



THE BAR OF IRELAND

The Law Library

Submission by Council of The Bar of Ireland to the Legal Services Regulatory Authority Concerning the Education and Training Arrangements in the State for Legal Practitioners

13th June 2018

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PART 1: EXECUTIVE SUMMARY

The Council of The Bar of Ireland is the accredited representative body of the independent referral Bar in Ireland, which consists of members of the Law Library and has a current membership of approximately 2,200 practising barristers.

The Bar of Ireland is long established and its members have acquired a reputation amongst solicitors, clients and members of the public at large as providing representation and advices of the highest professional standards. The principles that barristers are independent, owe an overriding duty to the proper administration of justice and that the interests of their clients are defended fearlessly in accordance with ethical duties are at the heart of the independent referral bar.

As it is the Honorable Society of the King's Inns who has the responsibility for the education and training of students in order to be admitted to the degree of Barrister-at-Law, this submission will confine itself to matters relating to the *ongoing* professional education and training arrangements in place for newly qualified and practising barristers.

In approaching this submission, the Council wishes to ensure that there is a continued commitment to the maintenance of high standards in the ongoing professional education and training of all barristers. It should be ensured that all barristers, regardless of the practice structure through which they deliver their professional services, abide by the requirement to participate in appropriate ongoing training and education in the best interests of their clients in a manner consistent with the longstanding and recognised ethical values underpinning the administration of justice.

The nature of a barrister's work is such that they are routinely updating their knowledge and skills in the normal daily course of their professional practice. This is further emphasised under the Code of Conduct for The Bar of Ireland where barristers are required to inform the court of any relevant decision on a point of law and, in particular, of any binding authority or of any applicable legislation of which they are aware and which the Barrister believes to be in point whether it be for or against their contention.

A key function of The Bar of Ireland is the delivery of ongoing professional training and education for members of the Law Library in the form of continuing professional development (CPD). CPD is a vital tool in ensuring consistently high standards of practice and regular reviewing of developments in the law as they arise.

This submission will outline the professional education and training arrangements in place for newly qualified barristers and the provision of continuous professional development for qualified barristers who practice within the Law Library structure. The submission will address some of the issues raised in the 'Invitation for Submissions'¹ and provide a number

¹ Invitation by the Legal Services Regulatory Authority for Submissions, 4th May 2018.

of observations and recommendations for the consideration of the LSRA as part of this consultation.

Regard has been had to the regulatory objectives set down in Section 13 of the Act:

- (a) protecting and promoting the public interest,
- (b) supporting the proper and effective administration of justice,
- (c) protecting and promoting the interests of consumers relating to the provision of legal services,
- (d) promoting competition in the provision of legal services in the State,
- (e) encouraging an independent, strong and effective legal profession, and
- (f) promoting and maintaining adherence to the professional principles of independence and integrity, acting in the client's best interests, compliance with duties owed to the court and confidentiality.

PART 2: SCOPE OF THE CONSULTATION

The Authority's invitation for submissions of the 4th May 2018 invited submissions as part of a public consultation prior to a report to the Minister for Justice & Equality on the education and training arrangements in the State for legal practitioners. This consultation arises from Section 34(1)(a) of the Legal Services Regulation Act, 2015 that provides as follows:

The education and training (including on-going training) arrangements in the State for legal practitioners, including the manner in which such education and training is provided;

The text of section 34(3)(c) of the 2015 Act states that the LSRA shall include in its report recommendations in relation to the following:

1. Appropriate standards of education and training for legal professional qualifications;
2. Arrangements necessary to monitor adherence with the appropriate standards;
3. The scope and content of the curriculum forming part of courses of legal professional education and training, including the teaching methodology of the following:
 - Legal education,
 - Legal ethics,
 - Negotiation,
 - Alternative dispute resolution, and
 - Advocacy.
4. Arrangements that would facilitate the minimisation of duplication, and consequent expense incurred in the taking of examinations in legal subjects on the part of a person who
 - I. Wishes to undertake a course of legal professional training and who has obtained a third level law degree that includes one or more of the subjects that form part of that course,
 - II. Wishes to transfer between the professions, i.e. a solicitor who wishes to become a barrister or a barrister who wishes to be admitted as a solicitor.
5. Standards required for the award of legal professional qualifications pursuant to courses of legal professional education and training;
6. The need for, and, if such a need is identified, the manner of and requirements relating to the accreditation of bodies or institutions to:
 - I. Provide, or procure the provision of, courses of legal professional education and training,
 - II. Hold or procure the holding of examinations, and
 - III. Award, or procure the awarding of, diplomas, certificates or other awards of merit.
7. Any other matters that the Authority considers relevant and appropriate.

PART 3: PUPILLAGE AND THE NEW PRACTITIONERS PROGRAMME

BACKGROUND:

The system of pupillage, often referred to as devilling, has been in existence for as far back as records extend. It would appear to have emanated from a requirement to participate in learning exercises for an appropriate period, and argument at a moot, as a condition of a call to the Bar.

Pupillage can be described as a period of training undertaken by barristers, during which they work for a senior barrister (one who has been called for seven or more years but who is not a Senior Counsel), known as the 'Master'. It can take place during the year after which the pupil has been awarded the barrister-at-law degree by the King's Inns, although it may be done later. While qualified barristers have full rights of audience as soon as they are called to the Bar, members of the Law Library must undergo a period of pupillage for at least one year.

Pupillage is also a recognised system of ensuring the protection of the public, that has a heightened importance when viewed in the context of criminal practice. A condition of the provision of legal services by a barrister under the Criminal Legal Aid Panel operated by the Department of Justice & Equality is that a newly qualified barrister must have completed six months of pupillage. The purpose of this condition is two-fold:

- (1) to protect the interests of the client in question, whereby ensuring that they have a fully trained and competent barrister representing them in court, protecting their constitutional rights to liberty and fair procedures, which is of paramount importance, and
- (2) to ensure that the public's money i.e. criminal legal aid, is spent appropriately and effectively in protecting these constitutional rights.

PURPOSE & AIMS OF PUPILLAGE:

Pupillage is the final stage of training to qualify as a practicing barrister, in which practical training is supervised by an experienced member of the Bar who is listed on the Register of Masters maintained by The Bar of Ireland.

The aims of pupillage are:

- to prepare pupils (who have been called to the Bar) for practice at The Bar of Ireland;
- to develop further the knowledge, skills and experience gained at the vocational stage of training;
- to develop further proficiency as an advocate;
- to develop the pupil's professional and ethical approach to practice as a barrister, in accordance with the Code of Conduct;

- to establish the skills of professional practice as an independent barrister;
- to give experience in matters in which pupils are likely to be briefed during the early years of practice, and to build skills and experience that will enable them to handle more complex matters in the future; and,
- to prepare pupils to take responsibility for their own professional development and practice.

The Code of Conduct for The Bar of Ireland provides that the duties of Masters include the duty of teaching pupils the rules and customs of the Bar, and ensuring that they have read and understand the Code and what constitutes proper professional practice by barristers. The most important aspect of the Code is the duty of candour; with the court, with clients and with colleagues. Matters of custom include the practice of addressing the court in order of seniority of call. This is a practical and effective way of regulating court lists involving hundreds of cases, which also ensures that the most experienced members address the court first and the lists are generally very efficiently managed as a result.

THE MASTER/PUPIL RELATIONSHIP:

The Master/Pupil relationship is overseen by the Education & Training Committee, a permanent committee of the Council of The Bar of Ireland.

In order to be registered as a Master with The Bar of Ireland, an application must be submitted to the Education & Training Committee prior to being included on the Register. Barristers who are Junior Counsel may be entered on the register of Masters if they have completed seven years practice.

There are currently 249 barristers listed on the Register of Masters with The Bar of Ireland. In contrast with other jurisdictions, in particular in England & Wales, all newly qualified barristers that enter the Law Library can be assured of sourcing a Master in order to complete their year of pupillage. In recent years, The Bar of Ireland has encouraged and facilitated greater access to information on the supports provided by individual Masters to prospective pupils. For example, Masters can now indicate on the register that is made available to prospective pupils what level and form of financial support they provide to their pupils.

Guidelines are provided to both the Master and the Pupil that set out the nature of the relationship and assist in guiding the expectations of both parties (See Appendix 1). In addition to a Master, each Pupil is also assigned a Mentor as an additional support available to him/her for guidance and advice. Every effort is made to assign each Pupil with a Mentor from a different area of practice. Should an issue arise during the course of pupillage, which occurs from time to time, the pupil's Mentor and the Education & Training Committee are available, in addition to or as an alternative to the Master, to address such concerns or difficulties.

The Education & Training Committee also provides the following recommendations and advice to each Master upon confirmation of their inclusion in the Register of Masters:

- Where possible a Pupil should be invited to go to consultations with his/her Master, whether in the Four Courts or at a solicitor's office, and the Master should so advise his instructing solicitor.
- A Pupil should be encouraged to prepare draft pleadings and his/her Master should review such drafts and amend and correct as appropriate. A bank of precedents should be collected by the Pupil and, where possible, a Master should furnish to the Pupil copies of any precedents pleadings in his possession.
- Where appropriate, and with the consent of an instructing solicitor, a Pupil should be invited to deal, initially with consent motions and thereafter with uncontested motions. A Pupil has no right to insist upon any motion being handled by him and any decision in this respect is exclusively within the discretion of the Master. However, Masters are encouraged to allow their Pupils to handle more complicated motions on a progressive basis but time should be taken by the Master to explain to the Pupil the nuances of any given motion and the way in which it is to be handled and he or she should be directed to the relevant legal authorities.
- Where a Master's practice is primarily opinion based (such as in conveyancing or Taxation) or is one that does not involve many Court motions, it is permissible for a Pupil, with the approval of his Master, to handle motions for other Barristers/Masters and to temporarily Pupil with another Junior Counsel who is on the Register of Masters. Such an arrangement should only be put into place with the consent of the Master and the Education & Training Committee and it should subsist for no more than four weeks.
- When a Master considers it appropriate, during a consultation with clients and or solicitors he should invite the Pupil to express an opinion in relations to the matters being discussed. A Pupil should not contribute to a consultation or express any opinion to the Master's solicitors before or after the consultation. His/her views should be expressed when they are specifically sought by his Master.

NEW PRACTITIONERS' PROGRAMME

In addition to their pupillage with their Master, pupils are also required to complete the New Practitioners' Programme, a series of talks and seminars aimed at first year entrants to membership of the Law Library, covering a wide range of topics imperative to first year in practice. The New Practitioners Programme is compulsory and if a pupil is unable to attend any of the seminars during their first year they must complete the equivalent seminar in their second year. The programme content is set out at the beginning of each

year and reviewed annually after consultation with pupils who have completed the programme.

The topics generally included are set out in the table below:

NEW PRACTITIONERS' PROGRAMME	
Orientation Day & Library Training	Practice and Procedure in Criminal Courts and District Courts
Master, Mentor and Pupil Seminar	Lay Litigants
Ethics: Duties to Client, Court & Colleagues	Golden Rules of Drafting
Practice and Procedure in the County Registrar's Court	Alternative Dispute Resolution
Master's Court Listing	Family Law
Monday Motions in the High Court and High Court Lists	Employment Law
Solicitor/Barrister Relationship	Practice Management
	Master and Pupil Seminar

PART 4: CONTINUING PROFESSIONAL DEVELOPMENT

BACKGROUND:

Continuing professional development (CPD) is the systematic maintenance, improvement and broadening of knowledge and skill, and the development of personal qualities necessary for the performance of professional duties throughout the barrister's working life.

In 2005, Council of The Bar of Ireland introduced a mandatory CPD Programme for all members of the Law Library. It was initiated as a means of ensuring the promotion of high standards of work within the profession, thereby protecting and promoting the public interest, and to enable barristers to develop their careers by both expanding on their current knowledge and acquiring new professional skills and areas of specialisation.

While individual members of the Law Library are responsible for their own planned continuous professional development, all members must complete a minimum of 12 CPD hours in each legal year, including one hour in legal ethics provided by The Bar of Ireland. The rules of the CPD Programme are subject to revision by Council of The Bar of Ireland periodically and are set out in Appendix 2.

CONTENT OF CPD PROGRAMME:

The annual CPD programme includes a wide range of topics delivered throughout each legal year. The CPD programme is developed and overseen by the Education & Training Committee which comprises members drawn from varying years and areas of practice. Members of the Committee and those who deliver the programme volunteer their time and expertise to maintain the high standard of education at the Bar.

Consistent with the aims of efficient administration of justice, integrity and independence, current CPD comprises education and training that is relevant to maintaining or developing a barrister's legal knowledge, professional skills, ethics or practice management ability. The CPD programme delivered annually includes the following core curriculum:

1. **Legal Ethics (mandatory)** - based on the Code of Conduct for The Bar of Ireland and any recent themes/issues that have come to the attention of the Professional Practice Committee.
2. **Advanced Advocacy** - two intensive courses per year, one aimed at junior practitioners and one at senior practitioners. Each course is of minimum two days duration and is taught by senior members of the Irish Bar who have been trained by experienced international advocacy trainers, including both judges and barristers. In addition, there are occasional standalone seminars on subjects such as the sensitive and effective questioning of vulnerable witnesses and effective narrative advocacy.
3. **Practice Management** - addresses practice management related matters including tax and finance, regulation and compliance, managing complaints of negligence,

managing work/life balance, accessing work from the State, legal research skills and business development.

The topics selected for inclusion in the annual CPD programme are selected in a number of ways:

1. Identification of legal developments across a variety of practice areas;
2. Ideas and suggestions from Committees of the Council and Specialist Bar Associations to meet a particular need or area of practice²;
3. Feedback from member surveys which often identifies topics of interest;
4. Ideas and suggestions from individual members or Circuit Liaison representatives.

Throughout each legal year, an average of 80 education and training events are made available for members of the Law Library in Dublin, on each Circuit (of which there are 7) and through the medium of an on-line webcasting facility that can be viewed live or downloaded on to an electronic device to view at another time.

An example of the range of topics included in the **CPD Programme 2017/18** is set out below:

Access to Justice - Legal rights, entitlements and the Voluntary sector	How we speak to each other
Advanced Advocacy Course	International ADR
Advanced Advocacy: Narrative and The Law Workshop	Library Resources Training
An overview of the Assisted Decision Making (Capacity) Act 2015	LSRA update
Balancing the rights of the accused with the rights of the complainant	Maritime law
Charges on Registered Land	McKenzie Friends
Children's court	Mediation Act 2017
Commercial law	Negotiation: how we talk to each other
Criminal Judicial Review	Personal Injuries
Criminal law and evidence updates	Personal Injuries Update
Domestic ADR	Practice management
E-conveyancing, mortgagee sales and registered land	Professional regulatory matters
Employment updates	Professional resilience for success
Ethics at the bar	Sports law
	Texas Hold'em: Sentencing Guidelines in Texas and in Ireland, a Game of Chance?
	Tort Law Conference
	Towards Compliance with UNCRPD
	Update on Brexit

² Committees and Specialist Bar Associations who provide CPD seminars include: Young Bar Committee, Criminal State Bar Committee, Civil State Bar Committee, Arbitration and ADR Committee, Human Rights Committee, Personal Injuries Committee, Professional Regulation and Discipline Bar Association, Construction Bar Association, Employment Bar Association, Family Lawyers Association and the Irish Criminal Bar Association.

European law updates Family law update GDPR and Office 365	Update on employment law Victims Directive Conference
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INFORMATION SKILLS TRAINING:

In addition to our annual CPD Programme, legal research skills training is also actively promoted. Information literacy has long been recognised as an essential skill for practising barristers. In a legal context, information literacy is defined as having the skills to find, retrieve, analyse and use information. As technology evolves barristers must have the ability to carry out legal research competently across a number of platforms and online resources. Practitioners are required to take professional responsibility to ensure that their research is competent, efficient and complete. Providing our members with these essential skills ultimately benefits their clients.

Training courses are delivered to members on how to find relevant, up-to-date and reliable resources both in print and on-line. While we deliver a mixture of courses, some aimed at teaching specific research techniques or how to use particular finding tools or resources, we focus on teaching principles rather than fixed knowledge. This is important to support our members to enable them to enhance their research skills and become increasingly self-sufficient and confident in a constantly changing research landscape.

Delivery of our information skills programme takes a variety of formats:

- Daily drop-in clinics provided by qualified information professionals;
- Weekly clinics, open to all and advertised across all internal communications media;
- One-to-one training on demand;
- Lecture style delivery to small and large groups on specific topics;
- Vendor-led training on a specific resource;
- Training events delivered on circuit;
- Induction training delivered to new entrants;
- Training delivered remotely.

We evaluate and regularly update our programme offering based on feedback received.

FULFILLING CPD REQUIREMENTS:

Members of the Law Library are required to attain 12 points (hours) of continuing professional development (CPD) activities between October 1 and September 30 of each legal year. Members are required to attain a minimum of one point for an ethics seminar in each year and the balance may be acquired as follows:

- 9 points for attendance at courses;
- 6 points for the first year of teaching/lecturing and 3 points for subsequent years;
- 4 points for presenting a talk and two points for attending the event;
- 4 points for the first year of exam marking and two points for subsequent years;
- 6 points for voluntary work;
- 5 points for reading legal journals/listening to downloads;
- 8 points for published textbooks;
- 2 points for judging moot trials;
- 2 points for acting as an external examiner;
- 2 points for relevant private or group study;³
- 2 points for curriculum proposal or curriculum preparation; and,
- ½ point per hour for chairing a conference or seminar.

CPD COMPLIANCE MONITORING:

Having attained a minimum of 12 points, members of the Law Library are required to certify annually that they have complied with the minimum CPD requirement⁴. The process of monitoring compliance with this requirement is overseen by the Regulation Department of The Bar of Ireland who maintain an auditable database of each individual members' CPD compliance.

The Rules of Membership⁵ of the Law Library provide that a member may be excluded either permanently or for a temporary period, where a member has failed to comply with CPD. Where exclusion is for CPD non-compliance, within one month the member can reinstate membership by certifying they are in compliance, paying any administrative fees applied and showing proof of PII without the requirement for formal re-admittance through Library Committee. Beyond one month, a member must re-apply through the normal re-entry process.

CPD PROGRAMME REVIEW:

The Education & Training Committee conducts frequent reviews of its approach to the design and delivery of the CPD Programme, including the minimum requirements applied to members of the Law Library in relation to CPD and the means to access CPD in light of technological advances. CPD is a vital tool in ensuring consistently high standards of practice

³ Members can claim 5 CPD points from private study webcasts. Webcast seminars viewed in groups of three members or more will count as a group event.

⁴ A technological solution is currently being sourced for members to record their CPD and demonstrate compliance.

⁵ <https://www.lawlibrary.ie/media/lawlibrary/media/Rules-of-Membership-Oct-2017-1.pdf>

and regular reviewing of recent developments in the law. As each CPD event invites feedback from attendees, a bank of feedback is collated each year for the review of the Education & Training Committee in order that steps can be taken to ensure CPD is meeting the needs of members in terms of content, format and accessibility for example. In addition, the Education & Training Committee regularly benchmark the CPD requirements in place for barristers in Ireland against other jurisdictions where an independent referral bar exists. (See Appendix 3)

In October 2017, following a review undertaken by the Education & Training Committee, the Council of The Bar of Ireland agreed with a recommendation from that Committee to increase the annual CPD requirement from 10 CPD points to 12 CPD points and the manner in which those points can be attained.⁶

The Education and Training Committee and the Advanced Advocacy Committee have forged strong links with their sister committees of the independent referral bars, in particular those in Northern Ireland and England & Wales. There are regular joint meetings of the Education Committees in Dublin and Belfast, for instance. The standard and content of our CPD programme is the main item on the agenda at these meetings.

Irish trainers in advocacy have the singular distinction of being regular guest trainers at national and international advocacy courses in Belfast and at Keble, in Oxford, which is one of the longest established advocacy courses in the common law world and is run by the English South Eastern Bar. Accreditation for our trainers has commenced and has been provided by the relevant chairs of the advocacy training board (or equivalent authority) in at least two different jurisdictions, to ensure independent and authoritative adherence to the highest standards of advocacy and to keep abreast of international developments in education generally and in advocacy training in particular. This accreditation will be offered to other members of the faculty at future advocacy courses.

The Advanced Advocacy Committee has recommended that all barristers who are on the Register of Masters be required to complete the Advanced Advocacy Course. The Council will consider this proposal shortly.

The Education & Training Committee will undertake a detailed training needs analysis later this year in order to contribute towards a further review of the core CPD curriculum in place for members of the Law Library. For example, the frequency of negotiation seminars will increase over the coming years and negotiation workshops will take place, allowing members to actively engage in negotiation techniques through role play. This method mirrors the huge success of similar advocacy workshops. The Bar of Ireland has a very active and engaged Alternative Dispute Resolution (ADR) Committee which regularly holds seminars on this area of practice as the emphasis of the courts and the legislature on ADR increases.

⁶ Full details of the CPD Scheme Rules are set out in Appendix 2

PART 5: ARRANGEMENTS TO TRANSFER BETWEEN LEGAL PROFESSIONS

The arrangements in place for barristers to transfer to the profession of a solicitor and vice versa are well established and do not appear to present any obstacles to either profession. The figures available demonstrate that the number of barristers that leave the profession and transfer to the solicitors' profession is very high in comparison to the reverse of this situation.

The following table provides an overview of the transfers that have taken place between the professions during the period 2012 – 2017.

YEAR	NUMBER OF BARRISTERS TRANSFERRING TO THE SOLICITORS' PROFESSION⁷	NUMBER OF SOLICITORS TRANSFERRING TO THE BARRISTERS' PROFESSION⁸
2012	3	7
2013	10	2
2014	15	0
2015	15	1
2016	34	1
2017	34	2
TOTAL	111	13

According to the Law Society Gazette (May 2018, page 13):

'As of 24 April 2018, a total of 17 barristers have been admitted to the Roll of Solicitors in 2018. Given that we are now just one third of the way through 2018, it would appear as though the number of barristers transferring to the Roll of Solicitors is set to increase once again, compared with the 2017 admission figure'.

Appendix 4 sets out an overview of the trends of membership of the Law Library over the last 10 years and demonstrates that 1,282 barristers left membership of the Law Library during the period 2008 - 2018. We are not aware of any other profession where the attrition rate is at such a level.

⁷ Law Society Gazette, May 2018, page 13

⁸ Figures relate to those who have become members of the Law Library

One explanation for this high level of attrition may be the fact that when compared with the number of barristers in other jurisdictions where there is a split profession, Ireland has the highest number of barristers per 100,000 population as evidenced in the table below.

COUNTRY	ASSOCIATION	TOTAL NO. BARRISTERS	POPULATION	PER 100,000
Ireland	The Bar of Ireland	2,158 ⁹	4 792 500 ¹⁰	45
N Ireland	The Bar of Northern Ireland	640 ¹¹	1 862 100 ¹²	34
New Zealand	The New Zealand Law Society	1,379 ¹³	4,793,700 ¹⁴	29
Australia	The Australian Bar Association	6,000 ¹⁵	24,511,800 ¹⁶	24
England & Wales	The Bar Council of England & Wales	13,500 ¹⁷	58 381 300 ¹⁸	23
Hong Kong	The Hong Kong Bar Association	1,400 ¹⁹	7,387,562 ²⁰	19
Scotland	Faculty of Advocates	445 ²¹	5,404,700 ²²	8
South Africa	General Council of the Bar of South Africa	2,824 ²³	56,958,294 ²⁴	5

ARRANGEMENTS FOR A BARRISTER TO BECOME A SOLICITOR

Barristers who qualified in Ireland can transfer to become solicitors without the necessity of undergoing the full training programme prescribed for trainee solicitors as per Section 51 of the Solicitors (Amendment) Act, 1994. A barrister can apply to become a solicitor where they have been called to the Bar of Ireland **and** for a minimum of three years have:

- practised as a barrister in the State
- been a member of the Judiciary

⁹ Membership Stats May 2018

¹⁰ Central Statistics Office (2017)

¹¹ Direct Contact (2017/2018)

¹² Office for National Statistics (2016)

¹³ Direct Contact (NZLS Figure as of 17 January 2018)

¹⁴ Stats NZ (2017)

¹⁵ Australian Bar Association website (2017)

¹⁶ Australian Bureau of Statistics (2017)

¹⁷ Direct Contact (2017/2018)

¹⁸ Office for National Statistics (2016)

¹⁹ HKBA website (number of members as at September 2017)

²⁰ Worldometers (2017)

²¹ Direct Contact (2017/2018)

²² National Records of Scotland (2016)

²³ Law Society of South Africa, Statistics for Legal Profession - General Council of The Bar of South Africa, Membership Statistics as at 30 April 2016 p. 47 (2016)

²⁴ Worldometers (2017)

- been employed in the provision of services of a legal nature and/or
- been employed by the State in the provision of services of a legal nature

An applicant must provide the following to the Law Society of Ireland:

1. A certificate of being in good standing while practising from two of the benchers of the Honorable Society of King's Inns confirming the period of practice.
2. A certificate from the Registrar of the King's Inns confirming that the applicant passed the Barrister at Law degree, certifying the results of that degree, that the applicant passed or was exempted from an Irish examination and the date they were called to the Bar.
3. An up-to-date CV setting out either the history of their work at the Bar and/or as a member of the Judiciary and/or the history of their employment.
4. In the case of a term of employment, a reference from the applicant's employer confirming the period that the applicant has been engaged under a contract of employment full time in the provision of services of a legal nature and the nature of the work done. A character reference should be furnished from a solicitor outside the applicant's firm which should verify the applicant's work.
5. Certified copies of academic qualifications (i.e. Law Degree if obtained, listing subjects and results).
6. Confirmation from the Kings Inns that the applicant has been voluntarily disbarred. (Note: the applicant may elect to hold off arranging to be disbarred until just before applying to go on the Roll of Solicitors in which case this confirmation may be submitted at that stage.)
7. Details of the office of a practising solicitor where the applicant intends to complete any in-office period.
8. If applying for an exemption from the 6 months in-office experience, confirmation from the applicant of the basis of the application and if relevant, confirmation from the applicant's firm of any period worked, the experience obtained and whether the work done was equivalent to that of a solicitor.
9. Application fee of €70.

On receipt of the above documentation, the applicant may be called for interview by representatives of the Law Society. The application is then referred to the Education Committee for a decision on whether the applicant is eligible to be admitted to the Roll of Solicitors and what conditions, if any, may apply.

All applicants are required to attend the next Essentials of Legal Practice course (ELPC), that runs annually in August/September each year. The ELPC covers Professional Conduct, Solicitors' Accounts, Probate and Taxation and Conveyancing. Attendance at all modules is compulsory. There is no examination. The fee for the 2018 ELPC is €2,830 - €3,100.

Applicants may be obliged to spend up to a maximum of six months in the office of a practising solicitor, for the purpose of receiving due instruction and obtaining experience in the practice and profession of a solicitor. This six-month requirement may, in exceptional circumstances, be waived/modified - this is a matter for the interviewing panel and the Education Committee.

On completion of any in-office period, the applicant will be required to submit a letter from the practice confirming the period worked, whether it was full-time, the experience obtained and whether the work done was equivalent to that of a solicitor.

On completion of the ELPC, the in-office period and on satisfaction of any other conditions outlined by the Education Committee, the applicant may apply to be admitted to the Roll of Solicitors. The fee for enrolment is €300.

ARRANGEMENTS FOR A SOLICITOR TO BECOME A BARRISTER

The Honorable Society of King's Inns²⁵ oversees the process for a solicitor to transfer to the profession of a barrister, set out below:

Rule 23 Solicitors

- (a) A solicitor on application made by him in writing to the Society who in the period expiring at any time within six calendar months prior to the date of receipt of application has been in continuous practice in the State for three years or more and has held a practising certificate from the Law Society of Ireland for the entire of that period (or is exempted by statute from any requirement to hold such certificate) may, at the discretion of the benchers of the Society, be admitted into the Society and called to the Bar without undertaking the Society's course of education and without keeping terms provided he complies with the requirements set out in paragraph (b) hereof.
- (b) Every such applicant shall
 - (1) following acceptance by the Society of such application satisfactorily complete the next available course of study (if any) as may be provided by the Society and as may be determined from time to time by the Education Committee
 - (2) cause himself to be removed from the Roll of Solicitors and cease to practice as a solicitor prior to admission to the degree of Barrister-at-Law.
 - (3) lodge at the Under Treasurer's office at least 10 days prior to admission to the degree:
 - (i) a letter from the Law Society of Ireland certifying his removal from the Roll of Solicitors;
 - (ii) a statutory declaration that he has ceased to have any financial interest in any solicitor's business or practice;

²⁵ Rule 23 of the King's Inns Education Rules

- (iii) a certificate from the President of the Law Society of Ireland stating that he is a fit and proper person to be called to the Bar;
 - (iv) a completed declaration for admission to the Society and to the degree of Barrister-at-Law (the certificate which is included in the declaration must be signed by a practising barrister who has been practising at the Bar of Ireland for ten years at least and the proposal therein must be signed by a bencher of the Society); and
 - (v) an undertaking in writing to keep two terms of commons in accordance with paragraph (b)(5) of this Rule,
- (4) at least 10 days prior to admission to the degree pay the degree fee as set out in the Schedule of Fees, and
- (5) keep two terms of commons (3 dinners each term) after call during the first two years of practice at the Bar of Ireland.
- (c) Notwithstanding paragraph (b)(1) an applicant will be entitled (on payment of the appropriate fee in respect of such course) to take such course of study, if any, as may be determined by the Education Committee pursuant to paragraph (b)(1) of this Rule once he has been in practice as a solicitor in the State and has held a practising certificate (unless exempted by statute from any requirement to hold such certificate) for a period of not less than two years immediately preceding the commencement of the said course of study. On satisfactory completion of the said course of study the solicitor shall be deemed to have complied with the requirement of paragraph (b)(1) of this Rule provided such course of study is completed within twelve calendar months of application being made under Rule (a) above.
- (d) If an applicant fails:
- (i) to undertake and complete satisfactorily the next available course of study in accordance with paragraph (b)(1) of this Rule; or
 - (ii) to cause himself to be admitted to the Society and called to the Bar of Ireland at the first available opportunity following satisfactory completion of the said course
- the application made by the applicant shall be deemed to be withdrawn.

PART 6: OBSERVATIONS AND RECOMMENDATIONS FOR THE CONSIDERATION OF THE LEGAL SERVICES REGULATORY AUTHORITY AS PART OF THIS CONSULTATION

As set out in this submission, The Bar of Ireland has in place various schemes targeted at new practitioners following qualification and qualified practitioners who are members of the Law Library.

In relation to the period of pupillage and provision of the New Practitioners' Programme that is in place for members of the Law Library, it is essential that the LSRA gives consideration to how an equivalent 'on-the-job' training scheme for barristers who choose to practice outside of the Law Library structure can be put in place. At present, it is not clear how newly qualified barristers who decide not to enter membership of the Law Library are to be provided with this essential period of training. Pupillage is fundamental to ensuring that the regulatory objectives that are set out in Section 13 of the Act can be upheld:

- (a) protecting and promoting the public interest,
- (b) supporting the proper and effective administration of justice,
- (c) protecting and promoting the interests of consumers relating to the provision of legal services,
- (d) promoting competition in the provision of legal services in the State,
- (e) encouraging an independent, strong and effective legal profession, and
- (f) promoting and maintaining adherence to the professional principles of independence and integrity, acting in the client's best interests, compliance with duties owed to the court and confidentiality.

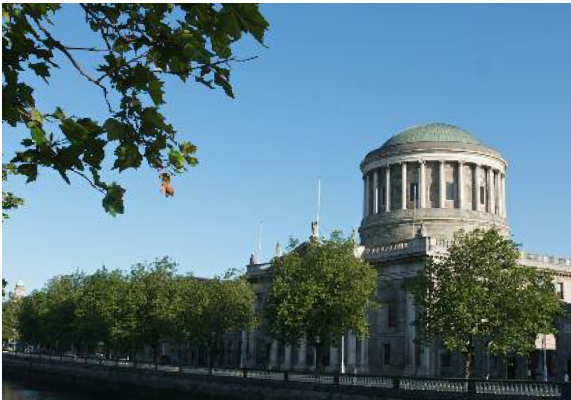
The Bar of Ireland CPD Scheme is a very well established and expertly managed scheme that is regularly reviewed to ensure that it is in keeping with international best practice and is provided to members as part of their annual membership subscription fee. The Bar of Ireland has developed vast expertise in the provision of ongoing education and training for barristers. It is essential that the LSRA recognises the need for CPD across the profession regardless of the structure through which a barrister may choose to practice. The following matters should be considered:

- (1) A requirement should be imposed on barristers who are outside of membership of the Law Library to undertake a minimum level of CPD, including a core curriculum and supplied by reputable and suitably accredited bodies;
- (2) Barristers who are outside of membership of the Law Library should be subject to compliance monitoring in meeting the CPD requirements by the LSRA;
- (3) In the event that the LSRA consider the accreditation of bodies or institutions to provide, or procure the provision of, courses of legal professional education and training, that The Bar of Ireland would be consulted and provided with the

opportunity to be confirmed as an accredited provider in the area of ongoing training and education.

The scope of the consultation seeks submissions in relation to the arrangements in place for barristers to transfer to the profession of a solicitor and vice versa. The Bar of Ireland is not aware of any concerns relating to the arrangements that are already in place and they do not appear to present any obstacles to either profession.

APPENDIX 1: GUIDELINES FOR MASTERS AND PUPILS



MASTER-PUPIL GUIDELINES

Chapter 1

Practice in the Law Library

The Bar of Ireland is an independent referral bar composed of approximately 2,200 members. Irish barristers provide specialised advocacy and advisory services to a wide client base at home and abroad. They bring high levels of skill and independence to the provision of advocacy and advisory services. They are governed by a Code of Conduct containing a disciplinary code that places emphasis on vigorous independent representation of the client's interests, professionalism and honesty. An important feature of the Code of Conduct is that the behaviour of individual

barristers must not bring the Bar into disrepute. Completion of training in the King's Inns, and attainment of the barrister-at-law degree entitles you to enter the Law Library. A newly-qualified barrister must work for a period of at least one year with an established barrister, commonly referred to as a 'master', to become acquainted with court work, preparation of cases, legal documents and so on. This is commonly known as 'devilling', and the devil, or pupil, does not receive a fee for his/her work.



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Preamble

The system of pupillage, often referred to as devilling, has been in existence for as far back as records extend. It would appear to have emanated from a requirement to participate in learning exercises for an appropriate period, and argument at a moot, as a condition of call to the Bar.

Pupillage can be described as a period of training undertaken by barristers, during which they work for a senior barrister (one who has been called for seven or more years but who is not a senior counsel), known as the 'master'. It can take place during the year after which the pupil has been awarded the barrister-at-law degree by the King's Inns, although it may be done later. While qualified barristers have full rights of audience as soon as they are called to the Bar, barristers must undergo a period of pupillage for at least one year.

The purpose of pupillage

Pupillage is the final stage of training to qualify as a practising barrister, in which practical training is supervised by an experienced member of the Bar who is listed on the Register of masters maintained by the Council of The Bar of Ireland. The Code of Conduct for The Bar of Ireland provides that the duties of masters include the duty of teaching pupils the rules and customs of the Bar, and ensuring that they have read and understand the Code and what is proper professional practice by barristers.

Pupils are also required to complete the New Practitioners' Programme, which is a series of CPD talks and seminars aimed at first year pupils.

The aims of pupillage are:

- to prepare pupils (who have been called to the Bar) for practice at The Bar of Ireland;
- to develop further the knowledge, skills and experience gained at the vocational stage of training;
- to develop further proficiency as an advocate;
- to develop the pupil's professional and ethical approach to practice as a barrister, in accordance with the Code of Conduct;
- to establish the skills of professional practice as an independent barrister;
- to give experience in matters in which pupils are likely to be briefed during the early years of practice, and to build skills and experience that will enable them to handle more complex matters in the future; and,
- to prepare pupils to take responsibility for their own professional development and practice.

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Chapter 2

Before entry into the Law Library

Resources available before entering the Library

An application pack can be found in the membership section of the website. This contains the most important documents you need before the process of joining the Law Library, including:

- Rules of Membership of The Bar of Ireland;
- Code of Conduct of The Bar of Ireland;
- Duties of Pupils; and,
- Duties of Masters.

Introductory meeting

Incoming practitioners must attend a brief introductory meeting with the elected representative governing body, before entering the Law Library. This meeting is informal, and gives a brief overview of the obligations of new entrants to the library, e.g., availability to attend your master between the hours of court. It is also the time at which members of the Council ensure that the pupil is not engaged in any employment which might conflict with their obligations as a barrister.

This is a good opportunity to ensure that you have read the Code of Conduct before entering into practice. You

are required to be familiar with the Code and it will assist in ensuring that you are ready to commence practice as an independent barrister, should you be admitted.

You will be contacted in advance by the membership services department with a date and time for your meeting.

Choosing a master

Finding a master can appear to be a daunting task with no hard and fast guidelines. For the majority of new entrants, accessing the Register of Masters published annually by the Council of The Bar of Ireland in May is an excellent starting point. The Register lists all those members who are eligible to be masters, and indicates their availability for the following year. It is recommended that prospective pupils secure a master as soon as possible in advance of their call to the Bar. When approaching the task of finding a master it is important to consider the area your prospective master practices in. Is it civil or criminal? If criminal, is it prosecution or defence, or both? If civil, what is their specialisation? Consider what areas you want to develop in your skill set. Masters are expected to offer you a rounded practical learning experience, and should give

Master-pupil relationship

Introduction

Your day-to-day tasks and activities will depend on your master's practice. When you first meet with your master you should ask him/her what hours you are expected to keep. A devil should assist a master in all areas of his/her practice. It is always the case that the more you put into the 'devilling experience', the more you will get out of your year of devilling.

Primary duties of pupils

Everyone will have a different devilling experience as no two practices are the same. There are a number of duties that a master owes to his/her pupil, specifically in relation to how a pupil should be included in their master's practice. These can simply be broken down into three main areas:

- practical experience in drafting and research;
- practical experience in preparing for meetings and consultations; and,
- sufficient experience in advocacy, through attendance at Court and appearing in motions.

Motions

All new practitioners will receive CPD lectures in relation to motions in the Master's Court and the County Registrar's Court. Attending motions is the most common way for pupils to obtain court experience. It is important to remember the seniority rule when going into court. Ask yourself does the rule apply here or is it a numerical list?

A motion for the sitting of the court is where the other side may not be represented. Before a list starts, the registrar will ask if there are any motions for the sitting of the court. If you are in this particular

scenario, make sure there is nobody more senior who is standing to make such an application, then read out the case name, indicate the party for whom you appear, and ask if the other party might be called. The registrar will call out the name of that party and the matter will take its place in the list.

The judge goes through the list twice – first call and second call. If you miss first call, you may appear at second call. This allows practitioners to deal with matters in different courts. Never deal with a matter at first call if your opponent is not present, unless you know that the matter can be dealt with on consent.

The High Court search on the courts.ie website is an extremely useful tool which enables practitioners to locate the court list within which their motion is listed. Matters can be searched with either the names of the parties to the action or the High Court record number. Once you find the relevant case, information relating to the matter can be found such as which list it appears in, who will be hearing the matter, what orders have been made, any pleadings which have been filed and the representatives of each party to the action.

Paperwork of master

Pupils may be required to help their master with his/her paperwork. It is helpful as a pupil to begin building up a bank of precedents. Colleagues or your devil family (i.e., those who have devilled for the same master) will usually help you out in this regard if you are struggling with a particular piece of drafting.

Sitting in on consultations/settlement meetings

Pupils should always be invited to attend consultations and settlement meetings conducted by their masters. However, do not provide unsolicited contributions at your master's consultations.

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you a range of motions, drafting and research. However, your prospective master may have a practice that requires pupils to engage more in one of these areas than another. You should consider what aspects of your practice you want to focus on.

Speaking to some of your prospective master's former pupils may help to give you an insight as to this aspect of your prospective master's practice.

It is important that you try to gauge how well you will actually get on with a prospective master. You will be in a close relationship with him/her for one of the most important years of your career at the Bar. If there are personality clashes, it is never ideal, but can often be remedied with a quick chat. However, again your prospective master's former pupils can help in giving you an idea of how she/he works and how she/he operates relationships with his/her pupils. This can give you an idea of whether you feel that it is an environment you would like to work in.

The way masters approach financial arrangements with their pupils differs vastly, and it is very important that you speak to a prospective master about how they approach the issue. It may be the case that the prospective master does not engage in any financial arrangement. Whilst the topic will be approached in

more detail later, one important obligation of a master is to never allow their pupil to be out of pocket as a result of incurring expenses on their behalf or on behalf of his/her practice.

Orientation day (late September – week before Michaelmas term)

This compulsory orientation day is designed to prepare you for the beginning of the new legal term. A number of speakers throughout the day will address new entrants on a range of topics including:

- an overview of The Bar of Ireland and the services and benefits of membership;
- ethics;
- collegiality;
- procedure in the Master's/County Registrar's Court; and,
- drafting.

At this orientation day, you should also receive a pack of resources, including information on how to access various databases, as well as your library services card. This pack contains a lot of essential information for any practitioner, regardless of experience.



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Financial arrangements between master and pupil

The financial arrangement between a master and his/her pupil is dealt with solely between the two parties. A master is under no financial obligation to his/her pupil, except insofar as a master is prohibited from allowing pupils to incur expenses on his/her behalf.

An important practical example is where your master asks you to photocopy. Either you should be provided with funds to pay for the photocopying, or alternatively your master's library services card should be used.

Devils are encouraged to clarify with their masters what financial arrangements will be in place during the course of the devilling year in advance of their engagement by a master. Numerous arrangements exist. It is important not to forget that your relationship with your master is not an employment relationship, however, the vast majority of masters will provide their pupils with remuneration in some way.

Pupils accepting their own briefs

This should be discussed between you and your master. You are a fully qualified barrister who is entitled to accept work of your own. However, you have obligations to your master, so if a significant amount of your time is engaged in completing your own work it is advisable to discuss this with her/him. While a master may not prevent a pupil from accepting work in order to ensure that the pupil is always available for his/her work, the pupil is expected to be available to attend to much of the master's work in order to ensure that she/he has learned from her/his more senior colleague and has the appropriate experience to continue in practice.

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Other aspects of devilling

Informal avenues of support

Master

Your master is your first port of call for any queries or issues you might have on any aspect of your devilling. The devilling system envisages that your master will continue to be an invaluable source of support and information well after you have finished your devilling year.

If your master is not sure of how to answer a query you might have, he/she will often be able to direct you to where the answer might be found.

Devil family

The 'devil family' is one of the most important traditions for fostering collegiality in the Law Library. Your devil brothers and sisters (colleagues who have

also devilled for your master) offer another network and way to engage with and get to know your colleagues. It is often the case that a devilling can be another source of knowledge for any queries you might have.

Before you come down, arranging a meeting with some of your devil family can be useful in getting an idea of how your master likes to operate his/her professional relationship with his/her pupils, and what to expect from the coming year.

Mentor

Every incoming pupil is assigned a mentor, who is a senior member of the Bar. The mentor programme is designed to enhance a pupil's experience at the Bar, but not replace or dilute the relationship between pupil and master.

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Your mentor should be available to advise you in relation to professional problems, and is encouraged to meet with you, and engage with you in relation to his/her practice, for example, offering that you attend a trial s/he is involved in.

Breakdown in relationship

If an issue arises concerning an aspect of your relationship with your master, ideally you should begin by seeking to address that issue with your master. Often these issues are small and have not been raised by your master, and will result in a speedy resolution. If the issue is more serious, it may be appropriate to approach your Mentor, who can arrange to speak to both you and your master in order to advise and resolve the situation.

Finally, if there is a serious issue arising from your relationship with your master that you do not wish to discuss with either your master or mentor, it may be the case that you should contact the relevant committee of the Council of The Bar of Ireland or any member of the Council.

The Education and Training Committee deals with master-pupil relations, and operates its meetings such that any issue is dealt with anonymously. Members of the Committee can offer a number of solutions, ranging from speaking to your master directly, to organising a new master for a pupil if the relationship is broken down entirely. It must be stressed that pupils should first attempt to explain any problems to their master. These problems are often rectified by a quick chat.



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attain ten CPD points over the course of the year. Examples of topics covered in the programme include:

- practice and procedure in certain courts;
- financial and practice management; and
- drafting.

Part-time work outside of the Library

Part-time work is often a practical requirement in early years at the Bar. It is generally accepted and understood as a way of supplementing any income received at the Bar. The Code of Conduct of The Bar of Ireland allows its members to engage in part-time work, provided it does not interfere with their duties under the Code of Conduct.

The Professional Practices Committee sets out the position in relation to part-time work. 'A practising barrister can take up almost any part-time occupation outside of the Law Library as long as that occupation isn't, by its nature, inconsistent with practice as barrister (for example, continuing to work as a Garda or as a claim handler for an insurance company) or the other occupation is in fact a regular, full-time job which means the barrister is simply not available to appear in court on a regular basis. If a barrister does take up regular or full-time employment outside of the Law Library, he or she can apply for a leave of absence from the Law Library. A barrister who is a member of the Law Library may not be an employee of a solicitor's office. Even discovery or legal research type work for larger cases must be done as self-employed provider of legal services'.

You should discuss engaging in part-time work with your master. They may require your assistance outside court hours, and you should be conscious of that.



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Etiquette

Court dress

Order 119 Rule 3 of the Superior Court Rules sets out the requirements for court dress in the Superior Courts, whilst in term time.

It is a requirement to wear a dark-coloured suit, a Junior Counsel's robe, and tabs. In Court and within the Law Library, a barrister should look professional and neatly dressed. Wearing a wig in the Superior Courts is optional. There are still many Senior and Junior Counsel who wear wigs when in Court.

The mode of dress in the Circuit and District Courts is the same as in the Superior Courts. In the Children's Court, Counsel should only wear a dark suit, with no tabs or robe. In the Family Court, Counsel has the option to wear tabs, but should not wear a robe.

The court attire in the Criminal District Courts is always gown and tabs, unless it is out of term time when a dark suit is worn. The need to robe or not, in District Courts generally, is dependant on whether there is a robing room. For example, there is no robing room in Swords District Courts so you wear a suit, whereas there is one in Gowhill so you are required to robe up.

Seniority

A number of lists in both the Superior Courts and Circuit Court operate on a seniority basis in some capacity.

As a matter of courtesy to your senior colleagues, these rules should be followed carefully. If you develop a reputation for jumping seniority, it will soon be noticed.

The primary example of this is the consent stage at the start of the majority of lists. The most senior counsel will move his/her consent application first

and the next application will be made by the next most senior by date and order of call, and so on. First year pupils should wait until all other counsel have moved their applications, and may move their consent applications ahead of any solicitors with similar applications.

Another example of a list operating on seniority is when applying for a date for a personal injuries action in front of the deputy master who sits in the Master's Court every Monday.

If you are not sure best practice dictates that you ask a more experienced colleague how solicitors operate. At the issue desk in the Law Library, if a person is robed, it implies he/she is at hearing and urgency requires material for the Court, and should be given priority.

Continuing Professional Development

Continuing Professional Development (CPD) is the systematic maintenance, improvement and broadening of personal qualities necessary for the performance of professional duties throughout the barrister's working life.

From second year onwards, members will be responsible for their own planned development. Members must attain ten CPD points a year. At least one of these points must be attained at a certified ethics lecture. More information on the CPD system can be found in the 'Directory of Membership Services and Benefits'.

For first year pupils, the compulsory New Practitioners' Programme of lectures is organised throughout the year. These programmes replace the requirement to

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Chapter 5

Other resources

Directory of Membership Services and Benefits

The Directory of Membership Services and Benefits is a comprehensive guide provided to all members setting out the full range of services and benefits available to members of the Law Library including:

- the structure of The Bar of Ireland, the Council and its committees;
- Library and information services;
- information and communications technology;
- on-site facilities and services;
- professional practice and personal support;
- education and training;
- communications and public affairs;
- preferential financial services; and,
- social and dining.

In Brief

The Bar of Ireland's e-zine, *In Brief*, is a member-only update that is sent each Monday during term time. This comprehensive e-zine is comprised of three sections: 'Bar News', to include a summary of current activities; 'What's On' (CPD, social and other events), with a link to a live event calendar on the Members' Section of the website; and, 'Media Digest', a useful collation of articles from the past seven days, including weekend newspapers.

The Bar Review

The Bar of Ireland's flagship publication, *The Bar Review*, is published six times a year and is overseen by the Editor, Eilis Brennan BL, and the Editorial Board. This full-colour publication includes news and events, interviews and other topical features, in addition to the law in practice articles and the useful Legal Update section detailing pertinent publications, judgments and legislation. Each member receives a copy of *The Bar Review* as part of their member subscription.

Barrister's Desktop

This is accessed through the home page of the Law Library website. It provides access to a range of Library services and databases, examples of which include:

- all legal databases subscribed to by The Bar of Ireland (for a list of Library databases, see the Directory of Membership Services and Benefits);
- top-up and balance for your Library Services Card;
- access to your Law Library email account; and,
- contact details for librarians and Library desks.

Members' Section

This is also accessed through the home page of the Law Library website. It is designed to provide members with access to a range of useful information including an event calendar, CPD, IL, employment opportunities, and other member services.

Of particular use to pupils and younger practitioners, the Young Bar Hub is found in the Members' Section. It is frequently updated with resources relating to practice and procedure, practice management, and information of specific importance and interest to young practitioners.

Courts service website (www.courts.ie)

The official website of the Courts Service of Ireland, courts.ie, provides information relating to the operation of the courts, including:

- daily lists of matters being heard in most courts;
- court rules and practice directions for all courts;
- recent judgments of the Superior Courts;
- decisions of the Master of the High Court;
- plans of the various court buildings; and,
- useful contact details, including those of the court registrars and court offices.

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MASTER GUIDELINES

Preamble

The system of pupillage, often referred to as devilling, has been in existence for as far back as records extend. It would appear to have emanated from a requirement to participate in learning exercises for an appropriate period, and argument at a moot, as a condition of call to the Bar. While qualified barristers have full rights of audience as soon as they are called to the Bar, barristers must undergo a period of pupillage for at least one year. The Council of The Bar of Ireland acknowledges and appreciates the role played by masters in the training of new entrants to the profession and recognises the centrality of the devilling relationship and the ongoing necessity for experienced practitioners to make themselves available as pupil-masters, particularly in the case of first-year pupils.

The Council of The Bar of Ireland maintains a Register of Masters (hereafter "Register") containing the names, contact details and some information about those barristers who are eligible to act as masters for first-year pupils. Each master on the register must spend sufficient time in Dublin such that the pupil will become familiar with the way in which superior court lists run, and will obtain sufficient experience in court in Dublin. A master is not obliged to take a first-year pupil just because he/she has been asked to do so, though many masters adopt this practice. It is appropriate to meet with the prospective pupil in the first place and ensure that there is a mutual understanding of what the relationship involves and whether it will be of mutual benefit.

While it is common to arrange to spend a second year with one (or more) junior counsel, who are also referred to as masters, these arrangements are made without any need to register same with the Council and they are not mandatory, nor are the same requirements made in terms of ensuring sufficient training is given to the new practitioner. The arrangements for second year are a matter for the two colleagues to agree. However, the same standards and courtesies are usually expected of, and offered by, second-year masters. In a second-year pupillage arrangement, the practice requirements of the pupil take precedence over those of the master, whereas in first year, it is more important that the pupil obtains sufficient training and experience. These requirements must be balanced against any work the pupil receives in his or her own right when deciding how much work a first year can accept.

Chapter 1

Registering as a master

In order to be registered as a master, practitioners who have been called to The Bar of Ireland for a period of over seven years should apply to the Education and Training Committee. In exceptional circumstances, a barrister with less than seven years' experience may be admitted to the Register at the discretion of the Education and Training Committee. Forms are available on the Barristers' Desktop/Members' Section of the website of the Council of The Bar of Ireland. Prospective masters must provide information for the Register, including their practice areas and main practice location (Dublin and/or Circuit) and an indication of whether or not they will pay the Law Library subscription fees (registration fee and/or subscription fee) for a first-year pupil.

In order to decide if you are eligible to become a master, you should be familiar with the purposes of pupillage, the duties of masters and the relevant passages of the Code of Conduct for The Bar of Ireland. All of these are summarised in this document. The decision to admit a practitioner to the Register is taken when the Committee is satisfied that the prospective master is not only sufficiently senior, but has enough work to enable the pupil to receive adequate training, that he/she is a member in good standing and that he/she will give the pupil the professional support which is appropriate to that pupil's situation.

The Code of Conduct provides that the duties of masters include the duty of teaching pupils the rules and customs of the Bar, and ensuring that they have read and understand the Code and what is proper professional practice by barristers.

Pupils are required to complete the New Practitioners' Programme, which is a series of CPD events aimed at first-year pupils. Masters must facilitate the attendance of pupils at these events, which are compulsory.

The aims of pupillage are:

- to prepare pupils (who have been called to the Bar) for practice at The Bar of Ireland;
- to develop further the knowledge, skills and experience gained at the vocational stage of training;
- to develop further proficiency as an advocate;
- to develop the pupil's professional and ethical approach to practice as a barrister, in accordance with the Code of Conduct;
- to establish the skills of professional practice as an independent barrister;
- to give experience in matters in which pupils are likely to be briefed during the early years of practice, and to build skills and experience that will enable them to handle more complex matters in the future; and,
- to prepare pupils to take responsibility for their own professional development and practice.

Chapter 2

Relationship with pupil

Master's practice

Each professional relationship is different and depends on the nature of the master's practice and on the personalities involved. One of the most vital tasks undertaken by the master is to instil in each pupil an awareness and appreciation of the ethical code of the Bar. This goes beyond court etiquette and encompasses the highest standards of behaviour in all dealings with colleagues, courts, solicitors, clients and members of the public generally. The confidentiality of the information learned by the pupil in the pupillage must be emphasised by the master. The most significant and essential tenets of the Code can be summarised by reminding a pupil to be honest, independent, discreet and efficient.

As well as this primary duty to ensure that the pupil practices in accordance with the ethical values of an independent bar, there are three key areas in which a master has a duty to engage his/her pupil:

- practical experience in drafting and research;
- practical experience in preparing for and advising in their own consultations; and,
- sufficient experience in advocacy.

Advocacy

It is important that a pupil obtains court experience, so as to learn the art of advocacy and to build confidence in appearing before courts and other decision-making bodies.

It is equally important that a pupil watch her/his master in court, in order that she/he may learn from senior colleagues.

Masters must ensure that their pupils make applications to court during their first year of practice, whether in a case of their own or to assist a colleague. If you are not in a position to arrange for your pupil to make an application to court, it is not appropriate for you to take a first-year devil. For instance, if you will spend a significant portion of any legal year on leave or involved in other work outside the Four Courts or Courts of Criminal Justice, you should inform the Education and Training Committee so that your name does not appear on the Register for that year.

Masters are responsible for ensuring that pupils are aware of the customs and traditions of the Bar, such as the rule of seniority in court appearances and the general practice whereby a colleague who takes over a brief from counsel who is ill does not retain the brief fee or arranges for the barrister originally briefed to be paid.

Paperwork

A master may have extensive or very limited paperwork. However, every pupil should be given practical experience in drafting and research. The pupil may also be encouraged to draft papers for another colleague who agrees to provide guidance for the pupil. The master should provide constructive feedback to the pupil on his/her drafting efforts. It is helpful to a pupil to build up a bank of precedents. The master, his/her colleagues or the "devil family" (i.e., those who have devilled for the same master) should be encouraged to assist a pupil in this regard.

Consultations

Pupils should always be encouraged to attend consultations with solicitors and clients even if they are not taking place in the Law Library or associated rooms. If possible, pupils should be provided in advance with papers relevant to the consultation, so that they may fully benefit from the experience. However, pupils should not provide unsolicited contributions at consultations.

Financial arrangements

The financial arrangements between master and pupil are dealt with solely between the two parties. A master is under no financial obligation to the pupil, except insofar as a master is prohibited from allowing pupils to incur expenses on their behalf.

It is recommended by the Council of The Bar of Ireland that masters discharge the fees of first-year pupils. These comprise a registration fee and the first year's annual subscription.

Each master is now required to indicate whether or not he/she will pay the Law Library subscription fees of the pupil during the course of the devilling year, in order that the information may be made available on a database of masters for incoming pupils.

A master may prefer to make periodic payments to the pupil, for example at the end of each term. In any event, masters should clarify with prospective devils what financial arrangements will be made before the pupillage commences, in order to allow the pupil to make an informed decision as to what she/he may expect in this regard. Masters are reminded that the relationship between master and pupil is not an employment relationship, but an arrangement between equals. In this regard, however, it is reiterated that the pupil must not incur expenses on behalf of the master and any photocopying, or other expense, must either be paid for by the master directly or reimbursed to the pupil in cases where the pupil has been obliged to meet the initial expenditure.

Prioritising work for the pupil

This should be discussed between master and pupil. The pupil is a fully-qualified barrister who is entitled to accept work. However, if a significant amount of the pupil's time is engaged in completing work other than the master's, it is advisable to discuss this with her/him. As noted above, while a master may not prevent a pupil from accepting work in order to ensure that the pupil is always available for his/her work, the pupil is expected to be available to attend to much of the master's work in order to learn from her/his more senior colleague, and to obtain the appropriate experience to continue in practice.

Informal avenues of support

Masters are advised that if any issues or difficulties arise in their relationship with the pupil, their first duty is to try to address these issues directly with the pupil. It is stressed that this is the most appropriate avenue in the majority of cases.

Masters are encouraged to introduce pupils to the devil family, or her/his own master, and their former devils. This can be a valuable source of knowledge and support to pupils.

If there is a serious issue arising from the master-pupil relationship, it may be the case that a master should contact a member of the Council. The Education and Training Committee deals with master-pupil relations, and operates its meetings such that any issue is dealt with anonymously. Members of the Committee can offer a number of solutions, ranging from speaking to a pupil directly, to organising a new master if either party wishes to end the pupillage arrangement.

Any member of the Council of The Bar of Ireland can be approached in confidence about a master-pupil issue.



Chapter 3

Other aspects

Mentor

Every incoming pupil is assigned a mentor, who is a senior counsel. The mentor programme is designed to enhance a pupil's experience at the Bar, but not to replace or dilute the relationship between pupil and master.

Masters will receive a letter informing them of the mentor who has been assigned to their pupil so that they may, if they choose, introduce their pupil to the mentor. There is also an opportunity for mentors and pupils to meet at a reception held soon after mentors are assigned. Masters are also encouraged to attend such events.

A mentor's role is to advise their allocated pupil in relation to professional problems, and they are encouraged to meet with pupils, discuss their practice and offer practical assistance. For example, inviting the pupil to attend a hearing in which the mentor is involved.

A master should facilitate a mentor's invitation to the pupil to attend at a case or consultation with the mentor, insofar as practicable.

CPD

Continuing professional development (CPD) is the systematic maintenance, improvement and broadening of knowledge and skill, and the development of personal qualities necessary for the performance of professional duties throughout a barrister's working life.

In their second year of practice onwards, members are responsible for their own planned development.

Members must attain 12 CPD points per year. At least one of these points must be attained at a certified ethics lecture. More information on the CPD system can be found in the 'Member Services Directory' and online in the 'Members' Section of www.lawlibrary.ie.

For first-year pupils, a compulsory 'New Practitioners' Programme' of lectures is organised throughout the year. It is important for masters to ensure that their pupils attend these CPD events, as they are compulsory; failure to attend will result in a pupil having to attend the relevant module or lecture the following year.

A CPD event designed for both masters and pupils to attend together is always scheduled near the start of the new legal year and again at the end of the legal year. This usually includes an ethics module, which is a mandatory CPD requirement for all barristers. It is expected that, in due course, masters will be obliged to obtain a minimum requirement for advocacy skills in order to remain on the Register. Advocacy courses are held twice every year and there are additional lectures organised by the Advanced Advocacy Committee and other recognised bodies, which may satisfy this requirement.

Part-time work

Part-time work is often a practical requirement in early years at the Bar. It is generally accepted and understood as a way of supplementing any income received at the Bar. The Council of the Bar of Ireland allows its members to engage in part-time work, provided it does not interfere with their duties under the Code of Conduct.

The Professional Practices Committee sets out the position in relation to part-time work: "A practising barrister can take up almost any part-time occupation outside of the Law Library as long as that occupation isn't, by its nature, inconsistent with practice as barrister (for example, continuing to work as a Garda or as a claims handler for an insurance company) or the other occupation is in fact a regular, full-time job which means the barrister is simply not available to appear in Court on a regular basis. If a barrister does take up regular or full-time employment outside of the Law Library, he or she can apply for leave of absence from the Law Library. A practising barrister may not be an employee of a solicitor's office. Even discovery or legal research type work for larger cases must be done as a self-employed provider of legal services".

It is advised that you discuss with your pupil whether he/she will engage in part-time work. You may require the pupil's assistance outside court hours, and he/she should be aware of your expectations in that regard.

APPENDIX 2: CPD SCHEME RULES

The Bar of Ireland CPD Programme commenced applies to all practising barristers. A CPD practice year is a period of 12 months ending on 30th September each year.

CPD REQUIREMENTS – 12 POINTS PER YEAR

Individual training needs vary, and the CPD Programme has been designed to reflect this by offering edibility in the training activities that qualify for CPD points. Barristers are required to attain 12 points during each practice year.

Where a barrister undertakes CPD activities, and thereby exceeds the total CPD points for that year, any excess points up to a maximum of 4 points may be applied to the following year's CPD activities.

To meet the points requirement, barristers are free to choose activities relevant to their individual professional needs. Points are generally accrued on the basis of one point per hour of activity.

Every barrister must keep a record of CPD undertaken and to comply with the Programme.

CRITERIA FOR CPD ACTIVITY

The activity must be:

- of significant intellectual or practical content, and must deal primarily with matters related to the practice of law;
- conducted by persons or bodies that have suitable qualifications; and,
- relevant to a practitioner's immediate or long-term professional development needs.

CPD activities include, but are not restricted to:

- teaching;
- training;
- chairing;
- research and writing;
- legal research and article writing for a publication;
- watching live & on-demand webcasts;
- postgraduate legal studies;
- active engagement in online legal programmes;
- reviewing legal textbooks;
- undergoing training in a one-to-one situation in online research, etc., e.g., training in the use of legal databases;

- preparing, editing, revising, etc., papers, reading guides, materials, mock trials, mooted problems, model answers, etc., for legal exams or CPD programmes;
- and, preparing curricula, reading guides, teaching materials, etc., for CPD activities.

‘Course’ will be understood to mean an education programme, seminar, workshop, lecture, conference, in-house group discussion, distance learning, or face-to-face training session held as part of a distance learning course, summer school, revision sessions, computer-based learning or course presented by means of videotape, audiotape, simultaneous broadcast, or other such system or device.

Other activities may include law courses, preparation and presentation of approved training courses, teaching of approved courses, writing articles or books, private or group study, and work as an external examiner of legal courses.

If a member has a query regarding the appropriateness of an activity, they should contact the Education Co-ordinator.

The number of points that may be attained through various activities is listed in the CPD points summary below.

PROGRAMMES THAT CAN PROVIDE CPD POINTS

CPD points may be accrued from seminars and programmes provided by, for example:

- The Council of The Bar of Ireland;
- The Honorable Society of King's Inns;
- Groups of barristers organising their own events;
- Circuit barristers;
- Advocates’ organisations in other jurisdictions;
- Third-level institutions;
- Other professional bodies (e.g., the Institute of Taxation); and,
- State or Semi-State bodies (e.g., the DPP/AG/CSSO).

HOW IS CPD ADMINISTERED AND MONITORED?

Members are required to maintain a record of their compliance with the Programme’s requirements. They will be required to certify their compliance on an annual basis. The Bar of Ireland monitors compliance with the obligatory CPD requirements and may audit the CPD records of any member of the Bar at any time. For external events in particular, members of the Bar have a duty to maintain copies of vouching CPD documentation, such as a certificate of attendance, invoice or a conference handout. The documentation should be retained for one year from the end of the 12-month period to which they relate. A member of the Bar may

be asked to produce evidence that he or she has complied with the obligatory CPD requirements.

SELF-CERTIFICATION

Having attained 12 points, members are required to certify that they have met the requirements. The Regulation Department will email all members to request that they verify compliance by return email. There is no longer a CPD compliance card.

COURSE OF STUDY FOR BARRISTERS IN THEIR FIRST YEAR OF PRACTICE

The Bar of Ireland has devised a programme of lectures specifically for first-year barristers. There is no requirement for first-year barristers to attain 12 CPD points during their devilling year; however, attendance at these 'New Practitioner' lectures is compulsory.

Examples of topics covered in this programme:

- Practice & Procedure in certain Courts;
- Financial & Practice Management; and,
- Drafting.

The week before entering practice, this programme begins with an induction at which junior barristers become acquainted with the Law Library, The Bar of Ireland and matters of professional conduct.

POINTS ALLOCATION – FAQ

How many points can I claim from writing an article or paper?

One point per hour of preparation up to a maximum of four points may be claimed per article or paper published.

How many points can I gain from writing a textbook?

Up to eight points may be claimed per textbook. Co-authorship will attract the same number of points.

Can I claim points for reading legal journals?

Yes. Half a CPD point per article read may be claimed up to a maximum of two points per year.

Are points available for viewing recorded CPD seminars?

Yes. Watching a webcast alone counts as private study and can be claimed to a maximum of five CPD points. Groups of three or more watching a webcast also counts as group event.

Are points allowable for participation on a committee?

Points are not allowable for participation on a committee.

Can I claim points for the same seminar if I present it more than once in the same year?

Points can only be claimed once in a given year for the presentation of a seminar.

I lecture in law on a regular basis. How many points can I claim from lecturing?

You may claim a maximum of six points for ongoing lecturing in law.

How many points may I claim for giving a talk or one-off lecture?

Up to four points may be claimed for preparatory work for a seminar or conference (one point per hour of preparation), and points may also be claimed for attendance at the event, again on a point-per-hour basis.

Does The Bar of Ireland recommend seminars run by specific providers?

Each barrister should decide which seminars meet the criteria for CPD activities and which would be of most benefit to him or her. The main consideration is that they are relevant to the practice needs of the profession.

Can I carry CPD points over from year to year?

Only in the case where a barrister undertakes CPD activities in the months of August or September, thereby exceeding the total CPD points for that year, may excess points up to a maximum of 4 be applied to the following year's CPD activities.

I do voluntary work for the FLAC and other voluntary organisations. Can I claim points for this activity?

Points may be claimed for voluntary legal work (if approved by The Bar of Ireland). These may be claimed on a point-per-hour basis, to a maximum of six points.

If I am on a leave of absence for a period of time, what is my CPD commitment?

You should work out your CPD commitment pro rata to your leave of absence. If you are on leave for six months, then your CPD points requirement will be half of the CPD requirement. The ethics hour remains.

APPENDIX 3: COMPARISONS WITH OTHER JURISDICTIONS

The following table sets out the CPD requirements and compliance monitoring arrangements in other jurisdictions where an independent referral bar exists.

JURISDICTION	CPD REQUIREMENT	COMPLIANCE MONITORING
Australia	10 hours per annum	Barristers must certify to the designated local regulatory authority whether they have complied with the Rules in respect of the CPD year when applying for renewal of their local practicing certificate. The designated local regulatory authority conducts audits to monitor compliance by a barrister with the Rules and may require a barrister to verify within 21 days whether or not they have complied with these Rules by: producing records and giving the designated local regulatory authority a statement of the barrister's reasons for claiming that any activities undertaken by the barrister satisfy any requirements for CPD activity.
England & Wales	No minimum requirement since Jan 2017	Compliance with CPD requirements is monitored by spot checks conducted by the Bar Standards Board - the focus is on barristers who are at higher risk of non-compliance with their CPD requirements, supplemented with a random sample of the profession.
Hong Kong	None	Not applicable
New Zealand	10 hours per annum	Barristers must be able to show that they have participated in each CPD activity through an attendance record, certificate, receipt, letter, firm record or other means. An audit of a percentage of those who make their annual CPD declaration.
Northern Ireland	3 hours per annum	1 hour each in Advocacy, Ethics and Practice Management is mandatory. Each member is required to sign a declaration annually confirming that he has achieved the minimum number of CPD points required. A practising certificate will not be issued until this declaration is provided.
Scotland	15 hours per annum	At the end of each calendar year, an audit of members' CPD is undertaken. A member may be suspended from practice and disciplinary proceedings initiated if in default.
South Africa	None	Not applicable

APPENDIX 4: LAW LIBRARY MEMBERSHIP TRENDS 2008 - 2018

Over the past 10 years, membership of the Law Library rose to a high of 2,213 in 2011 and has since retreated to 2,127 as of September 2017.

The context for this retreat in membership numbers arises from a steady decline in the number of new entrants to membership of the Law Library, (coinciding with the economic downturn) and is estimated this year to hit a new low of 75 new entrants. At the same time, the numbers leaving membership has been steadily rising and is expected to remain in the region of 140 per annum.

The primary challenges that confront a member's ability to maintain their membership of the Law Library is to generate work and get paid. As mentioned earlier in this submission, Ireland has the highest population of barristers in comparison to other jurisdictions where there is an independent referral bar in existence.

Membership of the Law Library 2007 - 2018

Month (End of)	Year	Junior	Senior	Total	Net Movement
Sept	2007	1,573	287	1,860	
Sept	2008	1,663	289	1,952	92
Sept	2009	1,810	307	2,117	165
Sept	2010	1,828	305	2,133	16
Sept	2011	1,883	330	2,213	80
Sept	2012	1,875	323	2,198	-
Sept	2013	1,877	325	2,202	4
Sept	2014	1,868	324	2,192	-
Sept	2015	1,846	329	2,175	-
Sept	2016	1,849	320	2,169	-
Sept	2017	1,793	334	2,127	-
Legal Year	Number of New Entrants to Law Library 2007 - 2018				
2007/08	191				
2008/09	194				
2008/10	146				
2010/11	149				
2011/12	141				
2012/13	153				
2013/14	135				
2014/15	105				
2015/16	96				
2016/17	92				
2017/18	89				
2018/19	75 (estimated)				
TOTAL	1,566				

Members Leaving Membership of the Law Library								
Legal Year	Excluded PII	Excluded Arrears	Excluded Other	Excluded PII/Arrears/Other	Retired/Left	Judge	Deceased	Total Members Leaving Library
2007/08	0	0	13	13	47	0	1	61
2008/09	10	0	4	14	28	0	5	47
2009/10	16	0	1	17	45	4	6	72
2010/11	17	21	8	46	57	1	3	107
2011/12	5	46	0	51	69	11	4	135
2012/13	19	28	0	47	99	4	2	152
2013/14	8	29	0	37	104	8	1	150
2014/15	13	25	0	38	90	9	4	141
2015/16	0	16	0	16	75	9	5	105
2016/17	4	31	1	36	132	7	5	180
2017/18 (Forecast)	5	20	0	25	95	8	4	132
TOTAL								1282



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