

The Bar welcomes effective and efficient regulation but like any other profession we can only be effectively regulated by a body that understands what we do, what we are.

Further, it is essential that the relationship between the profession and its regulator is defined, as it has been by statute, and that they both understand and observe that definition.

. Let's start with the law,

s.1 Legal Services Act 2007 sets out the "regulatory objectives" in other words what the regulation is designed to improve or achieve, they include.

Protecting and promoting the public interest and, separately, the interests of the consumers,

Encouraging an independent, strong, diverse and effective legal profession,

Promoting and maintaining adherence to professional principles and most fundamentally important of all,

Supporting the constitutional principle of the rule of law.

Those are the objectives, the aims. How should they be achieved?

s.4 helps. The LSB must **assist** in the maintenance and development of standards in regulation and education and training. Note the word "assist". The role of the LSB is to oversee the approved regulator, the BSB.

It is difficult to reconcile that statutory objective, with the stated desire of the LSB to

"reform and modernise the legal services marketplace".

The stated intention to reform, which means change, rather than to assist is strikingly obvious in the field of education and training. An area in which the profession had an impressive history of self governance.

A good illustration of the profession's desire to regulate the standards of its own was the BC's desire to implement some form of assessment to guarantee a measured and graded standard of advocacy. It was not an easy ambition to fulfil but it has been made all the more difficult by the imposition of unrealistic deadlines and ultimately a refusal to protect the public, the courts and the consumers by permitting the accreditation of advocates in the Crown Court who do not even consider themselves sufficiently competent to conduct a trial.

Further the LSB has caused a fundamental review of legal education and training from universities upwards throughout the profession. It is an enormous task, it will take a long

time and cost a fortune. It seems a long way from assisting the approved regulator. The LSB considers the current system of education "unfit for purpose". Unhelpfully it doesn't condescend to the detail of why.

It appears to want to bring about change because it can, rather than observe its statutory duty to assist the profession to maintain and develop standards.

As, has always been the case, the Bar welcomes regulation, originally from within and now from outside but that regulation must comply with the law and not be so onerous as to prevent us from practising with independence and integrity.

It's the liberalisation of regulation that's required. The market place **mentality** should play no part in the administration of justice.

Our professional existence is centred on, and revolves around, the rule of law. Rules matter to us. Both the letter and the spirit of those rules matter equally. In fact to take up the point, the spirit of the rules only emerges after a rigorous study and analysis of the letter of the rule itself.

It is the process of the law that matters more than the outcome, how we do a case, rather than the result has always informed the way we regulated ourselves.

Those who now regulate us must understand that we are not creators or producers of anything, not even the outcome.

A system of regulation which is "outcomes focused" does not make sense in a profession of advocates who have duties to the court, the rule of law and the client, all of which are inter-related but none has supremacy. The independence which supports the integrity of the profession precludes "outcomes" as a valid means of judging and regulating the profession.

In any event it is impossible to imagine how outcomes can be judged.

We should be, and welcome being judged on procedure, on the process. How we do what we do. I should be tested on how I represent my client, not the verdict. That judgment tests my integrity in representing the client but also in my dealings with the court, the public and my opponent.

We work within a structure that applies and administers the law, we do the same.

It is difficult to find a parallel in the world of commerce, the law ranks with health and education, above purely commercial considerations. It is fundamental to the health of the nation state.

That being said, we must run ourselves efficiently, we have a moral duty to account for money paid to us out of public funds. That duty to account does not make us a business or

commercial organisation. Advising people how to compete legitimately is not the same as advising them how to compete.

We invite proper regulation and there is a prime illustration of what we seek and how a proper understanding of what we do and what the public needs and deserves is lacking.

If a member of the public goes to a GP and an operation is required, the GP recommends a consultant and that advice is followed by the patient who believes that the GP is applying professional skill and integrity and choosing the best person for the job. How does that person feel on being told that the consultant was chosen because he had agreed to pay 25% of his fee back to the GP? That the operation was entrusted to someone who was chosen only because they were willing to buy the case.

Further, how do you as a tax payer feel, knowing that of the £100, deemed to be a proper fee and claimed as such, £25 is in fact being used to buy the case.

As a profession we have always regulated, and continue to regulate against this, we look to the LSB to support us in this and are told they don't see the harm or the need. That's not in the public interest, in the interest of the profession or the administration of justice and it means that such a regulator cannot currently be relied upon by the profession or the public to fulfil its function in this regard.

I imagine some will find irony in the fact that we seek greater regulation in this respect but analysis supports it.

We have increasingly developed work abroad in other jurisdictions in the field of anti-Bribery and Corruption legislation. We teach and practice in that area in many and an increasing number of jurisdictions, both old and new.

We spread the word that the giving or a gift or money in exchange for a contract or a job is wrong and inimical to the public well-being. We want to be **assited** to practice in the way we preach.