S·L·S
THE SOCIETY OF
LEGAL SCHOLARS

From The Honorary Secretary
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A NEW FRAMEWORK FOR WORK BASED LEARNING

RESPONSE BY THE SOCIETY OF LEGAL SCHOLARS TO THE CONSULTATION PAPER ISSUED BY THE LAW SOCIETY'S REGULATION BOARD IN AUGUST 2006

The Society of Legal Scholars welcomes the opportunity to respond to the Consultation Paper on a New Framework for Work Based Learning issued in August 2006. 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, with over 2,700 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 drawn from all jurisdictions in the British Isles but also includes some affiliated members typically working in other common law systems. 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.

The Society is grateful for the Board's agreement (at a meeting of representatives on 26 September) to an extension of time for submission of this response.

Answers to the numbered questions are as follows:

1. The SLS is concerned that if the LSRB is not involved in prescribing the form and content of training agreements between organisations and trainees, the absence of even rough parity in bargaining strengths between the contracting parties will be likely to lead to some trainees being exploited by their training firms. We do not believe that reliance on employment legislation will prove an effective protection for such trainees except to provide a remedy if the trainee is dismissed from their employment. Nonetheless we accept that over time when the robustness of the validation, monitoring and assessment has been established this will reduce the ambit required for the LSRB, although not in respect of salaries, holidays and payment for, and attendance at the PSC.
2. We believe that it is imperative that individuals with relevant work experience, although not with an accredited training organisation, are eligible to enter the profession. This alternative qualification route is essential for Access reasons because we believe that accrediting training

organisations is likely to lead to a considerable loss in training contracts, thus exacerbating the existing bottleneck for entry to the profession.

3. We believe that existing training organisations in the field of legal professional training and the LPC in particular have developed techniques for skills assessments that could be utilised to set viable and appropriate day one competency tests.
4. We believe that this may be a short term problem. We do not believe that in the medium to long term this will remain a problem. In the past those who attained the profession without taking a law degree or even CPE/GDL were not regarded as less competent in the profession than those who had taken a law degree. Very often their colleagues will be unaware as to the entry route by which someone has become a member of the profession.
5. We do not believe that this is the appropriate standard. Rather we believe that the bar should be set at the level of "good practice". There would need to be cogent evidence of a risk to the public to justify a higher standard. We believe that existing training firms and those involved in teaching the PSC will be in a position to help identify elements of good practice in an accredited training organisation. If the LSRB determines that training organisations are accredited then everything possible must be done to prevent a significant decline in training contracts and an equally significant increase in access problems.
6. If the standard for accredited training organisations is set at a good practice level, the SLS sees the case for introducing a more robust validation and monitoring regime in relation to some training contract providers, but certainly not for all, especially the large City firms. We believe that every additional requirement that the LSRB imposes on training firms and organisations should be carefully scrutinised to prevent access barriers from being created. It does not follow from the proposition that the LRSB cannot currently be confident that trainees completing the current two year training contract have reached an appropriate standard (CP, p 3) that a significant new bureaucracy must be created. There first needs to be some evidence as to whether and if so how inadequately trained lawyers are entering the profession, and measures taken proportionate to the problem.
7. (a) Yes. (b) Yes.
8. Yes. This will occur, as soon as the LSRB announces that it intends to make it more onerous for existing training organisations if they wish to be accredited, to offer training contracts in the future. Any measure that is designed to enhance quality standards will inevitably reduce access to the profession because there will be fewer training contracts available than in the last few years. As the Clementi Review Consultation Paper noted, "the setting of [entry] standards requires careful judgement between setting the standard too high and restricting entry, and setting the standard too low, and not maintaining proper levels of competency."[1] The risk can be mitigated in several ways. First, a "light touch" approach to accreditation is essential. Levels of bureaucracy have to be kept to an absolute minimum. Second, it is necessary to ensure that the standards "bar" is set at that of good practice rather than best practice.

[1] *Review of the Regulatory Framework for Legal Services in England and Wales* March 2004, at para.18 (available at http://www.legal-services-review.org.uk/content/consult/review.htm).

9. As much as possible. Again the help of skills trainers would be of assistance here.
10. (a) Yes. (b) Yes. We believe that it should be possible to implement both of these approaches.
11. This sounds reasonable in theory but in practice there is a problem of currency of knowledge. We do not have a concluded view on this point.
12. Yes. We believe that the LSRB should set a minimum number of review sessions and a minimum period of time between each review session. We believe that the current two year training period is about right and provides an important socialisation stage for new entrants to the profession. Four sessions at intervals of not less than 4 months might well be converted into a 16 month training period. We are not as yet convinced of the need to reduce the training period by 8 months.
13. We consider that experience of both non-contentious and contentious areas should continue to be required.
14. Yes. We believe that this is too short a period.
15. Yes. This is absolutely vital if this route is to become a viable entry route for those who are unable to attain a training contract with an accredited training organisation.
16. Yes, this is likely to be the case. Given that many of these candidates may be ethnic minority candidates or from disadvantaged backgrounds or from less prestigious law schools it will be necessary to provide access bursaries, particularly, for example, for those willing to commit to working in the legal aid sector for a set period of years.
17. Yes. See our answer to question 8. A light touch approach to in-house review and assessment will be required.
18. Yes.
19. Yes.
20. This is a level of detail which is beyond our current thinking.
21. a) Yes. b) Yes.
22. Some of them may decide to cease offering training contracts or even to employ those who might seek external assessment, on the grounds of cost and bureaucracy. The problems could be mitigated by offering incentives to legal aid firms to offer training contracts or to employ those seeking entry to the profession by work based learning and external assessment of day one outcomes.
23. Yes.
24. Yes. It is important for verification purposes that those submitting portfolios are subject like doctors to regular review or interviews to test their knowledge acquisition as set out in the portfolio.
25. Unfortunately we are unsure of the answer to this question.

S H Bailey

Hon. Secretary,
Society of Legal Scholars

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