



**LSRA Press Release: Thursday 19 November 2020**

## **LEGAL SERVICES REGULATORY AUTHORITY PUBLISHES REPORTS ON LEGAL PRACTITIONER EDUCATION AND TRAINING AND UNIFICATION OF LEGAL PROFESSION**

The Legal Services Regulatory Authority (LSRA) today [Thursday 19 November] publishes two separate reports with recommendations to the Minister for Justice, in fulfilment of its statutory mandate to ensure the maintenance and improvement of standards in the provision of legal services by legal practitioners.

Both reports have been submitted to the Minister, as required under section 34 of the Legal Services Regulation Act 2015.

The first report, ***Setting Standards: Legal Practitioner Education and Training***, recommends reforms to, for the first time, define the competence and standards required to practise as a solicitor or barrister.

It also recommends the establishment of a statutory framework to accredit existing providers of legal practitioner education and training as well as, for the first time, allowing new providers to be accredited to provide professional training for solicitors and barristers.

In the second report, ***Greater than the Sum of Its Parts? Consideration of Unification of the Solicitors' Profession and Barristers' Profession***, the Authority concludes that at this stage in its regulatory timeline it would be premature to recommend that the two branches of the profession be unified. The Authority undertakes in the report to return to the matter within five years, when it anticipates that the landscape for legal services provision will have evolved sufficiently in order for it to reconsider the question of unification as posed in the Act.

The report notes that the Authority has taken account of pending, proposed and potential reforms which would change the landscape for legal services delivery in the years ahead and impact on the regulatory framework for barristers and solicitors.

### **REPORT 1: Setting Standards: Legal Practitioner Education and Training**

***Setting Standards: Legal Practitioner Education and Training*** makes a total of twelve important recommendations for reform of legal education and training for solicitors and barristers.

The report contains two central recommendations:

1. A clear definition of the competence and standards required to practise as a solicitor or barrister should be developed.
2. The introduction of a statutory framework to establish a new and independent Legal Practitioner Education and Training Committee (the LPET Committee). The LPET Committee would be statutorily required and empowered to:



- Set the Competency Framework for legal practitioner education and training;
- Develop a common set of competencies and standards for admission to professional legal training;
- Ensure that existing providers of legal education and training adhere to the standards required by the Competency Framework on an ongoing basis;
- Scrutinise and accredit new providers of legal education and training based on set criteria established by the LPET Committee;
- Monitor the quality of legal education and training;
- Encourage innovation in the provision of legal education and training;
- Encourage diversity in legal education and training;
- Engage with key stakeholders in legal education and training.

### ***Previous LSRA Report to Minister Including Expert Report and Follow-Up Consultations***

***Setting Standards: Legal Practitioner Education and Training*** is the second report submitted to the Minister for Justice by the LSRA in fulfilment of its statutory duty under section 34 of the Act to report to the Minister on the education and training arrangements in the State for legal practitioners (solicitors and barristers).

The Authority's first statutory report to the Minister on the issue, in September 2018, set out a series of proposals for reform of the education and training of legal practitioners. That report included an analysis by an expert external Review Team. The Review Team report found evidence of:

- a lack of clarity around the competencies required of a solicitor or barrister,
- the existence of indirect barriers to entry into the professions,
- the existence of unnecessary duplication in learning and assessment,
- a mismatch of the skills taught in current professional qualification courses with the needs of the users of legal services,
- the existence of some quality gaps, and
- a lack of independent oversight of the system of legal practitioner education and training.

The report from the expert Review Team made a total of fourteen proposals. Its two core proposals were: 1. A clear definition of the competencies and standards required to practise law should be developed for legal practitioners; and 2. The roles and responsibilities of stakeholders in the legal education and training system should be reformed to reflect modern principles of good governance and better regulation.

The report's proposals were the subject of subsequent extensive consultations by the LSRA with stakeholders in the legal services sector, including a one day symposium in Croke Park in Dublin in September 2019 attended by approximately 100 people, including key stakeholders in legal education and legal services.

### ***Background: Setting Standards: Legal Practitioner Education and Training***

Today's report, *Setting Standards: Legal Practitioner Education and Training*, notes that in approaching its review of legal education and training, the Authority was aware that reform in the sector has been recommended in reports by various other bodies including most recently the



Competition Authority in 2006. (See Notes for Editors)

The LSRA report states that: *“In these reports the provision of legal education and training was frequently viewed at least partially through the lens of competition and what has been described as the monopoly on the provision of legal education and training in the State. The Authority has approached the review of legal education and training, as with the performance of all of its functions, with its six statutory objectives to the fore.”*

These objectives are:

- Protecting and promoting the public interest,
- Supporting the proper and effective administration of justice,
- Protecting and promoting the interests of consumers relating to the provision of legal services,
- Promoting competition in the provision of legal services in the State,
- Encouraging an independent, strong and effective legal profession, and
- Promoting and maintaining adherence to the specified professional principles.

Today’s report continues:

*“In examining the evidence the Authority was conscious that some views expressed were almost diametrically opposed. However, there was a consistent message of the need for quality legal education and training for legal practitioners. There were also differing views on the needs of the legal services market place as regards the training of legal practitioners and what could be seen as a disjoin between the needs of larger legal firms and the smaller enterprises. Concerns were expressed that the current system of training for solicitors was not sufficiently responsive or attuned to the needs of the legal services market. Concerns were also raised in relation to the quality of some aspects of legal training and the lack of any independent oversight of the quality of training being provided. Balanced against this was the concern expressed that any new providers of legal education and training may not deliver the quality training required.”*

The report concludes that while that the two core proposals from the external expert review did not attract universal agreement during the consultation exercises, *“the Authority is of the view that the careful consideration and informed debate has now been conducted and that the evidence gathered strongly supports both propositions for reform.”*

## **REPORT 2: Greater than the Sum of Its Parts? Consideration of Unification of the Solicitors’ Profession and Barristers’ Profession**

In the report, ***Greater than the Sum of Its Parts? Consideration of Unification of the Solicitors’ Profession and Barristers’ Profession***, the Authority concludes that at this stage in its regulatory timeline it would be premature to recommend that the two branches of the profession be unified. The Authority undertakes in the report to return to the matter within five years, when it anticipates that the landscape for legal services provision will have evolved sufficiently in order for it to reconsider the question of unification as posed in the Act.

This report has also been submitted to the Minister for Justice and Equality by the LSRA in fulfilment of its statutory duty under section 34 of the Act to report in 2020 on the question of “whether the solicitors’ professions and the barristers’ profession in the State should be unified.”



The report states that: *“The Authority considers that at this stage in its regulatory timeline it would be premature for it to recommend to the Minister that the solicitors’ and barristers’ professions be unified. The Authority was established on 1 October 2016. The context in which it is now considering the issue of unification is considerably different to that originally envisaged under the Act.”*

The report further states that: *“The Authority considers that it may be appropriate for it to give further detailed consideration to the unification issue at a future date. Accordingly, it undertakes to return to the matter no less than five years from the date of submission of this report to the Minister. The Authority anticipates that the landscape for legal services provision will be sufficiently evolved in that period in order for it to reconsider the unification question, if it deems it appropriate, in a significantly revised context.”*

The report notes that the Authority has taken account of pending, proposed and potential reforms which would change the landscape for legal services delivery in the years ahead and impact on the regulatory framework for barristers and solicitors. The impact of these reforms would be to introduce new methods of legal service delivery as well as expanding the scope of existing models.

These are:

### **1. Legal Partnerships Pending Introduction**

The report notes the planned introduction of Legal Partnerships, a new legal practice model introduced by the Legal Services Regulation Act 2015 and awaiting implementation by way of amendment to the Act. The report also notes that the Authority has submitted two reports to the Minister on Legal Partnerships and has prepared the necessary legal framework for their introduction.

The Authority states in the report that: *“Relaxing the rules on barristers forming partnerships with other barristers and/or solicitors will offer more flexibility to legal practitioners, allowing them to work together and provide different and more efficient and competitively priced legal services to consumers. Legal partnerships, by allowing barristers and solicitors to work together within one business entity, mean that consumers can visit a solicitor and barrister operating in the same premises as a “one-stop shop” for the provision of legal services.”*

### **2. Authority’s Further Consideration of Multi-Disciplinary Practices**

The report points out that the Authority has undertaken to give further consideration to the introduction of Multi-Disciplinary Practices (MDPs). These are another legal business model contemplated by the Legal Services Regulation Act 2015. The report notes that the Authority has reported twice on MDPs to the Minister. It states that: *“The Authority has not to date recommended the introduction of MDPs. However, it has committed to giving further consideration to their introduction. It considers that the introduction of legal partnerships should assist it in further considering the introduction of MDPs.”*

### **3. Authority’s Previous Recommendations on Barristers’ Work**

The report also notes that the Authority made recommendations in September 2018 that would allow enhanced direct client access to barristers for “contentious matters” and that this would be “a new departure” for the barristers’ profession. Currently, direct client access to barristers is prohibited in contentious matters and is allowed in non-contentious matters in limited circumstances. Taken together with the introduction of Legal Partnerships, the report notes that these changes would mean increased consumer access to barristers.



The report states that: *“The implementation of the Authority’s recommendation on direct access would require an amendment to the Act and the issuing of regulations by the Authority. From a sequencing point of view, therefore, the Authority considers that it would be appropriate for it to oversee the introduction of its recommended scheme of expanded direct access to barristers first, before contemplating further changes to the work and functions of solicitors and barristers.”*

#### **4. Absence of Compelling Evidence to Support Unification**

The Authority observes in the report that, regardless of the exact form it may take, the introduction of a formally unified legal profession in Ireland could reasonably be expected to have far-reaching consequences not only for legal practitioners themselves, but also for consumers of legal services, the operation of the courts and the wider administration of justice.

The report states that: *“In the Authority’s opinion, having considered the views of respondents to this consultation, and having analysed arrangements in other jurisdictions, there is a lack of compelling evidence to support a recommendation that the profession be unified. This is not to say that there is not an ongoing case for the Authority to continue to examine areas of legal services provision where structural improvements and efficiencies are warranted. This work is fundamental to the fulfilment of its statutory objectives under the Act.”*

#### **5. Other Relevant Provisions of the Act Await Enactment or Amendment**

The report states the Legal Services Regulation Act 2015 contains a number of provisions which *“have the potential to substantially alter the rules of the legal profession by lifting existing restrictions on barristers, allowing them to operate in new business structures and further facilitating movement between the profession of barrister and solicitor.”*

These include two sections of the Act which have not been commenced. Section 101 of the Act extends the provision of direct access to barristers for legal advice to all members of the public in non-contentious matters (legal opinion). Section 217 of the Act permits the Authority to make regulations to exempt barristers and solicitors seeking to transfer to the other branch of the profession from an unnecessary admission requirement.

In addition, section 212 of the Act (which was commenced on 7 October 2019) provides that a barrister whose name is entered on the Roll of Practising Barristers may take up employment, and as part of that employment provide legal services for his or her employer, including by appearing on behalf of that employer in a court, tribunal or forum for arbitration. Previously, employed barristers were not permitted to represent their employers, or any other client.

The report also notes that section 34(1)(c) of the Act requires the Authority to report to the Minister for Justice and Equality on the creation of a new profession of conveyancer. Under section 34(5)(a) this report shall be provided to the Minister within a period specified in a written request by the Minister to the Authority requesting the report. The introduction of a new profession of conveyancer in Ireland could have a significant impact on the solicitors’ profession, as conveyancing work is among what is referred to as ‘reserved legal services’ that can only be provided by solicitors.

The reports are available on the LSRA’s website, [www.lsr.ie](http://www.lsr.ie).

*Setting Standards: Legal Practitioner Education and Training is available [here](#).*

*Greater than the Sum of Its Parts? Consideration of Unification of the Solicitors’ Profession and Barristers’ Profession is available [here](#).*



## Notes for Editors:

### About The Legal Services Regulatory Authority

1. The Legal Services Regulatory Authority is an independent statutory body set up under the Legal Services Regulation Act 2015 with a range of functions. These include regulating the provision of legal services by legal practitioners (barristers and solicitors) and ensuring the maintenance and improvement of standards in the provision of legal services. Since October 2019, the LSRA has been receiving and investigating complaints about legal services by barristers and solicitors.
2. The membership of the LSRA comprises eleven nominees from a total of ten organisations listed in the Legal Services Regulation Act 2015. The legislation prescribes that the Authority's six lay members are nominated by the Citizens Information Board, the Higher Education Authority, the Competition and Consumer Protection Commission, the Irish Human Rights and Equality Commission, the Institute of Legal Costs Accountants and the Consumers' Association of Ireland and that the Authority's five non-lay members are nominated by the Bar of Ireland, the Law Society of Ireland, the Legal Aid Board and the Honorable Society of King's Inns.
3. The chair of the Authority is Dr Don Thornhill, a former secretary general at the Department of Education and Science and former Executive Chair of the Higher Education Authority. The LSRA's Chief Executive is Dr Brian Doherty.

### Timeline of Report – Setting Standards Legal Practitioner Education and Training

1. The Legal Services Regulatory Authority was established on 1 October 2016. It was required under section 34 of the Legal Services Regulation Act 2015 to undertake a public consultation and report to the Minister for Justice and Equality within two years on existing arrangements for education and training of legal practitioners (barristers and solicitors) and to make such recommendations as appropriate.
2. The Authority submitted the first report into legal education and training in September 2018. That report included an independent study carried out by an external expert Review Team of consultants working through the Hook Tangaza research consultancy. The report reflected the outcome of the Review Team's detailed consultations and contained fourteen proposals for change based on the evidence gathered and analysis undertaken during the review process. A total of 730 organisations or individuals provided evidence to the review. The Authority's 2018 report to the Minister on Legal Practitioner Education and Training is available [here](#).
3. The Hook Tangaza Review team report stated that it found clear evidence of the following: A lack of clarity around the competencies required of a solicitor or barrister that legal education and training is intended to develop and assess; the existence of indirect barriers to entry into the professions; the existence of unnecessary duplication in learning and assessment; a mismatch of the skills taught in current professional qualification courses with the needs of the users of legal services; the existence of some quality gaps; and a lack of independent oversight of the system of legal practitioner education and training. The Review Team report on Legal Practitioner Education and Training is available [here](#).

4. Following the submission of its first report to the Minister in September 2018, the Authority decided to undertake further careful consideration, to consult further with key stakeholders, and to stimulate informed debate on the proposals for change prior to making its final recommendations on any reforms. The Authority also undertook to submit a further report to the Minister outlining the recommendations that it considered to be appropriate in relation to the provision of legal education and training.
5. The Authority has now consulted widely with key stakeholders on the fourteen proposals contained in the first report, including hosting a symposium on legal education and training at Croke Park in Dublin in September 2019 attended by approximately 100 people, including key stakeholders in legal education and legal services.
6. Having carefully considered all of the evidence gathered, the Authority reached the view that it is appropriate to make twelve detailed recommendations for the reform of legal education and training, as detailed in the report, *Setting Standards: Legal Practitioner Education and Training*.
7. Currently there are two organisations providing legal professional training; the Law Society for solicitors and the King's Inns for barristers. Completion of the legal training courses provided by these two organisations are the only routes open to individuals wishing to practise in these two regulated professions.
8. The implementation of the recommendations in today's LSRA report would allow for the entry of new providers of legal training into this "market" while being carefully calibrated and structured to enhance access to professional legal training and the quality of such training.

### **Previous Reports on Legal Practitioner Education and Training**

1. Reform of the education and training sector for legal practitioners has been recommended by a range of other bodies. In 1990 the Fair Trade Commission's Study into Restrictive Practices in the Legal Profession recommended the implementation of a system of common vocational training for solicitors and barristers.
2. In 2001 the Organisation for Economic Cooperation and Development (OECD) in its report "Regulatory Reform in Ireland" identified areas for reform, including "that the control of education and entry of legal professionals should be removed from the self-governing bodies, but close ties as regards quality of entrants and content of education should be maintained."
3. In 2003, a Competition Authority-commissioned Indecon Report recommended that "no single regulatory body should have a monopoly on the provision of the professional education and training necessary to gain admission to a given profession."
4. In 2006, in a further report the Competition Authority recommended that the education of solicitors and barristers be regulated independently of the profession and proposed a new independent body to set standards for solicitor and barrister training and to approve institutions that wished to provide such training. Under the model then proposed by the



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Competition Authority, the Law Society and the King's Inns would, in common with other training providers, be required to apply to the independent body for approval, and to meet the specified and transparent standards.

**ENDS**

**For further information please contact the LSRA's Head of Communications Nuala Haughey on Tel: 087-2867510 or [nmhaughey@lsra.ie](mailto:nmhaughey@lsra.ie)**