

Further Public Consultation on the Education and Training of Legal Practitioners

Legal Services Regulatory Authority
consultation

31 August 2019



Coimisiún um
Iomaíocht agus
Cosaint Tomhaltóirí

Competition and
Consumer Protection
Commission

-
- 1.1 The Competition and Consumer Protection Commission (CCPC) welcomes the proposals for reform of education and training for legal practitioners contained in the ‘Report to the Minister for Justice and Equality under Section 34 of the Legal Services Regulation Act 2015’ (‘the Hook Tangaza report’). The CCPC made a submission to the public consultation conducted under Section 34 in 2018 to inform the Hook Tangaza report. We note that a number of the proposals contained in the Hook Tangaza report are aligned with recommendations for reform provided by the CCPC and our predecessor agencies¹. The current consultation seeks views in relation to the proposals or on any relevant aspect of the education and training arrangements in the State for legal practitioners, and in relation to the practical implementation of the proposals. The CCPC provides its views on these matters below.
- 1.2 The CCPC welcomes the proposals to introduce a clear definition of the competence and standards required of legal practitioners to practise law in Ireland. It has been the consistent position of the CCPC that the education of solicitors and barristers should be regulated independently of the professions, with transparent standards set to be met by all providers of legal education.² The CCPC therefore supports the proposal to introduce a definition of the competence and standards required to practice law in Ireland.
- 1.3 A number of benefits are expected to arise from these proposals, including a longer term focus on quality in legal education and training - benefiting the consumers of those services - making training provision more adaptable to learners, and providing practitioners with the competences to practice across a range of roles and within a variety of business structures. To that end reforms of the content and delivery of education and training have the potential to have

¹ <https://www.ccpc.ie/business/wp-content/uploads/sites/3/2017/03/Solicitors-and-barristers-full-report.pdf>

² As recommended in the Competition Authority report on Solicitors and Barristers in 2006 and in subsequent advocacy by the CCPC.

positive effects on other areas of ongoing or potential reform in legal services, such as provision for the establishment of Legal Partnerships.

- 1.4 We note the reference in the Hook Tangaza report to the mismatch between the knowledge and skills that are sought by the market and those which are provided through the current training system³. Currently solicitors are trained to be able to practice as generalists, however the legal services market has an increasing demand for specialist solicitors. While the sole practitioner or small practice remains the most common business structure for solicitors in Ireland, there is significant demand for specialist practitioners. The CCPC supports measures to encourage a more competitive market for legal services and to that end reforms intended to support the training of both generalist and specialist practitioners are welcome. As stated in our submission to the previous consultation, regulatory action in the area of the education and training of legal practitioners is required to enhance the opportunities for consumer choice and competition between legal practitioners – and to correct the failure to provide for more specialist training to meet market demand. Furthermore, the education and training system should be designed to support legal practitioners to be competitive in an evolving marketplace for legal services⁴. The introduction of a competency framework will allow training providers to develop specialisms among trainees while also maintaining professional standards.
- 1.5 A further advantage to defining competences, as noted in the Hook Tangaza report, is the potential to provide for the establishment of new types of practitioner qualification, such as that of conveyancer⁵. As noted in our previous submission, education and training requirements for conveyancers should be considered in any future consultation on their potential introduction and in

³ Section 6.3.1, Hook Tangaza report (2018).

⁴ For example, legal services delivered in Ireland are increasingly international in their focus and client base. In addition, structural reforms, such as the introduction of Legal Partnerships, provide a basis for practitioners to deliver a higher degree of specialisation in services.

⁵ Section 34 of the Legal Services Regulation Act 2015 provides for a report on the creation of a new profession of conveyancer.

addition in light of definitions of competences and standards as proposed in the Hook Tangaza report.

- 1.6 The CCPC welcomes the proposal to establish a Legal Practitioner Education and Training (LPET) committee to be tasked with responsibility for setting and assuring standards of legal practitioner education and training. We support the proposal that it would be constituted as an independent body reflecting (but not representing) the interests of all stakeholders in legal services education and training. The CCPC supports the proposal that the LPET committee in the first instance set standards and then subsequently be responsible for accrediting providers to deliver relevant elements of education and training to meet the competencies required. The LPET committee would also under these proposals be responsible for periodic reviews of the definition of competences and standards, and for reviewing accreditations. Proposal 6 envisages a role for the LPET committee to play an ongoing monitoring role in regard to the quality of education and training. Taken together these proposals have the potential to provide regulatory certainty to both practitioners and the providers of education and training. In turn such certainty would be expected to encourage entry into the market for legal education and training.
- 1.7 Proposal 3 follows on in that regard as it would involve the LPET committee deploying the competence statements to create a framework for the accreditation of providers, and the validation of programmes of legal education and training. The CCPC supports the proposal in the Hook Tangaza report that the LPET committee leverage the existing capabilities of Quality and Qualifications Ireland (QQI) to undertake the accreditation of providers. As noted by the Hook Tangaza report, QQI have responsibility for the validation of degree programmes in law provided by higher education institutions as against the National Framework of Qualifications (NFQ)⁶. We further note the suggestion in the Hook Tangaza report that unnecessary costs and duplication arise due to the lack of integration between the different stages of legal education (and in particular between the

⁶ The report further notes that the degree programme of the Honorable Society of King's Inns is in turn benchmarked on the NFQ, albeit that it is subject to internal accreditation.

undergraduate and professional stages). This reflects the observation in the CCPC's submission to the previous consultation on the unnecessary cost and inconvenience that the current process of duplicating content in the entrance examinations adds to potential applicants. Measures to remove such duplication are welcome and can be expected to encourage entry from students previously dissuaded by the existing entrance process.

- 1.8 Proposal 4 of the Hook Tanagaza report would provide for the establishment of a competency framework for legal practitioner qualifications, and a framework of standards for providers and programmes. The introduction of those frameworks would make it possible for new providers to enter the market for legal education and training. The introduction of competition into this market would support further reforms to improve the quality of education and training as well as the development of more specialist expertise among practitioners. On this latter point, the CCPC notes the recognition that the increasingly diversified legal services market requires a more diverse skill set from practitioners.
- 1.9 Related to the introduction of a competency framework is the proposal to introduce a system of recognition for undergraduate legal education. This would have the effect of removing the requirement for law graduates to sit the FE-1 examinations on the grounds of unnecessary duplication of learning. The CCPC welcomes this proposal and notes the views of a number of legal firms and Schools of Law that concur that such a reform is necessary. In addition, measures to ease entry into the professions will have pro-competitive effects, reducing barriers to entry and have the potential to encourage a greater diversity of entrants. We note that this aligns with Proposal 10 of the Hook Tangaza report to increase the diversity of entrants to the profession. Furthermore, the adoption of a statement of competence and standards is intended to facilitate transfer between the professions on a more certain basis than currently exists⁷. This is welcome and should reduce the few restrictions that currently exist in regard to transferring between professions.

⁷ Proposal 12, Hook Tangaza report (2018).

ENDS

