



SOUTHERN LAW ASSOCIATION

The Legal Services Regulatory Authority - Section 34 Further Consultation Comments on the Proposals made by the Hook Tangaza report

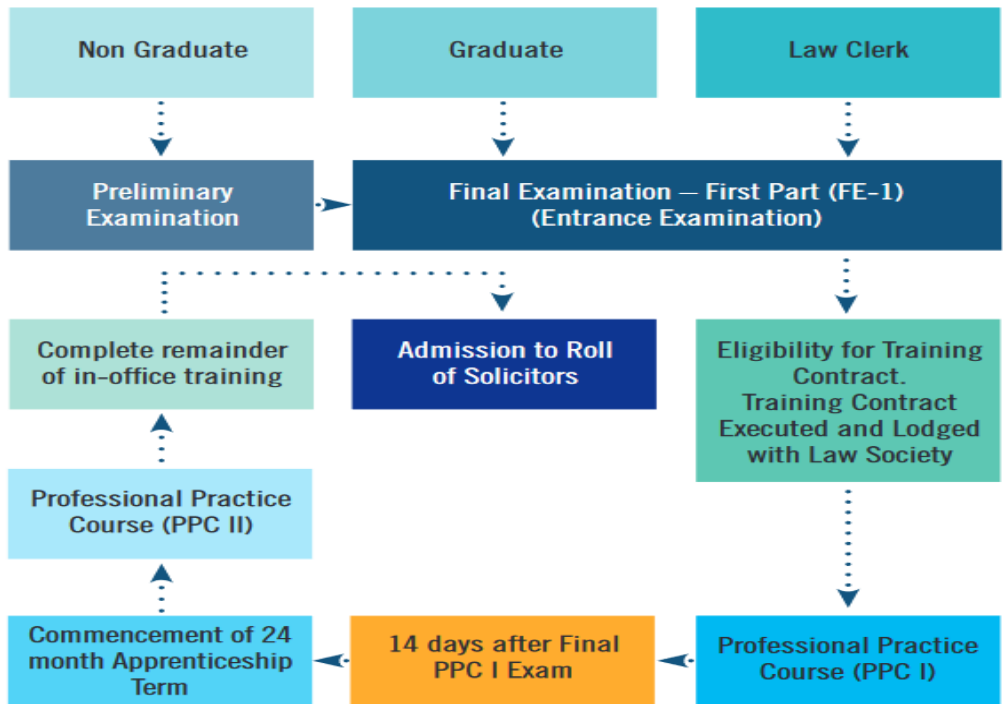
Proposal 1: A clear definition of the competencies and standards required to practise as either a solicitor or barrister should be developed for both solicitors and barristers.

We believe the standards expected of a Practising Solicitor are set out clearly by the Law Society at present.

The qualification process is designed to set a standard of competency and examine same on a continuing ongoing basis prior to qualification.

How to become a solicitor

Steps to qualification





The syllabus of the Law School, outlined clearly in its published manuals, sets out the basis of competency required in each practice area for all trainee solicitors.

For lawyers qualified in certain countries outside the Republic of Ireland The Qualified Lawyers Transfer Test (“QLTT”) is a conversion test which enables these lawyers to qualify as solicitors in this jurisdiction.

Unless the Law Society otherwise determines, solicitors whose first place of qualification is England and Wales, or Northern Ireland, are not obliged to pass any subject in the QLTT. However, they need to apply for a Certificate of Admission.

If these persons are a national of a Member State of the European Union and are qualified to practise as a lawyer in their home Member State, they may be able to register as a foreign qualified solicitor under the Establishment Directive (98/5/EC). Article 3 of the Directive makes it obligatory for the immigrant lawyer to register with the competent authority in the state in which they are practising.

All other lawyers (not qualified in the European Union or subject to a reciprocal agreement) are required to undergo the standard solicitor training process.

The Legal Profession continues to be one of the most regulated professions. There are various clearly set out rules governing solicitors in provision of legal services, to include: -

- the Solicitors Acts.
- formal regulations made in addition to the acts, and
- the rules or principles of good conduct, for example the rule of confidentiality contained in the Law Society publication “Guide to Professional Conduct of Solicitors in Ireland”.

Proposal 2: Roles and Responsibilities of stakeholders in the legal education and training system reformed

We do not believe that it would be of benefit for the LRSA to have an oversight role in the legal education and training system. That should remain at all times a function of the Law Society, albeit in consultation with the LRSA.



The Law Society has immediate access to the current practitioners in the profession to set, update and monitor, on an ongoing basis, the minimum requirements necessary to permit a person to practice law in this jurisdiction.

Proposal 3: An accreditation and validation framework should be developed for legal education and training

This would duplicate the work and roles of other bodies such as the Law Society and the Quality and Qualifications Ireland (QQI), which was created as an independent State agency, with responsibility for promoting quality and accountability in education and training services in Ireland.

Once the **Qualifications and Quality Assurance (Education and Training) (Amendment) Bill 2018** has been enacted the Law Society and Kings Inns could voluntarily agree to engage in this process of external validation, benchmarking against the NFQ and quality assurance.

We believe, there is no reason in the future, why the Law School of the Law Society, should not, like the Royal College of Surgeons in Ireland have the opportunity to apply for designation as a university.

Proposal 4: Programmes offered by existing and new providers to be accredited against the competency framework

We would support the programmes undergoing an accreditation and validation framework to create the mechanism for ensuring that the programmes and teaching methodologies of the existing legal education providers, remain current and fit for purpose.

It is very important that any new programmes introduced as an alternative to the traditional routes, can deliver complete stages of the qualification process, so that students are not left with partial qualifications and no clear route to full admission.

Proposal 5: Assessment methodologies should ensure adherence to standards

An accreditation and validation framework, rather than a competence-based system permits flexibility in how standards are to be reached and thus enables practitioners to take different routes to qualification.

It is very important that stakeholders can be confident that providers are adhering to the same standards.



Proposal 6: Requirement for legal education and training providers to maintain ongoing quality assurance processes

This can be achieved by an accreditation and validation framework, rather than the recommendation that the LPET committee lays down a policy on quality assurance for all legal practitioner education and training providers.

Proposals 7 and 8: Admission to professional programmes should be based on recognised higher education level programmes benchmarked against the competence framework

We note the suggestion that the “duplication in legal education which currently exists because of lack of recognition of higher education programmes should be eliminated”.

This would appear to be a suggestion that the current FE1’s (entrance exam) should be abolished for law students?

The cost of qualification was by far and away the most significant barrier identified; however, to abolish the entrance exam would be to make the obtaining of Law Degree a far more desirable option for undergraduates with all its attendant costs. As it stands at present, it is not necessary to have any undergraduate degree to sit the entrance exam and so a law degree is a choice for the benefit of one’s general education and not as a key to a profession. By maintaining the entrance exam, every person seeking entrance to the profession has exactly the same opportunity to do so, without the cost associated with obtaining a law degree. Removing the entrance exam for law graduates, will simply mean that there will be more pressure on students at leaving certificate level, to get a place in a law degree, to avoid the entrance exam later. Thus, the barrier to entry is not abolished, simply moved.

It is not clear how it can be considered equitable that those who can afford a law degree should have a better opportunity to progress in the profession than those who cannot.

The suggestion that the entrance exam is simply a duplication of material covered in a law degree does not appear to be borne out by the pass rate of law graduates when first sitting the FE1s.

If the material was simply duplicated, would one not expect that the vast majority of law graduates would pass the entrance exams on first sitting? (and while there is probably a suggestion that a change in the style of questions from undergraduate to FE1’s



accounts in the difficulty in passing the FE1's, surely if one had the core legal knowledge it would be possible to pass them if they really did duplicate, so clearly?)

We note that the issue of cost was raised by a major law firm, as employers of trainees, who the report notes "expressed frustration at the cost of paying for examinations which in their view were unnecessary".

In respect of that view, we would submit the following: -

1. Large firms are not obliged to pay the cost of the FE1 exam fee for students; they choose to do so, as part of the package of incentives they offer to interns and potential trainees to make their offices more attractive places to be recruited to. If they offer to pay for exams, to give themselves competitive advantage in the recruitment process, it seems unreasonable that they can then complain about that cost.
2. If the cumulative cost of financing the entrance exam is seen as frustrating for large firms, is it not likely, that if such an exam was abolished they will then give preference to Law Graduates in their recruitment policy, making it far more difficulty for non-law graduates to get a placement in a large law firm? This would seem to be a considerably greater barrier to entry than the cost (which in the context of the cost to large firms of trainee contracts must be small.)

We cannot comment on the robustness of the FE1's and naturally if there are concerns at how the exam is currently administered, that should be reviewed. However, simply because there are concerns that it is not robust enough, that is not a reason to abolish it, but rather to improve it.

Proposal 9: Non-law graduates to have alternative means to enter the profession, other than through FE-1 or the Kings Inns Diploma

We are very concerned at what the review group means by the suggestion that "new routes to qualification should be opened to non-law graduates through the adoption of a competence definition of legal practitioners". What is proposed here? Surely all entrants to professional training need to have key legal knowledge; is it being proposed that you neither have to have a law degree or pass the entrance exam? We are not clear what is envisaged here, but it seems alarming to suggest that you could enter the profession without having a key understanding of the legal concepts which under pin the profession.



We see that the overall tenor appears to suggest that focus should be on the qualification to enter the profession, not to enter into training; however, this appears to ignore the fact that training is broken into two elements; the academic basis which is required to enable a student to understand the legal concepts and then the vocational training aspect offered by the training in office and on the PPC courses. It is difficult to see how a trainee would learn in an office, how to apply legal knowledge to the practical day to day work for which they are training, if they did not have the foundation of legal knowledge beforehand?

Proposal 10: Additional routes to qualification will encourage greater diversity in the profession

Agreed, but at all times educational and professional standards must be maintained.

Proposal 11: Admission responsibilities of professional bodies to be separated from delivery of education programmes

We do not agree with this as the law school of the Law Society is educating and training to a standard to enable qualification as a solicitor and admittance to the roll of solicitors. The Law Society is best placed to set out of the necessary standard.

It is then for the LRSA to oversee that the Law Society is carrying out this function.

Proposals 12 and 13: Transfer arrangements between professions and for foreign transfers to be reviewed once a new competency framework is in place.

See comments above on existing Law Society criteria for such transfers.

Proposal 14: CPD programmes to be linked to competence frameworks and standards

The Law Society and other Bar Associations like the Southern Law Association are continually reviewing their CPD programmes to ensure they are relevant, up to date and meeting the needs of the profession.