

Solicitors Regulatory Authority
Consultation on the "Future structure of the Legal Practice Course"

Response of Training Committee of the City of London Law Society

1. Introduction

- 1.1 This Response to the Consultation Paper (the "Paper") has been prepared by the members of the Training Committee of the City of London Law Society ("the Committee"), the largest local Law Society in England and Wales and the Society whose members currently employ the majority of trainee solicitors.
- 1.2 The Legal Practice Course (the "LPC") is the foundation for those trainees' Training Contracts. Therefore, the members of the CLLS have a significant interest in the content and structure of the LPC and the Response below focuses on those aspects of the course. The detail of some of the other proposals (for example, those relating to the validation of the LPC providers) may not be of direct relevance to the members of the CLLS. Nevertheless, the *consequences* of any such changes may impact on our members and the Response includes our views on those proposals.
- 1.3 The LPC has been described as a "bridge" between the "academic" and the "practical" stages of training and that "bridge" needs to reflect the longer-term direction the trainees' practical training takes. The Electives element of the LPC has always allowed a degree of "tailoring" of the tuition to the work the trainees will experience when they join their firms. We regard as very positive the move over the past few years to extend that tailoring to the Compulsory subjects by allowing "sector-specific" LPCs.
- 1.4 We see the proposals in the Paper as a welcome step towards further tailoring the LPC though on some points we consider the proposals do not go far enough while with others there may be (perhaps unintended) consequences which go too far.
- 1.5 The Paper makes it plain that the Consultation on the LPC's structure is linked to the review of the LPC's content. Although that "content review" is not a formal part of this consultation, we have nevertheless had the benefit of discussions about those plans with representatives of the SRA and have included our views in the Response below.
- 1.6 The SRA has either launched (or has indicated it is planning to launch) reviews of many of the elements of the current training continuum (the law degree/GDL, the LPC, the Training Contract/work based learning period, the Professional Skills Course and the Qualified Lawyers Transfer Test). We appreciate that reviews of some of these elements may be dependant on the outcome of the reviews of other aspects of the continuum. However, we are concerned that this piecemeal approach may lead to inconsistencies or interested parties being unable to comment on proposals of significance to them. Therefore, we ask that once the work on the training continuum has progressed further, the profession be able to comment on the complete set of proposals for the new continuum before they are implemented.

1.7 The proposals in the Paper are founded on the principle of introducing further flexibility into the LPC, an approach we support. The Paper also assumes that the *core* content of the LPC will be common across all providers (to meet the LPC Written Standards and, to the extent it is appropriate, the Day One Outcomes). While we recognise that anyone holding the title of "solicitor" must meet core standards, those core standards must be a sound foundation for whatever area of practice the would-be solicitor enters. The reality of the modern profession is that it has diverged into a broad range of market sectors for which the *detailed* knowledge and skills required to practice successfully can be very different, from sector to sector. With that in mind, we take the view that the Compulsory subjects should give the students broad "generalist" training. If that training is to be based on some combination of the LPC Written Standards and the Day One Outcomes, further work on those lists is needed to make them suitable to most, if not all, practices. The more specific training can continue to be provided through the Electives. The option of disengaging them from the Compulsories with the possibility of linking them to the students' work based learning could lead to more sophisticated training to the benefit of all. Obviously, there is only so far that training at the LPC level can take students. It may be possible to introduce some form of specialist qualification into the training framework, perhaps based on the Electives. Alternatively, that level of specialist training could be addressed through the CPD system, an area which is overdue for a review.

2. The Content of the LPC

- 2.1 We understand both from the Paper and our discussions with representatives of the SRA that the "prescribed" content of the LPC will be determined by an appropriate combination of the LPC Written Standards and the Day One Outcomes. Many of the statements/requirements in those two lists (as currently drafted) are sensible elements in the "prescribed" training of a future solicitor. However, we query whether some (particularly from the Day One Outcomes) can properly be "tested" on a course such as the LPC (or, indeed, at all) and others may be of limited value depending on the market sector the student joins for his or her period of practical experience. Therefore, we would ask that both the LPC Written Standards and the Day One Outcomes be reviewed and rewritten. They need to list "assessable" knowledge/skills and to reflect the knowledge/skills required of solicitors working in the broad market sectors into which the profession can logically be divided - private client contentious; private client non-contentious; commercial contentious; commercial non-contentious. We are not envisaging completely different lists for these sectors, rather the lists should be adapted so they are relevant *across* all the sectors so far as they are assessed through the Compulsory topics. Insofar as those lists are relevant to the Electives and/or the work based learning period, they could include additional elements *specific to* each sector. Further work, therefore, needs to be done on both the Standards and the Outcomes to ensure they will genuinely aid the assessment of would-be entrants entering the different market sectors within the profession to ensure appropriately high standards are achieved.
- 2.2 Focusing on the Standards as they are currently drafted (and whatever our views on the detail of some of those Standards - see below), we support the intention that the Standards should determine the broad contents of any particular LPC while giving the provider very considerable flexibility in terms of the *detailed* coverage and emphasis. We consider it very important that LPC providers continue to be able to tailor their courses to meet the particular training needs of different market sectors. However, we also recognise that while some students may wish to specialise at a relatively

early stage in their careers, that is not universally the case, nor may it be desirable. Therefore, by way of illustration, we agree that Litigation should be covered on the LPC as a compulsory topic but it should be possible to give the course a different focus depending on the market sector which the students will be joining in due course. Many of the member firms of the CLLS have very significant commercial litigation practices and limited criminal practices (apart from white collar crime). Therefore, a Litigation course suitable for students joining those member firms could focus predominantly on civil litigation. However, it could provide sufficient coverage of criminal litigation to give students an appreciation of the practical aspects of criminal justice which could be a foundation for further study should they decide at a late stage to become involved in criminal legal work. The LPC providers should, of course, have the freedom to design courses with a reverse emphasis for students joining firms with a different practice profile.

- 2.3 The members of the CLLS are a diverse group with a broad range of practices so it is not possible for us to provide a definitive list of topics which should or should not be included in the Standards. One topic which has been the subject of some debate is Probate. If it needs to be retained as it is "reserved work" and/or it is seen as a necessary part of a core "generalist" curriculum, it should be covered at least to a sufficient depth for it to be of some future use to the students (following the logic we used for civil/criminal litigation in para 2.2 above). It could, of course, be given the prominence it deserves on the courses aimed at market sectors where a detailed knowledge of Probate was important.
- 2.4 If the LPC is genuinely to represent a "bridge" between the academic and the practical stages of training, it needs to retain a balance of substantive law, skills and practice. We support the retention of the current list of skills to be covered on the LPC though the emphasis given to them again needs to reflect the training needs of the different market sectors (writing, drafting and research is universally necessary but some sectors may wish to give greater emphasis to, say, interviewing than others). The one overarching point we wish to make is that under the current regime there are excessive assessments of the skills which are too resource heavy to the prejudice of other elements of the course. The training strategy for the skills needs to address that imbalance.

3. Disengaging the electives

- 3.1 In the Committee's Response to the SRA's consultation on "A new framework for work based learning", we proposed an alternative approach involving would-be entrants to the profession being able to call themselves "non-specialist solicitors" (akin to non-practising barristers) on the basis of having completed only the Compulsory elements of the LPC plus completing a satisfactory period of work-based learning. Any entrant who wished to go on to become a "fully qualified" solicitor would need to sit further exams tailored to the particular market sector he or she was joining, and those exams could be the LPC electives. Accordingly, we support the proposal that it be possible to disengage the electives. That said, we do recognise the difficulty of identifying suitable topics for such "specialist" exams if the student is planning to join a firm with a very broad practice.
- 3.2 Under the current regime, LPC providers have freedom of choice in terms of the subject matter of their suite of Electives though there are some constraints on the courses as a result of the nature of the validation process. We support the retention of the freedom of choice over the subject matter of the Electives. We recognise that there may need to be some prescription over the structure of the

Electives courses to ensure that all would-be entrants to the profession have gone through broadly similar formal training.

- 3.3 The existing approach of a common structure for all LPCs has the benefit of certainty for all parties (the students, the providers and the employing firms) though it does have disadvantages (cost, time-lag between studying a topic and experiencing it in practice etc.). We would not attempt to comment on the advantages and disadvantages of the proposals from the perspective of providers or students, rather we will concentrate on how we see the proposals affecting our member firms.
- 3.4 There are pros and cons to disengagement. The major advantage of the proposal from a firm's perspective is the ability to mesh the Elective teaching in with relevant practical experience. As things currently stand with the "six month trainee rotation" system which many of our member firms adopt, a student could study an Elective course but not experience that work in practice for eighteen months or longer. The result is that many of our member firms (even those who have worked closely with LPC providers to develop suitably tailored courses) in effect have to repeat much of the teaching on in-house induction programmes. The ability to integrate the Elective teaching with the practical experience avoids that problem and enables the Electives to be truly tailored to the particular firm's practice. Beneficial though that undoubtedly is, we envisage that some of our member firms will, nevertheless, prefer to retain the current structure to avoid the significant logistical problems such an approach would cause. The Paper does not offer any suggestions for how the "disengaged" Electives would be taught but we would envisage it will either be by a "block release" approach or "distance learning" approach. Trainees in our member firms are an integral part of the firm's manpower planning processes and so losing part of the trainee group while they are on "block release" will impose a burden on the firms' resources. As a result, firms may decide not to opt for the approach for logistical reasons whatever the pedagogic advantages. Furthermore, integrating the "block release" periods into the "training period" will mean that the trainees will join their firms as employees earlier than is now the case. That will, therefore, increase the salary burdens on the firms which may be another reason why some firms may choose to follow the old structure. If a "distance learning" approach is adopted and the trainees complete most (or all) of their Electives study while still working, that could impose significant pressures on the trainees - surely an undesirable outcome. The Paper is silent on the cost of providing the Electives. Many of the CLLS member firms already pay for the places of their prospective trainees on an LPC and so changing the point at which the Electives are studied may be neutral from a cost viewpoint for many employing firms. However, if integrating the Electives into the "training period" means the employing firm has to pay the cost of the Electives, that may be a disincentive to taking advantage of the proposed new structure for firms which do not currently pay for their prospective trainees' LPCs. While we envisage that many of the CLLS member firms would continue to use existing LPC providers to run the elective courses, the Paper envisages firms being able to offer the courses. The Paper is clear on the necessity to have standards with which the firms would have to comply so we assume that would include imposing some degree of control over who would set the exams. A system allowing professional exams to be set and marked in-house could fall into disrepute.
- 3.5 The Paper raises the issue of when it would be possible for the student to complete the Electives. In our view, the most appropriate time is after completing the Compulsories (whether or not the Electives were integrated into the "training period") as that would ensure the current (and very beneficial) integrated approach towards teaching continues.

- 3.6 We are not in a position to comment on the proposals from the perspective of LPC providers though we can envisage that disengagement may cause them difficult logistical problems. If that is right, it may either constrain providers from taking advantage of the new proposals and/or lead to an increase in cost. We wonder whether the competition to meet a demand for a wide range of approaches with the LPC coupled with logistical/costs issues might lead to some of the existing LPC providers dropping out of the market. If that happens and there is a consequent *reduction* in the number of LPC places available for students, one of the main objectives for the review of the training continuum (to *improve* access) will be defeated.
- 3.7 The Paper coupled with the work being done on the Written Standards envisages a very flexible regime. That is potentially attractive from the perspective of an employing firm and as many of the CLLS member firms recruit prospective trainees before they apply for places on LPCs, we see the flexibility as only benefiting the trainees which join our member firms in future. However, many students start the LPC without knowing who will employ them once they complete the course. There is nothing in this Paper or in any of the other materials issued by the SRA which indicates that situation will change. Therefore, for those students the new regime introduces significant uncertainty. If their LPC provider offers Elective courses, which ones should they study?

4. Exemption from part or parts of the LPC

- 4.1 The Paper envisages the creation of a system of granting exemptions from the Compulsory and Skills elements of the LPC. We are not in a position to comment on the impact that would have from the perspective of the LPC providers but we have difficulty envisaging whether many (or any) exemptions would (or could) be given in practice. The role of the LPC as a "bridge" between the academic and practical stages means that it is (quite rightly) very different from a traditional academic course. As such, while we have no doubt that some students would be able to prove that they had covered *elements* of the LPC courses on previous programmes of study, we find it hard to envisage how a student could have satisfied the necessary standards for the discrete courses which make up the LPC.
- 4.2 If a system of allowing exemptions was workable, the consequences would need to be understood by students and employing firms to ensure (so far as possible) fairness in the job market. It would be undesirable if exemptions led to some students being seen as not having as sound a foundation as those who had completed the "full" LPC.
- 4.3 As with the proposal to disengage the electives, introducing an exemption regime could introduce uncertainty into the structure to the potential disadvantage of all parties and so the regime would need to be carefully communicated to students and the profession.

5. The SRA's regulatory role and the LPC

The LPC providers are in a better position to comment on the regulatory proposals outlined in the Paper than we are. As "consumers" of the LPC, we see it as important that all successful graduates of the LPC must have met common standards. Provided the new regime ensures that, precisely how it is achieved by all LPC providers is perhaps of less interest to the CLLS members. However, the Committee envisages that firms with close relationships with particular LPC providers would

expect the SRA to impose general standards but not detailed prescriptions which restrict the providers from designing and delivering courses which efficiently and effectively meet the training needs of the students joining those firms.

6. Provision of information to students and other stakeholders

The flexibility envisaged in the Paper carries with it the possibility of a wide variety of approaches being followed by firms and/or LPC providers. However, the logistical burdens which taking advantage of some of the consequences of the proposals will involve will, very probably, mean that the range of approaches will not be as wide as they might be. Be that as it may, we agree that there is an obligation on the SRA to ensure all students have enough information to enable them to make informed choices about their LPCs (in terms of course content and structure, course cost, the course's link to the requirements of firms etc.).

7. Conclusion

- 7.1 We welcome the fact that the Paper shows the SRA is committed to ensuring the LPC (a key part of the training continuum) can be designed (in terms of both structure and content) in a flexible way which will properly prepare students for their "training period". That we may have concerns that logistical constraints may limit the flexibility which will be introduced to the LPC structure does not alter our support for the general approach.
- 7.2 While the Paper (and the related work) will take the LPC in right direction, we see the proposals as not going far enough. The approach of creating common LPC Written Standards and Day One Outcomes means they do not (and cannot) perfectly match the requirements of all of the profession's market sectors. Furthermore, the lists are not coherent lists of *assessable* knowledge/skills. Therefore, we ask that both those lists be revised to retain the *core* common knowledge and skills but with supplementary items tailored to the main market sectors, described in a way which means they can be effectively assessed.
- 7.3 While the Paper does not focus on improving access, we know it is part of a wider series of reviews which have that as one of the principal objectives. If the SRA working with the profession can give greater clarity to the knowledge and skills which entrance to the broad markets sectors need, the LPC providers will have better information on which to base the design of their courses. That would in turn mean that the prospective employers of graduates of those courses would have greater reassurance that their training is "appropriate" so helping to address any disadvantages those graduates may currently face in the employment market.
- 7.4 The LPC may be an important element in the training continuum but it is only one element. We understand the need for the SRA to carry out a range of reviews of the different elements and we will continue to contribute to those reviews. However, before any new training framework is put in place, a comprehensive set of proposals (complete with their advantages and disadvantages to the major stakeholders) must be put to the profession for comment before the new framework is implemented.

Training Committee, City of London Law Society
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