

## **Continuing Legal Professional Development**

I want to thank the organizers of this continuing Legal Education seminar for giving the Committee for Continuing Legal Professional Development (CLPD) the opportunity to make a presentation at this Annual Seminar.

This presentation is not intended to be exhaustive but rather to give an insight into the thinking behind mandatory CLPD and the regulations which are being drafted. It is also hoped that a discussion will ensue which will assist in informing the deliberations of the Legal Council.

The *Legal Profession Act* mandates the General Legal Council to:

- a) organize legal education; and
- b) uphold the standards of the Legal Profession.

The introduction of mandatory Continuing Legal Professional Development brings together the two elements of that mandate.

The debate surrounding mandatory continuing education started about a decade ago and at the time, met with strenuous objection from different groupings within the profession. However, over time there has been general acceptance of the need for a systemized approach to fulfilling the professional needs of the Legal fraternity as well as recognition that the development should not be restricted to matters of law. This has resulted in a refinement of the terminology from Continuing Legal Education to Continuing Legal Professional Development (CLPD). Thus, the Legal Profession (Amendment) Act 2012 provides that a practising certificate shall be issued by the

Council where the Council is satisfied that the Attorney has complied with such requirements for continuing legal professional development as may be prescribed.

The system has two tiers. Newly admitted Attorneys are required to obtain not less than sixteen (16) credits in each year during the first three calendar years of being admitted to practice and there are three compulsory courses namely:-

- a) Ethics
- b) Client welfare and,
- c) Business management and finance

All other Attorneys will be required to earn not less than twelve (12) credits and in each calendar year must participate in a course on Ethics. Of course, the question which naturally arises is why are these courses compulsory within a mandatory framework?

I share with you the justification advanced by the Law Society in the United Kingdom when they grappled with a similar problem.

“Future Lawyers should not only have regard to the specific technical legal problems with which they are dealing but also deal with the task in a much wider ethical context taking into account that the functions which Lawyers perform are not only for the benefit of the clients but also for the society at large. Professional rules must be used as a guide to foster the quality of such legal services. In this regard for instance, a lawyer should be aware of the rules of communication and publicity not only to avoid behavior incompatible with professional ethics but also to learn how to

communicate effectively with the public in order to protect the interest of the client.”

Our profession has been plagued with complaints surrounding the conduct of Attorneys. It is hoped that constant exposure to the canons of the profession, the professional obligation to clients, the need to observe the accounting rules and best practices, will strengthen accountability.

### **THE FRAMEWORK FOR MANDATORY CLPD**

It is contemplated that the requirement for obtaining a set number of credits may be fulfilled in several different ways and a wide array of activities are enumerated ranging from attending seminars, delivering papers, participating in distance learning courses, writing on legal theory or practice, coaching and mentoring sessions delivered long distance, participation in the work of committees and delivering addresses on legal topics.

### **ACCREDITATION COMMITTEE**

An Accreditation Committee is to be established with responsibility for devising the criteria and requirements for the accreditation of courses and activities comprising a CLPD programme. It is contemplated that such a Committee will consist of nine members which may include representation from the Jamaica Bar Association, the Regional Bar Associations, Advocates Association, Council of Legal Education, Norman Manley Law School, The Judiciary and the Resident Magistrates Association. The Committee will be appointed by the Council and must be chaired by a member of Council who can only chair for a maximum of three (3) years.

The Draft Regulations also sets out the criteria for accreditation of the CLPD programmes with the emphasis on the intellectual and practical content of the course or activity. The Accreditation Committee is responsible for the allocation of credits for the hours spent in participation in the activity. In the event that an Attorney wishes to obtain credits in a course or activity which was not previously accredited, applications may be made to the Committee with all substantiating material and with proof of the Attorney's participation within the relevant period.

## **PROVIDERS**

The Accreditation Committee will develop a list of Providers. Associations, institutions or individuals who wish to be treated as Providers may make an application to the Committee for approval. A list of Providers shall be compiled and published annually by the Committee.

## **OBLIGATIONS OF THE PROVIDERS**

At the conclusion of each CLPD Course, each participating Attorney must be given an opportunity of completing an evaluation questionnaire addressing the quality, usefulness and effectiveness of the particular activity.

The provider is obligated to submit to the Accreditation Committee, a list of all participants and the time spent on participating in the programme. The CLPD provider must provide the attorney with written confirmation of participation immediately upon completion of the course or activity.

## **EXEMPTIONS**

There are instances when an Attorney may make an application to be exempt on the ground of a particular hardship which may include unemployment , pregnancy , illness or working overseas. This exemption will be for a specified period of time and must be obtained in writing .

## **NON- COMPLIANCE**

The amendment to the Legal Profession Act provides that a practising certificate shall be issued by the Council where the prescribed fee has been paid and where the Council is satisfied that the Attorney has complied with such requirements for continuing legal professional development as may be prescribed.

Section 5 (3A) further provides that:

Where the Council is satisfied that a person is practicing in contravention of subsection

(2) the Council shall, in writing, direct the person-

(a) where the prescribed fee has not been paid, to pay the prescribed fee within a specified time

(b) where the Council is not satisfied that the prescribed requirements for continuing legal professional development have been met, to provide, within a specified time, evidence of having met the prescribed requirements; or

(c) where the Council is satisfied that the person is unable to supply evidence of having met the prescribed requirements, to attend and complete, within a specified time, specified courses of training in order to meet the prescribed requirements.

## **CONCLUSION**

The exponential growth of the profession will result in increased awareness amongst the public. In the highly competitive market, attorneys will have to seek to distinguish themselves by the quality of their work, the quality of their client care and most importantly by their reputation.

The General Legal Council is cognizant of this as it strives not only to uphold the standards of the Legal Profession but to ensure that those standards are widely disseminated and embraced by the entire profession.

Thanks to the Committee Members

- a) Dr. Lloyd Barnett Q.C.
- b) Ms. Nancy Anderson
- c) Ms. Carol Aina
- d) Ms. Simone Mayhew
- e) Mr. John Bassie
- f) Ms. Jeromha Crossbourne

Special thanks to Mr. Peter Carson.