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LEGAL SERVICES

13 NOV 2013

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11 November 2013

Consultations
Legal Services Board
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Consultation: Chairs of Regulatory Bodies

Dear Sirs,

We write further to the above consultation paper (undated).

Question 1

Do you agree with the proposed change to the IGRs in order to deliver lay chairs?

We see no reason why the chair of an AR should be a lay person provided there is a lay majority on an AR board.

If independence is truly the motive behind this LSB proposal then in our view this should be addressed not by prescriptive lay chairs but by restriction of a chair's historical attachment to the AR's representative body. For example, the CLSB rule is "*those who have served on the Council of the ACL may not apply unless a period of 2 years has elapsed from the date of their resignation from the ACL Council and the published closing date for the board opportunity in question*".

The LSB alleged public perception issue should be alleviated by the current lay majority requirement, the IGRs, AR board code of conduct and AR board rules.

A chair should always be the best person for the job, as decided upon by the AR board based on required competencies. In accordance with diversity requirements, the process of chair appointment should be non-discriminatory in terms of professional qualification/background.

We have seen no evidence ourselves or justifiable evidence from the LSB that non-lay chairs act in detriment to the principles of better regulation or that they impede independence under IGRs. In the event they did, then this would be a matter for the LSB to address with that particular AR under its oversight function.

The LSB does not seem to acknowledge that chairs, lay or non-lay, act in accordance with the determinations of a lay majority board.

Question 2

Do you think the proposed change should take immediate effect or only be applicable to future appointments?

As set out above, we do not support the proposed change.

Question 3

Do you agree that the requirement for lay chairs to apply only to the AAR's?

No, as set out herein.

Question 4

Do you agree with the proposed exclusion of the Master of Faculties from the proposed change?

The paper refers to the Council of Licensed Conveyancers and Master of Faculties having no representative function, are they then undertaking both functions? If so, the independence and influence points on which this proposal is based is actually most pertinent to those two ARs.

The paper suggests both the Council of Licensed Conveyancers and the Master of Faculties be exempt from the proposal (paragraph 11) yet this question refers to only the Master of Faculties. Was this an error by the LSB in drafting question 4?

In conclusion

We are concerned this proposal may have arisen due to issues between the LSB and certain non-lay chairs rather than justified independence issues. It seems an attempt by the LSB to depose current non-lay chairs because they have an excellent understanding, through their qualification and experience, of the profession they regulate.

We are also concerned the consultation document reads as an affront to the ability of those who hold lay board positions. We take particular exception to lay chairs being referred to as a "*fresh pair of eyes*," we consider all our lay board members to be such.

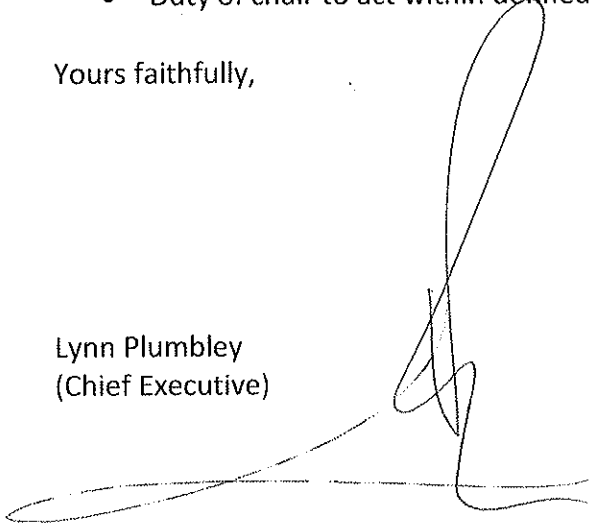
We are of the view the LSB has not made out its case to warrant the prescriptive outcome sought and that the following, currently in place, is fair, proportionate and adequate:

- Lay majority board requirement.
- Duty of a chair to act within the AR rules and IGRs (which include independence requirement).

- Duty of a chair to represent the views of the lay majority board.
- Duty of chair to act in accordance with their code of conduct.
- Duty of chair to act within defined contractual remit of their role.

Yours faithfully,

Lynn Plumbley
(Chief Executive)

A handwritten signature in black ink, appearing to be 'Lynn Plumbley', written over a horizontal line. The signature is stylized and extends above and below the line.