
Memorandum

Date: 14th February 2025

Re: Legal Services Regulatory Authority ('LSRA') Consultation

Response to the LSRA Consultation

This Office refers to the invitation to provide written submissions as a part of a consultation, prior to the LSRA's annual report to the Minister for Justice on the admission policies of the legal professions.

The Director of Public Prosecutions ("the Director") recognises the importance of the work of the LSRA in documenting and highlighting the numbers being admitted into the legal professions and the analysis undertaken of the trends in admission policies.

The Director would like to highlight the decreasing numbers of solicitors choosing to study the criminal litigation module of the PPC course in the Law Society. It is a relatively recent change to the PPC course that the course no longer mandates criminal litigation as a compulsory module. The LSRA is aware of concerns expressed about this change set out in a previous submission from this Office made to the LSRA in September 2018. It is submitted that the legal services market is now beginning to see the effects of this policy change. The Director is concerned that if this trend continues, a key pillar in any democratic state, namely an effective criminal justice system, will be compromised.

Although the market may demand lawyers with corporate and commercial expertise, there is a risk that the public interest in a robust and effective criminal justice system is being undermined by the decreasing numbers of trainee solicitors choosing to study criminal law. There is a need for competent criminal lawyers to ensure that an accused is represented and has their constitutional right to a fair trial vindicated. The legal aid system in the State is of limited value if there are not sufficient and competent lawyers available to take instructions in criminal cases. There is also a need for a pipeline of lawyers whose training prepares them to undertake prosecution work.

Education at professional level ought to have regard to the wider public interest. The constitutional rights of accused persons must be respected, as would be the case in any jurisdiction with respect for the rule of law, and provision must be made into the future that these rights are ensured and can operate in practice.

Many trainee solicitors are now completing their PPC studies whilst in the employment of a large commercial firm and are therefore required to study modules tailored to the needs of a commercial firm, with the modules designed and delivered inhouse and accredited by the Law Society. However, it is important to recognise that the training provided by the Law Society will shape the entire careers of these students, far beyond the term of their training

contracts. There is a necessity that lawyers who ultimately end up or hope to work in corporate, commercial or regulatory areas benefit from formation in the core principles of criminal law which are necessary for the proper representation of clients falling in to the 'white collar crime' bracket.

If solicitors are qualifying without a basic skill set in criminal litigation, it may limit career options, should they wish to work elsewhere other than the large corporate practices. In addition to the necessity to have solicitors who may enter a prosecutorial or defence role to be appropriately trained, there are also a significant number of regulatory bodies/agencies that also have criminal investigative functions, some of whom also have their own summary prosecution functions. These bodies/agencies are central to the oversight and appropriate functioning of various commercial and non-commercial sectors in Ireland, and their in-house or external lawyers provide advice on a daily basis on their operations. These bodies/agencies include the Revenue Commissioners, the Competition and Consumer Protection Commission, the Health and Safety Authority, the Central Bank, and the Corporate Enforcement Authority. Training lawyers in the skills required to provide legal advice on the conduct of criminal investigations, as well as to conduct summary prosecutions, is central to the proper functioning of these organisations, and to the services that they provide to the public. Moreover, many of the principles underpinning criminal law practice – such as fair procedures, right of reply and rights to disclosure - have application to other areas of regulatory and public law.

The Director also wishes to draw attention to the decreasing numbers of solicitors practising outside of Dublin and the other main cities, particularly on the Western seaboard. There is a lack of solicitors with an expertise in criminal law which this Office predicts will put an increasing strain on the existing resources as the older model of solicitors in rural areas having a broad general practice is becoming less attractive to newly qualified solicitors. It is a significant concern that it will be difficult for the citizen to obtain informed legal advice in relation to criminal matters at a local level in the future. Training of solicitors is also relevant to this matter. This Office notes comments made by a member of the Law Society Education Committee, reported in June 2024, that the result of nine out of ten trainee solicitors being based in Dublin or Cork may mean that large swathes of the country become 'legal deserts' with access-to-justice issues if the trend continues. These statistics are also referred to in the LSRA 'Pathways to Professions 2023'.

Regarding recruitment competitions held by the Office of the DPP, the Office has removed the requirement for candidates to have expertise in criminal law. Whilst this has been successful in maintaining the level of applicants at entry level prosecutor jobs, we anticipate the change in the PPC compulsory modules will have an adverse impact on recruitment in the coming years. Recruitment of solicitors without criminal expertise puts an extra strain on the Office in relation to training and skill development. This Office also has anecdotal feedback that criminal defence practitioners are hesitant to offer traineeships due to the turnover of staff to offices in the public sector. Whilst the defence community represent a valuable recruitment pipeline for the ODPP, there is also a broader society concern to

ensure that there is a corresponding strong representation of defence practitioners in parallel with a fair, effective and independent prosecution service.