

**ILPA comments on the Law Society questions re a reaccreditation scheme**

- ILPA is unclear whether it is intended in future that all immigration solicitors undertake accreditation/reaccreditation or only those holding Legal Services Contracts and would appreciate clarification on this. We proceed below on the basis that it is assumed it would apply only to those holding Legal Services Contracts.
- ILPA members have experience of seeing very badly handled immigration and asylum files, including from solicitors who hold Legal Services Commission contracts and have thus passed initial accreditation exams. Accreditation may have assisted in raising standards but it has not solved all problems and clients (not to mention other solicitors) do suffer as a result.
- Solicitors' commitment to quality must be maintained against the pressures that arise from Legal Services Commission rates of remuneration, key performance indicators as to success rates (leading to good cases being ceased upon advice) etc. etc.
- No one likes doing exams/passing tests (and indeed ILPA's members views on reaccreditation were that it should be done by training not by examination but we understand that this is not on the table) but the commitment of so many solicitors to quality and clients suggests that many would be prepared to put up with a considerable amount of pain for the gain of knowing that all representatives in the field were of high quality.
- ILPA, like the Law Society, has expressed grave concerns to the Legal Services Commission about the Legal Services Commission's 'proxies for quality' within the tender process (e.g. a KPI on success rates). While other proxies for quality (such as supervisor/supervised ratio) may assist, they are far from providing a guarantee of quality. We do not consider that the Legal Services Commission has a means of ranking firms by the quality of the service they provide to clients. In so far as accreditation can plug that gap, it should be pressed into service to do so.
- ILPA, like the Law Society, when pressed to say how the Legal Services Commission can identify quality, has pointed to peer review. The Legal Services Commission replies too slow, too expensive, no time and insufficient peer reviewers. They do not necessarily reject the principle that peer review is the best test of quality they have got. It does not lie within ILPA's mouth (and arguably nor does it lie within the Law Society's mouth) to suggest that peer review of real files is not the best way of testing quality.
- ILPA is aware, as is the Law Society, that immigration lawyer-bashing is a popular pastime among both Ministers, the UK Border Agency and those

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involved with funding decisions. There is no question but that the actions of those who do not maintain quality standards have made life much more difficult for all practitioners (including in the field of remuneration for publicly funded work) and for their clients. Punitive regimes such as having to deliver one's submissions in person to Liverpool despite being destitute and street homeless are expressly traced by the UK Border Agency to problems with representatives of poor quality (although we have had off the record admissions from the UK Border Agency there is a greater problem with those who are paid privately than those operating on legal aid)

- ILPA is unpersuaded that multiple choice exams provide a good test of quality not least because a score can be artificially inflated by unlucky guesses, and vice versa.
- ILPA also notes that many people dislike and perform less well in exam conditions and prefer coursework. ILPA also understands that a gender bias has been found to be present here, with men performing better in exams and women in coursework.<sup>1</sup> A mixture of exam and casework would therefore appear more equitable than an exam only solution. ILPA notes that other Law Society schemes rely on presentation of case reports and considers that this would be one way of incorporating casework. The Law Society will know better than ILPA how well this works.
- ILPA understands the desire to test knowledge rather than skills at the accreditation stage. There is no clear consensus here. However it is worth bearing in mind that in immigration law and procedures change so frequently that it is important to keep acquiring new skills as to how information is presented, as well as the substantive law. Thus a skills element should not be rejected out of hand. ILPA is also very much aware that the supervisor standard is a skills accreditation.
- In short, if it is a contest between ease for practitioners and quality, quality should win every time, not only clients but also immigration lawyers themselves, suffer if it does not.

ILPA  
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<sup>1</sup> See e.g. the work of Janette Elwood, a bibliography of whose studies can be found at <http://www.qub.ac.uk/schools/SchoolofEducation/Staff/Academic/ProfJannetteElwood/Publications/>