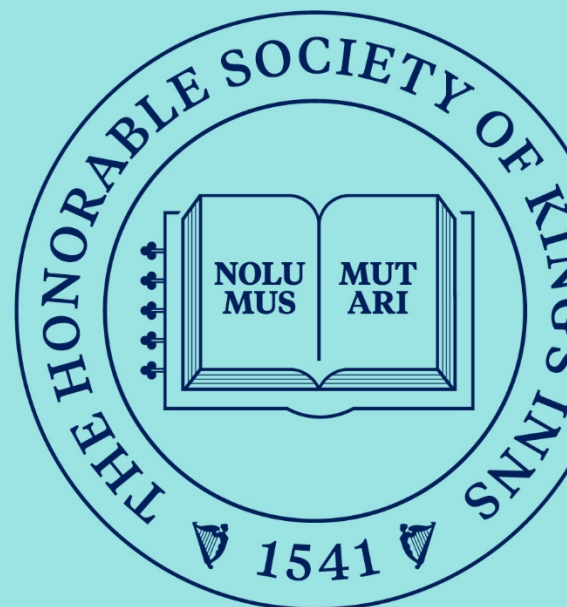


**LEGAL SERVICES  
REGULATORY  
AUTHORITY PUBLIC  
CONSULTATION  
SUBMISSION ON BEHALF OF  
THE HONORABLE SOCIETY OF  
KING'S INNS**

29 JUNE 2021



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# INTRODUCTION

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The Honorable Society of King's Inns ("King's Inns") makes this submission in response to the invitation issued by the Legal Services Regulatory Authority ("LSRA") for submissions in relation to the economic and other barriers and challenges faced by solicitors and barristers at the start of their careers.

The public consultation being conducted by the LSRA follows a request from the Minister for Justice for a report on the barriers faced by trainee<sup>1</sup> and early career barristers and solicitors and on diversity in the professions. Specifically, the Minister for Justice ("the Minister") has requested that the LSRA:

"Consider the economic and other barriers faced by young barristers and solicitors following their qualification from the King's Inns and Law Society respectively and to submit a report with recommendations for her consideration."

In this context, the Minister has asked the LSRA to pay particular attention to equity of access and entry into the legal professions and the objective of achieving greater diversity within the professions.

King's Inns notes that the request issued by the Minister refers to economic and other barriers faced by young barristers "following their qualification from the King's Inns". It thus appears that the education and training functions fulfilled by King's Inns fall outside the potential scope of the report that the Minister has requested from the LSRA. However, as a professional body recognised in the Legal Services Regulation Act 2015, King's Inns is pleased to contribute to the consultation process.

The Minister has asked the LSRA to examine a number of specific matters in connection with the barristers' profession. Certain of these specific issues fall outside the remit or area of operation of King's Inns (e.g., the pupillage selection process, the pupillage programme, and the question of maternity / adoptive leave for barristers).

The mission of King's Inns is to excel in the provision of both professional and academic legal education and training and to develop and nurture lifelong relationships with its entire membership. The core function of King's Inns is the education and training of prospective barristers in Ireland, which it achieves through the provision of the Barrister-at-Law degree course. It is not proposed to address in detail issues falling outside of that function in this submission.

As will be appreciated by the LSRA, from the perspective of King's Inns there is a substantial connection between the present consultation and the previous consultation relating to the admissions policies of the legal professions. King's Inns is concerned with the education and training of prospective barristers. Therefore, submissions on behalf of King's Inns in relation to barriers to access and diversity within the profession necessarily overlap with earlier submissions on admissions policies.

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<sup>1</sup> It should be noted that there is no such concept as a "trainee barrister" in the sense that there are "trainee solicitors" undertaking their apprenticeship. Having been admitted to the degree of Barrister-at-Law and called to the Bar by the Chief Justice, all barristers have a full right of audience before all Courts and are entitled to practise fully as a barrister. As a consequence, King's Inns teaches and assesses the Barrister-at-Law degree course to a "fit to practise" standard.



# EQUITY OF ACCESS AND DIVERSITY

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## Routes to Qualifying as a Barrister.

In 2020, 167 people were called to the Bar. The majority (116) were called to the Bar having successfully completed the Barrister-at-Law degree course organised by King's Inns. Thirty-five people were called to the Bar pursuant to Directive 2005/36/EC on the recognition of professional qualifications. One person was admitted on the basis of Morgenbesser eligibility (i.e., having partly qualified in another EU Member State, by then completing assessments to address any shortfall in knowledge or skills). 12 barristers from Northern Ireland were called to the Bar. Three solicitors transferred to the Bar (a solicitor who has been in continuous practice in the State for three years or more may, having attended a short Solicitor Transfer Course at King's Inns, be admitted to the degree of Barrister-at-Law and called to the Bar). The relatively short timeframe within which a solicitor may become a barrister and the ease with which qualified lawyers from other jurisdictions may practise in Ireland is an important factor to consider when assessing any supposed barriers of entry and diversity within the profession. Thus, although this submission addresses equity of access and diversity from the perspective of qualifying as a barrister via the Barrister-at-Law degree course, it should be borne in mind that there are alternative routes for lawyers qualified in Ireland or elsewhere in Europe to practise as a barrister in this jurisdiction.

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## Routes to Barrister-at-Law Degree

Entry to King's Inns is fair and open. Every person who meets the entry requirements and passes the Entrance Examination may embark upon professional education and training at King's Inns. King's Inns strives to ensure that access to professional education and training for prospective barristers is open to people from all sections of Irish society in a real and meaningful way. In this regard, it is significant that one may gain admission to the profession by pursuing the Diploma in Legal Studies offered by King's Inns, which is open both to those holding a third level qualification in a discipline other than law and to applicants with no previous third level qualification, and then the modular (i.e., part-time) Barrister-at-Law degree course. This allows a prospective barrister to pursue the entire course of study on a part-time basis, which facilitates access to legal education and training by a wider section of the community.

It may also be noted in this regard that many modular students travel from outside Dublin, or even from outside Ireland, to attend classes on their designated weekends (although this year, owing to the COVID-19 pandemic, all classes were conducted remotely).

There are thus two routes to achieve eligibility to sit the Entrance Examination, which leads to admission to the Barrister-at-Law degree course: by holding one of the 82 approved qualifications that can be obtained at an institution other than King's Inns; or by holding the King's Inns Diploma in Legal Studies. The availability of these alternative routes improves access to the degree course and increases the diversity of students who undertake the degree course. In this regard, it may be noted that the general age profile of persons holding

the King's Inns Diploma in Legal Studies is older than those who enter the Barrister-at-Law degree course from other routes, indicating that the Diploma course provides an avenue for more mature students and those who may not previously have had the opportunity to study at third level to pursue legal studies and enter the profession.

The following information relating to the 195 candidates who sat the Entrance Examination for the 2020-2021 Barrister-at-Law degree course may also be instructive when assessing access to and diversity within the profession. 67 (34%) held the Diploma in Legal Studies from King's Inns; 29 (15%) held an approved degree from TCD; 19 (10%) held an approved degree from Griffith College; 17 (9%) held an approved degree from UCC; 14 (7%) held an approved degree from UCD; 11 (6%) held an approved degree from NUIG; 8 (4%) held an approved degree from DCU; 7 (4%) held an approved degree from UL; 6 (3%) held an approved degree from TUD; 5 (3%) held an approved degree from NUIM; 3 (1.5%) held an approved degree from DBS; 3 (1.5%) held an approved degree from Institute of Technology Carlow; and there was one candidate from each of the following institutions: WIT, Portobello College, Independent College, Athlone Institute of Technology, and 2 Morgenbesser applicants.

Table A sets out relevant data from the years 2013-2020 relating to the numbers sitting the Entrance Examination, the numbers commencing the degree course (with information as to whether they opted for the full-time or modular course), and their route of admission.

Table A

Year	Number sitting Entrance Examination	Number commencing degree course (full-time/modular)	Route of admission: approved legal qualification	Route of admission: King's Inns Diploma in Legal Studies
2013	168	141 (87 / 54)	96 (68%)	45 (32%)
2014	157	140 (80 / 60)	91 (65%)	49 (35%)
2015	120	96 (58 / 38)	65 (68%)	31 (32%)
2016	133	119 (79 / 40)	74 (62%)	45 (38%)
2017	131	112 (51 / 61)	67 (60%)	45 (40%)
2018	143	120 (58 / 62)	85 (71%)	35 (29%)
2019	150	118 (57 / 61)	84 (71%)	34 (29%)
2020	195	183 (97 / 86)	126 (69%)	57 (31%)

The number of applicants who sat the Entrance Examination in 2020 was 195, which compares with an annual average of 135 between 2015 and 2019. The number of applicants who satisfied the Entrance Examination standard and student admission declaration criteria was 181, compared with an annual average of 113 between 2015 and 2019. 183 students commenced the 2020-21 Barrister-at-Law degree course (representing an increase of 62% compared with an annual average of 113 between 2015 and 2019).

From year to year, the number of persons undertaking the Barrister-at-Law degree course fluctuates and reflects the level of interest in entering the profession. King's Inns has the capacity to facilitate, and places no numerical restriction on, the admission of greater numbers of barristers to the profession. This can be contrasted with the system in other jurisdictions. For example, in Northern Ireland, there is a cap on the numbers admitted to the professional training leading to qualification as a barrister. This is not the case in this State, as King's Inns will admit and train everyone who meets the entry criteria in any given year.

Regarding completion of the Barrister-at-Law degree course, the pass rate (i.e., the proportion of students who successfully complete the course in a given year, whether at the annual examinations or by way of supplemental examination) in 2020 was 74% (annual) and 92% (supplemental) (compared with 68% (annual) and 91% (supplemental) in 2019 and an average of 70% (annual) and 93% (supplemental) in the period 2015-2019). The view of King's Inns is that its policies regarding entry to the Barrister-at-Law degree course and successful completion of that course, ultimately leading to entry to the profession, are appropriately rigorous without being unduly restrictive and are well-designed to meet the objectives contained in section 13(4) of the Legal Services Regulation Act 2015.

## Composition of Student Body

Regarding the demographic make-up and the diversity of the student body at King's Inns, as of the date of this submission, King's Inns has conducted the below analysis in respect of persons who were eligible to sit / persons who sat / persons who passed the Entrance Examination (as distinct from persons who commenced the Barrister-at-Law degree course):

- As can be seen from Figure 1 below, 54% of the 181 candidates who passed the Entrance Examination in 2020 identified as male, 46% identified as female, with none stating other identities;
- As can be seen from Figure 2 below, of the 201 applicants who were eligible to sit the Entrance Examination in 2020, 47 (23%) were aged under 25 years, 48 (24%) were aged 25-29 years, 55 (27%) were aged 30-39 years, 25 (12%) were aged 40-49 years, and 26 (13%) were over 50 years of age; and
- Of the 201 applicants who were eligible to sit the Entrance Examination in 2020, 48% provided a Dublin correspondence address (this may differ from permanent home address). Cork and Kildare applicant addresses accounted for 6.5% each of the total; Meath 5%; Galway 4%; Waterford and Wicklow 3.5% each; Wexford and Carlow 3% each; Limerick and Laois 2% each. The balance of 13% (26 applicant correspondence addresses) is spread among 15 locations: Westmeath, Tipperary, Sligo, Roscommon, Monaghan, Mayo, Louth, Kilkenny, Kerry, Donegal, Cavan, Northern Ireland, England, Belgium and Zimbabwe.

Figure 1: Gender Percentages: Entrance Examination candidates 2020

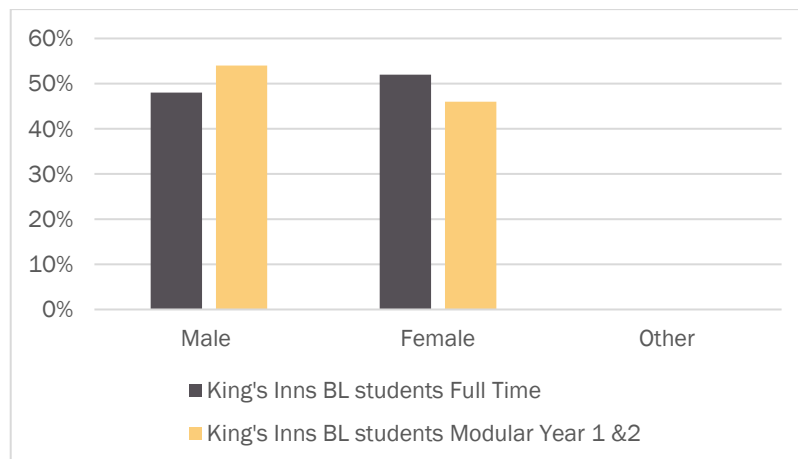
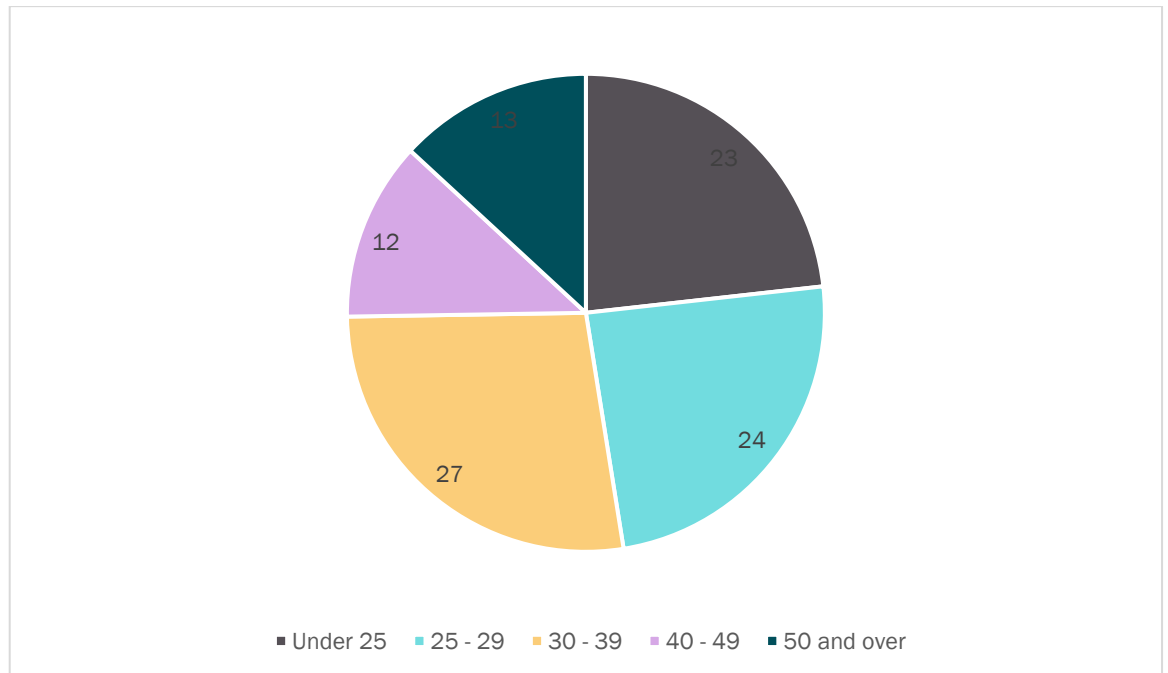


Figure 2: Age breakdown of Entrance Examination candidates 2020 (% of overall candidates)



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## Bursaries and Fellowships

Three separate bursaries and fellowships are available in King's Inns and have at their core the aim of ensuring fuller and more open access to legal education and training for prospective barristers.

The Denham Fellowship is aimed at encouraging diversity within the profession and is offered in association with the Bar Council. It provides for remission from Barrister-at-Law degree course fees and all related examination fees, an annual stipend of €6,000 for a period of 5 or 6 years, and a waiver of Law Library fees in the first four years of practice. Two Denham Fellowships were awarded to students commencing the Barrister-at-Law degree course in September 2020.

The McCarthy Bursary supports one student annually who might not otherwise be able to pursue the Barrister-at-Law degree course. It provides for full remission of fees and a limited maintenance grant in accordance with the terms of the Bursary. There was one recipient of the McCarthy Bursary in 2020.

The Gaffney Fellowship is open to students who face exceptional hardship and who wish to attend the King's Inns Diploma in Legal Studies. It provides for remission of course fees payable. The course fees of nine students attending year 1 or year 2 of the Diploma were remitted in part or in full, from the Gaffney Fellowship fund in 2020.

It may also be noted that the Barrister-at-Law degree course is eligible for postgraduate funding under the State's Student Universal Support Ireland (SUSI) scheme.



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## Pupillage

The present public consultation raises a range of issues with respect to pupillage for barristers, including issues as to what information is available to prospective barristers on available masters, terms and conditions of pupillage, and selection processes. King's Inns plays no formal role in assisting students to secure pupillages, or in the pupillage process more generally, and as such does not propose to make detailed submissions in relation to these issues. However, it may be noted that students can avail of informal support from coordinators and tutors in King's Inns in relation to the process of identifying and approaching a master. Pupillage is also discussed in practice management sessions on the Barrister-at-Law degree course.

Moreover, on several dining nights per academic year, students sit with Benchers or with invited barristers (who practise within and outside the Law Library) and have the opportunity to informally discuss career development, including pupillage.

The King's Inns student society (the LSDSI) also organises an event for students at which a number of practising barristers are invited to speak, *inter alia*, about their experience of pupillage. At this event, students are free to ask questions of the speakers, which questions may of course relate to the process of securing a pupillage and the conditions of pupillage.

It may also be noted that King's Inns does not possess information regarding the number of pupillages secured by the Barrister-at-Law degree graduating class of 2020. Such information would be available from the Bar Council and from graduates who secured a pupillage but who are not members of the Law Library. King's Inns is not aware of any members of the Barrister-at-Law degree graduating class of 2020 who were unable to secure pupillage.

In this jurisdiction, it therefore appears that any person who wishes to enter private practice as a member of the Law Library has the opportunity of doing so and can arrange a master with whom to undertake pupillage. There is no ultra-competitive chambers system, in contrast to the system in England and Wales, where non-traditional entrants and minorities are under-represented in obtaining pupillages and tenancies. In England and Wales, where rights of audience are limited, many students, having gone to both the effort and financial expense of obtaining professional qualification as a barrister, find themselves unable to obtain the pupillage that is required to enable them to complete the process to fully enter practice.

It is worth also noting that while the Barrister-at-Law degree course is primarily focused on preparing students for a career at the independent referral Bar, many students undertake the course with other career goals in mind. While it is difficult to track the different career paths students take after qualification from King's Inns, it is evident that many barristers practise as such in the full-time service of the State or in the private sector.

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## Standard and Cost of Education

A student who successfully completes the Barrister-at-Law degree course at King's Inns is eligible to be admitted to the degree of Barrister-at-Law and called to the Bar with a full right of audience before all courts in the State and to practise as a barrister independently. As a result, King's Inns teaches and examines the Barrister-at-Law degree course to a "fit to practise" standard. This is an important point to bear in mind in the broader consideration of equity of access and potential barriers of entry to the profession.

King's Inns believes that the interactive, small group teaching method used on the Barrister-at-Law degree course is the only effective delivery method for professional training. Teaching in small groups, particularly when delivered by experienced professionals, inevitably comes at a cost. The fees payable for a place on the Barrister-at-Law degree course are currently €12,560. The fees have remained unchanged since 2009. King's Inns believes that this compares very favourably with other types of education and training leading to a professional qualification. Comparative information in this regard was previously provided by King's Inns in Appendix B to King's Inns submission to the LSRA on education and training in June 2018 (<https://www.lsra.ie/wp-content/uploads/2019/09/S34-Submission-Honorable-Society-of-Kings-Inns.pdf>).

King's Inns is a not-for-profit institution and is registered with the Charities Regulator. King's Inns does not operate the professional course at a profit and a conscious effort has been made to maintain fees at the lowest possible level. Despite the vital role played by practising barristers in the administration of justice, the State provides no funding for the core education and training activities provided by King's Inns.

# CONCLUSION

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It is recognised that students undertaking the Barrister-at-Law degree course are making a significant investment in their professional and career development and that this involves personal and financial commitment.

King's Inns also recognises that many newly qualified barristers, particularly those embarking on independent practice at the Bar, will face financial challenges as they attempt to build and develop their practice.

In recognising these challenges, King's Inns strives to ensure that there are no undue barriers to qualifying as a barrister and thus entering the profession. It is important to re-emphasise that, provided that minimum criteria and qualifications are satisfied and the Entrance Examination is passed, the degree of Barrister-at-Law is open to and may be pursued by all. There is no cap on the number of places available on the degree course, and indeed the numbers undertaking the course has fluctuated considerably over the years in line with the level of demand and interest in qualifying as a barrister.

It is submitted that the flexibility of King's Inns in this regard plays an important role in ensuring that entry to the profession is equitable and, subject to certain necessary requirements, open to all. The following factors also contribute meaningfully to equity of access and diversity within the profession: the alternative routes available to gain entry to the Barrister-at-Law degree course; the availability of a part-time modular degree course; the fact that the cost of the degree has not increased since 2009 and that it compares favourably to other professional programmes; and the availability of a number of scholarships and bursaries.

King's Inns would be happy to provide any further information or assistance requested by the LSRA in connection with the preparation of its report for the Minister on the issues raised by the Minister.

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