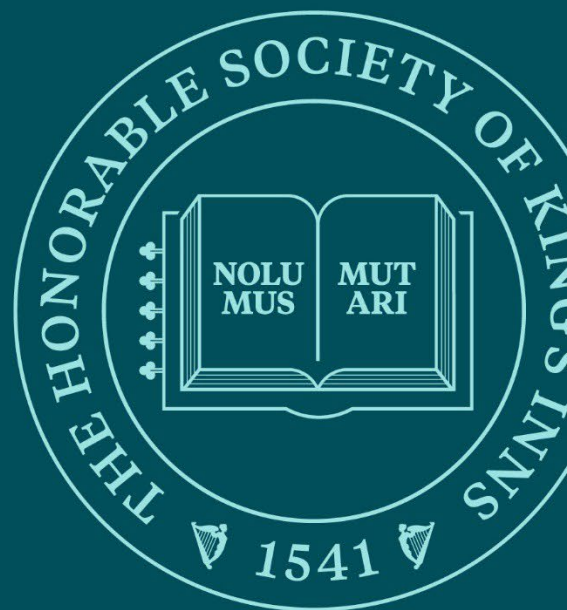


ANNUAL REPORT ON THE ADMISSION POLICIES OF THE LEGAL PROFESSIONS

SUBMISSION OF THE HONORABLE SOCIETY OF KING'S INNS

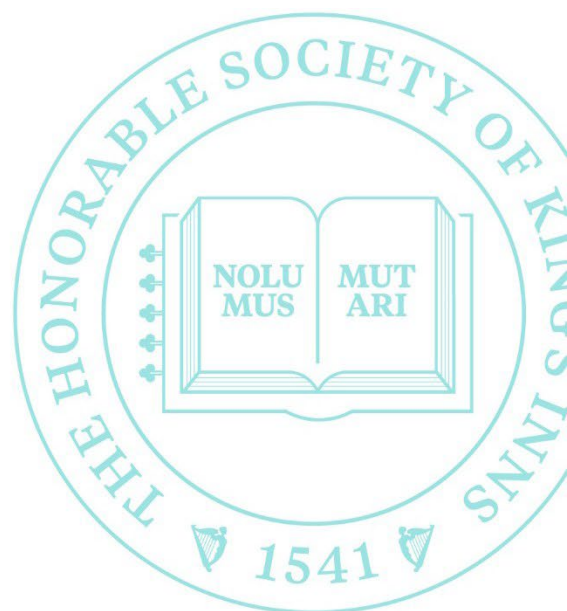
FEBRUARY 2023

KINGS
INNS¹⁵₄₁



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INTRODUCTION

The Honorable Society of King's Inns ("King's Inns") submits this document in response to the Legal Services Regulatory Authority ("LSRA") letter of 7th December 2022 requesting information and seeking King's Inns views on issues put forward by LSRA as part of a general consultation on admission policies of the legal professions.

The invitation to make a submission is part of a consultation process that is taking place prior to the preparation of the LSRA annual report to the Minister for Justice on the admission policies of the legal professions.

The first part of this submission contains King's Inns response to the specific information requested by LSRA.

The second part is to assist LSRA with making "an assessment as to whether or not, having regard to the demand for the services of practising barristers and solicitors and the need to ensure an adequate standard of education and training for persons admitted to practise, the number of persons admitted to practise as barristers and solicitors in that year is consistent with the public interest in ensuring the availability of such services at a reasonable cost." (Section 33(1)(c) of the Legal Services Regulation Act 2015.)

LSRA QUESTIONS AND KING'S INNS RESPONSES

Admissions to Degree of Barrister-at-Law and Call to the Bar 2021 and Routes of Admission

Admissions to Degree of Barrister-at-Law and Call to the Bar 2022 and Routes of Admission

The routes of admission to the degree of Barrister-at-Law and Call to the Bar, and the requirements for eligibility to avail of each of the routes set out in King's Inns Education Rules ("Education Rules") are summarised in Annex 1.

King's Inns response to the questions is set out here.

Admissions

1. The number of persons called to the Bar in 2022 with a breakdown by route of admission, gender and age.
 - 147 people were called to the Bar in 2022.
 - Of the said 147 people, 133 completed the King's Inns Barrister-at-Law Degree course. This group is mainly those that completed the course in 2022, but also includes a small number that were admitted to the degree of Barrister-at-Law in an earlier year.
 - 10 Qualified British Barristers were called to the Bar (Rule 25)
 - 1 Northern Ireland Barrister was called to the Bar (Rule 20).
 - No solicitors were called to the Bar under Rule 23 on Solicitor transfer.
 - 3 were called to the Bar having satisfied Morgenbesser eligibility requirements.
 - Of the 147 called to the Bar in 2022, 73 identify as male and 74 identify as female.
 - Of the 147 called to the Bar in 2022:
 - 66 are aged between 21-30 years;
 - 42 are 31-40, 21 are 41-50;
 - 15 are 51-60;
 - 3 are 60 years and over.
2. The number of students who sat, passed and failed the Barrister-at-Law degree final exams in 2022 with separate statistics for full-time and modular students. The number of these students who were called to the Bar in 2022.

- 140 candidates sat the Annual Barrister-at-Law Degree Assessments 2022. Out of these students 85 passed Annual exams and 55 failed Annual exams. 55 students sat Supplemental Barrister-at-Law Degree Assessments 2022. Out of these students 34 passed Supplemental exams and 21 failed Supplemental exams.
- Of the said 140, 119 were called to the Bar in 2022.
- Out of all 140 students who sat the Annual Barrister-at-Law Degree Assessments 2022 there were 63 full-time students and 77 modular students. Out of 63 full-time students 41 (65%) passed annual exams and 22 (35%) failed annual exams. Out of 77 modular students 44 (57%) passed annual exams and 33 (43%) failed annual exams.

BL Students

3. The number of students who commenced the Barrister-at-Law degree course in 2022 on a full-time and modular basis, with a breakdown by gender and age.

- 130 students commenced the Barrister-at-Law degree course in 2022.
- 57 students commenced the course on a full-time basis and 73 students commenced the course on a modular basis.
- Of the said 130 who commenced the Barrister-at-Law degree course in 2022 56 students identify as male and 74 identify as female.
- Of the said 130 who commenced the Barrister-at-Law degree course in 2022 35 are aged between 21-24 years, 31 are 25-28 years, 8 are 29-32 years, 11 are 33-36 years, 12 are 37-40 years, 33 are 40 years and over.
- Of the said 57 students who commenced the course on a full-time basis:
 - 22 students identify as male and 35 identify as female.
 - 18 students are aged between 21-24 years, 16 are 25-28 years, 4 are 29-32 years, 4 are 33-36 years, 4 are 37-40 years, 11 are 40 years and over.
- Of the said 73 students who commenced the course on a modular basis:
 - 34 students identify as male and 39 identify as female.
 - 17 students are aged between 21-24 years, 15 are 25-28 years, 4 are 29-32 years, 7 are 33-36 years, 8 are 37-40 years, 22 are 40 years and over.

4. The number of persons who sat, passed and failed the entrance exam for the BL degree course in 2022.

- 131 candidates sat the Entrance Exam 2022.
- Of the said 131 who sat the Entrance Exam 2022 116 candidates passed the Entrance Exam and 15 candidates failed the Entrance Exam.

Access and Supports

5. The number of BL degree students in receipt of the following in the academic year commencing 2022: Denham Fellowship; McCarthy Bursary; SUSI grant.

- **Denham Fellowship** [Barrister-at-Law degree course students]: 2 (there are two Denham Fellowships awarded by King's Inns and the Bar of Ireland each year)
- **McCarthy Bursary** [Barrister-at-Law degree course students]: 1 (there is one McCarthy Scholar each year)

- **Gaffney Fellowship** [Diploma in Legal Studies students]: 5 students commencing and attending Diploma 1 are in receipt of full or part remission of fees for 2022/23 and 2023/24 and 5 students attending Diploma 2 are in receipt of full or part remission of fees for 2022/23.
- **SUSI grant** [available to eligible students attending Barrister-at-Law degree full-time course]: 8.

Admissions Developments

6. Have there been any changes to the admission policies of the King's Inns during 2022?

There were no changes to the admission policies of the King's Inns during 2022.

7. Any other issues that you believe are pertinent to the preparation of the Authority's report under section 33(1)(c).

There are no other issues that are pertinent to the preparation of the Authority's report under section 33(1)(c).

ASSESSMENT UNDER SECTION 33(1)(C) OF THE LEGAL SERVICES REGULATION ACT 2015

The LSRA seeks a submission from King's Inns in response to the questions posed in the general consultation and other matters that would be helpful to the LSRA's obligation to prepare an assessment under Section 33(1)(c) of the Act.

Within the scope of the general consultation Section 33 Annual Report on Admission Policies 2022, the LSRA seeks submissions from King's Inns in respect of the admission policies of the legal professions on the questions addressed here.

1. The level of demand for the services of practising barristers in 2022.

In relation to the demand for the services of practising barristers, it must first be understood that many barristers now operate outside of the traditional route of the independent referral Bar within the Law Library. Many practising barristers have fulfilling and rewarding careers in the full-time service of the State or in private employment. Others pursue careers outside of the law but enhanced by their legal expertise.

However, it is our experience that most students on the Barrister-at-Law degree course intend to enter the Law Library. This is supported by the consistency in the average numbers entering the Law Library each year, which have been provided by the Bar of Ireland in its submissions to the LSRA pursuant to section 33 of the 2015 Act, when compared to the overall number called to the Bar by the Chief Justice each year.

While this is not directly a matter for King's Inns, and we therefore do not maintain figures in this respect, it is well understood that many barristers find it difficult to establish a viable practice at the independent referral Bar and many leave the independent referral Bar and cease their membership of the Law Library within their first seven years of practice. This is not indicative of an unmet demand in the market for the services of barristers. It is, in fact, indicative of the opposite being the case and of there being a highly competitive market for the services of barristers.

2. The costs of legal services in 2022 and whether these were available at a reasonable cost to consumers.

King's Inns is not directly involved in the provision of legal services to consumers and therefore has no comment to make on this question.

3. The standard of education and training for persons admitted to practise.

The mission of King's Inns is to excel in the provision of both professional and academic legal education and training and to develop and nurture lifelong relationships with its entire membership. In that regard, the core function of King's Inns remains the education and training of prospective barristers in Ireland. It fulfils this function through the provision of the Barrister-at-Law degree course.

King's Inns believes that consumers of legal services rightly expect barristers to be experts in navigating litigation and legal issues.

A student who successfully completes the Barrister-at-Law degree course at King's Inns is eligible to be admitted to the degree of Barrister-at-Law and called to the Bar with a full right of audience before all courts in the State and to practise as a barrister independently. As a result, King's Inns teaches and examines the Barrister-at-Law degree course to a "fit to practise" standard. We believe this to be the only appropriate standard in the circumstances. Any diminution in the standards expected would be detrimental to consumers and to the interests of justice. It is also submitted that it would be contrary to the objectives of the LSRA as set out in section 13(4) of the 2015 Act.

King's Inns believes that the appropriate standard of education and training for a person admitted to practise as a barrister is "fit to practise". This standard of legal education for prospective barristers is underpinned by the Statement of the Required Competencies of a Barrister. This Statement was published by King's Inns in November 2020 following an extensive research and consultation process.

While it is to be recognised that a barrister in practice for a longer period of time will exhibit the competencies contained in the Statement at a more advanced or expert level, King's Inns believes that the Statement represents a comprehensive expression of the knowledge, professional skills and personal attributes required to be a competent practising barrister.

More generally, King's Inns is of the view that the education and training of prospective barristers involves two distinct phases: an academic or substantive law phase and a professional training phase. These are separate phases and they should be organised so as to avoid, to the greatest extent possible, duplication between them.

The primary focus of King's Inns is on the professional training phase. While King's Inns does offer an academic course in substantive law – the Diploma in Legal Studies – this is only one of 84 legal qualifications approved by King's Inns for eligibility to sit the Entrance Exam. Many providers, including universities, institutes of technology, private colleges, and the Society itself, have the skills, experience and capability to design and deliver effective courses in this academic phase.

By contrast, King's Inns is firmly of the view that the delivery of the professional phase of legal education for prospective barristers is best done by King's Inns because it is uniquely focused on the objective of providing high quality professional education for prospective barristers. Education of future members of the profession was the reason why King's Inns was established in 1541 and has been its principal activity ever since. No other body or institution in Ireland has ever had, or will ever have, the education and training of barristers as its core and primary function.

Moreover, the governance structure of King's Inns ensures a strong level of interest and involvement of the practising Bar in the education and training of future members of the profession. This assists in ensuring that the education and training provided by the Society remains up-to-date and is aligned with current practice and procedure before the Courts and, in respect of the Barrister-at-Law degree course in particular, best prepares students for their career in practise. It also guards the consumer interest by ensuring that appropriate standards are maintained so that persons entering the profession are fit to practise and properly serve their clients and the wider interests of justice.

4. The extent to which the admissions policies of the legal professions are consistent with the public interest in ensuring the availability of legal services at a reasonable cost, taking into account the demand for services and the need to ensure adequate education and training standards for persons admitted to practise.

In examining this question, it is first necessary to examine and contextualise the cost of providing professional legal training to an appropriate standard.

King's Inns believes that the interactive, small group teaching method used on the Barrister-at-Law degree course is the only effective delivery method for professional training. Teaching in small groups, particularly when delivered by experienced professionals, inevitably comes at a cost.

The fees payable for a place on the Barrister-at-Law degree course are currently €12,560. The fees have remained unchanged since 2009. King's Inns believes that this compares very favourably with other types of education and training leading to a professional qualification.

King's Inns is a not-for-profit institution and is registered with the Charities Regulator. King's Inns does not operate the professional course at a profit and a conscious effort has been made to maintain fees at the lowest possible level. Despite the vital role played by practising barristers in the administration of justice, the Society receives no funding from the State for its core education and training activities.

Turning to what the LSRA has termed "admissions policies", it is important to state that entry to King's Inns is fair and open. Every person who meets the entry requirements and passes the entrance examination may embark upon professional education and training at King's Inns. There is no "unmet" demand in the market.

Every person who attends the Barrister-at-Law degree course, passes the assessments and satisfies the requirements set out in a declaration is admitted to the degree and called to the Bar. The declaration is a statement on reasons, unrelated to academic or skills competency,

why a person should not be called to the Bar. This, can include, for example, criminal convictions. Once admitted to the degree and called to the Bar, that person is a fully qualified barrister with a full right of audience in every court in Ireland.

This can be contrasted with the system in other jurisdictions. For example, in Northern Ireland, there is a cap on the numbers admitted to the professional training leading to qualification as a barrister. This is not the case in this State, as King's Inns will admit and train everyone who passes the Entrance Exam.

In England and Wales, where rights of audience are limited, many students, having gone to both the effort and financial expense of obtaining professional qualification as a barrister, find themselves unable to obtain the pupillage that is required to enable them to complete the process to fully enter practice.

In this jurisdiction, any person who wishes to enter private practice as a member of the Law Library has the opportunity of doing so and can arrange a master with whom to undertake pupillage / devilling. There is no ultra-competitive chambers system, in contrast to the system in England and Wales, where non-traditional entrants and minorities are under-represented in obtaining pupillages and tenancies.

In the absence of any cap or quota, and in circumstances where the cost of the degree course has not increased since 2009, it is reasonable to conclude that the number admitted to the profession each year fluctuates in response to the demand for the services of practising barristers. If that demand were to increase appreciably, or indeed if those services were not available at a reasonable cost, King's Inns would expect to see a commensurate increase in the number of applications to sit the Entrance Exam with a view to attending the Barrister-at-Law degree course.

In such circumstances, it would also be reasonable to expect a commensurate increase in the number of persons seeking admission to the profession via other routes, including by way of transfer from the solicitors' profession. In fact, that is not the case, as the number of barristers transferring to become solicitors is far greater than the number of solicitors transferring to be barristers. Having regard to the respective sizes of the professions (there being many more solicitors than barristers in the State), this difference is even more stark. In 2022, 14 barristers transferred to become a solicitor and 0 solicitors transferred to become a barrister. In the seven years 2016-22, 174 barristers transferred to become a solicitor while 18 solicitors transferred to become a barrister.

There are no numerical restrictions on attending the Barrister-at-Law course or on admission to the degree of barrister-at-law or practising barrister. Moreover, King's Inns has the facilities and resources to provide education and training to a greater number of barristers.

King's Inns strives to ensure that access to professional education and training for prospective barristers is open to people from all sections of Irish society in a real and meaningful way. In this regard it is significant that one may gain eligibility to sit the Entrance Exam by pursuing the Diploma in Legal Studies offered by King's Inns, which is open both to those holding a third level qualification in a discipline other than law and to applicants with no previous third level qualification. Together with the modular degree course it is possible for a prospective barrister to study entirely on a part-time basis, which facilitates access to legal education and training as a barrister by a wide section of the community.

Many modular students travel from outside Dublin, or even from outside Ireland, to attend classes on their designated weekends. Weekends on which class takes place are published to well in advance,

allowing students to plan their commitments accordingly. King's Inns has also assessed which units or modules are best suited to in-person delivery and which may be delivered online successfully. King's Inns has taken into account the needs of the typical modular student in ensuring that a higher proportion of their classes take place in live online sessions than is the case for full-time students, thus reducing the requirement on modular students to be physically present at King's Inns. The purpose of the Diploma in Legal Studies from its inception has been to provide an alternative route to completing the academic phase of legal education and, on passing the Entrance Exam, proceeding to the professional phase of barrister education and training.

5. The impact of the Covid-19 pandemic and Brexit on the above matters.

In relation to Brexit, 11 barristers of England & Wales and Northern Ireland were admitted to the degree of Barrister-at-Law in 2022 compared with 34 in 2021 and 47 in 2020 and 76 in 2019. 10 barristers of England & Wales were admitted to the Bar of Ireland in 2022 compared with 23 in 2021, 35 in 2020, 24 in 2019 and 39 in 2018. 1 barrister of Northern Ireland was admitted in 2022, compared with 11 in 2021, 12 in 2020, 52 in 2019 and 19 in 2018. These trends reflected an influx of applications by these barristers to the result of the 2016 Brexit referendum, followed by an easing in applications in the last couple of years. Most of those admitted through these routes have not commenced practice in Ireland. The number of barristers of Northern Ireland admitted in 2021 reflected applications to be admitted to the Bar of Ireland in order to represent clients at the Stardust inquest.

King's Inns responded swiftly to the COVID pandemic by moving teaching and assessments online. This ensured that all students were able to complete their courses of study in the years disrupted by the pandemic.

In advance of the academic year 2021-2022, in light of ongoing uncertainty regarding the public health situation, King's Inns carried out extensive work in order to design and implement a "hybrid" model of delivery for 2021-2022 for the Barrister-at-Law degree course. The use of this model allowed King's Inns to ensure continuity of small group, intensive teaching during a period of ongoing public health crises. During the September-December term 2021, students were required to attend some classes in person and others online.

Classes were selected in advance for in-person or online delivery based on their learning outcomes, course content and suitability for the format in question. This model permitted King's Inns to adopt a phased approach to return to campus for students on the Barrister-at-Law degree course, in line with public health restrictions on distancing and masks then in force, while ensuring that the course continued to be delivered to a high standard, without interruption.

For the academic year 2022-2023, King's Inns maintained a hybrid timetable for both full-time and modular students. This means that students have been required to attend King's Inns in person for key skill-focused sessions, including sessions on advocacy and drafting, while other sessions suitable for online delivery were delivered via live online session.

While students are on campus, King's Inns implements a range of health and safety measures, including the use of HEPA filters. King's Inns is satisfied that it continued to deliver professional legal education to the highest possible standards during the pandemic.

CONCLUSION

King's Inns view is that:

- The number of persons admitted to practise as barristers in 2022 is consistent with the public interest in ensuring the availability of legal services at a reasonable cost.
- The admissions policies to the Barrister-at-Law degree course through the single route of the Entrance Exam and to the Barrister-at-Law profession are rigorous and not restrictive and that the policies achieve the objectives contained in section 13(4) of the 2015 Act.
- King's Inns remains available to provide any further information or submissions that may be required by the LSRA.

ANNEX: ROUTES OF ADMISSION TO DEGREE OF BARRISTER-AT-LAW

1. Barrister-at-Law Degree Course

Students on the Barrister-at-Law degree course are student members of King's Inns. Students are not trainee barristers in the sense of trainee solicitors with a training contract / apprenticeship.

“A student who successfully completes the Barrister-at-Law Degree course at King's Inns is eligible to be admitted to the degree of Barrister-at-Law and called to the Bar of Ireland with a full right-of-audience before all courts in the State and to practise as a barrister independently. As a result, King's Inns teaches and examines the Barrister-at-Law Degree course to a “fit to practise” standard.”

- King's Inns Statement of the Required Competencies of a Barrister, November 2020

<https://www.kingsinns.ie/cmsfiles/RULES/11.11.2020-STATEMENT-OF-THE-REQUIRED-COMPETENCIES.pdf>

Entrance Examination to Barrister at Law Degree Course

To become a student member of King's Inns and attend the Barrister-at-Law degree course, it is necessary to pass the King's Inns Entrance Examination. All candidates that pass the Entrance Exam are offered a place on the degree course.

To be eligible to sit the Entrance Exam, an individual is required to hold a legal qualification and must show that, in the course leading to the legal qualification, that the following core subjects have been passed: Equity & Trusts, Jurisprudence, Irish Land Law (including the Law of Succession), Administrative Law, Company Law, Law of the European Union.

The legal qualification must be one approved by King's Inns for eligibility to sit the Entrance Exam. King's Inns has approved 84 legal qualifications awarded by 19 institutions for that purpose.

King's Inns Diploma in Legal Studies

King's Inns Diploma in Legal Studies is one of the legal qualifications approved for eligibility to sit the Entrance Exam. There is no limit to the number of places available on the course. An individual applying to attend the Diploma in Legal Studies course must show that they:

- (i) Hold a degree from a third level institution other than a degree approved by King's Inns for the purpose of the Entrance Exam; or
- (ii) are a mature applicant of at least 23 years of age on 1 May in the year in which they sit Diploma Part I examination; and

- (iii) have the capacity to undertake the course. Consideration will be had to
 - (a) academic and professional qualifications and
 - (b) occupational and work experience.

King's Inns Education Rules set out in detail the course content of the full-time and modular Barrister-at-Law degree course and exams, the Diploma in Legal Studies course and exams, and the Entrance Exam - https://www.kingsinns.ie/cmsfiles/RULES/KI_EducationRules_June2021.pdf

2. Qualified Lawyers from Other Member States

Rule 24 of the Education Rules provides for application by a qualified lawyer from other EU Member States. King's Inns is the competent authority in respect of the profession of barrister for the purposes of European Union (Recognition of Professional Qualifications) Regulations 2017. This route to admission was taken by barristers of England & Wales and Advocates from Scotland. Those admitted through this route in 2021 had applied for admission prior to the UK's withdrawal from the EU. There has been only one application for admission by a qualified lawyer from a member state other than the UK under Rule 24 in the past 17 years.

3. Admission of Barristers qualified in England & Wales (post Brexit)

Since 2021, Education Rules Rule 25 applies to the admission of Barristers qualified in England and Wales (post Brexit). Rule 25 provides that a member of the Bar of England and Wales who is fully qualified to practise in that jurisdiction having undertaken a full pupillage as required by the Bar Standards Board of England and Wales may, at the discretion of the Benchers of the Society, be admitted to the Society and to the degree of Barrister-at-Law on compliance with requirements set out in the Rule.

4. Northern Ireland Barrister

Rule 20 of the Education Rules provides that a member of the Bar of Northern Ireland who has been in practice for at least three years immediately preceding the application may be admitted to the degree of Barrister-at-Law and called to the Bar, without taking any test or examination, upon submitting documents set out in the Rule.

5. Solicitor Transfer

Rule 23 of the Education Rules provides that a solicitor who has been in continuous practice in the State for three years or more immediately preceding an application to transfer and who has held a practising certificate from the Law Society of Ireland for the entirety of that period (or is exempted from the requirement to hold such certificate) and who satisfies other requirements set out in Rule 23 may, having attended the four-week Solicitor Transfer Course at King's Inns, be admitted to the degree of Barrister-at-Law and called to the Bar.

6. Morgenbesser

A national of an EU member state who is partly qualified in another EU Member State by holding legal qualifications of an academic and/or professional nature may apply to have those qualifications assessed by King's Inns for eligibility to make an application to be admitted as a Barrister-at-Law. To the extent that there is any shortfall in knowledge or skills, the applicant is required to complete assessments.