



**UCD Sutherland School of Law**

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**From Professor Imelda Maher  
Dean of Law & Sutherland Professor of European Law**

12 September 2018

Mr. Brian Doherty  
Legal Services Regulatory Authority  
P.O. Box 12906  
Dublin 2  
15<sup>th</sup> June 2018

Dear Mr. Doherty,

**Submission to Consultation under the Legal Services Regulation Act 2015, s.34(1)(a)**

***1. Background***

1.1 We are happy to contribute to the consultation under the Legal Services Regulation Act 2015, s.34(1)(a) with particular reference to those aspects outlined in the Legal Services and Regulation Act 2015, s.34(3)(c). As you will be aware, we have a proud history in legal education including continuing professional development for legal and non-legal practitioners. We also have a committee specifically exploring and reflecting on professional legal education in Ireland. Below are our submissions to the consultation as informed by our committee on professional education in Ireland as well as wider consultation and consideration of the various viewpoints within the UCD Sutherland School of Law.

## **2. Entry to the legal profession: avoidance of unnecessary duplication and expense**

2.1 The current system of the *Final Examination – First Part (FE-1)* in the route to qualification for solicitors and *Entrance Examination* in the route to qualification for barristers, results in unnecessary duplication and cost for those who have already obtained a law degree. As such these examinations are a barrier to entrance into the legal professions, especially for students from particular socio-economic backgrounds and geographical locations. Ironically, although a UCD law degree is not currently recognised as satisfying the first stage of training for the legal profession in Ireland, it is so recognised by, for example, the Bar Council of India, the New York Bar and the SRA in the UK. The failure to fully recognise the quality of the UCD law degree and other law degrees is damaging for Irish law schools as they increasingly look to recruit internationally, in line with government policy.

2.2 We would propose abolition of these examinations for students with law degrees from universities in the island of Ireland. A university law degree would satisfy the first stage of training for both branches of the legal profession. We would oppose a system of ‘qualifying law degrees’ such as, until recently, operated in the UK on the grounds of (a) duplication in quality assurance processes (see further 3.2 below) and (b) the risk of straitjacketing law degrees offered by university-level institutions in Ireland which aim to prepare students for a wide range of careers.

2.3 For students with law degrees from outside of the island of Ireland, we would propose a case-by-case assessment mechanism to determine admissibility to professional legal training in Ireland.

## **3. Legal education and training for the legal profession: increasing competition to improve choice**

3.1 The Law Society and The Honorable Society of King’s Inn currently hold monopolies on the provision and accreditation of, respectively, the professional stage of training of solicitors (*PPC I and II*) and barristers in Ireland (the *Barrister-at-Law degree*). In the public interest, it is difficult to justify the lack of competition in this area and we would suggest that opening up competition in this area would facilitate: increased innovation and investment; more responsiveness to the changing needs of the legal services sector (see further, below at 4); enhanced skills and standards (see further, below at 4); and better value for money in professional legal education.

3.2 Opening up competition in this area requires an accreditation mechanism for professional legal education to ensure, in the public interest, that desired competencies are attained. In the interests of competition (particularly market entry) and building confidence in the regulatory framework, the accreditor should be independent of those providing such courses. To avoid unnecessary duplication of work and cost, such a framework might incorporate, where appropriate, external quality control mechanisms (for example, if university-level institutions offer such courses in the future, the accreditor might (partly) use

the advanced quality control mechanisms which already operate in those educational institutions (including the Bologna process on EU equivalence of degrees) to ensure standards in any professional legal education courses offered by those institutions). Similarly, on the grounds of cost to students and duplication of work, we would not favour an approach whereby competencies are assessed by a standard post-course examination administered by a body independent of the course providers (such as, at a slightly different stage, the prospective SQE in England and Wales).

#### **4. Legal education and training for the legal profession: fitness for purpose**

4.1 In addition to increasing competition of course providers in this area, it is important to consider whether or not the current framework for professional legal education in Ireland is fit for purpose. Take, for example, the *Professional Practice Course (PPC I)* and *Professional Practice Course (PPC II)* in the training of solicitors. Undoubtedly the LSRA will consult broadly with law firms, who will be able to give valuable insights on their overall experience of the current model with particular emphasis on the Professional Practice Courses. However, we would suggest that there is a real opportunity – against the backdrop of the changing legal services market and the nature of legal practitioner work in Ireland, as well as developments in the pedagogy of legal education – to transform professional legal education in Ireland to the benefit of consumers, law firms and the wider economy in Ireland. Moreover, in the light of changing trade patterns (and we can already see the impact of Brexit on the legal services landscape in Ireland), there is an opportunity to attract significantly more legal work into Ireland and that, in part, means we need to ensure our lawyers are appropriately equipped for the challenges and opportunities ahead. There is also a need to move away from a ‘one size fits all’ model of professional legal training.

4.2 In terms of modernising the *Professional Practice Courses* we would make the following observations. First, and this links with the competition point above, there is much scope to better leverage the expertise and facilities of our university-based educational institutions - many of which are publicly funded and some of which enjoy a truly world-class reputation for innovative and modern legal education - in practitioner legal education and training in Ireland. Similarly, there is much scope to better leverage the expertise of the world-class business schools in Ireland to foster some of the wider competencies needed for legal practice.

4.3 Secondly, there is a need to reflect on what the *Professional Practice Courses* currently add and what they could add to the training of solicitors in Ireland (the value-added point). As noted above, the LSRA will undoubtedly consult broadly with law firms, who will be able to give valuable insights on this aspect of the Professional Practice Courses. Certainly, under the current framework, there appears to be a substantial amount of duplication of the learning which typically takes place whilst students are studying for a law degree. There is, of course, a view that at degree level students learn about the law and at the professional stage of training students develop legal practice skills. We are not sure that this was ever an accurate reflection of the solicitor training cycle; but, if it was an accurate reflection, it now belongs to a different era, not least as a result of the greater focus on employability at tertiary educational institutions. Certainly, at the UCD Sutherland School of Law we pride

ourselves in the blend of academic, skills-based and clinical legal education which we offer. Some of this learning might usefully be the subject of accredited prior learning on a revised professional practice course.

4.4 Thirdly, we would suggest that the role of a *Professional Practice Course* would be to develop advanced legal (and relevant non-legal) skills as well as offering a teaching and learning framework for more advanced substantive subjects relevant to legal practice.

I trust you will find these observations helpful and please do not hesitate to contact us if we can be of further assistance.

Very best wishes,

A handwritten signature in black ink, appearing to read 'Imelda Maher', written in a cursive style.

*Professor Imelda Maher MRIA  
Dean of Law & Sutherland Full Professor of European Law  
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