

# **The Legal Executive and the Irish Institute of Legal Executives**

## **An Introduction**

The Irish Institute of Legal Executives is the professional body representing over a thousand Legal Executives in Ireland. The aim of the Institute is to provide a system of training and examination so that Legal Executives have a recognised legal professional qualification.

The Institute, in conjunction with Griffith College, have developed a course specifically for the Legal Executive. The Diploma in Professional Legal Studies and Practice (HETAC Level 7) is a two year course which is designed to give the Legal Executive the necessary academic and practical skills for the legal office.

Legal Executives in Ireland are lawyers (persons who practise or studies law), normally employees, but some are self-employed in private practice providing legal services to Solicitors and others. Legal Executives are the third tier - Barristers, Solicitors and Legal Executives.

Most Legal Executives specialise in a particular sector of law such as:

- **Criminal Litigation (Defence and Prosecution)**
- **Civil Litigation (such as personal injury, debt recovery and other such actions in the Civil Courts)**
- **Family Law**
- **Conveyancing**
- **Public Law/Constitutional Law (such as legal work proper to a Government Department and a Local Authority)**
- **Corporate Law (Company and Commercial Law)**
- **Private Client (such as banking)**
- **Probate**
- **Legal Practice (such as legal practice management, legal costs and court, registration matters)**
- **Mediation**
- **Trademark Law**
- **General Advisory**

Legal Executives are employed in the offices of the Attorney General, Director of Public Prosecutions, Chief State Solicitor, Revenue Solicitors Office, Government Departments, semi-state companies, Banks, and private law firms.

The status of the Legal Executive is becoming more significant as a consequence of the growing legal duties and obligations on each person in our society.

### **Levels of Academic Qualifications for existing Members**

- University Law Degree/Diploma in Law or Legal Studies from the Educational Bodies recognised by the Institute.
- Affidavit of Fitness and Certificate of Attendance from certifying a minimum period of ten years from employer(s) on the Institute's standard form.
- Submitted paper on specialist subject approved by Council for publication to existing members.
- Ten years continuous full membership of the Institute.
- Oral interview with two serving Council Members (if requested by Council)
- Completed application for approval by Council.

### **LEVELS OF MEMBERSHIP**

The Institute offers different levels of membership to accurately reflect the academic achievement and level of experience of each member. This different category is outlined below. Members of the Institute can be identified in their employment by the initials after their name and their level of expertise.

### **Fellowship Members F.I.I.L.Ex.**

This category of Membership represents founder members. Per Special Resolution, this category also applies to anyone who sits on Council for three years or more from this date. They are then awarded the title of Fellow.

### **Honorary Fellowship Members F.I.I.L.Ex. (Hon)**

Awarded as proposed to Council.

### **Life Member**

Council award for special services.

### **Senior Legal Executive Member S.I.I.L.Ex.**

This level of membership represents a person who has reached a defined level of expertise, academic achievement and practical experience. The requirements for this level of membership are as follows:-

### **Legal Executive Member M.I.I.L.Ex.**

This level represents a person who has reached the required standard of membership, and has been awarded full membership. The requirements for this level of membership are as above.

### **Associate Member A.I.I.L.Ex.**

This level of membership represents a member who can be either a Law Clerk, Legal Secretary or other person with a reasonable amount of practical experience in a Legal Environment whose duties extend beyond secretarial or administrative in nature with a sound knowledge of practice and procedure as would be expected of a Law Clerk and who is committed to an acceptable course of law studies. An Associate member may attend and speak at general meetings, but is not entitled to vote. Associates are accepted at the discretion of the board. The requirements for this level of membership are as above.

### **Student Legal Executive Member**

A student member may attend and speak at general meetings, but is not entitled to vote. The requirements for this level of membership are as above.

### **Code of Conduct for the Institute of Legal Executives**

All members of the Irish Institute of Legal Executives are bound by the Institutes Code of Conduct, said code is attached this submission at Appendix 1. The purpose of the code is explained at A-1 to the code:

*“A-1 All Institute members of whatever grade of membership should be concerned with the maintenance of good practice within the profession and must commit themselves to this Code of Professional Conduct, which sets out the standards of professional conduct to which members must adhere. All Institute members shall observe and become bound by its Memorandum and Articles of Association, Code of Rules and Code of Conduct. It is the responsibility of each and every member to read, understand and be familiar with these documents.”*

Section E of said code gives a guide to good practice for members of the Institute:

#### ***“E. GUIDE TO GOOD PRACTICE FOR MEMBERS OF I.I.L.EX.:-***

*Generally:-*

*E-1 The Legal Executive should only accept work he/she is competent to handle and perform without fear or favour but where advisable obtain additional expertise or guidance from appropriately qualified persons. Should the Legal Executive consider it appropriate to do so, he/she may recommend or introduce clients to another lawyer.*

*E-2 The Legal Executive should endeavour to maintain the highest level of legal knowledge within his/her chosen field and to that end should be aware of changes in the law or legal practice. The Legal Executive shall attend, where possible, as many courses of education available in further pursuance of ongoing legal knowledge.*

*E-3 The Legal Executive, although acting under the instructions and supervision of the Solicitor Principal, should consider himself/herself accountable for his/her own work and ensure that those he/she supervises are equipped to carry out their duties in a competent manner.*

*E-4 The Legal Executive should ensure that he/she is familiar with the Solicitors Acts, solicitors professional practice, conduct and discipline regulations, solicitors accounting regulations, guide to professional conduct of solicitors and any further regulations, as from time to time be in force and comply with those that are relevant to his/her work.*

*E-5 When acting on the instructions of his/her Solicitor Principal, when dealing with clients in any matter, the Legal Executive should advise the client of his/her qualification as a Legal Executive and position in relation to the organisation within which he/she is working. The client should also be made aware of the effect of costs upon any course of action chosen. He/she must advise on the availability of any right of the client to apply for legal aid, if applicable”*

### **Recent History**

Over the past few years the Institute has worked with Griffith College in developing a Diploma Course in Legal Studies and Practice (HETAC LEVEL 7 SPECIAL PURPOSE AWARD). The aim of the course is to provide students with an academic grounding in the traditional core legal subjects, whilst also focusing on the practical application of core legal principles in the work environment. The study of legal practice and procedure is undertaken specifically with the role, duties and responsibilities of the Legal Executive in mind.

While the Irish Institute of Legal Executives works closely with Griffith College, the institute recognises qualifications from other third level institutions in regards membership criteria for the Institute.

The Irish Institute of Legal of executives for many years have been lobbying for statutory recognition in line with its equivalents in the UK. It has been the case that while the institute represents some members, that they are employees working in Legal Offices as Legal Executives, who are not members of the

Institute. For many reasons these employees who would have either the Legal qualifications / Experience have not chosen to take up membership. The Bar Council and the Law Society have made it a strict condition of their continued memberships, that a number of CPD points must be attained. If a practitioner does not meet the CPD criteria it is open to the said body to restrict or revoke the members practising certificate.

It is the desire of the Institute of Legal Executives due to evolve to a similar system; this cannot be done until Legal Executives obtain statutory rights to practising Barristers and Solicitors. This will take account of the substantial role played by Legal Executives in the Legal Services Profession.

#### *“General Principles of Reform*

- Almost everyone in Ireland requires legal services at some time in their lives. Legal services may be required for the purposes of buying a home, managing an aspect of business, to resolve a dispute, to collect a debt or to prepare a Will prior to one’s death. Access to legal services is thus of major significance in society.*
- Irish consumers of any legal services should have a choice. Choice, competition and the concept of facilitating the availability of competent providers of legal services should be the cornerstones of Government policy in the legal services sector.*
- The demand for legal services has grown considerably in Ireland in recent years.*
- Legal services make a significant contribution to the Irish economy. Affordable law is a contributor to a healthy and vibrant economy.*
- In the context of this paper and any proposed reform of the code of*

*legislation regulating the provision of legal services, a core principle of the Irish Institute of Legal Executives which is shared with the stakeholders is support for the “rule of law”. The “rule of law” has been defined as meaning that the law is above everyone and applies to everyone. The “rule of law” - both an ancient ideal and a modern concept of governance - is stated to apply to the governors and the governed, rulers and the ruled by the adherence to the concepts that no one is above the law, no one is exempted from the law, and no one can grant exemption to the application of the law.*

- The “rule of law” lies at the heart of the concept that it is a fundamental tenet of our society and democracy that all members of society have access to justice.*
- The concepts of the “rule of law” and the right of all to access to justice are informed by the principle of protecting and promoting the best interest of consumers of legal services.*
- The manner in which the foregoing principles are implemented is inspired by a philosophy which favours competition. In effect, the regulation of legal services must ensure the objective that there are no unnecessary or unjustified restrictions on the supply of legal services.*
- Irish competition policy, in general, is based on the principle that a competitive market is best for the economic well-being of the nation and its people. A satisfactory well-functioning market modelled on policies promoting competition should provide incentives for increased*

*productivity. This should result in lower prices for consumers and wider choice. This paper and the proposals for reform set out by the Institute are based on pro-competition policies.*

- *The principles set out above were encapsulated in the Report of Study into Restrictive Practices in the Legal Profession published by the Fair Trade Commission of Ireland in 1990. The Commission repeated its strong view that competition between the suppliers of professional services, as with suppliers of goods and other services, was desirable in the public interest. The Commission considered that there was a fundamental requirement that the public should have an adequate supply of legal services, of sufficient quality, with a wide degree of choice among practitioners, and delivered efficiently at a reasonable price. It was in the public interest that suppliers of legal services should maintain a high degree of competence, conduct, integrity and independence for the protection of consumers. The Commission did not consider that there was any fundamental incompatibility between the maintenance of high standards by lawyers and subjecting the providers of legal services to the ordinary market forces of free competition.*

- *The Competition Authority in its report (published December 2006) made 29 recommendations to enhance competition in legal services. It found that the legal profession was in need of substantial reform. The profession had many unnecessary and disproportionate restrictions on competition; these need to be removed so that consumers can benefit*



*from greater competition in legal services. The EC ECB and IMF in their Memorandum of Understanding on Specific and Economic Policy 2011 - 2015 recommends the removal of restrictions to competition in sheltered areas including the legal profession.*

- The Irish Institute of Legal Executives submits this paper for the purposes of contributing to an informed debate assisting the policy of Government and other stakeholders on the development of a more flexible and dynamic legal sector which fosters competition and choice for consumers of legal services.*
- The facilitation of greater competition in the legal services sector as advocated in this paper should lead to new channels for the delivery of legal services ensuring greater choice for consumers, more competition in price and greater access to justice.*
- The potential increase in the number of suppliers of legal services should facilitate increased training opportunities and employment for law students and others.”*

During the Dail debate on the 22<sup>nd</sup> April 2015 of the Legal Services Regulation report stage (resumed) and final stage. The then Minister for Justice Frances Fitzgerald responding to questions in regards the Legal Executives made the following statements.

*“I am conscious that there are potential benefits and efficiencies to be found for consumers and for the legal services sector in a possibly more developed role for legal executives and other potentially more competitive providers of legal services in the future.*

The minister further states:

*“The regulation of Legal Executives and other potentially more competitive providers of legal services is something I would consider appropriate for consideration by the new Legal Services Regulatory Authority at the appropriate time.*

### **Conclusion**

Legal Executives are an integral part of the Irish Legal System. The Irish Institute of Legal Executives want to play a full part in maintaining and improving the level of service to its employers and end users. In granting statutory recognition, it will ensure that Legal Executives will be obliged to further their education development in line with other colleagues in the Legal profession. The Irish Institute of Legal Executives has the structure in place through its membership, education and code of conduct policy to regulate, when recognition will be granted.

Gabriel J Canning FIILEX, Commissioner for Oaths

Chairman of the Irish Institute of Legal Executives