

**Legal Services Commission's Response to the UK Border Agency's  
Consultation on 'Oversight of the Immigration Advice Sector'  
11 August 2009**

**Introduction**

1. The Legal Services Commission (LSC) is an executive non-departmental public body sponsored by the Ministry of Justice. With an annual spend of around £2bn, we are responsible for the delivery of civil and criminal legal aid in England and Wales. We help over two million people every year.
2. The LSC's vision is "*legal aid – fair access to justice*". We are committed to ensuring that clients have access to quality legal services that meet their needs, and that providers deliver client focused quality services that represent value for money. As the largest purchaser of legal services and a key stakeholder we appreciate the opportunity to respond to this consultation.
3. In responding to the consultation paper we have not directly followed the structure indicated by the questions it asks. However, our responses below are particularly relevant to questions 2, 10 and 12.

**Regulatory Structure**

4. It is essential that immigration advice services remain regulated. In light of the changes in the legal landscape brought about by the Legal Services Act 2007 and the creation of the Legal Services Board (LSB) there is a need to look again at what would be the most appropriate regulatory framework for the consumers and providers of immigration advice.
5. The LSC favours the option that brings the regulation of immigration advice provision under the auspices of the LSB, with the Office of the Immigration Services Commissioner (OISC) acting as approved regulator. We believe that this is in the best interests of consumers. Given that the LSB is responsible for overseeing legal regulators in England and Wales, it would be counter-intuitive for some immigration advice providers to be regulated outside this structure. A dual structure may be confusing for consumers who may not understand:
  - The relationship between the OISC, the LSB and other regulators of legal services
  - Who is responsible for quality
  - Who they should complain to
6. This option will allow the OISC to continue to have direct responsibility for the day-to-day regulation of their immigration advice providers and allow them to work closely with the LSB and other approved regulators to ensure the highest standards of competence. In addition, an assurance of conduct and service in the legal profession are maintained for the benefit of individual consumers and the public generally.
7. Regardless of the decision of where regulation lies we would strongly encourage the OISC to work closely with the LSB and those bodies that are regulators of immigration advice providers to agree the principles of common standards to

safeguard against a differential in quality requirements. Where there is a difference between regulators, this should be made as clear as possible to clients.

### **Quality**

8. The priority for the LSC is that regulation of legal services from the OISC, or any other regulator of immigration advice providers, has a focus on and commitment to drive quality for the clients, to the greatest extent consistent with avoiding undue barriers to entering the legal profession or limiting the market.
9. Quality must be the responsibility of the providers, with the role of a responsible regulator to set and assure minimum standards, and to provide a framework for demonstrating specific areas of competence or excellence.
10. The LSC believes that a robust regulatory system should include quality assurance systems that can be relied on by private and publicly funded clients alike. This is particularly key in areas where the client is vulnerable such as immigration. As part of any review of regulation of the sector we would like to see discussion around those individuals operating in the immigration field who are not currently subject to any form of competence assessment.
11. The LSC requires all individuals providing publicly funded immigration and asylum advice to be accredited through the Law Society's Immigration and Asylum Accreditation Scheme (IAAS). As you will know, the Law Society developed IAAS in partnership with the LSC and in consultation with the OISC, at our request, in response to quality concerns we had.
12. The LSC made IAAS a mandatory requirement for all individuals providing publicly funded immigration advice under an LSC immigration contract in 2005. This requirement has driven up standards of immigration and asylum legal advice, ensuring members of the public and clients can be confident that the individuals providing legal advice under an LSC immigration contract have been subject to rigorous and independent quality assessment. This ensures that members of the public can identify quality assured (competent) immigration and asylum advisers.
13. The OISC's statutory regulatory scheme for immigration advisers includes its own system of compulsory competence assessments. However, any adviser who is a member of a designated professional body is not subject to the OISC statutory regulatory scheme.
14. Given the acknowledged poor standard of work in the field that led to the development of IAAS, it is a concern that the designated professional bodies including the Law Society have not chosen to make IAAS or an alternative competence assessment compulsory for their members who are provide immigration advice to fee-paying clients.
15. We would like to see debate on this issue between the OISC, the other bodies that are responsible for the regulation of immigration advisors and key stakeholders. It is in the best interests of all consumers of immigration advice that this situation is resolved. Making immigration work a reserved legal activity under the Legal Services Act may allow decisions in this area to be more easily made.

## **Consumer focussed regulation**

16. We would also like to see the existing regulatory structure enhanced to further put the needs of consumers at the heart of its work.
17. We welcome the intention to make the legal framework clearer, more streamlined and easier for the public to understand. A key part of ensuring consumers are able to access high quality services is providing information to allow them to make informed choices. This approach reflects the LSB vision, set out in their business plan of 'empowered consumers receiving the right quality of service at the right price'.
18. We believe that there should be clear communication channels in place to provide consumers with meaningful and consistent information on:
  - The quality standards met by immigration service providers and,
  - The role of the OISC in ensuring standards.
19. The current registers of regulated and exempted advisors are an example of this. The proposals to make this a single list of 'regulated advisors' should make things clearer for consumers, as long as any charges associated with using an advisor is identified clearly.
20. In addition to this, we believe that information for consumers should include the results of regulatory assessments, details of accreditations held by advisors, and perhaps the outcomes achieved for clients. The LSC is keen to work with the OISC and others to help make information available. This will support members of the public to choose between different providers.
21. The OISC should also consider how feedback from clients about their experiences could be harnessed to inform others. Empowering clients to share their experiences has been effective in enabling choice in the context of social and health care, and potentially has an important role to play in legal services too.

I hope you will find this response useful in developing your future strategy and we look forward to working with you in the future. If you have any queries about its contents, please do not hesitate to contact Jennifer Will, Project Manager (Quality) for the Strategic Development Team at [Jennifer.will@legalservices.gov.uk](mailto:Jennifer.will@legalservices.gov.uk).

Yours sincerely

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