

Section 34 Consultation,
Legal Services Regulatory Authority,
P.O. Box 12906,
Dublin 2.

9th June 2020

Dear Sirs,

RE: CONSULTATION ON UNIFICATIONS OF SOLICITORS' PROFESSIONS AND BARRISTERS' PROFESSION.

I refer to the current public consultation on Section 34 (1) (b) of the Legal Services Regulation Act 2015, unification of the solicitors' profession and the barristers' profession.

I submit that no measurable benefit accrues to either profession or to the general public on foot of unification of the two professions under any European or North American combined or united profession of "lawyer".

Certainly, no substantive benefit accrues to solicitors, who can already exercise all the functions of a barrister. Solicitors have full rights of audience in all Courts, solicitors are already regularly appointed to the Bench including the Superior Courts (indeed, tend to dominate the lower Courts), and are now entitled to apply for Patents of Precedence and to practise as Senior Counsel.

Conversely, barristers are currently severely constrained by the Code of Conduct of their principal representative body, The Bar of Ireland. Under this Code, which is underpinned by numerous provisions of the Act, barristers may not take instructions directly from any member of the public. Currently, barristers may not, except in certain limited circumstances and including non-contentious matters, deal directly with any member of the public qua client, and must in contentious matters ensure that a solicitor is retained in order for the barrister to continue to advise and to provide other professional services as a barrister.

I submit that this constitutes a significant barrier to competition in the provision of legal services and constitutes an obstacle to access to legal services for members of the public.

I refer the Authority to submissions previously made in the context of review of section 120 of the Act (July 2018). I submitted then that such provisions are restrictive, professionally limiting, anti-competitive and contrary to the public interest, as well as being oppressive, unreasonable or unnecessary.

For the purpose of the current consultation process (on section 34) I submit that unification of the professions will not satisfy the objectives suggested at section 34 (c) (i) I – IV of the Act, but instead, it is submitted that introduction of an appropriate Direct Public Access Model

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will lead to a competitive, cost-efficient and much-needed legal environment and framework, which will benefit the consumer of legal services and contribute to the better administration of justice. I refer the Authority again to detailed submissions made by the undersigned in July 2018.

The Direct Public Access model suggested is not intended to create a new category of lawyer or alternative version of a solicitor – for example, certain activities including conveyancing or holding of client monies should be expressly excluded and remain at the heart of the solicitors' profession. Nor should Direct Public Access in any way threaten or diminish the concept of an independent referral Bar, rightly favoured by the Bar of Ireland. However, Direct Public Access for barristers is a valid and viable alternative to unification of the professions and would achieve important benefits for the consumer of legal services.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Liam Nolan', with a horizontal line drawn through it.

LIAM M. NOLAN
Barrister-at-Law