

## **Submission to the Legal Services Regulatory Authority Regarding the Report into the Education and Training of Legal Practitioners in the State**

Matheson welcomes the opportunity to provide a submission on the future education of Ireland's legal professionals in line with section 34(1) of the Legal Services Regulation Act 2011. As one of Ireland's largest and long standing law firms, attracting and developing the best business lawyers to serve the needs of our internationally focused clients and financial institutions is a key contributor to our success. To achieve this, Matheson invests heavily in the attraction and development of our lawyers from trainee through to partner.

This submission has been led by Matheson's Managing Partner, Michael Jackson, and involved the engagement and consultation with representative partners from across our business, many of whom are members of Matheson's Trainee Liaison Committee and our Learning and Development Committee; a focus group with trainees and recently qualified lawyers; and also members of Matheson's dedicated Learning and Development Team.

A summary of our submission and recommendations are detailed below, and further detail is provided in sections one and two.

- To retain talent from Ireland's third level institutions through to the solicitor qualification process, an exemption based approach to FE 1 entrance exams must be introduced to recognise subjects examined at undergraduate or postgraduate level. To ensure consistency of knowledge, it can be specified that a certain pass rate in undergraduate or postgraduate subjects are required to qualify for exemptions. See section one for more detail.
- While the current provider of legal education of solicitors has delivered a high quality profession, we believe that, in line with best practice governance and competition principles, the regulation and delivery of the legal education of solicitors should not be the exclusive preserve of one single provider. This is supported by The Competition and Consumer Protection Commission, and the OECD.<sup>1</sup>
- The length of time to qualification must be reduced to retain Ireland's talent, and to enhance the competitiveness of Ireland as a place to complete your qualification process. In Ireland it currently takes approximately eight years to progress from undergraduate level to qualification as a solicitor. This is significantly longer in other jurisdictions, such as the UK.
- The practice of law has changed substantially over the past decade. Increased specialisation and the growth of larger corporate firms means that an education programme targeted towards the needs of a general practitioner has become less successful in preparing a large cohort of Ireland's qualifying solicitors for their future careers. While it is important to also continue to provide for general practitioner training to a high standard, the PPC programme must be adapted to enable a greater degree of customisation and elective modules that are

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1. OECD, 'Regulatory Reform in Ireland', 2001 and The Competition and Consumer Protection Commission, 'Competition in Professional Services in Ireland: Solicitors and Barristers', 2006

aligned to the practice of a growing number of the sponsoring firms. This can be achieved through core skills for the profession being completed in PPC I and elective skills aligned to the sponsoring firm's practice area in PPC II. This is supported by The Maharg Report<sup>2</sup>, and it is also similar to the practice in the UK. To enable this, providers for the PPC programme should be required to design and deliver content tailored towards large commercial and international firms. Given that there is a requirement that trainees must have a training contract with a firm secured before being able to undertake PPC I, a more tailored education offering in the PPC programme would ensure that the curriculum is better supported by 'on the job' learning when lawyers return to the office, producing a higher overall standard.

- Enabling other providers or institutions to offer solicitor training education should result in a degree of competition and innovation which will serve to further enhance the standard and quality of the trainee education process. This view is supported by The Competition and Consumer Protection Commission<sup>3</sup>. Currently, the subjects covered and the standard of teaching does not always adequately equip trainees with the knowledge or skills required to perform in a top Irish international business law firm.
- There would be merit in running PPC I and PPC II in one combined calendar year prior to commencement of time in the office. This would allow trainees to maximise the time spent applying concepts learned while also reducing disruption for firms.

## 1. FE 1 Entrance Examinations

The current requirement is that all graduates, irrespective of their undergraduate degree, who wish to pursue a career as a solicitor must undertake eight FE 1 exams irrespective of whether the graduate completed a law degree, law 'with' degree (for example, law with business), or a degree completely unrelated to law. Graduates of law degrees are required to sit exams in subjects that are covered at undergraduate level. In addition, they must sit and pass a minimum of three exams in their first sitting. Whilst there is no limit to the number of sittings, due to the above requirements, it often takes graduates 18 – 24 months to complete these entrance exams.

This has impacted our talent pipeline and our available talent pool (as many may decide not to engage in the arduous entrance process or opted to qualify in other jurisdictions). This impacts the certainty regarding starting dates of our trainees and also the pool of talent which we can attract, as many graduates have looked to other jurisdictions for more efficient qualification routes and therefore removing them from the available talent pool to Matheson and Irish firms generally. The existing process further demonstrates a disconnect between the value of undertaking a law related degree at third level and ultimately pursuing a career as a lawyer.

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2. A Review of Solicitor Training by Professor Paul Maharg and Professor Jane Chang was commissioned by the Education Committee of the Law Society, and completed in January 2018, at page 18.

3. The Competition and Consumer Protection Commission, 'Competition in Professional Services in Ireland: Solicitors and Barristers', 2006.

The absence of entrance exams for law students in jurisdictions such as the UK means that they will reach qualification between one and two years earlier than Ireland. We believe that a system which does not encourage the best Irish talent to remain and train in Ireland is one which does not best serve the needs of the Irish legal profession. It also militates against foreign lawyers choosing to train and qualify in Ireland which reduces diversity.

An exemption based approach to the entrance exams is a solution that would recognise the undergraduate and postgraduate studies of graduates, position Ireland as a highly quality competitive environment to complete your qualification, as well as provide certainty to Irish law firms regarding future talent pool and pipeline. Whilst it is recognised that The Maharg Report recommends that this should be considered by the Law Society in the longer term<sup>4</sup>, it is Matheson's view that this is a matter that requires urgent attention and change as a matter of priority to meet the existing and future demand for talent.

Feedback from our consultations and focus group included the following:

- Foreign, and particularly London law firms, target Irish University students specifically highlighting that they can qualify a lot earlier in the UK when compared to Ireland. This is significantly reducing the available talent pool for Irish firms and does not serve the best interests of the Irish profession.
- Despite the fact that the Law Society requires individuals to have a degree to sit the FE 1 exams, they do not recognise the relevance of degrees that specialise in law. This contrary to the process adopted in the UK. In Ireland, individuals who have completed exams at undergraduate or postgraduate level in the subjects examined during FE 1 exams must sit all eight exams. For graduates who have completed their third level exams in the May, they often sit FE1 exams in the same subjects in the October of the same year. Our law graduates highlighted that the same topics are often covered and examined again in PPC I / II, meaning that law graduates are examined on the same subject a minimum of three times on their route to qualification. Qualified lawyers who had sat the FE1 exams believed that 50% of what was learned from the FE1 exams had no application to the practical work of a trainee or lawyer.
- For those who are not law graduates it was thought that there is no clear rationale for the rule requiring that a minimum of three exams must be passed in the first sitting. This rule can create significant pressure on those from non-law or non-student backgrounds wishing to commence their career in law, as it impacts on their ability to work full time and engage in family commitments. This has the potential to impact on the diversity of the profession, and diversity is a key value for Matheson as a firm.
- In an attempt to reduce the timeframe it takes to complete the FE1's, there can be an increased reliance on preparation courses particularly as there no materials are provided for the exams by the Law Society, unlike other professions such as the Chartered Accountants of

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4. A Review of Solicitor Training by Professor Paul Maharg and Professor Jane Chang was commissioned by the Education Committee of the Law Society, and completed in January 2018, at page 20.

Ireland and the Tax Institute. The preparation courses are very expensive and give no clear indication as to what will come up in the exams, deterring prospective talent from entering the profession.

- The limited location in which you can sit the exams adds significant expense for those not based in Dublin. This expense is in addition to engaging in preparation courses, the cost of the FE 1 exams, and often unpaid time off to study. Similar to the Chartered Accountants of Ireland, the opportunity to sit the entrance exams in multiple locations, such as Universities throughout the country, would be welcomed.
- The feedback was that the marking of the exams appears to be very inconsistent and that this undermines the credibility of the examinations. This was also noted by The Maharg Report<sup>5</sup>.
- There is a lack of transparency regarding re-checks. Even though the re-check process is a paid service, there is no opportunity to view your own script.
- Late notice and inconsistency regarding when results of the exams will be released has caused uncertainty.

## 2. Professional Practice Courses

The Law Society is the only body that provides training to prospective solicitors. We believe that the lack of competition inherently impacts the standard and competitiveness of the quality, content and structure of the professional practice courses.

As the Law Society caters for all solicitors training in Ireland, there has been a 'one size fits all' approach to the training and education of trainee lawyers, in an attempt to accommodate the needs of general practice, niche practices and large commercial law firms. There is limited tailoring of the programme to facilitate trainees of commercial firms to focus on topics relevant to corporate law firms. This departs from the UK approach, which has alternative providers which offer both accelerated and tailored programmes for corporate law firms.

Feedback from our engagement and focus group includes the following:

- Considerable time is spent on subjects that are not relevant to the practice focus of a trainee's sponsoring firm. It was recognised that there is value in a number of core topics relevant to the general practice and qualification of a lawyer being covered during PPC I, regardless of the area those lawyers ultimately specialise in or intend to specialise in.

The focus group strongly believes, however, that whilst core subjects should be covered in PPC I, the PPC II timetable should be entirely elective to allow trainees to elect modules which are aligned to the focus of their sponsoring law firm (for example, general, niche, or commercial). This would allow trainees to be more knowledgeable and valuable to their

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5. A Review of Solicitor Training by Professor Paul Maharg and Professor Jane Chang was commissioned by the Education Committee of the Law Society, and completed in January 2018, at page 65.

sponsoring firms towards the end of their traineeship and upon qualification. This is in line with other professions, such as medicine, whereby upon qualification after approximately eight years, they are considered experienced in their area of specialism. This is not the case with the solicitor qualification process in Ireland.

- The standard of lecturing varies significantly, and there are often several different lecturers for one module. Opening up the service to alternative providers will enhance the quality and consistency of the lecture standard.
- There is a disproportionately small amount of time spent on some very relevant and useful topics. For example, there is only one hour spent on negotiation skills which is viewed as relevant to all areas of practice.
- There is a lack of joined up systems which can impact the overall professionalism, such as:
  - IT systems used during PPC I and PPC II are very poor and not streamlined.
  - Some content is provided online, whilst other content is provided manually. With manual collateral, there are often books / chapters that are not updated, resulting in certain sections / chapters being re-issued manually.
  - There is a lack of consistency around how lectures upload content to IT systems, which are often incompatible with the Apple iPad devices. This means that often multiple apps need to be downloaded to convert / edit certain documents.
- There was some support for running PPC I and PPC II modules as a combined one year long course to minimise disruption and allow a longer period for application of the principles before qualification.