

## **THE BAR OF IRELAND CURRENT DEVELOPMENTS**



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OF IRELAND**  
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### **About The Bar of Ireland**

The Bar of Ireland is the representative body for the barristers' profession in Ireland. Barristers provide specialist advocacy and advisory services in a wide variety of areas and in many different types of fora, including the courtroom, and in other dispute resolution forums such as arbitration and mediation. Barristers are typically instructed by a solicitor.

### **Overview of Membership**

In April 2022, there were 2,135 practising barristers in membership. While it had been anticipated that membership numbers would decline over the last two years, owing to the reduction in Court business that was taking place throughout the Covid-19 pandemic, that has not transpired to be the case, however, and membership numbers remain stable. There is a strong likelihood that the membership retention figure was maintained as a consequence of the various measures put in place by the Council of The Bar of Ireland to provide financial relief and support to members throughout the pandemic.

### **Regulation of the Profession**

Since 2016, the Legal Services Regulatory Authority (LSRA) is the independent regulator for legal service providers in Ireland. The LSRA is the regulatory body for both the barrister and solicitor profession. They work to maintain and improve standards in legal services and ensure value for money in the interest of consumers and they are the first point of contact for complaints about the legal profession, either a barrister or a solicitor.

While it had been anticipated in previous years that a shift from 'self-regulation' to 'state regulation' would negatively impact on the profession, to date, the experience has been relatively positive and there is a constructive working relationship in place between the regulator and the barristers' profession.

### **Education & Training of the Profession**

Engagement in Continuing Professional Development (CPD) is vital for the practice of the profession and supports the provision of high-quality legal services. A review of our CPD Scheme was completed in April 2021 and a new competency based CPD Scheme came into effect from 1<sup>st</sup> October 2021. The new CPD scheme increased the number of CPD points members are required to complete on an annual basis from 12 to 20 points and it has also defined four domains under which members are required to demonstrate competency. The scheme has been designed to respond to the needs of modern practice and to prepare the profession for CPD compliance that will be overseen by the state regulator, the LSRA. In addition, the LSRA's recent reports on Education and Training in the legal professions highlighted a need for CPD providers to undergo a quality approval process to achieve accreditation

as a provider. The Bar of Ireland is currently reviewing all internal quality assurance processes to ensure that we are well positioned to avail of provider accreditation once introduced.

### **Access to the profession**

In May 2021, the LSRA commenced a public consultation under section 34(1)(d) of the Legal Services Regulation Act 2015 as part of its preparation of a report to the Minister for Justice who requested the Authority to *'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 making her request to the LSRA at the time, Minister Helen McEntee stated that this research was part of her plan to increase diversity across the justice sector including the legal professions. The LSRA has been asked to pay particular attention to equity of access and entry into the legal professions and the objective of achieving greater diversity within the professions, and to make recommendations for change. The Minister asked the Authority to examine:

- 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 June 2021, the Council made a submission<sup>1</sup> in response to this consultation and the Council put forward eleven recommendations throughout the course of the submission that would address the challenges in building and maintaining a career at the Bar and support the goal of achieving greater diversity within the profession.

### **Ireland for Law – an opportunity for growth of the Irish legal sector**

Ireland for Law is the Irish Government's international legal services strategy. The strategy has been created to represent and position Ireland's international legal services industry and seeks to promote Irish Law and Irish Legal Services to the international business community, particularly in areas where Ireland is already a world leader, including aviation finance, funds, insurance, tech, pharma and life sciences.

Ireland is now the leading English-speaking common-law jurisdiction in the EU. Following Brexit, businesses have come to recognise the benefits of being able to combine common law procedures and legal principles with ease of enforcement in all EU Member States. Our Commercial Court has a proven track record in ensuring the efficient, just and expeditious resolution of complex domestic and international business disputes.

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<sup>1</sup> <https://www.lawlibrary.ie/app/uploads/securepdfs/2021/06/Submission-to-the-LSRA-under-Section-34-of-the-2015-Act-June-2021.pdf>

Ireland for Law is working with the key stakeholders and with the support of our diplomatic and trade missions around the world to demonstrate to the international business community and others safeguarding their legal interests the advantages of using:

- Irish law for their business contracts;
- Irish law for legal advice and transactions;
- Irish dispute resolution for their business disputes.

The Ireland for Law initiative is a forward-looking opportunity and aims to maximise the present and emerging opportunities for Ireland as an international legal services provider. Information about the initiative and what it will mean for the future of the legal profession in Ireland is available at [www.irelandforlaw.com](http://www.irelandforlaw.com).

### **Policy Issues Impacting on the Profession**

There are a range of policy matters that are now coming to the fore where the profession will have a significant interest in their development and implementation. In the main, these policy developments are being driven by the Department of Justice. The actions to which the Department of Justice have committed where the Bar has an immediate interest include:

***Review of the Civil Legal Aid Scheme***, which is due to commence shortly and will consider proposals for reform across a variety of areas, including financial eligibility. The scheme supports those in need of legal advice and representation without the means to access such. Such a review has been long sought after by The Bar of Ireland amongst many others and is a welcome development.

***Implementation of the Report of the Review of Administration of Civil Justice (Kelly Report)***. While this Report was published some time ago (December 2020), a plan for implementing the recommendations set out in the Report is expected shortly. There are in excess of 90 recommendations in the Kelly Report, many of which have the potential to improve many aspects of the civil justice system that will undoubtedly contribute to creating efficiencies and lowering costs. It is expected that a focus on Judicial Review and Discovery will be prioritised in the implementation plan.

***Implementation of the O'Malley Review of Protections for Vulnerable Witnesses in the Investigation and Prosecution of Sexual Offences***, of which the publication is welcomed by The Bar of Ireland. The O'Malley Review recommended that '*all solicitors and barristers whose work involves interaction with victims of sexual crime should receive special training.*' Delivery of multi-disciplinary training for members, as set out by the O'Malley Report, through our comprehensive Continuing Professional Development programme, and in particular, our Advanced Advocacy Course, is already well underway.

***Family law reform***, which includes the establishment of a new Family Courts System where the aim is to greatly modernise the family justice system and expedite court proceedings for those who are experiencing delays. Under the new National Development Plan 2021-2030, funding has been secured for a family law complex on Hammond Lane in Dublin. Development of the draft Family Law Justice Strategy is already underway and is expected to be published in February 2022 along with a new Bill.

The Bar of Ireland has made a number of submissions and has participated in a range of consultative groups to input into this new family law strategy.

***Judicial numbers and skills review.*** A commitment made in the Programme for Government to review the numbers and types of judges needed to ensure the efficient administration of justice over the next five years is already underway. This review will be looking at the need for specialist skills, the impact of Covid-19, and the extent to which efficiencies in case management and working practices could help in meeting additional service demands and/or improving services and access to justice. The Department of Justice has engaged the OECD to conduct research on judicial resourcing in Ireland that will include an assessment of the workload of the courts.

The Council made a submission to the Judicial Planning Working Group in July 2021. One of the key points highlighted in that submission is that the number of judges per inhabitant in Ireland remains the lowest in the EU, which has an impact on the efficiency of the Irish justice system:

*“The justice system budget and the number of judges remain below EU average. While the budget per capita for the justice system, which was EUR 55.7 in 2018, has constantly increased in the last years, the budget as a percentage of GDP has stagnated.”<sup>2</sup>*

This trend is still reflected in the most recent EU Justice Scoreboard published on 8 July 2021<sup>3</sup>.

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<sup>2</sup> 2020 Rule of Law Report, country chapter on the rule of law situation in Ireland, p. 5

<sup>3</sup> See EU Justice Scoreboard 2021, p.26