



An tÚdarás Rialála
Seirbhíse Dlí
Legal Services
Regulatory Authority

Breaking Down Barriers: *Understanding the challenges facing early career legal professionals*

An LSRA Report
March 2022



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Introduction

The Legal Services Regulatory Authority (the Authority) is pleased to submit this report to the Minister for Justice in accordance with section 34(1) of the Legal Services Regulation Act 2015 (the Act).

This report follows a request from the Minister for Justice in November 2020 for the Authority to “consider the economic and other barriers that continue to be faced by young barristers and solicitors following their professional qualification from the King’s Inns and the Law Society, respectively.”

The Minister asked the Authority to give consideration to the following areas in particular:

- The remuneration of trainee barristers and solicitors;
- The other costs associated with joining each profession;
- The information available to prospective trainee barristers and solicitors on available masters and solicitors firms, the information available on the terms and conditions available, and how they are selected;
- Any other barriers faced by young barristers and solicitors, including the ability to take maternity leave.

In considering these issues, the Minister requested that the Authority “pay particular attention to equity of access and entry into the legal professions, and the objective of achieving greater diversity within the professions.” The Minister also asked the Authority to make recommendations in relation to changes which could be introduced by way of effective reform of the present system.

This document summarises the steps taken by the LSRA to consider these issues and also sets out the key research findings and the evidence upon which these findings are based.

This report is submitted to the Minister for Justice on 31 March 2022. A detailed research report, upon which this report is based, will be published separately.

How the LSRA Gathered Evidence

The research findings set out in this report are based on evidence drawn from several sources:

- The LSRA's first comprehensive survey of the young legal professions, with responses from a total of 433 trainee and early career practising solicitors, 366 student and early career practising barristers and 590 law undergraduates in 15 higher education institutes. (Early career practitioners surveyed were those with up to a maximum of seven years post-qualification experience, regardless of age.)
- The survey was conducted during October and November 2021, with a follow up survey of a total of 86 non-practising recently qualified solicitors and barristers in February 2022, as further requested by the Minister.
- The LSRA engaged an external research company, Behaviour & Attitudes (B&A) to conduct the online anonymised surveys. The surveys were distributed with the assistance of the Honorable Society of King's Inns, the Law Society of Ireland, the Bar of Ireland and the law departments of 15 higher education institutes.
- A total of 16 in-depth interviews with early career practising solicitors and barristers, carried out by B&A.
- More than 25 interviews with a range of employers and practitioners, carried out by the LSRA executive.
- Analysis of a total of 34 written submissions received in response to a public consultation carried out by the Authority under section 34 of the Act. Submissions were received from 21 organisations – including the professional bodies, NGOs, academic institutes and lawyers' networks – and 13 individuals.



Key Research Findings

The key research findings, along with a summary of the research evidence, are set out below.

Early Career Challenges - Barristers

Early career self-employed barristers face considerable challenges in earning a living, with job security and better remuneration the key motivations for barristers taking up employed positions. Despite these challenges, junior barristers show moderate levels of career satisfaction.

Summary of evidence

The early career years (years 1 to 7) for barristers at the self-employed Bar involve personal expense, generally low and erratic earnings and persistent career uncertainty and risk. This inhibits diversity at the Bar, as it excludes those who do not have an independent source of income or support to self-sustain a career for an extended period.

LSRA survey findings on early career challenges

The survey of barrister-at-law (BL degree) students and practising barristers found the following key working environment challenges/anticipated challenges: the time it takes to build up a practice (76%); difficulties getting paid (67%); and remuneration (62%).

Remuneration and retention

It is widely observed that it can take between 7 to 10 years of practice at the Bar to earn a living, with ongoing retention issues facing early career practitioners. A pattern was observed during the research of self-employed barristers spending several years “cutting their teeth” in the Law Library, and sometimes supplementing their income with side jobs like teaching, before moving to the security of employed positions with regular incomes and other benefits including maternity leave.

Employed and non-practising barristers

Decent and secure salaries as well as structured training opportunities, holiday pay, pensions, sick and maternity leave are widely available to barristers in employment. Approximately three quarters of employed barristers surveyed said more reliable income (78%) and pay and conditions (73%) were their main reasons for choosing employed roles. Similarly, recently qualified non-practising barristers surveyed said their main reasons for not practising were because they wanted a job with better remuneration (52%) and a more secure job (45%).

Key structural and cultural factors for challenges

A number of key structural and cultural factors were identified in the research as contributing to the economic challenges facing early career self-employed barristers:

- The prevailing funding model means barristers are not paid their fees or the bulk of their fees until the end of a case; in some cases a barrister may not receive fees until several years after accepting the initial brief. This convention makes it difficult even for busy junior barristers to establish a reliable income flow, and this is exacerbated by reported delays in payments including from State agencies.
- Non-payment or delayed payment of fees is a particularly acute problem for those in the early years of practice, with an ingrained reluctance among junior barristers to vigorously pursue complaints against instructing solicitors for fear of losing out on future work.
- There has been downward pressure on professional fees for legal work on behalf of the State in recent years with a series of financial emergency (FEMPI) reductions during the years 2009-2011. This has particularly impacted junior barristers in criminal practice in the District Court.
- General demand for barristers' services is sensitive to economy-wide forces and, in the absence of formal limits on the number of places for new barrister apprenticeships (pupillages) at the Bar each year, this can lead to issues of over-supply.

Parental leave

Women barristers face early career challenges related to both cultural issues and work demands which make it difficult to plan childcare and take maternity leave as self-employed professionals. Some may defer having children until their careers are established. 8 in 10 (84%) of the small number of those surveyed who had taken maternity leave agreed that it has had or will have a negative impact on their professional career.

Discrimination

One in five student and early career barristers surveyed (20% overall, 35% women and 42% people with a disability) reported having experienced discrimination in the past three years while studying, looking for work or working as a barrister. The discrimination related to gender (59%); socio economic status (29%); and age (28%). The areas of discrimination were: accessing or being awarded jobs/cases (54% overall 76% for self-employed barristers); bullying or harassment (36%) work conditions (25%) and pay (19%).

Despite challenges, career satisfaction is moderate

Young professionals enjoy moderate levels of career satisfaction, with 65% of practising barristers surveyed stating that their experience working in the profession has exceeded or matched expectations, and considerably higher satisfaction among self-employed barristers compared to employed barristers (36% self-employed and 9% in-house say it has exceeded or greatly expectations).

Working environment improvements sought

Three quarters of survey respondents (74%) agreed that the working environment in the barrister profession needs improvement. Of those who agreed that improvements were needed, 69% favoured new business models (including Legal Partnerships¹), while 68% backed improved remuneration and 48% supported a greater variety of career pathways in the profession. Written submissions included many recommendations for improved remuneration for early career barristers, as well as greater supports for the junior Bar including for women, those with disabilities and criminal practitioners.

¹ Section 2(1) of the Legal Services Regulation Act 2015 defines a legal partnership as "a partnership formed under the law of the State by written agreement, by two or more legal practitioners, at least one of whom is a practising barrister, for the purpose of providing legal services". The 2015 Act permits two different types of legal partnership: partnerships between barristers and partnerships between solicitors and barristers.

Early Career Challenges - Solicitors

The main challenges facing early career solicitors are long working hours and lack of workplace flexibility and the impact of these on work-life balance. Despite these challenges, junior solicitors show moderate levels of career satisfaction.

Summary of evidence

The key challenges in the early career years (years 1 to 7) for solicitors relate to the time-consuming nature of their work, with a prevailing culture of long working hours which results in poor work-life balance. These challenges may impact on diversity as those with significant commitments outside work, including caring responsibilities, may find it difficult to devote the necessary hours to their employers.

LSRA survey findings on early career challenges

The survey of trainee and practising solicitors found the following key working environment challenges/anticipated challenges: working hours (77%); impact on personal life (77%); and lack of workplace flexibility (52%). Solicitors working in large law firms are more likely to find working hours to be a challenge (87%) compared to 50% of solicitors working in small firms and 71% of respondents working in-house. Solicitors working in small firms view remuneration as more of a challenge (76%) compared to only 23% of those working in large law firms and 37% working in-house in the public or private sector. The survey results also show the gendered nature of the challenges, with females much more likely to cite familial/parental/caring challenges and males more likely to cite challenges related to working hours and making partner in a firm.

Remuneration and retention

Remuneration levels within the early profession vary considerably. Earnings for solicitors in large and medium law firms are generous compared to those working in smaller firms and the public sector. (A newly qualified solicitor in a corporate law firm may have a starting salary of €60,000, while the entry grade salary for a solicitor in a State agency is approximately €33,000). This asymmetry in remuneration creates problems for State agencies and other employers in recruiting newly qualified solicitors. Trainees generally remain in their training firm for the early career years, becoming associates before seeking partnership opportunities.

In-house and non-practising solicitors

Two thirds (67%) of surveyed solicitors working in-house in the public or private sectors said they took up positions outside of law firms for reasons of work-life balance, with a further two in five (42%) stating that having more regular hours was a key reason for choosing an in-house role. Similarly, over half (58%) of the small number of solicitor respondents in the survey of recently qualified non-practising lawyers said their main reason for not practising at this time was because they wanted a job with better work-life balance.

Parental leave

The survey found generally high levels of satisfaction among solicitors in relation to the payments received and the duration of maternity/paternity/adoptive leave (73%). However, maternity leave can cause challenges for females in the profession with 8 in 10 (82%) of the small number of those surveyed who had taken maternity leave reporting that it has had or will have a negative impact on their professional career.

Discrimination

The survey found that almost one in five respondents reported experiencing discrimination within the last three years while training, looking for work or working as a solicitor (19% overall, 32% people with a disability and 32% people with parental responsibilities compared to 17% for those without). The discrimination related to gender (52%), socio-economic status (31%) and age (26%). The areas of discrimination were: work conditions (41%); training contract (37%); pay (30%); and bullying or harassment (28%).

Despite challenges, career satisfaction is moderate

The survey showed moderate levels of career satisfaction among junior solicitors, with almost two thirds (63%) of practising solicitors stating that that their experience working in the profession has exceeded or matched expectations. Those working in large and small law firms are more likely to say that their expectations have been exceeded or greatly exceeded (21% large firm and 17% small firm) compared to in-house (14%) and medium firm (8%).

Working environment improvements sought

Survey respondents were almost unanimous (92%) in agreeing that the working environment in the solicitor profession needs improvement. Of those who agreed that improvements were needed, 88% favoured reduced working hours and enhanced workplace flexibility, while 57% supported remote working options and 44% backed measures to ensure pay equality (e.g. gender pay gap). Written submissions also included recommendations to ensure all trainee solicitors receive a living wage, expand and diversify traineeship opportunities and improve reasonable accommodation for people with disabilities.

Barriers to Entry - Qualification

The most significant barriers to entry to the legal professions are the costs of qualification and the length of time it takes post-graduation before a prospective solicitor or barrister can expect to qualify and begin to earn a reasonable salary.

Summary of evidence

Both professions face challenges in opening access to individuals from more diverse backgrounds because of the significant costs of professional training and the mechanisms for obtaining and undertaking practical training. For candidates with different needs and responsibilities, particularly those from underprivileged backgrounds, the direct and indirect costs involved may act as a deterrent to entry to the professions, sending them instead into other career pathways.

LSRA survey findings on entry barriers - solicitors

The key barriers or anticipated barriers to entry to the profession identified in the survey of trainee and practising solicitors were: the cost and time it takes to complete the eight-paper entrance exam (Final Examination Part I or FE-1) to the professional training course (62%) (this can take from six months to several years – most candidates take at least two sittings to complete all papers, although they could take them all in one go); the overall costs of qualifying (56%); and difficulties in securing a training contract (53%).

LSRA survey findings on entry barriers - barristers

The key barriers or anticipated barriers to entry to the profession identified in the survey of trainee and practising barristers were: the lack of income during the mandatory one year of unpaid pupillage for barristers at the Law Library (82%); the overall costs of qualifying (64%); and lack of networks (59%).

Key direct and indirect costs of qualification

The direct and indirect costs of qualification are different for each profession, although common expenses include training course fees and the cost of living in or commuting to Dublin where the two professional training course providers are based and the bulk of training opportunities exist. Course expenses are only somewhat mitigated by the availability of some State-funded SUSI grants and a range of scholarships, bursaries and access initiatives provided by the professional bodies, the King's Inns, the Law Society and the Bar of Ireland.

Solicitor training: costs, remuneration and quality

- Overall the process to qualify as a solicitor can take between three to five years to complete post-graduation (depending on individuals' circumstances, for some it may take even longer). This includes time spent in getting to the point of eligibility for a solicitor traineeship by passing the FE-1 exam and securing a training sponsor. The in-office training period for solicitors is 21 months and the full-time course tuition period is 9 months.
- There is intense competition among elite law undergraduates to secure training contracts with large law firms whose training salaries and terms and conditions are generous. The entry related fees for the Professional Practice Course (PPC) for graduates (excluding prep courses) are €1,680, with course fees of €12,800.
- A part-time PPC, the PPC Hybrid, was introduced in 2019 to provide a more flexible route to qualification (it has attracted a more diverse profile of trainee solicitors including mature and regional students, who may continue to work full-time or nearly full-time).
- Only the full-time PPC course is currently approved for SUSI contributions towards fees and maintenance (maximum fee contribution is €6,270 and maximum maintenance grant is €6,115).
- There is considerable asymmetry in availability of training opportunities and remuneration. The large commercial law firms train about a half of the annual trainee solicitor intake. They cover PPC fees for their recruits and remunerate them well throughout the training period (trainee salaries of €40,000 are the norm). Those undertaking training with smaller firms are more likely to have to self-fund part or all of their training course, and some are paid minimum wage or below as trainees. Up to eight in ten training positions were provided in Dublin each year in the last decade, reflecting the capital's dominance in the legal services employment market. In 2021, 81% of training firms were located in Dublin.
- Public sector employers generally do not run annual solicitor trainee direct intake programmes, although the research established interest in enhanced direct trainee recruitment among State agencies including the Chief State Solicitors office and the Office of the Director of Public Prosecutions. One in five solicitors currently works in-house but they are generally recruited post-qualification.
- The survey found generally high levels of satisfaction among solicitors with both the training contracts they secured (83%) and the quality of in-office training (76%).

Entry improvements sought - solicitors

The vast majority of survey respondents (92%) agree that the solicitor qualification process needs improvements. Among this cohort, there was significant support for reduction in the costs of qualification (61%), improved remuneration for trainees (55%) and direct entry to the professional training course for law graduates (52%). Written submissions also supported a range of initiatives to address cost-related entry barriers, increase and diversify access routes to qualification and training opportunities, support underrepresented groups and increase diversity.

Barrister training: costs, remuneration and quality

- For barristers, the qualification process is more streamlined, with a BL degree course which takes one academic year full-time or two years part-time. The entry related fees for the BL degree are €600 for the application and entrance exams for the King's Inns. The BL degree fees are €12,560. As with the PPC, the full-time BL course is eligible for SUSI postgraduate funding for fees (which cover a maximum of half of the professional course fees (€6,270) and also maintenance supports (maximum maintenance grant is €6,115). Barristers are much more likely to self-fund their professional training than solicitors, although some employers may sponsor BL students.
- Qualifying barristers wishing to practice in the Law Library must undertake a minimum 12-month unpaid pupillage or supervised apprenticeship with an experienced barrister known as a master. Although the Bar of Ireland since 2021 requires all masters to pay Law Library fees for their incoming pupils, it is not an employee/employer relationship and pupils are not required to be remunerated by their masters, who are themselves self-employed barristers (although a range of informal financial supports often exist). Currently pupillages may only be undertaken with masters whose practice is predominantly or solely Dublin-based.
- Given the bespoke nature of pupillage – where pupils effectively work inside their masters' practices – experiences vary considerably. The research found moderate levels of satisfaction with the quality of the experience gained during pupillage (66%) and the extent to which the pupillage year equipped respondents to begin practice as a barrister (59%), although only 32% agreed that there was or is sufficient oversight of the quality of the pupillage year.
- Masters can play a significant role in providing opportunities for their pupils to gain experience, make connections and develop their own practices.

Entry improvements sought - barristers

The survey found strong support (84%) for the need for improvements in the barrister qualification process. Among this cohort, there was significant support for enhanced financial support for pupils (86%), reduction in the costs of qualification (74%) a formalised structure around securing a master (74%) and increased availability of government grants for barrister pupils (68%). Written submissions also supported a range of initiatives to address cost-related entry barriers, increase access routes to qualification, support underrepresented groups and increase diversity.

Barriers to Entry - *Information*

There is a lack of easily available, full and clear information for prospective solicitors and barristers about training and pupillage opportunities and selection processes, as well as the various career pathways that may be available.

Summary of evidence

The current system for qualifying barristers to identify and secure a master for their mandatory pupillage year at the Law Library is opaque and ad hoc, with scant information available online. For solicitors, there is considerably more information available on securing training contracts, although this is not all in one place and the pathway to traineeships with large law firms are most visible due to their significant recruitment drives targeting certain undergraduates. The professional bodies all have information on their websites as well as outreach programmes and initiatives with schools and universities.

Barrister pupillages: information provision and opportunities

The Bar publishes on the Law Library website a Register of Masters spreadsheet and it is the responsibility of a prospective pupil to make contact with any individual on that list to establish their availability and compatibility. The list contains brief information on the masters' practice area and circuit. Masters on the list are marked as available or unavailable for the forthcoming legal year.

The survey and interviews showed a heavy reliance on informal connections in order to secure a master and a high degree of informality to the selection process. This puts at a disadvantage those who have no existing links to the legal profession in order to reach out informally to meet potential masters. Two thirds of respondents in the barristers survey (65%) agreed the process to secure a master was so informal they did not know what to expect. Only 30% considered there was sufficient information and guidance available on the process of securing a pupillage. The informality of the master-pupil selection process was also highlighted in written submissions and interviews with practitioners, who noted the advantages this confers on those with pre-existing legal connections (although interviewees also stressed that connections alone were not career defining).

Solicitor traineeships: information provision and opportunities

There is no single comprehensive resource or “one-stop-shop” for aspiring solicitors who are seeking to learn how training contracts work or where to find one. The information that exists is spread across a range of channels, including the websites and social media platforms of the Law Society, recruiters, law firms, and third level student societies. Large law firms sponsor and take part in recruitment fairs and other initiatives targeting law undergraduates in certain third level law programmes. They recruit trainee solicitors annually in highly competitive and well-advertised “milk rounds” with extensive and detailed application and interview processes which are process-driven and merit-focused. Their training contract terms and conditions are attractive and are generally available on their company websites.

Solicitor training opportunities outside the larger firms are not systematically well signposted and for smaller firms training opportunities are much less frequently available and may be quite casually arranged.

Many large commercial firms fill training places two or more years in advance.

In addition, with large law firms paid summer internships for undergraduates are increasingly becoming a gateway to securing a training contract. This may put at a disadvantage those students who do not have sufficient means or contacts to access and undertake summer internships, most of which are in Dublin.

Only 37% of respondents in the solicitor survey agreed there was sufficient information and guidance on the process of securing a training contract, while 40% of respondents agreed that there was sufficient information on available training firms and organisations.

Improvements sought

Many written submissions made recommendations for enhanced information provision and other initiatives to raise awareness of career pathways in the legal professions, beginning in second level and continuing into third level and beyond, with a particular focus on targeting underrepresented groups.

Barriers to Entry - *Diversity & Connections*

There is a perception that the legal professions lack diversity and are heavily reliant on prior connections and networks, which may discourage candidates from underprivileged and underrepresented backgrounds from considering the professions as a career.

Summary of evidence

There is a growing focus on diversity within the Irish legal professions, with specific attention to protected characteristics under equality legislation, such as gender and ethnicity and, to a lesser extent, socio-economic background. The LSRA survey found that only 14% of solicitors, 23% of barristers and 28% of law undergraduates agree that the professions are diverse (representative of the population).

LSRA survey findings on role of connections

The perceived importance of networks to gain entry to the professions is strong among trainee and early career solicitors as well as student and junior barristers. The survey found that 63% of solicitors and 67% of barristers consider that success in securing a solicitor training contract or a barrister master is based largely on who you know/contacts in the profession.

Almost all (96%) of law undergraduates surveyed agree that it is easier to establish yourself as a solicitor/barrister if you have existing networks. In addition, 91% of student and practising barristers and 84% of trainee and practising solicitors agree that it is much harder to establish oneself in the profession without existing contacts.

The issue of prior connections generally aligns closely with the socio-economic background of aspiring legal professionals, with research showing that there is a tendency of children with parents working in law to follow in their occupational footsteps in what is referred to as “micro-class reproduction”.²

Like many perceptions, whether or not justified, the view of the legal professions as lacking in diversity and being heavily reliant on informal networks has a strong element of self-fulfilment. The concern is that such perceptions can discourage people from less privileged backgrounds and other underrepresented groups from even considering the legal profession as a career. This in turn would serve to further entrench lack of diversity in the professions.

Demographic profile of young professions

The perception of the professions as socially exclusive is reflected in the demographic profile gathered in the survey of trainee and early career solicitors and barristers. This shows a young profession that is almost exclusively White Irish with a high proportion of professionals from higher socio-economic backgrounds (72% of barrister survey respondents and 70% of solicitor survey respondents from ABC1 social class; 31% of barrister survey respondents and 27% of solicitor survey respondents having attended fee paying secondary schools) (including non-responses).

One in ten (10%) of solicitor survey respondents and 12% of barrister survey respondents reported that they have a disability (including non-responses).

In addition, trainee data from the Law Society shows a lack of diversity in the annual intake to its PPC course in terms of academic backgrounds, with almost half of all trainees in the past decade holding law degrees from Trinity College Dublin, University College Dublin and University College Cork.

It is important to note that as there is currently no comprehensive baseline data on the demographics of the professions in general, the data collected in the LSRA survey provides only a snapshot of the diversity of the young professions.

² Friedman, Sam and Laurison, Daniel. (2019) *The Class Ceiling: Why It Pays to Be Privileged*. Bristol, UK, Policy Press.

Conclusion and Next Steps

The LSRA's research findings show that aspiring and early career solicitors and barristers face a range of economic and other barriers on their career pathways, and that these barriers are more magnified for certain groups.

There is an intersectional dimension to the findings, with multiple barriers including individual, structural and institutional dimensions, some of which are systemic.

Given the multi-faceted nature of the barriers identified in this report, the Authority is of the view that there is scope to make recommendations for actions for reform to be taken by range of stakeholders, including itself.

The Authority is also of the view that its existing proposals for substantial reform of the legal practitioner education and training system (made in its 2020 *Setting Standards* report) would go some way to addressing entry barriers identified in the research. In addition, the forthcoming introduction of Legal Partnerships would, in some part, satisfy the clear demand from young barristers for new business models in which to practice.

The Authority now intends to carefully consider the findings and to undertake a short period of further engagement and consultation with key stakeholders. Following this engagement the Authority will submit a further report to the Minister for Justice outlining the recommendations it considers to be appropriate to address the barriers identified.





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