



# **FLAC Submission to the Legal Services Regulatory Authority**

July 2021

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*By email only:* publicconsultations@lsra.ie

Section 34 Consultation

Legal Services Regulatory Authority (the “**Authority**”)

Response to the Authority’s Invitation for Written Submissions on Barriers for Early Career Solicitors and Barristers (“**Young Legal Professionals**”) and Increasing Diversity (the “**Consultation**”)

Dear all,

FLAC welcomes the opportunity to make a submission to this review. FLAC's primary concerns in this submission concern access to justice. The first concern relates to the training and education of a diverse and inclusive legal profession, which reflects the society it seeks to serve. It is unarguable that the legal profession is not reflective of our society as a whole and does not mirror the society it seeks to serve. Diversifying the legal profession goes to the core of the administration of justice. Ensuring diversity in the profession would increase meaningful equality within the legal system and support the credibility of the system itself. Where the legal system does not reflect the community it should represent, it will not achieve equal access to justice.

A second and related concern is to ensure that the training and education is sufficient to equip a diverse and inclusive legal profession to meet the legal needs of marginalised and disadvantaged groups and individuals.

## About FLAC

FLAC (Free Legal Advice Centres) is a voluntary independent human rights organisation which exists to promote equal access to justice. Our vision is of a society where everyone can access fair and accountable mechanisms to assert and vindicate their rights. We work particularly in the areas of the protection of economic, social and cultural rights. We identify and make policy proposals on laws that impact on marginalised and disadvantaged people, with a particular focus on social welfare law, personal debt & credit law and civil legal aid.

FLAC produces policy papers on relevant issues to ensure that Government, decision-makers and other NGOs are aware of developments that may affect the lives of people in Ireland. These developments may be legislative, Government policy-related or purely practice-oriented. FLAC may make recommendations to a variety of bodies including international human rights bodies, drawing on its legal expertise and providing a social inclusion perspective. You can download/read FLAC's policy papers [here](#).

FLAC operates a telephone legal information and referral line and runs a network of legal advice clinics where volunteer lawyers provide basic free legal advice. Despite the pandemic, in 2020, FLAC provided legal information to 12,468 callers to its Telephone Information and Referral Line. Furthermore, FLAC established phone legal advice clinics for substantive urgent legal queries within 17 days of their face-to-face legal clinics closing. FLAC also provides specialist legal advice to advisers in MABS and Citizens Information Services. It engages in policy and law reform work in areas of law that most impact on vulnerable and disadvantaged

groups and individuals. FLAC has recently worked to improve access to justice in particular for members for the Roma and Traveller Community, launching a dedicated Traveller Legal Service in July 2020. It operates a clinic for the Roma community. FLAC also operates as an independent law centre and takes a limited number of cases in the public interest.

In 2020, FLAC also celebrated 10 years of the Public Interest Law Alliance.<sup>1</sup> PILA is a public interest law network that seeks to engage the legal community and civil society in using the law to advance social change. PILA works to inspire and engage lawyers in pro bono work by supporting a culture of legal practice that actively delivers free legal assistance to those who are unable to pay for or access legal help. In 2020 it was involved in the launch of the pro bono pledge a new initiative, which asks the legal profession to commit to promoting access to justice by providing free legal assistance to those in need. The Pledge provides for a commitment to a minimum aspirational target of 20 pro bono hours per lawyer per year and a mechanism to benchmark progress through annual reporting of anonymous pro bono data.

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<sup>1</sup> For more information on FLAC's services in 2020 and more generally, please see FLAC's 2020 Annual Report [https://www.flac.ie/assets/files/pdf/flac\\_annual\\_report\\_2020\\_-\\_final.pdf?issuustl=ignore](https://www.flac.ie/assets/files/pdf/flac_annual_report_2020_-_final.pdf?issuustl=ignore).

## Objectives guiding the review

It is worth noting that, unlike the equivalent legislation in the UK [Part 1, Section 1(1) of the Legal Service Act 2007<sup>2</sup>], the Legal Services Regulation Act 2015 does not expressly include the protection or promotion of the fundamental human right to access to justice or support for the rule of law as stated objectives. However, the protection or promotion of the fundamental human right of access to justice and support for the rule of law are clearly central to the statutory objectives of the LSRA.

## The Public Sector Duty

In addition, the requirements of the Public Sector Duty which has been introduced pursuant to section 42 of the Irish Human Rights and Equality Act 2014 should also assist and guide the Authority's recommendations. The Public Sector Duty is an important national mechanism for mainstreaming equality and human rights. It imposes a positive obligation on a broad range of statutory and public bodies including the LSRA to have regard to, in the performance of their functions, the need to eliminate discrimination, promote equality of opportunity and protect the human rights of its members, staff and persons to whom it provides services. This review of is a key instance to which the Public Sector Duty applies. The implementation of the public sector duty by the LSRA requires the LSRA to have regard to in particular the protection or promotion of the fundamental human right of access to justice and support for the rule of law in the performance of its functions, in this instance the current review. It also requires the LSRA in the current review to have regard to the need to promote equality of opportunity among individuals who belong to the discriminatory grounds set out in the Equality legislation.

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<sup>2</sup> Legal Services Act, S1(1), 2007: *In this Act a reference to "the regulatory objectives" is a reference to the objectives of—*

- (a) protecting and promoting the public interest;*
- (b) supporting the constitutional principle of the rule of law;*
- (c) improving access to justice;*
- (d) protecting and promoting the interests of consumers;*
- (e) promoting competition in the provision of services within subsection (2);*
- (f) encouraging an independent, strong, diverse and effective legal profession;*
- (g) increasing public understanding of the citizen's legal rights and duties;*
- (h) promoting and maintaining adherence to the professional principles.*

## Our Submission

Initially, four barriers to entry to the legal profession were identified:

1. Gender;
2. Race and Ethnicity.
3. Socio-economic barriers; and
4. Disability;

## Access to Justice

Access to justice is of central concern to the education and training of the legal profession. Access to justice enables individuals to protect themselves against infringements of their rights, to remedy civil wrongs and to hold executive power accountable. Access to justice is both a process and a goal, and is crucial for individuals seeking to benefit from other procedural and substantive rights. Access to justice has societal importance as it increases social inclusion. It is an essential prerequisite for the rule of law and the laws legitimacy.<sup>3</sup> Access to justice is also an aspect of legal ethics which should be a core element of professional education and training.

At a very minimum legal education should be concerned with the inability of so many people to vindicate their rights due to the inadequacies in the provision of legal aid. It is important for lawyers to understand that many people are excluded from obtaining legal services, that barriers exist to the administration of justice and that lawyers have a social and professional responsibility to address these obstacles.

The current system of civil legal aid provided by the Legal Aid Board under the provisions of the Civil Legal Aid Act 1995 is limited. The applicant's disposable income must be below €18,000 and the disposable capital threshold is €100,000. Applicants must also pay a financial contribution which in some instances may be quite significant. There are lengthy waiting times in many law centres. The 1995 Act excludes a number of areas of core areas of law, including defamation and housing, from the civil legal aid scheme. The operation of the merits and

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<sup>3</sup> The right of access to justice is enshrined in Articles 6 and 13 of the European Convention on Human Rights (ECHR) and Article 47 of the EU Charter of Fundamental Rights, which guarantee the rights to a fair trial, to an effective remedy and to legal aid to those who lack sufficient resources so far as this is necessary to ensure effective access to justice. Access to justice is also reflected in our constitutional system of justice, where access to the courts is guaranteed. While it has no single precise definition, core elements of access to justice include effective access to information advice, legal aid, access to the courts and access to effective remedies.

means test means that many people facing family home repossessions are not entitled to legal representation. In addition, legal aid is not available for a range of quasi-judicial tribunals that make legally binding decisions outside of the court, including the Workplace Relations Commission, the Labour Court and the Social Welfare Appeals Office.

In recent years, demand for statutory civil legal aid has risen dramatically while resources have been reduced and the workload of the Board widened. This has led to increased pressure on the service and longer waiting times for people who need legal help.

The current court system is planned and administered on the basis that a litigant will be represented by a lawyer. FLAC's information line regularly receives calls from lay litigants who are representing themselves in complex court cases and who are desperately in need of assistance, advice and representation which FLAC does not have the resources to provide.

In many instances members of the public have no option but to attempt to represent themselves or allow judgment to be entered in default of a response to a claim. In many other cases, members of the public with good claims will be left with no option but to abandon their rights and leave problems unresolved and potentially worsening. Navigating the court process without representation can be difficult, complicated and emotionally draining on an individual. It can also add significant delay to court hearings. The result is no access to justice for some and compromised access to justice for others.

### ***Recommendations***

- a) FLAC recommends that the LSRA regard access to justice as a central concern to the education and training of the legal profession and should be a core focus of the review.**
  
- b) FLAC further recommends that the Public Sector duty be a core consideration in the review.**

### **Gender, Race and Ethnicity**

The LSRA as part of the review should have regard to Section 12 of the Employment Equality Act which contains provisions on vocational training which are applicable in relation to legal

professional training.<sup>4</sup>This would assist in the implementation of the public sector duty to promote equality in the performance of its functions.<sup>4</sup>

In summary section 12 prohibits discrimination (direct and indirect), sexual harassment and harassment in relation to access to and the terms and conditions of legal professional training, on the nine grounds of discrimination, which are gender, family status, civil status, sexual orientation, religion, race and the Traveller community ground. It also requires legal professional training bodies to provide reasonable accommodation for people with disabilities. It also allows for broad positive action measures.

The Legal profession has remained anything but inclusive. In an Irish Times, Article (10 October 2020), Rhea Bohan BL, noted that the lack of work-life balance in the Law Library, a direct result of the entrenched sole-trader rule, ensures that parents who do not wish to outsource their childcare, or cannot afford to do so are automatically locked out of the profession.<sup>5</sup> This rule disproportionately impacts female barristers, who in the absence of paid maternity leave, face the risk of losing a practice they have spent years building if they do not return to practice just mere weeks after giving birth. This coupled with the findings of a 2016 study by the Bar of Ireland that found Some 62 per cent of respondents reported experiencing direct or indirect discrimination, and “although they were not asked to specify or elaborate on the type of discrimination encountered, an overwhelming number of respondents’ comments referred to either personal experience of, or an awareness of, casual sexism and sexual harassment”.<sup>6</sup>

Chairperson McNally further notes that aside from barriers on the basis of gender, many are faced with the message that ‘entry to the club is confined to those who give the perception at least that they come from the “right” demographic. FLAC would argue that this mind-set has resulted in the justice system not reflective of society is stands to represent.

### **Recommendations**

- a) FLAC recommends that the relevant provisions of the Employment Equality Act, having regard to the provisions of the Race Directive, the Framework**

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<sup>4</sup> The provisions of the Employment Equality Act have to be interpreted in the light of the EU Race Directive, the EU Framework Employment Directive and the Recast Gender Directive, all of which contain provisions prohibiting discrimination and harassment in relation to access to all types an all levels of vocational guidance, vocational training and retraining, including practical work experience Article 3 of Council Directive 2000/43/EC Council Directive 2000/78/ EC and Article 14 of the Gender Recast Directive

<sup>5</sup> Irish Times, *Legal Profession is anything but inclusive*, 10 October 2020 <

<https://www.irishtimes.com/opinion/letters/legal-profession-is-anything-but-inclusive-1.4376925>>

<sup>6</sup> Irish Times, *Two in three women face discrimination, study finds*, 21 April 2016 <

<https://www.irishtimes.com/news/crime-and-law/two-in-three-women-barristers-face-discrimination-study-finds-1.2618019>>



**Employment Directive and the Gender Recast Directive be core considerations in this Review.**

- b) FLAC also recommends that the LSRA takes steps to ensure that the terms and conditions of and access to professional legal education be equality proofed and allow for the establishment [of Parental Leave, Career Break and other Flexible Working Policies](#).**
- c) To increase diversity in the profession, students from an ethnic and other minority background including socio economically disadvantaged backgrounds (see further below) should be supported throughout their education – additional measures should be introduced to assist these students (i) continue on to third level education, particularly to universities, and (ii) more specifically, pursue a legal education and (iii) access the legal profession once vocational training is completed.**

## **Socio Economic Barriers**

It is submitted that the main socio-economic barriers facing Young Legal Professionals are:

- a) Access to Education;
- b) Costs; and
- c) Exclusivity.

### **A) Access to Education**

In December 2020, the Higher Education Authority published detailed data, which provides an insight into the socio-economic profile of students in third level education in Ireland (the Data).<sup>7</sup> The Data is based on "Deprivation Index" scores, which measures the relative affluence or disadvantage of a particular geographical area. Helpfully, the Data covers 94% of all students enrolled in higher education institutions in 2018/2019.

The Data indicates that there are only 4.9 students from disadvantaged areas to every 10 students from affluent areas, but this varies across institutions. Overall, only 10% of students attending college in 2018/19 came from disadvantaged areas. More specifically, across all

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<sup>7</sup> Higher Education Authority: New HEA Data provides in-depth insight into the socio-economic profile of our universities and institutes of technology

third level education institutions, only 9% of students studying law that year came from disadvantaged backgrounds.

Across the eight universities in Ireland, the percentage of students from disadvantaged backgrounds varies but is consistently low:

- a) 5% of students in Trinity College Dublin, University College Dublin and University College Cork;
- b) 8% of students from University of Limerick, Technological University Dublin, National University of Ireland, Galway and Dublin City University; and
- c) 10% of students from Maynooth University.<sup>8</sup>

There is also research which noted that the upper socio-economic groups obtained a disproportionate number of the more “valuable” educational qualifications (including law)<sup>9</sup> leading to a situation where the Irish education and access to the fee-paying model ensures that those who enter from advantaged positions are positioned to increase (or maintain) their advantage at every level within the system.

As third level education is required to gain entry into the legal profession, it follows that individuals from disadvantaged backgrounds are less likely to pursue a career in law than those from other backgrounds.

### **Recommendations**

- a) To increase diversity in the profession, socio-economically disadvantaged students should be supported throughout their education – additional measures should be introduced to support students from socio-economically disadvantaged backgrounds to (i) continue on to third level education, particularly to universities, and (ii) more specifically, pursue a legal education.**
- b) In line with the above measures, we would welcome the Introduction of Legal Sector Apprenticeships [similar to those in the UK](#).**
- c) Links should be created between the Law Society, King's Inns and colleges and universities to support students who avail of "access routes" to obtain their third level education (for example, the Trinity Access Programme). There should be**

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<sup>8</sup> Higher Education Authority: Maps and Socio-Economic Data

<sup>9</sup> The smokescreen of meritocracy": elite education in Ireland and the reproduction of class privilege Kennedy, Margaret; Power, Martin J. (2010) Journal for Critical Education Policy Studies;8 (2), pp. 223-248

**options to continue these access programmes throughout students' legal training (if required).**

- d) Educational programmes should be put in place for second level education students (for example, for transition year students attending DEIS schools) to educate socio-economically disadvantaged students about the legal profession and access routes.**

## **B) Costs**

A recent survey of aspiring legal practitioners<sup>10</sup>, found that 43% of students (who expected to face barriers to pursuing a career in law) identified the costs of qualification as the most significant barrier to entry into the legal profession. This barrier is magnified for individuals from socio-economically disadvantaged areas whose average household income is much less than households in affluent areas. As a result of the significant costs (and time) involved in training and qualifying into the legal profession, and the lack of supports available, candidates from more privileged backgrounds (who enjoy family and financial supports) are more likely to succeed, which reduces the socio-economic diversity of the legal profession.<sup>11</sup>

The costs associated with a legal qualification are significant:

### **Solicitors:**

For solicitors, the fixed costs associated with qualification are approximately €15,190 – these include:

- €410 for the Law Society's Preliminary Examination (if applicable);
- €105 per FE-1 exam (€840 in total);
- €8,300 in course fees for the PPC I<sup>12</sup> and €4,500 for the PPC II;
- €840 for the Register of Apprentices; and
- €300 for entry to the Roll of Solicitors.

The above does not include potential re-sit fees or the cost of preparatory courses for the FE-1 examinations, the latter generally costing in the region of €3,000.

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<sup>10</sup> *Hook Tangaza: Review of Legal Practitioner Education and Training*

<sup>11</sup> *Legal Services Regulatory Authority: [Pathways to the Profession](#)*

<sup>12</sup> The PPC I course is approved for postgraduate grant purposes via Student Universal Support.

The Law Society provides a certain amount of funding, by way of scholarships, which aim to assist socio-economically disadvantaged students gain access to the legal profession. Depending on applicants' circumstances, the scholarships can assist with reduced or waived fees as well as funding and mentoring supports. According to the Law Society, there have been over 200 Access students since 2001.<sup>13</sup>

One particular point of contention in solicitors' training (both in terms of cost and time) is the mandatory FE-1 exams. Many law firms and representative bodies have argued that the FE-1 exams are an unnecessary and redundant hurdle for those wishing to qualify into the legal profession and should be abolished. To tackle concerns around the FE-1s, the Law Society introduced a new accelerated model, which enables students to sit FE-1 exams during their undergraduate degree. However, this new model has been met with similar resistance:

- Irish Business and Employers Confederation (IBEC) have expressed concerns that the new model does not remove the barriers posed by the FE-1s as many students will neither have the financial means nor the time to undertake the FE-1 examinations while studying for their undergraduate degree.
- Similarly, Arthur Cox expressed serious concerns that the accelerated model is not a realistic option for many students (who may already be balancing exams, assessments, part-time work etc.) and does not address the core issues with FE-1s, being duplication of effort and unnecessary cost. Arthur Cox noted that this again highlights the issue of social mobility where students from wealthier families who can afford not to work through college are more likely to be able to sit the FE-1s and qualify earlier as a result.<sup>14</sup>

As such, the new accelerated model may inadvertently widen the socio-economic divide in the legal profession even further.

### **Barristers:**

For Barristers, the fixed costs associated with qualification are approximately €16,635 – these include:

- Kings Inns Entrance Examination application fee €600 (€1,000 late fee)
- BL degree course fees €12,560;
- Law Library members €150 to lodge application fee (€800 late fee);
- Law Library once off entry fee €1,500;

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<sup>13</sup> Law Society: Access Programmes

<sup>14</sup> Legal Services Regulatory Authority: Pathways to the Profession

- First year subscription fee (full membership no seat) €1,825.

The Kings Inns provides a very limited number of bursaries and fellowships to promote more open access to legal education and training for prospective barristers.<sup>15</sup>

- The Maurice Gaffney Fellowship: This fellowship provides that the Education Committee of King's Inns may remit course fees payable by students who face exceptional hardship and wish to attend the course leading to the Diploma in Legal Studies.
- The Niall and Barbara McCarthy Scholarship: This scholarship supports one student who might not otherwise be able to take the Barrister-at-Law degree. It provides full remission of fees to King's Inns course leading to the degree of Barrister-at-Law, a limited maintenance grant, a six-week internship at the Court of Human Rights in Strasbourg, and a grant to cover travel and maintenance costs in Strasbourg.
- The Denham Fellowship: This fellowship is offered in association with the Bar of Ireland and is aimed at encouraging diversity within the profession. It provides for the remission of fees to King's Inns course leading to the degree of Barrister-at-Law, as well as a waiver of the Law Library fees for the first four years of practice in addition to an annual stipend of €6,000 for a period of five to six years. This annual fellowship assists two aspiring barristers who come from socio-economically disadvantaged backgrounds.

In addition to the fees outlined above, newly qualified barristers are required to work for at least one year with an established barrister, known as a Master, to become acquainted with court work, preparation of cases, legal documents and so on. The newly qualified barrister generally does not receive any fee for this work. For barristers, *"the difficulty of earning a living in the first few years of practice acts as a major disincentive for those who need to obtain an income to support themselves during this period."*<sup>16</sup>

**Recommendations:**

- a) **Consideration should be given to the abolition of the FE-1 exams for individuals who have already obtained an appropriate law-related undergraduate degree to reduce the time and cost associated with qualification as a solicitor and to avoid duplication of effort.**

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<sup>15</sup> Kings Inns: [Fellowships, Bursaries & Prizes](#)

<sup>16</sup> Hook Tangaza: Review of Legal Practitioner Education and Training

- b) Furthermore, there needs to be access routes for non-graduates such as a diploma which could give access to professional training for both professions.**
- c) We recommend the introduction of additional bursaries, fellowships and grants for Law Society / King's Inns courses.**
- d) We recommend that consideration be given to a statutory minimum payment, or the entitlement to certain social welfare benefits, for newly qualified barristers during their pupillage.<sup>17</sup>**
- e) The education of solicitors and barristers is centralised and therefore inaccessible to many in terms of location and cost. The LSRA should consider the feasibility of retention of hybrid vocational training for both Blackhall Place and Kings Inns, which would combine online lectures with face-to-face tuition to facilitate those who are blocked from training, due to socio-economic issues such as childcare commitments, being unable to afford leaving full time employment or not having the financial means to source suitable accommodation within the capital. <sup>18</sup>**
- f) Introduction of a mechanism, to allow students at Blackhall Place to commence their traineeship prior to commencing their vocational training. This will allow them to undertake gainful employment in the legal sector.**

### **C) Exclusivity**

Studies have found that there is a perception of an element of exclusivity within the legal profession. For example, there is a perception among law students that entry into the legal profession in Ireland requires “insider knowledge or contacts”.<sup>19</sup> The need for solicitors to obtain a training contract and for barristers to secure a Master in order to qualify into the legal profession are significant barriers to entry to the profession for those without prior connections in the sector.

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<sup>17</sup> A training solicitor is obliged to pay his/her trainee solicitor a minimum salary under the terms of the [National Minimum Wage Act 2000](#).

<sup>18</sup> Law Society of Ireland, [PPC Hybrid](#).

<sup>19</sup> *Friedman and Laurison: The Class Ceiling: Why it Pays to be Privileged (2019)*

Further there is a tendency of children to follow in their parents' occupational footsteps due to what is known as "micro-class reproduction".<sup>20</sup> A recent study indicates that children of lawyers are 17 times more likely to enter the legal profession than the average person.<sup>21</sup>

As a result, the legal industry continues to exclude (whether consciously or sub-consciously) those from socio-economically disadvantaged backgrounds who do not have parents in the profession or pre-existing connections/contacts.

**Recommendation:**

- a) **We recommend the conscious creation of networks at second/third level for individuals coming from socio- economically disadvantaged and other minority backgrounds to enable these individuals to create contacts and build connections and relationships with established professionals in the legal industry.**
  
- b) **Implementation of a more transparent and fair system regarding the selection of Pupil Masters, of which will be managed centrally by the Bar Library.**

## Disability

The disability rights movement has a long-established saying: *"nothing about us without us"*. It acknowledges that disabled people and their representative organisations must be at the centre of any change for it to be effective. According to the Disability Federation of Ireland 13.5% of the population of Ireland, or 643,131 persons have at least one disability.<sup>22</sup> As such, in the first instance, we suggest that the LSRA engage with disabled people and their representative bodies to discuss how best to accommodate disabled lawyers and tackle barriers to entry to the profession for Young Legal Professionals who are disabled. Consultation with individuals and groups belonging to the discriminatory grounds in the equality legislation would assist with compliance with the public sector equality and human rights duty. All of our below recommendations should be considered with this in mind.

We believe that the main disability-related barriers facing Young Legal Professionals are:

- a) discrimination and bias;
- b) lack of action; and

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<sup>20</sup> Ibid.

<sup>21</sup> Ibid.

<sup>22</sup> Disability Federation of Ireland, [DFI Infographic Ireland](#).

- c) lack of mentors, connections and representation.

## **A) Discrimination and Bias**

According to the Solicitors Regulatory Authority of England and Wales (the SRA)<sup>23</sup>, while 13% of the UK workforce declare they have a disability, only 3% of solicitors declare they have a disability. This is significant when one considers that approximately 19% of working age people in the UK are disabled. This suggests that many solicitors are choosing not to declare their disability. The SRA suggest that solicitors fear the potential consequences of disclosing their disability. A recent study indicates that this fear is often justified as approximately 50% of those surveyed who declared their disability experienced ill-treatment, ignorance or discrimination, "including ridiculing language, exclusion or victimisation".<sup>24</sup>

According to a recent report:<sup>25</sup>

*"We live and work in an ableist society, where negative assumptions and stereotypes continue to exclude and disadvantage disabled people and, until this bias, unconscious or conscious, is acknowledged and properly understood, it cannot be challenged. Our research suggests that day-to-day, disabled people in the legal profession confront rituals, practices and attitudes that exclude or undermine them in their roles as trainees, advocates and employees. The culture that sustains these exclusionary practices is, furthermore, maintained because until now, little research has documented their experiences."*

In tandem with this, a group of Irish solicitors and trainees with disabilities cited a lack of awareness of disabilities from their colleagues. This is the case with visible disabilities and can be even more pronounced with invisible disabilities.<sup>26</sup> This lack of awareness can often present major barriers in everyday working life of a solicitor or trainee with a disability.

### **Recommendations:**

- a) We recommend that a comprehensive study and research (similar to that conducted by the SRA) be conducted by the LSRA so that we can properly understand the issues faced by disabled members of the profession, their needs and barriers that they face.**

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<sup>23</sup> Solicitors Regulatory Authority: Promoting disability inclusion in law firms – setting out good practice

<sup>24</sup> Foster and Hirst (2020), Legally Disabled? The career experiences of disabled people working in the legal profession

<sup>25</sup> Foster and Hirst (2020), Legally Disabled? The career experiences of disabled people working in the legal profession

<sup>26</sup> On 26 November 2020, the DFI reported that 80% of disabilities are invisible.



- b) We recommend formal education and training programmes around disability and anti-discrimination be put in place at an industry level to educate solicitors and barristers about disabilities and how to assist disabled colleagues.**
- c) We recommend systems be put in place to collect industry diversity data. This data should be monitored and evaluated to develop evidence based disability focused policies, practices and initiatives.**

## **B) Lack of Action**

The SRA notes that some law firms present as disability inclusive - they have policies and procedures in place and offer flexible working opportunities. However, the SRA conducted a survey and 86% of firms that responded noted that, while they had a policy or statement setting out their approach to equality, diversity and inclusion, only 21% had set out actions to support or improve disability inclusion.<sup>27</sup> Employers and disabled people report that conversations about disability in the workplace are "too difficult" and often avoided, for fear of "getting it wrong".<sup>28</sup>

### ***Recommendations:***

- a) Again, we recommend systems be put in place to collect industry diversity data – this data should be monitored and evaluated to develop evidence based disability focused policies, practices and initiatives. The policies should be practical and realistic and should include actions to improve the experiences and well-being of disabled members of the professions.**
- b) We recommend engagement with staff disability networks to tap into established knowledge and expertise.**
- c) We recommend training and education programmes are put in place to support and encourage open discussion about disability within profession.**

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<sup>27</sup> Solicitors Regulatory Authority: Promoting disability inclusion in law firms – setting out good practice

<sup>28</sup> Foster and Hirst (2020), Legally Disabled? The career experiences of disabled people working in the legal profession

### **C) Lack of Mentors, Connections and Representation**

A recent report notes that the “visibility of other disabled people in the working environment” contributes to a positive experience at work.<sup>29</sup> The SRA notes that having disability role models provides an environment in which employees can flourish. However, disabled solicitors are substantially underrepresented and, as such, disabled role models and mentors in the legal industry are in short supply.

In addition, according to the SRA some disabled candidates are pessimistic about their chances of success in the legal industry because of a lack of contacts in and knowledge of the profession.

#### ***Recommendation:***

**We recommend engagement with disabled people, schools, universities, representative organisations etc., to attract disabled people to the profession and to support them in their training. This would provide opportunities for disabled people looking to enter the industry to develop connections and relationships.**

#### ***General recommendations:***

**In addition to the recommendations outlined above, to tackle socio-economic barriers and barriers faced by disabled people, we recommend:**

- a) the facilitation and encouragement of placement and work experience opportunities for disabled people and individuals from socio-economically disadvantaged backgrounds across the legal sector to enable individuals in both situations to gain valuable experience and knowledge of the industry, build connections, and increase representation; and**
- b) the introduction of reverse mentoring schemes, where disabled people and individuals from socio-economically disadvantaged backgrounds mentor senior legal personnel in an effort to change attitudes, biases and misconceptions.**

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<sup>29</sup> Foster and Hirst (2020), Legally Disabled? The career experiences of disabled people working in the legal profession

## Conclusion

The introduction of the above recommendations would go a long way in addressing barriers on the grounds of gender, race & ethnicity; socio-economic disadvantage, and disability. In summary, we recommend the following:

- a) FLAC recommends that the LSRA regard access to justice as a central concern to the education and training of the legal profession and should be a core focus of the review.
- b) FLAC further recommends that the Public Sector duty be a core consideration in the review.
- c) To increase diversity in the profession, socio-economically disadvantaged students should be supported throughout their education – additional measures should be introduced to support students from socio-economically disadvantaged backgrounds to (i) continue on to third level education, particularly to universities, and (ii) more specifically, pursue a legal education.
- d) FLAC recommends that the relevant provisions of the Employment Equality Act, having regard to the provisions of the Race Directive, the Framework Employment Directive and the Gender Recast Directive be core considerations in this Review.
- e) FLAC also recommends that the LSRA takes steps to ensure that the terms and conditions of and access to professional legal education be equality proofed and would provide for the establishment [of Parental Leave, Career Break and other Flexible Working Policies.](#)
- f) To increase diversity in the profession, students from an ethnic minority and other minority backgrounds should be supported throughout their education – additional measures should be introduced to assist these students (i) continue on to third level education, particularly to universities, and (ii) more specifically, pursue a legal education and (iii) access the legal profession once vocational training is completed.
- g) In line with the above measures, we would welcome the Introduction of Legal Sector Apprenticeships [similar to those in the UK.](#)
- h) Links should be created between the Law Society, King's Inns and colleges and universities to support students who avail of "access routes" to obtain their third level

education (for example, the Trinity Access Programme). There should be options to continue these access programmes throughout students' legal training (if required).

- i) Educational programmes should be put in place for second level education students (for example, for transition year students attending DEIS schools) to educate socio-economically disadvantaged students about the legal profession and access routes.
- j) Consideration should be given to the abolition of the FE-1 exams for individuals who have already obtained an appropriate law-related undergraduate degree to reduce the time and cost associated with qualification as a solicitor and to avoid duplication of effort.
- k) Furthermore, there needs to be access routes for non-graduates such as a diploma which could give access to professional training for both professions
- l) We recommend the introduction of additional bursaries, fellowships and grants for Law Society / King's Inns courses.
- m) We recommend that consideration be given to a statutory minimum payment, or the entitlement to certain social welfare benefits, for newly qualified barristers during their pupillage.<sup>30</sup>
- n) The education of solicitors and barristers is centralised and therefore inaccessible to many in terms of location and cost. The LSRA should consider the feasibility of retention of hybrid vocational training for both Blackhall Place and Kings Inns, which would combine online lectures with face-to-face tuition to facilitate those who are blocked from training, due to socio-economic issues such as childcare commitments, being unable to afford leaving full time employment or not having the financial means to source suitable accommodation within the capital.<sup>31</sup>
- o) Introduction of a mechanism, to allow students at Blackhall Place to commence their traineeship prior to commencing their vocational training. This will allow them to undertake gainful employment in the legal sector.

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<sup>30</sup> A training solicitor is obliged to pay his/her trainee solicitor a minimum salary under the terms of the [National Minimum Wage Act 2000](#).

<sup>31</sup> Law Society of Ireland, [PPC Hybrid](#).

- p) We recommend the conscious creation of networks at second/third level for individuals coming from socio- economically disadvantaged backgrounds to enable these individuals to create contacts and build connections and relationships with established professionals in the legal industry.
- q) Implementation of a more transparent and fair system regarding the selection of Pupil Masters, of which will be managed centrally by the Bar Library.
- r) We recommend that a comprehensive study and research (similar to that conducted by the SRA) be conducted by the LSRA so that we can properly understand the issues faced by disabled members of the profession, their needs and barriers that they face.
- s) We recommend formal education and training programmes around disability and anti-discrimination be put in place at an industry level to educate solicitors and barristers about disabilities and how to assist disabled colleagues.
- t) We recommend systems be put in place to collect industry diversity data. This data should be monitored and evaluated to develop evidence based disability focused policies, practices and initiatives. The policies should be practical and realistic and should include actions to improve the experiences and well-being of disabled members of the professions.
- u) We recommend engagement with staff disability networks to tap into established knowledge and expertise.
- v) We recommend training and education programmes are put in place to support and encourage open discussion about disability within profession.
- w) We recommend engagement with disabled people, schools, universities, representative organisations etc., to attract disabled people to the profession and to support them in their training. This would provide opportunities for disabled people looking to enter the industry to develop connections and relationships.
- x) the facilitation and encouragement of placement and work experience opportunities for disabled people and individuals from socio-economically disadvantaged backgrounds across the legal sector to enable individuals in both situations to gain valuable experience and knowledge of the industry, build connections, and increase representation; and

- y) the introduction of reverse mentoring schemes, where disabled people and individuals from socio-economically disadvantaged backgrounds mentor senior legal personnel in an effort to change attitudes, biases and misconceptions.