

Ms Orla Corcoran  
Executive Assistant  
Legal Services Regulatory Authority  
P O Box 12906  
Dublin 2



6<sup>th</sup> September 2019

### **Proposed Submission by the EBA**

**Re: Section 34 Further Consultation on the education and training of legal practitioners**

Dear Ms Corcoran,

Many thanks for your email of 12 July last inviting the Employment Bar Association (EBA) to submit its views on the 'Report on the Education and Training of Legal Practitioners' submitted by the Authority to the Minister for Justice and Equality in September 2018.

The EBA is an association of barristers engaged in the practice of employment law in adjudicative tribunals, including the Workplace Relations Commission (WRC) and the Labour Court, as well as before the Courts. The association is concerned at all times to enhance the skills and expertise of its members so that parties - whether individual or corporate - may avail of advice and representation of the highest standard of excellence.

It is understood that this second round of consultation concerns the 14 proposals contained in the Report to the Minister of September 2018.

We have no wish to duplicate the submissions made to the Authority by the Council of The Bar of Ireland as the representative body of the profession. We would simply make the following observations arising from our particular experience and objectives as barristers practising in the area of employment law.

**Proposal 1: A clear definition of the competencies and standards required to practise as either a solicitor or barrister should be developed for both solicitors and barristers.**

The Employment Bar Association sees considerable merit in this proposal.

We share the concerns expressed in the Report about "uncertainty", both in the legal sector and in wider society, about what a solicitor or barrister should be able to do, and to what level of competence. Greater clarity as to what is expected of a legal practitioner would be of value, especially to the users/consumers of legal services. Many of our members are aware of circumstances - notably in the WRC and in the Labour Court - where persons purporting to provide legal services (as lawyers) in reality do not comply with basic standards of competency.

The Employment Bar Association of Ireland  
Law Library, Distillery Building, 145-151 Church Street, Dublin 7  
Committee: Cliona Kimber SC (Chair), Caoimhe Ruigrok BL (Secretary), Lorna Lynch BL (Treasurer), Marguerite Bolger SC, Alex White SC, Kevin Bell BL, Anne Conlon BL, Emma Davey BL, Owen Keany BL, Cathy Maguire BL, Jane Murphy BL, Niamh McGowan BL, Katherine McVeigh BL, Lauren Tennyson BL

As an Association we are constantly looking at ways to enhance the knowledge and skills connected to Barristers practice in employment law. There is a strong public interest in ensuring that litigants can avail of advice and representation that is truly competent rather than ostensibly so. However, we are aware of circumstances where a poor level of service is provided, and where this is not understood or recognised by a client. There is an added risk of this occurring before hearings held in private, as is the case, for example, with the WRC.

A clear definition of competencies and standards required to as a Barrister or Solicitor(as distinct from appearing as a non-lawyer representative) would go a long way towards addressing this difficulty.

We agree that such an approach would also be of value to the Regulator, and to the providers of legal education about the standards and competences their programmes should be able to deliver.

### **Proposal 2: Roles and Responsibilities of stakeholders in the legal education and training system reformed**

While we do not intend to comment in any detail on this proposal, we recognise that changes would be required to the broader education and training system in order to underpin the matters set out at Proposal 1.

### **Proposal 6: Requirement for legal education and training providers to maintain ongoing quality assurance processes**

### **Proposal 14: CPD programmes to be linked to competence frameworks and standards**

We recognise the value of linking CPD programmes to a more robust competence and standards framework for barristers generally.

The Employment Bar Association has a very comprehensive CPD programme. By way of illustration, we attach a list detailing all of our events and seminars over the past year.

It is important to note that each of these talks and seminars is given by a practising barrister, with a strong emphasis on updating participants regarding the case law of the Courts and adjudicative bodies. These regular events involve a high element of skills and competency training. Members benefit from the experience of expert fellow practitioners in running cases - often where the law is evolving as a consequence of statutory change or changes in judicial approach. The opportunity is given for extensive interaction on practical aspects, rather than simply a concentration on the substance of judgments and determinations.

The CPD events, apart from the annual conference, are provided free of charge. However, high quality papers are prepared and distributed. Records are kept of those who attend. CPD activity of barristers generally is monitored by the Bar of Ireland.

It is our view that this voluntary work undertaken by the EBA contributes significantly to the quality of the service provided to the public by our members. We repeat our support for the linking of CPD programmes with a competence and standards framework for barristers generally. However, care should be taken to ensure that the voluntary, and sometimes more informal mentoring opportunities provided by organisations such as the EBA should not be lost in any programme of change that would be undertaken.

Once again, many thanks for inviting the EBA to respond and we will be happy to contribute further in the future.

Kind regards.

Yours sincerely,

---

Clíona Kimber SC  
Chair  
Employment Bar Association  
[clionakimber@lawlibrary.ie](mailto:clionakimber@lawlibrary.ie)  
087-967 2039

The Employment Bar Association of Ireland  
Law Library, Distillery Building, 145-151 Church Street, Dublin 7  
Committee: Cliona Kimber SC (Chair), Caoimhe Ruigrok BL (Secretary), Lorna Lynch BL (Treasurer), Marguerite Bolger SC, Alex White SC, Kevin Bell BL, Anne Conlon BL, Emma Davey BL, Owen Keany BL, Cathy Maguire BL, Jane Murphy BL, Niamh McGowan BL, Katherine McVeigh BL, Lauren Tennyson BL