

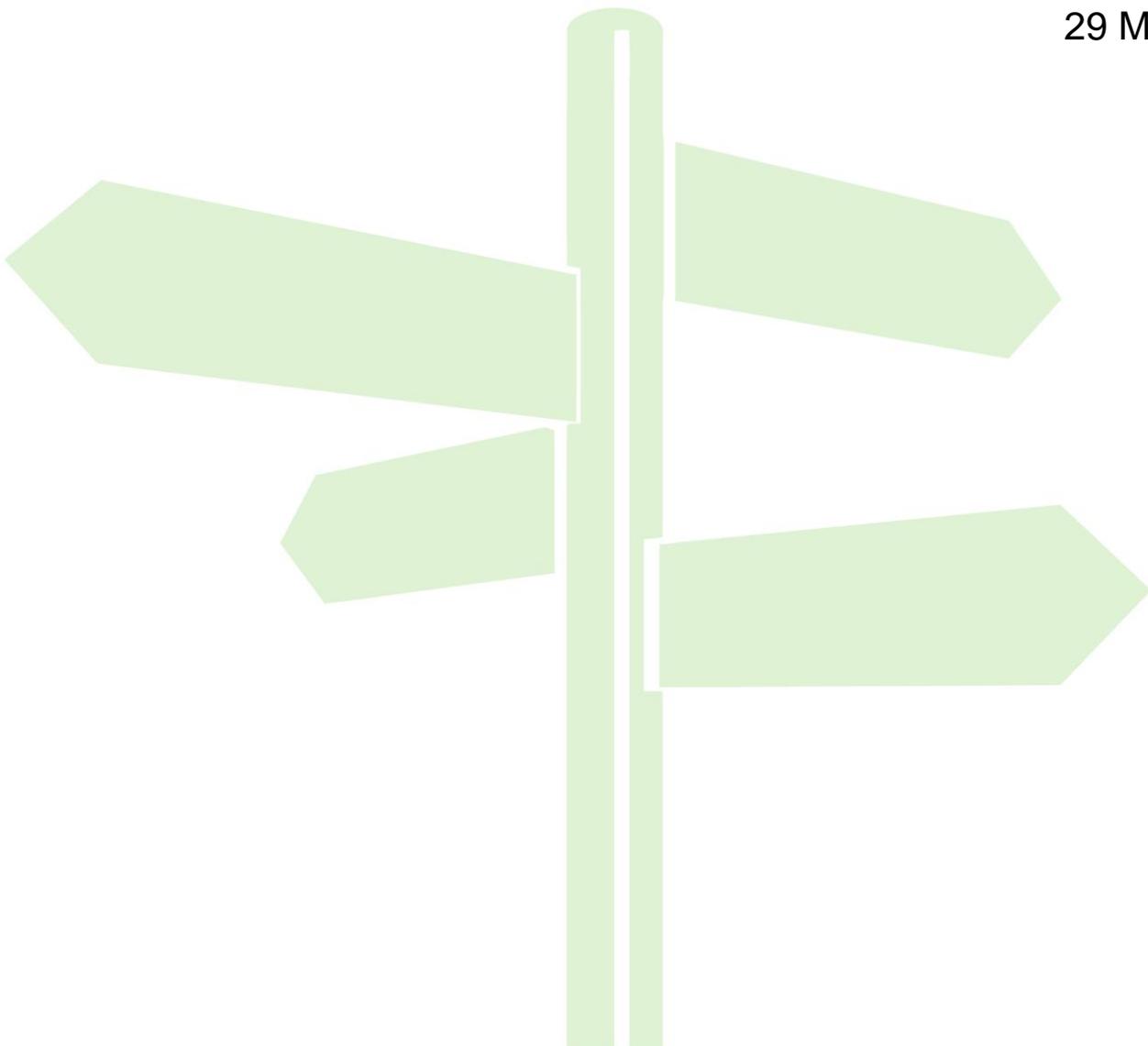


The Law Society

DEPARTMENT FOR BUSINESS INNOVATION AND SKILLS CONSULTATION: SUPPORT FOR POSTGRADUATE STUDY

Response of the Junior Lawyers Division of the Law Society

29 May 2015





DEPARTMENT FOR BUSINESS INNOVATION AND SKILLS CONSULTATION
SUPPORT FOR POSTGRADUATE STUDY

Response by the Junior Lawyers Division of the Law Society of England and Wales

The Junior Lawyers Division of the Law Society of England and Wales (the "JLD") represents LPC students, LPC graduates, trainee solicitors, and solicitors up to five years qualified. With a membership of approximately 75,000, it is important that we represent our members in all matters likely to affect them currently and/or in the future.

The JLD has reviewed the Department for Business Innovation and Skills consultation on support for postgraduate study (the "**Consultation**") and carefully considered the proposals.

Summary

The JLD welcomes the Government's proposal to provide support for postgraduate studies. This support will be incredibly beneficial to law students seeking to embark on a career in law, particularly where they are unable to rely on parental support. This once again shows the Government's commitment to social mobility - a passion which the JLD shares.

We respond to this Consultation to provide context to legal education, and bring out some specific considerations for which we would be grateful for further information.

It is clear that a Master of Laws (LLM) is a postgraduate taught Master's programme, which would fall within the scope of the proposed course eligibility in the Consultation. Individuals who are considering an LLM will therefore, prima facie, be eligible for the postgraduate loan.

Several educational institutions are starting to provide a joint LLM alongside the Legal Practice Course (the "**LPC**"). Currently, the LPC is a key requirement for junior lawyers prior to qualifying as a solicitor. Our assumption is that the joint LLM-LPC programme will also be eligible for the postgraduate loan, but we would seek clarification from the Government on this. We would submit that it is in the interests of students for the postgraduate loan to be available for joint LLM-LPC courses, as it is an efficient course for students to obtain both an academic qualification, as well as the required professional qualification.

We would also welcome clarification from the Government on whether the stand-alone LPC will be eligible for the postgraduate loan. Our understanding is that the stand-alone LPC will be considered an "Other Postgraduate Course" or "OPG" and therefore will not be eligible for the postgraduate loan.

In addition to the above, we are concerned by the proposal to limit the postgraduate loan to individuals under the age of 30. Despite our review of Annex 5, the JLD believes that there



should not be an age restriction on loan eligibility. It is very common in the current legal market for individuals above this age to enter the profession, and we would imagine this is similar in other professions. The JLD recommends the Government to remove the age requirement on loan eligibility as this is prejudicial to principles of equality and ensuring that any individual can have the option of completing a postgraduate Master's course to further their career and education.

We have provided our answers to each of the specific Consultation questions below. We thank you in advance for your time in considering the response of the JLD.

1. Do you believe that access to finance is a significant barrier to progression into postgraduate taught Master's study? Please provide evidence to support your response.

Yes.

Access to finance is a significant barrier preventing progression into a postgraduate Master's. With university course fees being at their highest ever, students are graduating with a high level of debt. Individuals will be wary of taking on further debt, particularly by way of a non-salary-contingent commercial loan, to fund a postgraduate course.

Within a solicitor context, individuals are generally required to complete a postgraduate course (the LPC) before starting their practical training. Many individuals can only fund their LPC (at an average cost of £11,500) by way of a commercial loan, on which repayments begin shortly after completion (at approximately £200 - £300 per month) and continue for several years. These loans cause great difficulties from a social mobility perspective, with individuals who are unable to rely on parental support being stifled (at least in part) from entering the profession.

The LPC can now be taken as a combined course with an LLM and therefore, we hope, the proposed funding will be available at least for the LLM-LPC which will help address the concern above.

2. Are there other barriers, other than access to finance, which in your view prohibits progression into postgraduate taught Master's study? Please provide reasons/evidence to support your response.

Whilst it is likely that there are other barriers which prohibit progression into postgraduate taught Master's study - such as other time commitments - we consider access to finance to be the main barrier.



3. Do you believe the availability of up to a £10,000 income contingent loan will increase an individual's likelihood to pursue postgraduate taught Master's study? If No to Q3, please provide reasons/ evidence to support your response.

Yes.

4. Do you think £10,000 is the right amount to support individuals in undertaking study, while ensuring they have a stake in deciding whether studying a Master's degree is the right path for them? If no, what do you think the maximum loan amount should be and why?

Yes.

The average cost of the LPC is £11,500. A £10,000 loan would not therefore cover the tuition fees, let alone the costs of accommodation and living expenses. Other postgraduate courses are as expensive, or more expensive, than the LPC.

However, we agree with the approach that the student should also have a stake in deciding whether studying a Master's degree is the right path for them, and therefore consider £10,000 to be the right amount to support individual's in undertaking study.

5. If yes to Q4, what proportion of £10,000 do you think an individual would seek to borrow, and why? Please provide reasons/ evidence to support your response.

- **Less than 50%**
- **More than 50%**

More than 50%.

Postgraduate courses often cost in excess of £10,000 and students will want a loan to cover as much of that fee as possible. If the course fee is less than £10,000, we still believe some individuals would seek as much of the loan as possible to fund other costs incurred while studying (e.g. living expenses).

6. Do you believe the availability of a £10,000 income contingent loan will have an impact or influence on the following:

- ***Propensity to study a postgraduate taught Master's course over Other Postgraduate courses?***

Yes. We question whether this is necessarily positive - the Government would not want to encourage a student to incur more debt to take an arbitrary postgraduate course, instead of



a more beneficial course, for the sole reason that the Government loan was only available for the former.

• Propensity to study full-time over part-time?

We believe this will continue to be dependent on the individual's personal circumstances.

• Propensity to study part-time over full-time?

We believe this will continue to be dependent on the individual's personal circumstances.

• Rise in the level of postgraduate taught Master's course fees?

We believe that increased availability of funding may increase the number of opportunities to complete a postgraduate taught Master's, and in particular, given the difficulties in funding the LPC as already explained, we believe that the availability for the loan will increase the number of providers/places for joint LLM-LPC courses. However, we are concerned that providers of postgraduate Master's courses may see this as an opportunity to raise their prices in line with the amount of loan student's can borrow. We have seen this particularly with undergraduate course fees.

7. Do you think the proposed loan should be paid directly to the borrower, and the borrower should decide the balance they allocate between fees and maintenance? Please provide reasons/ evidence to support your response.

No, not the entire loan amount. We understand that the purpose of the loan is partly to ensure that individuals can pay their course fees, and partly to ensure that individuals can cover living expenses during their course. To ensure that this purpose is fulfilled, it would make sense if part of the loan taken out is paid directly to the course provider to cover course fees, and the rest is paid directly to the borrower to cover living expenses.

8. If No to Q7, do you think a proportion of the loan should be limited to a fee loan which is paid directly to the course provider? Please provide reason/ evidence to support your response.

Yes, for the reason outlined in Q7.



9. If Yes to Q8, how much of the £10,000 loan should be limited for the purpose of a fee loan? Please provide reasons/ evidence to support your response.

- Less than 50%
- More than 50%

Less than 50%.

We do not think this is a case of "one size fits all". However, some individuals will want to use £5,000 or more of the loan to cover living expenses and therefore we do not believe the limit *for the purpose of a fee loan* should be above 50%.

10. What other sources of finance might an individual need or rely upon, as well as the proposed loan, to meet all the costs of pursuing postgraduate taught Master's study? Please provide details/ evidence to support your response.

- Part-time working alongside studying
- Parental support
- Overdrafts and graduate accounts
- Credit cards

11. Which groups of individuals, in your view, experience finance as the main barrier to pursuing postgraduate taught Master's study? How best might they be defined and/or identified? Are the proposed eligibility criteria appropriate or should they be refined? Please provide reasons/evidence to support your response.

There are two groups that are specifically likely to experience finance as the main barrier to pursuing postgraduate taught Master's study: (i) university leavers, who have accumulated a high level of debt over their university career and will be unable to continue to study without an appropriate loan; and (ii) career changers who may have family or other commitments which may mean they do not have the available funds to finance postgraduate study.

From a legal perspective, once individuals have obtained a qualifying law degree, it is likely that they have incurred significant debt. This debt would be even greater for individuals who take the law conversion course (the Graduate Diploma in Law, or "GDL"). A postgraduate taught Master's programme after this - whether the stand alone LLM or the combined LLM-LPC - may be impossible to fund without the proposed Government loan.

In relation to restricting funding so that a postgraduate course must be undertaken within a fixed time after an undergraduate course, the JLD does not agree with this approach. A Master's may not automatically be the next step after completing an undergraduate degree.



An age restriction would hinder those individuals seeking a career change, which is one group we identify that could greatly benefit from the Government's postgraduate loan proposal. We would therefore propose that the loan should not be restricted to people below the age of 30.

12. Are there other ways of identifying individuals with financial need for the purposes of pursuing study at this level? Please provide details and evidence in support of your response.

Yes.

Any means test should also consider whether the individual is also in receipt of any other grants or income. It may be appropriate for example, where an individual is in receipt of another form of grant or income, for their postgraduate loan to be reduced as a result.

In relation to assessing parental income, the JLD does not think that this is necessarily appropriate. If an individual's parents earn a high salary, this does not necessarily mean that they will be supporting their child through their postgraduate learning.

It is also unclear from the consultation whether grants for disabled individuals will continue separately to the proposed scheme.

13. Do you think that institutional eligibility should be restricted to HEFCE fundable institutions and Alternative Providers who have obtained Degree Awarding Powers?

Yes.

This will hopefully ensure that tax payers' money which is used to fund the scheme will be spent on courses which are endorsed by the Government. It will also hopefully ensure consistency between the courses provided by different establishments.

14. If No to Q13 which other institutions and providers should be additionally included for eligibility? Please provide reasons/evidence to support your responses.

N/A.

15. What quality and assurance arrangements should be put in place for institutions and providers who are not HEFCE fundable institutions, or Alternative Providers without Degree Awarding Powers, to ensure standards and quality? Please provide reasons/evidence to support your responses.

N/A



16. Do you believe the availability of up to a £10,000 loan would result in excessive course fee inflation? Please provide reasons/evidence to support your responses.

Yes.

In 2011, when the maximum tuition fees for undergraduate courses were increased to £9,000, the majority of institutions increased their fees to £9,000 (the Guardian reported on this on [23 June 2011](#)). All 123 universities in England planned to increase fees, and all planned on charging £6,000 or more.

Although the context is different here, this loan may provoke a similar response from institutions.

In a legal context, the current cost of the LPC is already in excess of £10,000. In relation to the LL.M-LPC, the main institution that currently offers this course is the University of Law. The JLD is concerned that if individuals become eligible for postgraduate loans for these courses, institutions will raise their course prices.

17. If Yes to Q16, do you agree that the Government should look at mechanisms to safeguard against rapid and excessive course inflation, and how should it be assessed? Please provide reasons to support your responses.

Yes.

The Government should look at mechanisms to safeguard rapid and excessive course inflation to ensure that individuals are not being taken advantage of. There is no reason why course fees should be increased simply because individuals become eligible for Government funding for them.

18. If Yes to Q17, what safeguards should be applied against rapid and excessive fee inflation, and how should this be monitored? Please provide reasons to support your responses.

As a first step, the Government may require institutions to submit their intended course fee rates each year and objective justification for any increase to the relevant Government department. This may disincentive institutions from implementing unnecessary and undue course fee rises.

The safeguards and assessments, however, would very much be dependent on the Government's propensity to regulate this sector. Without knowing the level of regulation the Government would consider suitable, we are unable to make any recommendations.



19. Do you agree with the description of postgraduate taught Master's courses provided? If No to Q19, please give reasons/evidence for your response.

Unclear.

It is clear that a LLM is a postgraduate taught Master's programme, which would fall within the scope of the proposed course eligibility in the Consultation. Individuals who are considering an LLM will therefore, prima facie, be eligible for the postgraduate loan.

Several education institutions are starting to provide a joint LLM alongside the LPC. Currently, the LPC is a key requirement for junior lawyers prior to qualifying as a solicitor. Our assumption is that the joint LLM-LPC programme will also be eligible for the postgraduate loan, but we would seek clarification from the Government on this. We would submit that it is in the interests of students for the postgraduate loan to be available for joint LLM-LPC courses, as it is an efficient course for students to obtain both an academic qualification, as well as the required professional qualification.

If the above two courses are covered by the description of postgraduate taught Master's courses, then we agree with this description.

We would also welcome clarification from the Government on whether the stand-alone LPC will be eligible for the postgraduate loan. Our understanding is that the stand-alone LPC will be considered an OPG and therefore will not be eligible for the postgraduate loan.

20. Are there any other postgraduate courses, particularly professional qualifications, that you feel would be excluded from the description of eligible courses which you think are particularly important to the economy? If Yes to Q20, please provide reasons/evidence to support your responses.

Yes.

The JLD understands that the LPC, as a professional qualification, will fall under the definition of an OPG and therefore will not be considered an eligible course. We would consider this a missed opportunity for social mobility in the legal profession. However, if the combined LLM-LPC course will be included within the list of eligible courses, then our concerns on this point are slightly decreased. Further we would argue that the legal profession plays a key role in the UK economy, providing services to individuals and businesses at both a local, national and international level, with the majority of the world's largest law firms having at least one UK office. Our laws, legal system and the quality of the professionals who work within it are vital components to the reputation of the UK as a good place to do business. A loan which assists talented individuals to pursue this career based on merit by decreasing some of the socio-economic barriers can only be of benefit to the UK economy, by ensuring that the profession can train individuals of the highest calibre and thus enhancing and maintaining the standing of 'UK plc'.



21. Are there instances where a further reduced study period-of less than 50% intensity-should be considered for pro-rata loan eligibility? Please provide reasons/evidence to support your response

Yes.

It is unclear to us why course intensity at the start of the course should play any role in eligibility, if courses must be either full-time or 2 years part-time. We presume that course intensity will in all cases add up to 100% over the length of a 2 year part-time course. We understand that in any given year where course intensity is less than 50%, an individual is more likely to obtain part-time employment. However, this will be balanced over the duration of the course.

Further, students can, in some cases, take an LLM part-time course over 4 years. If individuals can show that they have a genuine need to obtain pro-rata loan eligibility for a 4 year course (for example, family commitments which prevent the individual from obtaining a job over the duration of the course), the Government should give due consideration to the special circumstances. This is important for equality of opportunity.

22. Do you agree that the loan should be paid to the borrower in instalments across the academic year? Please give reasons/evidence to support your response

Yes.

This is in line with the current payment requirements for the LPC and many other courses. This is a sensible and logical proposal to prevent payments made in error and ensure individuals keep up with their course payments.

This should however be checked with the individual and institution at the time of the application to ensure the particular course/institution accepts payments in this way.

23. Do you think confirmation of attendance is an appropriate trigger to release the loan to the borrower? Please give reasons/evidence to support your response

Yes.

If this measure is not put in place, it increases the risk of borrowers receiving loan payments where they have withdrawn from the course. It is a reasonable method to ensure only borrowers continuing to study and attend the course receive payments.



24. Do you think this is the right balance of repayment terms to achieve an affordable scheme for borrowers whilst also meeting the principle of individuals repaying in full? Please provide reasons/evidence to support your response

No.

It is appropriate to make repayment contingent on the borrower earning a certain threshold. However, we question whether the threshold should vary on location (and in particular, whether the threshold should be higher in London). Our main concern is over affordability, particularly given that the postgraduate loan will be repaid concurrent to undergraduate loans. At £21,000, it is unclear whether the following payments would be affordable:

- 9% undergraduate loan repayment
- 9% postgraduate loan repayment
- 20% income tax
- National insurance
- Pension contribution

A borrower on £21,000 working and living in London is less likely to be able to afford the same amount of repayments as someone living outside of London on the same salary. There is an argument therefore that the current proposals omit to consider the variances in living costs individuals may have.

The JLD strongly agrees with the principle that repayments are reduced if the borrower's earnings decrease.

25. If no to Q24, which repayment terms would you recommend be made more generous and which less generous in order to offset this? Please provide evidence/reasons to support your recommendations

In line with the comments made above in question 24, the JLD believes that the income threshold should be more generous to reflect the differences in living costs across different geographical regions.

If postgraduate loan repayments are going to be paid concurrently with undergraduate loan repayments, we would suggest either a higher threshold for postgraduate repayments, or a lower rate of repayment.

Alternatively, the Government may vary the rate of repayment where an individual is on a higher salary (for example, 3% repayment on £21,000; 5% repayment on £26,000; 9% repayment on £31,000).



26. Are there other issues Government should be aware of, which would impact on the take-up of this proposed loan by those with any of the protected characteristics and what steps might Government take to mitigate any negative impact? Please give reasons/evidence for your response

Yes.

We note that individuals must be under 30 years old in order to be eligible for a postgraduate loan under these proposals. We have reviewed Annex 5 and it is clear to us that the Government has clearly considered the impact of these proposals on individuals above the age of 30.

Despite our review of Annex 5, the JLD believes that there should not be an age restriction on loan eligibility. It is very common in the current legal market for individuals above this age to enter the profession. The JLD recommends the Government to remove the age requirement on loan eligibility as this is prejudicial to principles of equality and ensuring that any individual can have the option of completing a postgraduate Master's course to further their career and education.

27. What other sources of support could be offered to learners who would not be eligible for the new postgraduate loan?

Other funding sources for the LLM or LLM-LPC include:

- Professional and Career Development Loans
- Institution scholarship schemes
- Ad-hoc employer sponsorship

In the current climate of the legal profession, it has become increasingly difficult for individuals to fund postgraduate legal study and there is increasing reliance on Professional and Career Development Loans. The JLD conducted a survey in 2014 which found that 38% individuals had spent at least £25,000 on their legal education. With the increasing costs of legal education, it is very important that the new postgraduate loan is an option for as many individuals who need it. The loan must be flexible enough to reflect the wide range of individual circumstances which may surround a person applying for a postgraduate taught masters.

Impact on employers and business

The JLD is a membership organisation and therefore is not an employer or business. We therefore understand that questions 28-34 are not specifically seeking views from us.



Do you have any other comments that might aid the consultation process as a whole?

Please use this space for any general comments that you may have, comments on the layout of this consultation would also be welcomed.

The JLD welcomes this proposal from the Government to provide essential support to postgraduate students, which will inevitably promote social mobility. The Consultation has raised various questions in terms of Master's for law students and which courses would/would not be included within this scheme.

The LLM

It is clear that an LLM would be considered an eligible course under this scheme. This is of course a positive step however we wish to point out that the LLM is not a necessary qualification to pursue a legal career. Our worry is that there would be an influx in numbers of students applying to study the LLM following their undergraduate degree when the LLM is not a necessary continuation from the LLB (undergraduate law degree). Funding to study the LLM would likely be of more benefit to those over the age of 30 rather than under, as it is more common that LLM students would be in employment initially and study the LLM part-time at a later stage in their career.

The LPC

The necessary continuation from the LLB for those wishing to pursue a career in law is the LPC. This is a required qualification in order to become a solicitor. We understand that the LPC is likely to fall into Other Postgraduate Courses and would therefore not be included in this scheme. We also note that Paragraph 3.1 Figure 1 of the Consultation shows OPG's to be one of the higher cost categories of course. The LPC on average costs £11,500 and is not subject to any income contingent funding. Without employer-funding, individuals will attempt to secure a professional bank loan. As the Government notes in the Consultation, these loans are not ideal, leaving the individual with high debt and inflexible repayment terms, regardless of whether they secure a job at the end of studying.

The JLD would strongly recommend that the LPC be included within the Government's scheme. If a student wishing to pursue this course wanted to apply for the Government loan, they would need to certify that they did not have funding from another source such as a bursary from a future employer. As the costs of the LPC are typically higher than the maximum amount the Government would lend, the student would still have to partially finance the course themselves, demonstrating a level of commitment to the course and a career in law. This loan would alleviate the pressure caused by the strict bank loan terms.



LLM-LPC

As we have mentioned within the Consultation, a number of institutions have started to offer a joint LLM-LPC course. It is unclear whether this course would be eligible for the postgraduate loan proposed in this Consultation. The JLD believes it is likely on the criteria that students applying for this course would be eligible to apply for a Government loan. We would submit that it is in the interests of students for the postgraduate loan to be available for joint LLM-LPC courses, as it is an efficient course for students to obtain both an academic qualification, as well as the required professional qualification. If the LLM-LPC was confirmed to be eligible for a postgraduate loan, we fear that educational institutions could raise their fees for this course. This would dilute the purpose of the Government's assistance and the JLD would strongly urge a system be put in place to monitor the fees of postgraduate Master's to ensure institutions are not commercially benefitting.

Age

We would reiterate that we do not agree with the age limit set on this proposed funding. It seems that the Government is concluding that individuals over 30 are more capable of funding a postgraduate Master's qualification. However, this is not always the case. Given that first time home buyers are often over 30, who may also have family commitments, it is clear that individuals over 30 still face key economic challenges which may negatively impact their career progression. Therefore, it would be prejudicial to the progress of a large number of young professionals to limit the availability of this funding to those who are aged 30 and under.

We would ask that the Government clarifies the following concerns:

- Will the proposed funding apply to the LLM course?
- Will the proposed funding also apply to the combined LLM-LPC course?
- Please confirm the specific inclusion or exclusion of the standalone LPC course given all of our points put forward above.

Thank you for taking the time to consider our response to this Consultation. Should there be any follow up questions, we would be happy to answer these to provide further assistance to the Government. ***We would request that you please acknowledge receipt of this consultation response.***

The Junior Lawyers Division

29 May 2015

Email: juniorlawyers@lawsociety.org.uk