponing choice of profession. However, we think that there is currently too little overlap between the content of solicitors’ and barristers’ training – this intersection is of course based around litigation – to justify the proposal.

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)

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]

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.

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?

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 responses to letrbox@letr.org.uk, putting 'Developing the Detail response' in the subject line.