



THE BAR  
OF IRELAND

*The Law Library*

**Council of The Bar of Ireland  
Submission to the  
Legal Services Regulatory Authority  
Barriers for Early Career Barristers and  
Increasing Diversity**

**June 2021**

## 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.

## Scope of the Consultation

The Authority is conducting a public consultation under section 34(1)(d) of the Legal Services Regulation Act 2015 as part of its preparation of a report to the Minister for Justice who has 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.”***

The Minister has stated that this research is part of her plan to increase diversity across the justice sector including the legal profession. The Minister has 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.

The Minister has also asked that the Authority pay particular attention to equity of access and entry into the legal professions, and the objective of achieving greater diversity within the professions.

The Authority has invited submissions in respect of the economic and other barriers and challenges faced by solicitors and barristers at the start of their careers and also potential solutions to include the following issues:

1. The **key economic and other barriers to entry** to the professions of solicitor and barrister, their impact in terms of equity of access and entry into the legal professions and the objective of achieving greater diversity within the professions.
2. Proposals on how **key economic and other barriers to entry** to the professions of solicitor and barristers may be addressed in order to improve equity of access and entry into the legal professions and achieve greater diversity within the professions, and by whom.
3. The **other costs associated** with joining each profession.

4. The **quality of apprenticeship selection processes** – including the information available to prospective barristers on available masters for their pupillage year, and to prospective trainee solicitors on training firms – and any impact this may have on the objective of increased diversity.
5. The **availability and quality of “on-the-job” mandatory apprentice training** for solicitors and the “devilling” programme for barristers. This includes “terms and conditions,” remuneration, arrangements for supervision and oversight, support and evaluation, and any impact the existing availability and quality of this training/experience may have on access and diversity.
6. The extent to which **existing arrangements for the remuneration of trainee barristers** during the pupillage year poses a barrier in terms of equity of access to and diversity within the barrister profession.
7. The extent to which **existing arrangements for the remuneration of trainee solicitors** during their in-office training poses a barrier in terms of equity of access to and diversity within the solicitor profession.
8. The arrangements in place and provision for **maternity/adoptive leave for solicitors and barristers** and the extent to which availing of such leave may have implications for career progression.
9. The **key economic and other challenges for early career** solicitors and barristers (up to seven years post-qualification experience) in **maintaining and building their careers** in the professions, and their impact in terms of the objective of achieving greater diversity within the professions.
10. Proposals on how these **key economic and other challenges for early career** solicitors and barristers may be addressed, and by whom, in order to achieve greater diversity within the professions.

## Approach to the Consultation

In advance of providing a detailed response to this consultation and arising from the manner in which the consultation is framed, the assessment of barriers and challenges facing entrants must be considered in light of the self-employed nature of the profession. It can often be the case that the structure of the independent referral bar model is not fully understood by those outside of the profession. Our response to this consultation is set out from the perspective of the independent referral bar only and the following points should be borne in mind:

- The Council of The Bar of Ireland is the accredited representative body for members of the Law Library who have chosen to practice under the model of an **independent referral bar**.
- Members of the Law Library are all sole trader, **self-employed professionals**.
- Membership of the Law Library is a **choice**, it is not compulsory.
- Qualified barristers may choose to practice under **other service delivery models**, such as Legal Partnerships, as in-house counsel or through the employ of the State. However, they cannot retain their membership of the Law Library should they opt to practice under any of these alternative models as they are not compatible with the ethics and values of an independent referral bar.

The Council has prepared this submission in response to the scope of the consultation outlined above under the following headings:

1. Remuneration of barristers during pupillage
2. Information for prospective pupils/devils on available Masters
3. Ensuring the quality and standards of the Master/Pupil arrangements
4. Other costs associated with joining the profession
5. Maternity/Adoptive leave at the Bar
6. Developing an equal, diverse and inclusive culture at the bar
7. Challenges for early career barristers in maintaining and building a career at the Bar
8. Proposals for consideration

## 1. Remuneration of barristers during pupillage

There are generally three stages to qualifying as a barrister who wishes to practice under the independent referral bar model:

*Academic:* You must obtain a Law Degree from a university or other approved third level institution. If you have a non-law degree, you can study for a two-year Diploma in Legal Studies at the King's Inns instead of a third level law degree. Students over 25 with no degree can also take the Diploma course.

*Vocational:* When you have your law degree or diploma, you must pass an entrance examination (usually 5 legal subjects) into the King's Inns. If you pass, you may enrol in a one-year fulltime course or a two-year part-time course in the King's Inns leading to the degree of Barrister-at-Law. The emphasis in these courses is on advocacy, procedure and practical matters.

*Pupillage:* Having passed the Barrister-at-Law degree from the King's Inns, newly qualified barristers are 'Called to the Bar' by the Chief Justice of Ireland and then proceed on to a period of pupillage with a suitably qualified barrister in an established practice for a period of 12 months. Pupillage, often referred to as devilling, is the final stage of training required under membership of the Law Library, in which practical training is supervised by an experienced member of the Bar who is listed on the 'Register of Masters' maintained by The Bar of Ireland. The requirement to undertake a period of pupillage provides additional benefits to newly qualified barristers by facilitating access to a network of solicitors who may instruct them during their career at the Bar.

The aims of pupillage are:

- to train and prepare pupils for practice as an independent barrister at The Bar of Ireland as part of a supervised practical training year.
- to assist the pupil in establishing the skills necessary for professional practice as an independent barrister.
- to enhance and build on, by way of practical experience, the knowledge and skills gained at the academic and vocational stages of education.
- to assist in the development of the pupil's professional and ethical approach to practice as a barrister, in accordance with the Code of Conduct, the customs and standards of the Bar, and the LSRA Code of Practice.
- to develop and encourage the pupil's proficiency in all areas of advocacy, oral and written, including by: (a) providing opportunities to practice and/or to observe other advocates in court or other tribunals/dispute resolution fora. (b) providing opportunities to develop drafting skills including opinions, pleadings and submissions.
- to educate the pupil in how to deal with relationships between barristers, solicitors and clients including by encouraging them to attend consultations or settlement meetings.
- to develop the pupil's application of effective research skills and to develop the pupil's analytical skills.

The Code of Conduct for The Bar of Ireland provides that the duties of masters include the duty of teaching pupils the rules and customs of the Bar, and ensuring that they have read and understand the Code and what constitutes proper professional practice by barristers.

During the 12-month period of devilling, the nature of the relationship between master and pupil is one that is immersed in the further education and training of the newly qualified barrister. It is not an employer/employee relationship and consequently, the question of remuneration, insofar as it is meant as a salary or a wage, does not arise. Furthermore, the structure of the independent referral bar that is founded upon a set of values and ethics, where each barrister is a self-employed professional, does not lend itself to an employer/employee relationship.

## 2. Information for prospective pupils/devils on available Masters

It is the responsibility of a prospective pupil to review the Register of Masters that is located on The Bar of Ireland website<sup>1</sup> and make contact with any individual on that list to establish their availability and compatibility. A master is not obliged to take a pupil just because he/she has been asked to do so, though many masters adopt this practice. It is recommended that a master should meet with the prospective pupil before entering the arrangement and ensure that there is a mutual understanding of what the relationship would involve, the types of practical learning opportunities which would be available, and whether it would be of mutual benefit. Clarifying expectations at the outset assists in the smooth operation of the relationship for the year.

There are currently 169 barristers listed on the Register of Masters and The Bar of Ireland provides information on individual masters including their availability, their area of practice and whether or not they practice on Circuit.

An average of 80 new barristers enter membership of the Law Library at the commencement of each legal year in October. This equates to just under 4% of the annual membership of the Law Library. In contrast with other common law jurisdictions, there is a sufficient supply of masters available in Ireland to meet the graduate numbers emerging from the King's Inns to facilitate newly qualified barristers to complete their year of pupillage. According to figures from the Bar Council of England & Wales, in 2021, 3,301 candidates applied for just 246 pupillage positions through the pupillage 'gateway'. In total, 20,647 applications were made through the online gateway, with candidates doing an average of six applications.<sup>2</sup> This figure equates to only 1.7% of the total self-employed barrister population in England & Wales<sup>3</sup>. In Northern Ireland, a cap of 20 is placed on the number that can undertake pupillage in any year.

---

<sup>1</sup> <https://www.lawlibrary.ie/membership/apply-to-join-the-library/regulations.aspx>

<sup>2</sup> <https://www.thetimes.co.uk/article/how-to-get-a-bar-pupillage-persistence-and-a-bit-of-luck-flq7rnvbt?t=ie>

<sup>3</sup> <https://www.barstandardsboard.org.uk/news-publications/research-and-statistics/statistics-about-the-bar/practising-barristers.html>

### 3. Ensuring the quality and standards of the master/pupil arrangements

The master/pupil relationship is overseen by the Education & Training Committee, a permanent committee of the Council of The Bar of Ireland. In order to be registered as a master with The Bar of Ireland, an application must be submitted to the Education & Training Committee prior to being included on the register. Barristers who are Junior Counsel may be entered on the Register of Masters if they have completed seven years practice and fulfil the necessary criteria. A copy of the application form is located in Appendix 1.

The decision to admit a practitioner to the Register is taken when the Committee is satisfied that the prospective master is not only sufficiently senior but has enough work to enable the pupil to receive practical training, that he/she is a member in good standing and that he/ she will give the pupil the professional support which is appropriate to that pupil's situation.

Guidelines<sup>4</sup>, available at the link in the footnote below, are provided to both the master and the pupil that set out the nature of the relationship and assist in guiding the expectations of both parties.

#### **Master's Practice**

Each professional relationship is different and depends on the individual nature of the master's practice. As part of training and preparing pupils for practice as an independent barrister, one of the most vital tasks undertaken by the master is to instil in each pupil an awareness and appreciation of the ethical standards of the Bar of Ireland. This goes beyond court etiquette and encompasses the highest standards of behaviour in all dealings with colleagues, judges/courts, solicitors, clients, and members of the public generally. The confidentiality of the information learned by the pupil in the pupillage year must be emphasised by the master. The most significant and essential tenets of the Code of Conduct can be summarised by reminding a pupil to be honest, independent, discreet and efficient.

As well as this primary duty to ensure that the pupil practices in accordance with the ethical values of an independent referral bar, there are three key areas in which a master has a duty to supervise and engage his/her pupil:

- sufficient experience in advocacy,
- practical experience in drafting and research, and
- practical experience in preparing for and advising in their own consultations.

#### **Professional Standards**

Masters are responsible for ensuring that pupils are aware of the customs and traditions of the Bar and the ethical approach to practice as a barrister, in accordance with the Code of Conduct and any LSRA Code of Practice that may be in effect, and in respect of the values of dignity for work.

---

<sup>4</sup> <https://members.lawlibrary.ie/members-area/membership-information-and-services/master-pupil/>



### **Advocacy**

It is vitally important that a pupil has adequate opportunities to practice and/or observe other advocates in court or other tribunals/dispute resolution fora, in order to learn the skill of advocacy and to build confidence in appearing before courts and other decision-making bodies. Masters must ensure that their pupils make applications to court during their first year of practice, whether in a case of their own or to assist a colleague.

### **Paperwork**

A master may have extensive or very limited paperwork. However, every pupil should be given practical experience in drafting and research. The master should provide constructive feedback to the pupil on his/her drafting efforts. It is helpful to a pupil to build up a bank of precedents. The master, his/her colleagues or the “devil family” (i.e., those who have completed pupillage with the same master) should be encouraged to assist a pupil in this regard.

### **Consultations**

Pupils should always be encouraged to attend and observe all meetings with solicitors, clients, and other barristers. If possible, pupils should be provided in advance with papers relevant to the meeting, so that they may fully benefit from the experience.

### **Prioritising work for the pupil**

This should be discussed between master and pupil. The pupil is a qualified barrister who is entitled to accept his/her own work consistent with the requirements of the Code of Conduct. If a significant amount of the pupil’s time is engaged in carrying out his/her own work, it is advisable to discuss this with her/him as it may cause the pupil to miss valuable learning opportunities. A master may not prevent a pupil from accepting his/her own work in order to ensure that the pupil is always available for the master’s work. However, the pupil is expected to dedicate their time to the pupillage experience including attending to the master’s work, in order to learn from her/his more senior colleague and to obtain the appropriate opportunities to prepare for independent practice.

### **New Practitioners Programme**

In addition to their pupillage with their master, pupils are also required to complete the New Practitioners’ Programme, a series of talks and seminars aimed at first year entrants to membership of the Law Library, covering a wide range of topics imperative to first year in practice. The New Practitioners’ Programme is compulsory and if a pupil is unable to attend any of the seminars during their first year they must complete the equivalent seminar in their second year. The programme content is set out at the beginning of each year and reviewed annually after consultation with pupils who have completed the programme.

### **Informal avenues of support**

Masters are advised that if any issues or difficulties arise in their relationship with the pupil, their first duty is to try to address these issues directly with the pupil. It is stressed that this is the most appropriate avenue in the majority of cases. Masters and pupils are also required to consider and have regard to the Dignity at Work Protocol introduced by the Bar Council.

Masters are encouraged to introduce pupils to the devil family, or her/his own master, and their former pupils. This can be a valuable source of knowledge, support and work to pupils.

Members of the Education and Training Committee, members of the Young Bar Committee and members of the Council of the Bar of Ireland are available to support pupils. If there is a serious issue arising from the master/pupil relationship, it may be the case that a master should contact a member of the Education and Training Committee or the Council. The Education and Training Committee deals with master/pupil relations.

### **Mentors**

Every incoming pupil is assigned a mentor during the year, who is a senior counsel. The mentor programme is designed to enhance a pupil's experience at the Bar, but not to replace or dilute the relationship between pupil and master. A mentor's role is informal, intended to support and enhance the new entrant's experience of the Bar in traditional collegiality. Mentors are encouraged to meet with pupils, discuss their practice and offer practical assistance, for example, inviting the pupil to attend a hearing in which the mentor is involved.

## 4. Other costs associated with joining the profession

Membership of the Law Library is only open to barristers who practice as part of the independent referral bar and consequently every barrister who chooses to enter membership of the Law Library is a self-employed professional. It is important to note that membership of the Law Library is a *choice* and there is no obligation on any barrister to join the ranks of the independent referral bar.

For those who choose to join membership of the Law Library, an annual membership subscription is payable to avail of the vast range of services and benefits available to all members. A summary overview of the services and benefits available for members of the Law Library is provided in Appendix 2. This summary assists in providing the context of the membership subscription rates and the value for money offered through membership of the Law Library. The economies of scale achieved through the collective buying power of 2,150 members are significant. The collective structure of the Law Library aims to ensure value for money for our members in the delivery of services and benefits and ensures that overheads of a barrister in practice are maintained at a competitive rate. A comparison between the cost that would be incurred by a barrister who practises outside of the shared structure provided by membership of the Law Library versus the cost of the annual membership subscriptions, demonstrates savings ranging from 38% to 90% depending on the stage of practice.

Membership subscription rates are structured in a manner that ensure that the most junior within the profession pay the least amount for the services that are available for all members. The tiered subscription rate recognises the challenges for junior members to establish their practice and earn income. Therefore, those barristers who are most junior achieve the greatest savings from their membership of the Law Library and this assists them in being able to establish and maintain a career at the Bar in the early years.

Until recently, the onus was on the newly qualified barrister seeking to undertake a 12-month period of pupillage to fund their own costs of membership for that year. In July 2019, a motion was passed by the members of the Law Library at its Annual General Meeting introducing an obligation on masters to ensure that pupils/devils under their supervision receive a sum of no less than the amount required to pay for the pupil's Law Library entry fee, annual subscription fee and professional indemnity insurance. While a significant number of masters already had in place an arrangement to pay the membership subscriptions of their pupil/devil prior to this motion being passed at the 2019 AGM, these new arrangements, that will come into effect from October 2021, should have the positive effect of improving access to the profession and support for a new practitioner in the commencement of their professional career.

The table below sets out information on the first-year membership fees, subscription and PII rate that will from hereon in be paid by the master on behalf of their pupil:

<b>Entrance Fee</b>	€1,500.00
<b>First Year Membership Subscription</b>	€1,900.00
<b>Professional Indemnity Insurance</b>	€75.00

The financial arrangements between a master and pupil are governed by Section 8 of the Code of Conduct<sup>5</sup> which provides that the master will defray specified professional expenses associated with practice. Masters should clarify with prospective pupils what arrangements will be made to comply with Section 8 of the Code before the pupillage commences, in order to allow the pupil to make an informed decision as to what she/he may expect in this regard. A master is prohibited from allowing pupils to incur any expenses on the master's behalf and any photocopying, travel, library or other expense related to a master's practice, must either be paid for by the master directly or reimbursed to the pupil in cases where the pupil has been obliged to meet the initial expenditure.

---

<sup>5</sup> <https://www.lawlibrary.ie/News/Code-of-Conduct-20-7-20-commencements-27-1-21.aspx>

## 5. Maternity/Adoptive leave at the Bar

Similar to many other self-employed professionals, the criteria for access to maternity benefits are a matter for the Department of Social Protection<sup>6</sup>. In terms of membership of the Law Library, a number of measures are in place to assist and support women during a period of maternity/adoptive leave.

### **Maternity/Adoptive Leave**

Access to parental leave was introduced during the last decade. Rule 34 of Rules of Membership of the Law Library<sup>7</sup>, provides that all members shall be entitled to parental (defined as maternity, paternity and adoptive) leave for up to nine months prior to and one year after the birth of their child or adoption by them of a child. Such period shall not exceed 12 months in total. A reduced subscription is paid by members availing of parental leave and is currently set at a rate of €925.

In October 2019, the Council of The Bar of Ireland adopted a new maternity/adoptive leave policy for female members of the Law Library. Members on parental leave now also have the option to return to work at a reduced subscription rate **within** 12 months of the date of their first taking leave. Where the member opts to return to full practice within 12 months (e.g. after 3 or 6 months, or after any number of months within the 12 month period of maternity leave) they are entitled to a 50% reduction to the Law Library subscription fee for the balance of time remaining within that 12 month period.

This new policy aims to better support female members in the period after having a baby. It is hoped that this new policy, which involves a reduction in Law Library membership fees (in recognition of the potential shortfall that can arise in work and income after a period of absence), will send out a positive message to the female membership having a baby and that support structures are in place to afford women greater flexibility in balancing family life with a practice at the Bar.

The policy approach of the Council in supporting members who take maternity/adoptive leave remains under constant review to ensure that there are appropriate support structures in place.

### **Parental Support Hub**

The Parental Support Hub was established by the Council to provide useful information and assistance to enable parents to manage their parental leave and childcare responsibilities whilst maintaining a practice at the independent referral Bar. Resources include a Parental Leave Advice Booklet; a list of Parental Support Contacts comprising colleagues that are available if any member would like to discuss any challenges they are facing in combining work with parenting; and access to external support services such as Maternity and Paternity Coaching. The hub also identifies a number of dedicated nursing rooms/facilities available to breastfeeding mothers across the various Law Library buildings; and a list of local childcare facilities.

As barristers often attend locations that are controlled by the Courts Service, it is important that the Courts Service give priority to the provision of nursing rooms/facilities in each courthouse throughout the country. The Bar of Ireland has engaged with the Courts Service in this regard, however, to date,

---

<sup>6</sup> <https://www.gov.ie/en/service/apply-for-maternity-benefit/#certification-if-you-are-self-employed>

<sup>7</sup> <https://www.lawlibrary.ie/media/lawlibrary/media/Secure/Rules-of-Membership-Feb-2021.pdf>

the Courts Service has failed to provide any commitment to provide such a permanent facility throughout their estate.

### **Role of the State**

The most crucial protection provided by statutory maternity leave is the right to return to the same job. There is no such protection for barristers owing to their self-employed status. They must hand over their briefs when they go on maternity leave and must build up their practice again each time they return from maternity leave. They are deprived not only of the earnings they would otherwise have accrued during maternity leave but of all future earnings associated with the briefs they have handed over. This in turn adversely affects their prospects of promotion since they lose those briefs as a basis upon which to apply for silk.

The State itself has a very important role to play in supporting female barristers in maintaining a career at the Bar and the following recommendations should be considered:

1. That the State and agencies of the State who instruct barristers should ensure that payment is made to barristers for all work done to date when briefs are returned by a barrister because she is taking maternity leave.
2. That the State and agencies of the State give priority to barristers returning from a period of maternity leave for the next brief following their return to practice.

## 6. Developing an equal, diverse and inclusive culture at the bar

A key objective of the Council of The Bar of Ireland is to promote and strengthen equality, diversity and inclusion at the Bar. The Bar of Ireland is committed to ensuring equal opportunity in the profession; respecting the diversity and individualism of its members; recognising the intrinsic value of diversity at the Bar; and expanding the breadth of its membership. Thus, the Equality and Resilience Committee is working hard to ensure a work environment that is fair and inclusive, ensuring where possible that a member's ability to achieve his or her potential is not limited by prejudice or discrimination.

To this end the Equality & Resilience Committee is currently in the process of developing an "Equality Action Plan" which aims to understand and address the challenges faced by underrepresented, disadvantaged and minority groups in accessing and pursuing a career at the Bar, and to design and implement appropriate supports and resources where possible to enhance access to the profession and the retention of a diverse membership.

To assist the development of the Plan, the Committee has consulted the expertise of various stakeholders and advocacy groups in order to understand the challenges faced by underrepresented, disadvantaged and minority groups in accessing and pursuing a career at the Bar. The Committee furthermore carried out a survey of the Law Library's current membership to obtain anonymised data and experiences of all members in respect of equality, diversity and inclusion at the Bar, both in terms of accessing the profession and as a practicing member.

The data includes, for the first time, information on the current composition of the membership in terms of diversity. Members were invited to disclose information in relation to their background and characteristics, whether they experienced any discrimination in the workplace as a result; and whether the Bar could do more to better support them.

The insights shared by members and external stakeholders have proven invaluable to the development of the Equality Action Plan, and will aid the Committee in determining the type of supports needed to address the challenges faced by underrepresented groups including ethnic minorities, persons with a disability, members of the travelling community, and persons of socio-economic disadvantage.

Of particular value to the development of an Equality Action Plan is also the Committee's ongoing engagement with Senator Lynn Ruane who is currently undertaking her own separate inquiry into the barriers experienced by law students and graduates in pursuing a career in the legal profession. We look forward to her final report so that we, and other stakeholders involved in the delivery of legal education and access to the professions, can assist in addressing the challenges identified.

The development and implementation of initiatives which promote equality, diversity and inclusion at the Bar has been high on the agenda for the past 6 years and a number of initiatives have been implemented to date, many of which address economic and other barriers to entry to the profession and aim to achieve greater diversity within the profession.

### **Promoting Diversity at the Bar**

While there are a number of programmes operating across universities and Higher Education Institutions which support access to third level education in Ireland by individuals from socioeconomically disadvantaged backgrounds, concerns remain that on graduating with a law degree, some individuals may experience further obstacles and barriers when it comes to accessing professional practice as a barrister or a solicitor. A lack of financial means is often cited as one of the main barriers to entry to the legal profession. As the representative body for barristers in Ireland, The Bar of Ireland acknowledges that it has an important part to play in encouraging more diversity at the Bar and has introduced, in recent years, initiatives which seek to bridge the gap, where it exists, between higher education and access to professional practice.

The 2020 July Jobs Stimulus package announced by Government included provision for the introduction of a new Apprenticeship Incentivisation Scheme<sup>8</sup> for employers of apprentices. Under the scheme, apprenticeship employers were eligible for a €3,000 payment for each new apprentice who was registered between the period 01 March and 30 June 2021. €2,000 per apprentice was payable at the point of registration. A further €1,000 was payable in Quarter 3 2021 for each eligible apprentice retained on their apprenticeship. If the Government is genuine about measures to support diversity of access to the profession, the State should give consideration to expanding this scheme to barristers.

### **The Denham Fellowship**

In 2017, The Bar of Ireland, in association with The Honorable Society of King's Inns, launched The Denham Fellowship. The Denham Fellowship, named after The Hon. Mrs. Justice Susan Denham, former Chief Justice, assists two aspiring barristers annually who come from socioeconomically disadvantaged backgrounds to gain access to professional legal education at the King's Inns and professional practice at the Law Library. The Fellowship is open to law graduates who accessed a higher education institution for the first time through an access programme as a school leaver or a mature years' student due to socio-economic disadvantage, or graduates of the Diploma in Legal Studies at The King's Inns who come from a socioeconomically disadvantaged background.

Recipients of the Fellowship, known as Denham Fellows (of which there are currently 10) are provided with financial, educational and professional support from point of entry to the Barrister-at-Law degree programme at the King's Inns all the way through their first four years of practice at the Law Library culminating in a five-year programme and ultimately in what is going to be a successful and rewarding career at the Bar.

The supports include:

- Remission of fees to the Barrister-at-Law Degree Programme at the Kings Inns, including the Entrance Examination Fee and repeat assessments;
- Waived Law Library Membership Subscription Fees for the first four years of practice at The Bar of Ireland, including the Entrance Fee;

---

<sup>8</sup> <https://apprenticeship.ie/news-events/news/apprenticeship-incentivisation-scheme-for-employers>



- An annual stipend of €6,000 for a period of minimum 5 years (6 years for part-time students), commencing at the start of the Barrister-at-Law degree programme, to go towards accommodation and living expenses;
- Three mentors to be assigned to each Denham Fellow for the duration of the fellowship; one from the judiciary; one senior member of the Law Library; one junior member of the Law Library;
- Support in locating a master for each year of devilling.

### **Improving support for devils**

As noted above, in July 2019, a motion was passed by the members of the Law Library at its Annual General Meeting which seeks to introduce an obligation on masters to ensure that pupils/devils under their supervision receive a sum of no less than the amount required to pay for the pupil's Law Library entry fee, annual subscription fee and professional indemnity insurance. These new arrangements will come into effect from October 2021 and should have the positive effect of improving access to the profession and support for a new practitioner in the commencement of their professional career.

### **'Look into Law' Transition Year Programme**

The Bar of Ireland's 'Look into Law' Transition Year Programme is an exciting initiative aimed at increasing students' awareness of the work of The Bar of Ireland and to encourage students from all backgrounds to consider a career as a barrister. Some 100 students from all over the country and from a wide cross-section of society take part in the programme every year, with a minimum of 20% of places reserved for students from DEIS schools. Members continue to offer to allow transition year students to shadow them on an informal basis, however the official 'Look into Law' programme has helped to broaden the breadth and diversity of students who would like to learn about life as a barrister.

In light of a continuing uncertain situation with Covid-19 restrictions, the 2021 programme was delivered through an e-learning platform that allowed an unlimited number of students to take part, whether in a classroom led by a teacher, or at home in the evening. Over 400 schools signed up, of which 70 were DEIS schools, resulting in 12,000 students registered, representing about one-quarter of all TY students in the country. It is hoped to harness this unprecedented level of outreach to TY students in future years.

### **Disability Support**

The Bar of Ireland is committed to promoting the full and equal participation of members with a disability. Our goal is to ensure that any member with a disability does not experience a disadvantage in accessing, fully participating in, and benefiting from the services of the Law Library, and we endeavour to identify and to protect, in so far as practicable, against factors which may inhibit access. Members (both current and incoming) are invited to discuss their needs with a member of The Bar of Ireland's Member Services team at any stage and efforts will be made to assist them.

The Bar of Ireland actively supports the work of disability advocacy groups and in 2019 took part in the National Purple Lights Campaign - an initiative of the Disability Federation of Ireland, which saw Government buildings, major companies, and civic and educational institutions illuminating their premises in purple in celebration of UN International Day for Persons with Disabilities. A welcome

consequence of our ongoing consultation with various NGO organisations as part of the development of our Equality Action Plan, is that it also informs the development of supports for current members of the library.

### **Engaging the LGBT+ Legal Community**

The Council of The Bar of Ireland is a member of the OUTLaw Network whose objectives include bringing together LGBT+ people and allies in the Irish legal sector to foster an environment of inclusion in order to share network best practices, insights and initiatives specific to the sector; enable LGBT+ colleagues to build their professional networks; and, promote and develop Ireland's legal profession as a recognised destination of choice for LGBT+ professionals. The Bar of Ireland actively promotes the activities of the network and has collaborated with the network through the organisation of CPDs and events.

### **Enhancing Awareness**

The Equality & Resilience Committee recently organised a webinar entitled "Understanding Unconscious Bias and Intersectionality" which involved current members of the Law Library from diverse backgrounds sharing their experience as a barrister with a view to assisting members in recognising and managing their own unconscious biases in their day to day practice through their engagement with clients, witnesses and other colleagues.

### **Supporting Women at the Bar**

The Council is committed to taking measures which address the under-representation of female counsel in certain areas of practice and the significant under-representation of women at the Inner Bar, which at 18% is extremely low. A number of initiatives have been introduced in the past 5-6 years to aid the career progression of female counsel.

### **Law & Women Mentoring Programme**

Launched by the Council of The Bar of Ireland in 2016, the Law & Women Mentoring Programme aims to promote equality and improve diversity in the Law Library by providing greater levels of support to female barristers. The focus on women is to help address the under-representation of female counsel in certain areas of practice and the significant underrepresentation of women at the Inner Bar (18%). Each year a panel of trained mentors are assigned to mentees on a one-to-one basis for the duration of the legal year and during this period the mentee is supported in developing her strengths and her potential; in finding solutions to professional problems and challenges; and in promoting professional development and career progression. The panel of mentors comprises judges, and senior and junior counsel, both male and female. Training is also provided to mentees in advance of their participation as this is important to maximise the effectiveness of the programme for both mentor and mentee.

Feedback from the 2019-2020 programme found that over 90% of mentees would recommend the programme to a colleague. Participating mentees have praised the support, encouragement, camaraderie, and the practical advice that is offered by their mentors, giving many mentees a renewed sense of career focus and a sense of community at work. Participating mentors too have enjoyed the programme by playing a positive role in the career development of their more junior colleagues, sharing their insight and experience for the benefit of others. The programme continues to go from strength to strength and provides a tangible support to women at all stages of their careers at the Bar.

### **Equitable Briefing Policy**

Following in the footsteps of our counterparts in New Zealand and Australia, the Equality and Resilience Committee of the Council of The Bar of Ireland is currently developing an equitable briefing policy which seeks to encourage those who brief the Bar (State Bodies and Private Solicitor Firms) to make a conscious effort to look beyond their usual pool of barristers and to assist in the equitable distribution of briefing to both male and female counsel in all areas of practice. The adoption of equitable briefing practices can play an important role in the progression of women, and society too benefits from having both genders participating equally in the provision of legal services as it leads to a much more diverse pool of suitably qualified barristers on which to call, facilitating greater client choice and a profession which is much more representative of the composition of the community it serves. In the longer term, greater balance in the profession will lead to a more gender balanced judiciary.

The State itself through Government Departments and State Agencies has a key role to play in relation to an equitable briefing policy and the process of engagement with a range of these agencies has commenced to glean their feedback on the proposed policy. The State is in a key position to support this important initiative and could indicate its desire to see such a policy adopted by all Departments and Agencies.

### **Female-oriented CPD & Events**

Workshops on topics including negotiation skills, confidence building and developing your personal brand have been delivered exclusively to female members of the Law Library. A series of informal conversations about work-life balance and career progression were also introduced to enhance engagement with, and foster supportive relations between, female colleagues. Using a fire-side chat format, we have had contributions from female members of the judiciary who shared their personal stories, insights and experiences in making the transition from the bar to the bench, and from members of the inner bar who discussed their experience in taking silk. An inter-professional seminar on 'Definitions of Success' was also organised in conjunction with the Irish Medical Organisation, where a panel of female barristers and doctors discussed shared experiences, common challenges and potential solutions. Such frank and informal engagements where senior and influential women share personal experiences help to cultivate a sense of community among female colleagues and have been very well received. The Bar's annual celebration of International Women's Day, whereby notable women who have demonstrated significant leadership, influence and contribution to their profession/industry are invited to address female members of the legal profession at a gala dinner at the Honorable Society of King's Inns, is a highlight in the Bar's annual calendar of events. The personal stories and journeys of these women are a source of great inspiration for attendees.

### **Enhancing Female Visibility**

A policy was also adopted to ensure gender balance in the delivery of CPD seminars that are provided by The Bar of Ireland, where there is in excess of one speaker and having regard to the appropriate level of experience and expertise of available speakers. Such opportunities ensure the visibility of the expertise of female counsel at the bar.

### **Lean In Circle**

The Bar of Ireland is home to a vibrant Lean In Circle of female barristers. The Lean In Circle creates a space for female barristers to network, set career goals and receive help and advice from colleagues. The events and activities of the circle are actively promoted, many of which are funded by the Bar.

### **30% Club**

In March 2020, The Bar of Ireland became an institutional member of the Irish chapter of the 30% Club whose goal it is to build awareness of the benefits of increased diversity and achieve better gender balance at all levels in Irish business. Fostering relationships with external partners committed to equality, diversity and inclusion help the Bar to keep abreast of key developments, best practices and the potential for collaboration.

### **Specialist Bar Associations**

Members of the Law Library have formed several specialist bar associations<sup>9</sup>. The members of each specialist bar association share and promote their expertise in the area in question. A number offer special support to members in their early years.

The Employment Bar Association<sup>10</sup> (EBA) offers six scholarships for the Diploma in Employment Law in the Kings Inns. These are available to members of the Law Library in years 3 - 7. The EBA provides an annual presentation on practice and procedure before the Workplace Relations Commission and the Labour Court tailored to members who wish to enter into this area of practice. In addition, the EBA promotes junior members through the Symposium – an event presented several times per annum by four speakers in year 1 – 7, each of whom is mentored by a more senior colleague. The EBA is currently formulating proposals with a view to establishing an annual scholarship for a junior member in financial need.

---

<sup>9</sup> <https://www.lawlibrary.ie/Legal-Services/Specialist-Bar-Associations.aspx>

<sup>10</sup> [www.employmentbar.ie](http://www.employmentbar.ie)

## 7. Challenges for early career barristers in maintaining and building a career at the Bar

### Supply of barristers in Ireland is high

Barristers practice in a highly competitive market, and it usually takes many years to become established. There are currently approximately 2,150 independent referral sole-trader barristers competing directly with each other for a limited pool of work.

Recent data indicates that Ireland has the highest number of barristers per 100,000 population in comparison to other jurisdictions where there is an independent referral bar in existence, as evidenced in the table below.

COUNTRY	ASSOCIATION	TOTAL NO. BARRISTERS	POPULATION	PER 100,000
Ireland	The Bar of Ireland	2,158 <sup>11</sup>	4,792,500 <sup>12</sup>	45
N Ireland	The Bar of Northern Ireland	640 <sup>13</sup>	1,862,100 <sup>14</sup>	34
New Zealand	The New Zealand Law Society	1,379 <sup>15</sup>	4,793,700 <sup>16</sup>	29
Australia	The Australian Bar Association	6,000 <sup>17</sup>	24,511,800 <sup>18</sup>	24
England & Wales	The Bar Council of England & Wales	13,500 <sup>19</sup>	58,381,300 <sup>20</sup>	23
Hong Kong	The Hong Kong Bar Association	1,400 <sup>21</sup>	7,387,562 <sup>22</sup>	19
Scotland	Faculty of Advocates	445 <sup>23</sup>	5,404,700 <sup>24</sup>	8
South Africa	General Council of the Bar of South Africa	2,824 <sup>25</sup>	56,958,294 <sup>26</sup>	5

<sup>11</sup> Membership Stats September 2020

<sup>12</sup> Central Statistics Office (2017)

<sup>13</sup> Direct Contact (2017/2018)

<sup>14</sup> Office for National Statistics (2016)

<sup>15</sup> Direct Contact (NZLS Figure as of 17 January 2018)

<sup>16</sup> Stats NZ (2017)

<sup>17</sup> Australian Bar Association website (2017)

<sup>18</sup> Australian Bureau of Statistics (2017)

<sup>19</sup> Direct Contact (2017/2018)

<sup>20</sup> Office for National Statistics (2016)

<sup>21</sup> HKBA website (number of members as at September 2017)

<sup>22</sup> Worldometers (2017)

<sup>23</sup> Direct Contact (2017/2018)

<sup>24</sup> National Records of Scotland (2016)

<sup>25</sup> Law Society of South Africa, Statistics for Legal Profession - General Council of The Bar of South Africa, Membership Statistics as at 30 April 2016 p. 47 (2016)

<sup>26</sup> Worldometers (2017)

It is highly probable that the high number of barristers per 100,000 population in Ireland arises from the fact that there are no, or very low barriers to entry to the profession of barrister. Unlike other jurisdictions where there is often a limit on the number of places for pupillage, Ireland has no such limit in place meaning that any newly qualified barrister who wishes to undertake a year of pupillage and become a member of the Law Library may do so with relative ease.

While the goal of removing barriers to entry to the profession may have been achieved, as advocated by the Competition Authority in 2006, the consequence of the absence of a limit on numbers entering the profession means that there are greater challenges for early career barristers in building and maintaining a practice as there is an excessive supply of barristers in most areas of practice, with the exception of criminal law which will be discussed in more detail below.

### **Funding Model**

It is the convention that barristers are not paid until the end of a case. This is so even where there is no agreement that the work is undertaken on a 'no foal no fee' basis and even where the client is a substantial undertaking with significant resources. In effect, the barrister gives the client several years' credit. This has an adverse impact on barristers in years 1 - 7 in particular as they build their practice. For example, a barrister who is briefed in a case in year 5 may not in fact receive fees in that regard until year 8.

This is a feature of the practice of law which is inherited from a bygone age. It appears to have been overlooked in recent reforms in this area. Whilst litigants enjoy informal credit, practitioners in their early years face hardship unless they have an independent source of income or support. This cannot but have an adverse impact on diversity within the profession.

If barristers were paid on an ongoing basis for work as it is performed this would significantly enhance the prospects of those who do not have an independent source of income or support. Nor would this deprive litigants of the benefit of an award of costs – if they are awarded costs at the end of the case, then they are re-imbursed, in whole or in part, for the fees already paid.

### **Getting Paid**

The primary challenge consistently cited by members of the Law Library throughout the entirety of their career, but which is particularly acute in the early years, is the ability to get paid for work undertaken, normally upon the instruction of a solicitor. At the very core of problem is the fact that barristers, who are normally instructed through solicitors, cannot sue for their fees. This effectively removes the only real threat to their ability to recover their fees and is a significant obstacle in getting paid. Unpaid professional fees are particularly problematic for any self-employed profession as overheads are still incurred and the ability of an independent sole practitioner to access debt facilities at the early part of their career is challenging.

In an attempt to address this problem being faced by members, a fee recovery working group was established by the Council in 2011 that led to an agreement to put an arrangement in place in 2014 with a third-party company known as LawServ to provide a fee recovery service for members. In July 2020, this service was brought in house under the organisational structure of The Bar of Ireland and is now known as the 'Practice Support & Fee Recovery' unit.

The Practice Support and Fee Recovery unit's primary aims are to provide:

- An information service for members regarding best practice in practice management, and
- A fee recovery service for members to avail of where they have been unsuccessful in the collection of their fees.

The service is available to all members as part of their annual subscription - there is no additional charge. Since the service was established in July 2020 the total number of members actively using the service is 122, equating to 6% of the total membership. The service is actively pursuing 182 fee notes with a value of €1.3m for members. Since the service was brought in-house, the total fees recovered to date for members is in excess of a quarter of a million euro.

Cultural reasons are often cited as the reason why barristers, and in particular more junior barristers, decide not to pursue a complaint for non-payment of fees against a solicitor, due to a fear of being 'black-listed' by that firm. While there are sometimes valid reasons for non-payment of fees to Counsel, the vast majority of members eventually come to the realisation that undertaking work for a firm of solicitors who have a reputation for non-payment is both unsustainable and career damaging and rarely translates into career enhancement. Nonetheless, it is a practice that should not be tolerated and as noted in previous submissions, the Council believes that the LSRA has a key role to play in regulating this issue.

The Practice Support and Fee Recovery service has enabled The Bar of Ireland to glean better information about outstanding fees and allow a closer monitoring of the size of this problem. The information collected is analysed (on an anonymised basis) and allows The Bar of Ireland to identify any trends regarding fee collection including those who may repeatedly default on payment of fees to barristers. The top reasons for non-payment of fees to barristers relate to a solicitor not responding (35%) and a fee being under dispute (22%).

Since October 2019, the Legal Services Regulatory Authority (LSRA) is now the body where complaints in relation to the conduct of legal practitioners are referred. The LSRA has highlighted the issue of non-payment of barrister's fees in their biannual complaints reports and reminding solicitors that they have a responsibility to ensure that the barristers they instruct are paid, and that they should also ensure that they communicate with counsel as soon as possible should any issues arise rather than simply leaving fee notes unpaid.

The Council of The Bar of Ireland would like to see the LSRA undertaking further in-depth research into this issue with a view to making a series of recommendations on how the problem could best be addressed with a view to its eradication. The eradication of this long-standing problem, the non-payment of fees owed and outstanding to barristers, would have a profoundly positive impact on the ability of all early career barristers to build and maintain a practice at the Bar.

### **Prompt Payment by the State**

In a recent survey of members of the Law Library, members reported a constant downward pressure on professional fees for legal work undertaken on behalf of the State - this has placed significant pressure on many barristers' practice. This is particularly challenging for early career barristers who

may not be able to survive long enough on poor income, delayed, or even non-payment of fees, to sustain a long-term career at the Bar.

Of particular concern is the increasing evidence of delayed or even non-payment of fees to barristers from agencies of the State. The most recent Report on the Accounts of Public Services 2019 addressed this issue specifically in relation to the CSSO. Paragraph 6.23 of that report specifically states as follows:

*‘Normally, a payment processing target is expressed in terms of a specific period of time elapsing from the date of receipt of a claim for payment e.g. within 30 days, within 60 days, etc. In effect, the CSSO has committed to make counsel fee payments within 90-180 days of receipt of a payment claim. However, in a significant proportion of cases (as measured by value of payments), the CSSO has been failing to honour the implicit credit terms.’*

Unfortunately, members are reporting that the situation in relation to timely payment of professional fees continues to deteriorate and that despite the agreement in place between the Council and the CSSO that sets out timelines to ensure payment within the agreed timescales, there are numerous examples of where that has not been complied with. We have received reports from members over recent weeks of payments in respect of standard non-complex cases that have taken up to one year to be paid from the date of the fee note being presented. This is of particular concern to members given the difficulties with practising in the current climate and the fact that overheads for practice remain in place notwithstanding the reduction in earning potential for members given that the Courts have been operating on reduced capacity over the period of the pandemic.

No explanation has been provided to the Council nor to members as to what the cause of these delays are nor is the Council aware of what efforts are underway by the CSSO to resolve such delays.

Again, the State itself has a key role to play in ensuring that barristers receive payment without undue delay and should issue a dictate to all Government departments and agencies to abide by the normal payment time lines applied in respect of other professional services purchased by the State.

### **Practice in Criminal Law**

Barristers who undertake work on behalf of the State or large institutions such as insurance companies are, in the main, working to a set schedule or scale of fees. As such there is little or no negotiation, and in many cases, this involves barristers appearing for a client at less than the normal commercial rate. This situation prevails in particular in the area of criminal defence and criminal prosecution where barristers are instructed by the Director of Public Prosecutions or by private solicitors under the Criminal Legal Aid Scheme operated by the Department of Justice.

As a direct consequence of the deep cuts ranging from 28.5% - 69% that were applied to the professional fees paid to criminal barristers during the period 2008 – 2011, a career choice for recently qualified junior barristers in crime has become unattractive when compared to opportunities in other areas of law. The evidence shows that two thirds of barristers who commence a career in criminal law leave after only 6 years in practice and that this is as a direct consequence of the deep cuts that were applied during the FEMPI years.



A skilled and experienced criminal prosecution bar can only emerge after many years of practice in the junior ranks of criminal defence law. It takes many years of practice at the Bar to acquire the necessary experience to effectively and skilfully prosecute serious cases on behalf of the State and it is imperative that newly qualified talented barristers are encouraged to practice in the area of criminal law. One significant form of such encouragement is to be fairly and reasonably rewarded for their services.

While there is often a perception that the barristers profession is one that is highly remunerated, the fact is that junior barristers appearing in the District Court in criminal matters are paid €25 for an appearance and this is often their only fee earned in a day. This will often include travel expenses incurred in order to get to the location of the District Court and often means that junior barristers are paid less than the minimum wage.

Barristers who provide services to prosecute and defend cases throughout the criminal courts are being remunerated at rates paid in 2002. The publicly available information on fees paid to barristers in criminal matters demonstrates that 75% of junior barristers are paid less than the average full-time salary in Ireland of €49,000 per annum as recorded by the CSO in June 2020.

Barristers are a self-employed profession with all the usual overheads associated with running a business and paying VAT at 23% on their professional fees. It can take up to 10 years of practice to earn a living as a barrister which is a further impediment, in particular for those from disadvantaged socio-economic backgrounds who do not have access to financial supports to sustain a career at the Bar for such an extended period.

Compounding the poor rates of remuneration is a decision of Government arising from the 2020 O'Malley Report (Review of Protections for Vulnerable Witnesses in the Investigation and Prosecution of Sexual Offences), barristers will now have an additional obligation placed on them by the State to undertake specialised training. They will have to undertake this training on a regular basis, in their own time and at their own expense. Similar obligations are placed on other professionals employed throughout the public service, however, their obligation to undergo training will be a cost that will be incurred by their employer and during their working time while they are being remunerated.

Over the past 5 years, The Bar of Ireland has tried to engage with the Department of Public Expenditure & Reform, in relation to a process to unwind professional fee cuts that were imposed on barristers during the period 2008-2011 who are instructed to prosecute criminal cases on behalf of the State. Both the Office of the Director of Public Prosecutions and the Department of Justice have indicated their support for such fee restoration. Unfortunately, the Department of Public Expenditure & Reform has resisted any meaningful and constructive engagement over the last 5 years. The approach being taken in relation to the unwinding of cuts applied to the professional fees of barristers is at odds with the approach taken in relation to other groupings. For example, State Solicitors, who are independent contractors (similar to barristers), and are engaged by the Office of the Director of Public Prosecutions to work on the same cases prosecuted by barristers have had a process of pay restoration implemented since 2017. This is an obvious anomaly and demonstrates a clear unfairness in the approach of Government in its pay policy.

Up until 2008, the fees paid to barristers were linked to the increases applied under public sector pay agreements and the Department of Public Expenditure & Reform has unilaterally broken this link. All other groups of workers who were subjected to the emergency FEMPI throughout the justice system cuts have since had their cuts reversed and no other group of workers in the State is having to endure a pay level that was in place 19 years ago.

There are three important reasons why the State must immediately proceed to unwind the cuts:

1. To attract the best advocates to practice at the criminal bar to ensure that the State can prosecute criminal matters in the courts on behalf of the people of Ireland;
2. To treat barristers fairly and reasonably, consistent with the approach taken to restore cuts for other groups of workers;
3. To stop the exit of junior barristers away from criminal practice.

The Government's own 2018 spending review report on criminal legal aid<sup>27</sup> recognised that our cost effective and robust criminal legal aid system facilitates a high standard but low-cost representation of defendants through skilled advocates engaged by the State and recognised that the fee structure and the incentives of this fee structure must be monitored on an ongoing basis to ensure a fair, effective and efficient criminal justice system.

The Government itself has a key role to play in this matter and should be urged by the LSRA to immediately restore the link with public sector pay agreements and engage in a process to unwind the cuts applied to the professional fees of criminal barristers. The Bar of Ireland is simply asking that the profession is treated fairly and reasonably, consistent with the approach taken in relation to other groups of workers where the State is the paymaster. By doing so, it would undoubtedly ease the challenge of building and maintaining a career in both criminal defence and criminal prosecution.

### **Practice in Civil Legal Aid**

Similar to the situation in relation to criminal legal aid as set out above, barristers are engaged by the Legal Aid Board to provide services in the civil area on behalf of some of the most vulnerable cohorts of society. These cases generally cover all types of matters in civil litigation but for the most part are made up of cases in the family law and childcare area. Over the last decade, the cases under the remit of the Legal Aid Board have become increasingly complex and demanding and arising from the grossly underfunded practise of family and childcare law, there is now a real concern in relation to the potential impact on manpower within this area as a result of the untenable terms and conditions attaching to work for the Legal Aid Board.

The Bar of Ireland recognises that the Legal Aid Board encountered stringent budgetary pressures across all of its areas of expenditure during the last economic downturn which resulted in cuts to its available finances. However, this does not detract from the reality that the ability of barristers to provide a proper service in the manner that is required to represent some of the most vulnerable members of our society is now under substantial pressure and strain.

---

<sup>27</sup> <https://assets.gov.ie/7320/b26e8d13fb42468fb66a40aed88fe875.pdf>

A significant (but not the only) element is the question of how “fit for purpose” the terms and conditions under which barristers provide services to the Legal Aid Board (in place since 2012) are in the current environment. At a meeting between representatives of the Council and the Legal Aid Board in November 2017, the Board acknowledged the need to comprehensively review the 2012 terms particularly in light of the increased complexity in the area of childcare arising from legislative changes in practice directions and requested that a submission from the Council to assist it in a root and branch analysis of its current arrangements. A submission was made to the Legal Aid Board in that regard in early 2018 and it was hoped that it would provide a basis for a meaningful engagement between interested parties including the Council, the Board, the Minister for Justice and the Minister for Public Expenditure and Reform with a view to addressing the issues raised in the submission so as to ensure that the objectives of the Scheme in providing meaningful and effective legal aid in the public interest can be achieved.

Unfortunately, despite several attempts to seek meaningful engagement with the stakeholders on the content of our submission made three years ago, no such engagement has been forthcoming.

## 8. Proposals for consideration

As is evidenced by this submission, the Council of The Bar of Ireland is alive to the need to play its part in improving equity of access and entry into the legal professions and achieve greater diversity within the professions. The list of initiatives being undertaken by the Council in this regard are at least comparable if not more favourable than the initiatives being undertaken in any other profession in that regard.

The LSRA has invited proposals on how key economic and other challenges for early career barristers may be addressed, and by whom, in order to achieve greater diversity within the profession. In this regard, the Council has identified eleven key recommendations throughout the course of the submission that would address the challenges in building and maintaining a career at the Bar and support the goal of achieving greater diversity within the profession:

1. In support of women at the Bar who avail of maternity/adoptive leave:
  - a. That the State and agencies of the State who instruct barristers should ensure that payment is made to barristers for all work done to date when briefs are returned by a barrister because she is taking maternity leave;
  - b. That the State and agencies of the State give priority to barristers returning from a period of maternity leave for the next brief following their return to practice;
  - c. That the Courts Service and all other statutory decision-making bodies should make a commitment to the provision of permanent nursing rooms/facilities in each courthouse throughout the country;
  - d. That the policy approach of the Council in supporting members of the Law Library who take maternity/adoptive leave remains under constant review to ensure that there are appropriate support structures in place.
2. In support of improving diversity in the profession:
  - a. The Government should widen access to the Apprenticeship Incentivisation Scheme announced in July 2020 to facilitate barristers availing of the supports available under that Scheme;
  - b. The Government should demand that every department and State agency engage with and adopt the equitable briefing policy under development by The Bar of Ireland.
3. In support of mitigating the challenges for early career barristers:
  - a. The Council will keep under the ongoing review the structure under which the independent referral bar operates to ensure that it can attract and facilitate newly qualified barristers to pursue a viable career path in the profession;
  - b. Solicitors should be required, in their initial letter to clients regarding costs, to explain that they will be expected to discharge the costs on an ongoing basis but that if they ultimately obtain a costs order at the end of the case they will be reimbursed in part or in whole in that regard;

- c. The LSRA should undertake further in-depth research into the issue of non-payment of fees to barristers by solicitors and State agencies, with a view to making a series of recommendations on how the problem could best be addressed with a view to its eradication;
- d. The Government should issue a dictate to all departments and State agencies to abide by the normal payment timelines applied in respect of other professional services purchased by the State;
- e. The Government should immediately engage with The Bar of Ireland to agree a process to restore the cuts applied to professional fees paid under civil legal aid and criminal legal aid.

## APPENDIX 1: APPLICATION TO REGISTER AS A PUPIL MASTER

**\*Please complete application in typed form and return with original signature.**

**The Education & Training Committee reminds you to ensure that you read the guidelines document for Masters and Pupils, which contains recommendations for the smooth running of the Master and Pupil relationship.**

**The following rules of the Code of Conduct govern the Duties of Masters & Pupils:**

8.6 The duties of masters include the duty of teaching pupils the rules and customs of the Bar and ensuring that they have read and understand the Code and what is proper professional practice by Barristers.

8.7 In the interest of the maintenance of quality of services, any person intending to practice as a Barrister must complete a continuous period of not less than twelve months pupillage with a master who is registered as such with the Bar Council unless expressly excused therefrom by the Bar Council. During the pupillage period, pupils are practising Barristers within the meaning of and subject to the Code and as such, are entitled to accept work on their own behalf subject to the other provisions of the Code.

8.8 Nothing in the relationship between the master and the pupil shall be deemed to be a contract of employment or contract of service. During the course of the pupillage, the pupil shall be under an obligation to further his or her education, training and professional development.

8.9 The Bar Council shall maintain a register of masters and no Barristers shall take a pupil unless their name is entered upon the said register. Barristers who are Junior Counsel may be entered on the register of Masters if they have completed seven years practice and all applications for such entry shall be determined by the Education and Training Committee of the Bar Council whose decision on any application shall be final and conclusive. A Barrister with less than seven years practice shall only be entered on the register of Masters only in exceptional circumstances as determined by the Education and Training Committee.

8.10 Masters shall ensure that they carry out their obligations to their pupils in accordance with such guidelines as may be issued from time to time by the Bar Council or the Professional Practices Committee or the Education and Training Committee.

8.11 A Master, in furtherance of increasing access to the profession and of the education, training and development of his/her pupil, shall defray the cost of his/her pupil's Law Library entry fee, annual subscription fee for the year of pupillage and professional indemnity insurance premium for the year of pupillage by paying either directly to the Bar Council on the pupil's account or directly to the pupil the amount of the pupil's said Law Library entry fee and annual subscription in equivalent manner to those provided in the Rules of Membership for the payment of the master's own annual subscription beginning on the 13<sup>th</sup> October and paying directly to the pupil the amount of the professional indemnity insurance premium on or before the first Friday of Michaelmas term.

8.12 A Master, in agreeing to take a pupil for education and training accepts the obligation to defray the costs of that pupil in accordance with paragraph 8.11 but may, for good and just reason, apply to the Library Committee for discharge from part or all of such obligation, the onus always being on the master to establish such good and just reason, to the satisfaction of the Committee.

8.13 Material non-compliance by the master with the provisions of paragraph shall be deemed a breach of the Code of Conduct.

8.14 These provisions shall take effect from the commencement of Michaelmas term, in October 2021.

## Section A: Personal Details:

Name:

Address:

Year of Call:

Year of Entry to Law Library:

Name of Master:

## Section B: Practice Details

*(please indicate in each box as appropriate)*

### Practice Areas:

Civil  Criminal  Both

---

*If Criminal (past 3 years):*

Prosecution  Defence

---

*If Civil (past 3 years):*

Personal Injuries  Commercial  Other *(please specify below)*

Employment  Insolvency

---

Administrative Law/  
Judicial Review  Asylum /  
Immigration

Defamation  Planning

Probate  Family

Chancery

Medical Negligence

**Please outline your principal area(s) of practice i.e., Civil, Criminal, Family (Other/Combination - Please Specify)**

*(Please expand this box as required)*

**Please outline at least 5 relevant pieces of work/cases, whether in the Courts or tribunals/statutory bodies or otherwise, in which you have been involved over the last three years (please also provide the citations for judgments, if available) along with specification of the parties for whom you acted.**

*(Please expand this box as required)*



**Please outline the expectation of experience a pupil would obtain on a weekly basis with you as their Master, including the areas of advocacy, drafting, consultations, research, and opinions.**

A large, empty rectangular box with a thin black border, intended for the respondent to provide their answer to the question above. The box is currently blank.

*(Please expand this box as required)*

**I confirm that:**

my practice is predominantly Dublin-based, with some circuit practice  
on the \_\_\_\_\_ Circuit (*please name circuit*)

my practice is solely Dublin-based.

**I have/have not had a second year arrangement with a junior colleague previously.** (*please delete as appropriate*)

**Year in which you first had such an arrangement:**

**Reference:**

**Please provide the name of a colleague who is willing to verify your aptitude to be a Master and who can be contacted by the Committee in that regard. Suitable references could include a Judge, a Senior Counsel and/or a colleague who has experience as a Master themselves.**

**Name of Reference and contact details:**

**Section C: Undertakings**

I confirm that information about my Practice Details as referred to above can be posted on the Master Database provided to King's Inns.

I have read the current guidelines and undertake to read and abide by the guidelines for masters as set out in "Guidelines for Masters" and the "Guidelines for Pupils" and the requirements of the Code of Conduct as they relate to masters, as in force from time to time.

I undertake to attend mandatory CPD seminars and training for masters which will take place at future dates to be set by the Education and Training Committee.

Signature:

Date:

## APPENDIX 2 - SUMMARY OF MEMBER SERVICES & BENEFITS



THE BAR  
OF IRELAND  
*The Law Library*

# MEMBERSHIP SERVICES AND BENEFITS

### THE ECONOMIES OF SCALE ACHIEVED THROUGH THE COLLECTIVE BUYING POWER OF 2,150 MEMBERS ARE SIGNIFICANT.

As a member, you will benefit from decades of investment, notably in the five specialised and fully serviced legal libraries where almost €10m has been invested in legal books, journals and other material over the last 28 years, in addition to the significant investment in properties and infrastructure. The annual subscription fee paid by each member affords access to the range of services and benefits listed here.

#### LIBRARY SERVICES

- ▶ Barrister's Desktop – member legal information portal
- ▶ Access to 37 legal databases
- ▶ Five fully serviced and stocked legal libraries
- ▶ Two strategic partnerships (Letterkenny IT and Waterford Public Library)
- ▶ Professionally qualified staff-assisted research
- ▶ Legal research skills training and database support
- ▶ Mobile texting and SMS service
- ▶ Inter-library loans and document delivery service
- ▶ Current awareness service (DLI Nua; InfoPoint)

#### IT AND REMOTE WORKING SUPPORTS

- ▶ Office 365 secure, encrypted email and file storage service (on up to five separate devices) to meet data protection requirements
- ▶ Entire Microsoft package
- ▶ Managed wi-fi access in all Law Library premises with IT Helpdesk and support
- ▶ Unique IT system account for each member
- ▶ Multi-purpose membership cards
- ▶ Printing and copying facilities at a rate of 3 cent per page

#### PROFESSIONAL PRACTICE AND SUPPORT

- ▶ Professional practice advisory service
- ▶ Practice support and fee recovery service
- ▶ Pupil/Mentor Scheme
- ▶ Law & Women Mentoring Programme – Promoting Equality
- ▶ Consult a Colleague helpline
- ▶ Benevolent Society of The Bar of Ireland



John Temple BL

“ Working alongside colleagues while learning from them and sharing best practice is the most valuable aspect of The Bar of Ireland. Law Library membership has optimised my practice and allowed me to focus on developing it further. ”

#### COMMUNICATIONS, EDUCATION AND PUBLIC AFFAIRS

- ▶ Annual CPD programme
- ▶ Live webcasting and on-demand webcasts, papers and presentations
- ▶ Access to Advocacy training
- ▶ Specialist Bar Associations and committees
- ▶ Opportunity to contribute to the research, policy and advocacy work of The Bar of Ireland
- ▶ Participation in our pro-bono Voluntary Assistance Scheme (VAS)
- ▶ Media relations
- ▶ Conferences and events
- ▶ [www.lawlibrary.ie](http://www.lawlibrary.ie) – website and members' section
- ▶ *The Bar Review*
- ▶ *In Brief* – weekly member information e-zine
- ▶ Fortnightly education and training bulletin
- ▶ Monthly events e-zine
- ▶ Member promotion through media relations and Direct Professional Access Scheme
- ▶ Access to scholarships, fellowships and bursaries

#### PREFERENTIAL FINANCIAL SERVICES

- ▶ On-site banking – Bank of Ireland
  - ▶ On-site insurance – Aon
  - ▶ The Bar of Ireland Retirement Trust – JLT Financial Services
  - ▶ The Bar of Ireland Critical Illness and Accelerated Death Benefit Scheme, covering all members up to age 65 for €100,000 life cover and up to €50,000 critical illness cover\*
- \*This cover is subject to review at annual renewal in October

#### ON-SITE FACILITIES AND SERVICES

- ▶ Fully staffed reception and security service
- ▶ DX Services
- ▶ Confidential shredding service
- ▶ Access to seating and office accommodation
- ▶ Access to room hire
- ▶ Access to car parking
- ▶ Locker and changing room facilities