
Literature Review

1. Framework and methods

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1. Phase 1 of the Legal Education and Training Review (LETR) is a comprehensive review and analysis of the research literature on the system of legal education and training in England and Wales. This includes some aspects of the academic stages of qualification, the vocational training and education stages, educational standards for entry to the regulated profession, continuing educational requirements, accreditation and quality assurance for all sections of the profession as well as the requirements placed on providers of legal education and training. The review team has been requested to include comparisons with relevant international systems and other sectors and professions, and draw on that experience where applicable.
2. In more detail, nine areas were identified for review, all broadly focused on the relationship between regulation and legal education:
 1. the role of legal education and training and its relationship to maintaining professional standards and regulation in the sector
 2. the role of formal education and training requirements in working in concert with other regulatory tools to deliver conduct of business regulatory objectives
 3. educational standards for entry to the regulated profession
 4. the requirements for continuing education, accreditation and quality assurance for regulated individuals and entities
 5. the requirements placed on approved providers of legal education and training;
 6. existing equality and diversity issues
 7. comparative analysis of international systems and other relevant sectors and professions;
 8. possible impacts of the proposed 2012/13 reforms in the higher education sector on legal education and training and in particular the increases in undergraduate tuition fees;
 9. impact of the Legal Services Act 2007 on education, training and practice models.
3. The final topic in the list above has not been addressed in detail here. The trends in that topic will begin to emerge more clearly through the online professional journals as new model enterprises are launched; and we are aware of a number of educational institutions and entities that are making preparations to alter legal educational provision in response to the Act and who are preparing to document the changes. The literature, however, is still relatively sparse. Where appropriate we have discussed aspects of the topic in the Discussion and Briefing Papers and the LETR Report itself.
4. The LETR literature review is constructed as a narrative divided into appropriate sub-topics, taking into account the parameters set out above. Chronologically, the scope of the review begins with the publication of the Ormrod Report in 1971. Its endpoint is two months prior to the publication of the Review itself in June 2013. The following sources have been taken into account:
 - all major modern reports into English and Welsh legal education up to the start of LETR, including the Marre (1988) and ACLEC (1996) Reports, and more recent work from the Training Framework Reviews conducted by the Law Society/LSRB/SRA, the Bar Standards Board, ILEX Professional Standards and other regulators.

- relevant reports commissioned by bodies other than legal regulators, eg OFT's *Competition in the Professions* (2001) and publications commissioned by the Legal Services Board.
 - secondary literature including meta-analyses and critical literature on all aspects of legal education applicable to the criteria set out above, and the work of LETR in stages 2 and 3 of the review.
 - international reports and literature where applicable to aspects of the review and largely, though not only, sourced from USA and Australia.
 - multidisciplinary literature where appropriate to the criteria above.
5. In compiling the literature review, relevant material has been identified by conducting searches of:
- British Education Index
 - ERIC (Education Resources Information Centre)
 - HeinOnline
 - Index to Legal Periodicals
 - LexisNexis
 - Sociology Abstracts
 - Westlaw
 - Specialist bibliographies (eg Goldman, 2008) and meta-reviews (eg Maharg & Nicol, forthcoming).
 - online resources such as regulator websites, legal repositories including The Berkeley Electronic Press (bepress), the Social Science Research Network, ISI Web of Knowledge and Google Scholar.
 - Texts that summarise aspects of the history of legal education in England and Wales and in other jurisdictions (eg Boon & Webb, 2008; Sonsteng *et al*, 2007).
6. With regard to fulfilling the remit as set out above, standard practice in literature reviews has been followed in the analysis of primary reports, key texts in the secondary literature; and of other materials, resources, and events within our timespan (Cooper, 1998; Maxwell, 2006). The literature is very considerable at points (though at other points rather sparse), and we have had to be, of necessity, highly selective. One of the criteria for selection was to underpin the composition of the LETR Report, and where appropriate we reference there the debates described in the literature review.
7. The main purpose in the literature review is to illuminate the complex relationship between legal education and regulation in England and Wales today, so as to be better able to make recommendations for the future. Literature reviews, however, have other purposes. One of them is to re-consider the ways that we have come to understand the past and to re-evaluate that understanding. Often the assumptions of an author or the absences in a report can be as revealing as what is written in the text, for what is not discussed contributes to our understanding of what is said in many subtle ways. We shall therefore analyze regulatory attitudes, understandings and absences in this literature review, as well as the content of reports and texts.
8. Given that, we should make our own assumptions clear about the nature of the field under investigation. Legal education is regulated by a range of regulators, all quite different, all with their regulatory regimes that are historically situated and with their own political micro-climates. Multiple regulators operating multiple regulatory regimes make for a complex regulatory system. To a considerable extent we currently have what we might term 'decentred regulation' and, as Black (2002) points out, such a field is

often characterized by five factors: complexity, fragmentation, interdependence, overlapping public and private interests, and ungovernability. If we examine this in more detail we can start by observing that, as we shall see, the contemporary field is complex because of the number of regulators and the number and interests of the regulatees. Regulatory cause and effect is therefore difficult to trace and problematic to analyze. It is fragmented because legal education includes at the very least undergraduate courses, formal programmed learning, open learning, distance learning, work-based learning, vocational training, traineeship, continuing professional development (CPD) and any blend of these and more. These forms of learning are different across different occupational groupings, eg solicitors, barristers, legal executives, paralegals, legal secretaries, patent lawyers, notaries and the like. One regulator may appear to be governing a particular field (eg licensed conveyancers) but the field itself is under constant review, and the edges between fields are blurred and frayed.

9. As a consequence, there are interdependences between regulatory regimes that are sometimes not visible to the regulators, or are visible but about which they can do little – an example is the complaint from solicitors that vocational programmes do little to train students for office life; or that trainees seem to know little of the principles of fundamental areas of law. With interdependence comes overlap: the felt need at the vocational stage to review basic academic education, for instance; or the regulatory overlap between regimes where there is interdependence between regulatory fields; or the overlap between the private interests of educational providers and the public interest in the quality of the education they offer. Finally these factors tend to make the field ungovernable. It is one of the paradoxes of regulation that more regulatory activity by government and regulators can tend to make a regulatory field more chaotic and more ungovernable, giving rise to the felt need for constant review and further regulatory activity that increases tension and competition between the actors and further destabilizes the field (Healy and Dugdale, 2009).
10. These issues affect the content and structure of the literature review. While the structure of the chapters identified at paragraph 2 above is fairly clear, for example, the review will require to cross-refer between chapters, and to dovetail debates from other professions and jurisdictions. It is hoped that the literature review will thus give a rich and sophisticated portrait of the key issues and actors that regulators need to consider when regulating legal education in England and Wales; and that this portrait, inevitably a historical one from the point of publication, will be of use to future commentators and scholars.

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