



Submission to the LSRA Consultation on Admission Policies of the Legal Professions in 2023

9 February 2024



Coimisiún um
Iomaíocht agus
Cosaint Tomhaltóirí

Competition and
Consumer Protection
Commission

Introduction

The Competition and Consumer Protection Commission (CCPC) welcomes the opportunity to respond to the Legal Services Regulatory Authority (LSRA) public consultation for its annual report on the Admission Policies of the Legal Professions. In this submission, the CCPC will outline its views on a number of issues which it believes have a bearing on the admissions policies of the legal professions, or which relate to the objectives of the LSRA under section 13(4) of the Legal Services Regulation Act (2015)¹.

The observations of the CCPC are provided in the context of a body of work by the LSRA being currently progressed at various stages, as highlighted by the LSRA's Statement of Strategy 2022-2025². The CCPC is aware that the LSRA is currently engaging closely with the Department of Justice and others to deliver on its reform recommendations with a view to opening up legal practitioner education and training, and to encourage greater entry into, and diversity in, the legal professions.

These CCPC's observations build on previous submissions that the CCPC has made in response to prior consultations and are intended to help foster a more competitive and innovative legal services market. In turn, the CCPC believes that a more competitive and innovative market will help to ensure the admissions policies of the legal professions are consistent with the public interest and ensure the availability of legal services at a reasonable cost.

Crucially, adequate assessment of the demand for, and supply of, services of practising barristers and solicitors requires the collection and availability of more and better data on the legal services sector. This will help ensure policy measures in the area are based on the highest quality evidence while improving public awareness and helping reinforce trust in the professions.

¹ [Legal Services Regulation Act 2015, Section 13 \(irishstatutebook.ie\)](https://www.irishstatutebook.ie/eli/2015/act/13/section/13)

² [LSRA Strategic Plan 2022-2025 FINAL SP.pdf](#)

Pathways to the Legal Professions

The CCPC considers that a priority area for the improvement of the admission policies of the legal professions is the implementation of the LSRA's recommendations from its 2020 report '*Setting Standards - Legal Practitioner Education and Training*³' to establish the Legal Practitioner Education and Training (LPET) Committee. The CCPC therefore welcomes that the LSRA Statement of Strategy's Goal 2.2 commits to actively monitoring and encouraging progress in the implementation of this recommendation⁴.

The CCPC also welcomes that Goal 2.2 commits to giving more people clear pathways to working in the legal services sector. The CCPC continues to recommend that the LPET Committee, once in place, should consider the creation of new routes to legal qualification, including for non-law graduates. The CCPC has made a number of other recommendations for the LSRA and the future LPET Committee to facilitate more pathways into, and greater movement across, the legal professions:

- the LPET Committee should review any existing arrangement which would add up to unnecessary costs and inconvenience and would dissuade new potential entrants to the professions, which includes costs of qualification (including the unpaid time involved either in gaining entry to solicitor training whilst studying for the FE-1, or in undertaking pupillage), the time involved in qualifying, and lack of contacts in the profession⁵.
- the LSRA should review existing arrangements for non-EEA legal practitioners to provide services in Ireland and to determine whether unnecessary restrictions are in place.
- the LPET committee and the LSRA should consider the key barriers to entry and career progress in the professions of solicitor and barrister.
 - o The facilitation of the creation of new routes to legal qualification, including for non-law graduates. This should include recognition for prior learning and experience, benchmarked against a competency framework as suggested by

³ [2020.11.25 Section-34-ET-Final-Report-to-Minister.pdf \(gov.ie%40ssl\)](#)

⁴ [LSRA StrategicPlan 2022 2025 FINAL SP.pdf](#) Goal 2.1

⁵ <https://www.lsr.ie/wp-content/uploads/2019/09/Review-of-Legal-Practitioner-Education-and-Training-Final-version.pdf>

in the LSRA's 2019 Review, not least recognition of previous qualifications of legal graduates⁶.

- Per recommendation 5 of the 2006 *Solicitors and Barristers* market study, “the current system of reciprocity in recognition of legal training of non-EEA lawyers should be replaced by mirroring the existing provisions for EEA lawyers”⁷.
- The CCPC supports⁸ the proposal in the Hook Tangaza report⁹ that the LPET committee leverage the existing capabilities of Quality and Qualifications Ireland (QQI) to undertake the accreditation of providers. As noted by the Hook Tangaza report, QQI have responsibility for the validation of degree programmes in law provided by higher education institutions as against the National Framework of Qualifications (NFQ)¹⁰.
- The gathering of data, evidence and research around the potential issues which might affect entry to the legal professions in Ireland.
- Research on factors that limit access to traineeships and internships.
- Ensure that training for solicitors reflects the skills needed and takes into account market demand in the sector.
- The LPET Committee should also review arrangements in place for switching between the branches of solicitor and barrister and remove unnecessary barriers.
- If a profession of conveyancer were to be established in Ireland, the LPET Committee, assisted by the LSRA, should set and assure standards for conveyancing education and training. The LPET Committee would be responsible for the accreditation of providers of legal education and training, and this should include providers of conveyancing education and training.

⁶ This would have the effect of removing the requirement for law graduates to sit the FE-1 examinations on the grounds of unnecessary duplication of learning. The CCPC welcomes this proposal and notes the views of a number of legal firms and Schools of Law that concur that such a reform is necessary.

⁷ [Competition in Professional Services: *Solicitors & Barristers*, TCA, 2006](#)

⁸ [Further Public Consultation on the Education and Training of Legal Practitioners, CCPC, 2019](#)

⁹ [Report to the Minister for Justice and Equality under Section 34 of the Legal Services Regulation Act 2015](#)

¹⁰ The report further notes that the degree programme of the Honorable Society of King's Inns is in turn benchmarked on the NFQ, albeit that it is subject to internal accreditation.

Digital Development

The CCPC considers that a key development necessary to ensure that the legal profession remains innovative and offers wide consumer choice is enabling the legal services sector to take-up opportunities created by technological innovation. Digital developments, such as e-conveyancing, have meant that certain aspects of legal services could now be conducted online, bringing many benefits for professionals and consumers in terms of the speed and convenience of the service. Innovation-driven supply-side efficiencies in legal services could ultimately facilitate meeting demand for the services of practising barristers and solicitors, while ensuring the availability of such services at a reasonable cost.

However, innovations and changes to the sector must be implemented in a way that is appropriate, and which minimises potential risks. For example, the automation of conveyancing has certain implications which will need to be considered. The CCPC considered such issues in its submission to the LSRA's consultation on the establishment of a profession of conveyancers¹¹, including:

- a) Necessary legislative and regulatory changes to enable e-conveyancing,
- b) The appropriate design and implementation of an e-conveyancing model, including security features,
- c) Issues related to accountability and liability between the different parties involved in the conveyancing process,
- d) Considerations regarding conveyancing data,
- e) Stakeholder buy-in for e-conveyancing.

Although the CCPC considers that the implementation of an appropriate e-conveyancing system in Ireland should be prioritised, it is of the view that the establishment of a dedicated profession for conveyancers should not depend on this. The CCPC believes that the establishment of a profession of conveyancer, along with a new digital system for the conveyancing process, together would represent important reforms which would increase competition in the legal sector and bring about significant consumer benefits such as reduced conveyancing fees and better quality of service.

¹¹ [TCA Report Template \(ccpc.ie\)](#)

Data Availability

As noted in previous CCPC submissions, consumers should have access to information on price, service and quality available in a market in order to make informed purchasing decisions and drive competition¹². The CCPC therefore welcomes that Goal 3.2 of the LSRA's Strategy Statement¹³ will be to raise public awareness of legal services, including their costs, and how to use them.

In particular, the CCPC is of the view that the development of a standalone website for consumers around legal services and their cost, a key action listed under this LSRA Strategic Goal, would be highly beneficial. The CCPC is ready to assist by sharing expertise, as appropriate, on the development of comparison tools and web resources for consumers¹⁴.

The CCPC also strongly welcomes that the Actions under the Goal 3.2 focus on legal costs. The CCPC notes that, as identified by the National Competitiveness and Productivity Council (NCPC) and others¹⁵, there is a limited availability of data on legal costs in Ireland poses a challenge to defining and measuring legal costs¹⁶.

The CCPC would therefore recommend that the work undertaken by the LSRA around raising public awareness of legal costs should also enable the collection of comprehensive data around legal costs. The CCPC suggests that this data collection process should enable tracking the evolution of legal costs over time. The LSRA could consider issuing annual

¹² <https://www.oecd.org/regreform/sectors/40080343.pdf>, pg. 201.

¹³ [LSRA StrategicPlan 2022 2025 FINAL SP.pdf](#) Goal 3.2

¹⁴ The CCPC provides a number of online resources for consumers which aim to provide independent information about their consumer rights and money management. [Consumer Rights & Personal Finance - CCPC](#)

¹⁵ See the National Competitiveness and Productivity Council (NCPC)'s ['Ireland's Competitiveness Challenge 2021'](#) and paragraph 1.2 and 1.3 of Chapter 9. Review of the Administration of Civil Justice Report, October 2020, [gov.ie - Review of the Administration of Civil Justice: Review Group Report \(www.gov.ie\)](#). On 7 February 2024, the Department of Justice published a report, prepared by Indecon, on [Civil Litigation Cost Models - A Multi-Criteria Impact Evaluation of Options for the Control of Litigation Costs](#). The report noted that "there is no comprehensive information available on what are the detailed components of legal costs for most cases which proceed to litigation or how these costs have changed over time. There is also an absence of comprehensive data on how the costs vary between different providers of legal services. The resultant lack of transparency exasperates the challenges faced by consumers of litigation services. This also hinders evidencebased policy development". <https://www.gov.ie/en/publication/af946-civil-litigation-cost-models-a-multi-criteria-impact-evaluation-of-options-for-the-control-of-litigation-costs/>

¹⁶ <https://enterprise.gov.ie/en/publications/publication-files/competitiveness-challenge-2019.pdf>

reports on cost and price trends¹⁷. The CCPC notes the work undertaken by the Legal Services Board in the UK, which is responsible for the oversight and coordination work by the legal services regulatory bodies in the UK to empower consumers and improve transparency in the legal services market. It has established a Market Co-ordination and Oversight Group (MTCOG) to coordinate this activity¹⁸.

The CCPC notes that the Legal Services Board also features a number of dashboards on its webpage based on its research on the legal services market¹⁹. These include metrics relevant to supply, demand, price and performance. The CCPC suggests that these dashboards could be considered as examples of the type of tools and web resources which could facilitate access to information and data relating to the legal services sector.

In this context, the CCPC welcomes Goal 2.1 of the Statement of Strategy to build the LSRA's understanding of emerging trends, opportunities and challenges for the legal services sector and its role in effectively regulating the provision of legal services²⁰. In particular, the CCPC strongly welcomes the Action to monitor areas of legal services that may require reform and future areas of innovation using data collected through its regulatory activities such as complaints received. Such an understanding will aid the LSRA in carrying out its functions under Section 33 of the Legal Services Regulation Act 2015.

In particular, the CCPC considers that the research programme should focus on restrictions still in place which affect consumer choice and protection in the legal services sector.

- restrictions on consumers switching solicitors,
- consumers having unlimited direct access to barristers,
- the potential for legal professionals to organise themselves in other business structures (including multi-disciplinary practices or MPDs),
- Restrictions on barristers appearing in Court for their employer.

¹⁷ The CCPC has previously made this suggestion in a submission to the LSRA Public Consultation, *inter alia* in relation to the review of the Legal Services Regulation Act 2015 under Section 6. See here: [CCPC-Submission.pdf \(lsra.ie\)](#)

¹⁸ [MTCOG - The Legal Services Board](#)

¹⁹ [Market intelligence - The Legal Services Board](#)

²⁰ [LSRA StrategicPlan 2022 2025 FINAL SP.pdf](#) Goal 2.1

The CCPC further suggests that the aforementioned web resources and tools developed by the LSRA could then be used to present and communicate the findings of the LSRA's research programme.

Conclusion

Assessing the adequacy of both quantity and quality of supply of services of practising barristers and solicitors calls for a multifaceted approach that considers pathways to the professions, the impact of digitalization and the availability of data. The CCPC has identified, and continues to advocate for, a number of measures across these areas that the LSRA and LPET committee, once established, should implement to this end:

- Establish the Legal Practitioner Education and Training (LPET) Committee as a matter of priority.
- Consider the creation of new routes to legal qualification, including for non-law graduates, reduce barriers to entry and facilitate movement across the legal professions.
- Set and assure standards for dedicated education and training programmes to support establishment of conveyancing as a profession.
- Accelerate introduction of the institutional and digital infrastructure needed to support e-conveyancing as an initiative parallel to, but supportive of, establishment of conveyancing as a profession.
- Orient data collection and research on legal costs so as to contribute to the goal of raising public awareness around those costs and enable tracking of their evolution over time.

We look forward to continued engagement with the LSRA and other relevant stakeholders to address matters raised in this submission and progress implementation of the recommendations therein.

ENDS

