



An tÚdarás Rialála
Seirbhísí Dlí
Legal Services
Regulatory Authority

Invitation by the Legal Services Regulatory Authority for Submissions

The Legal Services Regulatory Authority (LSRA) invites submissions as part of a consultation in accordance with s. 22(3) of the Legal Services Regulation Act 2015 (the Act) prior to the issuance of a Code of Practice for Practising Barristers.

The LSRA was established on 1 October 2016 and is responsible for the regulation of the legal profession and ensuring that standards in legal services are maintained and improved.

Under section 22(1) of the Act, the LSRA may, having regard to the objectives specified in section 13(1) and 13(4) of the Act, issue a code of practice where it consider it necessary to do so for the purposes of setting and improving standards for the provision of legal services in the State. The LSRA may issue a code of practice that relates to the provision of legal services by legal practitioners generally or in respect of legal practitioners of such class or classes as may be specified in the code.

The regulatory objectives set out in section 13 of the Act are:

- (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 LSRA has decided to issue a **Code of Practice for Practising Barristers**. The purpose of the Code is to provide a statement of the accepted principles of good conduct and practice for all practising barristers.

The reason the LSRA proposes to issue a Code of Practice for Practising Barristers at this time relates, in particular, to two developments that impact significantly on the provision of legal services by barristers in the State: the establishment of the Roll of Practising Barristers under Part 9 of the Act and the establishment of the regulatory framework underpinning new forms

of business structure through which legal services will be provided by barristers under Part 8 of the Act, particularly legal partnerships and limited liability partnerships.

The definition of ‘practising barrister’ in the Act is broad and may include barristers who are not currently subject to the professional codes of Bar of Ireland or the Honorable Society of Kings Inns. In respect of such barristers, the Code will serve as a guide to best practice in the provision of legal services as a barrister, augmenting any other professional standards to which he or she is currently subject.

Similar considerations apply in respect of barristers who are already subject to the aforementioned professional codes. The Code of Practice for Practising Barristers will serve to supplement rather than supplant the principles of good conduct set out in the existing professional codes. Where, however, a professional code conflicts with the Code of Practice, the Code of Practice shall, for the purposes of the Act, prevail. (s. 22(5) of the Act).

The establishment of the Roll of Practising Barristers is ongoing. The Roll is a dynamic public-facing register of all barristers entitled to provide legal services in the State. Any qualified barrister who is not on the Roll of Practising Barristers and who provides legal services as a barrister after that date will be committing a criminal offence. A number of Guidance Notes related to the Roll of practising Barristers are available on the LSRA’s website in the [Barristers](#) area).

The establishment of the regulatory framework underpinning legal partnerships presents both new opportunities, but also new challenges, for barristers who will be either partners in or employees of such partnerships. A ‘*legal partnership*’ is defined in the Act as ‘*a partnership formed under the law of the State by written agreement, by two or more legal practitioners, at least one of whom is a practising barrister, for the purpose of providing legal services*’. The Code of Practice for Practising Barristers will identify the specific, as well as the general, professional standards that apply to barristers providing legal services in legal partnerships.

Scope of the Consultation

Before issuing a Code of Practice under s. 22 of the Act, the LSRA is obliged to consult, in such manner as it considers appropriate, with:

- (a) a professional body, the members of which will be subject to the proposed code of practice, and
- (b) such other interested parties, including interested parties who are not members of a body referred to in paragraph (a) who will be subject to the proposed code of conduct, as the Authority considers appropriate.

In accordance with s. 22(3) of the Act, the LSRA is inviting submissions, not only from the Bar of Ireland and Honorable Society of King’s Inns, but also from interested parties, including legal practitioners who are not members of such professional bodies who will be subject to the proposed code of practice.

The LSRA has prepared a draft Code of Practice which can be found in the [Barristers](#) area of the LSRA website. The draft Code contains many of the provisions that are already familiar to legal practitioners from existing professional codes, principles of good conduct for barristers that are firmly established. A number of these provisions have been adapted and developed to make them relevant to practising barristers providing legal services other than through traditional channels of practice.

Submissions may be made by reference to specific provisions of the draft Code or by reference to other provisions or principles that the person or organisation making the submission believes should be added or amended. It would be helpful for respondents to consider the regulatory objectives set out above and to, where possible, link submissions to the LSRA's regulatory objectives.

Respondents are asked to indicate on whose behalf they are responding, for example as a professional body, a legal practitioner, a member of the public, a company or organisation within the private or public sector that employs practising barristers under a contract of service or a contract for services, a client or a body representing collective interests etc.

Members of the public or other interested parties wishing to contribute should send a written submission as soon as possible but in any event to be received no later than 26 October 2018.

The Authority may contact respondents to explore any issues raised in responses in more depth and will continue to review all issues that arise throughout the consultation process.

Following the consultation period, the LSRA will, in accordance with s. 22(4) of the Act, consider any representations made by the parties or bodies consulted and all other submissions received, and will draw up and issue the Code of Practice for Practising Barristers. The Code will issue before the conclusion of the establishment phase for the Roll of Practising Barristers.

Submissions may be sent:

- By e-mail to S22Consultation@lsra.ie or
- By post to
Section 22 Code of Practice for Practising Barristers Consultation
Legal Services Regulatory Authority
P.O. Box 12906
Dublin 2

Freedom of Information

Attention is drawn to the fact that information provided to the Authority may be disclosed in response to a request under the Freedom of Information Act, 2014. Therefore, should it be considered that any information provided is commercially sensitive, please identify same, and specify the reason for its sensitivity. The Authority will consult with interested parties making submissions regarding information identified by them as sensitive before making a decision on any Freedom of Information request. Any personal information, which you volunteer to the Authority, will be treated with the highest standards of security and confidentiality and in

accordance with the Data Protection Acts, 1998 and 2003 and the General Data Protection Regulation (GDPR).

Publication of Submissions

The Authority intends where appropriate to publish any submissions received by it on its website and otherwise. Please note that a decision on any such publication may occur without prior consultation with respondents to this consultation notice. It is in the interest of respondents to highlight, in their submissions, any commercially sensitive or confidential information, which they would not wish to be disclosed.

Legal Services Regulatory Authority
28 September 2018