

Submission to LSRA from UL School of Law

Dear Members of the Authority

Thank you for inviting the School of Law at UL to make submissions on the education and training in the State for legal practitioners.

The observations below have been agreed with Professor Shane Kilcommins, Head of the School of Law and I have set out our observations in the order in which they arise in the Invitation by the LSRA for Submissions (the Consultation Notice).

CONSULTATION NOTICE

Part I

The Consultation Notice refers to the Authority's responsibility for ensuring that standards in legal services are maintained and improved. One aspect of that role is the requirement [under section 34 of the LSRA 2015] that the Authority prepare a Report to the Minister about

- initial and continuous education and training of legal practitioners (solicitors and barristers), and
- the Authority is interested in views on whether there are any potential developments which are external to the legal sector (e.g. economic, social or technological) and which might suggest a changing need for the type, initial standard of qualification or content of training.

VIEWS / OBSERVATIONS ON EXTERNAL DEVELOPMENTS

The development of Artificial Intelligence and its effect on the practise of law (carrying out due diligence or discovery), as well as its effect on individuals and their data, may create the need for increased awareness amongst practitioners of its strengths and weaknesses.

In light of increased levels of legislation and regulation, nationally and by EU institutions, advanced legal research skills are critical for any lawyer. The information is now technology based, making technological research skills critical for any legal professional.

To ensure adequate legal services for all citizens of Ireland, the Authority may wish to consider a compulsory basic legal education in immigration law.

Another helpful development would be training counsel in the cross examination of vulnerable witnesses, as has been done in England. While the Law Society offers a one-hour seminar entitled 'Vulnerable Victims & Testimonial Aids' which focuses on the characteristics, challenges and needs of vulnerable witnesses, greater training should be provided. In England and Wales, a working group within The Inns of Court College of Advocacy, has, since April 2015, been engaged in a process of developing a sophisticated training course which will provide detailed guidance and training to advocates in how to secure the best evidence of vulnerable witnesses in court. Upon its completion, the course will be rolled out on a mandatory basis in England and Wales and it is envisaged that every advocate wishing to undertake publicly funded work in serious sexual offence cases involving vulnerable witnesses, will be required to complete this training. Dr. Alan Cusack at the University of Limerick is currently in the process of designing an advocacy training programme which is sensitive to the needs of vulnerable witnesses. This training programme is supported by the Irish Council for Civil Liberties and will be designed in conjunction with the Inns of Court College of Advocacy. A key constituent element of this project is the development of a sophisticated 'toolkit' which sets out best practice guidance for criminal justice agencies in Ireland on how to address vulnerable witnesses during both the pre-trial and trial processes of the Irish legal system.

Issues around gender – realignment, fluidity – may also trigger a need for specific training for legal professionals.

A whistle-blowing ethos within the professions should also be encouraged by training, to ensure the protection of the public interest.

Part II

OBSERVATIONS ON EACH REPORT RECOMMENDATION – Section 34(3) (c)

The text of Section 34(3)(c) of the 2015 Act states that the LSRA shall include in its report recommendations in relation to the following:

- Appropriate standards of education and training for legal professional qualifications;
 - The School of Law at UL appreciates that the question of the appropriateness of the standards of education and training for legal professional qualifications is best adjudicated by practitioners of many years standing. However, by way of general observation, the School believes that the deep learning and analytical skills acquired by the academic study of law and completion of a law degree, prior to professional qualification, have significant value. In addition, the education and training must

enable the lawyer to research using technology in order that s/he can access current regulations in any area of law.

- Clinical legal education is also an integral part of the undergraduate study of law at University of Limerick. This approach to legal education provides students with an understanding of the skills required for legal practice and it offers exciting opportunities to move outside the classroom and to see how the law operates in practice. Clinical legal education takes many forms at the School of Law, including work placements, moot court exercises and mock trials, student practicums involving research with community groups, and training in alternative dispute resolution. At the School of Law in the University of Limerick, students have opportunities to engage with all of these forms of experiential learning during their degree programmes. Students engage with moot court activities and mock trials as part of modules in first and second year; they undertake 6-8 month clinical work placements in third year; and study alternative dispute resolution and receive training in mediation, arbitration, collaborative law and negotiation in fourth year. In the final year of the Law Plus programme at UL, students are also given the opportunity to engage in student practicums known as “Advanced Lawyering Projects” where they undertake research on behalf of a community group. Previous community partners include the Citizen’s Information Centre, Pavee Point, One in Four and the Irish Human Rights and Equality Commission.
- Arrangements necessary to monitor adherence with the appropriate standards;
 - Monitoring adherence to those standards is a matter for the two professional bodies. However, it would be reasonable to seek to ensure that all practitioners have access to appropriate databases and sources of the latest legal developments.
- 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.
 - While there are certain aspects of the scope and content of the curriculum listed above with which academic lawyers would not be qualified to assist, the School would be open to amending its curriculum to increase education on Legal Ethics and ADR.
 - Perhaps all University Law Schools should introduce a basic compulsory module on Legal Ethics and the ethics of provision of legal services, (duty to the Court, duty to client etc.) given that the majority of Law graduates join the professions.
 - As noted above law students at UL study alternative dispute resolution and receive training in mediation, arbitration, collaborative law and negotiation in fourth year.

- 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, 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 School has always been co-operative with the professional bodies in certifying where a student has already taken a module and can avoid duplication. The School website provides the professional bodies with information on the course content of each module and method of assessment.

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

- The standards required for the award of professional legal qualifications are a matter for the professional bodies and the School wishes merely to stress the importance of written and verbal communication skills.

- 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

- To ensure homogenous standards of professional training and ethics, taking account of the considerable cost of provision of professional legal training and in light of the small size of the population and jurisdiction, the School believes that there should be only one accrediting body for each legal professional qualification.

We hope these observations are useful and the author, or Professor Shane Kilcommins, will be happy to discuss any aspect at your convenience.

We wish the Authority well with its very important work and objectives.

Yours sincerely

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