



From The Convenor for Scotland
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Evidence from the Society of Legal Scholars in relation to the Legal Services (Scotland) Bill

1. The Society of Legal Scholars welcomes the opportunity to provide evidence in relation to the Legal Services (Scotland) Bill. The Society is a learned society whose members teach law in a University or similar institution or who are otherwise engaged in legal scholarship. It is the largest such learned society in the field in the UK and Ireland, with over 3,000 members. The great majority of members of the Society are legal academics and researchers working in Universities, although members of the senior judiciary and members of the legal professions also participate regularly in its work. The Society was founded in 1908 and is the oldest professional association of academic lawyers in the U.K. The Society's membership is primarily drawn from all jurisdictions in the British Isles. The Society, as one of the larger learned societies in the field of humanities and social sciences, is therefore the principal representative body for legal academics in the UK.
2. The majority of matters covered in the Bill will not have a direct impact on the Society and its members and therefore we limit ourselves to three general observations.
3. The Society is happy with the current arrangements in relation to the regulation of individual legal practitioners and looks forward to the continuation of its partnership with the professional bodies and the approved regulators on matters relating to the qualifications for entry to the professions. These are primarily regulatory rather than representative areas. It is important therefore that the approved regulators give sufficient attention to the professional principles (which we believe require further elaboration) and to the regulatory objectives in the training of those who will work in licensed legal service providers. This is an area where the Society strongly believes that there is a role for the Joint Standing Committee on Legal Education (JSC). This body offers an efficient and effective vehicle for ensuring that such matters are considered by those involved in all stages of the training of legal practitioners, but with a range of stakeholders represented to ensure that no one interest dominates in a self-serving way. The JSC is the body which represents all those with a professional interest in legal education and training in Scotland, and accordingly the Society believes that it is very important that the JSC is consulted about and asked to advise on regulatory issues to do with admissions and training for providers of legal services in alternative business structures. It is understood that this would occur before the decision is taken to

approve a regulator since the choice of a regulator for alternative business structures inevitably carries with it questions with regard to the education and training of those involved. The Society believes that JSC should also be consulted on any other aspect of legal education and training which may emerge in the course of the development of the legislation.

4. More generally, given the potential for conflicts of interest in a diversifying pattern for the provision of services, an advisory body offering review and oversight of the regulatory framework seems desirable. The Society accordingly supports the Government's proposal for the establishment of a consumer advisory panel (set out in para 5.21 of the Government Consultation paper *Wider Choice and Better Protection*) for an independent consumer panel to be established to advise Ministers (and the Lord President if he acquires a determinative power over the authorisation of approved regulators) on applications for authorisation (including the application of the regulatory objectives and regulation principles) as well on the operation of the regulatory framework.
5. The Society notes that promoting access to justice is one of the proposed regulatory objectives (s.1). Although not at present well-developed, there is potential for law clinics and other initiatives run through the Law Schools to contribute to this goal. It is important, therefore, that in deciding on the rules for regulating the provision of legal services these are not drawn up in a way that might preclude beneficial developments along these lines. The danger is that regulatory structures drawn up with commercial enterprises in mind might inadvertently create unnecessary, or unnecessarily burdensome, obstacles to the provision of services by other bodies. There should of course be regulation of law clinics and the like to protect consumers, but the structure and details of the regulation should be appropriate for those circumstances, rather than having an ill-fitting system devised for quite different circumstances