



CCPC Submission to the LSRA Consultation on Admission Policies of Legal Professionals

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Coimisiún um
Iomaíocht agus
Cosaint Tomhaltóirí

Competition and
Consumer Protection
Commission

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Introduction

The Competition and Consumer Protection Commission (CCPC) welcomes the opportunity to respond to the Legal Services Regulatory Authority (LSRA) public consultation for its annual report on Admission Policies of the Legal Professions. The views provided below are in the context of the recommendations for reform of education and training programmes as outlined in the LSRA's report to the Minister for Justice published in November 2020¹. The CCPC welcomes the recommendations in the report which are aligned with its previous reports and submissions in this area.

Previous recommendations and comments by the Competition Authority and the CCPC

In its *'Solicitors and Barristers'*² report, the Competition Authority (TCA)³ made several recommendations to address competition concerns in regard to the legal education and training sector. In particular, the report emphasised that the body responsible for regulating the sector and setting standards should be independent from providers of services. The aim of the report's recommendations were to encourage greater entry into the professions, stimulate competition for students and thereby lower costs and encourage more innovative means of delivering education and training.

The CCPC, as part of its submission to the initial consultation on reform of education and training in 2018, highlighted that opportunities for consumer choice and competition between legal practitioners be enhanced. It recommended that:

- (i) Existing monopolies of the provision of legal education and training should be brought to an end and a system of regulated standards be put in place to enable to possible licensing of alternative providers of education and training.
- (ii) The LSRA should seek to ensure, on an ongoing basis, that education and training supports practitioners in a changing marketplace for legal services.

¹ This report was submitted to the Minister of Justice as set out under Section 34 of the 'Legal Services Regulatory Act 2015' <https://www.lsr.ie/wp-content/uploads/2020/11/Section-34-ET-Final-Report-to-Minister.pdf>

² <https://www.ccp.ie/business/wp-content/uploads/sites/3/2017/03/Solicitors-and-barristers-full-report.pdf>

³ The Competition Authority was one of the predecessor bodies to the CCPC.

- (iii) Barriers to entry to the legal professions, including unnecessary costs and duplication encountered both by new entrants, and those switching between the professions should be reduced.

In its submission to the further consultation on education and training in 2019, the CCPC welcomed the proposals of the 'Hook Tangaza report'⁴, many of which were aligned with the views expressed in its previous submission and those in the *'Solicitors and Barristers'* report. The CCPC welcomed the recommendation that an independent body be established to set and assure standards of legal practitioner education and training and that it should accredit providers. The CCPC commented that reforms intended to support the training of both generalist and specialist practitioners would be welcome. It also added that 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 conveyancer.

Many of the recommendations made by the LSRA in its final report to the Minister for Justice under Section 34 of the Act reflect the proposals included in the Hook Tangaza report and recommendations made by the CCPC and the TCA.

Establishment of the Legal Practitioner Education and Training Committee

The establishment of a Legal Practitioner Education and Training (LPET) committee responds to and actions the recommendation of the TCA in its *'Solicitors and Barristers'* report to set up an independent, transparent and accountable body with overall responsibility for regulating the legal profession and the market for legal services. The CCPC therefore welcomes this recommendation.

Setting Competencies and Standards

The CCPC also welcomes the LSRA's recommendation that the LPET Committee be tasked with developing and maintaining a clear definition of the competence and standards required to practise as either a solicitor or barrister, and a common set of competencies and standards for the admission to professional legal training. The CCPC suggests that this

⁴ <https://www.lsr.ie/wp-content/uploads/2019/09/Review-of-Legal-Practitioner-Education-and-Training-Final-version.pdf>

set of competences and standards take into account the knowledge and skills that are sought by the market.

The TCA report also highlighted the need for a set of transparent standards to be met by all providers of legal education to be developed by an independent body. In this regard, the CCPC notes the LSRA's recommendation that the LPET Committee should set a Competency Framework for legal practitioner education and training. The CCPC also welcomes that these standards will be used to accredit new providers. When drafting these standards, it is the view of the CCPC that the LPET Committee should be conscious of striking a balance between two important issues. The standards should ensure the quality and high professionalism of legal education and training while also ensuring that it does not create a barrier to entry to new providers. Facilitating the entry of new providers is a key recommendation of the CCPC's Submissions and the TCA's report in order to foster competition in the market.

Monitoring and Maintaining Quality

The CCPC welcomes the recommendation that the LPET committee not only sets competencies and standards around legal education and training but that it also ensures that legal education and training providers adhere to those standards.

The CCPC welcomes that the LPET Committee will be monitoring the quality of legal education and training and will be promoting its highest standards. The importance of maintaining the quality of legal education and training and ensuring high professional standards in legal services was underlined in the TCA's report and CCPC's previous submissions to the LSRA. Additionally, the CCPC welcomes that the LPET Committee will adopt and adhere to the Quality and Qualifications Ireland (QQI) "Statement of Principles for Programme Validation, Professional Accreditation and Approval, and other Professional Engagements with Education Providers"⁵ when developed. This will provide the basis on which the LPET can validate new providers of legal education and training, thereby facilitating entry to the market.

⁵ In October 2020, QQI published a document outlining these Principles and carried out a public consultation seeking feedback on the document until December 2020. The results of the public consultation and the final version of the document have not yet been published.
<https://www.qqi.ie/Downloads/Towards%20Principles%20for%20Accreditation%20and%20other%20Professional%20Engagements.pdf>

The CCPC welcomes that two key areas of focus for the LPET Committee will be innovation and diversity in the delivery of legal education and training. In the CCPC's view, this will drive quality and improve the standard of legal services.

Consumer Interest

A statutory objective of the LPET Committee will be to encourage and promote greater access to education and training and protect the interests of consumers of these services. This is welcomed by the CCPC. Greater access to legal education and training should be encouraged through the minimisation of costs and duplication of efforts and learning and assessment. The CCPC suggests that the LPET Committee review any existing arrangement which would add up to unnecessary costs and inconvenience which would dissuade new potential entrants to the professions. Furthermore, the transfer of legal professionals should be further facilitated by eliminating any continued costs which do not appear justified.

The CCPC welcomes that the LPET will be required to engage with key stakeholders periodically. Regular engagement with key stakeholders should enable the LPET Committee to ensure that the definition of competencies and standards required to practise as either a solicitor or barrister are still up to date and relevant for consumers of legal education and training and for the broader consumers of legal services.

The CCPC suggests that the LPET Committee, to ensure that its sets of competencies and standards are still relevant, should ensure that legal educational and training services can adjust to market developments and the needs of consumers of legal services. Furthermore, as noted in the Hook Tangaza report, a further advantage to defining competences is the potential to provide for the establishment of new types of practitioner qualification, such as that of conveyancer.

In the CCPC's view the LPET committee should have regard to these areas as well as any other relevant developments identified by key stakeholders when developing competencies and standards for the legal profession and educational and training services and when accrediting providers.

Conclusion

The CCPC welcomes the recommendations of the LSRA's report which are aligned with many of the views outlined in its previous submissions and the TCA's report. In particular, it welcomes the establishment of an independent body which will set the main standards and competencies for legal education and training providers. The CCPC believes that it will be important that these standards ensure quality of legal education and training services while also not creating a barrier to entry for new providers. Furthermore, when monitoring and maintaining these services, the LPET Committee will need to ensure that providers can adjust to market developments and the needs of consumers of legal services.

Overall, the CCPC is of the view that the recommendations of the LSRA report, if implemented, will have a positive impact on the legal educational and training sector and provide for more diverse routes for admission to the legal professions. The CCPC would welcome the opportunity for further engagement with the LSRA in regard to the matters set out in this submission.

ENDS

