

The Consumers' Association of Ireland

Denshaw House, 120-121 Baggot Street Lower Dublin 2. Tel: (01) 659 9430

www.thecai.ie



SUBMISSION

to the

Legal Services Regulatory Authority

on

Section 34 Public Consultation

on

Education and Training of Legal Practitioners

June 2018

Introduction

Almost without exception our research, across regulatory and representational bodies; competition and legal experts; educational and academic consultants; and consumer and media investigators and commentators, indicates how the focus, for the past 10 years, has been upon the establishment of a legal Authority that would focus upon in-depth review and restructuring of the legal services framework - with public interest at the forefront of considerations.

Now, and key to our submission, the Legal Services Regulatory Authority (LSRA), in accordance with the provisions of section 13 of the 2015 Act, is now established with the stated function to include regulation of the provision of legal services by legal practitioners through which it will ensure the maintenance and improvement of standards in the provision of such services in the State.

Notably, the LSRA shall keep under review and make recommendations regarding the admission requirements of the Law Society, Bar Council and Honourable Society of Kings Inns, the availability and quality of education and training that they provide and their policies in relation to admission and entitlement to practise.

The representative bodies for solicitors and barristers in Ireland are proud of their respective history, achievements and standing. However, a rapidly changing external environment demands that progression and positive, planned evolution must be considered and respected. In terms of legal education, in general the underpinning framework has undergone or undertaken little change but rather occasional refinement.

Yet, as has been addressed by the most recent annual reports of the professions, Brexit is bringing change, both positive and challenging, with, for example, the 2016/17 Annual Report of the Law Society outlining how there '*has been a large influx of solicitors from England and Wales qualifying and transferring to the Roll in Ireland since the referendum*'. It is how they are 'qualifying and transferring' that forms a part of the focus and concerns of the Consumers' Association of Ireland (CAI).

When it comes to the provision of legal services and advice consumers must be reliably and professionally informed. The depth of information available online is vast and, increasingly, mediation and online dispute resolution (ODR), is rapidly becoming the proposed means of alternative, affordable dispute resolution, certainly in the EU context. Professor Raymond Friel, in a Law Society Gazette article from July 2017, referred to the reality of how '*the practise of law is truly becoming collaborative, multidisciplinary, and international.*' He referred to the need for change by outlining his opinion that '*If our education system concentrates on individualistic, discipline-specific training, it will ill-prepare the lawyers of tomorrow*'.

The legal environment is in a process of change, real and comprehensive change with a significant set of demands and expectations from the public who consume its services. Representatives of the bodies indicate in their reports how competition is being recognised as essential and is being embraced. However, it is not sufficient that this be solely in terms of legal expertise – solely determined and delivered through a monopolistic structure. Competition, real competition, requires an openness to growth in terms of collaboration and a recognition that there are and must be openness to

alternatives through which access is open and affordable to all. Excellence is seen daily in all areas of medicine, accounting, technology, education and every aspect of life. It is encouraged through accessibility for all who have the talent and commitment to engage.

We are making suggestions in our submission, many of which have been made on previous occasions. The difference, on this occasion, is that the change has begun, the LSRA is in place and it is time to move to positively evolve to ensure fitness for purpose as much as fitness to practise.

**Consumers' Association of Ireland
June 2018.**

It is now widely recognised and accepted that education is a critical driver of economic success and social progress in modern society. There is a growing recognition, particularly in the European Union, that the provision of quality education and training is central to the creation of a high-skills, knowledge and innovation-based economy that will underpin ongoing and sustainable prosperity. Education and training are also crucial to achieving the objective of an inclusive society where all citizens have the opportunity and the incentive to participate fully in the social and economic life of the country.

Dept Education and Science 2004

Overview

We outlined in our introduction how the CAI and other organisations, in previous years, would have made demands, sought changes and made recommendations as to how the legal profession could be made more accessible and relevant to the demands of today's public needs.

These intercessions were made in the context of the need for an independent regulatory body. Ireland has progressed to the point where such an Authority is now established and where it is openly seeking to meet its statutory remit and engaging in public consultation on many of those areas and issues raised in previous years and which formed a basis and impetus for its establishment.

Therefore, we outline below in as succinct a manner as is possible the key areas for review, scoping and change that have underpinned our considerations on behalf of the consumers of legal services whom we represent.

Access, Competition and Innovation

It is the legal profession in Ireland that controls entry and access to its membership.

- The Law Society – determines who will be accepted and the specific conditions that apply for selection, training and entry. (See Appendix 1)
- The Honorable Society of King's Inns – determines who will be accepted and the specific conditions that apply for selection, training and entry. (See Appendix 1)

This presents the unacceptable situation where these bodies control a monopoly in the markets for training solicitors and barristers respectively.

This serves to prevent competition of any kind, has the potential to stifle innovation and progressive training methods and content and unacceptably determines that any candidate, wishing to train as a solicitor or barrister, can do so only in a rigid time and location framework with costs set at levels that, for many, determine exclusivity of access.

There are significant and costly restrictions on becoming a solicitor or barrister, on the recognition of foreign legal qualifications and on switching between the professions of solicitor and barrister. Qualified individuals who have already funded their career choice, often through great personal cost with family and other support, must engage in further outlay of cost and training while restricted from offering any service for which they are already qualified.

The issue for the provision of separate and affordable conveyancing services has been ignored to date. This is, to a degree, understandable in the context that the financial crisis in Ireland brought a halt to its demand and certainly, viability as a financially sound business consideration. However, this now serves as a clear indicator of the change taking place and which demands consideration for review under the current restrictions that – specifically – restrict and prevent suitable persons from offering these legal services.

The public need is being denied here. It is also notable that experiences reflected from other jurisdictions – England and Wales, for example – show how the costs of these

services reduced through the competitive effect created by the lifting of the restriction there. This, in the context of the Brexit consideration from the bodies must be recognised as a barrier to entry to our market for some who would seek to establish offices and services in Ireland.

This could well be considered and viewed, in line with the monopoly upon training, that there is a determined effort to limit and restrict competition in training and in fee income by the accreditation bodies and, further, in access to the market and protection of income from the qualified entities that provide our legal services.

Means of Progress and Change

1. We consider that the LSRA should review the existing framework and standards for training for both Solicitors and Barristers and determine criteria for an application process through which any and all professional bodies, (including the current bodies) must seek accreditation to offer training services. This will introduce change in terms of access, choice and competitive costing. In addition it shall influence the course content in the context of market demand in terms of technology, business and other areas of demand for specialisation.
 - The accreditation would be reviewable and open to audit in a period to be considered and defined.

2. The system for recognition of legal training from qualified practitioners from within the EU, Nordic and accession countries to be reviewed for change by the Department of Justice and the LSRA.
 - Final determination and approval for access by the LSRA with and through a Memorandum of Understanding and Notification with the accreditation bodies.

3. We consider that the LSRA should review the existing framework and provide for legislative change to (likely in engagement with the Department of Business, Enterprise and Innovation) establish the means through which qualified persons, other than solicitors, can provide conveyancing services.

ENDS

June 2018.

Appendix 1

Qualification Process

The steps to qualify as a solicitor in Ireland are as follows:

1. [Preliminary Examination](#) (for non-Graduates)
2. [FE-1/Final Examination-First Part](#) (entrance exam)
3. [In-office training](#) (24 months in duration)
4. [Professional Practice Courses](#) (PPC I & PPC II)
5. [Admission to Roll](#)

England/Wales/Northern Ireland Lawyers

Unless the Society otherwise determines, solicitors whose first place of qualification is England and Wales, or Northern Ireland, are **not obliged** to pass any subject in the QLTT. However, you need to apply for a [Certificate of Admission](#).

EU Member State Lawyers

If you are a national of a Member State of the European Union and are qualified to practise as a lawyer in your home Member State, you may be able to register as a foreign qualified solicitor under the [Establishment Directive \(98/5/EC\)](#).

Article 3 of the Directive makes it obligatory for the immigrant lawyer to register with the competent authority in the state in which they are practising. Find out more about [EU registered lawyers](#).

All Other Lawyers

All other lawyers (not qualified in the European Union or subject to a reciprocal agreement) are required to undergo the [standard solicitor training process](#).

For further details please consult S.I. No. 85 of 1991, SI 732 of 2003, the Solicitors Acts, 1954 and 1960, (European Community) Regulations 1991 and SI No 35 of 2010.

NORTHERN IRELAND BARRISTERS

- a. *A member of the Bar of Northern Ireland who has been in practice for at least three years immediately preceding his application may, at the discretion of the benchers of the Society, be admitted to the Society and to the degree of Barrister-at-Law without submitting to any examination and without keeping terms provided he complies with the requirements set out in paragraph (b) below.*
- b. *Every such applicant shall:*
 1. *produce a certificate of his call to the Bar of Northern Ireland and a certificate from the Lord Chief Justice stating that he is a fit proper person to be called to the Bar of Ireland and a certificate from the proper officer stating that he has been practising for at least three years immediately preceding his application,*
 2. *lodge at the Under Treasurer's office a completed declaration for admission to the Society and to the degree of Barrister-at-Law (the certificate part of the declaration must be signed by a practising barrister who has been practising at the Bar of Ireland for ten years at least and the proposal part must be signed by a Bencher of the Society), and*
 3. *pay the degree fee set out in the schedule of fees.*
 4. *Keep two terms commons (3 dinners each term) after call during the first two years of practice.*

QUALIFIED LAWYERS FROM OTHER EU MEMBER STATES

- a. *A person who is entitled to seek to practise the profession of barrister in Ireland pursuant to Directive 2005/36 of the European Parliament and Council on the recognition of professional qualifications (OJ L 255 p. 22)('the Directive') and the regulations implementing same in Ireland (hereinafter called 'the migrant') may apply to be admitted to the Society and to the degree of Barrister-at-Law in accordance with this rule. Only holders of the degree may be called to the Bar of Ireland*

- by the Chief Justice and admitted to practise in the Courts of Ireland as members of the Bar of Ireland.*
- b. The Council of King's Inns ('The Council') is the designated and the competent authority for the profession of Barrister in Ireland for the purpose of applying the Directive and shall make all necessary decisions on an application under this rule.*
- c. A migrant shall apply to be admitted to the Society and the degree of Barrister-at-Law in such form as may be specified by the Council. Such application shall include or be accompanied by:*
- i. particulars of the diploma, attestation of competence issued by a competent authority in the home Member State or other evidence of training and qualifications relied upon by the migrant as entitling him to practise as a barrister in Ireland under the terms of the Directive,*
 - ii. the original or a duly authenticated copy of every such diploma, certificate or other document relied upon by the migrant,*
 - iii. such evidence as is relied upon by the migrant to establish:*
 - 1. that he is of good character and repute; and*
 - 2. that he has not been declared or adjudged bankrupt or had a similar order made against him or in relation to his estate where such bankruptcy or similar order remains undischarged or in force; and*
 - 3. that he has not on the ground of professional misconduct or the commission of a criminal offence been prohibited from practising in any member state in which he formerly qualified or practised and is not currently suspended from so practising,*
 - iv. such representations or evidence as the migrant may wish to make in support of any*

application that he be wholly or partially exempted from passing an aptitude test in accordance with paragraph (f) of this rule,

- 1. any other representations or material upon which the migrant may wish to rely in support of his application, and*
 - 2. the migrant's application fee as set from time to time by the Council.*
- d. Any document or certificate presented by the migrant pursuant to sub-paragraph (iii) of paragraph (c) above must be presented no more than three months after its date of issue.*
- e. The Council shall consider the migrant's application as soon as is reasonably practical and shall issue to the migrant a reasoned decision thereon not later than four months after all documents relied upon by the migrant have been lodged. Such decision may be:*
 - i. that the migrant be admitted to the Society and degree of Barrister-at-Law by the benchers without being required to pass any part of the aptitude test,*
 - ii. that the migrant be admitted to the Society and degree of Barrister-at-Law by the benchers subject to the migrant passing the whole or any part of the aptitude test, or*
 - iii. that the migrant's application be refused.*

In reaching the foregoing decision the Council shall consider the diploma or other qualification of each migrant relied upon in his application and may only require the migrant to pass those parts of the aptitude test which cover matters which differ substantially from those covered by his diploma or other qualification.

- f. The migrant may be required to pass all or part of an aptitude test. The following shall apply in relation to the aptitude test:*
 - i. the aptitude test shall be in such form as may be decided from time to time by the Education*

Committee and shall comprise written papers and an oral assessment,

- ii. the written papers shall include:*
 - 1. A paper on the Irish Legal System and Irish Constitutional Law;*
 - 2. A paper on the Laws of Torts, Contract and Property (including Equity and Trusts);*
 - 3. A paper on Evidence and Civil Practice and Procedure of the Superior Courts and the Circuit and District Courts; and*
 - 4. A paper on Criminal Law and Criminal Practice and Procedure of the Superior Courts and the Circuit and District Courts*
- iii. the oral assessment shall evaluate the migrant's preparation and oral presentation of a case and his knowledge of the rules of ethics and code of conduct for barristers,*
- iv. the written part of the aptitude test will be held twice a year upon such dates as may be determined by the Education Committee,*
- v. a migrant shall not be eligible to take the oral assessment until such time as he shall have successfully passed such written parts of the aptitude test as he is required to take,*
- vi. a migrant who is required to pass the aptitude test must take all parts of the test (or all parts which he is required to pass) at the same occasion on which the test is held,*
- vii. a migrant who is required to pass the aptitude test must take the test (or the relevant parts of the test) within two years after the date of the issue of the decision referred to in paragraph (e) above.*
- g. Every migrant shall keep not less than two terms commons. The Council may permit a migrant to give an undertaking to comply with all or part of this obligation after call to the Bar or may exempt the migrant from all or part of this obligation. Every migrant shall keep two terms*

commons (3 dinners each term) after call during the first two years of practice at the Bar of Ireland.

- h. A migrant who has received a decision from the Council in terms of paragraph (e) (i) or (ii) above shall (upon successfully passing all or part of the aptitude test where applicable) and subject to compliance with paragraph (g) above be admitted to the Society and to the degree of Barrister-at-Law by the benchers upon lodging at the Under Treasurers office:
- i. a completed declaration for admission to the Society and to the degree of Barrister-at-Law (the certificate part of the declaration must be signed by a practising barrister who has been practising at the Bar of Ireland for ten years at least and the proposal part must be signed by a bencher of the Society),
 - ii. if permitted by the Council pursuant to paragraph (g) above to keep terms after call to the Bar, a written undertaking to do so, and
 - iii. the degree fee as set from time to time by the Council.
- i. Upon being admitted to the Society and the degree of Barrister-at-Law a migrant is entitled to be called to the Bar of Ireland by the Chief Justice and admitted to practise in the courts of Ireland as a member of the Bar of Ireland.

Course Fees 2018/2019

BARRISTER-AT-LAW DEGREE COURSE: FULL-TIME (1 YEAR)

Full-Time – Payment in Full (on acceptance of place)

€12,560 [Pay Now](#)

Full-Time – Part Payment, 1 of 2 (on acceptance of place)

€6,280 [Pay Now](#)

Full-Time – Part Payment, 2 of 2, on or before 31 January

€6,280 [Pay Now](#)

BARRISTER-AT-LAW DEGREE COURSE: PART-TIME MODULAR (2 YEARS)

Modular 1 – Payment in Full (on acceptance of place)

€6,280 [Pay Now](#)

Modular 1 – Part Payment, 1 of 2 (on acceptance of place)

€3,280 [Pay Now](#)

*Modular 1 – Part Payment, 2 of 2, on or before 31 January
(includes facilitation fee of €225)*

€3,225 [Pay Now](#)

Modular 2 – Payment in Full, on or before 8 September

€6,280 [Pay Now](#)

Modular 2 – Part Payment, 1 of 2, on or before 8 September

€3,280 [Pay Now](#)

*Modular 2 – Part Payment, 2 of 2, on or before 31 January
(includes facilitation fee of €225)*

€3,225 [Pay Now](#)

DIPLOMA IN LEGAL STUDIES COURSE

Year 1 – Payment in Full (on acceptance of place)

€4,975 [Pay Now](#)

Year 1 – Payment in Full plus Car Park (on acceptance of place)

€5,225 [Pay Now](#)

Year 1 – Part Payment, 1 of 2 (on acceptance of place)

€2,975 [Pay Now](#)

*Year 1 – Part Payment, 2 of 2, on or before 31 January (includes
facilitation fee of €225)*

€2,225 [Pay Now](#)

Year 2 – Payment in Full (on or before 8 September)

€4,975 [Pay Now](#)

Year 2 – Payment in Full plus Car Park (on or before 8 September)

€5,225 [Pay Now](#)

Year 2 – Part Payment, 1 of 2, on or before 8 September

€2,975 [Pay Now](#)

Year 2 – Part Payment, 2 of 2, on or before 31 January (includes facilitation fee of €225)

€2,225 [Pay Now](#)

Repeat Exam and Course Work, per subject

€200 [Pay Now](#)

Repeat Exam Only, per subject

€100 [Pay Now](#)

Repeat Course Work Only, per subject

€100 [Pay Now](#)

ADVANCED DIPLOMA COURSES

Advanced Diploma in Law and Education

€2,350 [Pay Now](#)

Advanced Diploma in Data Protection Law

€2,350 [Pay Now](#)

Advanced Diploma in Planning and Environmental Law

€2,350 [Pay Now](#)

Advanced Diploma in the Democratic Process and Electoral Law

€2,950 [Pay Now](#)

Advanced Diploma in Applied Employment Law

€2,350 [Pay Now](#)

Advanced Diploma in Corporate, White-Collar and Regulatory Crime

€2,350 [Pay Now](#)

Advanced Diploma in Legislative Drafting

€4,500 [Pay Now](#)

Advanced Diploma in Juvenile Justice

€2,350 [Pay Now](#)

Advanced Diploma in Lawyer-Linguistics

€2,425 [Pay Now](#)

Advanced Diploma in Legal Translation

€1,975 [Pay Now](#)

Advanced Diploma in Legal Practice through Irish

€800 [Pay Now](#)

Advanced Diploma in Public Procurement Law

€2,350 [Pay Now](#)

Advanced Diploma in Immigration & Asylum Law

€2,350 [Pay Now](#)

EDUCATION APPEALS BOARD

Lodgement of Appeal

€50 [Pay Now](#)

MISCELLANEOUS

Fee to Repeat a Year – per subject (includes annual examination fee), all courses

€800 [Pay Now](#)

Supplemental (Autumn) Examination Fee (per subject), all courses

€200 [Pay Now](#)

Inspection of Scripts (viewing of script per subject following publication of examination results), all courses

€60 [Pay Now](#)

Confirmation of an examination results (per subject), all courses

€60 [Pay Now](#)

Storage Locker (refundable fee)

€50 [Pay Now](#)

Duplicate Receipts

€20 [Pay Now](#)

ALUMNI CAR PARK

Student Permit (after 4pm on weekdays and incl. alternate Saturdays during course weekends) – 18 September 2017 – 31 May 2018

€250 [Pay Now](#)

Student Permit Modular Degree (after 4pm on weekdays and incl. Saturdays and Sundays during course weekends) – 18 September 2017 to 31 May 2018

€250 [Pay Now](#)

Annual Daily Permit – 1 October 2017 to 31 May 2018 (including VAT)

€861 [Pay Now](#)