

Impact case study (REF3)

Institution: Nottingham Trent University (NTU)		
Unit of Assessment: C18 – Law		
Title of case study: Shaping policy for legal professional education in the UK and internationally		
Period when the underpinning research was undertaken: 2011-present		
Details of staff conducting the underpinning research from the submitting unit:		
Names:	Roles:	Periods employed by submitting HEI:
Jane Ching	Professor	1993-present
Paul Maharg	Professor	2013-2019
Period when the claimed impact occurred: 2014-present		
Is this case study continued from a case study submitted in 2014? N		
1. Summary of the impact:		
<p>Research carried out by the Centre for Legal Education (CLE) has had far-reaching impact on changing the regulatory structures governing lawyers' pre- and post- qualification education in the UK, Ireland and Australia. The research has led to a marked improvement in the quality of the provision of legal services by:</p> <ul style="list-style-type: none"> (1) driving significant revisions to the policy of the Legal Services Board (LSB) and professional regulators for approximately 168,000 lawyers in England and Wales, and paralegals; and (2) influencing policy development and debate in professional legal education in Australia and research strategies in reviews of legal education in the Republic of Ireland. 		
2. Underpinning research		
<p>Historically, legal professional education has employed "command and control" regulation emphasising e.g., curricula, time to be served in mandatory pre-qualification work experience or hours of CPD. The introduction of the Legal Services Act 2007 required legal regulators in England and Wales to adopt "outcomes-focused" regulation (OFR). This created a significant need for empirical research on whether the existing model of legal professional education was fit for purpose.</p> <p>In 2010 the LSB commissioned Ching (NTU) and Maharg (then Northumbria), with Sherr (IALS) and Webb (Warwick), to undertake 'the most substantial review of legal education and training since the publication of the Ormrod Report of 1971' (R1). The Legal Education and Training Review (LETR) explored all stages of legal education and training, including the academic stage(s) of qualification, professional training and continuing professional development of the regulated professions. It identified both the scope for deregulation of existing training requirements, and whether there was a case for bringing aspects of the non-regulated sector within a scheme of regulation.</p> <p>Through a wide-ranging international review of practice, impact analysis and various empirical methods (interviews, focus groups and online surveys), the LETR team assessed perceptions of the existing system in terms of skills, knowledge and attributes; assessed potential for sector-wide outcomes; considered the unregulated sector; recommended means of response to emerging needs, including diversity.</p>		

Both Ching and Maharg (2013-2019) made major contributions to the project, with Ching leading on Stage 3, which involved the collection and analysis of the qualitative data around the content and structures of legal education. The project included overseeing 56 interviews and 39 focus groups with a range of stakeholders including the regulated professions, paralegals, judges, trainees/pupils, academics and students. The research has been subject to peer review for quality assurance purposes.

Ching's findings directly informed the research team's overarching recommendation that legal professional education be recalibrated to ensure compliance with the statutory objectives, namely outcomes-focused regulation, and fitness for the future. It was found that the existing qualification and CPD structures contained weaknesses in quality (ethics, standardisation, inputs CPD models, lack of data supporting decision-making), accessibility (internships, paralegal career progression, apprenticeships, information for aspiring lawyers) and flexibility (transfer between professions, narrow regulatory prescription of pathways). These findings enhance understanding of the effects of regulation at a sector-wide level and, uniquely, of the relationships between the professions, including the often-overlooked smaller professions.

Follow-up research conducted two years (**R2**) and five years (**R3**) after the initial report found that significant change was beginning to take root in both policy and practice. However, further enhancement could be made by moving away from risk-management compliance towards a form of 'shared space' that encourages individual responsibility, forges better links between researchers and the professions, and assists in the public understanding of legal education and training.

R4 drew on the findings and methodology of **R1** to make bespoke recommendations concerning the qualifications of solicitors in the Republic of Ireland.

The quality of the underpinning research has been evidenced by rigorous externally peer reviewed outputs and has been widely used a point of reference for legal education beyond NTU.

3. References to the research

R1 Webb, J., Ching, J., Maharg, P., Sherr, A., 'Setting Standards: The Future of Legal Services Education and Training Regulation in England and Wales' (2013) < <https://paulmaharg.com/letr/> > [accessed 10/09/20]

R2 Ching, J., Maharg, P., Sherr, A., Webb, J., 'An Overture for Well-Tempered Regulators: Four Variations on a LETR Theme' (2015) 49 The Law Teacher 143

R3 Ching, J., Maharg, P., Sherr, A., Webb, J., 'Legal Education & Training Review: A Five-Year Retro/Prospective' (2018) 52 The Law Teacher 384

R4 Ching J, Crewe J and Maharg P, 'Solicitor Education in Ireland: A Review' (Law Society of Ireland 2018)

4. Details of the impact

The Review led to changes in the nature of legal education and training in England & Wales and abroad in the following ways:

(1) Effecting a shift to outcomes/standards and outputs in CPD models

As a direct result of recs 1-7 and 17-19 of the Review, the LSB instructed all regulators "to [consider] the evidence and recommendations contained within the Legal Education and Training Review and to complete a review of their regulatory arrangements for education and training" in

March 2014. Regulators responded with plans of action. In a joint publication, authors from the SRA, CILEX Regulation, and the BSB stated:

“It is worth noting how much of what we have done directly implements explicit recommendations made by LETR” (S2).

The LSB has confirmed that, since the publication of LETR, three [England and Wales] regulators have moved to an outcomes focused approach to Continuing Professional Development, and five such regulators have produced a competency statement setting out what an authorised person must be able to do on his or her first day of practice (S5).

In fact, all but one of the seven regulators (775 notaries) now use a competence statement (c167,000 lawyers). The SRA proposes to assess all intending solicitors (c4,000 per year) against the competence statement from 2021. Outputs CPD was adopted for all 143,652 practising solicitors in November 2016 and all 16,435 practising barristers in January 2017 (S2, S5).

(2) Ensuring greater flexibility in mandatory pre-qualification work experience

Drawing on the Review’s recommendations to enhance diversity through embedding a greater variety of working environments, the SRA adopted the “equivalent means” qualification route and has, consistently with recs 15 and 22, increased the range of permitted environments. Similarly, the Bar now recognises “other forms of work-based learning” as an alternative to pupillage (S2, S5).

(3) Validating voluntary regulation and quality assurance for the newly significant paralegal profession

The Professional Paralegal Register, launched in December 2014, was created specifically in response to recs 22-23 of the Review to address concerns around diversity and public interest objectives. It is a professional body with criteria for accreditation, a code of conduct and complaints mechanism. It is supported by organisations including the Chartered Institute of Arbitrators and the Legal Services Consumer Panel (S1).

(4) Influencing the modernisation of qualification frameworks in other jurisdictions

The recommendations in the Legal Education and Training Review have significantly influenced policy developments in other jurisdictions. Indeed, R2 and R4 comment on the potential of its methodologies and findings to influence professional legal education in other jurisdictions.

For example, in 2014, the Australian Law Admissions Consultative Committee stated that the Legal Education and Training Review directly influenced their own investigations for the approximately 66,211 Australian practitioners:

“it is both prudent and timely to take account of the Legal Education and Training Review presently underway in England and Wales ...In June 2013, LETR released its Setting Standards report containing a wealth of data and analysis which are also very relevant to Australian circumstances.”

In 2017, the Victorian Legal Admission Board (Australia) drew on the Legal Education and Training Review’s thinking and findings (on standards and paralegals) in formulating its own competence statement (S6, S7).

The Legal Education and Training Review also informed the research design of a confidential report to the Law Society of Ireland on improving solicitor education in a competitive legal services environment (R4). This research was commissioned in anticipation of a statutory review of the Legal Services Regulation Act 2015, which contains several similar provisions to the Legal Services Act 2007. R4 emphasised competences/outcomes and flexibility of study (linked to

diversity). It was adopted by the Council of the Law Society of Ireland, and was in turn submitted to the Legal Services Regulatory Authority (LSRA).

The findings were then incorporated into the statutory review (**S8**), whose recommendations (concerning models of vocational course delivery, transfer for foreign lawyers and CPD) are in alignment with **R4**. Following the statutory review, the LSRA has conducted further consultation in which the Law Society again relied on the report in its response. Further, the Law Society has, from 2019, offered a blended learning version of its vocational course in line with the research team's recommendations (**S8**).

5. Sources to corroborate the impact

- S1** Professional Paralegal Register, 'About Us' (*Professional Paralegal Register*, 2018) <<https://ppr.org.uk/about-us/>> accessed 22 April 2020. *Webpage makes specific reference to the genesis of the organisation as a direct result of LETR*).
- S2** Brannan J, Purtill V and Stec V, 'The Legal Education and Training Review 5 Years on: The View from the Regulators' (2018) 52(4) *The Law Teacher* 397. *This article synthesises slide presentations given by senior representatives of the Solicitors regulation Authority, Bar Standards Board and CILEx Regulation at an event held to mark LETR's five year anniversary and summarises the action taken in response to the recommendations*.
- S3** Bar Standards Board, 'High Levels of Compliance amongst Barristers with New CPD Scheme' (*Bar Standards Board*, 23 November 2018) <<https://www.barstandardsboard.org.uk/media-centre/press-releases-and-news/high-levels-of-compliance-amongst-barristers-with-new-cpd-scheme/>> accessed 22 April 2020. *This article and press release summarise responses to the LETR recommendations on the part of the Bar Standards Board*.
- S4** a) Legal Services Board, 'Guidance on Regulatory Arrangements for Education and Training Issued under Section 162 of the Legal Services Act 2007' <https://www.legalservicesboard.org.uk/what_we_do/regulation/pdf/20140304_LSB_Education_And_Training_Guidance.pdf> accessed 22 April 2020.
b) *This connection between the LSB, LETR and the activities of the regulators is further supported in the following letter: Vibeke Bjornfors, Regulatory Policy Manager, 'Impact of the Legal Education and Training Review of the LSB' (15 October 2018)*.
- S5** Legal Services Board, 'Education and Training' (*Legal Services Board*, No date) <https://www.legalservicesboard.org.uk/Projects/Education_And_Training_2017_18.htm> accessed 22 April 2020.
- S6** Law Admissions Consultative Committee, 'Review of Academic Requirements for Admission to the Legal Profession' (Law Admissions Consultative Committee 2014) AUSTRALIA \ SDC \ 231165799.05 <https://www.lawcouncil.asn.au/files/web-pdf/LACC%20docs/01.12.14_-_Review_of_Academic_Requirements_for_Admission.pdf> accessed 22 April 2020, p 3
- S7** French R, 'What We Need to Do' (Victorian Legal Admission Board 2017) <<https://tinyurl.com/yxpwr7ht>> accessed 23 March 2020
- S8** Director of Education, Law Society of Ireland, 'Solicitor Education in Ireland: A Review on the Solicitor Profession' (5 December 2018). *This letter comments on the quality and destination of the Law Society of Ireland report, many of whose recommendations have been mirrored in the later statutory report on professional legal education in Ireland (including the bar)*.