

## **The City of London Law Society**

### **Briefing Note prepared by the Training Committee on the Joint Legal Education & Training Review of the SRA, the Bar Standards Board and ILEX Professional Standards (the "Review")**

David Edmonds, the Chair of the Legal Standards Board, announced a comprehensive review of the education & training of the "legal workforce" in the 2010 Upjohn Lecture. (There has been nothing quite like this since the Ormrod Report in 1971.) The three regulators agreed between themselves and with the LSB that they would run the Review.

The Review was launched in May 2011 and was originally planned to run until November 2012. However, it may be concluded during 2013.

The project itself will fall broadly into two parts: (a) scoping the current and likely future legal services sector to 2020, and (b) identifying the key skills and training needs within the sector, making recommendations for legal education and training accordingly.

This work will be carried out by a team of researchers (the Review Team) who will divide the work into four phases which are (using their language):

#### *1. Literature review and analysis (June 2011-January 2012)*

A review and analysis of the literature and past research on the system of legal education and training in England and Wales and internationally. This will be supplemented by a comparative study of other sectors and professions.

#### *2. Contextual analysis (October 2011-June 2012)*

A review and analysis of the factors and issues that will influence and affect the shape and structure of legal services in the future. This stage will include an analysis of the impacts of contextual changes on individuals and entities and define the range of legal and broader emerging roles and the skills, knowledge and experience necessary to provide high quality and competitive services in the legal services market of the future.

#### *3. Workforce development (October 2011-September 2012)*

The Review Team will conduct research into the legal services sector workforce identifying potential future structural change and its implications for future education and training needs.

#### *4. Final recommendations (August-November 2012)*

The Review Team will prepare a final report on the main challenges and changes that will influence the shape of the future legal services sector and determine the legal services education and training system(s) necessary to underpin that structure. They will set out evidenced priorities for action and recommendations to address these issues.

More detail on the approach and timing is set out in the Discussion Paper titled "Project scope, research questions and assumptions" and the PowerPoint presentation attached (both of which are available on the Review's dedicated website – [www.letr.org.uk](http://www.letr.org.uk)).

While the scope of the Review is clear, the regulators have not been prescriptive in terms of what precisely the Review Team will cover (whether topics or outcomes).

The unique aspect of the Review is that it will cover the whole "legal workforce", not just solicitors, barristers and legal executives. It therefore covers paralegals, licensed conveyancers, will writers etc; in other words, anyone who provides some form of legal service to the public.

There could be issues affecting that wide group which will have some impact on the CLLS's member firms. However, at this stage the Training Committee will focus its efforts on the work the researchers are likely to do on the "training continuum" for solicitors, namely the law degree/GDL stage through the LPC and Training Contract stages to CPD.

As has been said, the Review team will put forward at the end of the Review a series of recommendations for change to the existing regulatory frameworks to the three regulators. However, the regulators will not be bound to accept any of the recommendations, rather they will be able to pick and choose which ones to implement. Realistically, however, they are likely to accept most, if not all, of them. Having chosen the recommendations to implement, the SRA will have to go through the usual consultation process for changes. Therefore, any changes affecting the solicitors' profession will probably not be in place much before late 2013 or early 2014.

While the three regulators have launched the Review, presumably the LSB will have an interest in whatever changes are proposed.

While the researchers are carrying out the Review, they will be overseen by the Review Executive (the CEOs of the three regulators supported by the secretariat set up by the three regulators). Furthermore, a Consultation Steering Panel (chaired by Sir Mark Potter and Janet Gaymer) has been set up which will meet more or less quarterly and will act as the main advisory body for the Review. (The Committee has representation on that Panel.)

How can interested parties track what is happening with the Review and contribute to the debate as it progresses? Through the Review's dedicated website ([www.letr.org.uk](http://www.letr.org.uk)). Not only will the public be able to access information generated by the researchers, they will also be able to see comments posted by other stakeholders and, most importantly, the Committee can use the website to get the CLLS's views into the debate.

Given that, the Committee will develop its thinking on what should be the right outcomes on the issues directly affecting the CLLS member firms. Therefore (and accepting that the Review may throw up some unexpected issues to which the Committee may have to respond reactively), the Committee will consider:

- the Academic Stage (the Qualifying Law Degree/GDL);
- the Vocational Stage (the LPC);
- the Practical Stage (the Training Contract); and
- the Post-qualification Stage (CPD).

Taking those in turn and flagging the issues of importance to the CLLS member firms:

### **1) The Academic Stage (the Qualifying Law Degree/GDL)**

The contents of the Qualifying Law Degree ("QLD") are currently governed by the Joint Academic Stage Board ("JASB").

The JASB oversees the "Joint Statement" which determines the contents of a QLD. A law faculty which offers a law degree complying with the Statement ensures their graduates will have satisfied the Academic Stage requirements and so can go straight onto the LPC. The Joint Statement lists the seven "Foundation" topics (contract, tort, crime etc) but does not specify the syllabi in any detail.

The principal issue is whether the QLD requirements are fit for purpose.

Should the Joint Statement be more prescriptive as regards the breadth and depth of the Foundation topics to ensure greater consistency? (While all QLD graduates will have studied, say, contract, there is no guarantee they will have studied the subject to the same depth.)

Are the Foundation topics the right ones? Should professional ethics (the "philosophy" of ethics, not the Code of Conduct) and company law be included as Foundation topics?

Unsurprisingly, there are a range of views on this; some stakeholders support this idea, others object to it.

One valid concern is that simply adding these topics could overload the syllabi and all law faculties do not necessarily have the capability or capacity to teach these new topics. Aside that, does this interfere with "academic freedom"? Does the practising profession have a right to determine at least the Foundation subjects (though not any other subject a law faculty may wish to teach)? Could an insistence on this change lead to some faculties no longer offering QLDs?

Could a satisfactory compromise be to rebalance the Foundation topics in some way (by, say, dropping topics or reducing the coverage of some of the existing topics to make the necessary "space")?

It is within the scope of the Review Team's brief to propose more radical changes to this stage of legal education. Could combined law & business degrees (following the Australian model) be the norm? Could law become a post-graduate degree only (following the US model)? (Cost implications in the current economic climate may make such ideas difficult to implement.)

The Review's focus on ensuring fair access to the profession will mean the different routes into the profession will be examined. One issue of interest is that it is already possible for non-graduates to become solicitors via, for example, the FILEX route and the expectation is that that route will remain in place (and so it should). Are there any implications of that for CLLS member firms if a wider group of law professionals can become solicitors without degrees?

## **2) The Vocational Stage (the LPC)**

The work some of the CLLS member firms have done with LPC providers on developing tailored LPCs means that the current programme is probably now largely fit for purpose within the constraints currently imposed by the SRA. Some more flexibility on the contents of the compulsory courses might be welcome to the extent that is permissible given the need to meet the regulatory obligations flowing from the reserved areas of activity (such as probate).

The Review may try to address concerns about course costs (especially in view of the mismatch between numbers completing the LPC and the numbers of Training Contracts currently on offer) and the availability of "tailored" LPCs for a wider range of market sectors than is currently offered. The Committee would welcome any change which ensured open access to talented students.

Concerns about the numbers of LPC graduates who are unable to secure Training Contracts may lead to some of the stakeholders in the training continuum (whether representatives of LPC graduates, teaching institutions or whoever) proposing that those graduates should have the title of "solicitor" on completion of the LPC rather than at the end of the Training Contract. The Committee will determine the position of the CLLS on that.

## **3) The Practical Stage (the Training Contract)**

The Review Team are likely to include recommendations for the future of the existing Training Contract structure, not least as a way of opening access to the profession.

The SRA are currently carrying out a pilot "work based learning" initiative under which "trainees" are able to gain the practical experience they needed to qualify via a more flexible approach than the current Training Contract structure.

Given the mismatch between the numbers of LPC graduates and the number of Training Contracts on offer, a more flexible approach is to be welcomed provided standards do not slip. If a "two-tier system" (in terms of the perception of the "trainees" following either a traditional Training Contract or the more flexible work-based learning approach) is not to develop, clear standards have to be set which everyone has to meet whichever route to qualification they follow. The SRA have those in place (the "Day One Outcomes") and those outcomes need to be ones which all employers can ensure their "trainees" can meet.

A consequence of having the Outcomes is that meeting them would determine whether a would-be solicitor is ready for admission, irrespective of how long he or she has been in some form of "traineeship". If there is rigour in the assessment of that, this should maintain standards and so is, in principle, unobjectionable (though see below). However, if "rigorous assessment" means all trainees have to sit a test before they can apply for admission, would CLLS member firms welcome that?

That last point to one side, many firms may want the freedom to continue to run "Training Contracts" in much the same way as they have done for many years but is that the best approach? Would firms want to retain the current experience requirements (of three separate areas of practice, one of which must be contentious)? Would firms want to change the length

of the "Training Contract"? Are there greater freedoms firms might want (such as making it easier to offer "Training Contracts" in international offices)?

#### **4) The Post-qualification Stage (CPD)**

Ensuring members of the "legal workforce" maintain/develop their knowledge and skills is crucial for the protection of the public and so this is likely to be a significant area of activity for the Review Team.

Lawyers at all levels in CLLS member firms have little difficulty meeting their CPD obligations but the regime is inadequate in terms of ensuring all solicitors "continue to develop". This is as a result of the way CPD credits can be collected coupled with the lack of monitoring. The Review may not be able to address the latter but it may throw up changes introducing more rigour into the former.

Flexibility in ways of meeting CPD requirements is a good thing. While the juniors in CLLS member firms can meet their obligations through the wide range of in-house training on offer, the seniors do sometimes find it more difficult. Therefore, for example, allowing "self-certified study" (including, say, updating through reading) would be helpful.

The recommendations may give greater freedom in terms of how solicitors "continue to develop" themselves but they may also impose new requirements. These could be that ethics training (whether annually for all or some lesser obligation) and/or more extensive management training will be imposed (beyond the current compulsory course for mid-level associates and the training for those holding management roles in the new ABS world). What is the CLLS view on this?

Could the recommendations include introducing some form of (re)accreditation scheme(s)? There are already some of these schemes in place but could they be extended to cover commercial work? Would that help or hinder CLLS member firms?

It is too early to say which of the possibilities will be seriously considered during the Review. However, the Committee will develop views on what would be welcomed as outcomes of the Review so they can be fed proactively into the Review process.

The Committee will organise an Open Evening (date yet to be fixed) to brief member firms on the Review and to gather views.