

Economic and other barriers facing early career barristers

Submission to the Legal Services Regulatory Authority

JULY 2021

Economic and other barriers facing early career legal professionals in Ireland

Introduction

ICCL welcomes this much-needed public consultation by the Legal Services Regulatory Authority (LSRA) into the barriers facing early career legal professionals.

The focus of this submission will be on the impediments faced by early career barristers or those seeking to take the Bar. The matters set out in this submission should be read as pertaining to barriers for those already within the profession and to barriers to entering a career at the Bar for those who are studying law at undergraduate level. In our view, any review of economic barriers relevant to a career at the Bar with an emphasis on ensuring diversity at the Bar would be incomplete without reference to the financial barriers that exist in regards to commencing a career at the Bar.

Ensuring diversity at the Bar, including on the basis of socio-economic status, will ultimately promote diversity within the judiciary given the majority of judges are former barristers. Ensuring the judiciary is representative of all groups in society is vital to ensure the most fundamental of fair trial rights - to be tried by an independent and impartial judiciary- is protected. Justice must be done and must be seen to be done and therefore any perception of impartiality or bias on the part of lawyers or the judiciary must be addressed. ICCL considers that where suspects or clients in civil cases can see a Bar and Judiciary that is more representative of everyone in society, confidence in the justice system as a whole will be improved and perceptions of bias vastly reduced.

It should be noted that putting together a comprehensive submission on the economic barriers faced by those in the early years of their profession or those seeking to join the profession is difficult given the dearth of data available in this

area. Although the Bar of Ireland now publishes an annual report in which its gender breakdown is recorded, there are no other statistics available, such as the ethnicity or socio-economic breakdown of those involved in the profession. It is difficult to address the socio-economic breakdown of the Bar without any hard statistics that can form the basis of an appropriate analysis, including in relation to diversity. For this reason, ICCL will confine this submission to a consideration of the factual position regarding finances in relation to qualification, entry to the Bar and early career years, particularly at the criminal Bar. ICCL considers that the Bar of Ireland should seek to obtain more qualitative data, (anonymously), from its members on income and the socio-economic background of those qualifying and should publish this data annually.

ICCL Recommends:

- **That the Bar of Ireland obtain data from its members with regard to matters such as ethnicity and socio-economic status and include this in its annual report to allow for better analysis and targeted responses to barriers.**

(i) Qualifying as a barrister

There is only one institution in which persons can qualify as a Barrister in Ireland, the King's Inns. In order to take the BL degree, prospective students must pay:

- a. €500 fee to take the entrance exams*
- b. €12,560 fee to take the BL course†

There are further fees associated with repeating exams, appealing exam results and obtaining a second copy of one's transcript of results. In all, if a student passed all exams on their first sitting and did not incur any further costs (such as locker fees of €50 or parking fees, etc), that student would still be required to pay €13,060 in total.

* <https://www.kingsinns.ie/education/course-fees>

† <https://www.kingsinns.ie/education/course-fees>

The SUSI grants system operated by the State makes some allowances for students who are taking post-graduate courses, such as the King's Inns BL degree, however, these allowances do not meet the high cost of the course itself. There are two possible contributions to fees that can be obtained by students applying to SUSI. A contribution of €3,500 or a grant for fees of up to €6,270[‡]. The fees to study the BL degree are nearly twice the maximum grant that can be offered by the State. Further, it does not appear to be possible to receive a SUSI grant while studying part-time. This means that students can either (a) study full-time and pay half the fees required but earn no income for 9 months or (b) pay the full fees themselves and work full-time while studying part-time over two years.

For students who may have obtained their law degree via the SUSI grant, the prospect of having to pay such a substantial fee to study at the King's Inns after graduating is undoubtedly a deterring factor which may influence their decision as to whether to work and save with the hopes of being able to take the Bar at some point in the future, or simply taking another route in law, such as working as a solicitor.

From a purely financial perspective, the hurdle of even qualifying as a barrister is insuperable for many.

ICCL Recommends:

- **Grants should be made available that cover the full fees required to study the BL degree at King's Inns.**

(ii) Entry to the law library

Although the Bar of Ireland now requires "Masters" or Supervisors of trainee barristers to pay fees for their incoming devils, there exists the undeniable financial burden of entering the library, including:

[‡] <https://susi.ie/postgraduate-student/postgraduate-income-thresholds-and-grant-award-rates/>

- “Devils” or trainee barristers work full-time for free for their first year. This means that if a trainee barrister requires income on which to survive they must either (a) have sufficient money saved or (b) work evenings or weekends outside of their full-time commitment to their “Master” or supervisor.
- The level of financial assistance from supervisors varies from a monthly stipend to nothing at all. Trainee barristers are effectively financially at the mercy of their supervisor.
- The expenses associated with the Bar, such as a gown, tabs, collars, specially tailored shirts, bibs, etc add another €400-500 to the usual expenses of suits and other workwear.

In summary, having paid a significant sum of money to qualify as a barrister, trainee barristers must then incur further expense for ancillary items and then must work full-time without pay for at least 9 months. It should be noted that in civil law it is the norm for trainee barristers to “devil” or apprentice for two years instead of one. There is no requirement for a supervisor to pay the fees of second year trainee barristers.

ICCL Recommends:

- **The Bar Council should set a minimum stipend that all ‘masters’ or supervisors must pay to their ‘devils’ on a monthly basis.**

(iii) Financial impediments in the early years of the Bar

Once a trainee barrister surpasses the hurdle of qualifying and working for their first year without pay (or two years if they are in civil law), they must then encounter further financial barriers, such as:

- **Payment of their annual subscription to the law library:** This starts at €1,900 for first year members and gradually rises each year, reaching €2,505 for 3rd year members who have no assigned desk or €2,720 for 3rd year members who

have an assigned desk. This goes up to €3,335 for 5th year members with no assigned desk or €3,760 for 5th year members with a desk, and €4,710 for 8th year members with no assigned desk or €5,140 for 8th year members who have an assigned desk. For practitioners who are not earning money in their early years, the necessity to pay between €2,500 to €3,000 in subscription fees is a real and substantial barrier to survival.

- **Low fees in criminal law:** For those practicing in criminal law, the fees are inordinately low. A trainee barrister or young barrister who is trying to forge a career in criminal law will start out in the District Court. For the most part, younger barristers will be dealing with “remands” and less frequently with hearings. A remand is remunerated at circa €25 and a hearing is remunerated at circa €70 (both legal aid rates as private clients are not common for young practitioners or for most working in criminal law). Further, given the unpredictability of the lists in the District Court, matters which may be listed for hearing will frequently be adjourned. The practical reality is that barristers may expend hours of their time preparing for a hearing, will travel to the relevant Court, hold a consultation with their client, and then for reasons out of their control the matter will be adjourned and the barrister, for this substantial level of work, will receive €25. The incredibly low fees make a practice in the criminal bar almost unsustainable for the first number of years without some other form of income.

ICCL recommends:

- **Legal aid remuneration for criminal practitioners must be increased to ensure junior practitioners can earn a living wage.**

Conclusion

ICCL welcomes the consultation to the LSRA to explore the barriers faced by those wishing to qualify as, or sustain a practice as, a barrister. The purpose of this submission is to highlight (i) the lack of information available on the socio-economic

breakdown of the Bar and (ii) to demonstrate factually the significant financial impediments faced by those in the early years of the profession. ICCL considers these impediments must necessarily deter law graduates from choosing a career at the Bar and impacts diversity at the Bar. If left unaddressed, the Bar will continue to lack socio-economic diversity and, given most judges are former barristers, our judiciary will never be a true and inclusive reflection of society. Action must be taken to ensure better diversity at the Bar and within the judiciary to safeguard against perceptions of bias and to ensure that all those that come before our Courts are confident that they will be treated equally before the law and will be guaranteed trial by an independent and impartial judiciary.

Summary of ICCL Recommendations:

- 1. The Bar of Ireland should obtain data from its members with regard to matters such as ethnicity and socio-economic status and include this in its annual report to allow for better analysis and targeted responses to barriers.**
- 2. Grants should be made available that cover the full fees required to study the BL degree at King's Inns.**
- 3. The Bar Council should set a minimum stipend that all 'masters' or supervisors must pay to their 'devils' on a monthly basis.**
- 4. Legal aid remuneration for criminal practitioners must be increased to ensure junior practitioners can earn a living wage.**

About ICCL

The Irish Council for Civil Liberties (ICCL) is Ireland's oldest independent human rights body. It has been at the forefront of every major rights advance in Irish society for over 40 years. ICCL helped legalise homosexuality, divorce, and contraception. We drove police reform, defending suspects' rights during dark times. In recent years, we led successful campaigns for marriage equality and reproductive rights.