



An tÚdarás Rialála
Seirbhíse Dlí
Legal Services
Regulatory Authority

Provision of legal services directly to clients who are not solicitors in non- contentious matters



Guidance Note for Barristers

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1. Introduction

- 1.1 The purpose of this Guidance Note is to provide information to barristers in relation to the provision of legal services in non-contentious matters directly to a person who is not a solicitor.
- 1.2 Section 101 of Legal Services Regulation Act 2015 (as amended) (hereinafter “the Act”) was commenced on 25 September 2024 and states as follows:

“No professional code shall operate to prevent a barrister from providing legal services as a practising barrister in relation to a matter, other than a contentious matter, where his or her instructions on that matter were received directly from a person who is not a solicitor.”

- 1.3 The Legal Services Regulatory Authority (hereinafter “the LSRA”) issued a *Code of Practise for Practising Barristers* which came into effect on 26 September 2024 (hereinafter “the Code”), having consulted with and received and considered submissions from the relevant professional bodies and other interested parties. This Guidance Note provides further information to barristers in relation to section 101 of the Act and the Code, in particular provision 3.12 of the Code.
- 1.4 Provision 3.12 of the Code states *inter alia*:

“In contentious matters, as defined in the Act, a practising barrister shall not take instructions directly from a client. However, in a matter other than a contentious matter a practising barrister may accept instructions from a person who is not a solicitor.”

- 1.5 The LSRA is required under section 120 of the Act to engage in a public consultation process on the retention or removal of restrictions on a barrister receiving instructions in a contentious matter directly from a person who is not a solicitor, and the reforms, whether administrative, legislative, or to existing professional codes, that are required to be made in the event that the restrictions are retained or removed.
- 1.6 The LSRA conducted a public consultation process in compliance with section 120 of the Act and having consulted with and received and considered representations from the public and organisations, the LSRA prepared a report to the Minister for Justice and Equality titled “*Certain Issues Relating to Barristers*” dated 29th September 2017. This report is available on the LSRA’s website at the following [link](#).

This guidance note may be updated in the future. This guidance note is without prejudice to barristers’ regulatory and statutory obligations as well as common law duties, and is not intended to be an exhaustive guide in relation to section 101 of the Act.

2. What is a Contentious Matter

2.1 Section 99 of the Act provides the meaning of the term “*contentious matter*” in Part 8 of the Act (Section 101 is also contained in Part 8 of the Act).

2.2 Section 99 states the following:

‘contentious matter’ means a matter that arises in, and that relates to the subject matter of, proceedings before any court, tribunal or other body or person before which the respective legal rights and obligations of two or more parties are determined, to which the person instructing the practising barrister concerned is a party.’

2.3 Barristers should satisfy themselves that the matter is not a contentious matter before accepting instructions directly from a person who is not a solicitor. In the majority of matters, it will be apparent to a barrister that a matter is contentious or non-contentious. However, there may be situations where a barrister is uncertain as to whether certain matters are considered contentious or not.

2.4 Barristers may wish to have regard to other references to a contentious matter or otherwise within the Act and outside of the Act.

2.5 Similar references to contentious matters or otherwise within the Act include:

- Section 138 describes the meaning of “contentious business” in Part 10 of the Act as follows:

‘ “contentious business” means legal services provided by a legal practitioner for the purposes of, or in contemplation of, proceedings before a court, tribunal or other body, the Personal Injuries Assessment Board or an arbitrator appointed under the Arbitration Act 2010 or in connection with an arbitration, mediation or conciliation.’

- Section 149 states that in contentious matters, except debt collection matters, a solicitor may not calculate charges as a specified percentage or proportion of any damages or other monies that may become payable to the client.

2.6 Similar references to contentious matters outside of the Act include, for example (and this is not an exhaustive list):

- Orders 40, 63, 79 and 80 of the Rules of the Superior Courts make reference to probate matters as capable of being contentious and non-contentious.
- The Solicitors (Amendment) Act 1994 (as amended) defines “contentious business” as:

‘ “contentious business” means business done by a solicitor in or for the purposes of or in contemplation of proceedings before a court or tribunal or before an arbitrator appointed under the Arbitration Acts, 1954 and 1980.’

2.7 Barristers may also wish to have regard to the decisions in *Bond v Dunne* [2017] IEHC 646 and *Mallon v Minister for Justice & Ors* [2025] IEHC 125 as they relate to clients’ direct access to barristers and contentious matters.

3. Guidance after Receiving Direct Instructions in Non-Contentious Matters

Ongoing Considerations

General

- 3.1 A barrister who intends to provide or who is providing legal services in relation to a non-contentious matter on receipt of instructions directly from a client must comply with the provisions of the Act and the Code.
- 3.2 The following is a non-exhaustive list of matters within the Act and the Code that may be more relevant to barristers who intend to provide or are providing legal services directly to clients:
- Professional Indemnity Insurance
 - Fundamental obligations including Professional Principles, Privilege and Confidentiality
 - Data protection
 - Conflicts of interests
 - Advertising
 - Continuing legal education
 - Anti-money laundering

Non-Contentious Matters

- 3.3 A barrister must not accept instructions directly from a client in contentious matters.
- 3.4 A barrister who intends to provide legal services on receipt of instructions directly from a client must satisfy themselves that the matter is not a contentious matter.
- 3.5 Furthermore, once instructions are accepted, a barrister must continue to satisfy themselves that the matter has not become contentious.

Plain Language

- 3.6 Barristers may be accustomed to communicating directly with clients in the presence of instructing solicitors who have specialised legal knowledge and direct client management skills. A barrister who intends to provide legal services directly to a client should be continuously aware that the client may not have legal knowledge. Communication with the client should be in plain language and legal terminology explained to the client so that the provision of legal services to clients directly is carried out properly and competently.

Prior To and on Receipt of Instructions

- 3.7 Prior to or upon receipt of instructions, a barrister should explain to the prospective client the distinctions between a barrister and a solicitor and the limitations on the services that a barrister may provide to a client who is instructing the barrister without engaging the services of a solicitor.
- 3.8 Where direct instructions are received verbally, a barrister should invite a prospective client to set out those instructions in writing, so that the barrister may consider the instructions further before committing to accepting the instructions.
- 3.9 Before providing legal services directly to a client, a barrister should inform the client that the legal services are not being provided until the barrister confirms so.
- 3.10 Before providing legal services directly to a client, a barrister should give due consideration to the prospect of remuneration and recovery of same.
- 3.11 Pursuant to section 150 of the Act, a barrister must, on receipt of instructions directly from a client, or as soon as it becomes practicable, provide the client with a notice containing specific information in relation to legal costs ("section 150 Notice"). A barrister must familiarise themselves with the requirements set out under section 150 of the Act.
- 3.12 Further guidance in relation to section 150 notices can be found in 'Appendix 1' attached to this Guidance Note and on the LSRA's website, www.lsra.ie.
- 3.13 Upon receipt of direct instructions from a client, a barrister should confirm those instructions in writing. Such letters can also contain a section 150 Notice to the client, while complying with all other obligations pursuant to that section. A barrister may also confirm to the client that the provision of legal services has commenced.
- 3.14 Once instructions are accepted, a barrister must continue to satisfy themselves that the matter has not become contentious. Where a matter does become contentious, a barrister should immediately cease to act for the client in respect of the contentious matter and explain to the client why the barrister may no longer act for the client in respect of the contentious matter. A barrister should inform the client that they can seek the services of a solicitor for the contentious matter.
- 3.15 After concluding the provision of legal services in relation to a non-contentious matter directly to a client, a barrister must, as soon as practicable, prepare and sign a bill of costs and must send it to the client pursuant to 152 of the Act as well as complying with all other obligations pursuant to that section.

4. Other Considerations

Equal Status Act 2000 (as amended)

- 4.1 The Act of 2015 does not provide a definition for the word “*client*”. Barristers are not obligated to accept instructions directly from a client but may not refuse to accept instructions on any of the discriminatory grounds set out in the Equal Status Act 2000 (as amended).

Non-contentious matters which require holding moneys on behalf of clients

- 4.2 Barristers are prohibited from holding client moneys pursuant to section 45(1) of the Act which states:

“Subject to subsection (2), a legal practitioner shall not hold moneys of clients unless that legal practitioner is a solicitor.”

- 4.3 There are particular areas of practice which more frequently require solicitors to hold moneys on behalf of a client. This would occur most frequently in the areas of conveyancing, probate and litigation. A barrister who provides legal services on instructions received directly from a client must ensure that they do not hold client moneys.

Appendix 1

Section 150 Notices

Section 150 of the Act commenced on 7 October 2019. Pursuant to section 150 of the Act, legal practitioners must inform their clients about the costs of legal services, and ensure that their clients are kept informed on an ongoing basis.

What is the purpose of the costs transparency provision?

The purpose of Part 10 of the Act is to make legal fees and costs charged by barristers more transparent for clients by requiring barristers to notify them in advance of what costs are likely to incur for the legal services or advice they require. This allows clients to budget and plan in advance for these expenses.

What are the consequences of non-compliance with section 150 of the Act?

Complaint to the LSRA

One of the grounds for clients making a complaint about a barrister to the Legal Services Regulatory Authority is that the amount of costs sought by the barrister in respect of legal services provided to the client by the barrister was or is excessive.

In the investigation of such a complaint the LSRA will require the barrister to provide copies of all letters sent in accordance with section 150 of the Act.

Seeking an amount of costs in respect of the provision of legal services that is grossly excessive may also constitute misconduct. In deciding whether to impose a sanction on the barrister or refer the complaint to the Legal Practitioners Disciplinary Tribunal, the LSRA Complaints Committee will consider the failure to provide a section 150 notice or providing an inadequate section 150 notice as a factor in their decision.

Referral to Legal Costs Adjudicator

Where a bill of costs is referred to the Legal Costs Adjudicator, they may decide not to confirm a charge in respect of a matter or item if the matter or item was not included in the section 150 notice or is not the subject of an agreement referred to in section 151.

However, the Legal Costs Adjudicator has discretion to confirm charges in such situations where they are of the opinion that to disallow the matter or item would create an injustice between the parties.

How do I comply with section 150 of the Act?

Section 150 requires barristers to provide their clients with a notice written in clear language that is likely to be easily understood by the client.

- It must set out what legal costs will be incurred in relation to the matter.

- The costs notice must be issued after a barrister has received instructions, but before he or she has started providing the legal service.
- Where it is not 'reasonably practicable' for a barrister to disclose legal costs after initial instructions from a client, the barrister must set out the basis on which the legal costs are to be calculated e.g. hourly rates.
- As soon as it becomes practicable to do so, the barrister shall provide the client a notice setting out what legal costs will be incurred.

What should a section 150 notice contain?

- A 'section 150 notice' (or 'costs notice') should detail the amount of legal costs that have been incurred up to the date the notice is provided.
- It should detail the legal costs that are of a fixed nature that are certain to be incurred and the legal costs that are likely to be incurred.
- If it would be impracticable for a barrister to certify legal costs, the basis on which they are to be charged should be outlined.
- The notice should contain details of the amount of VAT to be charged.

It should set out the basis on which the amounts were or are to be calculated by reference to the following criteria:

- The **complexity and novelty** of the issues involved
 - The **skill or specialised knowledge** applied
 - The amount of **time and labour** reasonably spent
 - The **urgency attached by the client to the matter**
 - The **place and circumstances** in which the matter was transacted
 - The **number, importance and complexity of documents**
 - The amounts or values of **money, property or an interest in property**
 - Whether or not there is an **agreement to limit the liability** of the barrister
 - Any **research or investigative work** undertaken and the time spent on it
 - The **use and costs of expert witnesses or other expertise**.
- The notice should state the barrister's obligation to issue a new section 150 notice to the client where he or she becomes aware of any factor that would result in legal costs likely to be incurred being significantly greater than those previously disclosed.
 - The costs notice should also set out a "cooling off" period of up to 10 working days. There are exceptions to this "cooling off" period

Are there further obligations for section 150?

After providing a client with a section 150 notice, a barrister should not provide any legal services in relation to the matter concerned for the period specified in the notice, unless (and this is not an exhaustive list):

- The client confirms that they wish to instruct the barrister to continue to provide legal services in connection to the matter concerned,
- in the opinion of the barrister, not providing those legal services would constitute a contravention of a statutory requirement or the rules of court or would prejudice the rights of the client in a manner that could not later be remedied,
- a court orders the barrister to provide legal services to the client.

If a client seeks clarification in relation to a notice, a barrister must provide this as soon as is reasonably practicable.

Can I still enter into an agreement with my client in relation to payment of legal costs?

A barrister can make an agreement in writing regarding the amount, the manner of payment or all or part of the legal costs that are payable by the client to the barrister for legal services.

There is no need to provide a separate section 150 notice in addition to the legal agreement in relation to costs where the legal agreement contains all the details required in a section 150 notice (as set out in section 150(4) of the Act).

ENDS

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