

SUBMISSION FROM TRINITY COLLEGE DUBLIN LAW SCHOOL

Section 34 Consultation
Legal Services Regulatory Authority
PO Box 12906
Dublin 2

30 August, 2019

To whom it may concern,

We make this submission on behalf of the School of Law of Trinity College Dublin, arising from the publication of the Hook Tangaza Review of Legal Practitioner Education and Training ('the Review'), and in response to the subsequent call by the Legal Services Regulatory Authority ('the Authority') for submissions by way of a further Section 34 consultation process.

In accordance with the Authority's consultation notice, the focus of this submission is on the implications of introducing a system of recognition for undergraduate legal education which would have the effect of removing the requirement for law graduates to sit the FE-1 examinations and the King's Inns entrance examinations on the grounds of unnecessary duplication of learning. We are referring here to Proposals 7 and 8 as set out from paras [8.3.19] -[8.3.22]/pages 144-145 of the Review. We will also address Proposal 9, concerning non-law students, found at [8.3.23]/page 145 of the Review.

Overview of this submission

We are supportive of the proposal that Higher Education Institutions could seek to have their programmes accredited by the Authority as meeting the standards required for admission to the Law Society and King's Inns professional programmes, whereby successful completion of an accredited degree would thus demonstrate the required competencies for admission to professional training. We are also supportive of the proposal that the competency approach would open up the possibility for a University to offer routes for non-law graduates to combine the academic and vocational stages of qualification. We submit that four key principles must be taken into account in implementing these proposals.

Proposals 7 and 8

Proposal 7 suggests that admission to programmes of legal practitioner education should be based on achievement of specified competencies at defined standards. Proposal 8 suggests that the Legal Practitioner Education and Training Committee should develop a common set of competencies and standards for admission to the current Professional Practice Course and barrister-at-law degree programmes. We are supportive of these proposals and we wish to highlight four key principles which we submit need to be taken into account in implementing them. These are:

- (i) Ensuring respect for the principle of academic freedom for University law schools;
- (ii) Ensuring a focus on *skills* as well as *content* when considering the curriculum in a University law school;
- (iii) Recognising the breadth and range of assessment methods that can appropriately be used as part of a University law degree;
- (iv) Recognising the need and obligation of University law schools to innovate, vary and develop their curricula in accordance with pedagogical needs.

We will now deal with each of these principles in turn.

(i) Ensuring respect for the principle of academic freedom for University law schools;

We wish to emphasise that the principle of academic freedom, central to the Universities Act, 1997, is a cornerstone of University legal education in Ireland. This principle ensures, amongst other things, that academic scholars responsible for the education of undergraduate students must have considerable freedom to exercise their professional academic judgment as to what methods and materials of study best promote the pedagogical aims of degree students in the discipline of Law in their particular University. Trinity College Dublin has a unique learning environment in which, under the Trinity Education Project, core graduate attributes¹ are embedded

¹ <https://www.tcd.ie/TEP/graduateattributes.php>

into our curriculum and inform how we teach. The practical implications of this mean that it would normally be inappropriate for the Authority to stipulate a prescriptive syllabus of specific material to be covered in the curriculum of any particular subject. This is essential if the principle of academic freedom is to be properly respected and supported. That principle encompasses the pursuit of the educational values of a leading research University. We further refer in this regard to the previous section 34 consultation submission made on behalf of Heads of Law Schools and Departments in universities in Ireland dated 14 June 2018, of which two of the co-signatories are current and former Heads of School at Trinity College Dublin (Professor Mark Bell and Professor Oran Doyle).

(ii) Ensuring a focus on skills as well as content when considering the curriculum in a University law school

We fully agree with the assumption on which Proposal 7 is based, namely, that a foundation of academic knowledge is required for professional legal education ('the academic stage' of qualification). We wish to emphasise, however, that knowledge, in a University Law School context, is not simply the learning of particular legal rules or cases, but concerns the development of *skills* which in fact enable students to acquire knowledge and to communicate and harness the knowledge so acquired.

As such, we submit that, in implementing proposals 7 and 8 and in identifying requisite competencies at defined standards, regard must be had to *skills* and not just to *content* when considering *what*, and *how*, students have been learning. In our undergraduate Law curriculum at Trinity College Dublin, we strive to ensure the development of students' *depth of understanding* and *critical analysis* over mere breadth of knowledge of particular areas of law. By developing sophisticated understanding and critical analysis of a particular area of Law, students are then able to acquire the breadth of knowledge they will need in that area and in other areas of law, and have been equipped with the *skills* to do so. But breadth of knowledge in and of itself, as judged against, for example, the table of contents of a standard textbook, is not a safe or appropriate benchmark against which to assess an undergraduate Law curriculum in terms of its suitability for recognition as envisaged by Proposal 7. We

therefore submit that it is essential that in implementing Proposals 7 and 8, consideration be given to the *skills* acquired by the student, and not just to the *content* of their modules.

(iii) Recognising the breadth and range of assessment methods that can appropriately be used as part of a University law degree

We submit that in implementing proposals 7 and 8, the Authority should be open to a broad range of assessment methods having been completed by students on degree programmes eligible for accreditation. In recent decades, universities have been at the forefront of innovation and diversification of assessment methods. At Trinity College Dublin Law School, we have been leaders in this field, as demonstrated by the extremely broad range of assessment methods used throughout the four years of our undergraduate degree programmes. This range of assessment methods has been consistently praised by external examiners from other academic institutions nationally and internationally. Many modules do not involve a traditional 'closed-book' examination format, but instead require students to, for example, present response papers; sit 'open-book' examinations which test problem-based learning; submit coursework of various types; prepare and deliver oral presentations (individually and in groups); demonstrate an ability to work in groups (including in an advanced research project setting); provide reflective journals, author blogposts and submissions on discussion boards, to give just some examples.

The introduction of these diverse assessment methods has followed on from in-depth research, engagement and reflection on the pedagogical appropriateness of these assessment methods and it has been our experience that this broad range of assessments work extremely well in helping us achieve our pedagogical objectives.

We therefore submit that the Authority should be open to as wide a range of assessments as possible in determining which degree programmes meet eligibility for recognition. This submission is also linked to the principle of academic freedom referred to above.

(iv) Recognising the need and obligation of University law schools to innovate, vary and develop their curricula in accordance with changing pedagogical needs

We submit that, in implementing proposals 7 and 8, the Authority should be mindful of the need – and indeed the obligation – of University law schools to innovate, vary and develop their curricula in accordance with pedagogical needs. It is essential that sufficient flexibility and discretion is built into the model of implementation in order to avoid a situation where the existence of eligibility criteria for a qualifying law degree could hamper or impede development of necessary academic initiatives. In this regard, it would be helpful to have a system in place whereby representatives from University Law Schools would, following accreditation, have a forum for liaising with the Authority as regards developments/innovations in the curriculum of a particular University Law School so as to ensure ongoing understanding and communication around these issues.

Proposal 9

As regards Proposal 9 on non-law Graduates, we support the proposal that the competency approach would open up the possibility for a University to offer routes for non-law graduates to combine the academic and vocational stages of qualification. In that event, the same considerations set out in our submissions above on Proposals 7 and 8 in the context of undergraduate Law degrees, would apply to Proposal 9.

We thank the Authority for considering our submissions and we look forward to further engagement on these matters.

Yours sincerely,

Law School, Trinity College Dublin