



CCPC Submission to the LSRA Consultation on Admission Policies of the Legal Professions

11 February 2022



Coimisiún um
Iomaíocht agus
Cosaint Tomhaltóirí

Competition and
Consumer Protection
Commission



Introduction

The Competition and Consumer Protection Commission (CCPC) welcomes the opportunity to respond to the Legal Services Regulatory Authority (LSRA) consultation for its annual report to the Minister for Justice on the Admission Policies of Legal Professions. The observations of the CCPC are provided in the context of the recommendations made in the LSRA's 'Setting Standards' report to the Minister for Justice on reform of education and training¹. The CCPC continues to engage with the LSRA in relation to education and training of legal professionals, and the observations below build on recent submissions to the LSRA's consultations on *'Barriers for Early Career Solicitors and Barristers and Increasing Diversity'*² and *'The Creation of New Profession of Conveyancer'*³ as they relate to the role of the Legal Practitioner Education and Training (LPET) Committee.

Definition of competence and standards

The CCPC welcomes the recommendations of the 'Setting Standards' report to the Minister for Justice on reform of education and training, including the establishment of the LPET Committee. The CCPC further welcomes the recommendation that the LPET Committee be tasked with developing and maintaining a clear definition of the competence and standards required to practise as either a solicitor or barrister, and a common set of competences and standards for admission to professional legal training.

The CCPC notes the LSRA's recommendation that the LPET Committee should set a Competency Framework for legal practitioner education and training. The CCPC recommends that these standards be used to accredit new providers of education and training. A further advantage of establishing clearly defined standards and competences is the potential to provide for the establishment of new types of practitioner⁴, such as the new profession of conveyancer. The CCPC is of the view that restricting the provision of conveyancing services to solicitors limits competition and keeps conveyancing fees high. The establishment of a profession of conveyancers in Ireland should lead to downward

¹ <https://www.lsr.ie/wp-content/uploads/2020/11/Section-34-ET-Final-Report-to-Minister.pdf>

² <https://www.ccpcc.ie/business/wp-content/uploads/sites/3/2021/09/CCPC-Submission-to-LSRA-Consultation.pdf>

³ <https://www.ccpcc.ie/business/business/research/submissions/submission-to-the-legal-services-regulatory-authority-on-the-creation-of-new-profession-of-conveyancer/>

⁴ As was also noted in the Hook Tangaza report which informed the content of the 'Setting Standards' report: <https://www.lsr.ie/wp-content/uploads/2019/09/Review-of-Legal-Practitioner-Education-and-Training-Final-version.pdf>

pressure on conveyancing fees and more consumer-friendly and innovative ways of providing these services. Rigorous and transparent standards would also support consumer and practitioner confidence, allowing a newly created profession, such as conveyancer, to be regulated appropriately.

Access to Education and Training

The CCPC welcomes the LSRA's recommendation to the Minister for Justice that a statutory objective of the LPET Committee would be to encourage greater access to legal education and training opportunities. This recommendation in turn supports the LSRA's goal of ensuring that the admission policies of the legal professions are consistent with maintaining high standards and protecting the public interest. Increased access to legal education and training should be encouraged by minimising costs, facilitating the creation of new routes for legal qualifications and removing any duplication of requirements created, for example, by requiring candidates to hold a law degree and complete overlapping FE-1 exams. The CCPC suggests that the LPET Committee review any existing arrangement which would add up to unnecessary costs and inconvenience which would dissuade new potential entrants to the professions. The CCPC notes in this regard that the most common barriers cited in the Hook Tangaza report included the costs of qualification (including the unpaid time involved either in gaining entry to solicitor training whilst studying for the FE-1 or in undertaking pupillage), the time involved in qualifying, and lack of contacts in the profession. Reducing economic barriers will improve the ability of entrants from a greater diversity of backgrounds to enter the professions.

The LPET committee could consider facilitating the creation of new routes to legal qualification, including for non-law graduates, which could increase competition by fostering diversity both in demographic characteristics and in practice area. The CCPC also notes the LSRA recommendation to that the LPET Committee be empowered to encourage access to legal education and training opportunities. The CCPC recommends that the LSRA or LPET Committee should also carry out research on factors that may limit access to traineeships and internships, or affect entry to the professions. This evidence can in turn be used to identify relevant solutions and to stimulate diversity and inclusion in the sector.

These changes should also aim to ensure diversity of access to and progression through legal education and training. A key objective of the LPET Committee should be to facilitate entry of additional legal education and training providers into the market to foster competition. This will in turn support increased access and encourage diversity in the legal profession. Greater competition will aid the development of innovative ways of providing education and training which are more cost-effective and which might attract more diverse entry to the legal profession⁵.

Setting Competences and Standards

The CCPC also welcomes the LSRA's recommendation that the LPET Committee be tasked with developing and maintaining a well-defined and transparent set of standards required to practise as either a solicitor or barrister. The CCPC notes that the LSRA's functions under Section 13 (2) of the Legal Services Regulation Act⁶ refer solely to solicitors and barristers and would require expansion to include oversight of a new profession of conveyancer.

The CCPC suggests that the LPET Committee should ensure that legal educational and training services can adjust to market developments and the needs of consumers of legal services, and that the competences and standards in turn remain relevant. In the CCPC's view the LPET committee should have regard to these areas as well as any other relevant developments identified by key stakeholders when developing competences and standards for the legal profession and educational and training services and when accrediting providers. In the area of conveyancing, for example, it should only include education and training necessary to provide conveyancing services, the requirements should not be too onerous or act as an unnecessary barrier to entry for those who do not require knowledge of broader legal practices.

The CCPC also welcomes the recommendation that these standards will be used as the benchmark to accredit new providers. When drafting these standards, it is the view of the CCPC that the LPET Committee should be conscious of striking a balance between two important issues. The standards should ensure the quality professionalism in legal

⁵ As previously noted in our submission to the LSRA consultation in 2021 on barriers to early career solicitors and barristers and increasing diversity (available here: <https://www.ccpc.ie/business/wp-content/uploads/sites/3/2021/09/CCPC-Submission-to-LSRA-Consultation.pdf>)

⁶ <https://www.irishstatutebook.ie/eli/2015/act/65/section/13/enacted/en/html#sec13>

education and training while also making certain that they do not create a barrier to entry to new service providers.

Monitoring and Maintaining Quality

The CCPC welcomes the recommendation of the LSRA that the LPET committee not only sets competencies and standards for legal education and training but that it also ensures that legal education and training providers adhere to those standards. The CCPC welcomes the recommendation that the LPET Committee should monitor the quality of legal education and training and promoting its highest standards. The importance of maintaining the quality of legal education and training and ensuring high professional standards in legal services was emphasised in the CCPC's previous submissions to the LSRA. Additionally, the CCPC welcomes the recommendation that the LPET Committee adopt and adhere to the Quality and Qualifications Ireland "Principles for Professional Engagements with Education Providers, including Programme Validation, Professional Accreditation and Approval"⁷. This will provide the basis on which the LPET can validate new providers of legal education and training, thereby facilitating further entry to the market.

Innovation in education and training

The CCPC notes the recommendation that the LPET Committee be statutorily required to encourage innovation in the provision of legal education and training. In the CCPC's view, this would serve to improve the quality and standard of legal services. In that regard, the CCPC notes the observations of the LSRA in the 'Pathways to the Professions' report to the Minister for Justice in 2021 that there have been a number of developments in relation to education and training of legal professionals⁸. In particular, the CCPC notes the observations in the report that professional training bodies in relation to the issue of professional competencies. The report noted that the Honorable Society of King's Inns had published its 'Statement of the Required Competencies of a Barrister' in November 2020, while the Law Society of Ireland has advised the LSRA that it is putting in place a competency framework for solicitors. In addition, the report also noted that the first

⁷ <https://www.qqi.ie/sites/default/files/media/file-uploads/Principles%20for%20Accreditation%20and%20other%20Professional%20Engagements.pdf>

⁸ <https://www.lsr.ie/wp-content/uploads/2021/06/LSRA-S33-Annual-Report-2020.pdf>

solicitor trainees had begun their studies on the Law Society's flexible Professional Practice Course ('the PPC Hybrid'), which includes online lectures and (pre-Covid-19) weekend onsite tuition⁹. The CCPC welcomes these developments.

Conclusion

The CCPC welcomes the recommendations in the LSRA's 'Setting Standards' report, which are in many respects aligned with the views of the CCPC on reform of legal education and training. In particular, it welcomes the establishment of an independent body which will create a framework of standards and competences for legal education and training providers. These standards will ensure the quality of legal education and training is maintained while removing barriers to entry for new service providers. This should in turn have a positive impact on the legal educational and training sector and provide for more diverse routes for admission to the legal professions.

The CCPC strongly supports the implementation of the recommendations in the 'Setting Standards' report which it expects will strengthen competition by providing a broader range of pathways for admission to the legal professions. In addition, the CCPC believes that these reforms will improve consumer choice and the standard of service available to them by ensuring that the training received by legal practitioners, be they solicitors, barristers or members of newly proposed professions such as conveyancers, suitably equips them for the needs of the modern legal marketplace. The CCPC would welcome the opportunity for further engagement with the LSRA in regard to the matters set out in this submission.

ENDS

⁹ *ibid*

