ILPA response to OISC Consultation on guidance on competence

Introduction

ILPA is a professional association with over 900 members, who are barristers, solicitors and advocates practising in all aspects of immigration, asylum and nationality law. The membership includes advisors regulated by the Office of the Immigration Services Commissioner. Academics, non-government organisations and others working in this field are also members. ILPA exists to promote and improve the giving of advice on immigration, nationality and asylum law and practice through training, disseminating information and providing evidence-based research and opinion. ILPA is represented on numerous government and other stakeholder and advisory groups and has given both written and oral evidence to many parliamentary committees.

ILPA has supported the notion of independent regulation of those who give advice on immigration, asylum and nationality law, for many years and indeed long before the statutory scheme was introduced as a result of the Immigration and Asylum Act 1999. ILPA was among those organisations consulted by the first Immigration Services Commissioner on the original competence standards. We recognise that there have been many, many changes in immigration law since 1999: six more Acts of Parliament (a seventh on the way), swathes of statutory instruments, revisions to the vast majority of the immigration rules, and tens of thousands of pages of new guidance and policy and that it is necessary to keep the guidance on competence up to date.

In August 2009, ILPA responded to the UK Border Agency's consultation on Oversight of the Immigration Advice Sector, a copy of which response we shared with the Office of the Immigration Services Commissioner (OISC). Therein we questioned whether there had been adequate resourcing of the regulator and also the effect that regulation has had upon voluntary organisations who continue to form the bulk of those organisations regulated by the Office of the Immigration Services Commissioner. We highlighted concerns at the ease with which it now appears to be possible to be registered at Level 1, which ILPA understands to be because of current OISC resources. We have been informed that resources saved at the stage of joining the scheme are intended to be redirected to compliance work, including audits, but against a background of cuts we are unconvinced that resources are being freed up to be reallocated rather than simply lost. It is very difficult to comment on the proposals outlined in the paper without understanding the ease or otherwise with which people would be able to enter the scheme at the different levels.

We also drew attention in our response to the UK Border Agency consultation to the need for the scheme to make proper provision for small refugee community organisations, or Citizens Advice Bureaux, providing basic immigration advice as well as many other services. We highlighted the importance of ensuring that they do not cut back on advice work, and of having a scheme that works for them and encourages them to continue providing advice that they can provide only if regulated. As the changes in legal aid mean there are fewer solicitor providers of immigration advice, the voluntary sector is vital and needs to be encouraged, rather than deterred by having to pay extra fees for regulation. Further reduction in free advice means that individuals needing advice may suffer severe hardship, or go into debt, in order to pay for the advice they need.

ILPA has had considerable difficulty in understanding what exactly were the models proposed in the consultation paper. We are grateful to the OISC for responding to our requests for clarification. To judge from the responses received, our initial impressions of what the paper was suggesting were not always correct.

We remain confused in a number of areas. The consultation paper is not clear on what is being proposed and provides very little explanation of why particular changes are proposed and very little detail on how they would work in practice. No convincing or detailed reasons or evidence are given for proposing these changes. There is no clear statement of the mischief the proposals are intended to address and no explanation of why, at a time when we are informed that the OISC's resources are extremely stretched, efforts are being directed to change in this area at all.

The proposals could and should have been set out much more clearly. Their presentation may well have defeated some of those who might otherwise have responded and has put considerable barriers in the way for those of us who have persevered. For those considering the responses to the consultation it should sound a note of caution: when people express agreement or disagreement with a proposal it may be important to verify that they share the OISC's understanding of what the proposal is.

Question 1. Do you agree that there should only be two main categories of regulated work, Asylum and Managed Migration, and that all of the other categories should be absorbed into them?

As an introductory remark, we do not consider that the language used is appropriate. Not only is 'managed migration' an extremely politicised term, it is also one by which different people understand different things. It is used in many contexts as though it were a synonym for the Points-Based System. In other situations it is used to encompass family applications as well. It is the wrong term if it attempts to encompass nationality or European Economic Area work; these encompass entitlements as of right. 'Immigration', although not wholly accurate, would be preferable if a short descriptor is sought. In what follows we treat the 'Managed Migration' category as encompassing all

areas of immigration and nationality law, together with the law on free movement in the European Economic Area, currently regulated by the OISC, other than asylum. For ease of reference we use the term 'managed migration' used by the OISC in the paragraphs that follow.

ILPA considers that this proposal would need a great deal more work and is not convinced by it as it is set out in the consultation paper.

Requiring a person to show competence across all areas of 'managed migration' would help to ensure that these advisors are versed in a broader area of law and reduce the risks of them failing to spot matters on a client's case if, and this is a big 'if', tests of competence are sufficiently rigorous. Being able to recognise other potential immigration, nationality, European law and protection solutions is essential for a competent practitioner.

The question lies in considering what level of competence an advisor is required to demonstrate and, having demonstrated it, in what areas the advisor should be regulated to practice. An advisor who specialises in asylum needs to be able to identify other potential solutions for a client but does not necessarily need to be able to make the more complex applications in areas outside that of their specialism.

Thus we suggest that rather than a crude division into asylum and 'managed migration' it is necessary to think more carefully about where advisors are required to show knowledge, where awareness and where expertise. Rather than a scheme that requires all advisors to show exactly the same level of competence in all areas of 'managed migration', an improved scheme would require that all practitioners demonstrate the requisite level of competence 'across the board' (all areas of 'managed migration' and 'asylum') but are allowed to identify the areas in which they wish to specialise and are accredited to practise only in these. They would then face different tests in areas in which they are accredited to practise and others. This would need to be backed by both rigorous testing and a carefully prepared syllabus.

Our reasons for advocating this approach are set out below.

ILPA agrees that asylum is a specialist area, one that many practitioners with a broad practice in immigration and nationality law will not touch at all. It supports the proposal to retain asylum as a separate category. ILPA considers that a practitioner in the Asylum category needs to have some requirement for competency in all other categories. However, as described above, the level of competence must be carefully considered. A member writes

> *"..there is no question of our ever undertaking Managed Migration work - when that arises in our practice, we simply pass the case on to an immigration solicitor."*

An advisor who is publicly funded will not be doing any work excluded, other than in exceptional cases, under Schedule 2 to the Access to Justice Act 1999 from legal aid funding. A small community organisation that advises on family applications will not be acting for business corporations. Some charitable

organisations are limited by their charitable purpose to certain types of work only, for example the relief of people seeking asylum. All of these need to know about the Points-Based System and to be able to spot nationality and EEA entitlements but will not be making applications in many of these areas. With the whole of the points-based system included at level 1 there is a great deal of knowledge of, for example, the Points-Based System already required of asylum specialists qualified at level 2. A member such as the one writing is unlikely ever to see, albeit just to pass on to a solicitor, a sponsor as a potential client.

We are not persuaded that immigration, asylum and nationality law practice is less heterogeneous or simpler than it was in the early part of this millennium. The introduction to the consultation on the OISC website states:

> *"The last few years have seen the introduction of the Points-Based System (PBS) that has been described as the biggest shake up of the immigration system for 45 years. Other important developments include the passage of the Borders, Citizenship and Immigration Act 2009, the continuing expansion of the EEA, the current Earning The Right To Stay consultation and changes to the Asylum and Immigration Tribunal (AIT)."*

There are two very different broad areas of practice with the Points-Based System: advising individuals and advising corporate sponsors on compliance. Some representatives specialise exclusively in one or the other. There is a world of difference between advising a multi-national on compliance and advising an individual would-be student who wishes to come to study in the UK and many gradations between these two extremes. Those advisors who do not specialise in asylum but work only for individuals need to understand the broad lines of compliance but do not need to be capable of representing a corporate client in its application to become a sponsor or when it has been accepted as a sponsor. Those advisors who work only for corporate clients need to understand about protection, nationality, human rights and EEA entitlements and to be competent to recognise when a person may be in a position to make a claim for asylum, but not necessarily to advise or represent such people, who require specialist assistance.

The Borders, Citizenship and Immigration Act 2009 contains, *inter alia,* provisions relating to nationality by birth and registration that remain an extremely specialised area, that will in no way be touched by proposals, still at the earliest of stages to take a 'points-based' approach to naturalisation set out in the *Earning the Right to Stay* consultation.

As highlighted, the EEA has expanded. Free movement law forms a discrete corpus of laws and there is particular specialism in the laws on accession. The balance of work at the appellate level has shifted away from asylum cases but could shift back again.

There is a risk to clients that a broad category or band such as 'managed migration' could tempt people to attempt to advise on areas on which they have little or no experience in circumstances where the client would be much better off if, as now, the advisor referred the matter to others. It also tells the

potential client less about the true competency of any advisor they may consider approaching.

There is also a risk that faced with a broad category called 'managed migration' an advisor might elect to avoid that category entirely rather than achieve competence in, for example, nationality and EEA law at Level 2/Band B.

Advisors may face increased professional indemnity costs because they could undertake such a wide range of work. As one member (OISC registered) noted

> *"…the proposed bandings/grades are too broad and would increase advisors' professional risk beyond what they may wish to entertain."*

In summary, tailor tests and the syllabus to ensure that advisors have the requisite levels of competence in the form of knowledge, awareness or understanding of all the different areas of immigration law. Allow them to elect the categories in which they wish to provide representation and require higher levels of competence in these, then accredit them to practice in those areas that they have chosen in which they have demonstrated the requisite competence.

Question 2. Do you agree with the proposal to split Level 1 into Service and Advice as outlined below?

No.

There are difficulties for refugee community organisations and NGOs and faith groups among our membership in having to be regulated at Level 1 to be allowed to do anything to assist a person with the sorts of applications described under Band A services and Assistance. One member commented:

> *"It is absurd to say that a person must be any level to write a letter on behalf of an asylum seeker or immigration to notify a change of address."*

These difficulties will be increased if being regulated becomes more difficult and more costly, as set out in our response to the UK Border Agency consultation on regulation described above. There is a risk that many will opt to cease to provide assistance, services or advice on immigration matters and, with legal aid services under the fixed fee regime becoming ever more limited, the sector cannot afford to lose their invaluable assistance. The notion informing the proposal is thus one that we recognise. But it is ill-developed and thus we answer 'No' to a question that specifies 'as outlined below'.

Perhaps the first thing to do is to review whether there are very basic tasks currently within the regulatory scheme that, with the benefit of experience, it is considered should not be within it at all in circumstances where the organisation providing assistance does not hold itself out as a legal

representative. This would involve going back to the drawing board rather than simply assuming that what is proposed for Band A Services (and assistance, although it is noteworthy that this word is not highlighted in the question) would be matters proposed to be omitted from the scheme, as set out below.

To suggest, by creating a Band A Services and Assistance, that there is a tidy category of providing immigration services that never strays into advice may prove more risky than exempting certain matters from the scheme altogether.

There is a real risk that a purported distinction between Band A Services and Assistance and Band A Services, Advice and Assistance may turn out to be a false one. The distinction between 'checking' a person's application and advising them upon it is not as clear-cut in practice as it may at first appear to be or as those imposing it desire it to be. The distinction also leaves out of the equation the difference between advice and representation and, in particular, the differences between representation and assistance and services. It is important to be clear when and how an advisor must be on the record as acting for an individual. This is a matter of professional ethics.

Unless 'checking' literally means looking at a form and adding no value, which would be pointless, then it is going to involve advising a person. The change has the potential to make the job of regulation much harder and to introduce distinctions that are impossible to define and therefore impossible to regulate in practice.

Our consideration of this proposal is informed by our experiences of the UK Border Agency's 'commercial partners' who receive applications on behalf of consular posts overseas. The UK Border Agency has repeatedly stated clearly that it does not want or intend that commercial partners give advice. We have seen and continue to see numerous examples of 'commercial partners' giving advice that is erroneous, or refusing to submit documents proffered to them. This is a matter we and others have discussed on many occasions with the Agency. Problems include a lack of clarity about what is and is not permitted; the difficulties of policing 'helpfulness'; a person checking an application or assisting with a discrete task spots a wider problem in some way related to that checking or task, and strays over the boundary between 'services' and advice.

We are mindful that a case, *ZO(Somalia)* [2009] EWCA Civ 442, on one of the matters set out as being within Band A services and assistance (an application for permission to work) is on its way to the Supreme Court. The questions of the implications of this for whether a person should make an application for permission to work, and the likely consequences of so doing, are matters that involve the giving of advice. Similarly where a person is to notify a change of address and this change of address gives rise to a breach of conditions of temporary admission (or leave, under s3 of the Immigration Act 1971, as amended by s16 of the UK Borders Act 2007) the person will require advice on that.

If a Band A Assistance and Services category is to be created then support will need to be provided to organisations within it not only to perform their role but to help them understand the limits of their role. Such support is also necessary for signposting organisations outside the scheme (current or new) so that they are able to identify problems on which they are not permitted to advise and know where to take them.

We understand from further clarification obtained from the OISC that the reference to 'nationality checking' is a reference to work such as that provided by the Nationality Checking Service, by whomsoever provided. The distinction between assistance and services and advice may become less or more clear-cut depending upon who is providing the service and in what context.

We understand from further clarification obtained from the OISC that it is intended that Band A Advice, Assistance and Services include some things that can currently only be done at Level 2. This is not how we had read the consultation paper and we are not sure what those things are. The further clarification indicated that EEA, nationality and registration applications and all applications within the immigration rules will continue to be included in Band A. This is also not how we had read the consultation paper. We are thus confused as to the proposed scope of Band A Advice, Assistance and Services. We are concerned that it appears to be being made deeper, and broader. As per our comments above, there is tremendous heterogeneity in the work that a person will be permitted to do having been assessed competent to practice in "Band A managed migration'. If as we (now) understand this will be work at a level beyond the current Level 1, as indicated above, there are concerns about the increased risk to clients and to their advisors.

There is a knock on effect on Band B if the range of work at Band A is increased. A person who wishes to practice in, for example, asylum at Band B is required to be competent in all areas at Band A. If the range of work that can be done at Band A is increased then this will make additional demands on such people who, it appears (see below) will have to bear the costs of being tested on their knowledge of areas in which they have no intention of practising, no desire to practice and do not consider themselves competent to practice. Our comments above on the approach that should be taken to categories and the need to establish the different levels of competence that must be displayed in different categories are relevant here.

We can state that we agree with the current position that enforcement and bail work are not permitted at Level 1.

Question 3: Do you agree that Level 2 should be incorporated with the work to be undertaken at new levels?

Question 5: In the event of the number of Levels being reduced to two, do you agree with the proposed descriptions?

Question 5b: In the event of the number of Levels being (sic) remaining at three, albeit three different ones, do you agree with the proposed descriptions?

We have grouped these three questions together as they cover similar ground. As to question 3, we (now) understand it to mean 'Do you think some level 2 work should go into level 1 and some should be merged with level 3 leaving no separate category?' As indicated, we are unclear as to what level 2 work it is proposed to put into level 1.

The question of rights of audience before the First-Tier and Upper Tribunal are ultimately matters for the Procedure Rules Committee. The Tribunal (Procedure) (Amendment No.2) Rules 2010 (SI 2010/44) deals with rights of audience before the Immigration and Asylum Chamber of the Upper Tribunal at paragraph 8, amending Rule 11 of the Tribunal Procedure (Upper Tribunal) Rules, SI 2008/2698 as amended. SI 2008/44 also applies, with amendments, the Asylum and Immigration Tribunal (Procedure) Rules 2005, SI 2005/230 as amended (Rule 48) and the Asylum and Immigration Tribunal (Fast Track Procedure) Rules 2005, SI 2005/560 as amended. In their current form the rules leave the OISC scope to take decisions on the questions of rights of audience, but this may change over time.

The consultation document states that the Upper Tribunal is the equivalent of the High Court, but that question is the subject of ongoing litigation, see R(*Cart & Ors), v the Upper Tribunal et Ors* [2009] EWHC 3052 (Admin).

ILPA agrees with the general proposal for some advocacy competency testing. We are concerned that the full cost of this should not be borne by the applicant and, as per our response to the UK Border Agency consultation on the regulation of immigration advice, that not for profit organisations should not pay for these tests.

It would not be acceptable to force people who do not wish to undertake advocacy to undertake and to pay for advocacy competence testing. The concomitant of this is that people should be able to elect whether or not to be regulated to undertake advocacy.

We cannot assess the detail of what is proposed as no detail of the proposal is given. ILPA favours permitting OISC-registered individuals to decide whether they wish to undertake permitted tribunal advocacy work or not. If not, they should not be required to undertake an advocacy competence test. Essentially, ILPA favours retaining the current Level 2 and Level 3 distinction.

A member regulated at level 3 and working in a charity (previously a barrister in private practice, now retired) comments

> *"We take advantage of the* pro bono *services of solicitors, barristers and other practising paralegals who are personally qualified, and we are in the process of training a number of our "lay" volunteers through to Level Two, with the possibility in future of training volunteers through to Level 3. In practice the "lay" volunteers are unlikely to progress*

beyond OISC Level 2 (advice only) because of their work-commitments elsewhere - their help is needed for the specific purpose of running advice "surgeries" at evenings and weekends.

To combine OISC Levels 2 and 3 would be extraordinarily oppressive for us, and would probably spell the end of our pro bono system. It is difficult enough already for our lay volunteers to get through to Level Two, given the huge volume of "Managed Migration" material which they must study for Level Two"

We understand from further clarification received from the OISC that it is intended that those at Band B would be able to lodge notices of appeals and do preparatory work on appeals up to but not including oral advocacy. Currently, work permitted to those regulated at Level 2 includes

"lodging appeals (only in exceptional circumstances where immediate referral is not possible)"

We consider this should be retained as the dividing line.

Conducting litigation before a tribunal is a different matter from working on initial applications. The differences are not limited to oral advocacy but also affect written documents, including pleadings and raise additional points of professional conduct. We are unpersuaded that it would be helpful to remove the current distinction between Level 2 and Level 3 which divides off work connected with litigation and recognises that drafting is a part of work connected with litigation.

ILPA also considers that work (including drafting and advocacy) in the First-tier and Upper Tribunal could be usefully distinguished; and that this distinction should be recognised in the competence testing. ILPA suggests a specific drafting emphasis and focus on errors of law should be included in any competence testing for Upper Tribunal work.

Members point out that expecting volunteers who give their services *pro bono publico* to reach a standard of competence sufficient to represent in the Upper Tribunal before they could set foot in the First Tier tribunal would certainly destroy this avenue of paralegal professional advancement in the unpaid voluntary sector.

ILPA favours permitting OISC regulated advisors to decide whether they wish to undertake tribunal advocacy work at First Tier only (i.e. not before the Upper Tribunal). If so, they should not be required to undertake competency testing for Upper Tribunal work. However, they should then also be precluded from undertaking drafting of error of law grounds in connection with that work.

ILPA does not, however, agree with the proposal that those who are currently permitted to conduct appeals work at reconsideration stages should be precluded from conducting appeals work in the Upper Tribunal until passing the advocacy competency testing. They have already passed the Level 3. While requiring all to take a test may be appropriate, particularly if separate tests are developed for the First Tier and Upper Tier Tribunal, the transition

period should in that event ensure that individuals can do the work that they essentially do or can do now under the OISC scheme and are permitted to do by SI 2010/44. There should be no fee imposed upon those already regulated at Level 3 for any examination in connection with advocacy.

The consultation document makes no reference to section 53 of the Borders, Citizenship and Immigration Act 2009 (not yet in force) which would transfer certain judicial review applications to the Upper Tier Tribunal and it is not clear whether the authors intend those responding to address this question or not.

It will be recalled that, in parliament and in policy work, the transfer of judicial review work in asylum and immigration has been treated as a separate matter to that of the transfer of the work of the Asylum and Immigration Tribunal to the First Tier and Upper Tier Tribunals. Rights of audience in judicial review matters are a separate question from that of rights of audience before the Upper Tier Tribunal. Rights of audience in judicial review matters in the Immigration and Asylum chamber are not addressed in SI 2008/44 which does not address judicial review in that Chamber at all. There is as yet no proposed commencement date for the transfer of judicial review matters in this area (those pertaining to fresh claims).

Unlike appeals in the Upper Tribunal, judicial review work is not something that those registered with OISC do or can do currently. ILPA's opposition to the transfer of judicial review to the Upper Tier Tribunal is a matter of record.

The transfer of judicial reviews in this area of work is in ILPA's view a dangerous and ill-conceived experiment. It is a potentially mitigating factor if those with conduct of the litigation are at the same time informed by parallel experience of judicial review applications in the High Court, that is to say, solicitors and barristers. This necessarily has implications for rights of audience for both parties to litigation – the Secretary of State and claimants. ILPA has elsewhere made clear its position as regards the need for continued representation of the Secretary of State by Treasury solicitor and counsel, which in significant part derives from the particular professional ethical obligations of solicitors and barristers and our experience of the practical importance of these in the conduct of litigation against the Secretary of State before the Administrative Court as contrasted with litigation in the Asylum and Immigration Tribunal and its predecessors. Accordingly, ILPA considers that judicial review applications should not be brought within OISC competence.

Very few dissenting voices from this position have been raised in ILPA's membership. One of these eloquently captures the concerns that those dissenting have expressed:

> *"This pre-supposes…that the knowledge and competence of anyone who is not a solicitor is automatically less than that of any and every solicitor - which, …, is not the case."*

The practicalities of handing over a case between the First Tier and Upper Tribunal have also been raised.

Question 4: Do you agree that the transition period is appropriate?

Six months may be insufficient for OISC to manage a transition from the current competence scheme to any new scheme. Where individuals may be precluded from doing work they currently do or are permitted to do, ILPA considers it essential that the period of transition is sufficient to allow adequate time for them to prepare for and take any new competency test before they risk losing entitlement to continue their practice. See the response to question 5 above.

Question 6: The OISC is committed to ensuring that all advisers representing clients before the new Tribunals are fit and competent to do so. It believes that it will be necessary to assess the advocacy of the advisers it permits to appear as representatives at immigration and asylum tribunal hearings. Given this commitment, which option listed in paragraph 8 (chapter 4) above and illustrated in Annexes B-D is most appropriate?

See comments above. In summary:

The matter is ultimately governed by the Procedure Rules made by the Procedure Rules Committee. Insofar as these, as at the moment, permit representation in immigration and asylum cases before the First tier and Upper Tier Tribunal by advisors regulated by the OISC:

- We favour retaining the current distinction between levels 2 and 3 in terms of both appearance before the tribunal and associated drafting;
- We favour a separate test of competence in advocacy
- We favour separate tests for regulation for advocacy and related drafting before the First-Tier and Upper Tribunal, whether to undertake permitted advocacy at the First Tier Tribunal only or also the Upper Tribunal should be a matter of choice for representatives demonstrating the necessary competence.
- Those already accredited at Level 3 should not have to pay to take any advocacy tests and should not be excluded from advocacy pending their passing any additional tests imposed
- Rights of audience in judicial review work before the Upper Tribunal should mirror those in the High Court.

Question 7. Do you agree that, depending on the level or category the person is applying for that the OISC should require advisers to demonstrate their competence through assessing a range of skills and knowledge.

Yes.

Knowledge of the substantive law, skills and professional conduct and ethics should all be assessed.

We cannot emphasise strongly enough the importance of professional conduct and ethics. For the scheme of bands and areas to work it is vital that an advisor is able to identify when to say 'I am not competent to advise you on that'. It is vital that they are able to identify the best interests of their clients and the advice that the clients need. It is vital that they are able to identify the limits of what they are allowed to do. It is vital that they can identify their obligations toward their clients, third parties and before the courts. These matters are as much an integral part of the functioning of the scheme as the knowledge of substantive law.

We are concerned that further clarification received from the OISC suggests that the costs of assessment by, for example, independent organisations, would be borne by those taking the tests. We are opposed to this. As per our response to the consultation by the UK Border Agency on the regulation of immigration advice we do not consider that not for profit organisations should pay for regulation. If the OISC is to fulfil its public purpose it must be able to test competence. There are a large number of not for profit organisations regulated by the OISC and increased costs may lead to them ceasing to do the work that they do, including ceasing progressing to higher levels of competence, at a time when their assistance is desperately needed. The scheme would be weakened by this false economy. The OISC's proposals to turn the scheme into two categories, asylum and 'managed migration', or increasing the range of work that can be done at Band A, can only increase the burden in such cases.

Members have expressed their concerns that the OISC online courses with assessment tests for which practitioners earn continued professional development points are not testing skills at a sufficiently high level. It is important that tests of competence should be of a high quality.

Any other comments

As set out above, we do not consider that the terminology 'managed migration' is helpful or appropriate.

Those who are accredited under The Law Society's Immigration and Asylum Accreditation Scheme are passported into the OISC scheme and there is an equivalence of levels agreed for such passporting. This affects those not-for-profit organisations who are funded by the Legal Services Commission to give advice. There is no passporting in the opposite direction. ILPA considers that passporting from The Law Society scheme should be retained and understands from further clarification received from the OISC that there is no intention to stop the current passporting arrangements. For these purposes it is necessary to retain the ability to identify at what level a person accredited under The Law Society Scheme should be passported into the OISC scheme. While there are many OISC-regulated individuals for whom this aligning has

no practical significance (as they do not undertake legal aid work), for those that do it is important to reduce duplication of registration schemes; and this also constitutes an administrative saving for the OISC. This matter is not addressed in the consultation paper and we understand it has not yet been developed. We recommend that a study be undertaken of the levels under the Law Society scheme before any decisions are taken on redrawing the bands.

Sophie Barrett-Brown
ILPA, Chair

28th January 2010