

Submission created from emailed submission

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To Whom It May Concern,

With respect to the above-mentioned subject, please find below my submission to the public consultation on legal education in Ireland. I am responding as a member of the public.

I should note that I was called to the Bar of Ireland in 2015 after completing the two year part-time course at the King's Inns. I intend to commence practising in September 2018 by completing my pupillage. My comments are therefore related to my experiences (and those of some of my peers) in qualifying as a barrister in Ireland under the current system.

Qualification requirements a barrier to entry:

I am strongly of the view that the current system by which barristers qualify in Ireland represents a significant, unjustified and disproportionate barrier to entry to the profession.

I understand that, given the public function served by barristers, there is a need to ensure that those entering the profession have some aptitude for it, and therefore a minimum level of quality is expected. This necessarily entails some level of barriers to entry. As you are aware, the minimum qualifications necessary at the moment are a law degree (or conversion course), a professional qualification from the King's Inns, and then vocational training through a pupillage. There is merit in all three aspects of the training to qualify as a barrister, and I understand that each serves a distinct purpose to prepare someone for practice. Nevertheless, as currently structured this training regime represents a systemic and disproportionate barrier to entry.

The academic aspect of training in Ireland (i.e. university degree in law, or law conversion course) is the most accessible, and has the highest number of providers. While there is a cost entailed in completing this training, it is the same as the cost for undertaking any other humanities university degree, with grants etc. available. There is (in general) adequate competition between accredited providers. The one exception to this is the law conversion course - the King's Inns exercises a monopoly position, and as far as I can see there is no good justification for this. Clearly the universities would be well placed to provide law conversion courses, in circumstances where they already offer full degree courses. I do not believe that they should be prevented from offering an accredited law conversion course that would allow someone with a non-law background to meet the academic requirements to begin qualifying as a barrister. The point of the academic qualification is to ensure that someone has an adequate grounding in the substance of the law and legal system, and this is not something in which the King's Inns should have a monopoly. As a point of reference, universities and others in the UK can offer the Graduate Diploma in Law (GDL) conversion course.

A similar argument could be made in respect of the professional training aspect of

qualification. Provided that another institution (e.g. a university) was able to offer training to the required standard (which could be checked by the LSRA), there is no reason why the King's Inns should retain a monopoly on providing this training. The situation should not be allowed to continue simply because it has always been the case (and therefore, by definition, the King's Inns is the only institution at present with experience in providing this training). Many of the universities have practising barristers working for them in other capacities, and I believe that they would be equally well placed to offer adequate training. I should be clear that I have no major issues with the training I received from the King's Inns. I generally found it to be of good quality and helpful in providing useful professional training. I simply believe that other institutions should be able to offer training that is as good, if they were allowed to do so. Having a monopoly over the training of barristers in Ireland means that there is no competition, and therefore there is no incentive to reduce pricing or improve the offering. Even in England and Wales, where a similar qualification system operates, there are four Inns of Court which introduces competition and more appropriate incentives for providers. I understand that the legal market there is larger, so the analogy is not perfect. Nevertheless, competition could be introduced in an appropriate and cost-effective way; for instance, universities could consider bundling 3/4 year academic qualifications with an optional additional year of professional training as a barrister for those that wish to pursue this option. Opening the market would at least allow other potential providers to innovate in how such training could be provided. It would also allow the course to be provided on-site in locations other than Dublin.

Finally, the vocational training through a pupillage is the most exclusionary of all of the barriers, and arguably is the least justifiable. Effectively, in order to qualify new barristers are asked to join the Law Library (and pay the relevant fee, which is not insignificant), and then to work on an unpaid basis for a year. I am aware that some Masters do provide a stipend, or pay the Law Library fee, but this is done on a voluntary basis. In training in any other profession, the trainee is paid something during the training. This payment can of course be calibrated to reflect the fact that the trainee is not yet fully qualified, and requires supervision to a greater or lesser extent. The current situation, which expects a trainee barrister to pay a fee to the Law Library for the opportunity to work unpaid for a year, is untenable. I should also note that I have found the selection of Masters for a pupillage to be incredibly opaque. The Law Library provides a list of names, which has improved recently in terms of the information provided (e.g. whether fees or a stipend is provided), but it still gives very little indication of who might be an appropriate Master. The choice of a Master can have a significant influence on one's future career, and it is very opaque at the moment. At least in a system where Chambers are available, or barristers were able to advertise somewhat more actively, it would be possible to judge the market and make an informed decision. At the moment, one needs to rely entirely on word of mouth. This seems to introduce a significant possibility of market failures - it in no way guarantees that appropriate pupils are placed with appropriate Masters. It should be reformed and formalised in some way.

Summary and Suggestions:

While the basic structure of qualifying as barrister in Ireland is sound (academic, professional, and vocational training), the current system constitutes a disproportionate and unjustified barrier to entry. The system is costly, in part given a

lack of competition and innovation. The system is discriminatory, since it restricts professional training to those able to attend courses in Dublin. The system is opaque, since the choice of Master at vocational stage is almost entirely based on word of mouth.

A number of changes could be considered to improve the current situation.

Firstly, the monopoly of the King's Inns with respect to the law conversion course, and the professional training course, should be abolished. Other providers should be subject to robust quality checks, which could be carried out by the LSRA. However, the entry into the market of other providers would introduce competition and stimulate innovation.

Secondly, in the event that wider changes are not introduced to the barrister profession (e.g. legal partnerships/chambers, limited capacity to advertise etc.), the existing process of pupillage should be reformed. A minimum stipend of at least the statutory minimum wage should be payable, potentially from a central pot of funds which could be paid into by all practising barristers, or all barristers who take a pupil. This would ensure that practising barristers are not disincentivised from taking on a pupil by reason of cost, which would be borne by the central pot. It would recognise that those at the top of the profession have a duty to assist in funding the training and education of future generations of barristers. There should be a clear process for seeking and receiving a Master for a pupillage via a central portal (rather than casual direct contact). This could entail pupils uploading CVs (possibly even on an anonymous basis to introduce additional impartiality), and Masters providing (only within that website) an indication of their practice and the work that the pupil would be doing on their behalf.

Many thanks for considering the above; I am happy to expand on any of the points raised.

Kind Regards,
Chris