

## **DISCUSSING THE DETAIL.....**

### **SPECIFIC RESPONSE TO CONSULTATION**

1. Do you think the illustrative descriptions of personal experience of legal education and training are useful, and should be carried forward to the next phase of consultation?

No, because these tend to restrict consideration to the circumstances of the individual subjects of the illustration. This consultation should be considered in general principle with wide application rather than in relation to particular circumstances as identified in the illustrations.

2. Do you agree with the overall stated aim of this system, as articulated on page 5 of the document.

Page 5 of the document refers to a vision, rather than an aim and the statement of that vision identifies a number of very general ideals and is of almost no assistance at all in the construction of a programme of education and training which is relevant to preparation for the legal profession. The vision stated at page 5 could be applied as a doctrine of perfection in the training for any profession.

3. Do you think the core principles of legal education are appropriate?

We would comment on these as follows :-

1. We do not necessarily agree that distinctiveness in the nature of Scots law is, in itself, a characteristic which should be welcomed and we would generally have greater confidence in those laws which reflected commonality with other systems. Even where distinctly Scottish problems merit distinctly Scottish solutions, it would be hoped that those solutions would be the same solutions as would be applied by other systems, if they met the same problems in similar conditions. This statement appears to contain a possible misunderstanding between the nature of Scots law, which is to be hoped to be capable of general application to the human condition, on the one hand, and its jurisdiction which has to be jealously guarded, on the other..

2. Whereas this appears to be a general statement which describes a partnership in which the key partners consist of everything in the country raising the question as to who might be the non-key partners, more or less everyone. However, the statement also refers to a sharing of resources between stake holders who are, however, not defined and, as a sharing of resources implies a payment of money, this statement might well reflect a

sinister hidden agenda. For example, the acceptance of such a principle, may open the door to an educational levy to be added to the costs of solicitors practising certificates which levy has been previously proposed and may well remain on the agenda of certain of the so called partners/stake holders.

3. The statement reflects the proposed dependence upon accreditation which is referred to throughout the paper and the statement is meaningless until the qualifications of the accreditors have been identified and accepted.

4. The reliance upon the concept of bench mark in legal practice presupposes that relevant bench marks can be drawn. While the bench mark may be relevant to joinery, it does not follow that it is relevant to education and training in law where requirements are constantly shifting and developing. One alternative is to rely upon adjudication by persons of skill, knowledge and experience, working within their areas of expertise. The constantly shifting requirements of legal practice are likely to render bench marks irrelevant in a very short space of time. It may be that the ideal system would be a combination of outline bench mark guidance and individual judgement.

5. See 3 above.

6 This statement merges diversity, innovation and consistency but does not suggest how these conflicting values might be achieved within the one system. More significantly, this statement implies the provision of academic legal education outwith the university system while, at the same time, the requirement for specific bench marks and other educational technicalities would appear to exclude the traditional qualification through Law Society examinations. Both universities and ILw Society examinations are quantities which are known to the legal profession. We now have the possibility of non university institutions which meet a number of educational technical requirements becoming the providers of legal education for future solicitors and this is likely to be completely unacceptable because it is totally out with the control or influence of the profession.

7. It is perhaps dangerous to acknowledge the development of client perspective as a principle without acknowledging that client's opinions are likely to be affected by subjective considerations which often cannot be catered for with legal propriety.

8. Any statement as to the promotion of equality and diversity is perhaps somewhat dangerous unless qualified with a condition as to the maintenance of quality.

9. Any statement as to the promotion of creativity and challenge and flexibility should be balanced with a reference to the recognition and support of the role of law.

10. A statement that it is impossible to teach 'all' law must be balanced with a recognition that the purpose of legal study is to study a great deal of law and the process should include a challenge to students as to how much law they can manage to learn and absorb.

11. This statement is lacking in specification and, again, without that specification, may be used to promote a future educational levy to be added to the costs of the practising certificate.

12. It is not appropriate for the legal profession to issue a statement which identifies the qualification of solicitor as a 'brand', while many members of the profession in Scotland are opposed to the regulatory reforms which have already taken place in England and Wales. The term 'brand' should be removed from this statement.

13. See the answer to question 10 above.

14. See the answer to question 10 above.

15. See the answer to question 10 above.

16. No, for the reasons stated above.

17. See comments above.

18. See the answer to question 10 above.

19. See the answer to question 10 above.

20. See the answer to question 10 above.

21. Within the time available we have not been able to trace and study this reference.

22. We think that we need some information above the qualifications of the accreditors is necessary before we make any further comment here.

23. See the answer to question 22 above.

24. See the answer to question 22 above.
25. No comment.
26. No comment.
27. No, we think that this approach is likely to separate the practising profession from the training profession and we believe that would be an incorrect approach to the education and training of prospective solicitors.
28. No further comment.