



Submission to the Legal Services Regulatory Authority in accordance with s. 34 of the Legal Services Regulation Act 2015 on the economic and other barriers faced by young barristers and solicitors following their qualification from the King's Inns and Law Society respectively.

1 July 2021

Introduction:

The Irish Refugee Council (IRC) provides direct support to people seeking international protection and refugees at every stage of the Irish international protection process. We offer advice and information provision through an information and referral service, legal representation through the IRC's Independent Law Centre, and holistic integration supports through dedicated programmes on access to education, housing, employment and resettlement. Through these services, we encounter and assist individuals from a diverse range of backgrounds. Many of the individuals we work with have acquired extensive professional experience and leave behind well-established careers when fleeing their country of origin. Others express a desire to access higher education for the first time, in order to foster their development and enhance their standard of living. However, there is a growing evidence base which indicates that many people seeking international protection and refugees in Ireland tend to have worse labour market outcomes and a more limited access to higher education than Irish nationals. This is particularly true of the legal profession. What is universally acknowledged to be an extremely difficult profession to enter, is all the more so for those from refugee and migrant backgrounds.

The Irish Refugee Council welcomes the opportunity to make this submission. We believe that improving the diversity and representativeness in the legal profession is of fundamental importance. For this reason, we have chosen to focus our submission exclusively on the barriers faced by individuals from refugee and migrant backgrounds in accessing the legal profession. We are particularly concerned about the high costs associated with professional legal training, the restricted routes to qualification, as well as the limited recognition of foreign legal qualifications.

Summary of Key Recommendations:

Academic stage:

1. The LSRA should encourage third-level education providers to expand or increase the number of scholarships and bursaries available specifically for refugees and people seeking international protection, particularly for those seeking to study law or law-adjacent subjects.
2. The LSRA should facilitate and initiate partnerships with third level institutions, the professional training bodies and the legal sector in order to provide mentoring and guidance to refugee and migrant students.
3. The LSRA ought to encourage the promotion of diversity and inclusion in the offering of summer internships and university internship schemes, many of which lead to traineeships and graduate programmes for those who undertake them.

Professional training stage:

1. The LSRA ought to encourage the professional training bodies to increase the number of scholarships and bursaries available, particularly those for migrant and refugee students.
2. Support schemes, bursaries and scholarships should be publicly listed and advertised so as to ensure as wide an uptake as possible.
3. Legal education providers should be encouraged to support students in accessing affordable student housing where possible and assist in the covering of living expenses on a means tested basis.
4. The LSRA should review the existing framework for training of both Solicitors and Barristers and consider the introduction of more flexible routes to qualification, therefore broadening access to the profession.
5. The LSRA ought to work in conjunction with the Law Society to establish the provision of funding for prospective solicitors to undertake traineeships within Independent Law Centres, particularly those from non-traditional or underrepresented backgrounds.

Post-qualification stage:

1. The LSRA should encourage the Bar of Ireland to introduce a formal mechanism of financial compensation for pupil barristers and work with the Law Society to ensure the introduction of a living wage for trainee solicitors.
2. The LSRA ought to conduct a thorough review of the transfer arrangements for foreign-qualified lawyers in order to streamline the process and facilitate the inclusion of foreign-trained lawyers who seek to enter the Irish legal profession.

Miscellaneous recommendations:

1. The LSRA ought to commission research into best practice examples for the inclusion of students from non-traditional and underprivileged backgrounds in the legal profession, particularly insofar as they relate to prospective lawyers with a refugee or migrant background.
2. The LSRA ought to undertake a systemic review of the relevant regulations pertaining to legal education and training so as to ensure that they are equality proofed.
3. The LSRA ought to encourage the implementation of inclusive recruitment practices across the legal sector, having regard for best practice as well as the relevant equality legislation.

Recommendations:

1. Academic stage:

- **The LSRA should encourage third-level education providers to expand or increase the number of scholarships and bursaries available specifically for refugees and people seeking international protection, particularly for those seeking to study law or law-adjacent subjects.**

In order to qualify as a Solicitor or Barrister, a prospective practitioner would generally be required to complete a third-level degree course, usually in law, leading to a qualification at level 7 or higher on the Irish National Framework of Qualifications. While there is a lack of data pertaining to the exact number of refugees and people seeking international protection currently undertaking third-level education, it remains the case that there are many limiting barriers to accessing education in Ireland. People seeking international protection have no automatic right to access to third level education in universities and colleges in Ireland. The Department of Education recently broadened access to the Free Fees and Student Support schemes for people seeking international protection who have been

in the protection process for a combined period of three years or more.¹ Applicants are otherwise classed as international students for the purposes of fee assessments and are only permitted to access third level education if they can afford the often exorbitant cost of fees or access private grants or scholarships. While individuals with refugee status are eligible for the Free Fees and Student Support schemes on the same basis as Irish citizens, they face practical difficulties when attempting to access higher education, including the high cost of living associated with attending university, English competency not being at the required level, previous qualifications not being recognised and a lack of adequate information around the college application process.

While the Department of Further and Higher Education, Research, Innovation and Science's revision of the third-level grant criteria for people seeking international protection is welcomed, the fact remains that refugees and people seeking international protection do not possess the same legal educational opportunities as Irish students and consequently, are significantly under-represented in the legal profession. In order to increase access, it is imperative that potential students are supported at every level of their education. In this regard, the Irish Refugee Council recommends that the LSRA encourage third-level education providers to expand or increase the number of scholarships and bursaries available specifically for refugees and people seeking international protection, particularly for those seeking to study law or law-adjacent subjects. Moreover, the LSRA should facilitate and initiate partnerships with third level institutions, the professional training bodies and the legal sector in order to provide mentoring and guidance to students with a refugee or migrant background. By creating these connections at the early academic stage, mentors can assist students in fostering a sense of belonging, while also building their self-confidence and offering invaluable insight into the legal profession in a practical context.

- **The LSRA ought to encourage the promotion of diversity and inclusion in the offering of summer internships and university internship schemes, many of which lead to traineeships and graduate programmes for those who undertake them:**

For prospective solicitors seeking to access traineeships, summer internships and university internship schemes act as a significant gateway, particularly at many of the larger corporate firms. The vast majority of these programmes are offered in the Dublin region. The LSRA ought to encourage diversity and inclusion in the allocation of places on such programmes, through liaising with firms in order to ensure that individuals from refugee and migrant backgrounds are provided with equal opportunity

¹ Department of Further and Higher Education, Student Grant Scheme for People seeking international protection, 10 August 2020, available at: <https://bit.ly/3sIFY5u>.

and access to internships and university placements. This could perhaps be done by firm's establishing specific scholarship or bursary programmes for students from non-traditional and low income backgrounds so as to facilitate their participation in summer internship or university placement schemes. Additionally, where students are not based in the Dublin region, the Irish Refugee Council recommends that firms should be encouraged to support low income students in accessing affordable housing in Dublin and assist in the covering of living expenses where possible.

2. Professional training stage:

- **The LSRA ought to encourage the professional training bodies to increase the number of scholarships and bursaries available, particularly those for migrant and refugee students:**

Access to the professional training stage of qualification is often the most difficult challenge for prospective lawyers, particularly those from less privileged and non-traditional backgrounds. In order to qualify as a barrister, students are required to undertake the Degree of Barrister-at-Law at the Kings Inns, the centre for the education of barristers in Ireland. A student can only be admitted to the degree course having completed an approved law degree and satisfied the entry requirements for the Kings Inns, which include passing entrance exams in five subjects. The Kings Inns offer two mechanisms by which to complete the degree course. The course may be completed within one year on a full-time basis. Alternatively, the course may be completed on a part-time, modular basis over a two year period. The fee payable for the one year course is €12,560.00, while graduates opting to undertake the modular degree pay the same amount over the two year period.²

There are a small number of bursaries available to students seeking to undertake the Barrister-at Law degree course. The Denham Fellowship provides remission of fees for a King's Inns student and an annual stipend of €6,000 for a minimum of five years. The Niall and Barbara McCarthy Bursary supports a student who might not otherwise be able to take the degree course and provides full remission of fees and a maintenance grant. There are also awards that provide grants to students who achieve the highest marks in the entrance exams including the John Brooke Scholarship and the Honourable Society of the King's Inns Exhibition Prize. There are further scholarships for those who receive the highest marks in subjects in the Diploma in Legal Studies course.³

² Kings Inns, 'Degree of Barrister-at-Law' <<https://www.kingsinns.ie/education/barristeratlaw-degree>> accessed 23rd June 2021; Kings Inns, 'Course Fees' <<https://www.kingsinns.ie/education/course-fees>> accessed 23rd June 2021.

³ Kings Inns, 'Fellowships, Bursaries and Prizes' <<https://www.kingsinns.ie/education/fellowships-bursaries-prizes>> accessed 23 June 2021.

Law graduates seeking to qualify as a solicitor are required to pass the FE-1 Entrance Examinations in eight different subjects in order to gain entrance to the Law Society of Ireland. Having successfully obtained a training contract at an approved Solicitor's firm, graduates must then undertake Professional Practice Course I at Blackhall Place for a period of 6-months. In-office training begins approximately two weeks after a graduate successfully passes PPC 1. After 11 months, graduates return to Blackhall Place to complete PPC II. PPC II runs for approximately 12 weeks.⁴ Graduates may pay almost €13,000 in fees between the FE-1 examinations, the Professional Practice Courses I & II and associated exam fees. The Law Society operates an Access Scholarship Programme with a view to assisting students from socio-economically disadvantaged backgrounds to access professional legal education. Depending on the applicant's individual circumstances, the Scholarship Programme can assist with reduced or waives FE-1 examination fees, access to the core texts for FE-1 exam preparation through the Law Society's library, reduced or waived Professional Practice Course fees and maintenance funding. The Dublin Solicitors Bar Association (DSBA) also provides a bursary programme for those who wish to qualify and practise as solicitors in the Dublin area. The bursary aims to assist with the fees and living expenses involved in completing the FE1s and the professional practice course. The size of the award varies according to the individual circumstances of the applicant. It should be noted that some firms will make contributions towards the fees of their trainees who are completing the PPC part of their qualifications.⁵

The high cost associated with undertaking professional training acts as a significant economic barrier to refugee and migrant students seeking to access the legal profession. Regardless of the route a student wishes to take, they will be required to pay a minimum of €13,000.00 to cover the cost of their professional qualification, unless they can acquire a training contract with a firm willing to sponsor their training or are awarded one of the limited number of scholarships or bursaries available to students. Moreover, graduates wishing to undertake the FE-1 exams are often limited to working in part-time roles in order to have sufficient time to engage with the intense study schedule required to complete the exams. In many cases, students remain out of employment altogether. For many prospective solicitors, this is untenable given the large financial burden associated with qualification. While there are a limited number of scholarships and support schemes available to students, these simply are not sufficient to cover demand. In this regard, the Irish Refugee Council recommends that the LSRA encourage legal education providers to expand or increase the number of scholarships and bursaries available to students from lower income backgrounds, particularly those offered to refugee

⁴ Law Society, 'Become a Solicitor' <<https://www.lawsociety.ie/Public/Become-a-Solicitor/>> accessed 23 June 2021.

⁵ Law Society, 'Funding' <<https://www.lawsociety.ie/Public/Become-a-Solicitor/fe1-funding/>> accessed 23 June 2021.

and migrant students. For instance, we welcomed the introduction of the Small Practice Traineeship Grant by the Law Society last year, which provided five grants of €25,000 to assist smaller firms outside of urban areas with employing a trainee solicitor. The introduction of a similar scheme to assist firms in recruiting trainee solicitors from non-traditional backgrounds, particularly those from refugee and migrant backgrounds, would be significant. Any available support schemes ought to be publicly listed and advertised. Moreover, legal education providers should be encouraged to support students in accessing affordable student housing where possible and assist in the covering of living expenses on a means tested basis.

- **The LSRA should review the existing framework of training of both Solicitors and Barristers and consider the introduction of more flexible routes to qualification so as to broaden access to the profession:**

At present, the only means by which an individual can qualify as a legal practitioner in this jurisdiction is to undertake training at either the Kings Inns or Blackhall Place, depending on whether they seek to qualify as a barrister or solicitor. Regardless of which route is taken, both options can prove extremely costly without the provision of financial assistance. In this regard we recommend that the LSRA review the existing framework for the training of both barristers and solicitors and consider the introduction of more flexible routes to qualification which would ultimately broaden access to the profession. For instance, England and Wales recently announced a new means of qualification, the Solicitor's Qualifying Exams (SQE), to be introduced in September 2021. The SQE replaces the former requirement for students to undertake a law degree or law conversion course and the Legal Practice Course (similar to PPC I and PPC 2). Applicants must now pass both stages of the SQE and complete two years of qualifying work experience. However, unlike the former model, work experience can be undertaken at up to four firms or organisations and other forms of experience such as volunteering may also count towards the total experience required to qualify.⁶ The revised system is significantly less costly than its predecessor and also enables prospective solicitors to engage in paid employment while gaining practical legal experience.

- **The LSRA ought to work in conjunction with the Law Society to establish the provision of funding for prospective solicitors to undertake traineeships within Independent Law Centres, particularly those from non-traditional or underrepresented backgrounds:**

⁶ Solicitors Regulation Authority, 'About the SQE' <<https://sqa.org.uk/about-sqe/what-is-the-sqe>> accessed 23rd June 2021.

There are currently nine Independent Law Centres operating around the country. Independent Law Centres are non-profit organisations that provide accessible, free legal advice and representation to members of the public, often to those without the financial means to afford it. Law Centres are usually staffed by 2-5 Solicitors, with only two Law Centres having been able to facilitate solicitor traineeships. As funding within the NGO sector has become increasingly difficult to acquire, accessing the requisite resources for an individual wishing to take up a traineeship in the Independent Law Centres is extremely challenging. Independent Law Centres operate in a unique environment in that we offer expert legal advice and representation to particularly marginalised groups and communities. Diversity, access and inclusion, are inherent in the work we do and the clients we represent. In order for us to better serve our clients, we feel it is important to establish a diverse and inclusive legal profession in order to meet the needs of the clients we serve. For this reason, we recommend that consideration ought to be given to the provision of funding for prospective solicitors to undertake traineeships within Independent Law Centres, particularly solicitors from non-traditional or underrepresented backgrounds.

3. Post-qualification stage:

- **The LSRA should encourage the Bar of Ireland to introduce a formal mechanism of financial compensation for pupil barristers and work with the Law Society to ensure the introduction of a living wage for trainee solicitors:**

Having been called to the bar, in order to join the law library as a full member, barristers must complete a one-year period (typically two years in practice) of pupillage through apprenticeship to a 'Master' barrister, usually a junior counsel who has spent at least seven years at the bar. Traditionally, pupil barristers do not receive any formal financial compensation from their Masters, however informal arrangements, in which a Master paying a pupil's law library membership fees, are common. Having completed pupillage, barristers are free to take to be briefed by solicitors. However, it is universally acknowledged that the first few years at the bar can be arduous. Income is earned in the form of fees rather than by a regular salary and building one's own practice can prove extremely challenging. The difficulty posed by working without financial compensation and thereafter, struggling to earn a living for the first few years in practice, can act as a major disincentive for prospective barristers. This is particularly true for refugees and migrants, many of whom come from modest backgrounds and who would require a regular and steady income to support themselves during this period. For this reason, we propose that the LSRA encourage the Bar of Ireland to introduce a formal mechanism of financial compensation for pupil barristers, whereby they can earn a living wage at the early stages of developing their practice.

Trainee solicitors, while in a somewhat more advantageous position than pupil barristers, in that they are paid the national minimum wage at least, should nevertheless be paid a living wage. The minimum wage does not provide an adequate income to enable trainees to afford an acceptable standard of living without supplementing their traineeship with an alternative, part-time income. Moreover, unlike many other graduate professionals, trainee solicitors must contend with substantial training fees in order to undertake their professional qualification and the provision of the national minimum wage fails to take this into consideration. Consequently, those from non-traditional, low income backgrounds wishing to undertake a traineeship are often constrained from doing so. In this regard, the LSRA ought to work in conjunction with the Law Society to ensure that all trainee solicitors are being paid a living wage, therefore enabling them to meet their needs and afford an acceptable standard of living, while also providing greater access to the profession.

- **The LSRA ought to conduct a thorough review of the transfer arrangements for foreign-qualified lawyers in order to streamline the process and facilitate the inclusion of foreign-trained lawyers who seek to enter the Irish legal profession:**

There are three separate routes of qualification for lawyers from other jurisdictions seeking to qualify as Irish legal practitioners. Practitioners from Northern Ireland, England and Wales may transfer their qualification without having to undertake an exam, EU lawyers and lawyers from jurisdictions where there exists a reciprocal agreement are required to undertake the Qualified Lawyers Transfer Test, while all other foreign-qualified lawyers are required to undergo the standard training process *ab initio* in order to practice as a solicitor or barrister in the State. In the course of our work, the Irish Refugee Council sometimes encounters clients who are legally qualified in their country of origin and have cumulated many years of professional advocacy experience seeking to transfer their qualification so that they can practice within the State. Unfortunately, the requirement that the majority of foreign-qualified lawyers undergo the standard training process acts as a major deterrent to such individuals. The time and cost means that many refugees and migrants who would otherwise seek to re-enter the legal professions in Ireland are prevented from doing so. The IRC therefore recommends that the LSRA undertake a thorough review of the current transfer arrangements for foreign-qualified lawyers, in order to streamline the process and facilitate the inclusion of foreign-trained lawyers who seek to enter the Irish legal profession. Many foreign-trained lawyers possess valuable skills that the profession could benefit from. This is particularly true of refugees and migrants, whose drive, determination and lived experiences are of vital importance to those the profession seeks to represent.

4. Miscellaneous recommendations:

- **The LSRA ought to commission research into best practice for the inclusion of students from non-traditional and underprivileged backgrounds in the legal profession, particularly in respect of prospective lawyers with a refugee or migrant background:**

The Irish Refugee Council echoes previous calls by various non-governmental and human rights organisations for the commission of research into best practice for the inclusion of students from non-traditional and under-represented backgrounds in the legal profession. We would particularly recommend that such research focus on the access and inclusion of refugees and migrants seeking to enter the profession. This research could examine what financial and administrative barriers which exist for such individuals and ultimately, contribute to the development of policies aimed at broadening access to the profession for under-represented individuals.

- **The LSRA ought to take undertake a systemic review of the relevant regulations pertaining to legal education and training so as to ensure that they are equality proofed:**

In order to promote broader and more effective access to the legal profession, the LSRA ought to conduct a thorough and systemic review of the relevant policies pertaining to legal education and training, incorporating an equality perspective into all aspects of policy development. This would seek to eliminate barriers in accessing the legal profession, while also guaranteeing the inclusion of a diverse range of individuals from a variety of social and economic backgrounds.

- **The LSRA ought to encourage the implementation of inclusive recruitment practices across the legal sector, having regard for best practice as well as the relevant equality legislation:**

In order to ensure that individuals from a diverse range of backgrounds are permitted to access the legal profession, it is imperative that firms across the legal sector adopt inclusive recruitment practices. This ought to involve a focus on both fairness and inclusion, ensuring that recruiters are alert to the influence of both conscious and unconscious bias. We would recommend that organisations conduct diversity hiring audits across current recruitment practices, utilise existing data on both diversity and inclusion in order to highlight where gaps exist and make appropriate changes as necessary. Moreover, we would recommend that the LSRA work in conjunction with the professional bodies and various firms across the sector to establish diversity and inclusion training for

those involved in the recruitment process, so as to ensure the recruitment talent pool is expanded and new channels are created for candidates from a range of backgrounds.

Conclusion:

The Irish Refugee Council wishes to commend the LSRA for conducting this public consultation pursuant to s.34(1)(d) of the Legal Services Regulation Act 2015. We believe that a broad and inclusive approach towards access and entry to the legal professions is imperative if greater diversity is truly to be achieved. It is incontrovertible that the legal profession as it currently operates is not reflective of our society as a whole and does not adequately represent the experiences of the individuals it seeks to serve. Removing barriers to access would not only increase equitability within the profession, but would also lend integrity and credibility to the legal system itself.