

**Legal Aid Board**  
**Submission to the Legal Services Regulatory Authority**  
**Section 34 Public Consultation – Education and Training of Legal Practitioners**

**Introduction**

Section 34(1)(a) of the Legal Services Regulation Act 2015 provides that the Legal Services Regulatory Authority (LSRA) shall “prepare and furnish reports to the Minister in relation to the following.... the education and training (including on-going training) arrangements in the State for legal practitioners, including the manner in which such education and training is provided”.

**About the Board and its interest in the Consultation**

The Legal Aid Board is a statutory body established by the Oireachtas under the Civil Legal Aid Act 1995. It is responsible for the provision of civil legal aid and advice to persons of insufficient means and family mediation services. The Board is a major provider of legal services, particularly in the family law area. It employs approximately 490 staff, about 25% of which are solicitors and another 10% of which are paralegals.

The Board is therefore a major employer of staff in the legal services field. It therefore takes a keen interest in the arrangements for education and training of legal practitioners.

The Board has a Research, Learning and Development Unit, responsible for the provision and funding of training services to staff of the Board and in certain cases to members of the Board’s solicitors’ and barristers panels. The Board funds its solicitors to take part in continuous professional development courses in order to acquire the required number of CPD points each year and on occasion has run courses itself, though primarily falling into the “management” rather “general” or “regulatory” category. The Board occasionally has the opportunity to reserve a number of places on CPD courses but more usually it is for the practitioner to bring to the attention of the RLD Unit available local CPD opportunities and to request funding.

The Board each year, and subject to available funding, takes on a small number of staff, usually existing staff members at paralegal or clerical officer level, as trainee solicitors and part-funds their fees for the Professional Practice Course Parts I & II at the Law Society of Ireland. It has occasionally on a case by case basis part-funded staff to complete the Barrister-at-Law Degree at the Honourable Society of Kings Inns on a part-time basis.

The remainder of this Submission intends to address the matters which the Authority is required to address under section 34(3) of the 2015 Act.

**Appropriate standards of education and training for legal professional qualifications**

The Board considers that education and training for legal professional qualifications should be to a high standard and acknowledges the existing high standards at courses provided by the existing professional training bodies.

### **Arrangements necessary to monitor adherence with the appropriate standards**

The Board considers that this is a matter for the Authority and does not intend to express a view.

### **The scope and content of the curriculum forming part of courses of legal professional education and training, including the teaching methodology of the following:**

- **Legal education,**
- **Legal ethics,**
- **Negotiation,**
- **Alternative dispute resolution, and**
- **Advocacy.**

The Board considers that legal education courses should include the following:

1. A “legal aid” module, considering the working of the civil and criminal legal aid systems, to incorporate such matters as
  - a. The operation of the criminal legal aid system, including the test for the provision of criminal legal aid under the Criminal Justice (Legal Aid) Act 1962
  - b. The differences between civil and criminal legal aid
  - c. The matters for which civil legal aid is available
  - d. The financial criteria for obtaining civil legal aid
  - e. The merits criteria for obtaining civil legal aid
  - f. Other schemes of civil and criminal legal aid available in the State, including the Custody Issues Scheme, the Garda Station Revised Legal Advice Scheme, the Criminal Assets Bureau Legal Aid Scheme, legal aid available at mental health tribunals, the Mental Health (Criminal Law) Review Board Legal Aid Scheme, and assistance provided by the Residential Tenancies Board for the enforcement of determination orders.
2. There should be a greater focus on alternative dispute resolution. It is understood that currently ADR is an optional module in both the Professional Practice Course and the Barrister at Law Degree. It should be made compulsory on both courses and address such matters as
  - a. Mediation as a way of solving disputes
  - b. State funded mediation in family disputes
  - c. Mediation and adjudication in residential tenancies disputes
  - d. Other alternative dispute resolution options e.g. collaborative practice

3. There should be a greater focus on advocacy on the Professional Practice Course noting that solicitors are often called on to act as advocates in the District Court and that it is becoming more common for them to act in certain Circuit Court proceedings also. The Board considers that solicitors should be able to present most straightforward divorce and separation proceedings before the Circuit Court, for example. While the Board understands and acknowledges the greater role of Counsel in advocacy before the higher courts, it also considers that the development of a greater level of advocacy skills among solicitors would result in significant reductions in the cost of litigation.
4. The Board considers that legal ethics should form a strong ongoing part of both the Professional Practice Course and the Barrister at Law Degree.

**Arrangements that would facilitate the minimisation of duplication, and consequent expense incurred in the taking of examinations in legal subjects on the part of a person who**

**I. Wishes to undertake a course of legal professional training and who has obtained a third level law degree that includes one or more of the subjects that form part of that course,**

The Board notes that in relation to the Barrister at Law Degree the teaching of “substantive law” does not generally form part of the course (entry to which is only open to those who have a primary law degree) and the following comments are made primarily in relation to the Professional Practice Course.

It should be possible for the Professional Practice Course to be structured in such a way that students who have obtained a primary degree in law do not have to resit the same material.

**II. Who wishes to transfer between the professions, i.e. a solicitor who wishes to become a barrister or a barrister who wishes to be admitted as a solicitor.**

The Board does not believe there should be unnecessary barriers between qualified lawyers who wish to transfer between the professions and notes that the both the Law Society and the Honorable Society of Kings Inns offer short courses to allow lawyers to transfer.

**Standards required for the award of legal professional qualifications pursuant to courses of legal professional education and training;**

The Board considers that such professional qualifications should be of a high standard and believes that both the Professional Practice Course and Barrister at Law Degree meet such a standard.

**The need for, and, if such a need is identified, the manner of and requirements relating to the accreditation of bodies or institutions to:**

**I. Provide, or procure the provision of, courses of legal professional education and training,**

**II. Hold or procure the holding of examinations, and**

**III. Award, or procure the awarding of, diplomas, certificates or other awards of merit.**

At present section 24 of the Solicitors Act 1954 effectively vests the sole authority to provide a course of legal professional education leading to qualification as a solicitor in the Law Society of Ireland. Likewise the only body which offers the Barrister at Law Degree is the Kings Inns. There is no statutory basis for the latter but it is a matter of practice which has grown up over almost 500 year period. Only those who have been admitted to the Barrister at Law Degree will be called to the Bar. Both courses are only offered in Dublin (the Professional Practice Course was previously offered in Cork for a short period).

In 2006 the then Competition Authority (now the Competition and Consumer Protection Commission) published a comprehensive report on the legal profession in which it recommended the ending of both the Law Society and Kings Inns monopolies on training solicitors and barristers respectively and a system whereby a body they called the “Legal Services Commission” (but effectively similar in role to the Legal Services Regulatory Authority as established under the 2015 Act) would regulate standards and accredit training courses.

The Board endorses recommendations 2 & 3 of the 2006 Competition Authority report. This would allow solicitor and barrister training to be offered in a number of locations saving trainee solicitors and prospective pupil barristers the expensive of having to travel long distances and perhaps overnight accommodation in Dublin, the only place such training is offered at present. Competition in the market for training would also reduce expenses involved in training. Quality would be assured through accreditation by the LSRA.

**Any other matters that the Authority considers relevant and appropriate.**

The Board is of the view that the Authority should also examine the relevant Continuing Professional Development schemes for solicitors and barristers to ensure that they are meaningful and relevant.

Wherever possible distance learning should be facilitated either by participation live streamed lectures or online payback videos subject to appropriate validation of the learning imparted.