

Response to LETR discussion paper 2

This response is submitted on behalf of a working group of interested parties, consisting of representatives drawn from: the LawNet and Law South training consortia, Oxford Brookes University School of Law, and four law firms: SNR Denton UK LLP, Shoosmiths LLP, Henmans LLP and DarbysSolicitors LLP. All members of the working group have participated in their personal capacity, albeit bringing with them knowledge and experience gathered from within their own firms and organisations. A list of the individual members is at Appendix 1.

Overall, the view of the group was that much of the current system of legal education and training is working effectively. This is subject to a majority of our group supporting the ICAEW model proposed in the discussion paper, and indeed wishing to extend the model to include both academic and professional stages of training, in order to provide the flexibility needed at a time when it is unclear how the new market for legal services will develop. It is also subject to the need for greater recognition, status and enhancement of the diversity of legal roles in law firms, which argues for the increased professionalisation of paralegals.

Question 1

We did not feel that the content of the academic stage of training required any substantial change, although we would welcome a greater emphasis on the development of professional writing skills. More important, we think, is the need to ensure that legal practice, in any form, remains attractive to high calibre recruits.

Question 2

A majority of our group was in favour of the ICAEW model because they saw it as a mechanism for achieving greater flexibility, which would enable training to adapt to the new market conditions as they emerge. This flexibility would be enhanced if the ICAEW model were used for both the academic and professional stages.

The regulator would, however, need to be able to put in place the resources to enable the timely and accurate processing of applications for exemption.

Question 3

We would welcome more emphasis in the LPC on writing and drafting and also on commercial awareness, including the range of management skills identified by the report in paragraph 127, sub-paragraph a.

Questions 4 and 5: no views

Question 6

We would not welcome the model suggested by this question.

We are firmly of the view that in order to enable a trainee to benefit to the maximum from the training contract, they need to have completed a full LPC. Although there are now some shortened LPC programmes, the LPC is a developmental period of study during which students adjust significantly and begin to adopt professional attitudes, behaviours and skills.

None of the firms and training consortia in our discussion group welcome the prospect of trainee solicitors leaving the office for extended periods of training. The common model of 4 seat rotations each carrying a case load for which the trainee is responsible for a period of 6 months provides a rich and effective learning experience. The analogy with the training of accountants does not hold because a trainee accountant can work on a single audit or transaction which is completed in a relatively short time and can undertake training before starting a new piece of work. By contrast, the working pattern of trainee solicitors is more regular and does not normally include predictable quiet times into which training can conveniently be organized. If a trainee were to be required to be absent from the office for training, firms would have to provide cover for their ongoing case load.

In addition, firms would not welcome the financial burden of having to pay trainees' salaries while they were training.

Question 7: no views

Question 8

We agree that the baseline standard for unsupervised practice of reserved activities should be set at not less than graduate-equivalence, provided that there are flexible routes for individuals from non-traditional backgrounds to reach this level.

Question 9

We agree that the current standards for paralegal qualification are fragmented and complex. They are also poorly understood. Greater clarity and consistency would particularly help the profession with the recruitment of paralegals and would enhance their professional standing.

Question 10

We believe that entity regulation is sufficient. Those paralegals who wished to undertake a formal qualification could do so. But to require all to obtain formal paralegal qualifications and to be subject to regulation would reduce flexibility in recruitment and employment.

We also believe that as part of entity regulation, organisations employing paralegals should be required to ensure they have a proper knowledge and understanding of professional ethics, as applied to their particular role.

Question 11

We would wish to see greater emphasis on professional ethics in the academic stage of training. We would support option 11(c), as it requires not just the academic understanding between morality and law, but also the application of these principles to the practice of law. If we had to choose between ethics and the skill of writing (which we suggested should be added to the curriculum of the law degree) we would choose ethics. However, we believe that ethics could be embedded in the teaching of other substantive legal topics and that significant additional time would not necessarily be needed.

It follows from our answers to questions 10 and 11 that we do consider that professional ethics should be required in the education of not just all authorized persons, but all persons employed to undertake legal work in an authorized entity.

Question 12: no views

Question 13:

Of the list of key issues, we agree with those at paragraphs (a), (c) and (d).

We do not believe the review has evidence of (b) being a significant issue. We believe that the existence of professional indemnity insurance, professional disciplinary proceedings and a competitive market for legal services provide adequate protections to consumers against shortcomings in professional practice.

Nor, in general, do we agree that (e) is a significant issue. On the contrary, the current training system is characterized by an increasing range of training pathways. The main rigidity lies in the routes to qualification as a solicitor or barrister, both in relation to the requirement for the separate academic and professional stages (which could be rectified through the adoption of the ICAEW model proposed at question 2) and, more particularly due to the training contract/pupillage bottleneck. We would suggest that the solution here lies not in a relaxation of the requirement for a training contract or pupillage, but in the increased recognition and status of the wide variety of legal jobs within a law firm, with which students will become more familiar over time.

Question 14: as stated in our answers to earlier questions, we believe that the only areas where there may be competency gaps to be addressed by additional training are: writing and drafting; commercial skills and professional ethics.

Questions 15 and 6: no views

Question 17: no views

Question 18

We believe that the outcomes could be simplified into a more coherent and consistent whole, and would welcome this.

Appendix 1: list of individual representatives

Julie Brannan – Head of Business Development and Knowledge Transfer, Faculty of Humanities and Social Sciences, Oxford Brookes University

David Day – Lead, Professional Programmes, School of Law, Oxford Brookes University

Liz Harris – Practice Manager, SNR Denton UK LLP

Rebecca Hewitt – Training Partner, Darbys Solicitors, LLP

Jeanette Lucy – Director of Learning and Development, LawNet

Viv Matthews – Head of Human Resources, Henmans LLP

Simon Thackray – Chief Executive, Law South Group Limited

Sue Way – Professional Support Lawyer, Shoosmiths LLP