

Creating a more *flexible* approach to education and training

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This presentation



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- Role of the LSB
 - Regulation, not education
 - Goal of a more flexible labour market
 - What is the problem?
 - Where are we now?
 - What does the LSB expect?
 - Draft guidance to regulators
 - Some principles and summing up

Introduction to the LSB



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- Oversight regulator created by Legal Services Act 2007
 - Up and running since 2009
 - Small organisation (circa 30 people)
 - Whole legal services market - 8 approved regulators

Why education and training?



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- Important regulatory tool
 - Primary means by which regulators control who can provide reserved legal services
 - Historically this has meant high barriers to entry
 - A proxy for quality?
 - Educational inputs tend to be easier to measure
 - But they also impose costs
 - Those costs need to be justified in reference to their impact on the regulatory objectives

Our statutory role



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- LSB duty to “assist” (Section 4 of LSA 2007)
 - Regulatory objectives – none are left untouched by education and training
 - Focus tends to be on *Independent, strong, diverse and effective legal profession*
 - But we must not forget about the rest, particularly:
 - Promoting competition
 - Interests of consumers

It's about regulation – what do we mean?



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- Any requirements should be better targeted towards risks
 - What are the risks that education and training requirements are designed to address?
 - Barriers to entry only where needed
 - Aligned with better regulation principles: transparent, accountable, proportionate, consistent and targeted
 - LSB regulatory standards framework

The goal?

A more *flexible* labour market

- A more modern approach to regulation
- Less prescription from regulators
- Greater focus on the risks
- Outcome focused
- More freedom for legal businesses to develop and grow
- Better services for consumers
- Regulators better placed to respond to new and emerging risks

So what is the problem we are trying to fix?



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- Significant numbers of consumers (individuals and small businesses) aren't getting access to the services they need
 - Price is the most common barrier
 - Access to justice means enabling providers of more accessible legal services to emerge and flourish
 - Liberalisation of ownership was the first step
 - Reducing unnecessary costs and restrictions in regulation is essential – this includes education and training

But this does not mean declining standards



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- Regulators focus on competence
 - Clear outcomes for what is expected
 - Holding firms to account for their workforce decisions
 - Resource focused on assessing risks rather than 'box ticking'
 - Greater emphasis on post qualification where the risks require it, for example enhanced CPD or reaccreditation

So where are we now?



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- Research phase of the LETR has concluded and produced a very thorough analysis
 - Fired the gun for action from the regulators
 - Significant milestone
 - But – has taken three years to get to this point
 - Nor does LETR exist in a vacuum

What does the LSB expect?



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- Momentum to be maintained
 - Modernisation in line with regulatory standards framework
 - Early progress where possible
 - Remember consumers

Draft guidance



- LSB consultation – closes 11 December 2013
[http://www.legalservicesboard.org.uk/what we do/consultations/open/pdf/20130918 consultation paper on guidance for education and training FINAL for publication.pdf](http://www.legalservicesboard.org.uk/what-we-do/consultations/open/pdf/20130918-consultation-paper-on-guidance-for-education-and-training-FINAL-for-publication.pdf)
- Proposals for guidance to be issued under section 162 of LSA 2007
- Requires regulators to develop a more detailed and time-bound blueprint for change over the medium term
- Submit plans to us in April 2014

Five principles - from our draft guidance



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- Education and training requirements focus on what an individual must know, understand and be able to do at the point of authorisation
 - Providers of education and training have the flexibility to determine how best to deliver the outcomes required
 - Standards are set that find the right balance between what is required at entry and what can be fulfilled through ongoing competency requirements
 - Obligations in respect of education and training are balanced appropriately between the individual and entity, both at the point of entry and ongoing
 - Education and training regulations place no direct or indirect restrictions on the numbers entering the profession

Outcome 1: *What an individual must know, understand and be able to do at the point of authorisation*

What it is?

- Outcome focused requirements at the point of authorisation, for example a competency framework
- May differ depending on the activity with some universal requirements, for example professional principles or ethics
- Greater consistency across regulators and easier movement between professional titles

What it isn't?

- 'Time served' models where regulators specify how long it takes to demonstrate the outcomes
- Extending regulation to students

Outcome 2: *Providers of education and training have the flexibility to determine how best to deliver the outcomes required*

What it is?

- Providers of education have to demonstrate how their courses and curricula meet the outcomes that have been set by regulators
- Multiple routes to authorisation are able to emerge, with no one route becoming the “gold standard”
- Mix of ‘on the job’ and ‘off the job’ options, may depend on activity

What it isn't?

- Regulators prescribing particular routes
- Regulators duplicating existing sector specific quality assurance, such as the Quality Assurance Agency (QAA)

Outcome 3: *Balance between entry and ongoing requirements*

What it is?

- Entry requirements set at minimum level to assure competence, supported by ongoing competency requirements where appropriate
- Requirements beyond the minimum only where justified by the risks
- Reaccreditation where justified by the risks

What it isn't?

- Broad based legal knowledge requirements for all types of authorisation
- Reaccreditation in all areas

Outcome 4: *Balance between individual and the entity*



What it is?

- Entities play a role in assuring competence where possible, for example in relation to CPD requirements where they may be relied on to ensure individuals complete appropriate CPD
- Regulators look at whether a firm has in place appropriate controls and supervision arrangements
- Requirements vary depending on the type of services being provided– many areas will still require demonstration of individual knowledge

What it isn't?

- No individual knowledge requirements at all
- Reaccreditation in all areas

Outcome 5: *Regulators place no direct or indirect restrictions on the numbers entering the profession*

What it is?

- Any qualification route that meets the outcomes is permitted

What it isn't?

- Regulators setting a limit on the number of routes to qualification, places or training providers
- Regulators creating inadvertent restrictions, for example requiring that an individual must have obtained a training contract or pupillage before they can complete the preceding stages of training

Summing up



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- This is about regulation and delivering the regulatory objectives
 - A modern regulatory framework demands a different approach
 - Liberalisation of ownership + significantly more flexible labour market = a legal services market which functions more effectively for consumers
 - Can be achieved without compromising professional standards