

Chris Kenny
Chief Executive
The Legal Services Board
Victoria House
Southampton Row
London
WC1B 4AD

13 March 2009

Dear Chris,

LSB Draft Business Plan 2009/10

This letter is by way of response by the Council of ILEX to the consultation on the LSB draft business plan.

For the sake of brevity, I would ask you to note that ILEX has seen the response prepared by ILEX Professional Standards Ltd, and we endorse its contents.

However, as an Approved Regulator and as representing the Membership of a professional association, we have some additional points that we raise for your consideration.

1. We understand the enthusiasm displayed by the language in the draft plan for “excellence” and “gold standards”. However, if it is not clear to us what is meant by these terms, it certainly will not be clear to consumers. We prefer that the LSB focus on ensuring *effective* regulation by the Approved Regulators. Effective regulation will meet the statutory objectives. Effective regulation will be proportionate regulation.
2. It is unfortunate that in this document, the LSB has found it necessary to cast doubt upon the commitment and approach of the Approved Regulators to their task in regulation and to their obligations under the Legal Services Act. We refer in particular to paragraphs 8 and 10. ILEX can assure you that we share the vision you set out in paragraphs 1 and 6.

3. The plan does not appear to recognise that the Approved Regulators, and their regulated members, work with a range of services, regulators and schemes that impact on their ability to move as fast as perhaps the LSB might like. ILEX, for example, as a nationally accredited Awarding Body, is answerable to QCA/OFQUAL in relation to the quality assurance processes surrounding our professional qualification. Aspects of work for some Approved Regulators involve oversight by the financial services regulator. How the LSB will work with other regulators is particularly important for the Approved Regulators.
4. The plan is ambitious, we are sure you would say deliberately and of necessity so. It is unclear whether the LSB will have the resources to deliver on such ambition. We note the average salary of the admirably small staffing of the LSB. This indicates to us – and we will be happy to be assured otherwise – that the focus will be on high level policy, with detail and projects outsourced. We are not convinced that the budget will remain sufficient to sustain this approach longer than the initial period covered by the plan.
5. This leads to ILEX’s concern about the cost of regulation in future. It will not be in the consumers’ interest for costs to rise year on year; at the end of the day, for the most part, cost will, be passed on to the consumer. That will not be the case for all Legal Executive Lawyers. A significant number pay their own practising certificate fees. There is no one to pass the cost on to. We expect a high degree of responsible planning, not only from the Board but from its panels, including the Consumer Panel, to ensure that cost does not become such an issue that good lawyers are driven away from regulated work. That cannot be in the consumer, or the broader public interest.
6. This is not to suggest that Legal Executives are against good and effective regulation. It is with pride that ILEX can report from recent membership research. Of the various services that ILEX offers and activities it undertakes, “regulation and disciplinary powers” came a close third after “developing practice rights “ and “increasing the profile of Legal Executives”, these also being very legitimate consumer and public interest matters.

ILEX looks forward to a robust and fruitful relationship with the LSB as work proceeds during 2009/10.

Yours sincerely,

Diane Burleigh
Chief executive