

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

Name of responding person: **Joanne Urmston**

Name of organisation (If responding on behalf of an organisation):

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 |
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| <input type="checkbox"/> Claims manager | <input type="checkbox"/> Registered foreign lawyer |
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| <input type="checkbox"/> Law teacher (school/FE) | <input type="checkbox"/> Trade mark/patent attorney |
| <input checked="" 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 |

I am both an academic and a practicing solicitor. I am a senior lecturer and course leader for the part time LLB at Manchester Metropolitan University and also the director/joint owner/managing partner of a small legal practice – Accident Advice Solicitors.

My response is personal, in that I am giving my own personal views and not speaking on behalf of either MMU or Accident Advice Solicitors, but obviously my views are informed by both of these roles.

I have a few comments to make that fall outside of the specific questions raised in this paper. I have said something about my own background and my views about mature part time students in answer to question 13 and I have a particular interest in mature part time students.

In para 33 you discuss the very positive comments that employers make about GDL graduates and address issues such as maturity and commitment. I believe that you would have received similarly positive comments if you had asked for comments specifically about mature students and particularly those who worked in legal practice in some capacity at the same time as studying part time. Maturity and commitment are the qualities that I see all of the time in my part time students and I think it's a shame that comments about LLB graduates were not analysed in terms of mature students and/or part time students.

I understand that almost 40% of undergraduate students in the UK study part time (I do not know whether there are any statistics about law students specifically), but this group of students is consistently overlooked. It was striking to me, as someone heavily involved with mature part time students, how much of the discussion in your paper is based on the premise that a typical student is young and has no prior work experience. There is reference to blending vocational training with work-based learning but no apparent consideration of the fact that this already happens with those who work in the legal sector and study part time nor any attempt to assess how well this works in terms of outcomes.

This is a significant issue in relation to equality and diversity, particularly in relation to class – those who did not receive the best education or come from a family that expected their children to go to university are far more likely to end up on a part time course later in life than those from a more advantaged background.

Unfortunately I did not see the earlier paper on equality, diversity and social mobility until after the date for submission of comments and I have not had time to read that literature in any detail. However, what little I have read leads me to the same conclusion – that this issue tends to be seen exclusively in terms of young people and initiatives that take place at school age. Those initiatives are to be applauded but they do not go far enough – they tend to focus on the very brightest, gifted children from disadvantaged backgrounds, but what about the others? If being reasonably intelligent is enough to get a middle or upper class student into the law why should it not be enough to get a working class student into the law? I think there is a real issue with some initiatives sending out the message that only particularly gifted working class children ought to be given a chance.

The other issue is that I have seen nothing that focuses on helping more mature people from less advantaged backgrounds to establish a career in the law. In particular I do not believe that part time study routes receive enough attention.

I understand that if change is to take place in the future then some initiatives need to focus on school age children but equally many people do not develop any interest in a legal career until later in life and it can then be very difficult to carve out your own path. If the part time route became more common then there would be more role models for younger people to follow. There are many people like me who come from a less privileged background, managed to qualify later in life and now work in practice successfully, representing clients from a similar background who appreciate what they see as our “down to earth” approach. (Incidentally, I have had several clients express an interest in qualifying themselves because meeting a solicitor from the same social background as themselves made them realise that was possible.) I do not believe that having a successful legal career is necessarily about going to an elite university and then working for a magic circle firm – I am happy and proud to have graduated at a former poly and to have established my own small high street practice.

I do appreciate that your suggested pathways (para 144 and diagram) allows a degree of flexibility but I think more attention needs to be paid to mature people coming to the legal profession later in life, the skills and maturity that they bring and how part time study can be accommodated for those who need to work and earn money at the same time as gaining a qualification – I believe this would help to address some of the skills gaps and some of the equality, diversity and social mobility issues.

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).

It is interesting that you have chosen to separate issues of knowledge from cognitive skills in order to clarify views. As an academic teaching both foundations of knowledge units (land law and tort) and legal skills I find it difficult to separate knowledge and skills in this way. They are not mutually exclusive - skills can only be taught effectively within the context of knowledge and knowledge cannot be taught without development of skills.

In my view, the principles or outcomes for the QLD/GDL ought to be expressed in terms of both knowledge and skills. I think this should start with the basics i.e. knowledge of the legal system and how it works, legal research skills and an understanding of legal method – how will students understand obligations etc if they don’t have the skills to find, read and analyse the judgments of cases?

My experience in practice is that I use very little of the detailed law that I studied on the QLD, although the broad understanding of legal principles and the skills that I learned have been invaluable.

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?

I think there is some merit in the ICAEW approach – the benefits of this approach are flexibility and widening participation. It would be much easier, for example, for a non-graduate paralegal to study for individual exams over a long period of time and/or gain exemptions from exams based on their practical experience and ultimately become qualified. This modular approach may well make it much easier for students who cannot attend university full time to gain a degree to find a route to qualification that fits their circumstances.

The risks of this system are that it may be difficult to maintain parity in relation to the quality of teaching and assessment of different modules and there may be an adverse effect on skills development, which might become quite disjointed.

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?

I believe that the LPC core could be reduced and supplemented by a range of in-depth options. I do not believe that the LPC can or should prepare trainees to practice in any area of law. I think a system where a specific qualification is needed in order to carry out a reserved activity would be much more useful eg in the same way that higher rights can be granted now.

My own experience of studying the LPC was that I studied lots of knowledge (much of which has never been of any practical use to me) at a very superficial level when what would have been far more useful would have been a deeper understanding of the activities that I would carry out in practice. This was particularly stark to me as an experienced paralegal working in practice alongside studying the LPC part time – I learned nothing new about my area of practice and gained only a superficial overview of everything else.

I believe the absolute basics should be accounts, business law, professionalism and ethics, with additional, detailed options around litigation etc. The options could also tie in with CPD – so could be taken by qualified solicitors (in place of current CPD activities) in order to expand their area of practice or move into a new area of practice. It is currently very difficult to move into a new area of law in practice and a qualification at LPC level would be helpful with this. I also think that members of the public (potential clients) would be reassured by a specific qualification confirming a degree of expert knowledge.

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?

I think there are many benefits to the kind of integration outlined in your paper – as your paper itself says, the quality of learning is enhanced by taking place in a real-world setting and this is obviously hugely beneficial to trainees and their employers.

There is, to some extent, already a model for this with the part time mode of delivery of the LPC. As I have already mentioned, this was my route to qualification and it was very useful to learn, for example, Solicitors' Accounts Rules whilst working in a legal environment and seeing those rules in practice and therefore understanding their importance very clearly. It is a shame that the LPC in its format at that time was not more useful in terms of detailed understanding of my area of practice, but the model of 2 years of studying the LPC part time whilst working for a law firm and completing part of my training contract was an excellent one.

I know a number of people who followed the same route of part time study whilst working in practice and interestingly all are now partners in law firms or own their own firms – I am not aware of any specific research comparing outcomes for full time and part time law students but my feeling, based purely on anecdotal evidence is that those who study part time whilst gaining a practical working knowledge of an area of the law go on to be really good lawyers and to have particularly successful careers.

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)?

I think level 6 is appropriate and does not set the bar too high.

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?

Yes, I do consider that current standards are fragmented and I would favour the development of a clearer framework, with co-ordinated standards. I think this is necessary for the protection of clients and of paralegals themselves. Unfortunately some firms see paralegals as cheap labour and expect them to deal with a high degree of responsibility with very little training. In my experience paralegals tend to learn the specific role that they carry out in isolation and there are obviously huge gaps in knowledge that the paralegal themselves may not be aware of – a co-ordinated standard of education (particularly in relation to an overview of legal services as a whole) would be immensely useful here.

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?

I would favour bringing paralegal training within legal services regulation, for the reasons outlined in my answer above.

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?

I would like to see option (c) and I agree entirely with Boon (para 90 of your paper) about the inclusion of some professional legal ethics.

I do think there is a need to address the underlying values of law in education and training for all authorised people under 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?

I do agree that there should be an overarching public interest test but I do not have any specific views on 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)

My observation is very personal and comes from my own background as a working classwoman who attended an inner-city Manchester school with low educational standards, left without much in the way of qualifications but returned to education at the age of 30 to do a part time law degree, followed by part time LPC.

Your paper mentions "Possible equality and diversity issues in respect of who gets chosen at various stages of LET" (para 130). I believe there are very definite equality and diversity issues here. The "high calibre trainees" referred to (para 129) seem to be defined (by law firms recruiting them) in terms that are a good fit for middle class privately educated students, but almost impossible to meet if you are a 30 year old single mother of 3 working full time as a paralegal and studying part time in the evenings.

Your paper refers to skills gaps (para 127) including client relations and project management and to practical skills; ethics, values and attitudes; interpersonal and communication skills; organisational skills; and commercial skills as part of the basic statement of what LET should set out to achieve (para 133 – outside the strict scope of this question, I know). Having been a mature part time student myself and having seen hundreds of other part time students qualify through the part time route I would say, in general terms, that these students are far more likely to possess those skills

than a younger person with less life experience – yet they are unlikely to be considered as “high calibre trainees” and your paper does not consider the part time route to qualification as one that enables practical and academic training to be gained at the same time and would help to address issues of skills gaps, “passive competence” and, to some extent, over-reliance on initial training.

I know there is no easy answer to this issue but I believe that mature part time students are often overlooked and I personally would consider this to be a key issue. These students have a lot to offer and there are very real equality and diversity issues here.

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]

I do agree with the assessment of the gaps, from my own experience both as an academic and a practitioner, though I have to repeat the point I have made in my previous answer – these gaps are far more evident in young full time students than in mature part time students.

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, provided that the outcomes are specific and clearly articulated. The benefits of an outcomes approach are clarity and certainty for the student/trainee/professional themselves as well as other stakeholders, flexibility (assuming that the method of reaching the outcome is not heavily prescribed) and parity.

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?

Yes, I would expect to see some further specification of key topics and principles, with clearly stated outcomes in respect of the standard expected at each level – as stated in your paper (para 135) ideally the outcome of one stage would also serve as a statement of the entry standard for the subsequent stage.

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.