

19 February 2010

CONFIDENTIAL

David Edmonds
Chair, Legal Services Board
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Southampton Row
London
WC1B 4AD

Dear David

Consultation Response on Alternative Business Structures: approaches to licensing

Thank you for the opportunity to comment on your discussion paper in relation to licensing approaches for ABS.

We have confined our response to those areas in which we have direct experience, namely issues surrounding special bodies (Question 8) and also complaint handling (Question 10)

In relation to special bodies, specifically the regulation of trade unions, whilst we welcome the regulation of unions that provide legal services to non-member consumers we do have concerns that there is scope for the distinction between members and non-members to be blurred. It does not appear that there would be any statutory or regulation bar to a union charging a consumer a 'membership fee' so that any services provided to them fall outside of the regulatory regime.

We appreciate that the decision to grant this exemption to unions was made by Parliament, rather than the LSB. However, our experience in investigating coal health complaints has shown that there is potential for significant consumer detriment where legal services are being provided by unions to their members. We would suggest that the Legal Services Consumer Panel consider this issue and if necessary make recommendations for the regulation of all legal services provided by trade unions.

In our previous responses to consultations we have emphasised the importance for consumers to be equally protected irrespective of the business model that provides them with legal services.

In terms of the regulation of complaints handling in relation to legal services provided by ABS, we would encourage the same principles that apply to individual solicitors and solicitors' practices to be applied equally to ABS. One aspect of this is that ABS will need to develop good in-house complaint handling procedures similar to those required for solicitors' practices under the Solicitors Rules. Another is that there will need to be some provision for tracking service providers to ensure the availability of redress. This may be necessary where a corporate entity closes and subsequently re-emerges 're-branded' or indeed, it may require the traceability of individual lawyers which is in any event necessary for conduct matters.

It is especially important that complex business models do not lead to complex complaints handling procedures.



We are certainly supportive of an approach that sets clear principles which underpin complaints handling and which allows sufficient flexibility for ABS to design complaints process that meet the needs of their consumers. In particular, new entrants to the legal services market may bring commercial experiences which could encourage positive and innovative developments in the handling of legal complaints

Due to the accessibility and public profile of the LCS, we have often become the first port of call for consumers that have complaints about a wide variety of lawyers and non-lawyers. We have recognised the key role that we can play in referring consumers, whose complaints fall outside our jurisdiction, to the correct organisation. We believe that it is right that the OLC should continue to perform this important function regardless of where the enquiry comes from.

I trust you will find our comments which represent the views of LCS and may not coincide with those of the Law Society useful and I would be happy to discuss any aspect of our response with you in more detail.

We will look forward to seeing your final recommendations.

Yours sincerely

A handwritten signature in black ink that reads "Deborah Evans". The signature is written in a cursive, flowing style.

Deborah Evans
Chief Executive
Legal Complaints Service