

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

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 refer the research team to the response provided by us to Discussion Paper 01/2012. Our response is given at 1 – 7. We take this opportunity to emphasise our collective view (at 7) that the development of critical reasoning skills should form part of the requirements of the QLD. We believe that a high value QLD requires the promotion and demonstration of students' critical enquiry into and engagement with topics under investigation. We consider that these skills should not be drawn narrowly or prescriptively: any formulation must allow opportunities for students to engage in critique at the widest level. For example, students should be given robust opportunities to critique s.1 of the Legal Services Act 2007 (e.g. 'b. supporting the constitutional principle of the rule of law'), rather than limiting opportunities for engagement to analysis that accepts the current legislative frame. In our view, the promotion of wide critique deepens understanding of the law whilst supporting and developing modes of reflection, evaluation, argument, creativity and expression that ought properly to be at the centre of a QLD that is robust and fit for purpose. We consider that the universities are uniquely well-positioned to promote wide critique and critical engagement in this manner, and that a QLD formulated to include these learning outcomes at its core is the foundation of the platform of general skills and aptitudes required for practice in the changing legal services marketplace.

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)?

We affirm (c) robustly, referring the research team to our response to question 1 (above), and thus to our responses to Discussion Paper 01/2012, paragraphs 1-7 (with emphasis upon paragraphs 5 and 6). Further, we consider that the high value of the QLD ought to be promoted by including 'critical reflection' as a learning outcome in addition to 'knowledge' and 'understanding' in the formulation provided. This addition serves to make clearer the ambition of the QLD to produce graduates who are active learners, able to critically engage topics under investigation, whilst providing more definition to the value added by the opportunities for deep, reflective learning at HE level.

We reiterate our view that provision should be made (and appropriate curriculum space provided) for optional LLB courses that teach legal ethics at an appropriately academic level, taught as a critical exploration of the arguments and theories underpinning that subject.

We do not consider (c) to be of lower priority than other additions and/or substitutions.

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?

Yes.

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?

No.

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