

**Paradigm shift: motivations for qualified legal professionals to undertake academic study**

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## *Paradigm shift; motivations for qualified legal professionals to undertake academic study*

### **ABSTRACT**

This paper considers the factors that motivate qualified legal professionals to undertake a further legal academic programme of study. The paper analyses the findings of a recent study concerning a post-graduate research degree collaboration between Northumbria University (NU) and the Law Society of Ireland (LSI) whereby NU's longstanding LLM Advanced Legal Practice (LLM ALP) has been offered in Ireland through the LSI (LLM ALP (Ire)). The initial offering of the LLM ALP (Ire) has attracted a significant amount of interest from the profession, prompting the authors to consider (i) the factors that motivate 'time-poor' professionals to pursue the academic study of law at the post-professional level and (ii) the potential that such a course of study might have to inform and enrich the students' practice of law. The LLM ALP (Ire) has attracted a significant amount of more established practitioners, whereas those who generally enrol on the LLM ALP in England are at the early stages of their careers, either enrolled on the Legal Practice Course (LPC) or having only recently qualified. Hence this research is focused on a particular student profile of post-professionals with established careers in legal practice.

### **INTRODUCTION**

*“[P]rofessional education is a synthesis of three apprenticeships – a cognitive apprenticeship wherein one learns to think like a professional, a practical apprenticeship where one learns to perform like a professional, and a moral apprenticeship where one learns to think and act in a responsible and ethical manner that integrates across all three domains....[P]rofessionals not only have to understand and perform, they have to be certain kinds of human beings. To use the language of the education of clergy they have to undergo a certain kind of formation of character and values so they become a kind of person to whom we are prepared to entrust the responsibilities of our health system, of our education system, of our souls and of the kind of justice we expect to see pursued in this society”.*<sup>1</sup>

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<sup>1</sup> L.S. Shulman, “The signature pedagogies of the professions of law, medicine, engineering, and the clergy: potential lessons for the education of teachers” Math Science Partnerships (MSP) Workshop, National Research

The above quote from Shulman captures the demands placed on professionals, noting further that they must have more than an understanding of the subject matter; a professional must “be prepared to act, to perform, to practice, whether they have enough information or not”. Accordingly, a comprehension of a static body of knowledge and the possession of fixed skills is not sufficient in any job, as the world has become an ever-changing, fluid place. Nowhere is this more evident than in the demands placed on the professions and professional education.

Professional practice is evolving at a considerable rate, resulting in new and expanding roles and duties. The valid lifespan of knowledge gained in an initial degree or on a professional course declines rapidly. Accordingly, Simmonds notes that “qualifications (academic, vocational or technical) have a limited life span – probably as little as five years”.<sup>2</sup> While many areas of the law are slow to evolve such as real property, others including commercial, data protection, financial law and intellectual property, struggle to adapt to new electronic forms of commerce, technological innovations, and societal changes. Likewise, legal professionals must increasingly adapt their practices to survive in an atmosphere of evolving client expectations, new business models and increasing technological advances. Hence, there is a need for all professionals to expand and develop their knowledge and skills to maintain their confidence to practice within a fast-paced world and new technological arenas.

The need for further and continuing education has become imperative. Education and training must be a lifelong process to keep abreast of change and to meet the continually increasing demands placed on the competency and skills of professionals. Simmonds identified the strong link between work and qualifications, noting that continuous professional development

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Council, California February 6 – 8, 2005. See also L.S. Shulman, “Signature pedagogies in the professions” (2005) 134(3) *Daedalus* 52.

<sup>2</sup> P. Simmonds, “Continuing professional development and workplace learning 2: CPD and you – how CILIP is meeting the continuing professional development needs of its members” (2003) 24(3) *Library Management*, 169, p. 170.

involves the “integration of learning and work and learning from wider experiences”<sup>3</sup> rather than simply attending a course to attain a qualification. Similarly, Owen points out that career development requires constant attention, and is most effective when it involves a “partnership between employer and workforce”.<sup>4</sup> In addition to vocational skills, professionals need managerial and business skills to survive in a complex commercial world. They also need cross-functional skills to communicate and compete with other professional groups in an increasingly multidisciplinary world. They need more than expertise in their own particular role and field, as professional groups no longer operate in silos. Increased specialisation along with cross-fertilisation with other professional groups demands new knowledge and skills. For example, concerning post-graduate study by librarians, Corcoran and McGuinness found that librarians understand that “a static body of professional skills and knowledge is insufficient to meet the demands of the twenty-first century workplace”,<sup>5</sup> noting that librarians appreciate the urgent need to engage in continuing professional development, particularly with technology’s transformation of their profession.

Given the impact of technology on the practice of law and other similarities between changes in these professions, a number of considerations identified above for librarians are also relevant for the legal profession—and indeed for other highly educated and skilled professional group. The impetus for change to legal practice is starkly presented by Susskind in his exploration of tomorrow's lawyers first published in 2013.<sup>6</sup> He sets out the new jobs that are emerging for lawyers, largely due to technology, which include the knowledge engineer, technologist, process analyst, project manager, management consultant and risk

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<sup>3</sup> Ibid., p. 170.

<sup>4</sup> G. Owen, “Mind the gap!: The critical role of continuing professional development” (2004) 18(3) *Development and Learning in Organizations* 7, p. 9.

<sup>5</sup> M. Corcoran and C. McGuinness, “Keeping ahead of the curve” (2014) 35(3) *Library Management* 175, p. 175.

<sup>6</sup> R. Susskind, *Tomorrow's Lawyers: An Introduction to Your Future* (Oxford, Oxford University Press, 2013).

manager, all prefaced with the word legal.<sup>7</sup> His central thesis is that, over time, there will be a decline in demand for the traditional professions and the conventional professional worker as technology transforms the work of human experts.<sup>8</sup> Whether Susskind is correct about "The End of Lawyers?",<sup>9</sup> the title of his first book on the same theme, there is no doubt that technology and other forces such as globalisation, specialisation and an increasing need for interdisciplinary engagement are driving a need for upskilling across the professions. Although distinct from the current research project, Faulconbridge and Muzio research does indicate that at least in some globalised law firms that "professional occupational principles and objectives"<sup>10</sup> remain strong and that lawyers "continue to enjoy high degrees of autonomy".<sup>11</sup>

The majority of the literature on the education of professionals focuses on undergraduate programmes or continuing professional development (CPD). Jones and Fear found that law and strategic human resource management emerge as the most important areas for members' CPD observing that the "result was perhaps not surprising as law is an area which is constantly changing and where the consequences of not staying up to date can be significant".<sup>12</sup> Cameron *et al* note that "[p]rofessional doctorates have emerged...as a response to a number of converging pressures from within professions to enhance their qualifications and requirements for continuing professional development".<sup>13</sup> However, there

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<sup>7</sup> R. Susskind *Tomorrow's Lawyers: An Introduction to Your Future* 2nd edition (Oxford, Oxford University Press, 2017) p. 135

<sup>8</sup> R. Susskind and D. Susskind *The Future of the Professions: How Technology will Transform the Work of Human Experts* (Oxford, Oxford University Press, 2015) p. 263

<sup>9</sup> R. Susskind, *The End of Lawyers? Rethinking the Nature of Legal Services* (Oxford, Oxford University Press, 2008).

<sup>10</sup> J. Faulconbridge and D. Muzio, "Organisational professionalism in globalising law firms" (2008) 22(1) *Work, Employment and Society* 7, p. 21.

<sup>11</sup> *Ibid.*, p. 20.

<sup>12</sup> N. Jones and N. Fear, "Continuing professional development: Perspectives from human resource professionals" (1994) 23(8) *Personnel Review* 49, p. 54.

<sup>13</sup> R.J. Cameron, N. Frederickson, I. Lunt and J. Lang "Changing professional views of continuing professional development doctorates in educational psychology" (2008) 24(3) *Educational Psychology in Practice* 251, p. 251.

is little analysis of the reasons for and extent to which qualified professionals undertake academic study and the impact of that study on professional practice.

Using data collected from students attending the LLM ALP (Ire) this paper analyses the impetus for ‘time poor’ qualified legal professionals to undertake part-time academic education running in parallel to the demands of full-time legal practice and a range of personal commitments. The paper further explores the manner in which the completion of such academic courses might benefit and enrich the work of such individuals in their respective practices.

## BACKGROUND

### *Outline of the LLM in Advanced Legal Practice.*

The LLM Advanced Legal Practice (LLM ALP) is a longstanding postgraduate programme of NU’s Law School. It offers qualified lawyers the opportunity to undertake a research project on a specialist legal topic of their choosing. Eligibility for the programme depends on the applicant having qualified in the UK to practice as a solicitor or as a barrister, or holding an equivalent international qualification.<sup>14</sup> The LLM ALP is a predominantly distance learning course, and has a flexible duration whereby it can be completed across one to two years.

For the first couple of months on the programme, students complete a legal research and study skills unit. The purpose of this initial unit is to help ensure all entrants have the knowledge and skills necessary to conduct and present independent legal research at Masters

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<sup>14</sup> In addition, students at the University who are studying for their solicitor’s qualification (the LPC) or barrister’s qualification (the BPTC) can also undertake the programme, but cannot obtain their LLM award until they have successfully qualified.

level, and to allow students time to investigate and choose their research topic. The unit provides guided reading, online self-evaluative tasks and formative writing exercises, and culminates with a project proposal to be submitted for feedback and approval.

For the remainder of the programme, students complete a project of between 15,000-17,000 words under individual tutor supervision. The topic of study is of the student's choosing. The only constraints on choice are that there must be a tutor within the University with expertise to supervise the work and the project must focus on an area of English law, although a comparative study with other jurisdictions is possible.

The project is the sole assessed element of the programme. The student's professional qualification contributes 120 credits towards the LLM. The research project provides the remaining 60 credits required.

*Outline of the LLM in Advanced Legal Practice run through the LSI (LLM ALP (Ire)).*

In 2015 the LLM ALP was, for the first time, offered through the LSI to solicitors in Ireland. In all essentials, the LLM ALP (Ire) programme remains the same as its parent LLM ALP, save that the project's focus is on Irish law and the supervisors are drawn from the LSI in addition to those at NU.

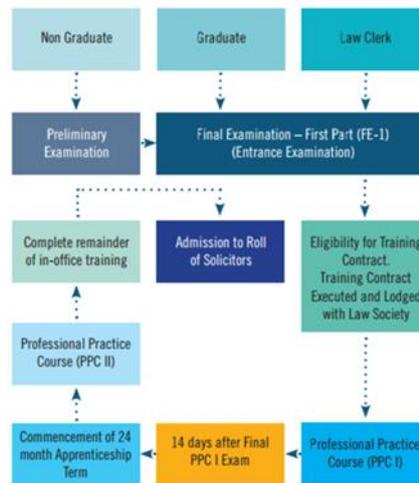
*The LSI and the route to qualification as a solicitor in Ireland.*

The LSI is the educational, representative and regulatory body of the solicitors' profession in Ireland. It exercises statutory functions under the Solicitors Acts 1954-2008 in relation to the education, admission, enrolment, discipline and regulation of the solicitors' profession. The steps to qualification as a solicitor in Ireland are summarised as follows<sup>15</sup>:

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<sup>15</sup>Information & graphs drawn from the Law Society of Ireland's website <https://www.lawsociety.ie/Public/Become-a-Solicitor/>

### Steps to qualification



For most students attempting to qualify as a solicitor, the process commences with the Final Examination - First Part (FE-1s), in essence an entrance examination. It consists of the eight papers<sup>16</sup> and there is no formally approved preparation course in advance of the FE-1s. After successfully completing the FE-1s, the individual can then apply to commence the Professional Practice Course (PPC). However, before applying to the PPC, the individual must have secured a training contract with a training solicitor. The LSI's Law School runs two full-time courses for trainees – the PPC I and the PPC II. The PPC I is designed to provide general vocation legal education to all trainees and is seen as the foundation block of the training contract.<sup>17</sup> After the PPC I, students then have eleven months of in-office training before the trainee returns to the Law School to attend the eleven-week PPC II.<sup>18</sup>

The PPC occupies a similar place in the legal education system to the Legal Practice Course (LPC) in England & Wales and has been recognised by the SRA as an equivalent qualification allowing a relatively straightforward admission process for Irish qualified

<sup>16</sup> Company law; constitutional Law; law of contract; criminal law; European Union Law; equity; real property; law of tort.

<sup>17</sup> Comprising six modules, namely applied land law; probate & tax; business law; litigation; skills; and legal practice Irish, all of which are compulsory

<sup>18</sup> Comprising four compulsory subjects, namely Professional practice conduct and management (PPCM); family & child law; employment law; and English property law and a choice of three electives.

solicitors into England & Wales (and vice-versa).<sup>19</sup> Indeed it was this mutuality of recognition of qualifications between the jurisdictions that permitted NU to attribute the solicitor qualification as part credit for the LLM ALP in a similar manner to the prior credit granted for the LPC. However there are differences between the qualification processes in both jurisdictions. For example, the general requirement in order to sit the FE-1s is that the candidate holds a degree from either an Irish third level institution or from an equivalent institution in another jurisdiction. However, and uniquely for a common law jurisdiction, there is no requirement that the graduate holds a degree in law in order to sit the entrance examinations. This results in the interesting proposition that, unlike their UK equivalents, those attending the LLM ALP (Ire) may not have an undergraduate law degree. Another difference is that unlike those applying for the LPC in England and Wales, before applying to the PPC applicants must have secured a training contract with a training solicitor.

## **REVIEW OF LITERATURE**

### ***Knowledge creation***

Knowledge is created in both academic and practitioner settings, each setting producing knowledge of a different character. One difference in the knowledge construction process between those settings is that a practitioner's conceptualisation of a problem is by its nature different to an academic's because the practitioner has to face the consequences of their actions, with the academic being largely free from such constraints. For example, with regards to knowledge constructed by the practitioner, Eraut quotes Friedson (1971) as stating 'one whose work requires practical application to concrete cases simply cannot maintain the same frame of mind as the scholar or scientist: he cannot suspend action in the absence of

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<sup>19</sup> In 2011 the SRA imposed a requirement that Irish qualified solicitors complete a training course on conveyancing practice and procedure in England and Wales before they can apply to be admitted on the Roll of Solicitors in England and Wales.

incontrovertible evidence or be sceptical of himself, his experience, his work and his fruit'<sup>20</sup>. However although knowledge created in the practice setting has a particular nature and value, all too often such knowledge does not get incorporated into theory or even shared with other practitioners. In action orientated environments such as the professions, knowledge creation receives little attention, with knowledge creation abilities of practitioners being largely under-exploited.<sup>21</sup> This may be exacerbated in professions such as law, where the knowledge generated within a particular firm may be the very thing that gives it competitive advantage, or as Robertson *et al*, state a legal services firm's 'competitive advantage depends heavily on their ability to mobilize and synthesize professionalized bodies of expertise in order to create knowledge that satisfies client demand'.<sup>22</sup> In this regard, Eurat argues that higher education institutions need to adopt a role with regards to knowledge transmission in the professions.<sup>23</sup> However if this is to happen it will require an acknowledgement by higher education institutions that much of knowledge creation happens outside academic institutions and that its development is inhibited by a lack of appropriate structures for knowledge exchange. Eurat states that 'higher education institutions and professional communities need to establish closer relations and to assume joint responsibility for knowledge creation, development and dissemination' which will require a 'jointly planned programme of continuing education opportunities for mid-career professionals which will assist them (1) to reflect on their experience, make it more explicit through having to share it, interpret it and

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<sup>20</sup> M. Eurat "Knowledge creation and knowledge use in professional contexts" (1985) 10(2) *Studies in Higher Education* 117 quoting E. Friedson, *Profession of Medicine: a study of the sociology of applied knowledge* (Mead, 1971)

<sup>21</sup> Ibid

<sup>22</sup> M. Robertson, H. Scarbrough and J. Swan "Knowledge Creation in Professional Service Firms: Institutional Effects" (2003) 24 (6) *Organization Studies* 831. P. 832

<sup>23</sup> *Supra* n. 20

recognise it as a basis for future learning; and (2) to escape from their experience in the sense of challenging traditional assumptions and acquiring new perspectives'.<sup>24</sup>

### *CPD and the role of law schools in its provision*

The 2013 Legal Education Training Review in England and Wales (the LETR Report)<sup>25</sup> states that literature on the pedagogic aspects of CPD in the legal profession is comparatively rare, and cites Roper<sup>26</sup> on the need for the construction of a conceptual framework for CPD for lawyers as a distinct and outstanding task. Although the 2013 LETR report makes passing reference to the extent to which higher degrees fit into the overall CPD system, the issue is relatively unexplored within the report. In 2015, the Solicitors Regulation Authority (SRA) in England adopted a new scheme for CPD that eliminates the previous prescriptive requirements based on hours and types of CPD. The new scheme is based on a *Statement of Solicitor Competence* that allows practitioners to demonstrate they have considered learning and professional development and taken appropriate steps to ensure competence (SRA, 2015). The new scheme makes no direct reference to a role for higher academic degrees in the context of CPD, although in principle such study would more easily fit within the new approach based as it is on continuing competence.

American literature from the 1970s and 1980s, at the time when the CPD (or continuing professional education (“CPE”, also known as continuing legal education (“CLE”) as it was more generally referred to) market was newly developing, lamented the failure of law schools to engage with the emerging market, seeing a role for the schools separate from that of the

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<sup>24</sup> *Supra* n. 20, p.132

<sup>25</sup> J. Webb, J. Ching, P. Maharg and A. Sherr, *Setting Standards: The Future of Legal Services Education and Training Regulation in England and Wales* (London, Legal Education and Training Review, 2013) (LETR Report).

<sup>26</sup> C. Roper, *Senior Solicitors and Their Participation in Continuing Legal Education* (Sydney, Centre for Legal Education, 1993).

professional bodies who dominated the market. Reflecting this view, Darrell notes that universities “have educated the professional and historically have played at least some part in his continuing professional education [ and] at the very least... they should participate more fully... in order to enrich and enlarge the offerings available to the professions and to provide more adequate and complete and better disciplined continuing professional education programs”.<sup>27</sup> Darrell identifies key themes with regards to the role of universities in professional legal education and argues for greater involvement of such institutions because of the availability of sufficiently trained teachers, research facilities and resources in such institutions. In particular, the Darrell comments that “time and conferences...have failed to breach significantly the law school walls”,<sup>28</sup> an observation that would seem to be partially true even to this day.

Likewise Nelson summarises several arguments in favour of more active law school participation in CPD, noting that law schools “have the most knowledgeable and experienced teachers, academic independence, research facilities, and other required educational resources”.<sup>29</sup> The authors also point out the role of law schools are the ultimate guardians of the law with respect to the development of legal growth and law reform which should constitute part of continuing legal education training.

Undoubtedly the focus of the university law school is on its role in the creation of future lawyers with little literature on their role in providing continuing professional education.<sup>30</sup>

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<sup>27</sup> See N. Darrell, “The Role of the Universities in Continuing Professional Education” (1971) 32 *Ohio State Law Journal* 312, p. 328.

<sup>28</sup> *Ibid.*, p. 317.

<sup>29</sup> D. Nelson, “Role of the Law Schools in Post-Degree Education” (1980) 5 *Tel Aviv University Studies in Law* 31, p. 40.

<sup>30</sup> J. Ching, A. Nuhoglu, K. Burch, E. Kuzeci and M Toprak (2015) “*The challenges facing legal services education in the 21st century: A case for collaboration and conversation?*” Retrieved from <http://irep.ntu.ac.uk/9497/>

J. Welch Wegner “The value of legal education” (2015) 24 *Nottingham Law Journal* 112.

Indeed the perception exists that university lecturers do not value CPD, with senior academics perceiving that they have better ways to spend their time, for example in funded research. From the US perspective, Nelson puts it succinctly, stating:

“If there is to be expanded activity by law faculties in CLE programmes, there needs to be a changed attitude on the part of law school deans and faculty about those who make such contributions. There is still a strong feeling in academic circles that professors who engage in CLE work are people who are performing second-class roles in the legal education community. In many schools, writing for the practicing bar in CLE books is beneath the dignity of a professor and not worthy of serious consideration in the annual review of his accomplishments”.<sup>31</sup>

Edward also highlights a more general disconnect between the world of legal practice and what is taught in US law schools.<sup>32</sup> He outlines an undervaluing of the doctrinal study of law, meaning the capacity to analyse, interpret and apply basic legal texts such as cases and statutes, in US universities in favour of abstract theory. Edwards concludes that this disconnect becomes even more prevalent in elite institutions whereby the brightest and the best young legal scholars are often disdainful of the practice of law and law professors, who are increasingly drawn from the ranks of academics with an exclusive interest in abstract theory, use their position within the law school as a “bully pulpit from which to pour scorn upon the legal profession”<sup>33</sup>. As Edwards identifies, the result of being taught by law professors with such views imparts on students that the practice of law is “grubby,

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Retrieved from <https://www.questia.com/library/journal/1G1-428357951/the-value-of-legal-education>

<sup>31</sup> *Supra* n. 29, p. 40.

<sup>32</sup> H. Edwards, “The Growing Disjunction between Legal Education and the Legal Profession” (1992) 91 *Michigan Law Review* 91, 34-70.

<sup>33</sup> *Ibid.*, p. 37.

materialistic, and self-interested”,<sup>34</sup> and he concludes that the atmosphere created is actually profoundly inhospitable to law students.

### *Gap in the market*

One way that universities can potentially contribute to continued professional education is by way of the provision of professional doctorates, in which there has been a growth of in recent years. In the United Kingdom, professional doctorates are concentrated in education, psychology, medicine, engineering and business administration,<sup>35</sup> with limited similar provision of professional doctorates in law.

Boud and Tennant examine the target population for these new professionally orientated doctorates, namely new knowledge workers and argue that a further range of doctoral level education is required, apart from PhD and professional doctorates, to meet the needs of those who desire a further qualification but do not wish to follow an academic career.<sup>36</sup> In their study, the authors considered potential candidates whose interests were not well met by the existing provision, or to be more precise, by their perceptions of what the existing provision offered. Similarly, Shaw and Green identify new pathways to education and note that academic education providers need to change their traditional approaches in order for “continuous professional development . . . to be genuinely continuous”.<sup>37</sup> Further, the authors stress that the traditional route of formal university education prior to beginning one’s career should be loosened to better accommodate experienced mature students who wish to gain further qualifications based on their professional needs. In particular, such individuals

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<sup>34</sup> Ibid., p. 38.

<sup>35</sup> Neumann, R. (2005). Doctoral differences: Professional doctorates and PhDs compared. *Journal of Higher Education Policy and Management*, 27(2), 173, p. 174.

<sup>36</sup> Boud, D., & Tennant, M. (2006). Putting doctoral education to work: Challenges to academic practice. *Higher Education Research & Development*, 25(3), 293, p. 293.

<sup>37</sup> M. Shaw and H. Green “Continuous professional development: Emerging trends in the UK” (1999) 7(3) *Quality Assurance in Education* 169, p. 174.

would benefit from programmes with an emphasis on workbased activities, professional focus, limited disruption and costs, and immediate applicability of knowledge gained. Shaw and Green further acknowledge such an approach will “challenge the very heart of academic tradition”,<sup>38</sup> thus requiring significant training and refocus of those who deliver such programmes.

### *Examples from medical education*

Darrell contrasts the lack of involvement by universities in the US in CPD education for lawyers unfavourably with the experience of the medical practitioner who, through specialisation, is forced to continue rigorous forms of educational engagement for years after graduation.<sup>39</sup> A more general review of post-graduate medical education in the US reveals a much more developed and comprehensive programme than pertains in legal education. The Accreditation Council for Graduate Medical Education (ACGME) is a private, non-profit organisation that reviews and accredits graduate medical education programs. For the 2013-14 academic year, there were 9,600 ACGME-accredited residency and fellowship programs in 130 specialties at approximately 700 sponsoring institutions. It would appear that the General Medical Council in the UK plays a similar co-ordination and accreditation role. In reviewing the system of post-graduate medical education in Australia, Dowton et. al. describe fragmentation with regards to responsibility for post-graduate education in that jurisdiction and conclude with a call for a national dialogue to clarify necessary resources required.<sup>40</sup> Concluding with a call for a ‘national dialogue’ on the issue is perhaps indicative of a degree of seriousness that is applied to post-graduate medical education that appears to be entirely absent from its legal equivalent.

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<sup>38</sup> Ibid., p. 175.

<sup>39</sup> *Supra* n. 27.

<sup>40</sup> S. Dowton, M. Stokes, E. Rawstron, P. Pogson and M. Brown, “Postgraduate medical education: rethinking and integrating a complex landscape” (2005) 182(4) *Medical Journal of Australia* 177.

However, even in the field of medicine, the separation between professional practice and the academy is evident. Darrell states that “part of this failure is attributed to a “Town and Gown” syndrome.....the practitioner is frequently cut off from the scholarly aspects of medicine and the teacher exhibits a similar insularity for his own reasons”.<sup>41</sup> Darrell cites Gross<sup>42</sup>, noting that all physicians will maintain their membership of medical college, and Darrell suggest that a similar relationship would equally support applying to the legal profession. Finally, upon review of a number of other professions such as veterinary medicine, accounting and architecture, Darrell concludes: “the more a professional association is a dominant force in a profession, the greater likelihood that it will play a dominant role in the continuing education of the profession”.<sup>43</sup>

#### *Benefits and value to practice*

There is a lack of literature directly addressing the manner in which the post-graduate academic study of law might enhance practice. However, studies in other disciplines have explored the benefits of and other issues relating to such post-graduate study by professionals.

Potential benefits attributed to academic study by professionals include an increased depth and breadth of knowledge, greater confidence, new perspectives, enhanced professional identity, empowerment, a more assertive attitude and a shift in how such professionals positioned themselves in the workplace, all of which could enhance job security.<sup>44</sup> For

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<sup>41</sup> *Supra* n. 27, p. 320.

<sup>42</sup> M. Gross, *The Doctors* (Random House Press, 1966)

<sup>43</sup> *Supra* n. 27, p. 323.

<sup>44</sup> R. Spencer, “Nurses, midwives and health visitors’ perceptions of the impact of higher education on professional practice” (2006) 26(1) *Nurse Education Today* 45 and C. Anderson, K. Day and P. McLaughlin “Student perspectives on the dissertation process in a masters degree concerned with professional practice” (2008) 30(1) *Studies in Continuing Education* 33.

example, in the context of nursing, Spencer argues that, “[t]he dichotomy of academic ability versus hands-on clinical care is a misnomer”.<sup>45</sup> Instead they should be seen as two complimentary sides of the same coin. Also in the context of nursing, Watkins observes that individuals undertaking further post-professional study not only displayed improved confidence and used research-based evidence to improve practices, but they also discovered new roles and careers, engaged in enhanced multi-professional work, and became champions of the profession.<sup>46</sup>

In a survey of educational psychologists by Cameron *et al*, students found that that a CPD doctoral programme acted as a catalyst to promote personal development.<sup>47</sup> The respondents had a positive attitude to the growth of CPD doctoral programmes and felt that such offerings had a positive effect on the profession. Nor was there any perceived disconnect between an academic study of psychology and practice as a psychologist, with the majority of respondents indicating that they had significant opportunities to use knowledge acquired in CPD doctoral courses in their workplaces, which provided valued personal development that in turn enhanced the working relationships with clients. Such reactions can be explained by the observation that “[i]n everyday practice, the time available for reflection was seen as limited and half the respondents recognised that there was a tension between the current focus on ‘outcomes’ in most professions and the individual practitioner’s need to reflect upon “process” aspects of their work, as well as keep up with new developments in the fast-growing knowledge base of psychology.”<sup>48</sup>

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<sup>45</sup> R. Spencer, “Nurses, midwives and health visitors’ perceptions of the impact of higher education on professional practice” (2006) 26(1) *Nurse Education Today* 45, p.51.

<sup>46</sup> D. Watkins, “The influence of masters education on the professional lives of British and German nurses and the further professionalization of nursing” (2011) 67(12) *Journal of Advanced Nursing* 2605.

<sup>47</sup> *Supra* n. 13, p. 260.

<sup>48</sup> *Supra* n. 13, p. 263.

This study by Cameron, Frederickson, Lunt and Lang, indicated that an academic study of psychology can help professionals from that discipline tackle significant and challenging problems at all levels of practice, thus leading to improved problem management.<sup>49</sup> Such academically qualified professionals are better placed to access and adapt leading research and theory to inform their practice and identify better solutions for their clients. This concern about the impact on patient or client care is reiterated elsewhere. For example, with regards to academic study undertaken in the nursing profession, Spencer notes that “[f]ifty percent of the respondents...described becoming more analytical, which led them to challenge their own clinical and professional practice, and the practice of their colleagues”.<sup>50</sup> She concludes that there was a strong view “that the Master’s in Professional Practice has a positive effect in practice, but a significant number of factors including time and support seem to inhibit the possible benefits”.<sup>51</sup> Similarly in reviewing a masters in nursing programme, Watkins concludes that there was a view that the masters had a positive effect in practice although “further research is required to authenticate nurses’ self-perceptions of its value to patient care”.<sup>52</sup>

Some however have reported that a doctorate level qualification may be seen as much of a hindrance rather than advantage. For example, Neumann notes that other than in the creative arts, students do not pursue professional doctorates for career advancement, particularly in law and management where it “could be more of a hindrance than an asset”.<sup>53</sup> In any case, Neumann notes that most frequently, professionals regard doctoral qualifications as relatively unimportant to career progression, and instead of only marginal benefit.<sup>54</sup>

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<sup>49</sup> *Supra* n. 13, p.251–267.

<sup>50</sup> *Supra* n. 45, p. 50.

<sup>51</sup> *Supra* n. 45 p. 51.

<sup>52</sup> *Supra* n. 46, p. 2613.

<sup>53</sup> *Supra* n. 35, p. 180.

<sup>54</sup> *Supra* n. 35, p. 180.

Indeed even in the context of nursing Spencer identifies criticism of academic study by some practitioners who regard such study as potentially at the expense of patient care, noting that academic study may bring improved status and responsibility as well as increased compensation, but it “may possibly mean sacrificing patient contact.”<sup>55</sup>

### *Motivation*

Anderson, Day, & McLaughlin note that motivation may be divided into internal motivation that includes the desire for academic stimulation and the importance to continue learning versus motivations arising from the external domain that include pressures from the work environment, career progression, pressures within the occupational group and the need to support colleagues and others.<sup>56</sup> Anderson *et al.* conducted a survey of students who were undertaking some form of an education related masters degree that mainly focused on practice. They observed that “differences were noted between participants in their purposes in undertaking a dissertation and in the gains that they reported”,<sup>57</sup> however, the commonalities were much more evident than the differences, with the authors noting that “for all participants intrinsic interests were presented as the primary motivation rather than an extrinsic career motive”.<sup>58</sup> Anderson *et al.* divided those motivations into practice intrinsic (a strong wish to advance practice and a sense of commitment to this goal), academic research intrinsic (a desire to make intellectual progress and a commitment to academic standards and values) and personal intrinsic (the motivating effects of a satisfying sense of personal involvement, development and/or challenge).<sup>59</sup> The authors noted that participants registered improvements in acquiring knowledge as well as increased confidence in professional

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<sup>55</sup> *Supra* n. 45, p. 50.

<sup>56</sup> C. Anderson, K. Day and P. McLaughlin “Student perspectives on the dissertation process in a masters degree concerned with professional practice” (2008) *30(1) Studies in Continuing Education* 33.

<sup>57</sup> *Ibid.*, p. 38.

<sup>58</sup> *Ibid.*, p. 39.

<sup>59</sup> *Ibid.*, p. 39.

positions and in some daily practices. Further, many participants indicated the completion of a dissertation enhanced their professional identity.<sup>60</sup>

One participant said the academic study had led her to feel greater confidence and be more assertive in work groups. She felt the qualification was an important badge of esteem. Other students also described in how the study had an empowering effect.<sup>61</sup> Anderson *et al.*, noted the striking feature that:

*“these participants’ motivations were strongly intrinsic, which undermines any straightforward assumption that masters courses focused on professional development will attract students with a primarily extrinsic motivation to advance their career. (Perceived gains and benefits were also predominately cast in terms of personal and intellectual development rather than in instrumental terms)”*.<sup>62</sup>

This intrinsic motivation has emerged as a common feature in other similar studies with for example Corcoran and McGuinness noting that “the question of personal drive and motivation is a pivotal aspect of CPD in the professional life of a librarian”.<sup>63</sup>

Gantt and Madison distinguish between professionalism with its focus on outward conduct and adherence to standards or norms and professional identity which "engages students at a deeper level by asking them to internalize principles and values such that their actions flow habitually from their moral compass."<sup>64</sup>

The move towards professionalism by necessity raises questions about professional identity and how to inculcate professional values. In relation to nurses, midwives and health visitors

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<sup>60</sup> Ibid., p. 45.

<sup>61</sup> Ibid., p. 46.

<sup>62</sup> Ibid., p. 47.

<sup>63</sup> *Supra* n.5, p. 193.

<sup>64</sup> L.O.N. Gantt and B.V. Madison, “Teaching Knowledge, Skills and Values of Professional Identity Formation” in *Building on Best Practices: Transforming Legal Education in a Changing World* (Deborah Maranville et al. eds., Lexis, 2015) p. 253.

engaged in higher education, Spencer found that fifty percent of the respondents described becoming more analytical, which led them to challenge their own practice and the practice of colleagues.<sup>65</sup>

Anderson *et al* studied professionals engaged in a taught masters in an education faculty and found that most participants were motivated by the "personal intrinsic" such as a satisfying sense of personal involvement, development and/or challenge. They "had a common focus on the need to be agentic and a conception of personal responsibility to meet the demands posed by the dissertation."<sup>66</sup> They noted that the highly agentic stance displayed was associated with a particular sense of personhood with the respondents mentioning words such as 'strong', 'determination', 'tough' and 'resilience'.<sup>67</sup> This development of an agentic stance, reflected in self-motivation and the taking of personal responsibility, is an enabling characteristic of professional identity. "Students learn that their decisions have consequences, not only for clients and others in the legal system, but also for the students' own self-respect."<sup>68</sup>

Given that working professionals engaged in academic study are negotiating two sides of the same discipline, often alongside family commitments, it is not surprising that there is some character building taking place. The focus is less on knowledge transmission and skills training but instead, as self-directed learners, has an impact on attitudinal development. As Floyd points out "the word "identity" places the focus squarely on who someone is rather than simply what one knows or what one does. The formation of professional identity

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<sup>65</sup> *Supra* n.45, p. 50.

<sup>66</sup> *Supra* n.56, p. 39.

<sup>67</sup> *Supra* n.56, p. 40.

<sup>68</sup> B.V. Madison "Professional Identity and Professionalism" (2017) 24(3) ABA Prof. Law. p. 16.

concerns how one understands oneself<sup>69</sup> and "internalizing values that are consistent with the core values of the profession is what truly defines a professional."<sup>70</sup>

## **METHODOLOGY**

### *Instruments and data collection*

In order to explore the research questions and to identify emerging themes, this research project's means of data collection consisted of online self-completion questionnaires issued to students. The questionnaire items contained a mixture of closed-ended and open-ended questions designed to ascertain the motivations of students choosing to attending the LLM ALP (Ire). An internet link to the survey was emailed to all LLM ALP (Ire) students, thus representing a 'convenience sample'<sup>71</sup> in which the individuals willingly agreed to participate. Twenty-five students submitted completed questionnaires, representing a 50% response rate. The authors attempted to minimise any potential bias by emphasising to the students that there was no obligations to participate in the survey and that the LSI would anonymise all responses.

The questions sought to identify the motivations of students for attending the LLM ALP (Ire). Some of the most interesting information from the questionnaires came from direct quotes generated by the open-ended questions. The text of the questionnaire is included as an appendix at the conclusion of this paper.

### *Results and Discussion*

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<sup>69</sup> T. W. Floyd "Moral Vision, Moral Courage, and the Formation of the Lawyer's Professional Identity" (2009) 28 Miss. C. L. Rev. p. 347.

<sup>70</sup> See e.g. L.S. Krieger "The Inseparability of Professionalism and Personal Satisfaction: Perspectives on Values, Integrity and Happiness" (2005) 11 Clinical L. Rev. 425 as cited in L.O.N. Gantt and B.V. Madison, "Teaching Knowledge, Skills and Values of Professional Identity Formation" in *Building on Best Practices: Transforming Legal Education in a Changing World* (Deborah Maranville et al. eds., Lexis, 2015) p. 254.

<sup>71</sup> C. Teddlie and A. Tashakkori, *Foundations of mixed methods research: Integrating quantitative and qualitative techniques in the social and behavioral sciences* (Thousand Oaks: Sage Publications, 2008)

The experience of the students who responded to the questionnaire broadly reflected the backgrounds of the students attending the LLM ALP (Ire) although the sample was slightly weighted in favour of students who were more established and long-qualified, with 48% of respondents qualified for over 20 years as a solicitor. As noted the length of qualification was a defining characteristic of students pursuing the LLM ALP (Ire).

### *Motivations*

Using a closed-ended question, students were asked to identify important motivations for pursuing the LLM ALP from six possible suggestions of which they could select any number. 60% of the respondents identified “*academic curiosity*” as an important motivating factor. By contrast only 36% indicated that they attended the course “*to enhance employability*” and 20% that the desire “*to develop a new area of practice*” was a motivating factor.

These figures stand out against results of earlier surveys of the profession in Ireland. For example, in December 2014 a *Have Your Say* survey was issued to all solicitors in the jurisdiction (approximately 9,600 practicing solicitors) to ascertain the respondents’ primary motivations for attending a post-professional diploma offered by the LSI. Response rates to the 2014 survey were modest, with only 49 completed surveys. However, among those that did respond, the single biggest motivating factor was ‘*to up-skill and retrain*’ (62%), with the second most important factor being to ‘*improve career opportunities*’ (53%). Only 22% of respondents indicated that the desire to ‘*participate in lifelong learning*’ would be a motivating factor to pursue a LSI post-professional diploma course.

The responses to these surveys suggest that motivations of students pursuing post-professional education courses in the LSI differ from those of students pursuing the LLM ALP (Ire). Employability and career progression seem to be at the forefront of the formers’

motivations whereas the latter's motivations are more related to issues of personal development and fulfilment, such as academic curiosity. LLM ALP (Ire) students were asked to elaborate further by way of an open-ended question on their motivations for pursuing the course, with one student mentioning "*renewal and re-connecting*" as a deciding factor and another stating that "*I feel energised by the prospect of doing legal research and reading*". This demand from more senior practitioners for academic engagement was further evidenced by the fact that in response to an open-ended question relating to future educational undertaking, 28% of the group indicated an interest in pursuing a PhD level qualification.

As noted, Ireland is unique in common law jurisdictions in that a primary law degree is not a prerequisite for entry onto the Professional Practice Course (PPC) (equivalent to the Legal Professional Course). In that context, it is perhaps noteworthy that 64% of respondents indicated that they held a primary law degree, substantially lower than the average. For example, while exact figures are difficult to ascertain, it would appear on the most recent intake of the PPC I which was in September 2016, approximately 80% of students held a law degree. It is possible therefore that the LLM ALP is particularly attractive to practitioners who did not study law at undergraduate level and are instead pursuing an opportunity to do so at a suitable level later in their career.

#### *Mind the gap*

If there was an unmet demand from more senior practitioners for academic engagement, then a related issue was how students perceived the role other third-level institutions play in meeting that demand. In response to a closed-ended question, 60% of respondents indicated that they did not feel that third-level institutions in Ireland provide enough educational opportunities for practitioners. Students were asked to elaborate further by way of an open-ended question and the following comments were made.

*“Seem to have little real world application, just more text from books that I can read any time for free.”*

*“Too great a traditional division between academia and practice.”*

*“I don't think the academic institutions display any significant insight into the work of solicitors and how that could be incorporated into the courses they provide.”*

*“They are grossly expensive and seem to have little real world application, just more text from books that I can read any time for free.”*

*“They don't appear interested in encouraging practitioners to undertake additional study. The post graduate courses offered by the university law school are not sufficiently practical and topical to attract legal practitioners to undertake them.”*

Conversely, 58% of the respondents believed that their representative body (i.e. the LSI) does provide enough academic opportunities for practitioners, with one respondent noting: *“with the addition of this LLM academic opportunities have been greatly enhanced”*. However perhaps the interesting point is that from an academic content point of view the LLM ALP is not substantially different to standard dissertation based masters level qualifications offered by other third level institutions in the jurisdiction. In fact, a review of university websites reveals that there are at least 10 Higher Level institutions offering approximately 33 separate masters level courses, with a range of delivery options including taught courses, part-time courses and research/dissertation based programmes. As at 1 March 2015, there were 563 students enrolled on masters level courses in law in the Ireland (Higher Education Authority, 2015). Therefore, the aggregate 50 students enrolled on the LLM ALP between the September 2015 and January 2016 intakes represented an initial ‘market share’ of approximate 10% in the entire Masters. Given this significant number of masters level

programmes already being offered in Ireland, it can only be assumed that respondents had other reasons for choosing to enrol on the LLM ALP (Ire). Data suggests that the respondents' perception of the role of the LSI (as the institution that all of the respondents would have attended when completing their PPC and also the representative body for the profession) played an important consideration in their decision to enrol on the LLM ALP (Ire). For example, one respondent stated that the fact that the LLM ALP (Ire) is "*endorsed by the Law Society, this was a big factor for me.....i.e. quality assurance*". Perhaps then the respondents' previous educational experience in the LSI, which was primarily non-academic in focus in that it centred vocational training, influenced their perceptions of precisely what that the LLM ALP (Ire) would entail (the survey was issued at the start of the LLM ALP (Ire)). This perceived connection between the LLM ALP (Ire) and practice was further evidenced in the fact that 80% of respondents indicated that they expected the knowledge gained from the masters would be applied in their current job. A general openness to the opportunities that the programme afforded for development was also reflected in the fact that 54% of respondents indicated that they expected participation in the programme would enhance their reading skills, while 75% of respondents expected to enhance their writing skills, responses that are perhaps surprising from a group of relatively senior practitioners.

#### *Meeting the needs of busy time-poor professionals*

The accessibility and flexibility of the LLM ALP was a motivating factor to attend the course for 84% of respondents, with 60% of respondents identifying the fact that the solicitor qualification was recognised as providing part-credit for the masters as an important factor. In response to a general open-ended question the following comments were made.

*"I was delighted that the course is offered through distance learning."*

*“This Masters suits me and my busy lifestyle.”*

*“The fact that there are no lectures/modules to be completed is attractive, as I feel slightly jaded by listening to lectures.”*

*“The fact that the course is designed for people who are working fulltime and flexible submission dates for the dissertation were further influential factors.”*

## **CONCLUSION**

This study seeks to provide an initial investigation into the relevance of post-graduate academic study to qualified Irish legal professionals. While scholars have investigated such further academic studies in the fields of nursing, medicine, and other professions, there is limited research regarding further academic study undertaken by legal professionals. Focusing on the LLM ALP (Ire), this research seeks to better understand the motivations and other pertinent factors driving participants on the course. Based on the findings in this study, it appears that (i) there is significant unmet demand for further academic study opportunities for legal professionals in Ireland, and (ii) the LLM ALP (Ire) provides an opportunity for academic development that legal professionals demand. Although written independently of this study, the motivations identified by Boud and Tennant correlate with the responses of the LSI students:

*“Recent studies...show that the interests and motivations that lead to doctoral study are many and complex. To see the trajectories of candidates in terms of ‘research training’ or a vocational route to highly skilled work is to misjudge what attracts individuals to doctoral study. The desire for personal satisfaction and intellectual stimulation and for recognition and acknowledgement by others of unique and*

*sophisticated achievements is a central consideration.*<sup>72</sup>

Further research is warranted to understand the precise nature of the demand for the LLM ALP and how it contributes to the needs of the legal professionals who choose to complete the course. Additionally, future research could also provide insight into the potential for such postgraduate study to impact the developmental requirements of the legal community in general, and whether certain needs are better served than others, such as topical areas of study or particular roles in the legal profession. Likewise, this study is limited to Irish legal professionals; therefore, it is unclear whether a similar demand for postgraduate study exists in other jurisdictions, and if so, the precise nature of the demand in terms of mode of delivery, topical areas, methods of assessment, and other factors. Clearly, similarities exist between the study and practice of law at least among the common law jurisdictions. However, the distinct relationship between academic study, professional training, professional practice, CPD, and postgraduate study varies significantly from country to country. Further research is needed to determine if and how to interpret the results of this study in a comparative context, and whether any aspects can be extrapolated to hypothesise similarities in the UK, the United States, or other jurisdictions with shared common traditions. Given the various motivations for pursuing such postgraduate study and the complexities inherent in each jurisdiction with respect to study, training, and practice, there is a limit to the conclusions that can be drawn in an international perspective. Thus, there are rich opportunities for future research into comparative studies that more intensely consider such complexities regarding motivations, different legal roles, topical areas, and other factors that may differ among particular jurisdictions.

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<sup>72</sup> *Supra* n. 36, p. 295.

## APPENDIX: INTERVIEW QUESTIONS

Dear colleague,

We would appreciate if you would take a few minutes to complete this survey which attempts to analyse student motivations for attending our LLM Advanced Legal Practice. Your feedback will help us to ensure that we continue to meet the educational needs of our members.

The information provided will also be used for research purposes (including but not limited to academic papers or publications) and there is no obligation to participate in the survey if you do not wish to. We would reassure you that responses will be anonymised and will not be linked to the specific individual completing the survey in any way.

### 1. Which of the following describes your current status?

- Trainee solicitor
- 1-4 years' qualified as a solicitor
- 5-9 years' qualified as a solicitor
- 10-19 years' qualified as a solicitor
- 20+ years' qualified as a solicitor

### 2. Which of the following best describes your current work status?

- In private practice
- In-house solicitor
- Currently looking for work
- Retired
- Other (please specify)

### 3. Do you currently hold a primary undergraduate degree in law?

- Yes
- No
- If no please specify the subject level of your undergraduate degree?

### 4. Do you already hold a Masters level degree (legal or otherwise)?

- Yes
- No
- If yes, then please specify.

### 5. Why did you choose to do the LLM ALP? Please give details.

**6. Which of the following (you can choose any number) would you describe as an important motivation for you when choosing to attend the LLM ALP?**

- Academic curiosity
- To further my expertise in my existing area of practice
- To develop a new area of practice
- To enhance my employability
- The fact that my solicitor qualification provides part-credit for the Masters
- The fact that I can work at a time convenient to me (rather than having to attend set classes)
- Attainment of CPD credit

Other (please specify)

**7. Which of the following skills (you can choose any number) do you hope to enhance by enrolling on the LLM ALP?**

- Research skills
- Reading skills
- Writing skills

Other (please specify)

**8. Do you anticipate that the knowledge gained from the LLM will be applied in your current job?**

- Yes
- No

Give reasons for you answer.

**9. Do you believe that representative bodies currently provide enough academic opportunities for practitioners?**

- Yes
- No

Give reasons for your answer.



**10. Do you believe that academic institutions currently provide enough educational opportunities for practitioners?**

- Yes
- No

Give reasons for your answer.



**11. What educational opportunities would you like to pursue in the future? Please give details.**



Done