



Legal Services Board Draft Statement of Policy under s.49 of the Legal Services Act 2007

Consultation Response from Lawyers in Charities

About LinC

Lawyers in Charities is a group of more than 100 lawyers who are employed by around 200 charities, almost all of whom are currently admitted as Solicitors, or are planning to qualify as Solicitors.

LinC's response

We believe that it is essential for the Legal Services Board to promote proportionate regulation for all in-house lawyers, so that all recipients of legal services can be confident that they will receive high quality services, whether they seek advice as individual members of the public or as external advice for their organisations. Anyone doing so should be able to rely on a sound regulatory framework and effective complaints handling procedures if anything goes wrong, or they are incorrectly advised.

We are very concerned that the proposed draft statement would open the door to provision of publicly available legal services by unqualified advisers and or qualified but unregulated legal advisers, without being made obvious to clients. Even if they are made aware of the absence of regulation, or a different regulatory regime to that which applies to solicitors in private practice, we do not believe that will offer adequate protection to potential clients who are unlikely to understand the difference, and who may be unaware that, for example, they do not have access to the same complaints processes as they would had they received advice from a law firm.

We also believe that members of the public, whether seeking advice as individuals or for their employers, are entitled to the same level of protection from inadequate and/or inaccurate legal advice regardless of what type of legal vehicle the adviser works for, and to the same level of client management services.

We would prefer that the LRB takes a different approach to overseeing the regulation of Alternative Business Structures as providers of publicly available legal services. We ask it to work with other regulators, the Law Society and the legal profession to look at the categories of "regulated services" which we consider to be out of date and no longer fit for purpose. We would prefer that the LRB oversees the creation of a new, modern, and fit for purpose set of regulated activities, which reflect the wide range of work which in house legal advisers carry out, and to state positively that all providers of public accessibly legal advice are regulated to similar standards when it comes to carrying out work in these categories.

As both legal practitioners and in-house advisers to organisations which buy in external legal advice regularly, we expect the Legal Services Board to use its powers to actively promote proper regulation of all entities which provide legal services, so as to protect our employers and very other charity and not for profit organisations which will be at risk of (a) receiving inadequate and/or incorrect legal advice from unregulated providers and (b) being unable to understand the difference between regulated and unregulated providers.

In support of such an approach we would like to see this policy statement which include a positive commitment by the LRB to bring together all the different regulators to harmonise their approach and create a single, joined up, regulatory framework for all legal entities which are permitted to provide publicly available legal services, whether these are law firms, ASBs or some other legal vehicle.

While we agree that consistency among regulators is essential (your paragraph 16) and we applaud your requirement that they should make sure that their approach is evidence based (your paragraph 10), we would like more clarity around the processes which will be used to collect in, monitor and evaluate the evidence used by regulators for this purpose and an stronger statement about the LRB's involvement in achieving consistency.

As a final point, we found the consultation document hard to understand, even as legal professionals with considerable experience of reading and interpreting complex documentation. We suggest that that for future consultations, the LRB should use simpler language, and try an alternative to footnotes, which are more appropriate for an academic legal paper than a public consultation document.

This submission is made on behalf of LinC by Mary Mitchison, LinC Policy and Advocacy Officer.

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