



THE BAR  
OF IRELAND

*The Law Library*

**SUBMISSION TO THE  
LEGAL SERVICES REGULATORY AUTHORITY  
ON THE ADMISSION POLICIES OF THE LEGAL  
PROFESSIONS AS REQUIRED BY SECTION 33 OF THE  
LEGAL SERVICES REGULATION ACT 2015**

January 2024

## 1. INTRODUCTION

The Council of The Bar of Ireland is the accredited representative body of the independent referral Bar in Ireland, which consists of members of the Law Library and has a current membership of approximately 2,150 practising barristers. The Bar of Ireland is long established, and its members have acquired a reputation amongst solicitors, clients and members of the public at large as providing representation and advices of the highest professional standards. The principles that barristers are independent, owe an overriding duty to the proper administration of justice and that the interests of their clients are defended fearlessly in accordance with ethical duties are at the heart of the independent referral bar.

The Council has prepared these submissions at the request of the Legal Services Regulatory Authority who are in the process of preparing a **fifth** annual report for the Minister on the admission policies of the legal professions in accordance with section 33(1) of the Legal Services Regulation Act 2015.

The submission follows the format of the information sought by the Legal Services Regulatory Authority as set out in the correspondence of 14<sup>th</sup> December 2023:

**Section 2** - Specific data requested by the LSRA;

**Section 3** - Demand for barrister services in 2023;

**Section 4** - Costs of legal services in 2023 and whether these were available at a reasonable cost to consumers;

**Section 5** - The standard of education and training for persons admitted to practice;

**Section 6** - The extent to which the admissions policies of the legal professions are consistent with the public interest in ensuring the availability of legal services at a reasonable cost, taking into account the demand for services and the need to ensure adequate education and training standards for persons admitted to practice;

**Section 7** - Any other issues which have a bearing on the admission policies of the legal professions and the assessment to be conducted under section 33(1)(c). Respondents may also wish to comment on any other issues in relation to the operation of the Act including the objectives of the Authority under section 13(4) of the Act, which are:

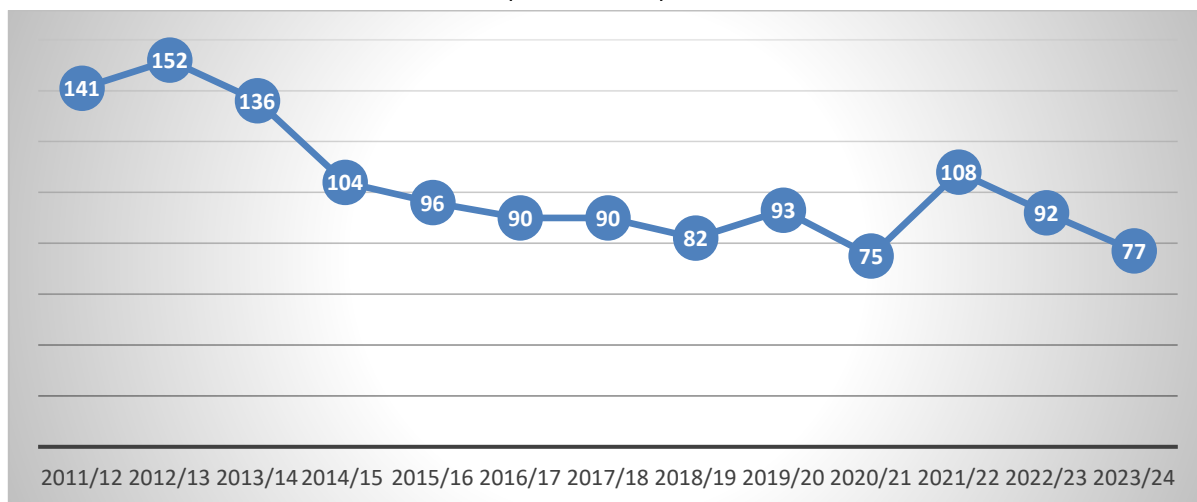
- a) protecting and promoting the public interest,
- b) supporting the proper and effective administration of justice,
- c) protecting and promoting the interests of consumers relating to the provision of legal services,
- d) promoting competition in the provision of legal services in the State,
- e) encouraging an independent, strong and effective legal profession, and
- f) promoting and maintaining adherence to the professional principles of independence and integrity, acting in the client's best interests, compliance with duties owed to the court and confidentiality.

## 2. SPECIFIC DATA REQUESTED BY THE LSRA

### 2.1 The number of members who joined the Law Library in October 2023.

A total of 77 new members joined the Law Library in October 2023.

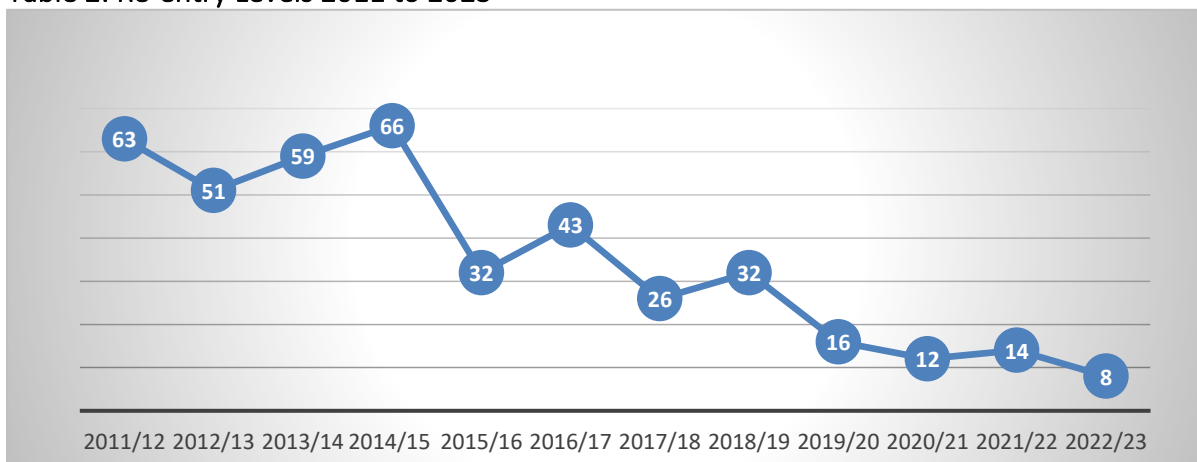
Table 1: Number of New Entrants 2011/12 to 2023/24



### 2.2 The number of barristers who re-entered membership of the Law Library during the legal year 2022 - 2023.

During the legal year 2022/2023 (October 2022 – September 2023), there were 8 barristers who re-entered membership of the Law Library.

Table 2: Re-entry Levels 2011 to 2023



### 2.3 The number of barristers who commenced pupillage in 2023, with a breakdown by year called to the Bar, gender, age and home location.

Of the 77 who joined membership of the Law Library, 72 commenced their 12-month period of pupillage and 5 were applicants from another jurisdiction who were not required to undergo a period of pupillage.

According to the King’s Inns, the total number of barristers called to the Irish Bar in 2023 was 163. Of the 72 new members who commenced a period of Pupillage in October 2023, 56 (73%) were called to the Irish Bar in 2023.

**TABLE 3: MEMBERS (72) WHO COMMENCED PUPILLAGE IN 2023**

<b>AGE RANGE OF 72 WHO PUPILLED IN 2023</b>	<b>20 - 30</b>	<b>31 – 40</b>		<b>41 – 50</b>		<b>51+</b>	
	36	18		8		10	
<b>YEAR OF CALL OF 72 WHO PUPILLED IN 2023</b>	<b>2010</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>
	1	1	1	2	1	11	56
<b>GENDER OF 72 WHO PUPILLED IN 2023</b>	<b>MALE</b>			<b>FEMALE</b>			
	32			40			
<b>LOCATION OF 72 WHO PUPILLED IN 2023</b>	Based on the information sought at application stage, 56% provided a home address indicating that they resided in Dublin with the remainder providing a home address outside of Dublin.						

**TABLE 4: MEMBERS (5) WHO JOINED FROM ANOTHER JURISDICTION IN 2023**

<b>AGE RANGE OF 5 OTHER JURISDICTION IN 2023</b>	<b>20 - 30</b>	<b>31 – 40</b>	<b>41 – 50</b>	<b>51+</b>
	0	3	1	1
<b>YEAR OF CALL OF 5 OTHER JURISDICTION IN 2023</b>	<b>2018</b>	<b>2019</b>		<b>2020</b>
	1	2		2
<b>GENDER OF 5 OTHER JURISDICTION IN 2023</b>	<b>MALE</b>		<b>FEMALE</b>	
	4		1	
<b>LOCATION OF 5 OTHER JURISDICTION IN 2023</b>	All are resident outside of Dublin.			

#### 2.4 The number of barristers who ceased membership of the Law Library during the legal year 2022-2023 and the reasons provided for cessation of membership.

During the legal year 2022/2023 (October 2022 – September 2023) **100** members ceased membership of the Law Library. A breakdown of the reasons for leaving is set out in the table

below:

**TABLE 5: BREAKDOWN OF REASONS FOR CESSATION OF MEMBERSHIP 2022/2023**

REASON FOR LEAVING	NUMBER
Deceased	3
Excluded Arrears	7
Excluded PII	5
Judge	15
Retired	16
Personal	15
Work Elsewhere	19
No reason given	20
<b>TOTAL</b>	<b>100</b>

For context, the table below sets out the number of members who left the Law Library during the period 2012/2013 – 2022/2023.

**TABLE 6: NUMBER OF MEMBERS LEAVING 2012/13 - 2022/2023**

YEAR	NUMBER LEAVING
2012/13	152
2013/14	150
2014/15	141
2015/16	105
2016/17	179
2017/18	128
2018/19	109
2019/20	122
2020/21	91
2021/22	140
<b>2022/23</b>	<b>100</b>

### **2.5 The total number of Law Library members at 31 December 2023**

The total number of members of the Law Library at 31 December 2023 was **2,131**.

### **2.6 Have there been any changes to the admission policies of the Bar of Ireland during 2023?**

There have been no changes to the admission policies to enter membership of the Law Library in 2023.

### 3. DEMAND FOR BARRISTER SERVICES IN 2023

As indicated in our previous submissions, The Bar of Ireland does not hold or collect information on the level or demand for barristers' services in the **private sector**. Our 2020 submission provided detail in relation to the services procured by various **state agencies** that gave some level of indication of the demand for barristers' services in the **public sector** – see section 4 of the February 2020 submission.

In February 2023, the Council welcomed the publication of the [Report of the Judicial Planning Working Group](#) and the recommendations within. The appointment of additional judges across almost all jurisdictions is very welcome, as is the recommendation for increased Master and Registrar appointments. The increase in judicial numbers will positively impact on the progression of various lists in a timely fashion and the demand for the services of barristers. The effectiveness of the expansion of judicial numbers to meet future demand, will be defined by the resourcing around the additional appointments and The Bar of Ireland will continue to work closely with the Courts Service and the Judiciary to implement the recommendations in the Report.

### 4. COSTS OF LEGAL SERVICES IN 2023

As noted in our submission last year, Chapter 9 of the Kelly Report addresses litigation costs<sup>1</sup> and notes that the Review Group had examined various options by means of which the mandate given to it to recommend a reduction in levels of litigation costs might be achieved. However, the Group was unable to reach a consensus regarding recommendations on how to reduce litigation costs. A majority of the Group members recommended the drawing up of non-binding guidelines for costs levels, while a minority of Group members recommended a table of maximum costs levels be prescribed by a new Litigation Costs Committee, which could be derogated from in exceptional circumstances.

Notwithstanding the majority recommendation of the Review Group, the Justice Action Plan goes on to state that work will commence *'to introduce new scales of legal costs which would be independently drawn up, in order to reduce legal costs and to provide greater certainty to the users of legal services in relation to cost.'* The Department will *'complete a detailed examination of the recommendations contained within the Peter Kelly report on legal costs. As part of this work, we will carry out a detailed economic and legal evaluation, which will include examining making such scales binding, except where both parties agree to opt out'*. Indecon economic consultants were appointed by the Department of Justice in December 2021 to undertake this economic evaluation. The Bar of Ireland in conjunction with the Law Society made a detailed submission in this regard in February 2022 that strongly refutes assertions

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<sup>1</sup> See pages 265 - 325

made by a number of bodies that legal costs in Ireland are high<sup>2</sup>. Our submission undertook a detailed analysis of the various reports published over the past 20 years and demonstrated that the evidential basis for claims that Ireland is a high legal cost jurisdiction is very limited and that there are considerable questions to be raised on the assertion that Ireland is a high legal cost jurisdiction.

The Bar of Ireland and the Law Society also commissioned an independent report to conduct an economic evaluation of options to control litigation costs and this report was also submitted to Indecon and the Department of Justice. This report provided further in-depth analysis of legal costs in Ireland<sup>3</sup>.

In the view of The Bar of Ireland, the most optimal manner to positively impact on legal costs is through a combination of four measures:

1. Increased investment in the justice system, in particular the number of judges and support staff, better case management and adoption of technology.
2. Investment in effective civil legal aid to ensure access to justice for all regardless of means.
3. The introduction of non-binding guidelines in respect of legal costs.
4. A reduction in state-imposed revenue on a Bill of Costs.

The publication of the DOJ Indecon evaluation is awaited.

## 5. THE STANDARD OF EDUCATION AND TRAINING FOR PERSONS ADMITTED TO PRACTISE

The primary focus of The Bar of Ireland in the education and training of barristers is in our educational offerings available through the Continuing Professional Development (CPD) programme. Our submission over the last two years summarised the introduction of a new competency based CPD Scheme that commenced in October 2021. The new framework adopts a holistic view of the knowledge, skills and abilities (i.e. competencies) relevant to effective practice as a barrister. Members are required to consider the competencies within each of the four competency framework domains and undertake an activity relevant to a competency for each domain on an annual basis. We are now in the third year of the new Scheme and the response from members has been very positive with very high levels of compliance with the new requirements.

While clients can be assured of the commitment of barristers who are members of the Law Library to ensuring their continued competence, **for those barristers who are on the LSRA Roll**

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<sup>2</sup> <https://www.lawlibrary.ie/app/uploads/securepdfs/2022/02/FINAL-SUBMISSION-TO-INDECON-210222.pdf>

<sup>3</sup> <https://www.lawlibrary.ie/eyreport-3/>

**of Practising Barristers who are not members of the Law Library, the same level of assurance in relation to their competence cannot be provided.** As noted in our previous submissions, this represents a regulatory risk and one that should be prioritised by the LSRA in the interest of protecting and promoting the interests of consumers relating to the provision of legal services as provided under section 13(4)(c) of the Legal Services Regulation Act 2015.

## **6. THE EXTENT TO WHICH ADMISSION POLICIES OF THE LEGAL PROFESSION ARE CONSISTENT WITH THE PUBLIC INTEREST IN ENSURING THE AVAILABILITY OF LEGAL SERVICES AT A REASONABLE COST, TAKING INTO ACCOUNT THE DEMAND FOR SERVICES AND THE NEED TO ENSURE ADEQUATE EDUCATION AND TRAINING STANDARDS FOR PERSONS ADMITTED TO PRACTISE**

As noted in our previous submissions in response to this annual consultation, in June 2021 the Council responded to a public consultation initiated by the Minister for Justice who requested the Authority to *‘consider the economic and other barriers faced by young barristers and solicitors following their qualification from the King’s Inns and Law Society respectively and to submit a report with recommendations for her consideration’*. In making her request to the LSRA at the time, Minister Helen McEntee stated that this research was part of her plan to increase diversity across the justice sector including the legal professions. The LSRA has been asked to pay particular attention to equity of access and entry into the legal professions and the objective of achieving greater diversity within the professions, and to make recommendations for change. The Minister asked the Authority to examine:

- The remuneration of trainee barristers and solicitors;
- The other costs associated with joining each profession;
- The information available to prospective trainee barristers and solicitors on available masters and solicitors firms; the information available on the terms and conditions available, and how they are selected;
- Any other barriers faced by young barristers and solicitors, including the ability to take maternity leave.

In June 2021, the Council put forward a submission containing eleven recommendations<sup>4</sup> that could address the challenges in building and maintaining a career at the Bar and support the goal of achieving greater diversity within the profession. We await with interest the publication of this report by the LSRA which is long overdue given that the public consultation occurred over 30 months ago.

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<sup>4</sup> <https://www.lawlibrary.ie/app/uploads/securepdfs/2021/06/Submission-to-the-LSRA-under-Section-34-of-the-2015-Act-June-2021.pdf>



## 7. ANY OTHER ISSUES

In October 2023, the Council welcomed the increase in funding for professional fees for criminal barristers [announced by Government as part of Budget 2024](#) which is an important and necessary step in addressing the fees for criminal barristers that were more than 40% below 2002 levels in real terms, following a range of cuts applied during the financial emergency. The lack of any progress on restoration of professional fees of criminal barristers has led to a growing retention crisis at the criminal bar and has been detrimental to frontline advocacy services. A Government commissioned review in 2018 acknowledged that the reversal of the cuts imposed on barristers following the financial emergency in 2008 was justified given the level of reform and flexibilities delivered by the profession. The allocation announced by Government in October 2023 represents an unwinding of the 10% cut that was uniquely applied to barristers in 2011. This is a welcome and important first step. However, even after this 10% is restored, the full range of FEMPI-era cuts that were applied across the public sector, will continue to apply to criminal barristers.

The Minister for Justice also announced the commencement of a process to review the structure and level of fees paid to criminal barristers. Payment structure and fee rates will require careful consideration to ensure that criminal barristers across all jurisdictions, including the District Court, are treated fairly, and that must include the continued unwinding of the cuts that remain which date from 2009 and 2010, as well as the restoration of the link to public pay agreements which was unilaterally severed by Government in 2008. Practicing criminal law must represent a sustainable career choice if the rights of victims of crime and of those accused of serious crime are to be protected and vindicated. It is a matter of fundamental importance for our democracy that the rights of those who engage with the criminal justice system are defended by skilled and experienced barristers, and that work deserves fair recompense.

## 8. CONCLUSION

The Council of The Bar of Ireland welcomes the opportunity to respond to this consultation on the admission policies of the legal professions in accordance with section 33(1) of the Legal Services Regulation Act 2015 and is available to provide any further insight and clarity as may be required.