

REGULATION OF LEGAL SERVICES IN NORTHERN IRELAND

RESPONSE OF THE BENCHERS OF THE INN OF COURT OF NORTHERN IRELAND

1. This is the response of the Benchers of the Inn of Court of Northern Ireland to a consultation paper issued by the Department of Finance and Personnel for Northern Ireland in September 2005 on the Regulation of Legal Services in Northern Ireland.

Executive Summary.

2. The Benchers proposals involve the following arrangements for the regulation of the Bar of Northern Ireland-

- The separation of regulatory and representative functions of the Bar.
- Recognition of the particular importance for the effective administration of justice in Northern Ireland that the Bar Library system should not be undermined.
- Recognition of the particular importance for the independence of the Bar in Northern Ireland that membership of the Bar should not be influenced by government or its appointees.
- The establishment of an independent publicly funded Legal Services Ombudsman with power to oversee complaints against barristers.
- Regulation of complaints by the Benchers rather than the Bar and subject to the supervision of the Legal Services Ombudsman.
- Complaints and discipline committees to be established by the Benchers rather than the Bar, with increased lay representation from panels appointed by the Lord Chief Justice.
- Admissions Committee to be established by the Benchers rather than the Bar to determine admissions to the Bar, qualifications, pupillage and training and reporting to the Lord Chief Justice.
- No change to the business structures at the Bar.

The Structure of this Response.

3. The response will address the issues under the following headings.
 - A **The Present Arrangements involving the Benchers**
 - B **Fundamental Considerations relating to any Proposals for Change**
 - C **Complaints and Discipline**
 - D **Admission to the Bar**
 - E **Business Structures**
 - F **The Questions in the Consultation Paper**

A The Present Arrangements involving the Benchers.

The Inn of Court of Northern Ireland

4. The Inn of Court of Northern Ireland (the Inn) comprises the Benchers and the members of the Bar of Northern Ireland and was established on 11 January 1926. The present constitution of the Inn took effect on 14 November 1983. The constitution provides that the powers of the Inn be exercised by the Benchers and the Executive Council. In addition the constitution provides that the

separate powers of the Bar Council are not subject to direction by the Inn.

The Judges of the Supreme Court.

5. The preface to the 1983 constitution of the Inn states that at common law the power and duty reside in Her Majesty's Judges of the Supreme Court of Judicature of Northern Ireland on behalf of Her Majesty of deciding to whom they shall grant and from whom they shall withdraw the right to practise and the right of audience as barristers in the superior courts in Northern Ireland. Prior to 1983 those powers were exercised on behalf of the Judges of the Supreme Court by the Benchers of the Inn. Under the 1983 constitution those powers are exercised on behalf of the Judges of the Supreme Court by the Executive Council, subject to the powers of the Benchers.

The Benchers.

6. Under the 1983 constitution the Inn comprises the Benchers and barristers practising in Northern Ireland. The Benchers comprise:

(a) The Judges of the Supreme Court while holding such office.
(There are 14 such Benchers.)

(b) The Attorney General for Northern Ireland, the Solicitor General and the Chairman of the Executive Council while holding such office.

(c) Such persons who hold public office in the administration of justice, while holding such office, as from time to time the Benchers may elect.
(There are 2 such Benchers.)

(d) Four County Court Judges, while holding such office, elected by the Benchers, together with any County Court judge who was a Bencher on 1 January 1999 while holding office as a County Court Judge.
(There is 1 County Court Judge who was a Bencher on 1 January 1999 so there are a total of 5 such Benchers.)

(e) Barristers of at least 10 years standing in private independent practice elected by the Executive Council, such number to exceed by at least two the number of Benchers comprised in the totality of categories (a), (c) and (d) above.

Currently there are a total of 45 Benchers in the above categories. The Attorney General and the Solicitor General are ex officio and generally do not attend meetings. The 2 public office holders are former practising barristers. Of the remaining 41 Benchers 22 are practising barristers and 19 are judges.

There is also provision for Benchers Emeriti and Honorary Benchers, none of whom has a right to vote at meetings.

The Powers of the Benchers.

7. The powers of the Benchers in relation to the regulation of the Bar in Northern Ireland extend to:

- (a) Admission of student members of the Inn and call to the Bar of Northern Ireland.
- (b) Appointment of a Disciplinary Appeal Committee to hear an appeal from a decision of a Disciplinary Committee of the Executive Council.
- (c) Disbarring or suspending a barrister from practice in accordance with the recommendation of a Disciplinary Committee or a Disciplinary Appeal Committee and expelling or suspending a student of the Inn.

The Executive Council.

8. The Executive Council has the following standing committees: the Finance Committee, the Library Committee, the Education Committee and the Disciplinary Committee. The Benchers powers cover matters considered by the Education Committee and the Disciplinary Committee. The powers and functions of the Education Committee relate to legal education, pupillage and the provision of facilities for continuing education for practising barristers. Disciplinary Committees deal with any charge preferred by the Professional Conduct Committee of the Bar Council against a barrister of failing to comply with the duties specified in the Code of Conduct and with any appeal from the Summary Panel.

The Bar Council.

9. The Bar Council has established the Professional Conduct Committee to investigate any matter touching professional conduct or the provision of professional services or behaviour. The Summary Panel deals with matters

referred by the Professional Conduct Committee or appeals from adjudications by the Professional Conduct Committee.

The Benchers and Discipline.

10. A Disciplinary Appeals Committee comprises three Benchers appointed by the Benchers and one lay person appointed by the Benchers from a panel of lay persons appointed by the Lord Chief Justice. The hearing of the appeal takes place in public and the Appeals Committee's findings are pronounced in public. The Appeals Committee may allow an appeal in whole or in part or confirm or vary the order of the Disciplinary Committee or order a rehearing. The Appeals Committee has the powers of the Disciplinary Committee to admonish, reprimand, censure, fine, order repayment of fees, suspend or expel from membership of the Bar Library, disbar or suspend from practice, impose conditions on practice or deal with the barrister in such other manner as may appear appropriate.

The Benchers and Admission to the Bar.

11. Rules of the Inn provide for the admission of students and barristers. The rules provide for certificates of good character, disqualification from admission as a student or a barrister in specified circumstances and qualifications for admission as a student and call to the Bar. In addition, a person intending to practise at the Bar shall, unless exempted, enter into pupillage with a junior barrister for a period of 12 months.

Further the rules provide for call to the Bar of Northern Ireland of members of the Bar in England and Wales, members of the Bar of Ireland and solicitors. The Executive Council is the designated authority in relation to practice as a barrister in Northern Ireland for nationals of a member state of the European Community entitled to practice by virtue of EC Directive 89/48/EEC, with appeals to a committee of the Benchers appointed from among their number. Overall control of admissions is vested in the Benchers by rule 29 which provides that in any case in which they think the circumstances justify such a course the Benchers may relax and dispense with any particular requirement of the rules on such terms as they may deem necessary. A sub-committee of the Benchers considers all appeals from the decisions of the Executive Council in relation to admissions and makes recommendations to the Benchers who make the final decisions on admission.

B Fundamental Considerations relating to any Proposals for Change.

12. The ministerial foreword to the consultation paper states that this consultation follows the Clementi Review in England and Wales and that the launch of the consultation is the first step of the process of review in Northern Ireland. In order to take that review forward the Minister states that he has decided to establish a review group chaired by Sir George Bain and asked them to consider the regulatory principles developed by Clementi and to bring forward proposals for the future regulation of legal services in the light of those principles, the responses to the consultation and the size of the local market.

13. The consultation paper refers to particular areas of concern. This response will address particular areas, namely complaints and discipline, admission to the Bar and business structures.

14. In addressing the particular areas of concern identified in the consultation paper it is necessary to set out certain fundamental considerations that the Benchers believe should be central to the approach to be adopted to each.

The independence of the Bar of Northern Ireland.

15. The first and most important of these is the maintenance of an independent Bar in Northern Ireland, free from direct or indirect influence over its membership by Government or those appointed by Government. The Benchers believe that throughout the recent troubled history of Northern Ireland the independence of the Bar of Northern Ireland from the influence of Government has been critical to the maintenance of public confidence in the rule of law and the administration of justice. That the public has laid great store in the independence of the Bar has been of particular importance to the standing of its members, the reputation of barristers, the effectiveness of the profession and the administration of justice in a divided society. No measure should be introduced that might have the effect of permitting admission to the Bar, or the imposition of sanctions on members of the Bar, or suspension or removal from membership of the Bar, to be determined or influenced, directly or indirectly by Government or those appointed by Government.

While there is a public interest in independent regulation of the Bar it would be detrimental to the maintenance of an independent Bar in Northern Ireland if that regulation were applied to members of the Bar by or on behalf of the executive arm of government or by those appointed by the executive. It is essential to the maintenance of public confidence in the independence of

the Bar in Northern Ireland that there should be no basis for any perception that government appointees might have an input into any consideration of those admitted to membership of the Bar, or made the subject of any sanction in respect of their membership of the Bar or suspended or removed from membership of the Bar. The prospect of devolution of justice to the Northern Ireland Assembly makes it additionally important that regulation of the membership of the independent Bar should not be affected directly or indirectly by a local administration. In this context the Benchers welcome the fact that the remit of the review group includes a requirement to bring forward proposals that are, among other matters, consistent with a strong, effective and independent legal profession.

For the above reasons the Benchers believe that a Legal Services Board appointed by Government to supervise the regulation of the Bar is an inappropriate model for Northern Ireland. In any event such a Board could not be justified in terms of the scale of the market in Northern Ireland or in terms of the cost that would be involved. The Benchers believe that a Legal Services Ombudsman would be the appropriate regulatory model for the particular circumstances of Northern Ireland.

The maintenance of the Bar Library system.

16. The second fundamental consideration is the maintenance of the Bar Library system. No measure should be introduced that might have the effect of undermining the Bar Library as a system for the management of the Bar in Northern Ireland. The Benchers believe that throughout the history of the divided society in Northern Ireland the collegiate Bar Library system has been a vital ingredient in maintaining the effective administration of justice in Northern Ireland. The Benchers welcome the measures that have been taken by the Bar to meet the challenges of the increasing numbers of barristers in independent practice by developing a new Bar Library facility rather than permitting the fragmentation of the Bar into a chambers system. The preservation of the Bar Library system is an essential ingredient of future arrangements for the Bar in Northern Ireland. Any measures which may have the effect of undermining the Bar Library system would be detrimental to the future provision of legal services in Northern Ireland and to a strong, effective and independent legal profession.

C. Complaints and Discipline.

17. The Benchers note that, while there has been no independent research on customer satisfaction with the process of complaints handling and adjudication, there is no evidence of dissatisfaction with the process or of delays in completing the process. It is the understanding of the Benchers that there is a low level of complaints against the Bar in Northern Ireland.

18. The Benchers accept, however, the principle of the separation of representative and regulatory functions of the Bar. They also accept the need for openness, transparency and independent oversight in relation to complaints and discipline. The Benchers propose that these objectives be achieved in Northern Ireland by the movement of powers from the Bar to the Benchers.

- The Benchers propose increased control of complaints and discipline by the Benchers and by lay representatives under the supervision of an independent publicly funded Legal Services Ombudsman.
- In order to achieve separation of representative and regulatory functions members of the Bar Council would be excluded from any involvement in the regulatory procedures.
- The appointment of members of the Bar to regulatory committees would not involve the Bar Council but would be undertaken by the Benchers.
- The appointment of lay members to regulatory committees would not involve the Bar Council but would be undertaken by the Lord Chief Justice appointing a panel of lay persons and the Benchers appointing to the relevant committee from the panel.
- There would be an amendment of the Constitution of the Inn to provide that the Bar Benchers should not exceed the number of Judges who are voting Benchers.

19. The scheme would involve the appointment of an independent publicly funded Legal Services Ombudsman with power to oversee complaints made against barristers. Complaints directed to the Bar would be considered by the Professional Conduct Committee and where appropriate by the Summary Panel or the Disciplinary Committee.

- Each of these regulatory committees would have representation from members of the Bar and increased lay representation.

- The representation from members of the Bar would be separate from the members of the Bar Council.
- The representation from the members of the Bar would be those appointed by the Benchers.
- The lay representatives would be drawn from a panel appointed by the Lord Chief Justice.
- The lay representatives would be selected from the panel by the Benchers.

20. The regulatory processes would be subject to the supervision of the Legal Services Ombudsman. The Ombudsman would have power to examine the system for handling complaints whether or not the system has been the subject of a complaint and to audit the complaints files of the committees.

21. The Benchers accept that while a complainant may have an entitlement to compensation in civil proceedings for professional negligence the complaints system should include a power to order the barrister to pay to the complainant a sum up to a specified limit.

22. There have been only two appeals to the Disciplinary Appeals Committee over the past 15 years, and both have involved complaints by other barristers. Appeals would continue to be dealt with by the Disciplinary Appeals Committee, whose members would all be appointed by the Benchers.

- The Disciplinary Appeals Committee would be chaired by a Judge of the Supreme Court or a Law Lord and include a Judicial Bencher, a Bar Bencher and lay members.
- The Bar Bencher would not be a member of the Bar Council.
- The lay members would be selected from a panel appointed by the Lord Chief Justice.
- The Disciplinary Appeals Committee would, as at present, conduct its proceedings in public and would publish its decisions.

D Admission to the Bar.

23. In practice the arrangements for the admission of those who have completed their degrees are significantly affected by arrangements which were put in place some years before the creation of the Executive Council. In 1977 the Institute of Professional Legal Studies was established at Queen's University Belfast as a result of recommendations made by the Armitage Committee on professional legal education in Northern Ireland. The Institute is a department within the University. Its management body is the Council of Legal Education which comprises members of the Inn, the Law Society, the Law Faculty of the University, the Senate of the University and the staff of the Institute. Admission to the Institute is determined in accordance with the university's general policies on the basis of degree result and performance in an admissions examination which is then marked in accordance with the university's established procedures.

24. The Institute provides a year long course for Bar students which is designed to provide the students with the practical skills they will need when they join the Bar Library. The scope and nature of the work has to comply with the university's quality control standards and is subject to periodic review.

25. For those who enter the profession in this way the setting of the Institute within the jurisdiction of the University ensures regulatory accountability, consistency and transparency. Those arrangements are also clearly proportionate to the requirement to provide access and are targeted at those who seek access.

26. The Benchers propose that the responsibility for the admission of students as members of the Inn should be undertaken by a new Admissions Committee. This Committee should consist of practising barristers and Judicial Benchers to reflect the long experience of the Judiciary. Such a body would undoubtedly secure public confidence and could be required to publish an annual report to the Lord Chief Justice in order to enhance further transparency, consistency and accountability. Such arrangements would prevent any charge that the government was determining those who were entitled to practise at an independent Bar.

27. The establishment of a new admissions committee will, of course, require appropriate funding. Under the 1983 Constitution of the Inn the Executive Council effectively controls the capital and income of the Inn. Under this proposal the Admissions Committee, which would have a significant Judicial Bencher input, should not be administered by the Executive Council. It is proposed that the appropriate governing body would be the Benchers. In that event it will be necessary to put in place adequate

funding arrangements for the secretariat for the Admissions Committee, which funding should be provided by the Bar.

28. These arrangements would demonstrate adherence to the underlying principles of good regulation without the direct or indirect involvement of government. In this jurisdiction that is particularly important because of the high profile of the legal profession in representing those attacking or defending government decisions. Against that background the direct or indirect involvement of government in deciding who can be admitted as members of an independent Bar cannot be justified.

E Business Structures

29. The Benchers strongly support the continuance of an Independent Referral Bar. It has always been a central feature of the Bar that each barrister is obliged to act as an independent sole trader with a duty of independence so that he/she is individually and personally responsible for his/her own conduct and professional work and is required to exercise his/her own personal judgment and to be absolutely independent from all other influence. The removal of the duty to act as a sole trader by allowing barristers to form partnerships with other barristers would have the following disadvantages:

(a) The legal market in Northern Ireland is a small one with a limited number of purchasers of legal services. If barristers were permitted to form partnerships with each other those with an expertise in a specialised area of law such as licensing, insolvency or planning might join together and corner the market with adverse consequences on choice, competition and cost. Once such a partnership was briefed by one party to litigation, it is unlikely that the other party would want to use someone from the same partnership and the advantage of the current system, whereby a Solicitor has a choice of the whole Bar, would be lost. The Chambers system in England and Wales is able to surmount this difficulty due to the much greater size of that jurisdiction. It is noteworthy that Scotland and the Republic of Ireland, each with several times the population of Northern Ireland, maintain a library system at the Bar.

(b) It is unlikely that the sole trader model would thrive, and might not even survive, alongside a model of partnerships among barristers. It is likely that those barristers who did not join partnerships would come to be regarded as second rate practitioners and that they would have difficulty in attempting to compete effectively against

partnerships. This is evident from the experience in England and Wales when, in an attempt to overcome the difficulty of newly qualified barristers gaining entry to Chambers, the Bar Council in that jurisdiction tried to introduce a Bar Library model alongside the Chambers system. The purchasers of legal services perceived the Bar Library practitioners as inferior and the Bar Library model failed. In the same way permission for partnerships between Barristers would gradually lead to the failure of the sole trader model and such failure would be detrimental in terms of choice, competition and cost.

(c) The creation of partnerships, rather than leading to reduction in cost due to economies of scale, is likely to destroy the advantages that flow from the significantly greater economies of scale of the Bar Library system. At present this system permits barristers to make use of pooled library, I.T and staff resources with savings in terms of costs and efficiency. The introduction of partnerships would inevitably increase costs due, for example, to increased management requirements for each such partnership, and such increases would be passed on to the consumer. Those in partnership would not be prepared to continue to contribute to and support the Bar Library system which would decrease the economies of scale available in the current system and would increase the cost of those attempting to remain in the Bar Library model.

(d) At present a barrister who is asked by a solicitor to undertake a particular case but is unable to do so will, on request, identify other barristers who might be suitable for the particular type of work involved in the case. If the barrister placing such a request was a member of a partnership it is likely in practice that it would be difficult for him to nominate someone from outside his partnership. In the same way if a solicitor wished to use more than one barrister for a particular case he might find it difficult to resist pressure to have his team from within the one partnership. It is likely that partners would feel under pressure to encourage the use of other members of the partnership.

(e) Under the present Bar Library system newly qualified barristers are subsidised to a significant degree and incur relatively few costs in starting their career. It is likely that the cost of entry to a partnership would be substantial and again the problems which have afflicted entry to Chambers in England and Wales should serve as a warning.

(f) Under the current system all barristers enter the Bar Library at a level starting point. If partnerships among barristers are permitted then those who gain entry to a well respected successful partnership will be at a significant advantage over those who are unable to obtain

entry to same. The Chambers system in England perfectly exemplifies this effect.

(g) The creation of partnerships is likely to give rise to an increased risk of conflicts of interest. It may be difficult for a barrister in a partnership to offer wholly independent advice to a client if he has concerns about how such advice may impact on the partnership of which he is a member.

(h) At present many barristers make themselves available for pro-bono work whereas a member of a partnership would have to consider the wishes of his partners in relation to whether he should take on such work at all and if so the extent to which he should do so.

(i) There would probably also be some negative effect on the discharge of the barrister's current obligation to promote the best interests of his client without regard to his own interest or to any consequences for himself or any other person. Under the present system the barrister is accountable only to the Court and to his client but if he was a member of a partnership then his accountability would presumably extend to his partners and it might, for example, be more difficult for the barrister to risk displeasing powerful interests by pressing a particular point for his client.

Partnership Between Barristers

30. It is difficult to identify a likely benefit from the creation of partnerships between barristers. The Benchers are unaware of any research which suggests that the creation of partnerships would be likely to have beneficial effects. In light of the undeniable disadvantages of such arrangements it would be unwise to consider such a change without a proper detailed analysis of the likely effect of same. It is also significant that there would not appear to be any demand for partnerships between barristers either within or outside the legal profession. The Benchers are unaware of any other jurisdiction in which partnerships among barristers exist as a model alongside sole trader barristers.

Legal Disciplinary Practices

31. As explained above it is envisaged that if legal disciplinary practices (LDPs) are permitted barristers and solicitors will work together in partnerships which may also include Non-Lawyers as Managers. This would be an even more radical departure from the current structure than the previously discussed topic of partnerships among barristers. The reasons set

out above for opposing the introduction of partnerships among barristers are equally applicable to this more radical proposal for the introduction of LDPs.

32. In addition to the matters at paragraph 29(a) to (i) above the Benchers consider that the introduction of LDPs would be likely to have the following disadvantages:

- (a) It is unlikely that the independent referral Bar and the sole trader model would survive the introduction of LDPs and certainly the Bar Library system would be seriously damaged by it. It is inevitable that gradually barristers outside LDPs would be perceived as inferior and they would be at a serious disadvantage in attempting to compete with LDPs.
- (b) It would almost certainly prove difficult and unwieldy to have different regulatory systems for barristers and solicitors operating within a single LDP. At present barristers are subjected to a much lighter regulatory system as, unlike solicitors, they do not take general responsibility for clients' affairs or act as trustees for clients or handle clients' money. If a single regulatory scheme is applied it will mean barristers being subjected to the same heavier regulatory structure as Solicitors which is undesirable and would inevitably have an increased cost which would ultimately be passed to the consumer.
- (c) Barristers working in LDPs would be exposed to liability for any wrongful act or omission of any partner acting in the course of the firm's business and for making good any loss suffered by any client due to misapplication of money or property. This would give rise to an inevitable increase in the barrister's insurance costs which would again ultimately be passed on to the consumer.

33. There is nothing to suggest that there would be any significant benefit from the introduction of LDPs. The Benchers also believe that the current direct professional access scheme whereby certain bodies have the right to avail of direct access to the Bar should be continued.

34. It is not considered therefore that introduction of LDPs is necessary and given the attendant disadvantages referred to above, such an untested structure should not be introduced. The Benchers are unaware of any demand for such a radical alteration to the current structure.

Multi-Disciplinary Practices

35. This type of practice would allow lawyers and other professionals such as accountants to enter into partnerships to provide legal and other professional services to third parties.

36. In addition to the points made at paragraph 29(a) to (i) above, the Benchers believe that the introduction of Multi-Disciplinary Practices (MDPs) would have the following disadvantages:

- (a) Such practices could be owned by non-lawyers and barrister members of such practices would therefore be accountable to shareholders. The barrister's fundamental obligation to act with independence would be compromised by the commercial pressure exerted by shareholders and would be detrimental to the Court's ability to rely on the barrister to fulfil his duty to the Court. It is far preferable that barristers should be accountable to the Courts and to their clients rather than to shareholders. A non-lawyer owner of an MDP would be perfectly entitled to pursue his own financial interests in a situation where those interests conflicted with the client's best interests but this would be in direct conflict with the barrister's obligation to pursue the best interest of the client without regard to his own interests or any consequences for himself or any other person.
- (b) As the Consultation paper recognises (paragraph 5.28) there would be difficulties in attempting to achieve satisfactory regulation of MDPs. The difficulty in attempting to regulate solicitors and barristers within LDPs has already been referred to above and the introduction of the non-lawyer in a MDP would pose an insurmountable problem.
- (c) The introduction of MDPs would be quite contrary to legal practice in other jurisdictions. After extensive consideration of the issue in 2000 the American Bar Association firmly rejected any relaxation on the ban of MDPs and the Council of the Bars and Law Societies of the European Union (CCBE), of which Bar of Northern Ireland is a member, has strongly opposed MDPs. The Benchers are unaware of any jurisdiction in which the ownership of legal firms by non-lawyer investors is permitted.

37. It is difficult to envisage any benefit from the introduction of MDPs and given the serious disadvantages set out above the Benchers oppose their introduction or the introduction of any structure in which non-lawyers would have control over the affairs of a legal practice. No demand for such an alteration to the current structure has been identified.

F Questions in the Consultation Paper.

39. The questions posed by the consultation paper –

Question 2.1

“Have you any comments on any issues raised in relation to designing a regulatory regime appropriate to the legal services market in Northern Ireland?”

Question 3.1

“Have you any comments on how the current regulatory system operates or on the other points made about the comparability of the legal services market here?”

Question 4.1

“What are your views on the relevance of the matters discussed in this chapter for the regulation of the legal professions in Northern Ireland?”

In answer to Questions 2.1, 3.1 and 4.1 –

The Benchers consider that the Consultation Paper does not take into account the particular circumstances of the Bar in Northern Ireland in setting out the issues raised in relation to designing an appropriate regulatory system for the Bar in chapter 2 or on the comparability of the legal professions in chapter 3 or on the matters discussed in chapter 4. Those particular circumstances are set out in Section B (paragraphs 12 – 16 above).

Question 6.1

“Clementi recommended a fully independent Legal Services Board (LSB) to deal with the regulation of legal service providers on matters other than complaints with powers to delegate the functions to front line bodies, such as the Law Society, where the LSB is satisfied that satisfactory arrangements on the split between regulatory and representative functions have been made. Given the different scale of the Northern Ireland market, what do you think would be appropriate arrangements here?”

Question 6.2

“Clementi recommended a single complaints body – The Office of Legal Complaints – for all legal services consumer complaints. What arrangements do you think would be appropriate in Northern Ireland?”

In answer to Questions 6.1 and 6.2 –

The Benchers consider that the scale of the Northern Ireland market does not warrant the establishment of a Legal Services Board in Northern Ireland. More fundamentally the Benchers consider that, for the reasons set out in Section B (paragraphs 12 – 16) above, a Legal Services Ombudsman is the appropriate model for Northern Ireland. The Ombudsman would have power to oversee complaints against barristers and the regulatory committees established by the Benchers, which would have increased lay representation and not involve members of the Bar Council, as set out in Section C (paragraphs 17 – 22) above.

Question 6.3

“At present in Northern Ireland we do not have Licensed Conveyancers. Is there any good reason why the conveyancing market here should not be opened up in this way? Are there any other areas of legal services that could also be opened up?”

In answer to Question 6.3 –

The Benchers have no proposals to make in relation to Licensed Conveyancers or other areas of legal services.

Question 6.4

“Clementi recommended that lawyers from different professional bodies should be allowed to practise together as equals and that outside ownership of such practices should be permitted. Should such practices be allowed in Northern Ireland and why or why not?”

In answer to Question 6.4 -

The Benchers propose that there should be no change to the business structures operated by the Bar for the reasons set out in Section E (paragraphs 29 - 37) above.

DATED THE 3rd DAY OF FEBRUARY 2006

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