

Preparing for the Future: Pushing Boundaries

Strategic review of the future landscape for The Bar of Ireland

The Bar of Ireland

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14 July 2021 | FINAL

The EY logo is positioned in the bottom right corner of the slide. It features the letters 'EY' in a bold, white, sans-serif font. A yellow diagonal line is integrated into the design, extending from the top right of the 'Y' and pointing towards the top right corner of the slide.

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Strategic review of the future landscape for The Bar of Ireland

14 July 2021

Dear Ciara,

In accordance with the terms of our contract signed 11 January 2021, we have assisted you in the provision of an assessment of the future market, demand and expectations for the services of barristers including a diagnosis of the environmental, regulatory and competitive situation, and a detailed plan, setting out recommendations on where the Council should focus its priorities and an analysis of how best to maximise organisational resources in furtherance of those priorities. Our role is to provide you with our analysis and findings. We have not performed any management functions or made any management decisions.

Limitations of Scope

We have not, except to such extent as you requested and we agreed in writing, sought to verify the accuracy of any data, information and explanations provided by yourselves, and you are solely responsible for this data, information and explanations. We have therefore relied on any information provided by you to be accurate and complete in all material respects.

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We appreciate the opportunity to have provided EY's services to The Bar of Ireland. Should you have any queries or comments regarding this report or if we may be of any further assistance, please do not hesitate to contact me on +353 1 221 2611.

Yours sincerely

Simon MacAllister
Partner

Dashboard

Table of contents

Dashboard
 1 Executive Summary
 2 Introduction
 3 Overview of the Legal ...
 4 Overview of The Bar of ...
 5 International Benchmarking

6 External Consultation
 7 Analysis of internal and ...
 8 Pushing the boundaries
 9 Appendices

Dashboard

Executive Summary

1

Page 4

Introduction

2

Page 16

Overview of the Legal Services Market

3

Page 18

Overview of The Bar of Ireland

4

Page 23

International Benchmarking

5

Page 34

External Consultation

6

Page 52

Analysis of internal and external environment

7

Page 62

Pushing the boundaries

8

Page 81

Appendices

9

Page 107

Dashboard

A selection of terms used frequently throughout the report

Dashboard

1 Executive Summary
2 Introduction
3 Overview of the Legal ...
4 Overview of The Bar of ...
5 International Benchmarking

6 External Consultation

7 Analysis of internal and ...
8 Pushing the boundaries
9 Appendices

The Bar of Ireland (TBOI) - Throughout the report, reference to TBOI includes a reference to the Council and the membership of the Law Library, and the Executive except where explicitly referenced otherwise or where the context provides.

The Bar Council - The Bar Council is the accredited representative body of members of the Law Library.

Independent Referral Bar (IRB) - The model under which members of the Law Library currently operate, whereby every barrister is an independent sole trader.

‘Meitheal’ - This is the name that EY suggest should be given to the formal groupings of barristers recommended within TBOI. A ‘meitheal’ (pronounced ‘mehal’ with all syllables of equal stress) is a phrase from the Irish language, used to denote a working group, who collaborate and work together to help each other.

Junior Counsel - When barristers are first "called to the Bar", they act as Junior Counsel. A Junior Counsel may have the letters BL after his/her name, which stand for "Barrister at Law". Junior Counsel tend to do most of the paperwork in cases (drafting legal documents) and they represent clients mainly in the lower courts (the District Court and the Circuit Court).

Senior Counsel - When a barrister has sufficient experience behind them (usually about 10 to 15 years practising as a Junior Counsel), they may apply to become a Senior Counsel. This is sometimes called "taking silk" because the Senior Counsel's gown was traditionally made of silk. A Senior Counsel may have the letters SC after his/her name. Senior Counsel are very experienced advocates who represent clients in the High Court, the Court of Appeal and the Supreme Court. With the introduction of the LSRA, experienced and/or specialist solicitors can also now apply to become a Senior Counsel and use the letters SC after their name. However, solicitors appointed Senior Counsel remain solicitors.

Legal Services Regulatory Authority (LSRA) - They are the independent regulator for legal services providers in Ireland. They work to maintain and improve standards in legal services and ensure value for money in the interest of consumers. They are the first point of contact for complaints about solicitor and barristers.

Specialist Bar Associations (SBAs) - There are 12 SBAs associated with The Bar of Ireland. Each SBA is a vibrant hub of activity that facilitates the exchange and advance of specialist knowledge and expertise through conferences, seminars, papers and periodicals; promoting barristers as a specialist provider of advocacy and legal advice services across a range of practice areas.

Continuous Professional Development (CPD) - Continuing Professional Development (CPD) is the systematic maintenance, improvement and broadening of knowledge and skill and the development of personal qualities necessary for the performance of professional duties throughout the barrister's working life.

PESTLE Analysis - An examination of an organisation's political, economic, social, technological, legal, and environmental landscape.

SWOT Analysis - An examination of an organisation's strengths, weaknesses, opportunities, and threats.

ODPP - This refers to the Office of the Director of Public Prosecutions. The duties of the Director are to: enforce the criminal law in the courts on behalf of the People of Ireland; direct and supervise public prosecutions on indictment (formal written accusations) in the courts; give general direction and advice to An Garda Síochána (the Irish police force) in relation to summary cases (less serious cases which can be heard in the District Court); and give specific direction to An Garda Síochána (the Gardaí) in cases where requested.

CSSO - This refers to the Chief State Solicitors' Office in Ireland. provides litigation, advisory and conveyancing services to Government Departments and Offices and to certain other State agencies.

AG - This refers to the Office of the Attorney General in Ireland. The principal functions of the Attorney General are to advise the Government in matters of law and legal opinion and to provide the State with both drafting and litigation services.

1

Executive Summary

1 Executive Summary

A number of key themes were identified from the external consultations in respect of The Bar of Ireland

Dashboard

1 Executive Summary

2 Introduction

3 Overview of the Legal ...

4 Overview of The Bar of ...

5 International Benchmarking

6 External Consultation

7 Analysis of internal and ...

8 Pushing the boundaries

9 Appendices

01

Technology/
Remote
Hearings

02

Legal Fees

03

Court
Management/
Case Lists

04

Education &
Training

05

Unification

06

Distribution of
work/Attrition
Rate

07

Diversity &
Inclusion

08

Relationship
with The Bar of
Ireland

09

The Bar of
Ireland Alumni

10

Loss of work to
solicitors

11

Impact of
COVID-19

12

Marketing

1 Executive Summary

We have used a PESTLE framework to assess the external environment in which the Bar operates

Dashboard

1 Executive Summary

2 Introduction

3 Overview of the Legal ...

4 Overview of The Bar of ...

5 International Benchmarking

6 External Consultation

7 Analysis of internal and ...

8 Pushing the boundaries

9 Appendices

P The political environment is crucial for TBOI, given government's influence over legislation, regulation and taxation. While we consider that Ireland has rebounded robustly from the last financial crisis supported by a favourable corporate tax regime, US President Joe Biden's corporate tax proposals are of particular concern. As witnessed during the recent introduction of new guidelines for Personal Injury Awards by the Judicial Council, the reform of the Irish legal sector is often deeply political. On the island of Ireland, the complexities introduced by Brexit, including the impacts of the NI protocol, have resulted in renewed political pressure for a border poll.

E The economic climate has caused significant disruption in recent times and businesses across Ireland, the UK and the wider EU have been forced to continually adapt to survive. With all members of the Law Library operating as independent sole traders, the warning by the Governor of the Central Bank that up to one-in-four SMEs may not survive once the State withdraws COVID supports, is a cause for significant concern for TBOI. With suboptimal workflows even prior to the pandemic, and 68% of barristers suffering financially due to rising operating costs, the true extent to which the COVID-19 pandemic has affected the profession in Ireland remains to be fully seen. While the Irish economy contracted by 3.4% last year, EY forecasts significant growth in 2021 of 3.2%, based on successful vaccine rollout and most restrictions being lifted.

S The social and cultural map of Ireland has changed significantly over the last 50 years. In the 2016 Census, ethnic minorities composed 15.2% of the Irish population. Ireland is now a multinational, cosmopolitan, globalised society. The Irish population continues to grow and is projected to number 5.2 million in 2021. Despite the increase in overall population size, the number of reported criminal incidents has fallen, with a 22% drop in the number of annual reported incidents between 2009 and 2019. A core feature of any equitable society is access to justice. The numbers waiting for legal services at the end of 2019 had increased by 15% and, while the figures have yet to be released, it is likely that waiting lists have increased further given the rising backlog of court cases throughout the COVID crisis.

T The technological transition accelerated by the COVID-19 crisis brought about years of change in the way organisations across all sectors and regions do business. Videoconferencing, remote hearings, the use of online legal databases and the online legal diary facilitated by the Irish Court Service have all pivoted online in response to Government restrictions. To date, digitalising areas of the business have not been a panacea to all that ails businesses in the current economic environment. 53% of respondents to the member survey conducted by EY believed that the use of remote hearings had adversely impacted opportunities to develop their practice. As the Irish Courts Service implements its three-stage digital approach up to 2030, it will be important that TBOI's own strategy remains aligned with that of the Irish Court Service.

L The legal ecosystem of TBOI has undergone a number of significant changes in the last decade, most notably the introduction of the LSRA; overall, this has been a positive development. 77% of respondents to the members' survey believe that the LSRA has improved standards in the provision of legal services since it was established. Simultaneously, however, 78% noted that the role of a barrister has become more difficult over the last three years. Undoubtedly, this is tied with the fact that a significant majority of barristers struggle to collect fees owed. There appears to be a low impact from collaboration with The Law Society of Ireland, both in terms of receiving payment from clients and in sourcing additional opportunities, e.g., Brexit related opportunities from the UK, which the Ireland for Law initiative has not fully addressed to date.

E The economic resilience of Ireland is intimately linked to environmental quality and to the supporting role of our ecosystems and natural resource services. In 2020, Ireland ranked last of the EU15 measured in Social Justice Ireland's Sustainable Progress Index. To support an environmentally-friendly Irish economy, TBOI will need to engage with its members, the Law Society of Ireland, the Courts System, and the various State agencies, in the transition away from paper-based briefings to e-litigation, which has already commenced amongst the State agencies, including the ODPP and the CSSO. Transparency is a pre-condition for assessing and improving sustainability practices; TBOI can achieve this through open communications and proactive policies, involving the various key stakeholders within the Irish legal ecosystem.

1 Executive Summary

There are a number of relevant strengths and weaknesses which have informed EY's analysis and recommendations

[Dashboard](#)
[1 Executive Summary](#)
[2 Introduction](#)
[3 Overview of the Legal ...](#)
[4 Overview of The Bar of ...](#)
[5 International Benchmarking](#)
[6 External Consultation](#)
[7 Analysis of internal and ...](#)
[8 Pushing the boundaries](#)
[9 Appendices](#)

Member Focus

Strengths

- ▶ Market dominant position (2,124 Law Library members/2,852 with a Barrister-at-Law qualification on the LSRA roll).
- ▶ The collegiate experience within the Law Library is highly valued by members.
- ▶ Unique properties, with facilities attached to and proximate to the Four Courts complex, provides significant benefits.
- ▶ Seen as a quality provider of relevant CPD. Law Library professional development programmes are recognised by attendees as exceptional.
- ▶ Experienced and competent staff, able to provide assistance to members in multiple areas.
- ▶ Network benefits between members, and also via Specialist Bar Associations (SBA) and Young Bar Committee (YBC) activities.
- ▶ An evolving digital toolset for all members, with access to necessary resources, secure storage, online databases, etc.
- ▶ Members value co-location of offices/seats with other barrister practitioners.

Weaknesses

- ▶ Membership attrition rate data shows a net loss of 164 members over 7 years to 2019 (-1.1% annually), despite economic growth.
- ▶ Perception of inertia and engrained culture (wedded to traditional approach in a fast-changing world).
- ▶ Perceived lack of diversity in the membership – age, background, personal experiences.
- ▶ The expectation that new entrants must be based in Dublin in the initial years of practice (with limited earning capacity) creates an additional barrier to entry for the profession.
- ▶ Fee management and collection is a problem, compounded by inability to sue for unpaid fees.
- ▶ Perception that Council representation is weighted against junior membership.
- ▶ Existing referral system is overly reliant on solicitors for work.
- ▶ Drafting fee/briefing fee charging structure seen as inequitable to younger members.
- ▶ Members feel exposed to new competition for their services in the law market.

Market Focus

- ▶ Single point of contact for access to broad range of legal specialists – for example, through State legal panel work.
- ▶ Positive brand perception as Law Library members are seen as leaders in their fields.
- ▶ SBAs provide accessible contact point for particular competencies and experience.
- ▶ TBOI is perceived as an effective and influential lobbying group on behalf of their membership.
- ▶ Prudent management of property portfolio provides financial support for member services.

- ▶ Barrister profession and TBOI are seen as out of touch with public.
- ▶ Current IRB model is vulnerable to, eroding dominant position.
- ▶ Opaque fee structure for Barrister services.
- ▶ Differing work practices amongst members can frustrate clients (non-standard communications, etc.).
- ▶ Lacking in some areas of training – including a lack of practice management/professional skills, lack of IT skills.
- ▶ Greater marketing efforts required to enhance awareness, reputation, standing and attractions of profession.
- ▶ Alumni feel isolated from peer networks if they resign from the Bar.
- ▶ Lack of available desk/office space for Law Library members in existing properties.

1 Executive Summary

There are a number of relevant opportunities and threats which have informed EY's analysis and recommendations

Dashboard

1 Executive Summary

2 Introduction

3 Overview of the Legal ...

4 Overview of The Bar of ...

5 International Benchmarking

6 External Consultation

7 Analysis of internal and ...

8 Pushing the boundaries

9 Appendices

Opportunities

Member Focus

- ▶ Growing demand for legal services in Ireland, leading to increased work for barristers
- ▶ Bar alumni have expressed an interest in maintaining closer links with the Bar. A suitable membership and service offering could deliver additional fee income for TBOI
- ▶ By providing the Specialist Bar Associations (SBA) with greater agency, the membership could benefit from directly marketing more specialised services.
- ▶ Member services to be provided on a 'per use' basis should be identified, particularly as the profession evolves and more specialised supports are likely to be required by a subset of members.
- ▶ Pricing and allocation of offices/seats could be reconsidered to optimise effective usage, to include more generally reservable seats in the prime areas on a pay per use basis.
- ▶ The Bar could look to provide additional training and support to practitioners in Mediation and Arbitration services

Threats

- ▶ Solicitor firms are in a better position to offer a defined career path to top-level law graduates, with more clarity over salary levels and progression prospects.
- ▶ The full impact of the LSRA on the practice of barristers is not yet clear and further changes remain likely. The Bar of Ireland needs to be prepared to adapt to a changing environment.
- ▶ The growing trend of remote working raises the likelihood of reduced footfall and in turn, reduced demand for space should the agglomeration and networking benefits formerly associated with the Law Library be lost.
- ▶ Member expectations regarding the services available through Law Library membership continue to evolve, particularly in the area of technology. The Law Library will need to adapt to provide more valued services.
- ▶ Other modes of working, including Legal Partnerships, enabled by the new LSRA regulations may provide competition or alternatives to the current model of Law Library membership.

Market Focus

- ▶ Increased economic activity will result in greater levels of activity for many types of law, e.g., environmental, construction, etc.
- ▶ Brexit has displaced demand for European legal services from the UK. The UK previously hosted 20% of all EU legal work and, post-Brexit, Ireland can offer an attractive common-law, English-speaking alternative jurisdiction.
- ▶ Facilitating 'direct access' to suitably qualified in-house counsel on a wider range of briefs (contentious & non-contentious) could lead to increased demand for barrister services.
- ▶ A more standardised approach to administrative and secretarial services could enhance client experiences when dealing with barristers.

- ▶ Larger solicitor firms are encroaching more on areas of traditional barrister expertise, including advocacy and court representation. The practice of remote hearings and the increasing digitalisation of legal practice has accelerated this trend and reversion is unlikely.
- ▶ The overall business model of the Bar remains exposed to a general downturn in the Dublin property market.

Recommendations for TBOI (1/6)

Business Model

1. TBOI should consider changing the business model to allow barristers to form a 'meitheal' which would comprise a mix of Senior Counsel, Junior Counsel and new entrants devilling with the experienced Junior Counsel who are on the Masters' List. Barristers would remain self-employed members of the IRB and would continue to pay subscriptions to TBOI.
2. TBOI should consult with the LSRA in establishing the rules for forming such 'meitheal' groups. Being a member of a 'meitheal' would not be compulsory.
3. Once introduced, TBOI should assess the take-up and viability of this more formal working arrangement amongst the membership two years after it comes into operation.
4. These 'meitheal' groups would co-exist with the Specialist Bar Associations. The existing 12 SBAs are working well and EY recommends they should be further developed/expanded to address new areas of the law, thereby providing barristers with the opportunity to collectively market the Law Library's capabilities and experience within identified areas of competence.

Direct Professional Access

5. TBOI should address their own Code of Conduct to account for in-house counsel (where they are a qualified solicitor, have a practising certificate or are otherwise legally qualified, including but not limited to barristers who are currently or were previously on the Roll of Barristers), directly accessing barristers on contentious, as well as non-contentious matters.
6. In anticipation of Section 101, TBOI should design a suite of supports and guidelines, both for the public and for practitioners, to ensure that direct access instructions are efficiently managed by both parties and present a viable revenue stream for members.

Bar Council Composition

7. The Constitutional provision which allows four additional members to be co-opted onto the Council should be amended (by formal amendment or by agreed convention) to provide that all four additional members be Junior Counsel.
8. The Bar Council should consider having non-executive director (NED) representation, to provide independent advice and insights to support the Bar Council in implementing its strategy and sustaining the future path for the profession. The introduction and impact of NEDs should be reviewed after two years.

Recommendations for TBOI (2/6)

Fee Recovery

9. TBOI should take a fresh look at this area, including consultation with the LSRA to examine the options for structural changes to fees such as more upfront billing for consultations
10. TBOI should lobby the LSRA to examine the options for changing the law which prevents barristers from suing solicitors for non-payment of fees and which states that a barrister has no legal right to be paid his/her professional fees by his/her client.
11. TBOI should consult with the LSRA and the Law Society to urgently address the late payment of fees issue in the legal profession, as good cash flow management and credit control is fundamental to the success of any business.
12. TBOI should lobby government for a review of the current civil legal aid scheme and the annual budget allotted to the justice system. If the Government supports reform, it must be matched with the necessary resourcing: human, technological and financial. Effective legal aid, better case management, adoption of technology and more judges are clear determinants of costs, and harbor the potential to generate greater efficiencies for citizens and businesses.
13. TBOI should explore the possibility of engaging a third-party commercial partner to provide an aggregate invoice financing facility (invoice discounting, factoring, or similar) to assist members of the Law Library with cash flow management in their practices. This facility should be offered under the Practice Support & Fee Recovery unit of TBOI.

Diversity and Inclusion

14. TBOI should collate appropriate data to monitor D&I in the profession and include a set of ambitious D&I targets in its forthcoming Equality Action Plan (EAP) to ensure the organisation's D&I performance can be monitored.
15. TBOI should expand the current Denham Fellowship scheme to provide increased access to greater numbers from socio-economically disadvantaged backgrounds.
16. In developing an equitable briefing policy, TBOI should include a specific quota for minority groupings, once the appropriate D&I data is available.
17. TBOI should ensure to demonstrate its commitment to the development of an equal, diverse and inclusive profession by following the publication of its EAP with a PR campaign, championing the diversity and inclusion of TBOI.
18. TBOI should consider how it can support diversity and inclusion in a periodic review of membership subscription rates. TBOI should consider waiving subscriptions for those unable to practice due to personal reasons such as sickness or maternity leave.

Recommendations for TBOI (3/6)

Technology

19. TBOI should ensure members' views are clearly expressed within the Courts Service's Digital Transformation process, and that proposed technology solutions do not result in excessive cost or barriers to entry for members.
20. TBOI should provide additional education to members on the LawTech available in the market. Whilst TBOI may not necessarily endorse any particular technologies or provide them to members, TBOI can play a key role in monitoring, identifying and assessing new developments. This could involve, for example, hosting seminars on LawTech, inviting potential providers to present to members (e.g. an annual technology fair) or the provision of emails/mailshots to members focussing on particular topics (e.g., practice management software, documentation automation tools). Some technology (e.g., AI, doc review software, practice management software) may be relevant to some, but not all members, and so would not necessarily be something TBOI would purchase or endorse.
21. Continue to improve the online availability of the library over time, until it is as fully integrated as possible.

Education and Training

22. TBOI should establish an Education and Training Directorate, as part of the senior management team, led by a senior executive, similar to what TBOI currently has in place for IT, for example. This Directorate should ensure a more formal training structure is provided for barristers. The Directorate should identify the training gaps with respect to a range of areas such as advocacy training, writing skills, etc. TBOI should ensure that all necessary information services are brought under the Education and Training Directorate and are made compulsory for new entrants.
23. TBOI should introduce a specific module to assist barristers to prepare for practicing as an independent referral barrister or for forming a 'meitheal'. A more standardised approach to administrative and secretarial services could enhance the client experience when dealing with barristers and reduce the burden of practice management. TBOI could facilitate this evolution through suitable training, standard templates, or by taking a more direct role in shared service provision.
24. TBOI should encourage collaboration between the Education and Training Directorate and the resources currently engaged in fee recovery and practice management to identify suitable delivery methods for any practice management modules.
25. TBOI and the Education and Training Directorate should proactively engage with the LSRA to ensure their views are fully reflected in decisions impacting the future education and training needs of the profession.
26. TBOI should seek over time, as groupings come on stream, to review the idea of a minimum payment for barristers, within their year of pupillage, similar to that in the Bar Council of England and Wales.

Recommendations for TBOI (4/6)

Property

27. A Working Group, supported by external expertise as required, should be established to develop a masterplan for the building portfolio to identify options.
28. Property holdings should be regularly assessed (e.g., on a 5-year basis) in conjunction with a capital spending budgeting exercise.
29. Consider investing in the Jameson building to provide desks in close proximity to the Distillery building. Alternatively, move those organisations who occupy an office rent free – VAS, IRLI, BPCT, CI Arb Ireland - and relocate them to the Jameson Building, thereby freeing up space in the Distillery building for desks.
30. Align the value of space more clearly with the prices currently charged to encourage more efficient allocation and use. Specifically, consider increasing the rental cost of desks.
31. Assess how to monitor desk utilisation to ensure allocated desks are actively and regularly used.
32. No asset disposals should be considered in the near term unless a clear use for proceeds can be identified and replacement accommodation identified.
33. Pending any investment decisions arising from the masterplan, maintain a conservative level of property debt (close to current levels) to allow for refinancing on favourable terms from a partner(s) that will provide required flexibility and support for additional capital investments in due course.
34. The existing properties should be utilised more intensively to support the external role of TBOI – more marketing/networking events on site, providing access to groups to raise awareness of barristers and their work (legal students, schools, client representatives).
35. The Library Committee should review the manner in which seats are assigned with a view to ensuring an appropriate allocation of seating to meet demand from those without offices and ensure greater cross-year interaction.

Subscription Model

36. Member subscription rates should be periodically reviewed to ensure they cover any investments required to maintain and upgrade the member services provided by TBOI. Any temporary levies imposed, related to specific capital investments, should be identified separately on the membership fee schedule to increase transparency and prevent such amounts becoming permanently embedded in subscription rates. TBOI should be transparent in respect of the LSRA fees, which should be identified as a separate charge to the annual subscription to TBOI.
37. TBOI should ensure subscription rates remain equitable across member groups. TBOI could consider in their periodic review for example, aligning rates more fully over time for Country/Cork membership, for example to 75% across the sliding fee scale, as physical location is less of a relative disadvantage compared to the past. TBOI may also consider reducing the number of different rate structures or waiving subscriptions for those who cannot practise within the profession on a given year for personal reasons, e.g., maternity leave/sickness.
38. TBOI should create a new membership category for Law Library alumni, who would not be subject to the LSRA charge. This would help alumni to feel connected and brings wider qualitative networking benefits to the Law Library membership, as well as acting as a minor additional revenue stream. The resources to be dedicated to this matter should be commensurate with the level of appetite shown by alumni.

Recommendations for TBOI (5/6)

Environment

- 39. TBOI should report on their sustainability/environmental performance in the same way that they report annually on their financial performance.
- 40. Aligned with a Marketing Plan, TBOI should develop a clear CSR Statement/Plan, setting out its activities and objectives in relation to community, environment and other social objectives.
- 41. To support environmental objectives of TBOI, enhanced training on managing e-briefs should be provided by the proposed Education and Training Directorate.

Legal Costs

- 42. TBOI should continue to advocate, in conjunction with the Law Society, to communicate the value provided by legal practitioners. To support this, measures should be developed to improve transparency on how costs are determined.
- 43. TBOI should continue to work with the DOJ to implement the recent Report of the Review Group on the Administration of Civil Justice published in December 2020'.

Marketing and Promotion

- 44. TBOI should have a dedicated cash and staffing budget for Marketing and Events to cover the recruitment of a full-time marketing person and/or a number of junior staff members with a marketing background, to support the profession and the development of the SBAs in particular.
- 45. It is recommended that TBOI develop a more detailed marketing plan, the purpose of which would be to promote, defend, and show the value of the profession to the legal sector. Implementation of such a marketing plan will need to be accompanied by the appropriate level of resources.

Recommendations for TBOI (6/6)

Opportunities for growth

46. TBOI should continue its financial and resource support for the Ireland for Law project that will support Irish barristers (and other legal services stakeholders) in developing new and targeted service offerings in respect of International/European legal activities, particularly those previously performed in the UK, and which have the potential to be completed in Ireland.
47. A suitable membership and service offering for the Bar alumni should be considered in light of changes in technology and habits that may include opportunities to use digital and social media platforms to engage the alumni. The resources to be dedicated to this matter should be commensurate with the level of appetite shown by alumni.
48. Member services should be monitored and reviewed on an annual basis to see if there are areas or provision where a 'per use' or 'user pays' basis can be identified, particularly as the profession evolves, and more specialised supports are likely to be required by a subset of members.
49. TBOI should, in conjunction with the SBAs, review on an annual basis the areas of the law where they believe there is significant scope for expansion. These areas should then be marketed to members to ensure there is a sufficient number of barristers available to service the additional demand.
50. TBOI should assess the provision of additional training and support to practitioners in the areas of Mediation and Arbitration services, to develop these practice areas.
51. Investment to safeguard the continued growth of the existing capability, supported by identification of new roles, will be required to deliver the strategic objectives of the organisation. Periodically TBOI should assess the skillset, work practices and complement of their staff to ensure they align with their strategic focus.

2

Introduction



2 Introduction

Purpose of the report

| | |
|------------------------------|--------------------------------|
| Dashboard | 6 External Consultation |
| 1 Executive Summary | 7 Analysis of internal and ... |
| 2 Introduction | 8 Pushing the boundaries |
| 3 Overview of the Legal ... | 9 Appendices |
| 4 Overview of The Bar of ... | |
| 5 International Benchmarking | |

Purpose of the review

Reflecting the disruption of COVID-19 and the challenges and potential opportunities for change, this report explores whether the business model and core offerings of The Bar of Ireland (TBOI) are adequately prepared for the likely future landscape for legal services provision in Ireland.

TBOI commissioned EY to undertake this independent review of the barrister profession in Ireland, to assist TBOI in evaluating:

- ▶ How can TBOI better meet the needs of its members?
- ▶ How can TBOI better meet the needs of the market for legal services in Ireland and internationally?
- ▶ What is the political, economic, social, technological, legal and environmental landscape in which TBOI operates?
- ▶ What is the regulatory and competitive situation in which TBOI exists? In this respect, what are the implications of the Legal Services Regulatory Authority (LSRA) for the future of the profession?
- ▶ What are the key strength, weaknesses, opportunities and threats that exist for TBOI and its members?
- ▶ What can TBOI learn from the experiences of other Bar Associations and comparable professional organisations internationally?
- ▶ Where should TBOI prioritise its efforts in order to maximise its resources in an efficient and effective manner, in turn futureproofing the profession?

As part of this assignment, a survey of Law Library (LL) members and a public omnibus survey were undertaken by EY, with the help of RED C Research & Marketing Ltd. (RED C), to inform EY's research. A survey of all staff members was also conducted by the senior management team of TBOI, the results of which have also been analysed by EY.

The member and staff survey was circulated amongst the 2,124 members of the LL and 75 staff members respectively in February 2021, while the survey of public attitudes to barristers was conducted using questions in RED C's public omnibus survey which took place from 19 – 24 February. Throughout February and March, EY held 16 consultations with key stakeholders of TBOI (of which 12 were external).

Contents of this report

Section 3: Outlines the external consultation process, and the key themes emanating from the discussions.

Section 4: Presents an overview of recent trends in Ireland's legal market, profiles the demand for professional legal services and outlines TBOI's position within the Irish legal ecosystem.

Section 5: Provides a review of TBOI and its key stakeholders, as well as salient observations regarding the unique aspects of TBOI identified in the analysis.

Section 6: Outlines a SWOT analysis of TBOI, which details the key strengths, weaknesses, opportunities and threats as informed by the outputs from the various external and internal consultations. This section also includes a PESTLE analysis of TBOI, which details the key political, economic, social, technological, legal and environmental factors affecting TBOI, as informed by the outputs from the various external and internal consultations.

Section 7: Summarises the international benchmarking exercise which identified best practice in comparative organisations in three Australian states, New Zealand and around the UK. It highlights areas of relative similarity and contrast and identifies areas to be explored further in respect of TBOI's structure, strategy and core service offering.

Section 8: Presents recommendations to guide the future of TBOI, based on the findings and conclusions described in this report.

3

Overview of the Legal Services Market

The Irish Legal Sector In Figures

Labour

2,852

Number of **barristers with the Barrister-at-Law degree** on the roll of practising barristers, held by the LSRA

166

Number of **judges** in Ireland

11,854

Number of **solicitors** who held a practising certificate with the Law Society of Ireland in 2020

COVID-19 Impact

3.7%

Decline in Revenue for legal activities in Ireland as a result of COVID

45%

Of Law Library members reported in December 2020 a **50% reduction in income** as a result of COVID-19

€27,000

Mean fees owed to Law Library members at the end of 2020

Legal Market

€1.65bn

Gross Value Added* generated by Irish legal activities in 2018

14,897

Persons employed* within the market for legal services in Ireland in 2018

€2.76bn

Generated in **turnover** by Irish legal activities in 2018

€707.3bn

Expected size of the legal services market globally by 2023

Courts Service

€140.9m

Courts service budget in Ireland in 2019

EU

20%

Of **EU legal services fee revenue** is currently paid to the UK

Legal Firms/Enterprises

4,934

Number of **active enterprises** in the Irish legal sector

Areas of Law

50+

Different **speciality areas of law**, from Sports Law to Technology Law

Sources: Association of Judges of Ireland, 'Our Members', June 2021

The Bar of Ireland, 'Member survey highlights ongoing issues', January 2021

CSO, ANA13 – Distribution and Services Enterprises, June 2021

IBISWorld, Legal Activities in Ireland – Market Research Report, October 2020

*The number of persons employed in, and GVA generated by, the legal services market includes ancillary staff directly supporting legal practitioners

Sources: Courts Service, Annual Report, 2019

LSRA, Roll of Practising Barristers, June 2021

Law Society Gazette, 'Matheson surges from third to top', Jan/Feb 2021

3 Overview of the Legal Services Market

Ireland's legal services market had a turnover of €2.8bn in 2018

Dashboard
1 Executive Summary
2 Introduction
3 Overview of the Legal ...
4 Overview of The Bar of ...
5 International Benchmarking

6 External Consultation
7 Analysis of internal and ...
8 Pushing the boundaries
9 Appendices

Although the legal services sector employs less than 1% of the Irish population (14,872 persons), its contribution to the economy is far greater, with a recorded turnover of €2.77bn in 2018.

With circa. 4,934 active enterprises in the Irish legal sector, work is spread across over 50+ different specialities of law, as well as general practice. These specialities vary from EU/Human Rights Law, to criminal prosecution, to FinTech law, to arbitration and mediation. As a neutral, common-law, English-speaking EU jurisdiction, Ireland has positioned itself as an attractive venue for the resolution of international disputes.

Unlike the barrister profession, in which 75% are members of the Law Library and hence are independent sole traders, only 44% of Irish solicitors operate as independent sole traders. In total, 25% of the nation's solicitors are employed by the top 20 law firms, reflecting the value placed by solicitors on collaborative work environments and beneficial economies of scale.

In general, the legal sector is recognised by its strong wage position. An analysis of 2019 salaries paid to legal sector workers indicates that the typical wage of a legal sector employee was twice the average wage for all sectors of the Irish economy. The typical yearly salary for barristers and solicitors was €82,489, compared with €40,283 when all sectors of the economy are accounted for.

The Irish legal market has been significantly impacted by the COVID-19 pandemic. In a December 2020 survey, 45% of Law Library members reported a 50% decline in income for 2020. This compares with the projected decline in revenue for all Irish legal activities of 3.7%, according to IBIS World.

Sources: IBISWorld, *Legal Activities in Ireland – Market Research Report*, October 2020

Promoting Ireland as a leading centre globally for international legal services

CSO, *Distribution and Services Enterprises*, 2018

Law Society of Ireland, *The Solicitors' Profession - Contribution to the Irish Economy Report*, November, 2014

The Law Society of Ireland, *Annual Report*, 2019

Law Society Gazette, 'Matheson surges from third to top', Jan/Feb 2021

IrishJobs.ie, *2020 Salaries for Legal Professionals*, December 2019

CSO, *Earnings and Labour Costs Annual 2019*, June 2020

The Bar of Ireland, *Members Survey*, 2021

Solicitors

25%

Irish Solicitors

The proportion of Irish solicitors employed within the top 20 law firms in Ireland.

Legal Professional

€82,489

Average annual salary

The average annual salary for barristers and solicitors in 2019.

Solicitors

44%

Irish Solicitors

The proportion of Irish solicitors who operate as independent sole traders.

Barristers

75%

Irish Barristers

The proportion of Irish barristers who operate as independent sole traders and are members of the Law Library.

3 Overview of the Legal Services Market

Despite the pandemic, revenues in the global legal services market are expected to total over \$700bn by 2023

| | |
|------------------------------------|--------------------------------|
| Dashboard | 6 External Consultation |
| 1 Executive Summary | 7 Analysis of internal and ... |
| 2 Introduction | 8 Pushing the boundaries |
| 3 Overview of the Legal ... | 9 Appendices |
| 4 Overview of The Bar of ... | |
| 5 International Benchmarking | |

The global market for legal services represents a significant portion of economic activity. Despite the effects of the pandemic, the global market is expected to generate total revenue of €707bn by 2023.

According to Mordor Intelligence, legal services account for 40% of the overall professional services market globally. By geography, North America represents the largest share of this market, while South East Asia is reporting the fastest growth in legal activity.

Given its prodigious size and economic sensitivity, it is unsurprising that the legal services sector has been adversely affected by the impact of COVID-19. The Mordor Intelligence forecast predicts a decline of €4.6 billion in global sector revenues as a result of the pandemic, primarily due to the generalised economic slowdown associated with measures to reduce the spread of COVID-19.

Professional legal firms across the globe have taken dramatic actions to shield themselves, where possible, from the negative effects of the pandemic on revenues. The Thomson Reuters Law Firm Business Leader Survey completed in October 2020 showed that firms acted decisively in response to the pandemic:

- ▶ 40% of firms reduced fee earner salaries
- ▶ 34% of firms furloughed support staff
- ▶ 32% of firms reduced support staff salaries
- ▶ 36% of firms discharged support staff
- ▶ 11% of firms discharged fee earners

The pandemic has also affected how legal work is conducted and managed, as some of these changes to work patterns are likely to persist post-pandemic;

- ▶ The option to work remotely, at least partially, is an important factor for employees. Acritas reports that the proportion of U.S. lawyers who now want to work remotely at least one day a week has doubled from the pre-pandemic period.
- ▶ Legal firms have made significant technological investments in response to the changing market conditions. 84% of legal service workers expect their firms to increase investments in technology going forward.

Sources: Acritas Sharplegal

Statista, *Size of the legal services market worldwide from 2015 to 2023*

ResearchAndMarkets.com, *Legal Services Market Assessment: COVID-19 Impact and Recovery (2020-2030)*

Mordor Intelligence, *Legal Services Market – Growth, Trends, COVID-19 Impact, and Forecasts (2021-2026)*

Thomson Reuters, *2021 Report on the State of the Legal Market*, February 2021

The Global Legal Sector In Figures

€707 billion

Expected size of the legal services market globally by 2023

40%

Market share of legal services in the global services market

€4.6 billion

Decline in the legal services market attributed to COVID-19

“

The intriguing question, however, is whether the industry that bounces back will be the same industry that entered the pandemic this past March.

Mordor Intelligence

3 Overview of the Legal Services Market

The Irish domestic economy was negatively affected by pandemic measures, but FDI exports cushioned the blow

| | |
|------------------------------------|--------------------------------|
| Dashboard | 6 External Consultation |
| 1 Executive Summary | 7 Analysis of internal and ... |
| 2 Introduction | 8 Pushing the boundaries |
| 3 Overview of the Legal ... | 9 Appendices |
| 4 Overview of The Bar of ... | |
| 5 International Benchmarking | |

The European Commission reports that Ireland's domestic economy was hit severely by pandemic control measures in the first half of 2020, but strong exports by multinationals helped cushion the overall decline in economic activity. Generalised employment was shielded by State income support schemes, but the economic contraction and fiscal stimuli measure deployed to mitigate the financial impact of the crisis significantly widened the country's budget deficit.

While public finances in Ireland were strong prior to COVID, the contraction in Modified Domestic Demand (MDD) of 5.4% and the fiscal package of supports provided to Irish businesses and citizens during the year, had a negative impact on the government balance sheet. The government spending deficit for 2020 reached €18.4bn. However, the risk of Ireland being unable to service the incremental debt burden remains low given the current interest rates and their outlook.

The pandemic and, to a lesser extent, Brexit have presented the all-island economy with several distinct challenges: rising debt levels, increasing social inequality, economic and social scarring effects and the potential for an inflationary spike. Inflation levels have been remarkably muted, with prices rising at 0.4% per year on average from 2016-2020 despite strong growth. However, there is a strong case for increasing inflationary pressures as consumer demand recovers, with globally curtailed production and logistics capacity as well as increased costs relating to pandemic measures, social distancing, and Brexit. In addition, companies are likely to seek to repair their balance sheets where possible.

On a global level, the February 2021 update to the EY Future Consumer Index indicated that while there is still fear among consumers, high vaccine uptake is a cause for optimism. Less than one in ten surveyed said they won't be taking the COVID-19 vaccine when available.

Every period of disruption presents some new opportunities. With 20% of EU legal services fee revenue currently being earned in the UK, Brexit provides a significant opportunity for Irish legal service firms to expand their activities in this field as an alternative English-speaking, common-law jurisdiction.

UK studies show that a £1 increase in spend on legal services in the economy adds £1.39 to the whole economy. Furthermore, every 100 direct jobs in legal services support a further 67 jobs in the wider economy. If Ireland can successfully capture even a portion of the legal services revenues lost by the UK, the wider impact could be very positive for the nation. A united and proactive approach from the Irish legal services sector, such as through the Ireland for Law initiative, combining support from TBOI, the Law Society of Ireland, and the Irish Government, will be required to fully market the potential of Ireland as a location for international legal services.

*Modified domestic demand removes the impacts of IP relocation and aircraft leasing, giving a more accurate picture of the domestic economy

Sources: The European Commission, *Autumn 2020 Economic Forecast*, November 2020

The Law Society of England and Wales, *Economic Value of The Legal Services Sector*, March 2016

EY, *Economic Eye – Spring 2021 Forecast: 'Recovery – but at what price?'*, April 2021

Key figures for today's economy

€18.4 billion

Irish government deficit in 2020

-5.4%

2020 decline in Irish Modified Domestic Demand

20%

Proportion of EU legal services fee revenue earned in the UK. This could be an opportunity for Ireland post-Brexit.

“

ROI's macro outlook is remarkable and reflects its truly unique situation, but the damage to the domestic economy should not be underplayed. Thankfully strong headline growth is helpful in generating resources to repair the damage and facilitate the high levels of borrowing required.

Neil Gibson, EY Chief Economist

Overview of The Bar of Ireland

Law Library Demographics In Figures

Number

2,124

Total members of the Law Library

75

Total staff employed by the Law Library

45

Barristers in Ireland per 100,000 of the population

Bar Council

25

The number of Bar Council seats, including that of the Attorney General

8

Permanent committees supporting the Bar Council

6

Non-permanent committees supporting the Bar Council

Diversity

17%

Proportion of Law Library members who are Senior Counsel

46 years old

Average age of Law Library membership

37%

Proportion of Law Library members who are female

18%

Proportion of Senior Counsel who are female

SBAs

34%

Proportion of Law Library members who are part of at least one of the twelve Specialist Bar Associations

CPD

20 hours

Minimum annual CPD requirement

Entrance Pathway

167

The number admitted to the Barrister-at-Law degree in King's Inns in 2020

169

The number of masters who are willing to take on devils

Geography

83%

Proportion of Law Library members who are based in Dublin

6%

Proportion of Law Library members who are based in Cork

Sources: The Bar of Ireland, *Members Survey*, 2021

The Bar of Ireland, *Bar Council Membership 2021/21*

The Bar of Ireland, *Trailblazers: 100 Years of Women at the Bar Campaign*, 2021

The Bar of Ireland Senior Management Team

4 Overview of The Bar of Ireland

The Bar of Ireland has evolved alongside the Irish legal system and the society it serves

Dashboard

1 Executive Summary

2 Introduction

3 Overview of the Legal ...

4 Overview of The Bar of ...

5 International Benchmarking

6 External Consultation

7 Analysis of internal and ...

8 Pushing the boundaries

9 Appendices

Barristers have practised in Ireland for over 450 years and TBOI has evolved to keep pace with the changing legal landscape during that period. Nevertheless, it has always maintained its commitment to representing its membership and espousing independence and integrity while serving the cause of justice.

One of the largest changes has been the growth in the number of practicing barristers in the State, particularly in the past number of decades, with a three-fold increase in Law Library membership to 2,124 barristers in 2021. There are also a number of qualified barristers who have chosen to pursue their career elsewhere, with many former TBOI members now working in the public sector or employed as in-house counsel.

The increase in membership of TBOI has led to higher competition between barristers to secure adequate volumes of work to sustain a practice, particularly for younger members. The challenges of ensuring equitable access to legal representation at the Bar, while enabling new entrants to be confident of a reasonable income was discussed in detail in the 1990 Federal Trade Commission (FTC) Report. In summary, the FTC report recommended that the profession itself should not be entitled to determine the appropriate numbers to enter the profession, fearing a 'quota' system might not be in the public interest.

The primary access route to the Law Library is through qualifying as a Barrister-at-Law from the Honorable Society of King's Inns. Previously, a limit of 100 course spaces in King's Inns effectively placed a ceiling on the number of barristers entering the profession in any one year. However, since 2002 admission to King's Inns is determined by means of an entrance examination, and the number admitted has increased. 167 successful applicants began their training at King's Inns in 2020, and approximately 80 Devils entered membership of the Law Library in October 2020.

While the current male:female ratio of membership of the Law Library is 63%:37%, women have accounted for more than 50% of entrants in the past five years, signalling considerable progress.

In the past, TBOI was self-regulating within the profession. The enactment of the Legal Services Regulation Act in 2015, significantly altered TBOI's regulatory role. Since 7 October 2019, the LSRA has dealt with complaints made in respect of solicitors and barristers.

One aspect of practicing barristers that has remained central to the skillset is the oratory skillset of Law Library members. The skills developed serving at TBOI and in court have stood to many prominent state figures, with six of the nation's fifteen Taoisigh and three of nine Irish Presidents qualifying as barristers in their earlier careers.

Strategic Pillars of the Council of The Bar of Ireland

Reputation

Provide leadership and representation on behalf of members of the Independent Referral Bar of Ireland

Knowledge

Enable access to information, expertise and advice and uphold the highest standards of ethical and professional practice

Member Services

Deliver valued and quality services for members in support of their practice

Sources: The Bar of Ireland, *Members Survey*, 2021

The Bar of Ireland, *TRAILBLAZERS: 100 YEARS OF WOMEN AT THE BAR*, 2021

Byrne and McCutcheon, *The Irish Legal System – Seventh Edition*, November 2020

4 Overview of The Bar of Ireland

The Bar Council is the representative body for the membership of the Law Library

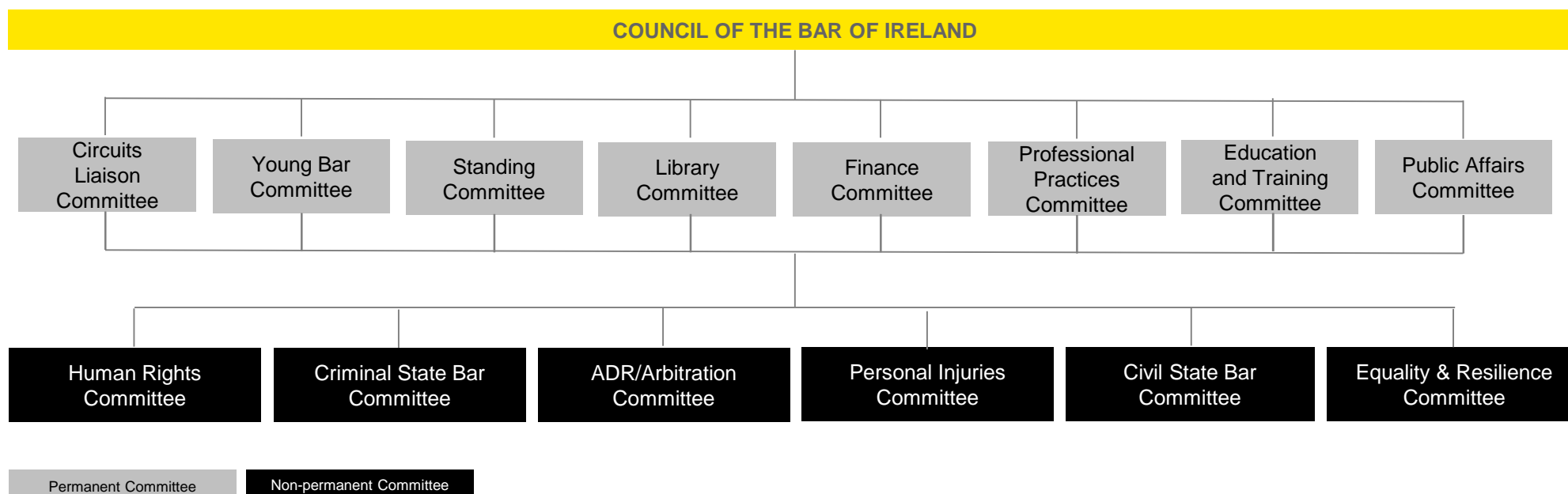
Dashboard
1 Executive Summary
2 Introduction
3 Overview of the Legal ...
4 Overview of The Bar of ...
5 International Benchmarking

6 External Consultation
7 Analysis of internal and ...
8 Pushing the boundaries
9 Appendices

The Bar Council is composed of 20 elected members (of which 50% are Junior Counsel and 50% are Senior Counsel), as well as four co-opted members and the appointed Attorney General. Each year, 10 members are elected to the Council for a two-year term. Similarly, the Council is led by a Chairperson elected for a one-year term and may be elected for a further one-year term thereafter. The role of the Council is set out in paragraph 1 of the Constitution of the General Council of The Bar of Ireland. Its role is to:

- ▶ Consider, report upon and make representations as it considers necessary in all matters affecting the profession;
- ▶ Play a key role in the conduct and arrangement of the business of the profession professional practice, relations within the Bar, relations between the Bar and the Bench, right of audience, the claims of the Bar in relation to the maintenance and disposal of offices, legislation, or alterations in the system of administration and all the matters in which the Bar is professionally concerned;
- ▶ Control and regulate the professional conduct of the members of the Law Library; and
- ▶ Secure and protect the interests of the profession in relation to any of the foregoing.

The Council of The Bar of Ireland has 14 sub-committees, each of which have their own specific functions and responsibilities, as well as performing their core function of contributing to the work of the Council. There are approximately 137 members of the Law Library assisting the Council at present, through the permanent (grey) and non-permanent (black) committee structure, reflected below.



4 Overview of The Bar of Ireland

The 75 staff cover a diverse range of functions, skillsets and services

| | |
|-------------------------------------|--------------------------------|
| Dashboard | 6 External Consultation |
| 1 Executive Summary | 7 Analysis of internal and ... |
| 2 Introduction | 8 Pushing the boundaries |
| 3 Overview of the Legal ... | 9 Appendices |
| 4 Overview of The Bar of ... | |
| 5 International Benchmarking | |

As at June 2021, The Bar of Ireland employs 75 staff members in total (a full-time equivalent (FTE) of 68), including a senior management team led by the Chief Executive to oversee the delivery of member services and benefits to members.

At present, there are six directorates within the professional executive:

- ▶ Communication, Members Services & Education
- ▶ Library & Information Services
- ▶ Finance & Operations
- ▶ ICT
- ▶ Human Resource
- ▶ Regulation

In 2020/21, the Total Approved Staff Budget for TBOI and Subsidiary Entities is:

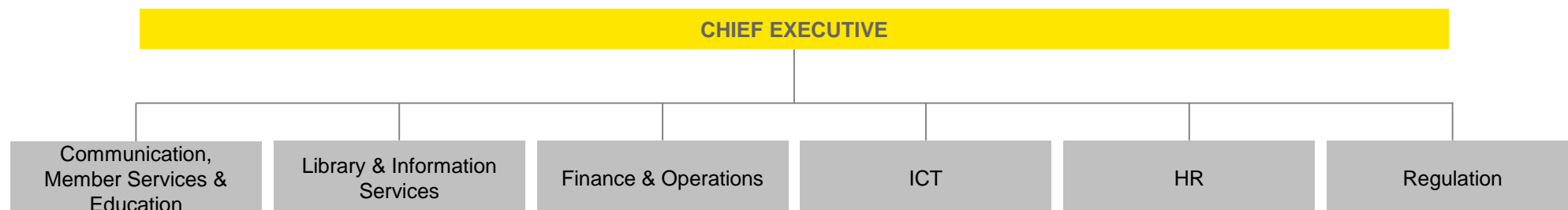
| | | €000 |
|----------------|---|-------|
| TBOI | — | 3,788 |
| Other Entities | — | 884 |
| Total | — | 4,672 |

Staffing Resources

% FTE Staff Allocation

| | |
|----------------------------------|-----|
| Chief Executive | 1% |
| Communications & Member Services | 15% |
| Library & Information Services | 40% |
| Finance & Operations | 26% |
| ICT | 8% |
| HR | 1% |
| Regulation | 3% |
| Dublin Dispute Resolution Centre | 3% |
| Shed's Club | 3% |

Directorates of The Bar of Ireland



Sources: The Bar of Ireland, *Overview of Staff Resources*

The Bar of Ireland, *Staff Directory*, July 2020

The Bar of Ireland, *Budget 20/21*, Approved by Finance Committee 4th June 2020

4 Overview of The Bar of Ireland

Demography of the Law Library and its membership

| | |
|-------------------------------------|--------------------------------|
| Dashboard | 6 External Consultation |
| 1 Executive Summary | 7 Analysis of internal and ... |
| 2 Introduction | 8 Pushing the boundaries |
| 3 Overview of the Legal ... | 9 Appendices |
| 4 Overview of The Bar of ... | |
| 5 International Benchmarking | |

Membership of the Law Library is still male-dominated, unlike the solicitor's profession where females outnumber males, comprising 52% of all solicitors in Ireland. As of September 2020, circa. 63% of all Law Library members were male. Looking at the upper levels of the membership, the reduced progression levels of females within the profession is clear, with males accounting for 82% of Senior Counsel.

The balance between Senior Counsel and Junior Counsel members has not changed significantly in the last decade. In 2010/11, Senior Counsel made up 13% of the membership. Today, Senior Counsel account for 17% of Law Library memberships.

Consistent with the location of the higher courts, the majority of the Irish barristers practice in Dublin. In September 2020, 83% of Law Library members were based in Dublin, with a further 6% based in Cork and the remainder spread elsewhere across the country. Despite a number of core services provided by TBOI now being accessible online and remote hearings being utilised in some parts of the litigation process (e.g., motion hearings) and in limited areas of practice, it is unlikely that the preference for a Dublin location will change significantly. The presence of the higher courts, the major solicitor firms and key corporate clients means the capital will continue to be the primary location for legal activities in the state.

Despite membership falling in the last seven years by 1.1% on average each year, membership of the Law Library has increased considerably since the late '90s. Anecdotally, a significant portion of new entrants to the Law Library are individuals seeking a second career, who have been called to the Bar after working in other sectors. Given the financial barriers to entry identified and an elevated attrition rate of junior members, who leave the Bar after only a few years in practice, it is no surprise that there is a relatively low proportion of members under 30 (9%).

Overall, Law Library membership had an average age of 46 years old in 2020, which was not dissimilar to its Law Society of Ireland counterpart (45 years old). However, with 5% of the Law Library membership aged over 70, compared with only 2.4% of solicitors, it is clear that senior members of TBOI are choosing to stay in practice for longer, as they enjoy the work and are not obliged to retire. This has implications for the availability and provision of barristers in Ireland in the longer term.

Sources: The Bar of Ireland, *Membership Stats*, September 2020
Kings Inn, *No. Admitted Degree of Barrister-at-Law, Admitted to Practice, and Law Library Membership 1990-2019*
The Law Society of Ireland, *Annual Report*, 2019

Law Library Demography as of September 2020



Proportion of male/female barristers within the Law Library



Proportion of Junior/Senior Counsel barristers within the Law Library



Proportion of Dublin/non-Dublin based barristers within the Law Library



Proportion of barristers under 50/over 50 years of age within the Law Library



Relative increase in Law Library membership between 1990 and 2021

TBOI's Operational and Financial Performance In Figures

Portfolio

6

Properties in
TBOI Estate
Portfolio

334

Offices in TBOI
Estate Portfolio

14

Meeting room
facilities in TBOI
Estate Portfolio

2023

The year that all
office leases are due
for renewal

217

Parking spaces in TBOI Estate
Portfolio, located at Church
St., Distillery Building, CCJ &
Four Courts

2,178

Member lockers provided by TBOI

28,067m²

of property under TBOI
management

Financials

€53.5m

Value of Property
owned by TBOI, as of
September 2019

€2.8m

Annual
Overhead costs
of TBOI
Property

c. €20m

Value of Property
Loans of TBOI

5

Commercial
operators who are
tenants of TBOI

€7.5m

TBOI *Group Cash
Reserve in Sept 2020

Seats

1,129

Seats (of which 963 are
assigned)

405

The projected future seat
requirement for Dublin
members

€400

The cost of a seat at
TBOI, which is well below
the market rate

Facilities

4

Staff members employed to manage the
estate/facilities

Source: The Bar of Ireland, *Future Property Strategy Discussion Document*, February 2020

*TBOI Group cash balance, not including prepayments etc.

The Bar of Ireland, *Trailblazers: 100 Years of Women at the Bar Campaign*, 2021

The Bar of Ireland Senior Management Team

4 Overview of The Bar of Ireland

The Bar of Ireland operates through a number of fully owned subsidiary companies

| | |
|-------------------------------------|--------------------------------|
| Dashboard | 6 External Consultation |
| 1 Executive Summary | 7 Analysis of internal and ... |
| 2 Introduction | 8 Pushing the boundaries |
| 3 Overview of the Legal ... | 9 Appendices |
| 4 Overview of The Bar of ... | |
| 5 International Benchmarking | |

The Bar of Ireland is an unincorporated body. Over the years, the range of member services has increased, and subsidiary entities have been established to deliver services in a financially independent and tax efficient manner – see chart (right).

Law Library Properties Ltd. was formed to own and manage the Bar's expanding property estate. This entity consolidates the operations of Law Library Services Ltd., which provides member services related to the property assets; Law Library Finance Ltd., which supports members with access to financial services and the Dublin Dispute Resolution Centre (DDRC Ltd.); a former joint-venture which was taken into the full ownership of the Bar in 2015 and the Church Street Club, which operates the social club and venue at the Law Library.

The financial performance of the consolidated group prior to COVID-19 was strong, driven by membership fee income and full occupancy of the property portfolio. Net surpluses of €1.8m and €1.4m were delivered in FY18 and FY19, respectively.

| | Sep-17 | Sep-18 | Sep-19 | Sep-20 |
|------------------------|-----------------|-----------------|-----------------|-----------------|
| Member Fees | 8,708 | 9,546 | 9,937 | 7,606 |
| Property Income | 4,689 | 4,690 | 4,647 | 3,873 |
| Services etc | 1,408 | 1,150 | 1,235 | 1,073 |
| Total Revenue | 14,805 | 15,386 | 15,819 | 12,552 |
| Expenditures | 13,948 | 13,558 | 14,394 | 11,926 |
| Net Surplus | 857 | 1,828 | 1,425 | 626 |
| Cash | 6,918 | 7,267 | 6,647 | 7,472 |
| Debt | 23,180 | 22,030 | 21,132 | 20,569 |
| Net Cash/(Debt) | (16,262) | (14,763) | (14,485) | (13,097) |

The Bar of Ireland – Group Structure



In FY20, the effects of the pandemic on both the operations of The Bar of Ireland and the use of the property portfolio was profound. Management responded by cutting costs where possible, making use of temporary government supports, moving services on-line, and facilitating changes in member work practices where necessary. These proactive measures delivered a surplus of €0.6m for the year; a creditable result under extreme circumstances.

During FY20 income from Law Library Properties Ltd. and accrued reserves was used to support the membership with measures including; reduced service charges, rent suspensions, membership fee credits and the absorption of the LSRA levy. These temporary measures are not expected to continue.

The Bar used the period of strong trading from 2017 to 2019 to pay down the property related debt by c.€1.5m per annum. The current debt balance is approximately €20m versus a property portfolio valued at €53.5m prior to the pandemic. The existing seven year loan facility from AIB is required to be refinanced in 2023, which, depending on the prevailing market environment, may provide some additional opportunities to TBOI.

The Bar of Ireland benefits from a robust balance sheet, with relatively stable member reserves of c.€40m despite the difficulties of the most recent trading period. The cash on hand balance stands at over €7m, most recently benefiting from a COVID-19 loan payments moratorium, a reduction in capital spending and the maturation of some investment products in 2020.

4 Overview of The Bar of Ireland

The Bar of Ireland operates through a number of fully owned subsidiary companies

| | |
|-------------------------------------|--------------------------------|
| Dashboard | 6 External Consultation |
| 1 Executive Summary | 7 Analysis of internal and ... |
| 2 Introduction | 8 Pushing the boundaries |
| 3 Overview of the Legal ... | 9 Appendices |
| 4 Overview of The Bar of ... | |
| 5 International Benchmarking | |

Income

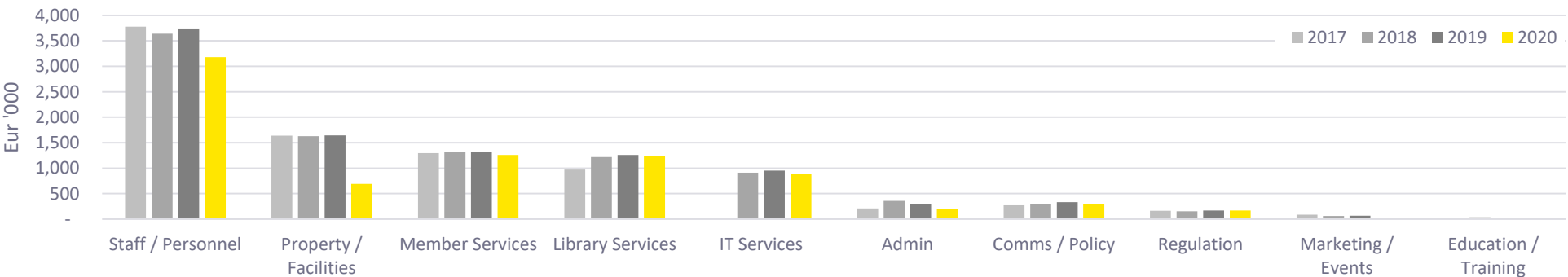
The primary source of income for The Bar of Ireland is membership fees, which are paid by members on the basis of their respective years in practice or status as Senior Counsel. This income stream has been boosted by the growth in overall membership as well as an increase in the average tenure of practicing barristers and reached close to €10m in FY19.

EY analysis suggests that if current trends persist then fee income is likely to plateau close to current levels before declining. This is caused by the decline in new entrants to the profession and the high levels of attrition noted in years 3 to 7 of practice, offset by some members re-joining each year. In addition, some barristers choose to leave the Bar each year for various reasons including natural retirement.

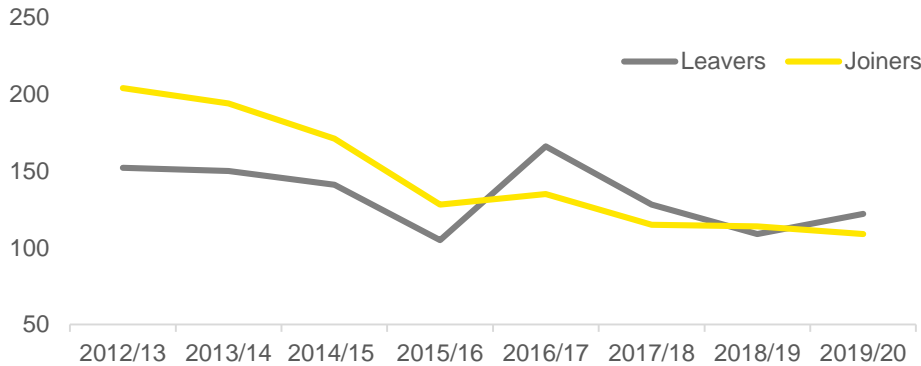
Income from office/seat rental has already plateaued as the estate effectively operates at full capacity (prior to COVID). The property portfolio is discussed separately below.

Some member services are billed on a per-use basis, particularly those services not applicable or accessible to all members, e.g., seating, printing, copying, telephone, room hire, laundry service. As new member services are added, e.g. increased online library resources, EY would expect some existing services to be reduced (e.g. decrease in physical library requests) or be made available on a per-use basis to the subset of members willing to support their retention.

TBOI Annual Expenditure Trends



Law Library Membership Trends (including re-entries)



Expenditure

The largest components of TBOI expenditure are staff and property-related costs, which have remained broadly stable even though member services have increased over the last 5 years in the areas of communications, policy, events and marketing, CPD, IT, Practice Support & Fee Recovery, support for Specialist Bar Associations, etc. The allocation to Library and IT Services has increased as TBOI recognised the need to advance their digital agenda and member expectations shifted towards online services. The significant investment made in these areas was vindicated in 2020, as members adapted quickly to remote working and relied heavily on the installed technology platform to sustain their practices.

4 Overview of The Bar of Ireland

The payment culture in the legal sector has resulted in a significant backlog of outstanding payments on active cases for members of the Law Library

| | |
|-------------------------------------|--------------------------------|
| Dashboard | 6 External Consultation |
| 1 Executive Summary | 7 Analysis of internal and ... |
| 2 Introduction | 8 Pushing the boundaries |
| 3 Overview of the Legal ... | 9 Appendices |
| 4 Overview of The Bar of ... | |
| 5 International Benchmarking | |

Collection of fees is a long standing issue for barristers. At the core of the problem is that barristers cannot sue solicitors for fees owed, which is a significant obstacle in getting paid. Results to the members' survey indicate this, with the mean fees outstanding to respondents for 2018 and 2019 equaling €20,000 each year. Similarly, in 2020 the mean fee owed was €27,000.

TBOI has trialed a number of solutions for fee recovery in the past, such as LawServ, a company who were contracted in 2014 to provide a fee recovery service on outstanding fees above a certain level, or where there were issues with recovery, and a Billing and Accounts Receivable Service. LawServ charged a 6% fee to members for fee collection, but with only a 28% recovery rate in four years, representing a total of €1.1m out of a total of €4m in fees, they struggled to make the scheme financially viable.

TBOI subsequently brought the service in-house and established a Practice Support & Fee Recovery service, a direct member service and benefit, with Finance Committee oversight. It appointed a member of staff in June 2020 to provide general administration and practice support to members, notably in the area of income collection.

Despite bringing the service in-house, TBOI has contracted in the day-to-day collection services from a staff resource employed by LawServ in addition to the employment of the Practice Support & Fee Recovery Manager. LawServ also provide the Fee Recovery Software to TBOI. On behalf of each barrister, this unit is expected to chase a maximum of three fee notes outstanding more than six months. This maximum of three fee notes has not been implemented to date, however. The staff member has now been made permanent and TBOI has allocated €173,000 for the service in its 20/21 Budget. At present, there is no cost to individuals who utilise the service as it is currently funded using membership subscriptions. By removing any financial barriers to usage, TBOI is encouraging members to avail of the service.

The service is relatively new and thus it is difficult to ascertain its success. Data obtained from TBOI shows that it has successfully secured payment for 77 cases to date with a total value of €278,000. However, there are currently 182 active cases outstanding with the service, representing a total of €1.3m. The top two reasons for outstanding cases not being settled to date were:

- Solicitors not responding (35%)
- Fee disputes (22%)

A total of 122 members (6% of membership) currently use the service, 22% of whom are Senior Counsel.

TBOI Budget

€173,000

Allocation for TBOI Practice Support and Fee Recovery Service for 2020/21

Outstanding fees

€1.3m

Representing 182 active cases; €278,000 secured on 77 cases

4 Overview of The Bar of Ireland

The Bar of Ireland's property portfolio has expanded to provide for the needs of its growing membership

| | |
|-------------------------------------|--------------------------------|
| Dashboard | 6 External Consultation |
| 1 Executive Summary | 7 Analysis of internal and ... |
| 2 Introduction | 8 Pushing the boundaries |
| 3 Overview of the Legal ... | 9 Appendices |
| 4 Overview of The Bar of ... | |
| 5 International Benchmarking | |

The Bar of Ireland – Property holdings

The property portfolio of The Bar of Ireland has expanded over the past three decades to provide for the needs of its growing membership. Law Library Properties Ltd. was established in 1992 as a fully owned subsidiary of The Bar of Ireland, to hold and manage the owned portfolio alongside the leased properties, and service the related debt.

Over the period, buildings have been acquired, leased, expanded and developed to create additional office spaces, library space and seating and to provide better facilities to the membership. In addition, some suitable units are leased to commercial tenants on market terms.

The estate currently extends to over 28,000m² of managed space across six separate properties (including the Bar Library in Cork), with a dedicated property team of four overseeing operations since 2017. A recent property strategy report produced for the Bar Council estimated that one-third of overall group expenditure was related to estate management, including operational and maintenance costs, related staffing, and debt service costs.

Over the past five years, the property portfolio has become a valuable asset to the group. Dedicated management has improved financial performance, and debt has been reduced year-on-year while property values have risen (LTV is now estimated to be below 40%), occupancy rates have risen to 100%, while overheads and maintenance costs have been strictly controlled. With a current waiting list of 46 Law Library members, demand is projected to remain consistent post-COVID.

This solid performance meant that AIB removed the cash sweep requirement in 2018, allowing some flexibility in the use of the property portfolio and its income stream to directly benefit members; for instance, by foregoing rent on the shared spaces provided in the Distillery building and directly supporting the cost of membership fee reductions during COVID-19.

Workspace

The largest proportion of the Bar estate is allocated to workspaces for the use of members. Private offices and assigned workstations (“seats”) are available to rent on attractive terms and well-located workspaces are highly sought after. Currently, there are a total of 1,129 seats and 334 offices for the use of members.

We note that a high proportion of those on the current waiting lists are existing holders looking to be re-assigned spaces in more preferable locations.

When available, these spaces are offered to the membership on the basis of seniority, with many more Senior Counsel retaining both a personal office space and an assigned seat.

Conversely, currently new Junior Counsel have little prospect of attaining a seat and make best use of the unallocated seating in certain areas of the complex or use a seat/office on a temporary and loaned basis.

Similar workspaces are available to lease commercially in buildings close to Church Street, on reasonably flexible terms but, reflecting the perceived value of being close to colleagues, few barristers have historically chosen to take offices elsewhere.

| | Ownership | Space | Facilities |
|---------------------------|-------------------------|----------------------|-----------------------------------|
| Law Library - Four Courts | Lease / Licence | 2,518m ² | Library + 557 Seats |
| Law Library - CCJ | 25 yr License (to 2035) | 1,884m ² | Library + 163 Seats |
| Cork Bar Library | 20 yr Lease (to 2027) | 165m ² | Library + 24 Seats |
| Church Street Building | Owned by LLP | 5,304m ² | 97 Offices + 47 Seats |
| Distillery Building | Owned by LLP | 17,127m ² | Library + 237 Offices + 338 Seats |
| Jameson Building | Owned by LLP | 1,069m ² | 1 yr License (to 2022) |

5

International Benchmarking

5 International Benchmarking

We have reviewed comparable jurisdictions to identify points of commonality and difference

Dashboard

1 Executive Summary

2 Introduction

3 Overview of the Legal ...

4 Overview of The Bar of ...

5 International Benchmarking

6 External Consultation

7 Analysis of internal and ...

8 Pushing the boundaries

9 Appendices

In order to add context to the recommendations contained in this strategic review, an examination of the barrister profession and the role and functions of Bar Associations in a number of other common law jurisdictions where a split profession exists was undertaken. This chapter does not present all features of the profession in each jurisdiction, and nor does it list all the functions of the bar associations; rather, it summarises and highlights key features of the structure, organisation and nature of professional barrister practice.

The jurisdictions selected for examination were:

Northern Ireland
(NI)

Scotland

England and
Wales (E&W)

New Zealand
(NZ)

New South
Wales, Australia
(NSW)

Queensland,
Australia

These jurisdictions were selected for examination on the following criteria:

- ▶ The common law legal system, with a split legal profession, is comparable with the practice environment of barristers in Ireland

01

- ▶ The educational and training pathways to practice at the Bar are similar to those undertaken by members of The Bar of Ireland

02

- ▶ Barristers practicing in these jurisdictions are sole traders, responsible for their own practice management and administration, whether working alone or collectively in a 'meitheal'

03

- ▶ The role and function of the bar association, and the range of services provided to subscribers, is broadly similar to those of The Bar of Ireland

04

5 International Benchmarking

Matrix of International Legal Ecosystems

| | |
|-------------------------------------|--------------------------------|
| Dashboard | 6 External Consultation |
| 1 Executive Summary | 7 Analysis of internal and ... |
| 2 Introduction | 8 Pushing the boundaries |
| 3 Overview of the Legal ... | 9 Appendices |
| 4 Overview of The Bar of ... | |
| 5 International Benchmarking | |

| | Ireland | Northern Ireland | Scotland | England and Wales | New Zealand | New South Wales | Queensland |
|--|---|--|---|---|--|--|--|
| Bar Association | Bar of Ireland | Bar of Northern Ireland | Faculty of Advocates | Bar Council of England and Wales | New Zealand Bar Association | New South Wales Bar Association | Bar Association of Queensland |
| Barristers per 100,000 of population | 45 | 34 | 8 | 28 | 23 | 30 | 20 |
| Male/Female | 63/37 | 62/38 | 73/27 | 62/38 | 60/40 | 76/24 | 75/25 |
| Junior Counsel/Senior (Queen's) Counsel | 83/17 | 80/20 | 69/31 | 90/10 | 92/8 | 81/19 | 87/13 |
| Split legal profession | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Self-employed independent referral bar | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Partnership between barristers permitted? | ✓ (Imminent) | X | X | X | X | X | X |
| Barristers may share profits? | X | X | X | X | X | X | X |
| Barristers may form chambers | X | X | Grouped into 9 Stables (40 to 60 members) | ✓ | ✓ | ✓ | ✓ |
| Compulsory apprenticeship | Min. 1 year unpaid devilling* | 9 months unpaid devilling | 9 months unpaid devilling | One year paid pupillage in Chambers. Pay set by Bar Council | Compulsory "stepping up" course (incl. practice management) | 12 month unpaid readership | 12 month unpaid readership |
| Direct Professional Access | Organisations must be approved. Non-contentious issues only | Organisations must be approved. Non-contentious issues only | Organisations must be approved. Non-contentious issues only | Organisations must be approved. Barristers must undergo training | Organisations must be approved. Contentious issues in superior courts excluded. Barristers must undergo training | Rule set out in legislation | Rule set out in legislation |
| Structure of fees to Bar Association | Determined by year of practice, accommodation | Determined by year of practice (2x BL rates and 1 rate for QC) | 4.5% of annual income | Determined by income | Determined by year of practice | Flat fee for BL and higher rate for QC | Flat fee for BL and higher rate for QC |
| Fee recovery service | Yes | Yes | Stables are supported by Faculty Services Ltd. | Managed by chambers | Managed by chambers | Managed by chambers | Managed by chambers |
| Regulated | Legal Services Regulatory Authority | Self-regulated. External regulation anticipated | Faculty of Advocates, under legislation | Bar Standards Board, independent of Bar Council. Regulated by legislation | Law Society (also regulates solicitors) | Office of Legal Services Commissioner | Legal Services Commissioner |

*From October 2021, the Master must pay their devil's membership subscriptions and professional indemnity insurance

5 International Benchmarking

Direct access is a feature of all the jurisdictions examined

Dashboard

1 Executive Summary

2 Introduction

3 Overview of the Legal ...

4 Overview of The Bar of ...

5 International Benchmarking

6 External Consultation

7 Analysis of internal and ...

8 Pushing the boundaries

9 Appendices

In all countries with a split legal profession, it is the function of a barrister to represent clients in court, undertake preparation for litigation and provide legal advice and opinion through an instructing solicitor. In all jurisdictions examined here, solicitors enjoy rights of audience in lower courts, and in most countries, depending on the nature of the case, solicitors are permitted to appear in superior courts without counsel. Nonetheless, as barristers (and advocates in the case of Scotland) undergo specialist training and education, a clear functional division in the legal profession remains.

Since 2004, barristers in E&W have been permitted to represent clients without an instructing solicitor. So called “public access” barristers are required to undergo a specialist two-day training course, regulated by the Bar Standards Board (BSB) and thereafter complete periodic refresher courses to be permitted to maintain public access status. Only certain organisations, which themselves are registered by the Bar Standards Board (BSB), may engage counsel. This permits barristers to undertake their full duties (including appearing in court) on behalf of those clients without an instructing solicitor.

In Scotland, “direct access instructions” are limited in scope by the Guide to the Professional Conduct of Advocates which *inter alia*, prevents advocates receiving or handling client money, issuing proceedings, or commencing, prosecuting or defending proceedings. Similar such restrictions on the scope of barristers’ work – in terms of the type of work which may be conducted in various courts and tribunals in the absence of an instructing solicitor - exist in NZ. Court rules delimit the ability of barristers to be directly instructed by (a) permitting direct instruction only by organisations approved by the Law Society, (b) by specifying the type of work which can be undertaken, excluding contentious issues in the superior courts, and (c) requiring the barrister to have undertaken further specialist training.

A barrister in NI can only be either a ‘barrister in independent practice’ (i.e. a sole trader) or an employed barrister (who provides legal services to an employer, not to the public). A barrister in NI is therefore not permitted to provide legal services to the public in the form of a limited company. A barrister must not enter into a partnership with another barrister, professional client or any other entity or

individual and must not provide legal services within NI in any capacity or as part of any entity or arrangement other than in his or her capacity as a member of the Bar of Northern Ireland.

A barrister may supply legal services as an employed barrister provided that the barrister does not supply legal services to the public or a section of the public. Barristers are not permitted to directly receive instructions from lay clients. Therefore, Direct Access is not permitted. There is a limited form of Direct Professional Access, whereby a member of a pre-approved professional body can directly engage a member of the Bar for non-contentious items. This is used to only a limited degree.

In Queensland, barristers in their first year, known as readers, must obtain the consent of their mentor before accepting a direct access brief, and notify the Chief Executive of the Association of the same. In addition, there are prescribed disclosure rules and guidelines, contained with the Barristers’ Conduct Rules as well as a number of Practice Directions of the Magistrates, District and Supreme Courts, which limit the scope through which Direct Access briefs can be accepted and provided.

In all jurisdictions, direct access instruction is a minor aspect of the work of barristers. In E&W, while a minority of barristers undergo direct access training, very few practice in the field. The norm, in all jurisdictions, is for barristers to be instructed by solicitors, even where regulations permit direct access.

Direct professional access, that is access to counsel by a client without an instructing solicitor, is permitted in all countries subject to a combination of the following:

- ▶ Requirement for prior specialist training;
- ▶ Limitation in the scope of work which may be undertaken; and
- ▶ Limitation in the organisations which may directly instruct counsel.

Sources: New Zealand Law Society, *Professional practice - Intervention Rule*

Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008

Supreme Court of Queensland Practice Direction 20 of 2012: Direct Access Briefing

Bar Council Direct Access Portal, Available at: <https://www.barcouncil.org.uk/bar-council-services/for-the-public/direct-access-portal.html>

Faculty of Advocates Direct Access, Available at: <http://www.advocates.org.uk/instructing-advocates/direct-access>

5 International Benchmarking

The pathway to the profession in most jurisdictions has many similarities to the Irish system

Dashboard

1 Executive Summary

2 Introduction

3 Overview of the Legal ...

4 Overview of The Bar of ...

5 International Benchmarking

6 External Consultation

7 Analysis of internal and ...

8 Pushing the boundaries

9 Appendices

In the international benchmarking countries examined, barristers begin their training through graduation from university with a law degree, common to all legal practitioners.

Education and training of barristers in E&W is controlled by the Inns of Courts, and via the Bar Professional Training Course (BPTC), undertaken at an accredited provider. After completing law school and the BPTC, a barrister who wishes to enter practice must secure a pupillage at an established chamber/sets for two six-month periods, during which they are paid a salary. All sets are now required to pay their pupils a minimum of £12,000 per year. There is no limit on the number of new entrants into the barrister profession although the capacity of chambers to accept pupils each year, based on individual capacity and business demands, creates an effective ceiling on the numbers entering the profession in any year.

First-time qualified lawyers enter the Bar of Northern Ireland as pupils having first completed the required course of study and entrance exam route via the Institute of Professional Legal Studies (IPLS). There are 20 places per year allocated to participants on this course and thus, this limits the number of entrants to the Northern Ireland Bar from this route. A period of pupillage must be completed before being able to take instructions and practice as a barrister. A second, important route to practice in NI is from transferring professionals who have previously qualified as a solicitor or barrister in another jurisdiction. These entrants must meet the requirements stipulated by Admission Rules laid down by the Inn of Court in order to enter the profession. There is no specific numeric limit on how many may gain entry via these routes.

An advocate in Scotland holds a public office, to which they are admitted by the Court of Session. Following graduation from law school, a prospective advocate must complete Professional Education and Training Stage 1 – also known as the Diploma in Professional Legal Practice. This focuses on the practical skills and knowledge required for an advocate and is available at one of six universities in Scotland. This is followed by a two-year traineeship, also known as Professional Education and Training Stage 2. This is a paid, work-based training with a

practising solicitor. After the completion of the traineeship, law graduates can either decide at this point to become an advocate or join the profession once they have gained experience as a practicing solicitor. If law graduates decide to become an advocate as soon as the traineeship has finished, they must apply as an “Intrant” with the Faculty of Advocates and then pass the Faculty’s examinations. Thereafter, they undertake a nine-month unpaid pupillage which starts late September/early October. This training, known as “devilling”, is undertaken with an experienced advocate (the “devilmaster”). The “devil” has to pass assessment before being admitted membership of the Faculty of Advocates.

In New Zealand all legal practitioners are admitted to the High Court of New Zealand as “barristers and solicitors.” There are two types of lawyers in New Zealand: those who practise as a “barrister and solicitor” (undertaking many of the roles of each profession, usually within in law firms), and those who practise only as barristers (more accurately called “barristers sole”) who are sole traders and a member of the independent referral bar.

Having been admitted to the High Court as a “barrister and solicitor” lawyers intending to be:

- ▶ a partner in a law firm;
- ▶ a director of an incorporated law firm;
- ▶ a sole practitioner (barrister and solicitor); or
- ▶ a barrister on own account, a “barrister sole”

must complete a ‘Stepping Up’ course prior to applying for approval to practice on their own as a barrister and solicitor, or as a barrister sole. ‘Stepping Up’ is a prerequisite for lawyers applying to be barristers sole. The course is aimed at ensuring all lawyers are properly prepared to practise on their own and has a separate module for those intending to practise as barristers.

5 International Benchmarking

The pathway to the profession in most jurisdictions has many similarities to the Irish system

| | |
|-------------------------------------|--------------------------------|
| Dashboard | 6 External Consultation |
| 1 Executive Summary | 7 Analysis of internal and ... |
| 2 Introduction | 8 Pushing the boundaries |
| 3 Overview of the Legal ... | 9 Appendices |
| 4 Overview of The Bar of ... | |
| 5 International Benchmarking | |

The 'Stepping Up' course assists candidates for the title of barrister sole to:

- ▶ Run the business of a law practice;
- ▶ Be responsible for the obligations of the practice;
- ▶ Understand and apply the relevant rules of conduct and client care; and
- ▶ Understand the principles and rules of trust accounting.

'Stepping Up' courses are held in Auckland, Wellington and Christchurch and include 40 to 50 hours of preparation work prior to attending the three-day workshop. The relevant professional rules stipulate that sole practitioner barristers must not practise in partnership or in an incorporated law firm structure, and thus 'Stepping Up' is a prerequisite for a barrister to manage their own practice.

The Supreme Court of New South Wales may admit a person to the Australian legal profession as an Australian lawyer if the person:

- ▶ is aged 18 years or over;
- ▶ is not already admitted to the Australian legal profession;
- ▶ has attained the specified academic qualifications prerequisite;
- ▶ has satisfactorily completed the specified practical legal training prerequisite;
- ▶ is a fit and proper person to be admitted to the Australian legal profession; and
- ▶ takes an oath of office, or makes an affirmation of office, in the form required by the Supreme Court.

Admission does not of itself entitle a person to engage in legal practice, but is a prerequisite for being able to apply for an Australian practising certificate, which entitles the holder to engage in legal practice. An application for practising certificate in NSW must be made to the NSW Bar Association to practise as a barrister.

To be eligible to become a barrister in NSW, an applicant must be admitted as a lawyer by the Legal Profession Admission Board, sit and pass the Bar Exam to the required standard, complete a reading program which includes registration and satisfactory participation in the Bar Practice Course, and one year of readership under the supervision of a tutor. A lawyer, when issued with an initial practising certificate with reader conditions, is termed a 'reader'. The reader embarks on the Reading Program, which has two major elements, (i) the Bar Practice Course, and (ii) reading with a tutor. The period of reading starts when the practising certificate with reader conditions is issued, and continues for a minimum of 12 months. This is referred to as the reading year, akin to pupillage in E&W or devilling in Scotland. During that time, the reader remains under the supervision of at least one experienced barrister, who is called a tutor.

A reader must, in the first six months of practice, satisfactorily complete 10 days of civil and 10 days of criminal reading. At the discretion of the supervising barrister, the reader must participate as fully as possible in the case, including reading of the brief, discussion of issues, preparation of submissions, interviews with witnesses, and attendance at court.

Barristers and solicitors have the full right to conduct litigation in all Australian courts. Barristers in their first year of reading and solicitors with restricted practising certificates must be accompanied by a more senior practitioner (who is Senior Counsel or who has more than five years' experience as a barrister and holds an unrestricted practising certificate) in matters before the courts.

5 International Benchmarking

The pathway to the profession in most jurisdictions has many similarities to the Irish system

Dashboard

1 Executive Summary

2 Introduction

3 Overview of the Legal ...

4 Overview of The Bar of ...

5 International Benchmarking

6 External Consultation

7 Analysis of internal and ...

8 Pushing the boundaries

9 Appendices

All graduates who wish to practise as a barrister in Queensland must:

- ▶ have completed a law degree, completed the required practical legal training and be eligible for admission or admitted as a legal practitioner in Australia;
- ▶ sit and pass the three Bar Exams which are Legal Ethics, Practice and Procedure, and Evidence (the pass mark for each exam is 65%);
- ▶ successfully complete the Bar Practice Course, a six-week practical training course provided by the Association which aims to develop and enhance the practical skills of persons who are seeking a license to practise as a barrister in Queensland;
- ▶ submit an application for a Private Bar practising certificate; and
- ▶ complete the 12 months Readership Program. This program is mandatory and includes the supervision by a senior and junior barrister as mentors. The Association monitors the 12 months of supervised practice by requiring the reader to attend all compulsory CPD events, provide records of undertaking at least 60 hours of court oriented work with a mentor (unpaid), document monthly meetings with a mentor, and require the junior and senior mentor to sign off on the completion of readership before issuing the reader with an unconditional practising certificate.

5 International Benchmarking

All jurisdictions bar NI have a form of grouping to allow barristers to collaborate in various ways

| | |
|-------------------------------------|--------------------------------|
| Dashboard | 6 External Consultation |
| 1 Executive Summary | 7 Analysis of internal and ... |
| 2 Introduction | 8 Pushing the boundaries |
| 3 Overview of the Legal ... | 9 Appendices |
| 4 Overview of The Bar of ... | |
| 5 International Benchmarking | |

In all jurisdictions except for NI, barristers may form themselves into groups, usually called chambers. More accurately, these are “sets” of chambers – each barrister remaining responsible for their own practice or “chamber.” In no jurisdiction may a chamber include members of other professions such as solicitors. All jurisdictions have rules which limit the extent to which barristers may form companies. For example, in NSW, a barrister must be a sole practitioner. The rule further states that a barrister must not practice:

- ▶ In a partnership;
- ▶ As an employee of a legal practice or any person;
- ▶ As a director of an incorporated legal practice; or
- ▶ Through an unincorporated legal practice.

In E&W, NZ, Queensland and NSW, members of a chambers share the rent and facilities, such as the service of clerks (who combine some of the functions of agents, administrators and diary managers), secretaries and other support staff. Most chambers operate a system whereby the members contribute to these common expenses by paying a certain percentage of their gross income in rent. However, there is no profit-sharing as in a business partnership. Individual barristers keep the fees they earn, beyond what they have to pay in rent.

Likewise, in Queensland barristers are restricted under the 2011 Barristers’ Conduct Rules to perform certain types of legal work, and whilst they may often have offices close to each other, forming chamber groups, they must operate as sole practitioners.

In Scotland, for administrative purposes, advocates are grouped in “stables” or “chambers”. Each group has a clerk or practice manager who can act as a point of contact for instructing agents or others with direct access to stables’ services. All of these stables or chambers operate from the same room within Parliament House, with the exception of one stable which operates from Glasgow.

There are nine stables in Scotland comprising anything between 30 and 60 advocates. Each stable has a separate website and the clerks in the stable are

responsible for marketing the services of their advocates. Clerking and administration is generally managed for stables by Faculty Services Limited, a company set up by the Faculty of Advocates to assist stables for that purpose.

Advocates who are not a member of a stable may be provided additional services through the Faculty of Advocates’ service company, Faculty Services Limited (FSL), which provides administrative and other support services for Advocates who subscribe for those services.

The Faculty provides a subscription to online research facilities such as Westlaw to all members. In addition, subscribers to Faculty Services Ltd. have access to an online diary and case management system, Lex. This is in addition to any shared subscriptions taken out by stables for its members.

In recent years, more control has been devolved by Faculty Services to the individual stables or chambers. This allows them to control their own membership, operate their own budget and carry out marketing or other activities as they see fit. For this reason, most stables now have their own website and profile their own members.

Given there is no option for chambers in NI as previously stated, NI operates a Law Library model of professional practice. Each member of the Law Library in NI has the benefit of a secure, staffed and fully serviced, modern city centre office environment which is open 7 days a week and in close proximity to all of the Belfast courts. Each member benefits from use of the prestigious Bar Library postal and email addresses, which can be replicated on electronic and hard copy personalised, professional stationery. The Library provides members with a GDPR compliant access-controlled environment. Qualified GDPR staff support services include provision of Data Protection awareness training, compliance guidance and practical tool kits. These benefits are invaluable in assisting members meet the challenging new compliance requirements of the new GDPR legislation, thus avoiding potential significant financial penalties and preventing reputational damage.

5 International Benchmarking

All jurisdictions bar NI have a form of grouping to allow barristers to collaborate in various ways

Dashboard

1 Executive Summary

2 Introduction

3 Overview of the Legal ...

4 Overview of The Bar of ...

5 International Benchmarking

6 External Consultation

7 Analysis of internal and ...

8 Pushing the boundaries

9 Appendices

Other benefits of the Library Model include convenience of access to the Belfast court estate:

- ▶ Within 2 minutes of the Royal Courts of Justice and Laganside Courts, as well as the Law Society headquarters.
- ▶ Within 5 minutes of the Legal Services Agency headquarters, the Resolution Centre, and most Belfast based solicitors.

In all jurisdictions with chambers except for E&W, chambers are tenanted by barristers who work across all legal fields and are marketed on the basis of the range of legal issues which can be provided by barristers who operate from it. In E&W, this is also the case, but there are also chambers which specialise in a particular legal field, such as criminal defence or company law. Another phenomenon in E&W is the development of “virtual chambers”, which provide similar services without any physical building from which tenants operate. This allows barristers on circuit to avail of marketing and practice management services such as fee collection at a lower rent than those who occupy an office (or chamber) from a set.

Chambers tend to be a feature of larger urban areas in which a superior court is located. In NZ and Australia, in smaller towns, barristers may prefer to work as a sole trader, although in NSW, for example, 90% of barristers work from chambers. As noted below, in such circumstances, a sole trader barrister may be more heavily reliant on their Bar Association for supports (such as subscription to legal databases) which are provided to tenants of chambers as part of their rent.

To note:

In countries where chambers operate, it is the individual tenant barrister who is regulated and not the chamber. Chambers may employ staff and bind themselves to their own constitution to regulate the admittance and expulsion of tenants, and to manage their own affairs, but the professional regulator does not regulate the affairs of chambers.

In New South Wales:

90%

Of barristers work from chambers

In Scotland:

30-60

Advocates make up each stable

In Northern Ireland:

0

Chambers are not allowed. NI operates a Law Library model instead.

5 International Benchmarking

Regulation and oversight models vary by jurisdiction

| | |
|-------------------------------------|--------------------------------|
| Dashboard | 6 External Consultation |
| 1 Executive Summary | 7 Analysis of internal and ... |
| 2 Introduction | 8 Pushing the boundaries |
| 3 Overview of the Legal ... | 9 Appendices |
| 4 Overview of The Bar of ... | |
| 5 International Benchmarking | |

The Bar Council of Northern Ireland is still autonomously responsible for all matters relating to the professional conduct of barristers within NI. However, oversight of complaints relating to standards of professional service are to become the responsibility of a new office, namely the Legal Services Oversight Commissioner.

The Legal Services Oversight Commissioner was established by the Legal Complaints and Regulation Act (NI) 2016 which introduces new provisions to move away from a system where legal professionals handle their own complaints process, to one where lay people lead the process. The Commissioner will be an independent officer responsible for making provisions regarding complaints against members of the legal profession. The Commissioner will not be directly involved in assessing complaints but will have an important role in overseeing the introduction of the new system and monitoring the effectiveness of the new structures.

The Office of the Legal Services Commissioner in NSW is the statutory regulatory authority that deals with complaints against barristers. The Bar Association assists in matters of professional discipline of members and the resolution of complaints against them through the work of Professional Conduct Committees and the Bar Council. If an investigation by the Office of the Legal Services Commissioner in NSW or the Bar Association uncovers evidence that a barrister or solicitor may have acted in a manner that amounts to unsatisfactory professional conduct or professional misconduct, then proceedings can be instituted against the barrister or solicitor in the NSW Civil and Administrative Tribunal Occupational Division (Disciplinary Tribunal).

The General Council of the Bar is the Approved Regulator for the Bar of England and Wales. It is obliged by the Legal Services Act 2007 to delegate and discharge its regulatory functions through the independent Bar Standards Board.

In Scotland, the Court of Session delegates the regulation of the profession (including the criteria for admission), the regulation of conduct and disciplinary matters to the Faculty of Advocates. All complaints about the legal profession must go to the Scottish Legal Complaints Commission in the first instance and the Commission determines whether the complaint is accepted for investigation.

The Commission itself deals with any accepted complaints classified as service complaints and complaints classified as relating to conduct by advocates are passed to the Faculty of Advocates for investigation.

All lawyers in NZ, irrespective of whether they are barristers, solicitors or in-house lawyers, are regulated by the New Zealand Law Society. They are required to follow rules of conduct which are set out in the Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008. In addition, lawyers must complete at least ten hours of professional development each year. This is common to all legal professionals.

In Queensland, the Legal Services Commission is an independent statutory body, and has the power to regulate the legal profession, including receiving and, where appropriate, investigating complaints about the conduct of lawyers, their employees, and unlawful operators in relation to the provision of legal services in Queensland. The Legal Services Commission has the sole authority to prosecute lawyers or legal practitioners in relation to professional conduct matters. However, the Commissioner has the discretion to refer professional conduct investigations involving barristers to the Association.

Any complaint or investigation matters referred from the Legal Services Commission are investigated by the Association's Professional Conduct Committee (as supported by the legal staff of the Association) which is chaired by the Association's Vice President. The Professional Conduct Committee (and relevant sub-groups, where appropriate) comprising Queensland barristers, including a significant number of Queen's Counsel, investigate the complaint or investigation matter, issue relevant correspondence to the complainant and respondent barrister, and prepare a report outlining their recommendations. A report must be approved by the Association's Bar Council before it is submitted back to the Legal Services Commission for a final decision as to whether or not disciplinary proceedings will be instituted against the barrister.

In summary:

Barristers working in each jurisdiction are subject to a range of regulatory models, with differing roles for their professional body.

5 International Benchmarking

The primary purpose of each Bar Association is to represent its members and advocate on the behalf of the IRB

| | |
|-------------------------------------|--------------------------------|
| Dashboard | 6 External Consultation |
| 1 Executive Summary | 7 Analysis of internal and ... |
| 2 Introduction | 8 Pushing the boundaries |
| 3 Overview of the Legal ... | 9 Appendices |
| 4 Overview of The Bar of ... | |
| 5 International Benchmarking | |

The Bar of Northern Ireland has 3 main roles:

- ▶ Regulator of the profession in the jurisdiction of NI.
- ▶ As a representative body: give a collective voice and represent the long-term collective best interests of the profession on behalf of its self-employed individual members.
- ▶ As a service provider: offering a tailored and bespoke office environment and support services including Financial services (Insurance, Book-keeping, Fee collection); IT support; Library & Information services; Research; Education & Training; and Policy, Communications and Marketing support.

All Bar Associations are funded through membership subscriptions levied on members, calculated in Ireland and NZ on a sliding scale by year of practice, while the Australian bar association levy a flat fee for all Junior Counsel and a higher rate for all Senior Counsel. In Northern Ireland, there are two rates for junior and more senior BLs and a flat fee for all QCs. Only in Scotland and E&W are subscriptions calculated as a percentage of a barrister's annual income, varying between £100 and £3,000 in EW, and between £200 and £1,200 in Scotland. The fee charged to members may also include subscriptions to federal bar associations (in the case of Australia), voluntary subscriptions for additional Bar services or to regulatory bodies (in the case of NZ) while in countries in which barristers work from chambers, additional charges in the form of rent will also be incurred by practicing barristers.

The Faculty of Advocates is the professional body to which all Advocates in Scotland belong. The purpose of the Faculty is to promote the profession and increase awareness of the role of advocates in the legal system. The Faculty's principal premises are the Advocates Library, from which most advocates work. It regulates the training and professional practice, conduct and discipline of Advocates, promoting and facilitating the administration of justice in Scotland. The Faculty provides services including access to law libraries in Edinburgh,

Aberdeen and Glasgow, access to online legal databases, access to consulting rooms, and IT support all members.

Faculty Services Ltd., which over 95% of members subscribe to, provide clerking and fee collection services. Costs are recovered through a commission on fees collected which is currently 6.5%. There is a dedicated team of credit controllers in FSL who chase solicitors for outstanding fees. Each member has a profile page on the Faculty website on which they can describe their areas of specialisation and recent cases that they have been involved in. The Faculty has member groups which bring together members with an interest in particular legal areas beyond membership of their stable. These groups often organise events and training for their members.

The New Zealand Bar Association (NZBA) exists to advocate for the profession of barristers sole, and full membership of the NZBA is open to every person who is the holder of a current NZ practising certificate as a barrister sole. The NZBA is a voluntary association, comprised primarily of barristers in NZ and overseas, but including as its members barristers and solicitors, academics, judges and retired practitioners. It is governed by the Bar Council comprising the President, President-Elect, Past President, Council members and, from time to time, co-opted members.

The strategic objectives of the NZBA are to make submissions and engage with policy-makers on proposed legislation or legal policies with specific rule of law implications for the barrister profession, and particularly threats to the independence of judges and advocate. Associate membership is open to persons other than barristers sole (e.g. barristers and solicitors). Some associate member categories have an automatic entitlement to membership and some associate member categories require approval by the Bar Council.

With day to day practice management taking place at chamber level, and regulation of the profession undertaken by the Law Society, the primary function of the Bar Association is advocacy for the profession and awareness-raising of the skills of the barrister sole.

5 International Benchmarking

Across all jurisdictions, the COVID-19 pandemic changed barristers' working environments

Dashboard

1 Executive Summary

2 Introduction

3 Overview of the Legal ...

4 Overview of The Bar of ...

5 International Benchmarking

6 External Consultation

7 Analysis of internal and ...

8 Pushing the boundaries

9 Appendices

In E&W, barristers pay an annual fee for their practising certificate, paid when they go through the annual Authorisation to Practise process. The level of fee payable is determined by a barrister's income in the previous calendar year. The fees for 2021/22 range from £100 to £3000.

The Bar Council supports the Bar through initiatives including ethical guidance relating to the BSB Code of Conduct, fee collection, arbitration and mediation assistance, wellbeing and personal support, and mentoring services.

The Bar of England and Wales is funded through a proportion of the Practising Certificate Fee (approximately 30% comes to the Bar Council to fund work which is permitted under the Legal Services Act 2007, with the remaining 70% going to the BSB for regulation). The remainder of the Bar's work is funded through the Bar Representation Fee (a voluntary contribution, between £150 and £500, paid by barristers to fund its work and obtain discounts on training, etc.) and commercial income.

In all jurisdictions, the COVID-19 pandemic, and the closure of many courthouses, has fundamentally changed the working practices of barristers. Each Bar Association under examination had been proactive in recent years in promoting the use of IT by members, and investing in subscriptions to online legal databases. Thus, remote working – whether from chambers, on circuit or at home – has been a hallmark of the barrister's working routine before COVID-19. In E&W, a significant number of barristers worked from home rather than from chambers, while in Scotland, the number of advocates working from the advocates' library has fallen. There was a consensus among the jurisdictions examined that it is too early to assess whether this represents a structural change in how barristers work, or whether the re-opening of courts and chambers will mean a return to pre-COVID working practices.

5 International Benchmarking

The primary purpose of each Bar Association is to represent its members and advocate on behalf of the IRB

Dashboard

1 Executive Summary

2 Introduction

3 Overview of the Legal ...

4 Overview of The Bar of ...

5 International Benchmarking

6 External Consultation

7 Analysis of internal and ...

8 Pushing the boundaries

9 Appendices

The Bar organises international missions and events, both at home and abroad. These include business development missions overseas, conferences on English and Welsh law, and various domestic and international events, such as seminars, roundtables and the hosting of incoming delegations of overseas lawyers. These events are designed to promote the Bar in selected jurisdictions and to facilitate the exchange of knowledge and the development of legal links and legal business overseas. This work, however, does not market individual barristers or chambers.

The Australian Bar Association is responsible for developing Legal Professional Conduct Rules and Continuing Professional Development Rules for barristers. The New South Wales Bar Association carries out its regulatory functions through the work of the Bar Council and its committees, as well as monitoring educational qualifications and entry requirements via its Education Committee. The NSW Bar is also responsible for maintaining a Professional Standards Scheme, Bar Practice Course, Ethical Guidance Scheme and Mentoring Program. In terms of support for members, the NSW Bar Association operates the Bar Library, appoints Senior Counsel, and co-ordinates pro bono or reduced-cost legal services to underprivileged sections of the community.

In Queensland, the Bar Association has important regulatory responsibilities under the Legal Profession Act 2007 (Qld) which includes issuing practising certificates to Queensland barristers and investigating and reporting on complaints against barristers, as referred to the Association by the Legal Services Commissioner.

In Queensland:

- ▶ Membership is not compulsory or automatic. However, 99.5% of all barristers practising in and for the state of Queensland hold current annual membership. This figure has remained constant across the last fifteen years.
- ▶ Barristers in Australia pay subscriptions to the Australian and State Bar Associations. For example, barristers in Queensland pay an annual membership fee to the Bar Association of Queensland which includes an annual fee for the Australian Bar and the Law Council of Australia.
- ▶ Queen's Counsel pay an additional \$130 in fees to the Bar Association of Queensland to assist in subsidising the Junior members.

In summary:

In each jurisdiction there is a strong and active bar association. Each of these associations undertakes representation of its members, and advocacy on behalf of the independent referral bar, funded through subscriptions. The level of service provided to member by bar associations is dependent on (a) services provided by chambers to tenants in return for rent, and (b) the regulatory environment in which the profession works.

Bar Associations:



FACULTY OF ADVOCATES



NEW SOUTH WALES
BAR ASSOCIATION®

THE BAR of
NORTHERN
IRELAND



The Bar Council

5 International Benchmarking

All Bar Associations provide services and supports to members, including in some cases support to the most junior members

Dashboard
1 Executive Summary
2 Introduction
3 Overview of the Legal ...
4 Overview of The Bar of ...

6 External Consultation
7 Analysis of internal and ...
8 Pushing the boundaries
9 Appendices

5 International Benchmarking

As noted, each of the Bar Associations undertake representation of the profession as a whole, to policymakers, government, and courts services. Bar Associations are also responsible for providing CPD, conferences, training and educational support, and promoting the public understanding of barristers.

Certain additional services are also provided to members in support of their practice, where such supports are not available to practitioners through their chambers. These include:

- ▶ Wellbeing and personal support (E&W)
- ▶ Practice management and career mentoring (E&W)
- ▶ Fee collection support (Scotland via stables' clerks, NI)
- ▶ CPD and conferences (All jurisdictions)
- ▶ Access to Bar Library (Scotland, NI, NSW)
- ▶ Access to legal databases and journals (Scotland, NI)
- ▶ Support in professional conduct cases (All jurisdictions)
- ▶ Research assistance (NSW, NI)
- ▶ Technology support (NI)

In NI, where chambers are not a feature of the barrister profession, the services provided by chambers in other jurisdictions, are provided directly by the Bar of Northern Ireland. For example, the Bar of Northern Ireland supports members' practices by operating a fee collection service at no extra cost to Library members. This service sees members of staff pursue outstanding debts on behalf of members. The service is not a formal clerking service but is available to any member of the Library to avail of and protects the professional relationship between solicitor and counsel. Since implementation less than 3 years ago, the service has recovered more than £1 million for members who use the service and at no additional cost to those individuals.

Further initiatives are also in place in some jurisdictions:

- ▶ The Gender Equitable Engagement and Instruction Policy, launched by the New Zealand Bar Association and New Zealand Law Society on 5 December 2017, had a key objective that by 1 December 2018, policy adopters will use reasonable endeavours to have women lawyers with relevant expertise take a lead on at least 30% of court proceedings, arbitral proceedings and major regulatory investigations.
- ▶ The Faculty of Advocates in Scotland operates a Fair Instruction Policy. The Faculty has put in place internal procedures to ensure that, where work requires to be allocated, it is allocated fairly and without discrimination on grounds of age, disability, gender, race, religion or belief or sexual orientation. It will periodically review the issue of work allocation to ensure that its procedures, and the principles underpinning them, are being observed.

In New Zealand:

30%

Of court proceedings, major regulatory investigations and arbitral proceedings should have a women lawyer with relevant expertise leading it.

5 International Benchmarking

Key Findings from International Benchmarking

Dashboard

1 Executive Summary

2 Introduction

3 Overview of the Legal ...

4 Overview of The Bar of ...

5 International Benchmarking

6 External Consultation

7 Analysis of internal and ...

8 Pushing the boundaries

9 Appendices

The functions of a barrister

- ▶ In all jurisdictions, barristers are self-employed and subject to strict regulation regarding the circumstances in which they may form chambers. Chambers are permitted in all jurisdictions under examination other than NI, but the number of barristers practicing from chambers is mixed.
- ▶ There has been a blurring of the legal services provided by barrister and solicitors in all jurisdictions in terms of rights of audience in the superior courts, but specialist education and training mean that members of the Bar continue to perform their traditional functions – including legal research and advocacy – with limited encroachment from the solicitor profession.
- ▶ Direct professional access, of one form or another, exists in all jurisdictions, permitting qualified bodies to seek the advice of a barrister without an instructing solicitor. In some jurisdictions, barristers must undergo further training before being permitted to perform this function. In all cases, it accounts for a limited proportion of the normal work of a barrister.

Practice management

- ▶ In NZ and Scotland, specific training is mandatory for newly qualified barristers to assist them in the management of their practice. In countries in which practicing from a chamber is the norm, much of the management of a barrister's practice (including invoicing and getting paid) is provided by clerks and practice managers.
- ▶ In other countries, practice management forms a compulsory element of CPD requirements.
- ▶ The structure and legal standing of chambers is the same across all jurisdictions where they exist, and are complemented by hubs or associations of barristers from across chambers, organised by practice areas (criminal bar association, construction and planning, etc.).
- ▶ IRB structures can work in conjunction with other models, as seen across the board. Any change to the current Irish IRB model does not automatically mean a conflict of interest will arise.

5 International Benchmarking

Key Findings from International Benchmarking

| | |
|-------------------------------------|--------------------------------|
| Dashboard | 6 External Consultation |
| 1 Executive Summary | 7 Analysis of internal and ... |
| 2 Introduction | 8 Pushing the boundaries |
| 3 Overview of the Legal ... | 9 Appendices |
| 4 Overview of The Bar of ... | |
| 5 International Benchmarking | |

The role of the Bar Association

- ▶ All bar associations are primarily funded by subscription. How fees are determined varies between associations – sometimes depending on the length of practice, and in others, on income. In addition, members may also pay fees to their regulatory bodies, as well as to their chamber in rent.
- ▶ The level of service provided by the Bar Association of each country varies depending on the services provided by chambers (where such a facility is permitted). In all jurisdictions, the Bar Association plays a central role in promoting the profession and engaging with policymakers on its behalf. The Bar Association provides CPD and further specialist training, but issues such as access to law libraries, legal databases and other services are dependent on the employment status of barristers.
- ▶ Regulation varies across jurisdictions. In some countries, the Bar Association plays a leading or sole role in dealing with complaints, while in others, this is handled externally. This has a significant impact on the role and purpose of the Bar Association, as regulatory body or advocacy body.

5 International Benchmarking

Key Findings from International Benchmarking

| | |
|-------------------------------------|--------------------------------|
| Dashboard | 6 External Consultation |
| 1 Executive Summary | 7 Analysis of internal and ... |
| 2 Introduction | 8 Pushing the boundaries |
| 3 Overview of the Legal ... | 9 Appendices |
| 4 Overview of The Bar of ... | |
| 5 International Benchmarking | |

There are a number of lessons to be learned, applicable to TBOI, from the International Benchmarking:

1. Firstly, and perhaps most importantly, the benchmarking indicates that an independent referral bar model and a 'meitheal' group/stables/chambers model are not mutually exclusive. In all jurisdictions examined, with the exception of Northern Ireland, barristers may associate themselves with a chambers style, be independent sole traders, or sometimes an aggregation of both, whereby the barrister remains an independent sole trader, but is focused within a stable/chamber for marketing and practice management purposes. Hence, the creation of a stable/chambers style structure within the Irish market need not directly equate to the loss of the independent referral bar model.
2. 'Chambers' and 'Stables' style groupings are not the ideal groupings for barristers and have a number of issues:
 - ▶ The financial implications associated with employing barristers in a chamber.
 - ▶ Chambers have been used in the past to exclude females and those of colour from the profession in E&W.
 - ▶ There is significant scope for conflict of interest issues to arise in chambers of legal specialisation, which could negatively impact the market for legal services.
 - ▶ The marketing and promotional benefits associated with stables are sometimes lost by the individual barristers given the large number of barristers in some stables.
 - ▶ The stables are confined to Edinburgh, with the exception of one in Glasgow; hence limited geographic opportunities for those who may choose to work outside of the major cities in Scotland.
3. No other jurisdiction allows barristers to form groupings with members of other professions, e.g. solicitors. As a result, it is not possible to benchmark the likely impacts of the new LSRA ruling for partnerships in Ireland, between barristers and solicitors.
4. Direct access is allowable in both contentious and non-contentious matters in England & Wales, and also in New Zealand, with exclusion only in the superior courts. In E&W, so called "public access" barristers are required to undergo a specialist two-day training course and thereafter complete periodic refresher courses to be permitted to maintain public access status. While it is expected that every member of the public will be able to engage barristers on non-contentious work in Ireland in the near future, only certain organisations registered with the Bar Standards Board (BSB), may directly access counsel in E&W. However, once admitted, barristers are permitted to undertake their full duties (including appearing in court) on behalf of those clients without an instructing solicitor. For TBOI, this would suggest that with the correct training, it is possible for barristers to be directly accessed by suitable organisations, without the need for an instructing solicitor.
5. TBOI provides a large suite of services to its members, when compared with a number of its international counterparts. However, this is in large part due to the fact that the suite of services, such as fee recovery and practice management, are undertaken by chambers/stables, rather than the Bar Association, in every jurisdiction in the benchmarking exercise other than NI and Ireland. There are undoubtedly economies of scale achieved by TBOI operating these services on behalf of their entire membership. Should 'meitheal' groups be allowable within the Law Library membership, it would be in members' interest that the current members' services structure should remain broadly similar to its current state.
6. Profit sharing, a feature of limited legal partnerships which have recently been introduced for barristers in Ireland by the LSRA, are not allowable for barristers in any of the jurisdictions that EY examined. Hence, it is difficult to quantify what effect their introduction will have on the Irish market for legal services.

5 International Benchmarking

Key Findings from International Benchmarking

| | |
|-------------------------------------|--------------------------------|
| Dashboard | 6 External Consultation |
| 1 Executive Summary | 7 Analysis of internal and ... |
| 2 Introduction | 8 Pushing the boundaries |
| 3 Overview of the Legal ... | 9 Appendices |
| 4 Overview of The Bar of ... | |
| 5 International Benchmarking | |

7. The unpaid devilling structure, which is viewed as a financial barrier to entry for law graduates into the profession in Ireland, also exists in a number of other jurisdictions. The Bar Council in England and Wales is the only legal jurisdiction within the benchmarking exercise to mandate a paid apprenticeship for barristers. This mandate stipulates that barristers are paid a minimum of £12,000 for their devilling year. While this may initially appear as a way of ensuring greater diversity and inclusion within the profession by removing a barrier to entry, in reality, there are an insufficient number of chambers willing to pay the devilling fee to service the number of people looking to enter the profession. As such, access to the profession remains restricted, and the attrition rate within E&W remains broadly similar to Ireland.
8. Ireland is unique within the benchmarking exercise to use location/accommodation as a determinant for subscription levels, (i.e., Country/Cork members pay a reduced fee/seats are a separate fee). In all other jurisdictions examined, the fee payable to the applicable Bar Association was either a determinant of practice year, income level, and/or status as a barrister (i.e., Junior or Senior/Queen's Counsel).
9. The current number of barristers in Ireland, with 45 per 100,000 of population, is at the higher end of EY's international benchmarking. When EY examine the number of barristers per 100,000 population in each of the other jurisdictions, the median figure is 25.5. While the other jurisdictions have differences that limit comparability, this would indicate that an appropriate size for the Irish market of barristers is 1,260, assuming the population remains relatively stable. When EY account for Eurostat's population projection that the population of Ireland is to increase by 1 million people by 2040, an appropriate size for the Law Library is 1,515*. This suggests that the Law Library is over-populated with barristers, and the numbers leaving the profession due to an inability to ascertain enough of work further confirms the suggestion. To the extent that Ireland can attract additional international work (i.e., not involving solely domestic parties), the number of 1,515 could be deemed to be conservative on this basis.

In summary

- ▶ The IRB and a 'meitheal' group/stable/chambers model are not mutually exclusive.
- ▶ Chambers and stable style groupings are not the ideal structures for groupings of barristers.
- ▶ No other jurisdiction allows barristers to form groupings with members of other professions.
- ▶ Direct access in contentious work is allowed elsewhere, once the relevant training has been completed.
- ▶ TBOI is best in class for member services, in comparison with a number of other Bar Associations.
- ▶ Profit sharing, which will be allowable once the LSRA introduces legal partnerships, is not allowed in any of the benchmarked countries.
- ▶ Unpaid devilling structures for new barristers exist elsewhere.
- ▶ ROI is the only jurisdiction to use location as a determinant for subscription fees.
- ▶ The Irish legal market is over-populated with barristers. Even assuming a growth projection of 1 million people by 2040, an appropriate size for the profession is 1,515 barristers within the Law Library.

6

External Consultation

6 External Consultation

Process overview

Dashboard
 1 Executive Summary
 2 Introduction
 3 Overview of the Legal ...
 4 Overview of The Bar of ...
 5 International Benchmarking

6 External Consultation

7 Analysis of internal and ...
 8 Pushing the boundaries
 9 Appendices

When did the consultations take place?

We held 16 consultations with identified stakeholders. Twelve of the parties consulted were external to the Bar and represented various interests or components of the Irish legal ecosystem. The list of consultees was agreed with the project steering committee.

Why were the consultations completed?

This element of the review was conducted to gather a spectrum of informed opinion on the activities of The Bar of Ireland, its practicing members, the functions of the Bar Council, and its evolving role in the provision of legal services in Ireland. Discussion was focused on the relative strengths and weaknesses of TBOI in its current guise and consultees were invited to detail any changes they would like to see at TBOI, as well as recommending how the work of TBOI could be made more relevant to their own activities. The insights gained from this exercise informed the study's overall qualitative analysis and recommendations.

Who was consulted?

- ▶ Allianz Insurance
- ▶ Attorney General (AG)
- ▶ Chief State Solicitor's Office
- ▶ Department of Justice
- ▶ IPB Insurance
- ▶ Legal Services Regulatory Authority (LSRA)
- ▶ Members of the Judiciary
- ▶ The Director of Public Prosecutions
- ▶ The Legal Aid Board
- ▶ The State Claims Agency
- ▶ 3 selected solicitor firms (of small, medium and large size)



An tÚdarás Rialála
 Seirbhísí Dlí
 Legal Services
 Regulatory Authority



ASSOCIATION OF
 JUDGES OF IRELAND



An Roinn Dlí agus Cirt
 Department of Justice



An Bord Um
 Chúnamh Dlíthiúil
 Legal Aid Board
 Providing access to justice since 1979



Gníomhaireacht Bainistíochta an Chisteáin Náisiúnta
 National Treasury Management Agency

An Ghníomhaireacht um Éilimh ar an Stát
 State Claims Agency

6 External Consultation

Summary of key themes (1/2)

Dashboard
 1 Executive Summary
 2 Introduction
 3 Overview of the Legal ...
 4 Overview of The Bar of ...
 5 International Benchmarking

6 External Consultation

7 Analysis of internal and ...
 8 Pushing the boundaries
 9 Appendices

01

Legal Fees

- ▶ A barrister's fee is considered an honorarium; hence, they remain at the mercy of solicitors
- ▶ Counsel should be remunerated better for their earlier work, reducing the reliance on a brief fee
- ▶ In-house counsel could reduce costs by directly engaging a barrister

02

Court Management /Case Lists

- ▶ Significant case backlog (even pre-COVID)
- ▶ Government support needed post-COVID to facilitate increased sittings
- ▶ Need for efficient online case management platform
- ▶ Influence of counsel on list management
- ▶ Barristers can be too "possessive" on cases

03

Distribution of work /Attrition Rate

- ▶ Competitive market & "Winner takes all" culture amplified by the IRB model
- ▶ Very high attrition rate, particularly among barristers in their first 10 years
- ▶ Recent legal reforms, e.g., in personal injuries, could adversely affect the junior bar in particular
- ▶ Unsatisfactory Legal Aid payments

04

Education & Training

- ▶ Focus by the LSRA on education and training
- ▶ Potential for additional providers, outside of King's Inns, to enter the market
- ▶ Improvements in education and training evident in recent years
- ▶ Need for further professional practice management training

05

Technology/ Remote Hearings

- ▶ Ability of barristers to work with systems and technology platforms available
- ▶ Likely that remote hearings will remain for certain suitable cases
- ▶ Huge recent movement toward e-litigation
- ▶ Digital ecosystem around TBOI needs development
- ▶ Lack of exposure for current juniors

06

Unification

- ▶ Ramifications in terms of equality of access to justice
- ▶ No appetite for unification among either of the professions at present
- ▶ It is likely this issue will be revisited into the future, depending on how partnerships are created under LSRA

6 External Consultation

Summary of key themes (2/2)

Dashboard
 1 Executive Summary
 2 Introduction
 3 Overview of the Legal ...
 4 Overview of The Bar of ...
 5 International Benchmarking

6 External Consultation

7 Analysis of internal and ...
 8 Pushing the boundaries
 9 Appendices

07

Loss of work to solicitors

- ▶ Legal precedent work, including certain discovery work, previously done by members of the Law Library, is now conducted by AI/ software
- ▶ Movement of personal injuries cases from the Circuit Court to the District Court may mean that junior members of the Law Library lose out on their core income

08

Relationship with TBOI

- ▶ The legal community benefits from established networks
- ▶ Potential for TBOI to facilitate further linkages across the sector
- ▶ Strong outreach element in TBOI
- ▶ TBOI is held in high esteem

09

Marketing

- ▶ Junior barrister reliance on recommendations from more senior members
- ▶ Challenge for TBOI to assist in the promotion of talented younger barristers
- ▶ Where is the Law Library's "shop window"?
- ▶ Limited understanding of the role of barristers among the general public

10

Impact of COVID-19

- ▶ Barrister incomes fell due to a reduction in the number of cases going ahead
- ▶ Long-term effect on junior barristers, who have little opportunity to learn or get seen in remote proceedings
- ▶ Huge backlog of cases expected post-COVID

11

Diversity & Inclusion

- ▶ The sole trader operating model exacerbates some D&I issues
- ▶ Scope to improve State policies on equitable briefing
- ▶ Social and economic barriers limit access to the profession
- ▶ D&I is an issue for TBOI; however, clients also have a pivotal role to play

12

TBOI Alumni

- ▶ What is the follow-up with TBOI for alumni of the Law Library?
- ▶ Need for a wider appreciation of the alumni network and their untapped potential for knowledge sharing & referrals.
- ▶ A view that those who leave the Law Library are seen as 'failures'

6 External Consultation

Key themes identified in the external consultations (1/6)

| |
|------------------------------|
| Dashboard |
| 1 Executive Summary |
| 2 Introduction |
| 3 Overview of the Legal ... |
| 4 Overview of The Bar of ... |
| 5 International Benchmarking |

6 External Consultation

| |
|--------------------------------|
| 7 Analysis of internal and ... |
| 8 Pushing the boundaries |
| 9 Appendices |

Some common subject areas were discussed across the 12 external consultations, examined in greater detail below.

► Increasing use of technology and the move to remote hearings

The ability of the majority of Law Library members to adopt and integrate technology within their practice at unanticipated speed and effectiveness was complemented throughout the consultations. Where in the past a significant majority of barristers would have worked solely with paper documents, such members are now a clear minority. TBOI has made significant investments in their own shared technology platform, however they remain reliant on the larger, and evolving, digital ecosystem within Irish legal services.

Remote hearings have become the accepted norm for a number of court items, e.g., the reading of court lists and consenting agreements, and the likelihood is that they are here to stay at some level. On the contrary, cases involving the cross-examination of witnesses have been deemed unsuitable for e-court hearings, and the return of in-person hearings is welcomed by junior barristers, who have been impacted by the lack of court exposure since the onset of the pandemic.

► Barristers ongoing struggle to collect fees owed for work completed

Barristers do not maintain formal contracts of work with solicitors, instead relying on an honorarium for due payment making them overly reliant on solicitors goodwill. A commonly expressed view was that counsel should be remunerated better for their earlier work, reducing reliance on the brief fee for payment.

The State agencies held a shared view that barristers provide good value for money for their services. However, in-house counsel, most of whom are suitably qualified legal professionals, felt they were forced to pay excess fees to external solicitors, in order to engage the services of a barrister.

“

There are things the Bar currently can't offer, like an inclusive discovery package using IT. A number of specialist law firms have scaled up in a way that individual counsel can't keep track of. In this way, they [barristers] are letting areas of work slip away to other parts of the legal family.

In reference to the use of technology/remote hearings

“

The accepted fee model is open to question and reform. If the structure of counsel's fees were changed so that counsel were remunerated more for the initial work done, without having to rely on the ability to charge a brief fee, would everyone be more incentivised to try and settle proceedings at an earlier stage?

In reference to the current level of legal fees

6 External Consultation

Key themes identified in the external consultations (2/6)

| |
|------------------------------|
| Dashboard |
| 1 Executive Summary |
| 2 Introduction |
| 3 Overview of the Legal ... |
| 4 Overview of The Bar of ... |
| 5 International Benchmarking |

6 External Consultation

| |
|--------------------------------|
| 7 Analysis of internal and ... |
| 8 Pushing the boundaries |
| 9 Appendices |

► There is a significant backlog of cases within the court system

There was a significant backlog of cases in the courts prior to the pandemic and the situation has only worsened since. Government support will be required in the post-COVID period to support a greater number of sittings as a measure to address this in the short-term. Additionally, a number of consultees called for the development of an efficient online case management platform, in order to support more effective court scheduling and longer-term mitigation of the problem. While the influence of more experienced Junior Counsel over court lists was a matter of contention, overall, it was widely accepted that the court lists were predominantly outside of TBOI's control.

► Significant progress is acknowledged in barrister education and training, but scope for improvement remains

The Review of Legal Practitioner Education and Training ('Hook Tangaza') Report completed by the LSRA has placed an increased focus on the education and training of barristers in Ireland. While it is acknowledged that junior barristers are now better trained, the need for continued education in relation to professional communications was highlighted throughout the consultations. At present, there is little established standard for client communications among practicing barristers, with the nature of responsiveness highly variable. The new CPD Framework adopted in April 2021 provides for a new Personal Professional Development and Practice Management module, of which communication and interpersonal skills are an integral part. Over time, this module should assist in standardising practise among Law library members.

“

Support from government will be needed for increased sittings, larger venues, etc. Generally, government plans at the moment in terms of tackling the backlog are not clear.

In reference to inefficiencies in court management/case lists

“

In terms of service delivery, the softer skills around leadership and management appear to be somewhat lacking. There should be a shared understanding, or a common basic standard, in terms of; level of turnaround, professional response, level of availability and communication.

In reference to the provision of education & training

6 External Consultation

Key themes identified in the external consultations (3/6)

| |
|------------------------------|
| Dashboard |
| 1 Executive Summary |
| 2 Introduction |
| 3 Overview of the Legal ... |
| 4 Overview of The Bar of ... |
| 5 International Benchmarking |

6 External Consultation

| |
|--------------------------------|
| 7 Analysis of internal and ... |
| 8 Pushing the boundaries |
| 9 Appendices |

► Support for the unification of the legal professions in Ireland is extremely low at present

There appears to be little appetite for a merger of the legal professions among those consulted, with concerns expressed regarding wider ramifications in terms of equality and access to justice, and both professions content to operate on the existing basis. The feedback received from consultees indicates that both solicitors and barristers value the demonstrable independence of the current structure of legal practice.

One factor that may alter this view is the potential for new partnership structures to emerge, enabled by the impending commencement of the relevant sections of the Legal Services Regulation Act 2015. It is not clear at this point how the legal system will evolve in response to the new legislation, but a re-emergence of the unification issue can not be ruled out within the next decade.

► The unbalanced allocation of available work is a factor in the high attrition rate of junior memberships within the Law Library

With 2,852 barristers noted as having the Barrister-at-Law degree by the LSRA, the internal market for barrister services is acutely competitive. Within the IRB model, well known counsel benefit from an excess of referrals, whereas junior barristers seeking to establish their practice struggle to find sufficient work. This in turn, leads to a particularly high attrition rate among barristers within their first decade of practice, who cannot afford to support themselves for extensive periods of time with little income.

Recent legislative changes are an additional cause for concern, particularly among Junior Counsel working personal injury cases. The reduction in court awards will likely see cases drop from the Circuit to the District Court, with an associated impact on the incomes of barristers working in that area of practice.

“

Large firms of solicitors teaming up with barristers could be very damaging to the justice system outside of Dublin. There are wider ramifications in terms of equality of access to justice generally.

In reference to the unification of the legal professions

“

It's widely known, inside and outside of the Bar, that TBOI has a huge problem in retaining people. What the appetite within TBOI is to address that overall structural problem is a big question for them.

In reference to the distribution of work/attrition rate

6 External Consultation

Key themes identified in the external consultations (4/6)

| |
|------------------------------|
| Dashboard |
| 1 Executive Summary |
| 2 Introduction |
| 3 Overview of the Legal ... |
| 4 Overview of The Bar of ... |
| 5 International Benchmarking |

6 External Consultation

| |
|--------------------------------|
| 7 Analysis of internal and ... |
| 8 Pushing the boundaries |
| 9 Appendices |

► There is a noted lack of diversity within the legal professions

When initially called to the Bar, newly admitted barristers are expected to spend their first year of practice in unpaid pupillage with an approved Dublin-based practitioner. This period of 'devilling' creates an additional barrier for those seeking to enter the profession, particularly those from poorer socio-economic backgrounds, or those based outside of Dublin, without access to financial supports in their initial practice years.

Whilst TBOI is the representative body for the barristers' profession in Ireland and not their employer, the apparent lack of diversity and inclusion remains a matter of concern where it's future success is considered, particularly in the public eye. In this regard, there are opportunities for progression, both in terms of the State's equitable briefing policies and how solicitor's firms, as the profession's other core client grouping, brief members of the Law Library.

► Members of the Law Library are held in high regard

Throughout the series of consultations, members of the Law Library were regularly referred to as 'highly intelligent', 'skilled', and 'capable', and esteemed as valued advisors and advocates. The fact that the vast majority of barristers in Ireland practice as members of the Bar is an endorsement of the success of the Council of The Bar of Ireland in supporting the needs of members.

As sole trader practitioners, barristers rely on their networking abilities to expand their practice, both individually and in aggregate. In addition to existing promotional and marketing activities, there is the potential for the Council of The Bar of Ireland to strengthen its already successful outreach efforts through an expanded market-facing role for the various Specialist Bar Associations, given the correct strategic planning.

“

There should be more talk about diversity and inclusion. There isn't enough talk about access to the legal professions. Why does the profession feel like it is limited to people of particular backgrounds?

In reference to levels of diversity & inclusion

“

TBOI has a good outreach element, with courses and training, conference days, and seminars; all occasions to meet and network that are organised by The Bar of Ireland and are hugely successful for all involved.

In reference to consultee's relationship with TBOI

6 External Consultation

Key themes identified in the external consultations (5/6)

| |
|------------------------------|
| Dashboard |
| 1 Executive Summary |
| 2 Introduction |
| 3 Overview of the Legal ... |
| 4 Overview of The Bar of ... |
| 5 International Benchmarking |

6 External Consultation

| |
|--------------------------------|
| 7 Analysis of internal and ... |
| 8 Pushing the boundaries |
| 9 Appendices |

► The Bar of Ireland alumni are a neglected resource

At present, those that choose to leave the Law Library for one reason or another feel excluded from their former peers. There is very limited engagement from TBOI with retired or departed members, even with those who continue to work in the legal sector.

A number of consultees referenced cultural stigma of 'failure' associated with a barrister opting to leave membership of the Law Library to pursue a career elsewhere. There could be wider benefits to TBOI in maintaining links with departed members in the form of some additional fee income, referrals, and access to specialist expertise in areas of interest.

► Solicitors encroaching on work traditionally completed by barristers

Legal research and drafting work, which would formerly been undertaken by more junior barristers is now regularly won by the major solicitor firms. These larger practices have invested heavily in artificial intelligence and bespoke software capable of conducting legal searches in a far more efficient and cost effective manner. The negative impact is most keenly felt by junior barristers, who would previously have relied on the associated fee income.

Such trends are difficult to reverse, and other areas of barrister competence are also likely to face new competition. It is more pertinent than ever to ensure that the work traditionally available to junior barristers doesn't get lost to solicitors (or others). Recent legislative changes to personal injury and negligence awards are a case in point, as it is likely a number of cases which were previously completed in the Circuit Court will drop to the District Court, where the use of barristers is not always encouraged or required.

“

A lot of people come through TBOI as trainees, stay for 2 years and then go off into other jobs. You get the sense that you're a failure/quitter if you haven't managed to stay there. TBOI should embrace people who leave the Bar, but remain working in the legal sector or interested in it.

In reference to TBOI Alumni

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The creep to the District Court is appearing more and more. Huge adaptability is going to be required by the profession to support the work generally completed by its more junior members.

In reference to loss of work to solicitors

6 External Consultation

Key themes identified in the external consultations (6/6)

| |
|------------------------------|
| Dashboard |
| 1 Executive Summary |
| 2 Introduction |
| 3 Overview of the Legal ... |
| 4 Overview of The Bar of ... |
| 5 International Benchmarking |

6 External Consultation

| |
|--------------------------------|
| 7 Analysis of internal and ... |
| 8 Pushing the boundaries |
| 9 Appendices |

► The COVID-19 pandemic is likely to have a lasting negative impact on junior barristers

The restrictions on court sittings mandated by pandemic measure resulted in a significant loss of earnings for the barrister profession, although the burden was not equally shared. While some barristers will be able to 'ride out' the pandemic despite reduced income, a number of consultees expressed the view that numbers at the Bar will decline post-COVID due to the inherent income insecurity.

Other pandemic related concerns included the backlog of cases to be addressed post-pandemic (and the resources required to address this), as well as the longer-term effects of junior barristers gaining little to no court exposure as a result of remote hearings.

“

Barrister demand in general has dropped, as it is harder to deal with certain issues in lockdown. Simultaneously, there are no opportunities for juniors to learn or be seen when things are done remotely – this will likely have a long-term effect on the profession.

In reference to the impact of COVID-19

► Word of mouth is insufficient promotion in a competitive market

Presently junior barristers are effectively reliant on more senior members to recommend them for suitable work in order to grow their own position and practice, making personal networks within the Law Library a key determinant of advancement. External networks are equally important as individual barristers are precluded from promoting the cases in which they are or have been working on. Some consultees felt that TBOI was best positioned to further expand its role as the representative body for barristers, to improve the general public's understanding of the role and value of barristers and the work that they do.

“

Currently, members of the Law Library are invisible. Individually or collectively, they should be able to showcase their expertise. Where is the opportunity for more junior barristers to put their hand up to show their expertise?

In reference to TBOI's marketing

7

Analysis of internal and external environment

7 Analysis of internal and external environment

We have used two frameworks to guide the analysis

| |
|------------------------------|
| Dashboard |
| 1 Executive Summary |
| 2 Introduction |
| 3 Overview of the Legal ... |
| 4 Overview of The Bar of ... |
| 5 International Benchmarking |

| |
|---------------------------------------|
| 6 External Consultation |
| 7 Analysis of internal and ... |
| 8 Pushing the boundaries |
| 9 Appendices |

To assess how to prepare TBOI for current, as well as future market disruptions and ensure future sustainability and success of members of the Law Library, EY have conducted SWOT & PESTLE analyses. These will assist in understanding salient long-term trends and help focus the recommendations for TBOI in a period of economic and societal change.

A SWOT analysis allows TBOI to assess its strengths and market opportunities, and to guard against any potential vulnerabilities. The significance of a SWOT analysis is that it allows TBOI to not only determine how well it is operating at the moment, but also to plan for future changes in the market.

A PESTLE analysis provides a framework with which to assess the external environment in which TBOI is operating. The results from a Political, Economic, Social, Technological, Legal and Environmental analysis can be used to guide TBOI's future strategic priorities.

The SWOT & PESTLE components have been informed by the external and internal consultation process, as well as the international benchmarking exercise.

Both analyses allow us to understand the multitude of factors affecting TBOI, both currently and into the future. This ensures that the final strategic recommendations consider all the relevant perspectives which will impact and sustain the future of the profession in Ireland.

SWOT Analysis

| Strengths | Weaknesses | Opportunities | Threats |
|--|--|--|---|
| In what areas does The Bar of Ireland currently excel in its service offering? | In what areas is The Bar of Ireland exposed to potential change? | How can The Bar of Ireland adapt to ensure they thrive into the future? What emerging market trends could support a stronger profession? | What are the potential challenges for The Bar of Ireland and how can they be addressed? |

PESTLE Analysis

| Political | Economic | Social | Technological | Legal | Environmental |
|--|---|---|---|--|--|
| <p>The government can exogenously determine many factors which affect the feasibility of The Bar of Ireland operations and objectives, for example:</p> <ul style="list-style-type: none"> ▶ Tax rates ▶ Regulation ▶ Legislation | <p>The macro-economic environment is influential in determining the success of organisations. A review of the economic factors that drive the demand for legal services will be important (e.g. population, income, employment)</p> | <p>Social factors can greatly influence The Bar of Ireland in terms of how their objectives are perceived and the applicable audience. Factors include demographic trends in society, attitudinal changes and priorities, as well as the incidence of crimes.</p> | <p>Developments in technology will rapidly change the environment in which Law Library (LL) members operate and the software they have at their disposal to conduct their work and manage their practice. These may have cost implications for TBOI and LL members alike.</p> | <p>The legal and regulatory requirements set down by the LSRA will influence The Bar of Ireland's procedures and costs. It will also affect (positively or negatively) progress towards its objectives, for example if there are changes in operating standards or models.</p> | <p>Environmental trends, and attitudes towards the environment, exert a strong influence on an organisation's success. e.g., the role of sustainability in an organisation's agenda, or environmental conditions owing to climate change</p> |

7 Analysis of internal and external environment

PESTLE: Political - There are a number of political issues which could impact TBOI and their impact could vary widely (1/2)

| |
|------------------------------|
| Dashboard |
| 1 Executive Summary |
| 2 Introduction |
| 3 Overview of the Legal ... |
| 4 Overview of The Bar of ... |
| 5 International Benchmarking |

| |
|---------------------------------------|
| 6 External Consultation |
| 7 Analysis of internal and ... |
| 8 Pushing the boundaries |
| 9 Appendices |

The government can hugely influence many factors which affect the feasibility of TBOI operations and objectives. These include tax rate, regulation, justice budgets and legislation, and are all the more important in times of crises.

When we consider that Ireland rebounded so robustly from the last financial crisis largely due to its favourable corporate tax regime, the impact of Government measures cannot be understated. The dual impact of US and OECD tax reform measures could result in changes for the Irish tax system. A [speech](#) by the Minister for Finance on 21 April 2021 addressing these potential changes provided a timely insight into these issues and the current Government stance.

In the recent Stability Programme Update (SPU), the Government factored in a €2 billion impact to Irish tax revenues from the proposed changes by the OECD. International tax reform is undoubtedly a potential driver of change for the Irish economy.

In comparison with the current tax situation, the regulatory environment is less of a danger to TBOI. When the LSRA was first proposed, there was an element of trepidation within the Irish legal sector. Although it is still early days in the introduction of the LSRA, the general consensus is that its establishment has reduced pressure on TBOI and the Law Society and is a positive development within the sector. 77% of respondents to the members' survey stated that the LSRA had improved standards in the provision of legal services since it was established, while only 16% of respondents believed that it had placed an increased burden on the profession.

As witnessed by the recent introduction of new guidelines in respect of Personal Injury Awards by the Judicial Council, reform of the Irish legal sector typically carries a political angle or involvement. Driven by reporting that personal injury pay-outs in Ireland were over 4 times higher than in the UK, political furore ensued, leading to Justice Minister Helen McEntee announcing the new rules to "take into account both the urgency in tackling high insurance costs and fairness

for those who have suffered injury as well as those who are required to defend a claim". As a result of the new legislation, a number of cases which may previously have been dealt within the Circuit Court, will now drop to the District Court. Concurrently, the personal injuries work that a number of Junior Counsel members would have earned their living from, will now be managed by solicitors. It is unsurprising as a result, that within the members' survey, 68% of respondents noted concern about the effect of future legislation on the profession. This potential loss of work to the solicitors' profession is a considerable cause for concern, particularly given that it often affects those who are already on relatively lower income levels.

Simultaneously, the government has significant influence over the level of funds dedicated to justice within the national budget each year. Given the State itself is the largest user of legal services within Ireland, any changes in respect of the level of fees they pay, e.g., through the criminal or civil legal aid schemes, to legal professionals to carry out work, can have a significant effect on the Irish legal sector. Over the past 5 years, TBOI has tried to engage with the Department of Public Expenditure & Reform (DPER), in relation to a process to unwind professional fee cuts that were imposed on barristers during the period 2008-2011 who are instructed to prosecute criminal cases on behalf of the State. Both the Office of the Director of Public Prosecutions and the Department of Justice have indicated their support for such fee restoration. However, to date, the approach being taken by DPER in relation to the unwinding of cuts applied to the professional fees of barristers is at odds with the approach taken in relation to other groupings. For example, State Solicitors, who are independent contractors (similar to barristers), and are engaged by the Office of the Director of Public Prosecutions to work on the same cases prosecuted by barristers, have had a process of pay restoration implemented since 2017. However, criminal barristers are still subject to the FEMPI cuts.

7 Analysis of internal and external environment

PESTLE: Political - There are a number of political issues which could impact TBOI and their impact could vary widely (2/2)

Dashboard
1 Executive Summary
2 Introduction
3 Overview of the Legal ...
4 Overview of The Bar of ...
5 International Benchmarking

6 External Consultation
7 Analysis of internal and ...
8 Pushing the boundaries
9 Appendices

Within the wider island of Ireland political sphere, pressure is mounting on all sides for a border poll. The Brexit NI Protocol and how the process was managed by the UK has changed the perception of some in NI as to their view of their preferred status as a citizen and/or nation. An all-island survey in May 2021 conducted by Kantar and the Irish Independent indicated that, whatever their political views, 70% of respondents would support a border poll within the next 5 years. While barristers in NI operate under NI law, as a devolved legal jurisdiction within the United Kingdom, there may be changes for barristers on both sides of the border if reunification were to materialise. There would also be a surge in legal work as part of the reunification.

The Government currently has a mandate until February 2025. If current opinion polls were to translate to seats at the next election, it is likely that Sinn Féin would either lead or participate in Government. Their record in the NI Executive is unlikely to be a reliable indicator of their priorities in an Irish Government however their 2020 manifesto does outline areas where an impact on the legal sector can be identified such as plans to introduce US style “class action suits”, measures to reduce costs at Tribunals of Inquiry, strengthening enforcement powers for a number of regulators and State bodies. Legislative or SI based measures to enact new policies, create new rights or introduce reforms would likely lead to an increase in legal activity in reviewing, reacting to or challenging such measures.

“Ireland's tax policy has been influenced by the OECD, and, given that we see ourselves as adaptable and important stakeholders in the global tax code, it is important that we stay inside the OECD framework.”

Minister for Finance, Paschal Donohue

Key takeaway:

Political forces can impact the profession of barristers in a number of ways. Government elections can change the shape of government which can impact policy, regulation and legislation. The overriding impact is in terms of budgets and the funding that is allocated to ensure access to a fair and equitable justice system. Government can institute a range of reforms, e.g., in relation to personal injury awards or the level of legal fees paid by the State, which can impact the delivery of barrister services. There are also geopolitical issues such as, for example, instability in Northern Ireland or potentially reunification of the island of Ireland, all of which would be expected to generate an increase in the demand for legal services.

7 Analysis of internal and external environment

PESTLE: Economic - The economic outlook is strong, with a likelihood that Ireland will accelerate out of an unprecedented 2020 (1/2)

Dashboard
1 Executive Summary
2 Introduction
3 Overview of the Legal ...
4 Overview of The Bar of ...
5 International Benchmarking

6 External Consultation
7 Analysis of internal and ...
8 Pushing the boundaries
9 Appendices

The economic climate has not been short of disruptions in recent times; from the announcement of the Brexit vote in June 2016, right up to the present day COVID-19 crisis, businesses across Ireland, the UK and the wider EU have been forced to continually adapt in an attempt to survive. While the fallout from Brexit will impact the Irish economy, the global and local economic consequences of the pandemic shocked the world in 2020, and simultaneously exposed vulnerabilities, as organisations and individuals the world over were forced to change their *modus operandi* to facilitate a work from home labour force, subject to public health and safety guidelines. The 'internal' Irish economy contracted by 5.4% last year (based on MDD* measure), and EY expect significant growth in 2021 of 3.2%, on the assumption of a successful vaccine rollout, with most restrictions being lifted across the island by summertime.

With all members of the Law Library currently operating as independent sole traders, the warning by governor of the Central Bank Gabriel Makhoul in April of this year, that up to one-in-four SMEs could go bankrupt once the State withdraws COVID supports, is a cause for significant concern for TBOI. EY estimates that 32% of pre-pandemic jobs are currently disrupted in the Republic of Ireland. While the bulk of labour and business casualties are likely to be within the tourism, hospitality and retail sectors, the impact of COVID-19 on the wider economy should not be underestimated. Junior barristers, particularly those who are just starting out in practice, could require significant support over the coming years to remain in the profession, given the economic factors of population, income and employment all drive demand for legal services. As such, the Government's latest Economic Recovery plan announcement that there is to be a substantial extension of the Employment Wage Subsidy Scheme (EWSS), the Pandemic Unemployment Payment (PUP), and the COVID Restrictions Support Scheme (CRSS), and considerable enhancement of both EWSS and CRSS will be welcomed by those struggling within the legal sector.

Key facts about the Irish economy

+3.2%

2021 EY Growth Forecast for Irish MDD*

€73,600

GDP per capita in 2020

€40,300

Average annual earnings** in 2019

€275,800

Average house price in Q1 2021

32%

Of pre-pandemic jobs are currently disrupted*** in the Republic of Ireland

* MDD (Modified Domestic Demand) is a measure of 'real' economic activity and excludes aircraft for leasing and R&D related IP imports.

** Earnings = average annual total earnings

*** Disrupted jobs calculated as those on government support schemes as a share of total employment in Q4 2019

Sources: EY Economic Eye – May 2021; gov.ie, 'Economic Recovery Plan – Recovery and Renewal', June 2021

Business Post, 'Makhoul warns of severe shock to economy from COVID fallout', April 2020

7 Analysis of internal and external environment

PESTLE: Economic - The economic outlook is strong, with a likelihood that Ireland will accelerate out of an unprecedented 2020 (2/2)

| |
|------------------------------|
| Dashboard |
| 1 Executive Summary |
| 2 Introduction |
| 3 Overview of the Legal ... |
| 4 Overview of The Bar of ... |
| 5 International Benchmarking |

| |
|---------------------------------------|
| 6 External Consultation |
| 7 Analysis of internal and ... |
| 8 Pushing the boundaries |
| 9 Appendices |

With the caveat that the Irish legal sector often only feels the true effects of economic upheaval c.1-2 years after the rest of the economy (as witnessed post-recession in 2007), the true extent to which the COVID-19 pandemic has affected the profession in Ireland remains to be seen. Workflows were not operating optimally even prior to the pandemic. In the members' survey conducted, 68% of respondents believed that barristers were suffering financially due to reduced court activity and fee income.

With the likely introduction of partnerships for barristers by the LSRA, a number of barristers may choose to pool resources where possible to reduce overheads, such as property, administrative assistance, etc. While 62% of respondents believed that the IRB model is fit for purpose, the appetite for optional alternatives is strong, with 52% of respondents noting a preference for the option to work in a 'meitheal' of barristers in future.

A notable barrier to barristers' ability to earn work, and in turn income, is the current legal structure they operate in for contentious work. Relying solely on solicitors, who are encroaching more and more on barristers' work, is a potential issue for the future. Results from the members' survey indicate that 48% of barristers rely on private practitioner solicitors for almost all of their briefs.

Key takeaway:

The impact of the economic cycle is evident from the disruption caused during COVID-19 and Brexit which have generated many economic challenges for all citizens and workers, including the self-employed. Barristers have experienced reduced earnings, associated primarily with reduced court activity, and can be vulnerable in economic downturns. Change and disruption, however, also bring threats and opportunities. Barristers need to be prepared to meet the challenges of the changing economic landscape by embedding new arrangements for the way they do business, e.g., working in a 'meitheal' of barristers or similar grouping. Equally, monitoring new and emerging areas where they may have advantages that did not exist before, can help build resilience and sustainability of their profession.

7 Analysis of internal and external environment

PESTLE: Social - The social landscape has changed significantly over the last 50 years and the pace of change could be said to be increasing (1/2)

Dashboard
1 Executive Summary
2 Introduction
3 Overview of the Legal ...
4 Overview of The Bar of ...
5 International Benchmarking

6 External Consultation
7 Analysis of internal and ...
8 Pushing the boundaries
9 Appendices

Social and attitudinal changes, including demographic trends in society, public priorities, and the incidence of crimes, greatly influence how organisations' objectives are perceived among society. The Republic of Ireland may previously have been viewed as a homogeneous society and culture. In the 1900s, the vast majority of people were white, English-speaking and Catholic. Over the last 50 years, the cultural map of Ireland has changed significantly. In the 2016 Census, ethnic minorities composed 15.2% of the Irish population. Ireland is now a multinational, cosmopolitan, globalised society. Major markers of societal change this century have included changes to abortion, same-sex marriage and addressing mother and baby homes/Magdalene laundries.

The Irish population continues to grow, and is estimated to be 5.2 million in 2021, with a median age of 38 years. Despite increasing in overall population size, the number of criminal incidents has decreased over the last decade. There was a 22% drop in the number of criminal incidents reported to An Garda Síochána between 2009 and 2019.

In recognition of the high cost of legal services to the average individual, the State has set up an independent body responsible for the provision of civil legal aid and advice to persons of modest means, in accordance with the provisions of the Civil Legal Aid Act 1995 (the "Act"). The body, known as the Legal Aid Board (LAB), provide civil legal aid and advice primarily through a network of law centres by solicitors employed by the Board. In 2019, the LAB completed 17,419 cases, a decrease of 2% on the year previous. Over the same time period, the demand for their services has increased. The numbers waiting for legal services at the end of 2019 had increased to a figure of 2,019 from a figure of 1,754 at the start of the year while the number of applications for the Board's services increased significantly by 33% YoY. While the LAB have yet to publish their annual report for 2020, it is likely the waiting list has increased even further given the widespread backlog in court cases being heard throughout the COVID crisis. Aside from those providing access to justice through 'no foal, no fee' payment structures, figures from TBOI reveal that circa. 82% of barristers within the LL provide pro-bono services to clients.

Sources: The Irish Times, 'A snapshot of how Ireland has changed', June 2016
CSO, *CJA01 Recorded Crime Offences Under Reservation*
CIA.gov, *The World Factbook – Ireland*, 2021
Legal Aid Board, *Annual Report*, 2018 & 2019

Key facts about Irish Society

5.2 million

Estimated total population of Ireland in 2021

38 years

Median age of the population

15.2%

% of the Irish population that are made up of ethnic minorities

-22%

Decrease in the level of crime reported in Ireland from 2009 to 2019

17,419

Cases handled by the Legal Aid board in 2019, of which circa. one third were civil legal aid cases

7 Analysis of internal and external environment

PESTLE: Social - The social landscape has changed significantly over the last 50 years and the pace of change could be said to be increasing (2/2)

- Dashboard
- 1 Executive Summary
- 2 Introduction
- 3 Overview of the Legal ...
- 4 Overview of The Bar of ...
- 5 International Benchmarking

- 6 External Consultation
- 7 Analysis of internal and ...
- 8 Pushing the boundaries
- 9 Appendices

One inherent issue of the State’s efforts to improve access to justice among socio-economically disadvantaged groups is the level of public investment dedicated to improving access. With a spend of c.€56 per person through the judicial system budget, Ireland lags significantly behind European counterparts who typically spend €197 - €220 per inhabitant. These figures reflect the Irish scenario of shifting the cost burden of the judicial system to the user.

If any legal system is to operate at its optimum level, access must be available to all. Despite the existence of the Legal Aid Board, vulnerable sections of Irish society continue to encounter difficulties in accessing justice. TBOI strives to do what it can to address this through its pro bono Voluntary Assistance Scheme (VAS). At any one time, TBOI assists circa. 40 individuals across Ireland through the VAS.

Key takeaway:

The level of government expenditure dedicated to justice is relatively small in Ireland, in comparison with our EU counterparts. As a result, there is a significant proportion of society who are unable to access justice in its usual form, and are forced to either act for themselves as lay litigants, engage the services of legal practitioners on a pro-bono basis or choose to not seek access to justice.

7 Analysis of internal and external environment

PESTLE: Technological - The pace of technological change has been dizzying and is unlikely to relent over the coming decade (1/2)

| |
|------------------------------|
| Dashboard |
| 1 Executive Summary |
| 2 Introduction |
| 3 Overview of the Legal ... |
| 4 Overview of The Bar of ... |
| 5 International Benchmarking |

| |
|---------------------------------------|
| 6 External Consultation |
| 7 Analysis of internal and ... |
| 8 Pushing the boundaries |
| 9 Appendices |

In just a few months, the COVID-19 crisis brought about years of change in the way organisations in all sectors and regions do business. According to a study by McKinsey & Company, the average share of customer interactions in Europe that are digital increased from 32% in December 2019 to 55% in July 2020, the equivalent of 3 years advanced adoption ahead of the average rate of adoption from 2017 to 2019. The legal sector in Ireland has been no different. Adoption and usage of videoconferencing, remote hearings, online legal databases and the online legal diary facilitated by the Irish Court Service have all been accelerated in response to the working restrictions imposed by Government in response to the pandemic. Whether for transactional, educational, or personal purposes, it is clear that people turned to digital channels for many aspects of their lives as a result of the COVID-19 pandemic.

Consumer expectations have now changed and a certain number of digital adoptions are likely to remain post-COVID. The digitisation of legal databases has been welcomed by legal professionals across the country, in particular those based outside of Dublin, with 87% of respondents to the members' survey stating that the online legal databases are essential to their practice. There is significant appetite for the entire library in TBOI to be fully digitised over time and staff members of TBOI are supportive, with improvements to technology and IT in general noted among the top three responses in priority areas of focus for the Bar Council, within the staff survey conducted as part of the strategic review consultation process.

While IT investments in essential applications adopted by TBOI prior to the pandemic benefitted LL members greatly upon lockdown restrictions, going digital in and of itself has not been a panacea to all that ails business in the current economic environment. In fact, 53% of respondents to the member survey conducted by EY believed that the use of remote hearings had adversely impacted opportunities to develop their practice.

As the Irish Courts Service implements its three-stage digital approach – “Transition” (to end 2022), “Transform” (to end 2025), and “Optimise” (to end 2030) – as outlined in its Vision statement, it will be important that TBOI's own strategy remains aligned with that of the Irish Court Service. Currently, TBOI has representatives on both the Courts Service Board and on the various committees and working groups across the Court Service. One of those relates to future technology where TBOI Executive continue to provide input. TBOI should seek to ensure that members' voices continue to be heard and accounted for within the Courts Service transformation and that proposed technology solutions do not result in excessive cost or barriers to entry for members.

7 Analysis of internal and external environment

PESTLE: Technological - The pace of technological change has been dizzying and is unlikely to relent over the coming decade (2/2)

Dashboard
1 Executive Summary
2 Introduction
3 Overview of the Legal ...
4 Overview of The Bar of ...
5 International Benchmarking

6 External Consultation
7 Analysis of internal and ...
8 Pushing the boundaries
9 Appendices

Key takeaway:

Technological adaptations for the 'next normal' of TBOI

Here to stay

Use of online legal databases

- ▶ It is likely that over the coming years, more and more library resources will be made available online.
- ▶ This is of particular benefit to Country/Cork Law Library members, and those who work from home, who do not have the same access to resources as their Dublin counterparts.

Case Management Platform

- ▶ County registrar call-over now conducted via video call rather than aloud in the courts.
- ▶ A more integrated system could be used. Currently it is up to those involved to monitor the legal diary search engine of the Courts Service. There should be an automatic email sent when a case you are involved in is logged.

Return to old normal at least partially

Remote Hearings

- ▶ May remain for special cases in certain courts where they work well, e.g. in the commercial court, as well as arbitration/ mediation cases.
- ▶ The majority of cases are likely to be held in the old format. They were utilised as a short-term solution to an immediate crisis, rather than a long-term action for progressive change.

Videoconferencing/Online meetings

- ▶ Remain useful where there is a significant amount of travel between clients/legal professionals
- ▶ There is an appetite for social interactions and it is likely people will return to their prior workplaces and operations at least partially, for networking and collaborative reasons and depending on client preference.

7 Analysis of internal and external environment

PESTLE: Legal - A range of major reports have sought to improve access to justice and have generated a significant number of recommendations, some of which may need a change in legislation (1/3)

| | |
|------------------------------|---------------------------------------|
| Dashboard | 6 External Consultation |
| 1 Executive Summary | 7 Analysis of internal and ... |
| 2 Introduction | 8 Pushing the boundaries |
| 3 Overview of the Legal ... | 9 Appendices |
| 4 Overview of The Bar of ... | |
| 5 International Benchmarking | |

The legal ecosystem of TBOI has gone through a number of significant changes in the last decade, most notably the introduction of the LSRA. Where in the past TBOI was solely responsible for the regulation of its members, the LSRA now fulfils this function, amongst others. Overall, the introduction of the LSRA has been positively received among Law Library members. 67% believe that the LSRA has not placed an increased burden on the profession, while 77% believe that the LSRA has improved standards in the provision of legal services. It is perhaps too early for many members to have a fully formed view of the implications of the LSRA, given a lack of interaction, and this was the main feedback received by those who provided additional commentary.

A number of major reports on the justice system have been published over recent years which have been aimed at building a justice system that works for everyone. These reports contained several recommendations to improve access to justice. Three significant reports are referred to below - the O'Malley Report (August 2020), the Kelly Report (October 2020), and the Justice Plan from the Department of Justice (February 2021). These three reports in total contained 382 recommendations, although some appear in more than one report.

The O'Malley Report:

This review examined key aspects of the criminal justice process as it related to vulnerable witnesses and identified ways in which the treatment of such witnesses might be improved. The report contained 52 actions with four overarching recommendations:

1. Promoting better awareness of victims' rights legislation
2. Promoting education about the meaning and importance of consent
3. Improving inter-agency co-operation and exchange of information, especially in relation to services for victims
4. Ensuring consistency in service delivery.

Following publication of the O'Malley report, an Implementation Plan was subsequently published by the Minister for Justice in September 2020 and an Implementation Oversight Group of all relevant departments and agencies was established to drive implementation of the agreed actions in the O'Malley Report. The Plan sets out the initial actions which will be taken in 2020 and 2021, as well as an ambitious programme of legislative reform for the coming years.

The Kelly Report:

A separate Review Group established by Government in March 2017, and chaired by the President of the High Court, the Hon. Mr. Justice Peter Kelly at the time, published a comprehensive Review of the Administration of Civil Justice in October 2020. The Minister for Justice stated the publication was the "largest review of civil justice ever undertaken in this State" and announced the establishment of an Implementation Group to further consider, develop and progress its recommendations. The report contained in excess of 90 recommendations, ranging from smaller modernisations, such as the simplification of the language and terminology in Rules of Court, to

Sources: Legal Aid Board, *Annual Report*, 2018 & 2019

Irish Legal News, 'Review group split on how to reduce litigation costs', December 2020

Department of Justice, 'Supporting a Victim's Journey: A plan to help victims and vulnerable witnesses in sexual violence cases', August 2020

Department of Justice, 'Review of Protections for Vulnerable Witnesses in the Investigation and Prosecution of Sexual Offences (O'Malley)', July 2020

7 Analysis of internal and external environment

PESTLE: Legal - A range of major reports have sought to improve access to justice and have generated a significant number of recommendations, some of which may need a change in legislation (2/3)

| |
|------------------------------|
| Dashboard |
| 1 Executive Summary |
| 2 Introduction |
| 3 Overview of the Legal ... |
| 4 Overview of The Bar of ... |
| 5 International Benchmarking |

| |
|---------------------------------------|
| 6 External Consultation |
| 7 Analysis of internal and ... |
| 8 Pushing the boundaries |
| 9 Appendices |

more significant proposals such as the introduction of a more efficient and cost-effective regime for discovery and a review of civil legal aid. A wide range of areas impacting the administration of civil justice are discussed, such as civil procedure, discovery, judicial, litigation costs, the courts, their facilities and services, technology and e-litigation. Some of these recommendations will require amendments to primary and secondary legislation, although the Review Group, in an effort to ensure that reform is implemented speedily, tried to reduce the need to resort to primary legislation as much as possible. The Kelly Report recommendations will have implications for all stakeholders, including legal practitioners, the Courts Service and the judiciary to ensure all are equipped for the challenges of the future.

One area addressed in the Kelly Review where consensus was not reached was the area of litigation costs and how a reduction in levels might be achieved. A majority of the review group members recommended the drawing up of guidelines for costs levels, while a minority recommend a table of maximum costs levels to be prescribed by a new litigation costs committee.

Department of Justice – Justice Plan 2021:

The largest user of legal services in the State is the State itself. Hence, their operations are of major importance to the Irish legal landscape. The Justice Plan 2021 and a wider three year Statement of Strategy 2021-2023 were subsequently published by the Minister for Justice in February 2021 and contained 240 actions to drive reforms across the justice sector. The Plan is the first in a series of annual plans to begin a programme of reform arising from the Kelly, O'Malley and other reports and is built on five key goals:

- ▶ Tackle crime, enhance national security and transform policing
- ▶ Improve access to justice and modernise the courts system
- ▶ Strengthen community safety, reduce reoffending, support victims and combat domestic, sexual and gender based violence
- ▶ Deliver a fair immigration system for a digital age
- ▶ Accelerate innovation, digital transformation and climate action across the justice sector

Many of the recommendations in the above reports may require a change in legislation. It is the role of the Department of Justice to advise the Minister and Government and draw up legislative proposals on policy development in the area of criminal and civil law reform. The department has a wide range of proposed legislation which it is currently drafting. The department engages with a wide range of stakeholders including the Law Reform Commission. The Commission currently has a lengthy Implementation Table which sets out the wide range of recommendations in reports it has published on specific areas of the law and whether draft legislation is required to implement those recommendations. What is evident from the current proposed legislation under consideration by the Department of Justice and the Law Reform Commission's Implementation Table is the vast range of proposed legislation across the full legal spectrum that is forthcoming.

Sources: Legal Aid Board, *Annual Report*, 2018 & 2019

Department of Justice - Proposed Legislation

irishstatutebook.ie, '*Legal Services Regulation Act 2015 (Advertising) Regulations 2020*', December 2020

Law Reform Commission, *Implementation Table (Updated June 2021)*

Department of Justice, '*Justice Plan 2021*', February 2021

7 Analysis of internal and external environment

PESTLE: Legal - A range of major reports have sought to improve access to justice and have generated a significant number of recommendations, some of which may need a change in legislation (3/3)

| | |
|------------------------------|---------------------------------------|
| Dashboard | 6 External Consultation |
| 1 Executive Summary | 7 Analysis of internal and ... |
| 2 Introduction | 8 Pushing the boundaries |
| 3 Overview of the Legal ... | 9 Appendices |
| 4 Overview of The Bar of ... | |
| 5 International Benchmarking | |

In March 2021, the Judicial Council voted to adopt the Personal Injuries Guidelines under the Judicial Council Act 2019. The Guidelines, brought into law in April 2021, replace the Book of Quantum, and provide a recalculation on damages awards in personal injuries claims. The guidelines were drafted by a committee of seven judges who catalogued the level of damages which they considered might fairly and justly be awarded in respect of varying types of personal injury. In general, the recalculation of damages in the guidelines was predominantly downwards. Accordingly, it is thought that this recalculation may result in many cases starting in lower courts and in turn, result in a reduction in work for Junior Counsel members working in the medical negligence and personal injury area of the law, as a significant number of cases may now drop to District Court level. Hence, it is unsurprising that 68% of respondents to the members' survey noted concern about the effect of future legislation on the profession, while 72% believe that there are downward pressures on the fees they charge for their services.

A separate issue for the Bar Council is the increasing number of people who are opting to deal with the legal system without any professional representation, i.e., representing themselves in court as lay litigants. The former chief justice Susan Denham asked the Bar Council in late 2016 to put together a panel of barristers who could, for free, advise lay litigants appearing before the Supreme Court on issues of public importance. As of March 2021, there are 29 Senior Counsel on the panel and 127 Junior Counsel on the panel.

High legal fees, and the lack of an adequate freely available State legal service, may have led to the increased number of people representing themselves in court. These lay litigants are often not eligible for civil legal aid, due to the low income threshold, but do not have the financial resources to afford legal services. This is a challenge for the legal services market as lay litigants can often delay court proceedings due to a lack of knowledge around procedures. Similarly, when one party is a lay litigant, there is not a level playing field in court.

The advertising of legal services is regulated by the LSRA and was dealt with in the Legal Services Regulation Act 2015 (Advertising) Regulation 2020. Regulations under the Act came into operation on 18 December 2020. This is the first time that statutory rules for advertising have been set for barristers. The regulations permit a legal practitioner and those in a legal partnership, a limited liability partnership or a group of legal practitioners who share a premises or costs, to advertise their legal services, with some restrictions on the content and form of the advertisements.

The SME market in Ireland has become significantly more complex for operators, inclusive of smaller solicitor firms and barristers, who are struggling to survive financially. Results from The Bar of Ireland's member survey in December 2020 indicated that 45% of respondents had suffered a decline in their income of 50%+ since the onset of the pandemic, and associated work restrictions. Within the members' survey, 78% noted that the role of a barrister has become more difficult over the last three years. A key factor in this is the a significant majority of barristers struggling to collect fees owed.

There appears to be low impact from collaboration with The Law Society of Ireland, both in terms of receiving payment from clients, and in sourcing additional opportunities, e.g. Brexit related opportunities from the UK. While the 'Ireland for Law' initiative attempts to promote Irish Law and Irish Legal Services to the international business community, this initiative is still only in its early stages, albeit their efforts have been somewhat thwarted by the COVID-19 pandemic. In order to change many cultural practices of the Irish legal system, a strong integrated approach from both representative organisations is necessary to see effective change.

Key takeaway:

The legal ecosystem is likely to witness a number of legislative changes in the near future, and TBOI needs to ensure that their members can cope effectively with these changes. The role of the State within the legal ecosystem cannot be underestimated, given they are the largest user of legal services in Ireland.

7 Analysis of internal and external environment

PESTLE: Environmental - Environmental considerations are now part of every key decision made by policy makers, corporates and citizens (1/2)

| | |
|------------------------------|---------------------------------------|
| Dashboard | 6 External Consultation |
| 1 Executive Summary | 7 Analysis of internal and ... |
| 2 Introduction | 8 Pushing the boundaries |
| 3 Overview of the Legal ... | 9 Appendices |
| 4 Overview of The Bar of ... | |
| 5 International Benchmarking | |

Climate change is now one of the defining issues of our time and has reached the mainstream in all conversations whether in the boardroom or kitchen. The science is conclusive: we face significant and irreversible human-made changes to the climate. Action is urgently needed if we are to limit the global temperature increase to 1.5°C above pre-industrial levels, in line with the Paris Agreement. As business is a source of the world's carbon emissions, therein lies a responsibility to act. Hence, it will come as no surprise that environmental trends, and attitudes towards the environment, exert a strong influence on an organisation's success.

Many businesses are setting carbon reduction targets, making progress toward net zero, and removing greenhouse gas emissions from the atmosphere. However, in order to address sustainability appropriately, organisations need to bridge two critical gaps:

- ▶ The 'knowing – doing' gap: A study by Boston Consulting Group/ Massachusetts Institute of Technology (BCG/MIT) found that while 90% of executives find sustainability to be important, only 60% incorporate it in their strategy, and 25% incorporate it in their business model.
- ▶ The 'compliance – competitive advantage' gap: Only 24% see sustainability as a competitive advantage. However, all organisations and companies need to be compliant.

Just like with TBOI's overall strategic plan, there is no one exact solution for sustainability. To succeed as best as possible, TBOI should:

- ▶ Continue to engage their ecosystem: The transition away from paper-based briefings and e-litigation has already commenced amongst the State agencies, including the ODPP and the CSSO. However, collaboration is critical for efficient sustainability practices, in particular in solving crises and in shaping broader solutions. Within the MIT/BCG study, 67% of respondents believe sustainability is an area where collaboration is necessary to succeed. To support a sustainable Irish economy, TBOI will need to engage with its members, the Law Society of Ireland, the Courts System, and the various State agencies, in the transition away from paper-based briefings, to e-litigation.
- ▶ Transparency is a pre-condition for assessing and improving sustainability practices - what gets measured, gets managed. The only way for TBOI to accomplish transparency is through open communications with all key stakeholders, built on high levels of information disclosure, clarity, accuracy, and an openness to recognising faults and improving practices. TBOI could follow the lead of other organisations by conducting sustainability reporting in the same way they report their financial performance.

The recent An Taisce challenges to the new Glanbia cheese plant is a timely example of how environmental issues will now feature prominently as a legal approach is followed to exert pressure on policy and/or corporate decision making.

Key takeaway:

TBOI needs to be proactive in setting environmental targets if it wishes to continue operating in a modern working world, where environmental action is paramount.

7 Analysis of internal and external environment

PESTLE: Environmental - Environmental considerations are now part of every key decision made by policy makers, corporates and citizens (2/2)

Dashboard
1 Executive Summary
2 Introduction
3 Overview of the Legal ...
4 Overview of The Bar of ...
5 International Benchmarking

6 External Consultation
7 Analysis of internal and ...
8 Pushing the boundaries
9 Appendices

Key Irish environmental challenges (according to the EPA):

1

Recognition of the benefits of a good quality environment to Health & Wellbeing

2

Accelerate mitigation actions to reduce greenhouse gas emissions and implement adaptation measures to increase our resilience in dealing with adverse climate impacts

3

Improve the tracking of plans and policies and the implementation and enforcement of environmental legislation to protect the environment

4

Implement measures that achieve ongoing improvements in the environmental status of water bodies from source to the sea

5

Integrate resource efficiency and environmental sustainability ideas and performance accounting across all economic sectors

6

Protect pristine and wild places that act as biodiversity hubs, contribute to health and wellbeing and provide sustainable tourism opportunities

7

Inform, engage and support communities in the protection and improvement of the environment

7 Analysis of internal and external environment

SWOT: Strengths - EY considered the strengths of The Bar of Ireland from both membership and market perspectives

| |
|------------------------------|
| Dashboard |
| 1 Executive Summary |
| 2 Introduction |
| 3 Overview of the Legal ... |
| 4 Overview of The Bar of ... |
| 5 International Benchmarking |

| |
|---------------------------------------|
| 6 External Consultation |
| 7 Analysis of internal and ... |
| 8 Pushing the boundaries |
| 9 Appendices |

Our research identified the relative strengths of The Bar of Ireland. The findings are presented below, loosely categorised into those matters of relevance to the membership of The Bar of Ireland and those pertaining to the legal market in which it operates.

Membership

- ▶ The Bar of Ireland enjoys a dominant market position as the representative body for independent referral barristers in Ireland. (c.2,124 members vs c.2,852 accredited barristers entered on the LSRA Roll of Practising Barristers in the State).
- ▶ The collegiate experience available within the Law Library is highly valued by the membership.
- ▶ The Law Library offers a unique location with facilities attached to the Four-Courts complex, providing significant efficiency benefits to members.
- ▶ Other Law Library properties are not as favourably situated, but still offer members the benefits of proximity to courts and co-location of offices/seats with other barristers.
- ▶ The Bar of Ireland is recognised as a high-quality provider of professional development, training, and support to its members at costs that represents very good value for money.
- ▶ Experienced staff at the Law Library provide highly valued assistance and service to its membership in their activities.
- ▶ The Young Bar Committee (YBC) is supportive to junior members, particularly as they seek to establish their practice. The majority of younger members see a future for themselves within the profession.
- ▶ The technology platform (O365) which is available to members as part of the annual membership subscription is of growing importance. It is an integrated solution providing access to necessary resources, email, secure file storage, etc.

Market

- ▶ The Bar of Ireland is seen as an access point to a broad range of legal specialists – for example, through State legal panel work.
- ▶ The Bar of Ireland enjoys a positive market perception as Law Library members are seen as leaders in the legal field.
- ▶ The Specialist Bar Associations have proven to be successful in raising awareness of member experience in certain areas of law. They also provide a visible contact point for particular competencies.
- ▶ The Bar of Ireland is recognised as a very effective and influential lobbying group on behalf of their membership.
- ▶ In recent years, the efficient commercial management of the property portfolio has significantly improved the financial position of Law Library Properties Ltd., a company owned and controlled by the Council, which underpins the financial strength of the organisation as a whole and which enabled the organisation to provide support to members during the COVID-19 pandemic.

Within the Members' survey

- ▶ 60% of younger members (<7 years practice) see a future for themselves within the profession.
- ▶ 66% of younger members feel a strong sense of collegiality and cooperation with the other members of the Law Library.
- ▶ 76% of respondents believe the current CPD model provides sufficient education and training.
- ▶ 97% of respondents believe access to the online legal databases provided by TBOI are 'Essential' or 'Important'.

7 Analysis of internal and external environment

SWOT: Weaknesses - Certain weaknesses will impact the ability of the Bar Council to continue to improve it's ability to progress members' agenda

| | |
|------------------------------|---------------------------------------|
| Dashboard | 6 External Consultation |
| 1 Executive Summary | 7 Analysis of internal and ... |
| 2 Introduction | 8 Pushing the boundaries |
| 3 Overview of the Legal ... | 9 Appendices |
| 4 Overview of The Bar of ... | |
| 5 International Benchmarking | |

Our research identified the relative weaknesses of The Bar of Ireland. The findings are presented below, loosely categorised into those matters of relevance to the membership of The Bar of Ireland and those pertaining to the legal market in which it operates

Membership

- ▶ Law Library membership has fallen in recent years, affected by lower entry numbers and high levels of attrition, particularly amongst junior members - the record shows a net loss of 164 members over the 7 years to 2019, an average annual fall of 1.1%. Law Library membership fee income correlates with the level of membership.
- ▶ A lack of membership diversity is evident, in terms of age, background, and life experience, which may dissuade talented graduates from pursuing a career at the Bar (e.g. 83% Male, 63% over 50). The requirement for an initial year of unpaid pupillage as a new barrister is a further financial barrier to a more diverse intake.
- ▶ Practice management, and fee collection in particular, is perceived as a weakness of the profession, compounded by the inability of barristers to sue solicitors for outstanding fees.
- ▶ There is a perception that the current structure of the Bar Council is weighted against the representation of Junior Counsel (83% of membership) and their interests.
- ▶ The dependence on referred briefs, with limited opportunities for direct client access to barrister services, means members are overly reliant on solicitors for work.
- ▶ The separate 'drafting fee' versus 'briefing fee' charging structure for services means younger members struggle to get paid appropriately for their work.
- ▶ There is a lack of sufficient desk/office space within the Law Library property estate to meet the demands of the existing membership, and the perceived under utilisation of the current capacity creates frustration.
- ▶ Barristers are reporting increasing levels of isolation and stress given the demands of the profession, exacerbated by the impact of COVID-19 on work practices.

Market

- ▶ The barrister profession, and The Bar of Ireland as its representative body, suffers from a perception as being out of touch with the general public.
- ▶ The impact of the LRSA may erode The Bar of Ireland's dominant position in the Irish legal ecosystem.
- ▶ The general populace has limited understanding of the role of barristers in the justice system, and may undervalue high-quality barrister services (50% of those surveyed in the RED C Public Omnibus Survey believe that barristers are only for people with lots of money).
- ▶ Differing work practices amongst law-library members can frustrate clients (non-standard communications, etc.).
- ▶ Lacking in some areas of training – including a lack of practice management/professional skills, lack of IT skills.
- ▶ Greater marketing efforts are required to enhance general awareness of the contribution made by barristers and the attractions of the profession.
- ▶ Law Library alumni can feel cut-off from peer networks if they leave the Bar, despite potentially still working in the field of law, possibly returning after a period, and retaining an interest in the areas served by the Bar.
- ▶ The membership requires support to deal with increasing competition in traditional areas of barrister services from larger solicitor firms, etc.

Within the Members' survey

- ▶ 44% of respondents do not have a good work-life balance.

7 Analysis of internal and external environment

SWOT: Opportunities - The overall market opportunities are supportive of new and increased options for current and future membership of the Bar

| |
|------------------------------|
| Dashboard |
| 1 Executive Summary |
| 2 Introduction |
| 3 Overview of the Legal ... |
| 4 Overview of The Bar of ... |
| 5 International Benchmarking |

| |
|---------------------------------------|
| 6 External Consultation |
| 7 Analysis of internal and ... |
| 8 Pushing the boundaries |
| 9 Appendices |

Our research identified opportunities available to The Bar of Ireland. The findings are presented below, loosely categorised into those matters of relevance to the membership of The Bar of Ireland and those pertaining to the legal market in which it operates

Membership

- ▶ Growing demand for legal services in Ireland will improve the prospects of a career at the Independent Referral Bar for newly qualified barristers, supported by the more specialised knowledge and networks that the Bar can provide.
- ▶ The high attrition rate evident within younger Barrister cohorts could be mitigated through targeted efforts at development/training, brief referrals and mentorship, and admin/practice support.
- ▶ Law Library alumni have expressed an interest in maintaining closer links to the Bar. A suitable membership and service offering could deliver additional (though modest) fee income, increase the current network of Law Library members, and hence, potentially refer business to the existing membership, as well as supporting more TBOI events/activities.
- ▶ By providing the Specialist Bar Associations (SBA) with greater agency and support to take on an expanded market facing role the membership could benefit from directly marketing more specialised services.
- ▶ Member services to be provided on a 'per use' or 'user pays' basis should be identified, particularly as the profession evolves, and more specialised supports are likely to be required by a subset of members. Similarly, revenue should be increased where possible from the existing asset base e.g., use of The Sheds, on-site networking events.
- ▶ Pricing and allocation of offices/seats could be reconsidered to optimise effective usage.
- ▶ Mediation and Arbitration services are a source of increasing opportunity for the Irish legal profession. The Bar could look to provide additional training and support to practitioners to develop practice in these areas.

Market

- ▶ Increased economic activity (as EY expect to occur) will result in greater levels of activity for many types of law such as (inter alia) corporate, environmental, construction, employment and immigration.
- ▶ Brexit has potentially displaced some International/European legal activities from the UK, and TBOI should continue to support Irish barristers in developing new and targeted service offerings in this area and actively participate in the Ireland for Law initiative.
- ▶ The UK previously hosted c.20% of all EU legal work and, post-Brexit, Ireland could offer an attractive common-law, English-speaking alternative jurisdiction. More international legal work in Ireland could be an opportunity for the Bar to support overseas and specialist work for Irish barristers.
- ▶ Facilitating 'direct access' to suitably qualified in-house counsel on a wider range of briefs (contentious & non-contentious) could lead to increased demand for services and create more lasting and direct client relationships.
- ▶ A more standardised approach to administrative and secretarial services could enhance the client experience when dealing with barristers and reduce the burden of practice management. The Bar could facilitate this evolution through suitable training, standard templates, or by taking a more direct role in shared service provision.

Within the Members' survey

- ▶ 73% of respondents believe SBA CPD opportunities are 'Essential' or 'Important'.

7 Analysis of internal and external environment

SWOT: Threats – Continued growth in the size and breadth of solicitor firms may threaten the activities of Law Library members

| |
|------------------------------|
| Dashboard |
| 1 Executive Summary |
| 2 Introduction |
| 3 Overview of the Legal ... |
| 4 Overview of The Bar of ... |
| 5 International Benchmarking |

| |
|---------------------------------------|
| 6 External Consultation |
| 7 Analysis of internal and ... |
| 8 Pushing the boundaries |
| 9 Appendices |

Our research identified threats facing The Bar of Ireland. The findings are presented below, loosely categorised into those matters of relevance to the membership of The Bar of Ireland and those pertaining to the legal market in which it operates.

Membership

- ▶ Solicitor firms are in a better position to offer a defined career path to top-level law graduates, with more clarity over salary levels and progression prospects. The Bar and its membership needs to consider how to compete for top talent to ensure the future of the profession.
- ▶ The increasing trend to remote working raises the likelihood of reduced footfall, and in turn, reduced demand for space should the collegiality and networking benefits formerly associated with the Law Library be lost. This could impact future membership levels and fees.
- ▶ Member expectations regarding the services available through Law Library membership continue to evolve, particularly in the area of technology. The Law Library will need to adapt to provide more valued services e.g., increased digital library resources, (and remove those services no longer justifying their costs, such as physical library resources) over time. They should continue to keep under review the services provided, the associated demand for them, and the value for money they provide to the wider membership.
- ▶ Other modes of working, including Legal Partnerships, enabled by the new LSRA regulations may provide competition or alternatives to the current model of Law Library membership.

Market

- ▶ Larger solicitor firms, and some legal solutions providers (for example, in the areas of discovery or online dispute resolution), are encroaching on areas of traditional barrister expertise, including advocacy and court representation. The practice of remote hearings and the increasing digitalisation of legal practice has accelerated this trend. A reversion to more traditional working practices appears unlikely.
- ▶ The Bar's exposure to the commercial property market in Dublin was a major financial concern in the period from 2009 to 2015. Actions were taken to improve the financial position of the property related business and, as a result, the 2015 refinancing with AIB enabled the TBOI to secure more favourable terms and valuable flexibility. The property loan balance is now at a manageable level, but does need to be refinanced in 2023. Less favourable finance terms or a decline in commercial property values, could have a negative impact on the balance sheet of LLPL and additionally, on a limited basis, indirectly impact overall group finances.
- ▶ The full impact of the LSRA on the practice of barristers is not yet clear, and further changes remain likely. The Bar of Ireland needs to be prepared to adapt in a changing environment.

Within the Members' survey

- ▶ 53% of respondents say that the use of remote hearings has adversely impacted opportunities to develop their practice.
- ▶ 34% of those who elaborated on their views of the LSRA said that it was too early to comment on the impact of its introduction.
- ▶ 82% believe that technology provided by TBOI requires further investment in the coming years.

8

Pushing the boundaries



8 Pushing the boundaries

Key Recommendations – providing a roadmap for TBOI to deliver a more efficient and effective organisation

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|------------------------------|
| Dashboard |
| 1 Executive Summary |
| 2 Introduction |
| 3 Overview of the Legal ... |
| 4 Overview of The Bar of ... |
| 5 International Benchmarking |

| |
|---------------------------------|
| 6 External Consultation |
| 7 Analysis of internal and ... |
| 8 Pushing the boundaries |
| 9 Appendices |

Introduction

The key objective of this strategic assessment for the Bar Council is to examine the challenges for the Bar Council and to seek out opportunities in the post-COVID-19 landscape to shape and sustain the profession of barristers in the future. Core to this sustainability is the preservation of the IRB, which is the basis on which barristers discharge their professional duties. It is the duty of barristers to be independent and free from any influence in performing their advocacy role and ensuring equal access to justice for all citizens. This is detailed in the Code of Conduct of TBOI, to which all members of the IRB are bound.

Following the wide range of research undertaken, the internal and external stakeholder consultations and the international benchmarking review, this section considers the key areas for improvement required to ensure that TBOI remains relevant and maximises its resources in an efficient and effective manner for the benefit of its members. It sets out a range of recommendations which are intended to ensure that TBOI emerges from the COVID-19 crisis as a resilient, stronger and more “fit for purpose” profession. It is a matter for the Bar Council whether they proceed with the recommendations or not.

By implementing these recommendations, TBOI will be better placed to anticipate developments, prepare for new opportunities and mitigate any emerging risks earlier and more effectively.

“

The task for us now - individually and as a body – is to seek out opportunities within this crisis and to build on our core values and resilience to shape a future legal profession”

Chairman’s Report, The Bar of Ireland Annual Report 2019/20

We prioritise the following for TBOI as important areas to be addressed to ensure it can not only withstand and cope with challenges such as COVID-19, but can also use these challenges to push the boundaries and emerge as a stronger and more “fit for purpose” profession:

- ▶ The business model
- ▶ Direct professional access
- ▶ Marketing and promotion
- ▶ Fee recovery
- ▶ Diversity and inclusion
- ▶ Education and training
- ▶ Bar Council composition
- ▶ Annual subscription rates
- ▶ Property portfolio
- ▶ Technology
- ▶ Environment and sustainability
- ▶ Areas of opportunity
- ▶ Legal costs

8 Pushing the boundaries

The Independent Referral Bar model should be preserved, but changes are needed to sustain it into the future

| |
|------------------------------|
| Dashboard |
| 1 Executive Summary |
| 2 Introduction |
| 3 Overview of the Legal ... |
| 4 Overview of The Bar of ... |
| 5 International Benchmarking |

| |
|---------------------------------|
| 6 External Consultation |
| 7 Analysis of internal and ... |
| 8 Pushing the boundaries |
| 9 Appendices |

There is a consensus from the consultations and surveys undertaken as part of this assignment that the IRB is vital to the functioning of the barrister profession and the legal system. 62% of respondents in the members' survey stated that the IRB (sole trader) model is fit for purpose.

Despite this, the barrister profession has many challenges, as was also evident from the members' survey:

- ▶ 78% of respondents agreed that the role of a barrister has become more difficult over the last three years
- ▶ 68% of respondents stated that barristers are suffering financially due to reduced fee income
- ▶ 44% of respondents said they did not have a good work-life balance
- ▶ c.40% of respondents had an annual turnover of <€40,000 in 2019 and 2020, which is less than the average annual wage in Ireland of €40,283 in 2019.

In the verbatim feedback, the highest ranking responses to the question as to why barristers would like to see changes to the IRB model included the following:

- ▶ The need to support junior practice years
- ▶ The need for a better distribution of work
- ▶ Keeping up with other jurisdictions/need to move to the future
- ▶ Sole trader not an economically viable practice model/lack of security/not sustainable
- ▶ It would reduce stress burnout, loneliness and support work-life balance

During the consultation process, while the vast majority were keen to preserve the IRB model, a number of challenges were mentioned which raise concerns about the sustainability of the profession:

- ▶ "Present structure favours those who are at the pinnacle of their career to the detriment of the junior"
- ▶ "There's no vehicle/mechanism, individually or collectively, which allows barristers to showcase their expertise"

- ▶ "It's widely known, inside and outside of the Bar, that the Bar have a huge problem in retaining people"
- ▶ "Bar has regressed significantly on attracting people from different backgrounds. It's even harder now than it was 15 or 20 years ago for talented young people to get the breaks, get noticed and get ahead"
- ▶ "There is not enough sharing out of that work and it may be that a more collective arrangement could facilitate the sharing of that work"
- ▶ "The precarious nature of practice at the Bar is much greater now than it was previously"
- ▶ "Lack of transparency around the referral of cases"

These challenges indicate that it is timely to consider how the IRB model can be made more sustainable for the future of the profession, while ensuring that any changes introduced do not diminish the core values of the IRB. This is fundamental to any proposed change in the business model for the barrister profession within the Law Library.

“

To provide leadership and representation on behalf of members of the independent referral bar of Ireland, ensure the highest standards of ethical and professional conduct within the profession and to deliver valued and quality services for the benefit of members.

Mission Statement of The Bar of Ireland

8 Pushing the boundaries

A more formal ‘meitheal’ of barristers would address many of the current challenges for the profession but would not be compulsory

| | |
|------------------------------|---------------------------------|
| Dashboard | 6 External Consultation |
| 1 Executive Summary | 7 Analysis of internal and ... |
| 2 Introduction | 8 Pushing the boundaries |
| 3 Overview of the Legal ... | 9 Appendices |
| 4 Overview of The Bar of ... | |
| 5 International Benchmarking | |

The international benchmarking exercise provides a basis for examining what works well and what does not work well internationally and what elements might be appropriate in an Irish context.

In all jurisdictions examined in the benchmarking review, a self-employed independent referral bar exists. Each jurisdiction has a strong and active bar association which undertakes representation of its members and advocacy on behalf of the profession, which is funded through members’ subscriptions. The benchmarking review found that, with the exception of Northern Ireland, barristers may form themselves into groups, with various names but often called “chambers”, with each barrister responsible for their own practice or chamber. In Scotland, advocates are grouped into “stables” which can comprise between 30 and 60 advocates. In none of the jurisdictions may a chamber or stable include members of other professions, such as solicitors.

Based on the benchmarking review, we have noted that “chambers” or “stables” type groupings have drawbacks including the additional running costs, the scope for conflict of interest issues, and the difficulties when such chambers comprise large numbers of barristers (page 50). Most importantly, the benchmarking indicates that an independent referral bar model and a stables/chambers model are not mutually exclusive; barristers may associate themselves with a chamber for marketing and practice management purposes while remaining independent sole traders.

Based on our analysis and the feedback from surveys and consultations, ‘do nothing’ is not a credible option. A change to the business model is warranted to sustain the profession into the future. It is noted that barristers do currently enter informal arrangements to work together on specific cases or for large research assignments. There are also well established devil families, for example, in the area of criminal and family law, which support those who have completed pupillage with the same master, with work being referred informally from one past Master’s devil to another. This practice is a valuable source of knowledge and research work for new entrants. These informal arrangements are important in regard to the distribution of work, which generally comes from a combination of referrals or handovers from colleagues and from the State.

Changes to the Irish business model for legal services have been examined by the LSRA, most notably in regard to legal partnerships and multi-disciplinary partnerships (MDPs) between barristers and solicitors and other non-legal professionals as well as, more recently, the unification of the profession. It is noted that there was general consensus among the Law Library that the profession of barristers and solicitors should not be unified, with 83% of respondents in the member survey agreeing with this view.

While the LSRA is not in favour of unification or MDPs at this time, it does support legal partnerships between barristers and solicitors, as a means to providing a so-called “one-stop shop” for legal services. Section 100 of the Legal Services Regulation Act 2015 allowing legal partnerships between barristers, and solicitors and barristers, is expected to be commenced shortly. It is too early to assess the implications of this legislative change.

In response to the pending changes to business structures for barristers in Ireland, and in recognition of the values of the IRB, we believe members of the Law Library should be allowed to put the current informal arrangements on a somewhat more formal footing. We propose members of the Law Library should have the option to form a ‘meitheal’ of members, comprising a mix of Senior Counsel, Junior Counsel and new entrants devilling with the experienced Junior Counsel on the Master’s List. This would address many of the challenges currently being experienced by barristers, as informed by the consultation and survey (page 83) and would negate against the potential threat of legal partnerships.

It is envisaged that ‘meitheal’ groups would operate under TBOI Code of Conduct and supervision. We do not have a singular or prescriptive view on how a ‘meitheal’ would operate; this would be a matter for the Bar Council and members, who would consider ultimately whether to proceed with the proposal or not. A number of issues to be considered in establishing ‘meitheal’ groupings together with some of the advantages and disadvantages are set out in the following pages.

What is definitive however, is that the proposed ‘meitheal’ grouping would not be the same as a chamber or stable or legal partnership; nor would it open the pathway for unification of the profession. All members of a ‘meitheal’ would remain independent sole traders.

8 Pushing the boundaries

A number of issues need to be considered in establishing 'meitheal' groups

(1/2)

| | |
|------------------------------|---------------------------------|
| Dashboard | 6 External Consultation |
| 1 Executive Summary | 7 Analysis of internal and ... |
| 2 Introduction | 8 Pushing the boundaries |
| 3 Overview of the Legal ... | 9 Appendices |
| 4 Overview of The Bar of ... | |
| 5 International Benchmarking | |

1. What is the core difference between a chambers/stables model and a 'meitheal'?

The core difference between the chambers model and the proposed 'meitheal' is that there would be no profit sharing. Members would agree to work together on a non-commercial basis. Junior members, such as devils, are paid employees in a chamber, while in a 'meitheal', all members would remain independent sole traders. The number of members in a stable varies between 30 and 60 while in a 'meitheal' the membership can be two or more.

2. Who would pay towards the costs of operating a 'Meitheal'?

Members in chambers are responsible for funding the operating costs of the chamber and also paying their membership subscription to The Bar Council in England and Wales, for example. In Scotland, the clerks in the stable are responsible for marketing the services of their advocates, while the clerking and administration is generally managed for stables by Faculty Services Limited, a company set up by the Faculty of Advocates to assist stables for that purpose. In Scotland, being a member of a stables is not compulsory. In the 'meitheal' grouping, members would continue to pay their subscriptions to TBOI and would share any additional administrative and operating costs (e.g. marketing, support staff) as agreed by each 'meitheal'.

3. Who would be responsible for marketing and administration?

A stable or chamber is typically run by a clerk or practice manager who can act as a point of contact for instructing solicitors or others with direct access to the services of the stable/chamber. Each 'meitheal' would have the option to hire a practice manager or clerk, as is the practice in other jurisdictions, depending on the size of the 'meitheal'. That person would be responsible for marketing and administrative support. The manager could be a point of contact for instructing solicitors or others with direct access to barristers. While some 'meitheal' groupings may choose to engage a practice manager, others may not. A key advantage would be that a clerk or practice manager could improve the level of business development for barristers in the 'meitheal', thereby generating more work for its members.

4. Should there be a cap on the number that can join a 'meitheal'?

'Meitheal' groupings may vary in size and composition, comprising two or more members. In Scotland, for example, the stables model works with each having between 30 and 60 members. We recommend that TBOI should monitor and assess the impact of this new collective arrangement for barristers and initially not set any cap.

5. Should members of the 'meitheal' work across all legal fields or be allowed to specialise in a particular field?

To ensure competition in the market is not adversely impacted, 'meitheal' groups should have a variety of specialists in different specific areas of the law. Barristers who form chambers in England and Wales typically work across all legal fields but some specialise in a particular field such as criminal defence or company law.

A more broad-based 'meitheal' would provide an opportunity for more junior barristers to develop their skills through working with others and gaining experience. By pooling their resources and intellectual capital, this would ensure that institutional knowledge is passed down and would reduce the loss of knowledge (specialist or otherwise) when a Senior Counsel retires.

A recurring challenge in Ireland, raised during the consultations, is the over concentration of work in a small number of barristers. These barristers could potentially form 'meitheal' groupings to support them with their large burden of work. This is already a feature of the profession because some solicitors and clients want barristers with a proven track-record. They do not want unnecessary risk on top of the litigation risk they already face. Work is, as a result, often directed towards quite a small number of barristers in a specialist area - often more work than they ideally would want themselves - where other talented, less tested, barristers have too little. A 'meitheal' would provide the opportunity to redistribute this overflow of work to others within the 'meitheal', thereby raising the overall expertise within the 'meitheal' and leading to a greater volume of work and potentially new areas of opportunity to ensure the sustainability and growth of a wider variety of barristers' practices over the medium-term.

8 Pushing the boundaries

A number of issues need to be considered in establishing 'meitheal' groups (2/2)

| | |
|------------------------------|---------------------------------|
| Dashboard | 6 External Consultation |
| 1 Executive Summary | 7 Analysis of internal and ... |
| 2 Introduction | 8 Pushing the boundaries |
| 3 Overview of the Legal ... | 9 Appendices |
| 4 Overview of The Bar of ... | |
| 5 International Benchmarking | |

The wide knowledge base and depth of resources available to those within a 'meitheal' would be synonymous with the expression "a rising tide lifts all boats" as all members of the 'meitheal' could benefit.

6. How would conflicts be managed within a 'meitheal'?

The need to manage potential conflicts is a key aspect of managing the impact of 'meitheal'. Barristers are already adept at managing conflicts, which is a key requirement under their Code of Conduct. Specific rules should be considered by TBOI to appropriately manage any actual and/or perceived conflicts. A key risk would be the concentration of particular sectoral and technical expertise within a single 'meitheal', which could lead to a risk of conflicts arising in narrow areas of the law or smaller industry sectors. However, as pointed out previously, with appropriate management and rules set down in the Code of Conduct, this situation could give rise to potentially new areas of opportunity to ensure a better distribution of work.

7. Would these 'meitheal' groups change the VAT arrangements for barristers?

There would be no joint liability for business risks, nor would there be profit sharing as is the case in a legal partnership. Barristers who join a 'meitheal' group would remain independent sole traders. Hence, a barrister will not have a liability to VAT until the service has been supplied and payment has been received in respect of that supply, in accordance with their current arrangement with Revenue.

8. How would 'meitheal' work with the Specialist Bar Associations?

The proposed model would co-exist with the Specialist Bar Associations (SBAs), which perform a separate function, by facilitating the exchange and advance of specialist knowledge and expertise through a range of events (e.g. conferences, seminars). There are currently 12 SBAs which are working well and receive a financial contribution from the TBOI. Through their work they promote the full membership of the Law Library across the range of specialist areas they represent.

We believe the number of SBAs should be further developed to address new areas of the law, thereby providing the Law Library with the opportunity to collectively develop and market barristers' capabilities/experience. The SBAs are responsible for promoting specific areas of competence. In comparison, the practice manager in a 'meitheal' would be responsible for the marketing and promotion of individual members within the 'meitheal' practice. There would also be the opportunity in a 'meitheal' to have a professionally developed website to showcase barristers' services, experience, skills and team.

8 Pushing the boundaries

The proposal to allow Law Library members to form ‘meitheal’ groups has a number of associated advantages and disadvantages (1/2)

| | |
|------------------------------|---------------------------------|
| Dashboard | 6 External Consultation |
| 1 Executive Summary | 7 Analysis of internal and ... |
| 2 Introduction | 8 Pushing the boundaries |
| 3 Overview of the Legal ... | 9 Appendices |
| 4 Overview of The Bar of ... | |
| 5 International Benchmarking | |

Advantages of the proposal to allow members of the Law Library to form a ‘meitheal’:

- ▶ A ‘meitheal’ grouping is not a ‘chamber’ or a ‘stable; it would be a grouping of barristers agreeing to work together on a non-commercial basis.
- ▶ Proposed changes do not diminish the core values of the IRB.
- ▶ Barristers would continue to be bound by the Code of Conduct of The Bar of Ireland.
- ▶ Joining a ‘meitheal’ would not be mandatory; members of the Law Library may not wish or need to join a ‘meitheal’.
- ▶ A ‘meitheal’ would consist of barristers combining their efforts and knowledge of a range of areas of the law to achieve a common goal.
- ▶ Run by a practice manager who would have more time to market the services of the ‘meitheal’ to a greater network of solicitors and public sector agencies.
- ▶ Each barrister would also be responsible for promoting the services of the ‘meitheal’.
- ▶ Such a ‘meitheal’ would generate a better distribution of work/more structured flow of briefs and an opportunity to develop new areas by having a greater network.
- ▶ By being constituted in such a way to include a mix of Senior Counsel, Junior Counsel and new entrants devilling with the experienced Junior Counsel who are on the Master’s List, each barrister will help the other barristers within their ‘meitheal’ to develop their strengths.
- ▶ Each ‘meitheal’ would be broad-based, offering a range of areas of legal expertise, rather than focusing on one specialist area of the law which could be deemed to be anti-competitive and avoid creation of conflict of interest related issues.
- ▶ Each barrister would be making a coordinated effort to jointly realise their true potential and create an environment in which each is working for the good and success of the whole ‘meitheal’.
- ▶ A ‘meitheal’ grouping would provide more consistent support and opportunities for progression, especially for new entrants, allowing them to determine their preferred area of the law and build their knowledge within that area, thereby also reducing the attrition rate.
- ▶ Each ‘meitheal’ could have a professionally developed website to showcase their services, experience and skills.
- ▶ A ‘meitheal’ would improve business development for barristers and provide access to a greater network of solicitors.
- ▶ Reduce the uncertainty/stress/burnout and loneliness often associated with the profession.
- ▶ Would generate the opportunity for more innovation between barristers, thereby helping to sustain the profession into the future.
- ▶ Fee recovery could be managed by practice manager, reducing the burden on individual barristers.
- ▶ ‘Meitheal’ groups could not include members of other professions.
- ▶ Such ‘meitheal’ groups do not generate the challenges that might arise in legal partnerships between barristers and solicitors as members remain independent sole traders.
- ▶ Such ‘meitheal’ groups, unlike legal partnerships, would not pave the way for unification of the profession.
- ▶ Such ‘meitheal’ groups should generate a more collaborative profession.

8 Pushing the boundaries

The proposal to allow Law Library members to form 'meitheal' groups has a number of associated advantages and disadvantages (2/2)

| | |
|------------------------------|---------------------------------|
| Dashboard | 6 External Consultation |
| 1 Executive Summary | 7 Analysis of internal and ... |
| 2 Introduction | 8 Pushing the boundaries |
| 3 Overview of the Legal ... | 9 Appendices |
| 4 Overview of The Bar of ... | |
| 5 International Benchmarking | |

Disadvantages of the proposal to allow members of the Law Library to form a 'meitheal':

- ▶ Members of the 'meitheal' would continue to pay their subscriptions to the Law Library but would also be responsible for the operational costs of the 'meitheal' (e.g., rent, cost of practice manager (optional) and other support staff). However, some of these costs are already incurred by a number of barristers and hence, the contribution may even decline. The method for allocating/meeting costs of the 'meitheal' can be a matter for each 'meitheal' to decide, based on their own preferences, specific requirements and composition.
- ▶ There would be no profit sharing; individual barristers would keep the fees they earn after they have covered the running costs of the 'meitheal'; this might be a disincentive to work together to promote the 'meitheal' and increase the flow of work.
- ▶ Those members of the Law Library who do not join a 'meitheal' may feel disadvantaged.
- ▶ How solicitors react to 'meitheal' is not known and some might be less likely to engage barristers outside of these 'meitheal' groups, thereby limiting the opportunities for barristers outside of these 'meitheal' groups and thus, their expertise available to their (solicitors) clients.
- ▶ There may be extensive competition amongst new entrants to join such 'meitheal' groups. Some new entrants may lose out if they were not part of such 'meitheal' groups.
- ▶ Some Members of the Law Library who trade successfully in the current model might not wish to join such a 'meitheal', which might limit the opportunity to form successful 'meitheal' groups.
- ▶ Getting the desired barristers into 'meitheal' groups might generate tension among competing 'meitheal' groups for resources.

Recommendations

1. TBOI should consider changing the business model to allow barristers to form a 'meitheal' which would comprise a mix of Senior Counsel, Junior Counsel and new entrants devilling with the experienced Junior Counsel who are on the Masters' List. Barristers would remain self-employed members of the IRB and would continue to pay subscriptions to TBOI.
2. TBOI should consult with the LSRA in establishing the rules for forming such 'meitheal' groups. Being a member of a 'meitheal' would not be compulsory.
3. Once introduced, TBOI should assess the take-up and viability of this more formal working arrangement amongst the membership two years after it comes into operation.
4. These 'meitheal' groups would co-exist with the Specialist Bar Associations. The existing 12 SBAs are working well and EY recommends they should be further developed/expanded to address new areas of the law, thereby providing barristers with the opportunity to collectively market the Law Library's capabilities and experience within identified areas of competence.

8 Pushing the boundaries

Allow direct professional access provision for in-house counsel on contentious as well as non-contentious matters

| | |
|------------------------------|---------------------------------|
| Dashboard | 6 External Consultation |
| 1 Executive Summary | 7 Analysis of internal and ... |
| 2 Introduction | 8 Pushing the boundaries |
| 3 Overview of the Legal ... | 9 Appendices |
| 4 Overview of The Bar of ... | |
| 5 International Benchmarking | |

The Code of Conduct of TBOI stipulates that a barrister may not, except in certain limited circumstances and non-contentious matters, deal directly with a member of the public acting in the capacity of a client. In contentious matters they must direct that a solicitor be retained in order for the barrister to continue to advise and to provide other professional services as a barrister. At present, a barrister may accept instructions from a foreign lawyer or directly from a lay client in respect of non-contentious matters or where the work involved originated from, and is to be performed wholly outside, Ireland. However, in Ireland, TBOI code of conduct and LSRA Code of Practice apply.

Regarding the issue of direct access on non-contentious matters, TBOI operates a Direct Professional Access (DPA) Scheme. Under this scheme, members of professional bodies, approved by the Bar Council, may directly seek legal opinions from barristers. This DPA scheme, which has operated since May 1990 will need to be reviewed, in the context of when the LSRA is expected to allow people and organisations to directly access barristers on non-contentious matters, when enabled under the Legal Services Regulation Act 2015.

From the benchmarking analysis, direct professional access is permitted in all countries examined subject to a combination of requirements for prior specialist training, limitations on the scope of work and on the organisations which may directly instruct counsel.

A separate trend in Ireland is the growing community of in-house counsel in companies and State agencies. The current Code of Conduct of The Bar of Ireland states that “a client means a person on whose behalf a Barrister has been instructed by a solicitor or where the context so admits a person authorised to avail of the Bar Council’s Direct Professional Access Scheme as amended from time to time”.

In this instance, it is recommended that TBOI should alter their Code of Conduct and Professional Practice courses (PPC) to account for barristers interacting directly with in-house counsel (where they are a qualified solicitor, have a practising cert or are otherwise legally qualified, including but not limited to barristers who are currently or were previously on the Roll of Barristers) on contentious, as well as non-contentious matters. These clients would be allowed

to override the Direct Professional Access scheme TBOI currently has in place. It is considered that this would result in the containment of legal costs for the client, without adversely impacting the administration of justice. It would also provide new relationship opportunities for barristers to originate work.

A specific example mentioned was in regard to international protection cases/district court work, where the Legal Aid Board stated that it would be beneficial in those instances if their in-house counsel could directly access the barrister without having to include an instructing solicitor. It was considered that this would make certain work more worthwhile for barristers.

Barristers would not be expected to hold or operate a client account. Where a case involves the transaction of money between clients, separate to the payment of the barrister, it is expected that a solicitor should continue to be involved in the legal process.

Recommendation

5. TBOI should address their own Code of Conduct to account for in-house counsel (where they are a qualified solicitor, have a practising certificate or are otherwise legally qualified, including but not limited to barristers who are currently or were previously on the Roll of Barristers), directly accessing barristers on contentious, as well as non-contentious matters.
6. In anticipation of Section 101, TBOI should design a suite of supports and guidelines, both for the public and for practitioners, to ensure that direct access instructions are efficiently managed by both parties and present a viable revenue stream for members.

8 Pushing the boundaries

The junior membership feels that their voice is not adequately heard as a result of the current composition of the Bar Council

| | |
|------------------------------|---------------------------------|
| Dashboard | 6 External Consultation |
| 1 Executive Summary | 7 Analysis of internal and ... |
| 2 Introduction | 8 Pushing the boundaries |
| 3 Overview of the Legal ... | 9 Appendices |
| 4 Overview of The Bar of ... | |
| 5 International Benchmarking | |

The Bar Council is currently made up of 20 members, comprising an equal division of elected members of 10 Senior Counsel and 10 Junior Counsel members. There is a facility in the Constitution of the General Council of TBOI to co-opt not more than four additional members onto the Council, at least half of whom shall be Junior Counsel, while ensuring that the following groups are represented:

- ▶ Members of the Law Library of less than seven years standing
- ▶ Circuit going Junior Counsel from the three core regional circuits of Cork and South Western Circuits, the Northern, Western and Midland Circuits, and the Eastern and South Eastern Circuits.

In addition, the Attorney General is an ex officio member of the Council, resulting in 25 members on the Council.

The issue of representation and numbers on the Bar Council was the number one issue highlighted by respondents as to why the structure of the Bar Council should change within the members' survey. The Junior Counsel membership feel that their voice is not adequately heard as a result of the current composition of the Bar Council. This reflects the composition of the current membership which shows that 83% are Junior Counsel members, compared with 50% elected to the Bar Council. In contrast, Senior Counsel members account for 17% of the membership and 50% of the Council membership.

Law Library Membership May 2021

| Membership Category | % of Total |
|-----------------------------|------------|
| Junior Counsel in Years 1-7 | 26% |
| Junior Counsel in Years 8+ | 57% |
| Senior Counsel | 17% |

Note: This brief article from CPA Ireland provides a summary of the key duties of non-executive board directors <https://www.cpaireland.ie/CPAIreland/media/Education-Training/Study%20Support%20Resources/P2%20Strategic%20Corporate%20Finance/Relevant%20Articles/NEDR%20olesPByrne.pdf>

The composition of the Bar Council was addressed in a separate report by a sub-committee of the Bar Council in January 2018. The sub-committee examined whether there was a case for increasing the elected membership of the Council to reflect the increasingly diverse nature of practice and life at TBOI, given the growth in membership to approximately 2,200 members at the time, or whether the existing 20 members should remain unchanged.

The arguments advanced against increasing the elected membership or increasing the representation of Junior Counsel were:

- ▶ The establishment of the Young Bar and Circuit Liaison committees was considered to be a successful form of devolved democracy as reports from both committees go before the Bar Council at each meeting.
- ▶ The number and breadth of committees and sub-committees, more generally, was indicative of where work other than at the Council itself was taking place and close to 200 members were actively participating in the Council, permanent and non-permanent committees and sub-committees as well as working groups.
- ▶ The Senior Counsel members are the leaders of TBOI and their experience and expertise are relied upon and needed to assist the Bar Council, thereby justifying the continuation of equal representation.

The sub-committee noted that the ability to co-opt members from the specific groups was to ensure that the Council had the opportunity to co-opt members with appropriate expertise in particular issues that might arise in a given year. However, the sub-committee did recommend that circuit going Junior Counsel and members of less than seven years put themselves forward for consideration for co-option with a brief summary of how their co-option would benefit the work of the Council.

8 Pushing the boundaries

The composition of the Bar Council should be amended to allow all four co-optees to be Junior Counsel

| | |
|------------------------------|---------------------------------|
| Dashboard | 6 External Consultation |
| 1 Executive Summary | 7 Analysis of internal and ... |
| 2 Introduction | 8 Pushing the boundaries |
| 3 Overview of the Legal ... | 9 Appendices |
| 4 Overview of The Bar of ... | |
| 5 International Benchmarking | |

In this regard, the issue of representation of Junior Counsel could be addressed by allowing all four co-optees to be Junior Counsel, resulting in 10 Senior Counsel and 14 Junior Counsel members, along with the Attorney General. This change could be reviewed after two years to ensure the Bar Council continues to be efficient and effective and that the interests and issues of all members are being appropriately and adequately represented at all times.

In a separate issue regarding the composition of the Bar Council, the question arises whether members' interests would be better served by having one or more independent non-executive directors (NEDs) on the Bar Council. The specific duties of an NED are clearly set out in the Companies Act 2014.

According to the Companies Act 2014, Section 167:

A non-executive director is a director who is not engaged in the daily management of the large company or body concerned, as the case may be.

Typically the role of an NED is to provide an independent oversight and challenge the executive members on strategic decisions which impact the future direction of the business. The Bar Council could benefit from having an NED as such a person or persons would bring external expertise and insights on other competencies relevant to the barristers profession. They would bring a different perspective and expertise in terms of some of the key decisions the Bar Council has to face in the future in regard to issues such as their business model, strategy, marketing, fee recovery, technology and their property portfolio. In the current environment, which is generating increasing challenges for the barrister profession, having independent NEDs could help contribute and inject an independent perspective to the Bar Council.

The potential number of NEDs would be a decision for the Bar Council who may decide they require one or more individuals with specific independent expertise in the areas of property, marketing and/or technology, to support them with dealing with these or other such issues in the future. As the relevant NEDs would need to be remunerated for their role, it is imperative that the skillset of any NED that may be sought should be aligned to the strategic objectives for the future of TBOI.

Recommendations

7. The Constitutional provision which allows four additional members to be co-opted onto the Council should be amended (by formal amendment or by agreed convention) to provide that all four additional members be Junior Counsel.
8. The Bar Council should consider having non-executive director (NED) representation, to provide independent advice and insights to support the Bar Council in implementing its strategy and sustaining the future path for the profession. The introduction and impact of NEDs should be reviewed after two years.

8 Pushing the boundaries

Fee recovery is vital to the survival of members within TBOI and the organisation should do all they can to support it

| | |
|------------------------------|---------------------------------|
| Dashboard | 6 External Consultation |
| 1 Executive Summary | 7 Analysis of internal and ... |
| 2 Introduction | 8 Pushing the boundaries |
| 3 Overview of the Legal ... | 9 Appendices |
| 4 Overview of The Bar of ... | |
| 5 International Benchmarking | |

The approach to fee collection by TBOI was set out on page 32 and acknowledged that the collection of fees is a long-standing issue for barristers. The problem is further compounded because barristers cannot sue solicitors for fees owed, which is a significant obstacle in getting paid.

A number of approaches have been adopted by TBOI in the past, but the innate culture of payment has been the core issue responsible for the lack of success. At present, there is no cost to individuals who utilise the Practice Support & Fee Recovery Service as it is currently funded using membership subscriptions. This was an effort to encourage members to avail of the service. Currently, only 6% of members use the service and it has secured payment for 77 cases to date with a total value of €278,00. There is a total of 182 active cases outstanding with the service, representing a total of €1.3m.

In the members' survey, "a practice support and fee recovery service" was ranked in the top 3 activities essential to practice as a barrister by 20% of respondents. Similarly, in the verbatim responses provided by barristers through the members' survey, a centralised fee recovery/accounts system was the third most essential resource that was deemed necessary to practice as a barrister in the future. Downward pressure on fees and unpaid fees were noted by barristers in the top 3 disruptors likely to impact the operation of the profession, clearly indicating that this has been a problem for many years past, and will continue to be a challenge for the profession into the future.

In respect of the timely payment of fees, research by TBOI shows that the average number of months to receive payment was 36 months as of February 2021. It is noted that the Comptroller and Auditor General in his 2019 Annual Report drew attention to the delay in payment of counsel fees by the CSSO, which had drifted into a significant level of arrears. The LSRA has also commented on it in its biannual complaints reports, however, they have to date yet to complete a report in full on the matter.

There is scope for the fee recovery unit to expand going forward to tackle the stress this is causing to a number of members in the operation of their practice. Information obtained from TBOI indicated that a full dedicated service, providing a full practice support comprising administration, time recording, invoicing and fee recovery, could require approximately 20 people to service the needs of the

full membership of the Law Library. However, its limited success to date suggest another solution is required to address the root cause of the problem, namely the innate and late culture of payment in the profession, rather than committing more resources to the current service.

The fundamental issues are:

- ▶ Why TBOI has never sought to pursue the enforcement of fees in a more timely manner?
- ▶ What has caused the 'no foal, no fee' culture to become established in the Irish Legal Sector?
- ▶ Why the issue of collection of fees within the legal sector has not been addressed in a full report by the LSRA, in advance of proceeding with any changes to business models and/or the introduction of legal partnerships?

Case law has stated that no contract in point of law can exist between the parties of barrister and client. Part 10 of the Legal Services Regulation Act 2015 makes extensive provisions concerning the assessment of legal fees, and expressly provides at section 151 that a legal practitioner and client may make an "agreement in writing" concerning fees. Whether this could give rise to an enforceable contract between a barrister and a client is yet to be seen.

The 'no foal, no fee' culture is widespread within certain areas of Irish legal practice, such as personal injury, and the issue cannot be divorced from the issues considered by the Review of the Administration of Civil Justice Review Group. With one of the lowest investment rates in the court system (per GDP) in the European Union, with a €56 per inhabitant allotment in the Irish judicial system budget, this has manifested itself in an under-resourced court and legal aid system, marginalising access to justice for those citizens within the middle-income bracket. When you consider that other European countries in the same GDP bracket as Ireland are spending €197 - €220 per inhabitant, €56 is an evidently poor level of public service investment, and the State is shifting the cost burden of the judicial system to the end user. Legal practices based on 'no foal, no fee' business models have evolved from this system to enable those with clear cases to access justice, where the necessary funds may not be available in advance. The Chief Justice has drawn attention to this on numerous occasions indicating that a civil-type jurisdiction could cost the State up to half a billion euro annually.

Sources: Practice Support and Fee Recovery – Service Update, Finance Committee, TBOI, 2 March 2021.

TBOI, Budget 20/21 – Approved by Finance Committee, 4th June 2020

Decisis.ie, 'The rule against barristers suing for their fees', February 2020

8 Pushing the boundaries

Prompt fee recovery is vital to the sustainability of any business and TBOI should engage with the LSRA to improve the current untenable situation

| | |
|------------------------------|---------------------------------|
| Dashboard | 6 External Consultation |
| 1 Executive Summary | 7 Analysis of internal and ... |
| 2 Introduction | 8 Pushing the boundaries |
| 3 Overview of the Legal ... | 9 Appendices |
| 4 Overview of The Bar of ... | |
| 5 International Benchmarking | |

The State, as the chief user of legal services in Ireland, plays a dominant role in the payments received by barristers. They determine the fees paid to barristers under a number of schemes, including:

- ▶ CSSO/AG's Office
- ▶ ODPP & DoJ – Criminal Legal Aid Scheme
- ▶ Legal Aid Board – Civil Legal Aid Scheme

Often, a barrister will submit their fee estimate to the CSSO/AG's office, the fee is invariably cut with no rationale given to the barrister. The fee rates paid in criminal matters are at the same rate paid in 2002, and barristers are the only group in the criminal justice sector who have not have any pay restoration or their fees reviewed to unwind the FEMPI cuts. Similarly, the legal aid board fees were cut in 2012 and there has been no restoration to these fees since either.

The position with respect to the collection of fees in the legal profession more generally will need to be addressed by the LSRA. In its work to date, the LSRA has considered specific issues such as a barrister holding clients' monies and mechanisms to protect clients' monies. However, the issue of the late payment and/or non-payment of fees to barristers has not been the subject of a detailed report by the LSRA. Other professional services rely on timely payment of their fees for the sustainability of their businesses. This issue needs to be addressed in a full report by the LSRA, as good cash flow management and credit control is fundamental to the success of any business.

In this regard, TBOI can support members by ensuring that they are fully aware of the importance of managing their invoices, seeking part-payment up front and regularly communicating with their clients/solicitors. This can be addressed in part with other recommendations to assist barristers prepare for practicing as an IRB or for forming a 'meitheal'. In the 'meitheal', the practice manager will have responsibility for the collection of fees and with potentially, a closer relationship between the practice manager and the clients of the 'meitheal', this may lead to some acceleration in payments.

Invoice discounting is a common arrangement in other sectors to provide an accelerated cash flow stream. A third party will provide a cash advance against a fee/invoice and models vary as to where the collection risk lies. With some fees remaining outstanding over 12 months, these would typically be outside the terms acceptable to invoice discounters. So whilst it would not be suitable for all invoices, it could be a potential solution for portions of a barristers book of business.

Recommendations

9. TBOI should take a fresh look at this area, including consultation with the LSRA to examine the options for structural changes to fees such as more upfront billing for consultations.
10. TBOI should lobby the LSRA to examine the options for changing the law which prevents barristers from suing solicitors for non-payment of fees and which states that a barrister has no legal right to be paid his/her professional fees by his/her client.
11. TBOI should consult with the LSRA and the Law Society to urgently address the late payment of fees issue in the legal profession, as good cash flow management and credit control is fundamental to the success of any business.
12. TBOI should lobby government for a review of the current civil legal aid scheme and the annual budget allotted to the justice system. If the Government supports reform, it must be matched with the necessary resourcing: human, technological and financial. Effective legal aid, better case management, adoption of technology and more judges are clear determinants of costs, and harbor the potential to generate greater efficiencies for citizens and businesses.
13. TBOI should explore the possibility of engaging a third-party commercial partner to provide an aggregate invoice financing facility (invoice discounting, factoring, or similar) to assist members of the Law Library with cash flow management in their practices. This facility should be offered under the Practice Support & Fee Recovery unit of TBOI.

Sources: TBOI, Budget 20/21 – Approved by Finance Committee, 4th June 2020

TBOI Executive

Department of Justice, 'Review of the Administration of Civil Justice: Review Group Report', December 2020

8 Pushing the boundaries

A lack of relevant data on diversity and inclusion makes it difficult for TBOI to make any tangible progress as an organisation in this area

| | |
|------------------------------|---------------------------------|
| Dashboard | 6 External Consultation |
| 1 Executive Summary | 7 Analysis of internal and ... |
| 2 Introduction | 8 Pushing the boundaries |
| 3 Overview of the Legal ... | 9 Appendices |
| 4 Overview of The Bar of ... | |
| 5 International Benchmarking | |

The issue of Diversity and Inclusion (D&I) is foremost among companies and organisations across the globe, as they endeavour to identify goals and strategies to engender a culture of diversity and inclusion in the workplace. Creating an inclusive environment where all people feel valued and are able to achieve their potential is key to a positive workplace. Aside from the baseline equality expectations of all members, it has been established to result in better business performance.

Although there was no direct question in the members' survey on the issue of D&I, it received a number of mentions in the verbatim responses. When asked to elaborate on what changes they would like to see about the IRB model, the "need to improve diversity and inclusivity/removes a barrier to entry" ranked second, while "a lack of diversity and inclusion" was also noted as a reason why certain respondents believed the Bar Council was not acting appropriately in this area.

To note

D&I can be defined as the efforts made to include a wide variety of people from different political, racial, cultural, religious, sexual, general, and socioeconomic backgrounds within an organisation.

During the external consultations, the lack of diversity within TBOI was mentioned on a number of occasions and there were also concerns about the loss of members who had already exited because of D&I issues. It has been noted that a number of individuals experience obstacles and barriers when it comes to accessing professional practice as a barrister. A lack of financial means is often cited as one of the main barriers to entry, but other factors, according to barrister exit surveys conducted by TBOI, include high levels of personal stress and anxiety, and difficulty in sustaining a living in the early years.

TBOI acknowledges that it has an important part to play in encouraging more diversity at TBOI and has introduced, in recent years, initiatives which seek to bridge the gap, where one exists, between higher education and access to professional practice.

A key current initiative is the Denham Fellowship, named after The Hon. Mrs. Justice Susan Denham, former Chief Justice, which assists two aspiring barristers annually who come from socio-economically disadvantaged backgrounds to gain access to professional legal education at the King's Inns and professional practice at the Law Library. EY recommend TBOI make efforts to increase the number of available fellowships, thereby providing increased opportunities for entrants to the profession from those in poorer socioeconomic groupings. This may improve the perception of the profession amongst those who use barristers. Philanthropic support could be sought to fund these to ensure a sustainable basis and reduce the cost to TBOI.

The Equality & Resilience Committee (ERC) is in the process of developing an 'Equality Action Plan' (EAP) which aims to understand and address the challenges faced by underrepresented, disadvantaged and minority groups in accessing and pursuing a career at TBOI, and to implement meaningful supports and resources where possible to enhance access and retention. The ERC is engaging with external experts in the area and will develop a comprehensive diversity strategy. Aspects of the EAP will be publicised to demonstrate TBOI's commitment to the development of an equal, diverse and inclusive profession.

To date TBOI have not recorded or actively sought data in relation to member ethnicity, disability, socio-economic status, sexual orientation, etc., making it difficult to understand what specific minorities are underrepresented in the profession. Such data is collected in the UK and the LSRA have indicated that the same would be welcome in Ireland.

8 Pushing the boundaries

There is a need to collate appropriate data to monitor D&I amongst the membership

| |
|------------------------------|
| Dashboard |
| 1 Executive Summary |
| 2 Introduction |
| 3 Overview of the Legal ... |
| 4 Overview of The Bar of ... |
| 5 International Benchmarking |

| |
|---------------------------------|
| 6 External Consultation |
| 7 Analysis of internal and ... |
| 8 Pushing the boundaries |
| 9 Appendices |

The Minister for Justice asked the LSRA in November 2020 to undertake research on the economic constraints and other barriers faced by young barristers as part of a plan to increase diversity across the justice sector and the legal profession. This research is underway and is expected to address:

- ▶ The remuneration of trainee barristers and solicitors
- ▶ The other costs associated with joining each profession
- ▶ The information available to a prospective trainee barristers and solicitors on available masters and solicitors' firms
- ▶ The information available on the terms and conditions available, and how they are selected
- ▶ Any other barriers faced by young barristers and solicitors, including the ability to take maternity/paternity leave

While access to maternity and welfare benefits are a matter for the Department of Social Protection similar to many other self-employed professionals, the Law Library has a number of measures in place to support members during times of personal leave. Reductions in subscription rates have been welcomed, but TBOI could go a step further by waiving subscriptions for those unable to practice in any given year due to personal issues, such as sickness or maternity leave.

A separate D&I issue concerns the equitable distribution of briefings to barristers in all areas of practice. Based on practices in place in New Zealand and Australia, TBOI is currently developing an equitable briefing policy which seeks to encourage those who brief the Bar to make a conscious effort to look beyond their usual pool of barristers and to assist in the equitable distribution of briefings across both male and female counsel. This would result in greater client choice, a more balanced profession and progression opportunities for women in particular. In the light of the current research underway by TBOI and the LSRA on the area of D&I, which has yet to be completed, EY have a number of recommendations.

Recommendations

14. TBOI should collate appropriate data to monitor D&I in the profession and include a set of ambitious D&I targets in its forthcoming Equality Action Plan (EAP) to ensure the organisation's D&I performance can be monitored.
15. TBOI should expand the current Denham Fellowship scheme to provide increased access to greater numbers from socio-economically disadvantaged backgrounds.
16. In developing an equitable briefing policy, TBOI should include a specific quota for minority groupings, once the appropriate D&I data is available.
17. TBOI should ensure to demonstrate its commitment to the development of an equal, diverse and inclusive profession by following the publication of its EAP with a PR campaign, championing the diversity and inclusion of TBOI.
18. TBOI should consider how it can support diversity and inclusion in a periodic review of membership subscription rates. TBOI may consider giving free membership to those who are unable to practice due to personal reasons such as sickness or maternity leave.

Scholarships

10

Students annually are supported through the Denham Fellowship

8 Pushing the boundaries

IT developments of the past have been a saving grace for TBOI throughout the pandemic and will be core to TBOI's future potential also

| | |
|------------------------------|---------------------------------|
| Dashboard | 6 External Consultation |
| 1 Executive Summary | 7 Analysis of internal and ... |
| 2 Introduction | 8 Pushing the boundaries |
| 3 Overview of the Legal ... | 9 Appendices |
| 4 Overview of The Bar of ... | |
| 5 International Benchmarking | |

Technology

TBOI have made a number of important IT developments over the last decade, particularly since the establishment of the IT Directorate in 2016. These past developments, e.g., email, Office 365 suite provision, legal database digitisation, meant Law Library members were well equipped to deal with the transition to remote working. However, the digital transformation of TBOI is not complete. 82% of respondents in the members' survey believe that the technology provided by TBOI requires further investment in the coming years.

Key constraints on TBOI developing their technology offering are the level of technological abilities among members, and the lack of a strong digital ecosystem surrounding TBOI. However, it is reassuring to note that:

- ▶ 67% of respondents in the members' survey find technology provided by TBOI efficient and easy to use.
- ▶ 33% of respondents in the staff survey believe IT services/training will be essential to support Law Library members into the future.

As the Courts System continues its digital transformation up to 2030, it will be vital that TBOI's strategy remains aligned with the Irish Court Service's own digital strategy.

There is a strong understanding among members of the value provided by the library, and in particular, the digitisation of the library:

- ▶ 80% of respondents to the members' survey ranked Library & Information services in their top 3 essential activities to practice as a barrister.
- ▶ 77% ranked IT in the top 3.

There is an appetite among TBOI staff to advance the digitisation of the library. 70% of respondents to the staff survey cited IT Services and Support as a future resource that needs to be increased to meet service demand. Staff also cited the investment and adoption of technology as an essential action for preparedness to manage future disruption. The continued digitisation of the library service is dependent on investment in technology and its application, the underlying technical infrastructure, and the resources available, both human and capital.

Recommendations

19. TBOI should ensure members' views are clearly expressed within the Courts Service's Digital Transformation process, and that proposed technology solutions do not result in excessive cost or barriers to entry for members.
20. TBOI should provide additional education to members on the LawTech available in the market. Whilst TBOI may not necessarily endorse any particular technologies or provide them to members, TBOI can play a key role in monitoring, identifying and assessing new developments. This could involve, for example, hosting seminars on LawTech, inviting potential providers to present to members (e.g., an annual technology fair) or the provision of emails/mailshots to members focussing on particular topics (e.g., practice management software, documentation automation tools). Some technology (e.g., AI, doc review software, practice management software) may be relevant to some, but not all members, and so would not necessarily be something TBOI would purchase or endorse.
21. Continue to improve the online availability of the library over time, until it is as fully integrated as possible.

8 Pushing the boundaries

TBOI's educational structure should reflect the changing educational environment induced by the LSRA and expectations of law graduates today

| | |
|------------------------------|---------------------------------|
| Dashboard | 6 External Consultation |
| 1 Executive Summary | 7 Analysis of internal and ... |
| 2 Introduction | 8 Pushing the boundaries |
| 3 Overview of the Legal ... | 9 Appendices |
| 4 Overview of The Bar of ... | |
| 5 International Benchmarking | |

TBOI provide a New Practitioners' Programme designed for new entrants to the Bar. This programme offers a grounding in practice and procedure in various courts, as well as practical advice for their practice and the life of a junior member of the Bar. This is supplemented by various other practical briefings that are of particular relevance to new members of the Law Library.

The CPD Unit offers a comprehensive variety of seminars and conferences in the Established Practitioners' Programme, on topical subjects and growing areas of the law. In addition, core topics, such as ethics and advocacy are key to the programme.

The subject of legal education and training is an area that has received considerable attention by the LSRA over recent years, in fulfilment of its statutory obligations under section 34 of the Legal Services Regulation Act 2015. The LSRA's first report in September 2018 was based on research from Hook Tangaza and included 14 proposals dealing with competency and standards required to become a legal practitioner. The LSRA followed with a report to the Minister for Justice which concluded that it would undertake further consultation on the proposals in the Hook Tangaza report with the providers and users of legal services, before concluding on its recommendations.

A second report from the LSRA contained 12 recommendations, the key one being that the necessary statutory framework be introduced to establish an independent Legal Practitioner Education and Training (LPET) Committee. The LPET will be responsible for setting the statement of competence and defining standards which legal practitioners would achieve on qualification. Existing education providers will be required to demonstrate how these standards are to be met, and new providers meeting the same standards will be allowed to enter the legal education market, thereby potentially removing the monopolistic power that King's Inns currently holds on the training of barristers in Ireland.

While not a mandatory stipulation for practice as a barrister by the LSRA, it would be remiss not to mention the current pupillage structure which is mandatory within the first year of membership of the Law Library. Each barrister

in their first year of practice (known as a 'devil') is aligned with a Master. While the current devilling scheme is scheduled to alter from October 2021 onwards, whereby Masters will be mandated to pay their pupils/devils subscription fees, there remains no mandate for payment of barristers within their first year of practice. Pupils/Devils are not employed by the Master. The relationship is one based on the delivery of education and training from the Master to the Pupil/Devil. Hence, the significant majority of barristers are expected to fund themselves entirely of their own accord for this year.

As such, there exists a significant barrier to entry to TBOI by those from poorer socio-economic backgrounds, who may not have the financial backing to survive the first year in practice. Simultaneously, even for those who may have the necessary financial support, the lack of any payment for work done is a significant turn-off when compared with an entry-level solicitor's salary. In an effort to counteract these issues in other jurisdictions, such as in E&W, the Bar Council of England & Wales have stipulated that new barristers be paid a minimum of £12,000 in their first year of practice. However, given it is a chambers model that exists in E&W, the conditions for that stipulation are very different to those in Ireland.

Aside from a barrister's first year of practice, the LPET will also be empowered to develop a new framework for the Continuous Professional Development (CPD) programme, including the accreditation of CPD providers. In relation to CPD, TBOI has developed its own Competency Framework for CPD to support the ongoing and career-long process that requires barristers to enhance their knowledge, acquire new skills and build on existing ones.

TBOI CPD Framework is built around four core domains:

- ▶ Legal knowledge, procedures and skills
- ▶ Advocacy, dispute resolution and negotiations
- ▶ Ethics and professional standards
- ▶ Personal professional development and practice management

8 Pushing the boundaries

An Education & Training Directorate would address the professional development gaps which exists for barristers in today's market (1/2)

| | |
|------------------------------|---------------------------------|
| Dashboard | 6 External Consultation |
| 1 Executive Summary | 7 Analysis of internal and ... |
| 2 Introduction | 8 Pushing the boundaries |
| 3 Overview of the Legal ... | 9 Appendices |
| 4 Overview of The Bar of ... | |
| 5 International Benchmarking | |

This CPD Scheme will commence on 1 October 2021 and members are required to engage annually in at least one CPD activity relevant to a competency from each of these domains.

Other functions recommended for LPET include monitoring education and training quality, encouraging innovation and diversity, and engaging with key stakeholders.

The LSRA is currently in the process of establishing LPET with the Department of Justice. In conjunction with the developments of the LSRA, it is recommended that TBOI should establish an Education and Training Directorate, as part of the senior management team, led by a senior executive, similar to the changes made to identify an IT Directorate in 2017, for example.

This will ensure TBOI grasps the opportunity to be proactive in dealings with the LSRA and LPET in delivering on its work programme over the coming years. It is a certainty that the workload in this area is set to increase in the near future.

External consultations commented on the lack of preparedness of barristers for self-employment and practice management. Following the benchmarking exercise in New Zealand, where barristers are required to complete a 'Stepping Up' course prior to applying for approval to practice on their own as a barrister and solicitor, or as a barrister sole, it is recommended that TBOI introduce a separate module to assist barristers to prepare for practicing the IRB and/or for forming a 'meitheal'.

An Education and Training Directorate would ensure a more formal training structure is provided for barristers, and should identify the training gaps with respect to a range of areas, including:

- ▶ IT training
- ▶ Leadership and managements skills
- ▶ Skills required to run a business
- ▶ Develop aptitude/interest in a specialist area
- ▶ Career development paths (e.g. Judge) and areas of future specialist work (e.g. within European Law)
- ▶ Relationship between Master and Devil
- ▶ More advocacy training, in particular appellate advocacy training
- ▶ More training on professional writing skills, particularly for those who are new to the profession

Where an Education and Training Directorate is established, it is recommended that TBOI encourages collaboration between this Directorate and the resources currently engaged in fee recovery and practice management to identify suitable delivery methods for any practice management modules.

To some extent TBOI has addressed the above in its updated CPD Competency Framework, but in the context of proposed changes to the business model for the IRB, these skills will be important, and TBOI should ensure all of the necessary information services are brought in under the Education and Training Directorate and are made compulsory for new entrants.

Source: LSRA, 'Setting Standards – Legal Practitioner Education and Training', September 2020

Hook Tangaza, 'Review of Legal Practitioner Education and Training', September 2019

Overview of The Bar of Ireland Presentation by Chief Executive, TBOI.

Report of the Council Composition & Election Sub-Committee, July 2018

8 Pushing the boundaries

An Education & Training Directorate would address the professional development gaps which exists for barristers in today's market (2/2)

Dashboard
1 Executive Summary
2 Introduction
3 Overview of the Legal ...
4 Overview of The Bar of ...
5 International Benchmarking

6 External Consultation
7 Analysis of internal and ...
8 Pushing the boundaries
9 Appendices

Recommendations

22. TBOI should establish an Education and Training Directorate, as part of the senior management team, led by a senior executive, similar to what TBOI currently has in place for IT, for example. This Directorate should ensure a more formal training structure is provided for barristers. The Directorate should identify the training gaps with respect to a range of areas such as advocacy training, writing skills, etc. TBOI should ensure that all necessary information services are brought under the Education and Training Directorate and are made compulsory for new entrants.
23. TBOI should introduce a specific module to assist barristers to prepare for practicing as an independent referral barrister or for forming a 'meitheal'. A more standardised approach to administrative and secretarial services could enhance the client experience when dealing with barristers and reduce the burden of practice management. TBOI could facilitate this evolution through suitable training, standard templates, or by taking a more direct role in shared service provision.
24. TBOI should encourage collaboration between the Education and Training Directorate and the resources currently engaged in fee recovery and practice management to identify suitable delivery methods for any practice management modules.
25. TBOI and the Education and Training Directorate should proactively engage with the LSRA to ensure their views are fully reflected in decisions impacting the future education and training needs of the profession.
26. TBOI should seek over time, as groupings come on stream, to review the idea of a minimum payment for barristers, within their year of pupillage, similar to that in the Bar Council of England and Wales.

8 Pushing the boundaries

TBOI has developed a property portfolio, which despite being a significant income generator, requires investment

| |
|------------------------------|
| Dashboard |
| 1 Executive Summary |
| 2 Introduction |
| 3 Overview of the Legal ... |
| 4 Overview of The Bar of ... |
| 5 International Benchmarking |

| |
|---------------------------------|
| 6 External Consultation |
| 7 Analysis of internal and ... |
| 8 Pushing the boundaries |
| 9 Appendices |

Given the significant increase in membership to the Law Library, from 866 in 1994 to 2,124 in 2021, it is unsurprising that TBOI has been forced to develop its estate to meet member needs. With six different properties under management, the recruitment of an Estates Manager in November 2016 to oversee the management of TBOI property portfolio has been a fundamental step towards streamlining procedures in relation to property management, maintenance and repair, active office letting and tenant management, enhanced contractor management, and meeting health and safety statutory requirements.

56% of respondents to the members' survey believe TBOI is acting prudently to protect its assets and property for the benefit of the membership. Of those who didn't agree that TBOI is acting prudently in these areas, a lack of investment in critical infrastructure and under-utilised space within the property portfolio were two of the fourteen different reasons given.

| Location | Nature of Occupation | Period of Occupation | Space (m ²) | % utilised by TBOI Members |
|---------------------------------|--|----------------------|-------------------------|----------------------------|
| Law Library, Four Courts | Lease/License (Nature of lease is uncertain) | 1897 – Present | 2,518 | 100% |
| Law Library, CCJ | License Agreement (25 Years) | 2010 – Present | 1,884 | 100% |
| Cork Bar Library, Washington St | Lease (20 Years) | 1997 – Present | 165 | 100% |
| Church St. Building | Owned by Law Library Properties Ltd. | 1994 - Present | 5,304 | 35% |
| Distillery Building | Owned by Law Library Properties Ltd. | 1997 - Present | 17,127 | 37% |
| Jameson Building | Owned by Law Library Properties Ltd. | 2002 - Present | 1,069 | 0% |
| Total | | | 28,067 | |

The age and condition of TBOI buildings (in particular owned properties) are key concerns when set against a background of inconsistent investment and upkeep during their lifecycle to date. The Church Street and Distillery Buildings are 28 and 23 years old respectively. There is a need to update the mechanical and electrical systems throughout these buildings.

TBOI manages a significant proportion of its property through Law Library Properties Ltd. (LLPL), the company LLPL was formed in 1992 and it is the owner and property management company for the Law Library Building, 158/159 Church Street, the Distillery Building, 145/151 Church Street and the Jameson Building in Bow Street. It is also the holding company of Law Library Services Ltd. and Law Library Finance Ltd. and most recently took full ownership of the Dublin Dispute Resolution Centre Ltd. (DDRC).

TBOI, through LLPL, owed €20.5m to AIB at the FY20 year-end. When the existing loan facility expires in January 2023, the balance owed will be below €19m and will need to be refinanced. As a guideline, assuming an average annual debt repayment capacity of €1.2m, it would take approximately 15 years to clear the full debt amount, if desired.

The debt refinancing in 2023 is a key property related risk for LLPL, and in turn, TBOI. However, the demand for barrister workspaces within the estate appears likely to remain strong and, based on the most recent portfolio valuation (Sept 19), the portfolio LTV will be c.35% at that point.

There is strong demand for workspaces from Law Library members. The €400 cost of a seat is well below market rate and there is a total of 1,129 seats available for the membership. Surveys undertaken by TBOI, and evidence from the applications received in recent seating runs, show there is a shortage of c.45 seats in Dublin. Over the last 3 years, demand for member offices has also exceeded supply, with occupancy at 100% and a waiting list of 46 barristers.

Over the last number of years, every opportunity has been seized to maximise seating throughout TBOI buildings. However, beyond the opportunity to convert the old Pharmacy in the Distillery Building into office/seating, there is very little opportunity for further exploration in the current set up.

8 Pushing the boundaries

TBOI has developed a property portfolio, which despite being a significant income generator, requires investment

| | |
|------------------------------|---------------------------------|
| Dashboard | 6 External Consultation |
| 1 Executive Summary | 7 Analysis of internal and ... |
| 2 Introduction | 8 Pushing the boundaries |
| 3 Overview of the Legal ... | 9 Appendices |
| 4 Overview of The Bar of ... | |
| 5 International Benchmarking | |

In addition, there will be 24 new assigned seats when the CCJ 7th floor upgrade happens. With any additional seating arrangements made, due regard to the mix between Senior Counsel and Junior Counsel is required.

The benefit of younger members sitting in the vicinity of more senior members is lost if younger members are operating in an area where no senior members are based.

While EY have set out a list of recommendations for consideration by TBOI, ultimately, a fresh approach is needed to consider the property needs of the membership in a post-COVID work environment. Irrespective of any change in the Bar's operating model, there are almost certainly going to be changes in how the properties are regularly used - allowable numbers on site, use of shared spaces, court activity/functions, remote working preferences, etc., all of which may change or may return to pre-COVID scenarios depending on the success or otherwise of the vaccine rollout. There is a lot for TBOI to consider before making significant investments in the estate.

Additional seats

24

Additional assigned seats available to members once the CCJ upgrade is complete

Years

15

Expected time it will take TBOI to clear the property debt.

Recommendations

27. A Working Group, supported by external expertise as required, should be established to develop a masterplan for the building portfolio to identify options.
28. Property holdings should be regularly assessed (e.g., on a 5-year basis) in conjunction with a capital spending budgeting exercise.
29. Consider investing in the Jameson building to provide desks in close proximity to the Distillery building. Alternatively, move those organisations who occupy an office rent free – VAS, IRLI, BPCT, CI Arb Ireland - and relocate them to the Jameson Building, thereby freeing up space in the Distillery building for desks.
30. Align the value of space more clearly with the prices currently charged to encourage more efficient allocation and use. Specifically, consider increasing the rental cost of desks.
31. Assess how to monitor desk utilisation to ensure allocated desks are actively and regularly used.
32. No asset disposals should be considered in the near term unless a clear use for proceeds can be identified and replacement accommodation identified.
33. Pending any investment decisions arising from the masterplan, maintain a conservative level of property debt (close to current levels) to allow for refinancing on favourable terms from a partner(s) that will provide required flexibility and support for additional capital investments in due course.
34. The existing properties should be utilised more intensively to support the external role of TBOI – more marketing/networking events on site, providing access to groups to raise awareness of barristers and their work (legal students, schools, client representatives).
35. The Library Committee should review the manner in which seats are assigned with a view to ensuring an appropriate allocation of seating to meet demand from those without offices and ensure greater cross-year interaction.

8 Pushing the boundaries

Subscription rates should be altered to make them more equitable across member groups

| | |
|------------------------------|---------------------------------|
| Dashboard | 6 External Consultation |
| 1 Executive Summary | 7 Analysis of internal and ... |
| 2 Introduction | 8 Pushing the boundaries |
| 3 Overview of the Legal ... | 9 Appendices |
| 4 Overview of The Bar of ... | |
| 5 International Benchmarking | |

One of the key challenges for TBOI is managing the pressure from the membership for unchanged subscription rates against the dual need to constantly invest in improved member services into the future, and ensure that rates remain equitable across the membership. As more and more services are available online, the perceived inequity experienced by Country/Cork members is reduced and hence, the subscription rate structure should reflect this to ensure membership remains equitable across the Law Library. Currently TBOI apply 40 separate subscription rates, which are determined by year of practice, accommodation, and on occasion, personal circumstances relating to family and illness. The full list of subscription rates can be viewed in Appendix 6.

Due to the general reduction in barrister incomes during the COVID-19 pandemic, the Bar Council decided to apply a credit of 25% to annual subscriptions for 19/20 and a further credit of approximately 33% over the Hilary and Easter terms in 20/20. In addition, TBOI has covered members' LSRA fees since the levy was introduced in 2018. It will be important to manage member expectations as TBOI cannot continue these supports indefinitely. The issues identified for the current subscription model are as follows:

- ▶ Do members perceive any inequity and is there appetite for change amongst the membership?
- ▶ Does a redistribution of member rates affect the aggregate fee income?
- ▶ Is the management of the current fee model an appropriate level of administrative overhead for TBOI?
- ▶ Are past members supported to re-enter the Law Library after a brief stint away from the profession?

41% of respondents agreed that the structure of the Law Library subscription model should change (37% neutral and 22% disagree). Similarly, within the verbatim responses, 'a reduction in membership fees/a change in the fee structure' was an area deemed essential to practice as a barrister.

The benchmarking review of other jurisdictions identified alternate fee models. NI, for example, has a simpler model with three grades of annual subscription, with no sliding income scales:

- ▶ First seven years of practice
- ▶ Eight years of practice upwards
- ▶ Queen's Counsel (QC) (equivalent to Senior Counsel)

Membership fees in New Zealand, as in Ireland, are linked to year of practice,

while in England, Wales and Scotland fees are linked to income. Reducing to three rates would likely mean an increase in the average fee paid by barristers in their early years of practice. EY analysis indicates members in the 8-years+ category are responsible for close to 60% of fee income. As an illustration, a 5% fee increase applied to this cohort with established practices would generate incremental subscriptions of over €250k.

Law Library members would continue to be self-employed within the IRB and pay membership subscriptions, even if they choose to operate in a 'meitheal'. The clear benefits of membership, such as access to necessary legal databases, ICT services, administrative support, and CPD programs mean that Law Library fees represent real value, even for those within a 'meitheal'.

Recommendations

36. Member subscription rates should be periodically reviewed to ensure they cover any investments required to maintain and upgrade the member services provided by TBOI. Any temporary levies imposed, related to specific capital investments, should be identified separately on the membership fee schedule to increase transparency and prevent such amounts becoming permanently embedded in subscription rates. TBOI should be transparent in respect of the LSRA fees, which should be identified as a separate charge to the annual subscription to TBOI.
37. TBOI should ensure subscription rates remain equitable across member groups. TBOI could consider in their periodic review for example, aligning rates more fully over time for Country/Cork membership, for example to 75% across the sliding fee scale, as physical location is less of a relative disadvantage compared to the past. TBOI may also consider reducing the number of different rate structures or waiving subscriptions for those who cannot practise within the profession on a given year for personal reasons, e.g., maternity leave/sickness.
38. TBOI should create a new membership category for Law Library alumni, who would not be subject to the LSRA charge. This would help alumni to feel connected and brings wider qualitative networking benefits to the Law Library membership, as well as acting as a minor additional revenue stream. The resources to be dedicated to this matter should be commensurate with the level of appetite shown by alumni.

8 Pushing the boundaries

The environment and legal costs are two issues which will grow in importance

| | |
|------------------------------|---------------------------------|
| Dashboard | 6 External Consultation |
| 1 Executive Summary | 7 Analysis of internal and ... |
| 2 Introduction | 8 Pushing the boundaries |
| 3 Overview of the Legal ... | 9 Appendices |
| 4 Overview of The Bar of ... | |
| 5 International Benchmarking | |

Environment

Historically, the legal sector has relied on physical paperwork more so than any other profession in Ireland. Briefs prepared for court hearings were more often than not, delivered as hardcopies to parties. Prior to the COVID-19 pandemic, the movement towards e-briefs and e-litigation had slowly started to evolve. However, many judges still request both hard and soft copies of documents, as is their choice.

The unnecessary printing of paper is something TBOI has attempted to address, by introducing printing fees for members within their buildings. While this acts as a disincentive to members to print documents not required as hard copies in court, the level of paper generated by members remains significant.

At present, there is no reference to the environment on TBOI website. If TBOI is serious about its part in slowing down the effects of climate change and aiding the environment, they will need to measure their current environmental performance and set tangible sustainability and environmental performance goals to attain over the coming decade.

Recommendation

39. TBOI should report on their sustainability/environmental performance in the same way that they report annually on their financial performance.
40. Aligned with a Marketing Plan, TBOI should develop a clear CSR Statement/Plan, setting out its activities and objectives in relation to community, environment and other social objectives.
41. To support environmental objectives of TBOI, enhanced training on managing e-briefs should be provided by the proposed Education and Training Directorate.

Legal costs

The level of legal costs in Ireland regularly attract a high profile within the media, with the recent changes to Personal Injury Award guidelines bringing prominence to the issue once more. A key issue regularly aired is the level of transparency in terms of what costs are charged/received by legal professionals in Ireland.

Recent changes on foot of the LSRA to improve transparency with the introduction of Section 151 and the new legal cost adjudicator have sought to improve the level of transparency between legal professionals and their clients.

The National Competitive Council sought to assess the level of legal fees in a 2019 report called 'The Cost of Doing Business'. The report driver was the impact on national competitiveness legal services/costs can have. Based on World Bank data, Ireland is reportedly an expensive location to enforce a business contract. However, it should be noted that this report did not consider barristers' fees and hence, is unreliable for use within the legal sector.

The largest buyer of legal services in the State is the State itself. While there is limited information available on the cost to the State of legal services at present, state bodies throughout the external consultation process noted the value for money they perceive from their interactions with barristers. However, given the set fee structures in place within these State agencies and departments, it is accepted by all parties that the State pay a reduced premium (relative to other clients) to barristers given the regular nature of their work.

While it has not been possible to track the evolution of legal costs over time, given the lack of data, the increased number of barristers within the State would suggest that increased competition between barristers themselves over the last decade equates to downward pressure on fees, and hence, competitive legal costs for the end user. The recent Report of the Review Group on the Administration of Civil Justice published in December 2020 has yet to be implemented, but should be of assistance in this regard.

Recommendations

42. TBOI should continue to advocate, in conjunction with the Law Society, to communicate the value provided by legal practitioners. To support this, measures should be developed to improve transparency on how costs are determined.
43. TBOI should continue to work with the DOJ to implement the recent Report of the Review Group on the Administration of Civil Justice published in December 2020'.

8 Pushing the boundaries

Marketing and promotion of TBOI should have a dedicated budget in place to enhance and build on TBOI's current 'high level' approach (1/2)

| | |
|------------------------------|---------------------------------|
| Dashboard | 6 External Consultation |
| 1 Executive Summary | 7 Analysis of internal and ... |
| 2 Introduction | 8 Pushing the boundaries |
| 3 Overview of the Legal ... | 9 Appendices |
| 4 Overview of The Bar of ... | |
| 5 International Benchmarking | |

Currently, TBOI does a certain amount of marketing and PR of the profession, within the constraints of a limited budget and resources. Marketing and PR activity within TBOI are focused on weekly meetings with the media agency, Q4, to discuss media relations, consider opportunities to best represent the profession, and respond to media coverage. While there is a lot of activity which would fall under this heading, at best the current approach to marketing and PR might be considered 'high-level'.

That said, as previously acknowledged, the 12 SBAs work well and through their work they promote members of the Law Library across the range of specialist areas they represent. They carry out this function by availing of significant support from the staff resources provided by The Bar of Ireland.

There was general consensus that TBOI should continue their current PR and marketing efforts, but do more of it with the correct strategic planning. In the members' survey:

- ▶ 39% of respondents ranked "promotion of the profession to enhance reputation" in their top 3 list of activities undertaken by TBOI on behalf of the profession
- ▶ 27% of respondents ranked "representation and promotion of the profession" within the top 3 activities essential to practice as a barrister into the future
- ▶ In the verbatim responses, "less work opportunities" was cited in the top 3 reasons as to why barristers were concerned about the effect future legislation could have on the profession

It is recommended that TBOI develop a marketing and PR plan, the purpose of which would be to promote and show the value of the profession to the relevant actors within the legal sector, and to defend the profession within the media.

For TBOI, such a marketing plan would ensure clarity for all with respect to the future direction and goals of TBOI. A marketing plan for TBOI would help members, especially younger members, better understand their market and would also identify new areas of opportunity. In terms of promoting the profession, the plan could explain the services and nature of the IRB, which could be combined with a PR campaign. Other elements could include more speaker opportunities at external events; articles in professional journals or sector publications; seeking out PR opportunities; deciding when and when not to engage with the media on policy developments; and other issues. Similarly, more digital marketing, including a greater social media profile, would help raise the profile of the profession. While TBOI has had marketing successes in the past, such as the recent online TY outreach programme, which attracted some 12,000 TY students during the pandemic, they are limited by the level of resources available to develop and implement enhanced marketing plans.

A greater level of marketing implies more resources, which would need to be funded through an increase in member subscriptions or reduced expenditure elsewhere. For 2020/2021, TBOI has a budgeted spend of €70,000 on Marketing and Events. This reflects a €9,000 reduction in the dedicated marketing budget on the previous year, despite supporting an additional 3 Specialist Bar Associations (SBAs).

Feedback from the external consultations suggests that TBOI could do more to articulate their value, and what it is they do, to the wider legal stakeholders. The view was expressed that users of barristers find it difficult to find the areas of specialism of barristers, and that the current online directory is not hugely relevant or user friendly. While TBOI is due to launch their new website shortly, providing an enhancement of the member profiles currently available on the online directory, one significant advantage of greater marketing efforts by TBOI would be the opportunity for junior barristers to show their expertise, and in turn, raise their profile within the legal sector.

8 Pushing the boundaries

Marketing and promotion of TBOI should have a dedicated budget in place to enhance and build on TBOI's current 'high level' approach (2/2)

| |
|------------------------------|
| Dashboard |
| 1 Executive Summary |
| 2 Introduction |
| 3 Overview of the Legal ... |
| 4 Overview of The Bar of ... |
| 5 International Benchmarking |

| |
|---------------------------------|
| 6 External Consultation |
| 7 Analysis of internal and ... |
| 8 Pushing the boundaries |
| 9 Appendices |

The barrister profession is predominantly a business-to-business profession. Interaction with the general public is very limited – almost 80% of respondents to RED C's Public Omnibus Survey stated that they have never used a barrister. Given that individuals are currently unable to engage the services of a barrister on contentious work without the assistance of a solicitor, this suggests only limited value to TBOI members through increased marketing of the profession to the wider general public. However, a material benefit arising from general marketing would be a greater public understanding of the activities of barristers in Ireland and the breadth of barrister services available. It would also support university students and members of the general public who are contemplating entering the profession. Additional resources for this marketing focus should be balanced against the reality that members of the public do not typically select a barrister.

Recommendation

44. TBOI should have a dedicated cash and staffing budget for Marketing and Events to cover the recruitment of a full-time marketing person and/or a number of junior staff members with a marketing background, to support the profession and the development of the SBAs in particular.
45. It is recommended that TBOI develop a more detailed marketing plan, the purpose of which would be to promote, defend, and show the value of the profession to the legal sector. Implementation of such a marketing plan will need to be accompanied by the appropriate level of resources.

8 Pushing the boundaries

There are a number of opportunities TBOI should exploit in the coming years

Dashboard
1 Executive Summary
2 Introduction
3 Overview of the Legal ...
4 Overview of The Bar of ...
5 International Benchmarking

6 External Consultation
7 Analysis of internal and ...
8 Pushing the boundaries
9 Appendices

Opportunities for growth

As noted in the SWOT analysis earlier in the report, there are a number of opportunities available to TBOI and the profession. While relevant actions for some of the opportunities have been noted earlier within the recommendations, EY also recommend the following:

Recommendations

46. TBOI should continue its financial and resource support for the Ireland for Law project that will support Irish barristers (and other legal services stakeholders) in developing new and targeted service offerings in respect of International/European legal activities, particularly those previously performed in the UK, and which have the potential to be completed in Ireland.
47. A suitable membership and service offering for the Bar alumni should be considered in light of changes in technology and habits that may include opportunities to use digital and social media platforms to engage the alumni. The resources to be dedicated to this matter should be commensurate with the level of appetite shown by alumni.
48. Member services should be monitored and reviewed on an annual basis to see if there are areas or provision where a 'per use' or 'user pays' basis can be identified, particularly as the profession evolves, and more specialised supports are likely to be required by a subset of members.
49. TBOI should, in conjunction with the SBAs, review on an annual basis the areas of the law where they believe there is significant scope for expansion. These areas should then be marketed to members to ensure there is a sufficient number of barristers available to service the additional demand.
50. TBOI should assess the provision of additional training and support to practitioners in the areas of Mediation and Arbitration services, to develop these practice areas.
51. Investment to safeguard the continued growth of the existing capability, supported by identification of new roles, will be required to deliver the strategic objectives of the organisation. Periodically TBOI should assess the skillset, work practices and complement of their staff to ensure they align with their strategic focus.

9

Appendices



9 Appendices

Table of Contents

Dashboard
 1 Executive Summary
 2 Introduction
 3 Overview of the Legal ...
 4 Overview of The Bar of ...
 5 International Benchmarking

6 External Consultation
 7 Analysis of internal and ...
 8 Pushing the boundaries
9 Appendices

| Appendix | Contents | Page |
|----------|---|------|
| 1 | Members' Survey - Quantitative Results | 109 |
| 2 | Members' Survey - Qualitative Results | 120 |
| 3 | RED C Public Omnibus Survey Results | 131 |
| 4 | Staff Survey Quantitative Results | 139 |
| 5 | Acronyms | 148 |
| 6 | Law Library Annual Subscription Rates 2020/21 | 150 |

Appendix 1 – Members' Survey Quantitative Results



9 Appendices

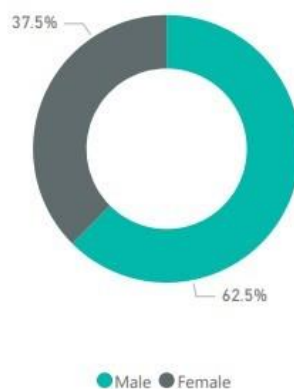
Barristers' Survey - Quantitative Results

Dashboard
1 Executive Summary
2 Introduction
3 Overview of the Legal ...
4 Overview of The Bar of ...
5 International Benchmarking

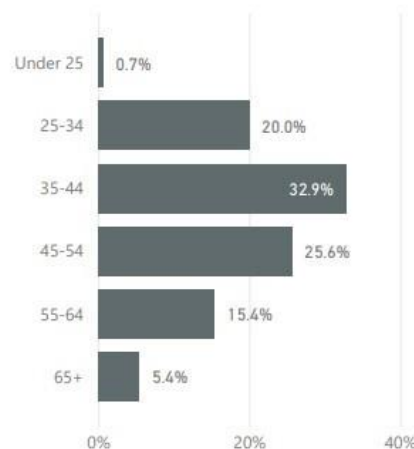
6 External Consultation
7 Analysis of internal and ...
8 Pushing the boundaries
9 Appendices



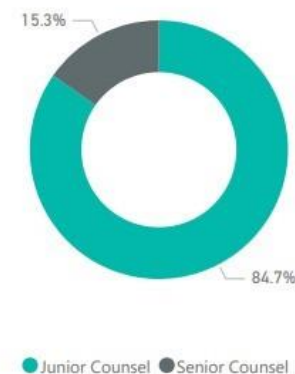
Q.1 Distribution by Gender



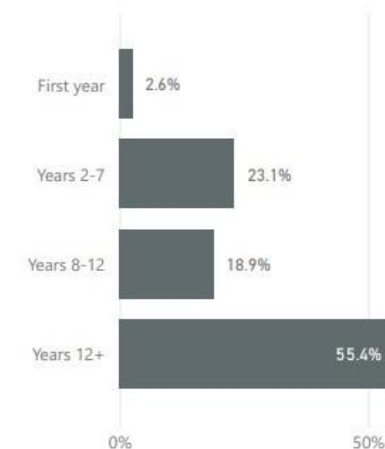
Q.2 Distribution by Age



Q.3 Distribution by Membership Status



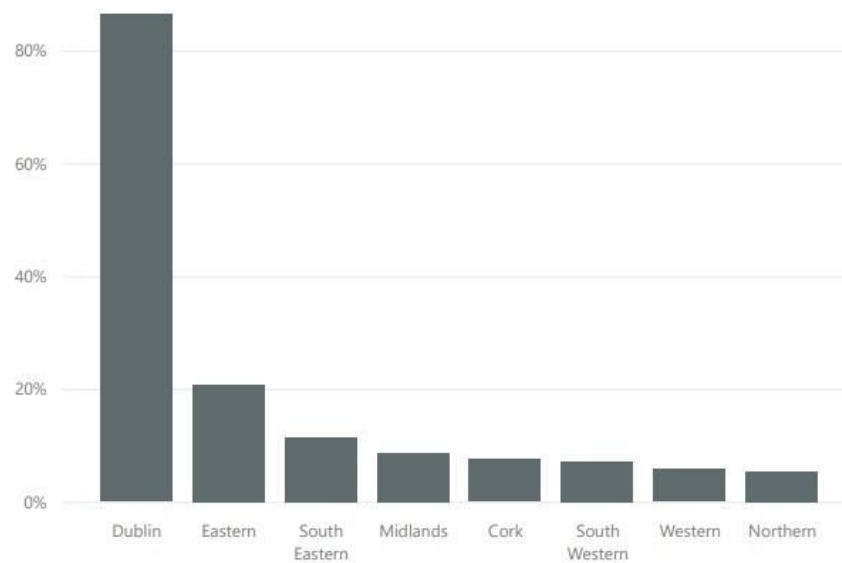
Q.4 Distribution by Year of Practice



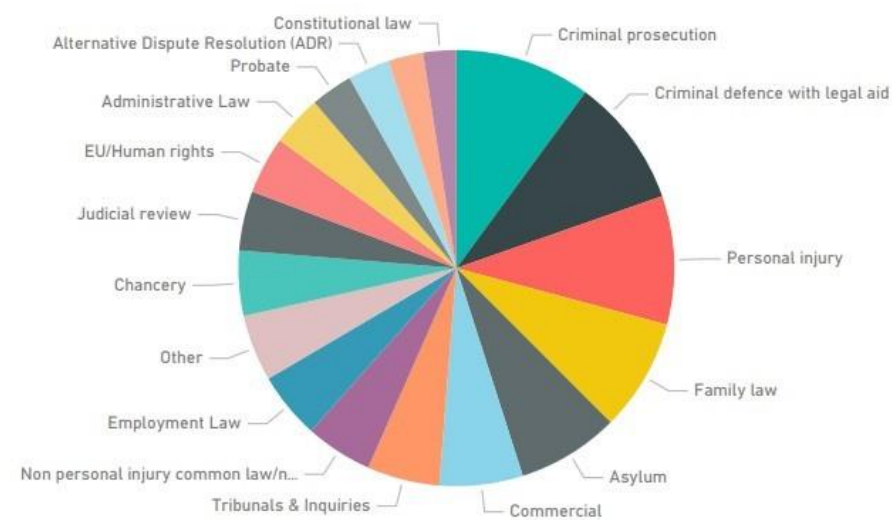
890

No of Survey Respondents

Q.5 Predominant circuits of practice



Q.6 Field of Law



9 Appendices

Barristers' Survey - Quantitative Results

Dashboard
 1 Executive Summary
 2 Introduction
 3 Overview of the Legal ...
 4 Overview of The Bar of ...
 5 International Benchmarking

6 External Consultation
 7 Analysis of internal and ...
 8 Pushing the boundaries
9 Appendices



Communication Channels

890

No of respondents

Gender

All

Age

All

Year of Practice

All

Membership Status

All

● Top 3 ● Top 4-5 ● Not in Top 5

Q.8 Preference for communication channel



9 Appendices

Barristers' Survey - Quantitative Results

Dashboard
1 Executive Summary
2 Introduction
3 Overview of the Legal ...
4 Overview of The Bar of ...
5 International Benchmarking

6 External Consultation
7 Analysis of internal and ...
8 Pushing the boundaries
9 Appendices



Service & Operations

890

No of respondents

Gender

All

Age

All

Year of Practice

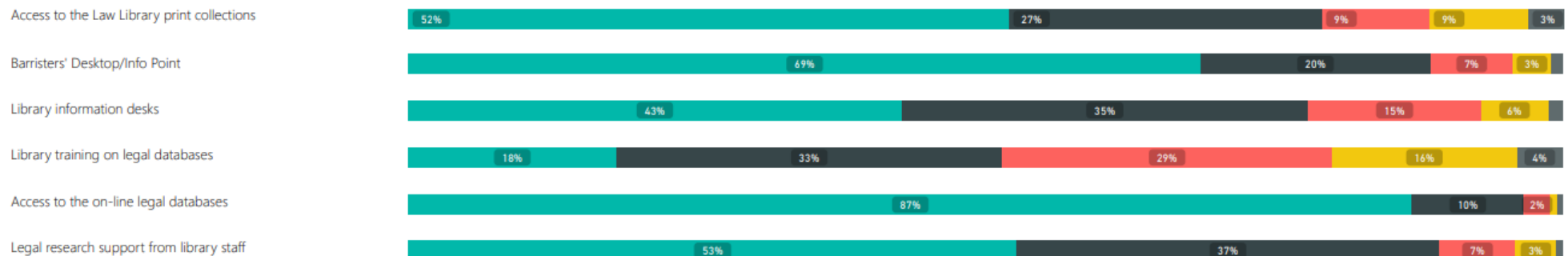
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Membership Status

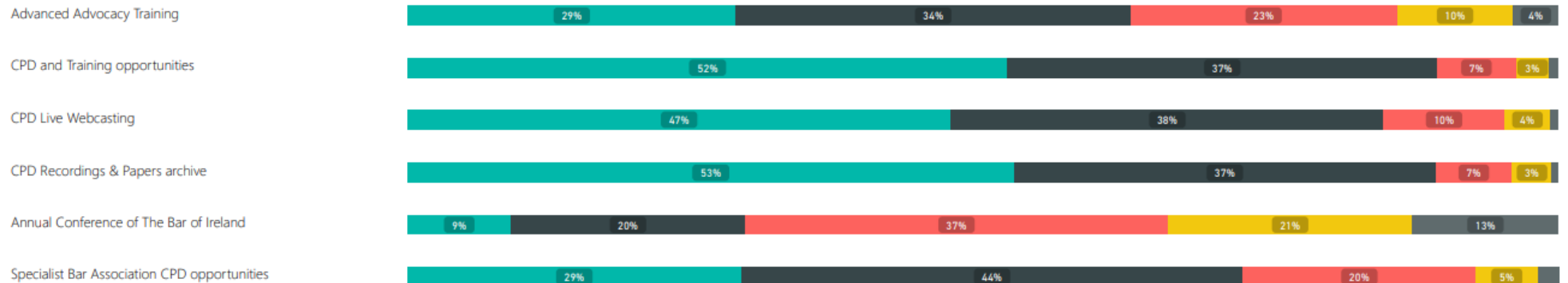
All

Q.9 Perception of Library & Information services

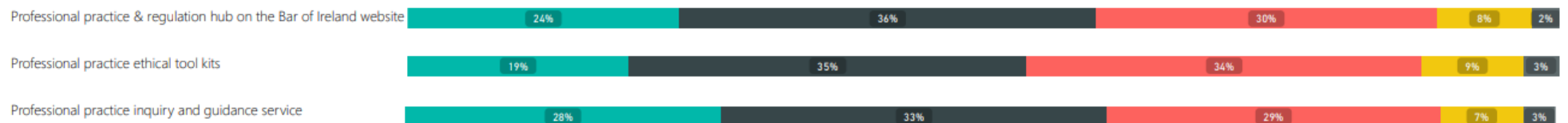
● Essential ● Important ● Neutral ● Not Overly Important ● Completely Unnecessary



Q.10 Perception of educational services



Q.11 Perception of professional practice services



9 Appendices

Barristers' Survey - Quantitative Results

Dashboard
1 Executive Summary
2 Introduction
3 Overview of the Legal ...
4 Overview of The Bar of ...
5 International Benchmarking

6 External Consultation
7 Analysis of internal and ...
8 Pushing the boundaries
9 Appendices



Service & Operations

890

No of respondents

Gender

All

Age

All

Year of Practice

All

Membership Status

All

● Agree strongly ● Agree ● Neither agree nor disagree ● Disagree ● Disagree strongly

Q.13a How much do you agree or disagree with each of the following statements?

The Independent Referral Bar (sole trader) model is fit for purpose



I would like the option to work in a legal partnership with other legal practitioners (rather than as a sole trader) in future



I would like the option to work in a chambers structure with other barristers in future



I intend to provide direct access to clients in non-contentious matters when enabled under the Legal Services Regulation Act, 2015



Q.14a How much do you agree or disagree with each of the following statements?

The current structure of the Bar Council is the right one to meet the future needs of the profession



The Council is acting prudently to protect its assets and the property of The Bar of Ireland for the benefit of the membership



9 Appendices

Barristers' Survey - Quantitative Results

Dashboard
1 Executive Summary
2 Introduction
3 Overview of the Legal ...
4 Overview of The Bar of ...
5 International Benchmarking

6 External Consultation
7 Analysis of internal and ...
8 Pushing the boundaries

9 Appendices



Service & Operations

890

No of respondents

Gender

All

Age

All

Year of Practice

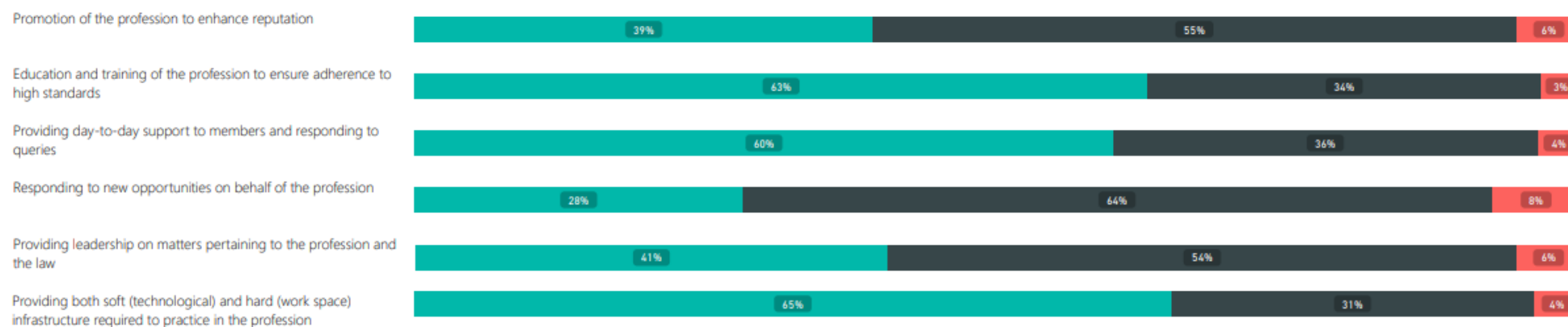
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Membership Status

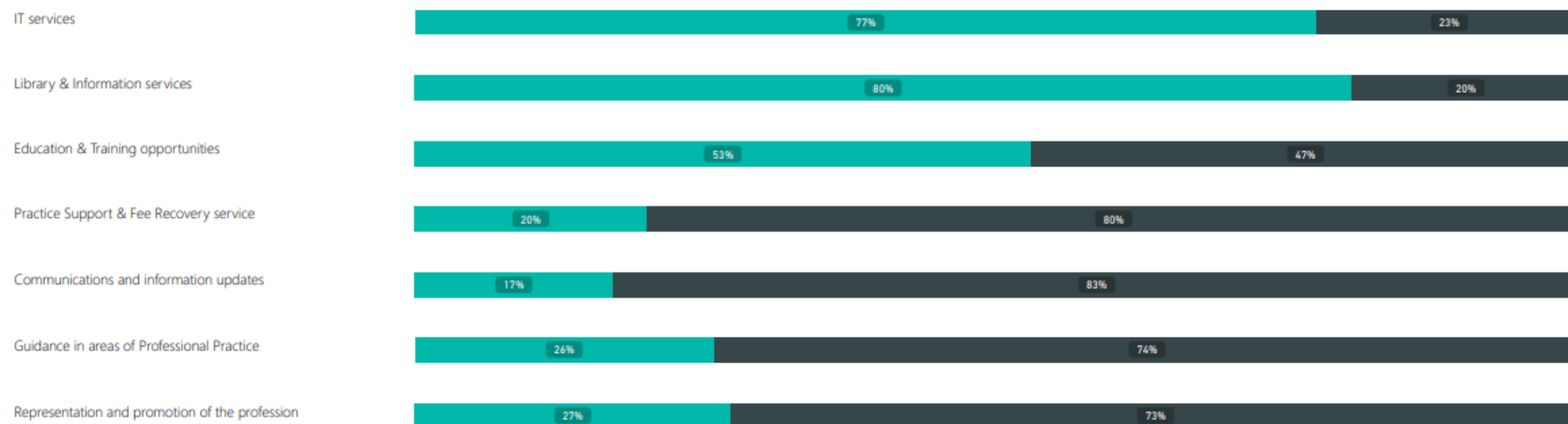
All

Q.12 Ranking of List of activities undertaken on behalf of the profession

● Rank 1-3 ● Other Rank ● No response



Q.15 Rank of activities essential to practice as a barrister into the future



9 Appendices

Barristers' Survey - Quantitative Results

Dashboard
1 Executive Summary
2 Introduction
3 Overview of the Legal ...
4 Overview of The Bar of ...
5 International Benchmarking

6 External Consultation
7 Analysis of internal and ...
8 Pushing the boundaries
9 Appendices



Core Issues

890

No of respondents

Gender

All

Age

All

Year of Practice

All

Membership Status

All

● Agree strongly ● Agree ● Neither agree nor disagree ● Disagree ● Disagree strongly

Q.17a Statements about the profession in general

The role of a barrister has become more difficult over the last three years



As a barrister, I have a good work-life balance



There are downward pressures on the fees I charge for my services



Barristers are well respected among the general public



Barristers are well respected within the legal profession



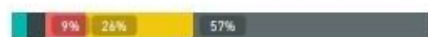
Barristers are suffering financially due to rising operating costs



Brexit has provided greater opportunities for the profession within Ireland



The professions of Barristers and Solicitors should be unified

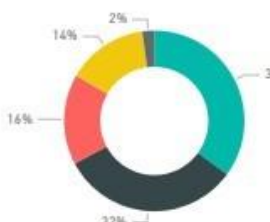


The use of remote hearings has adversely impacted opportunities to develop my practice



Q.19a Statements about the LSRA

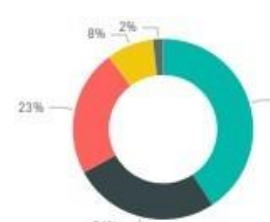
The LSRA has not placed an increased burden on the profession



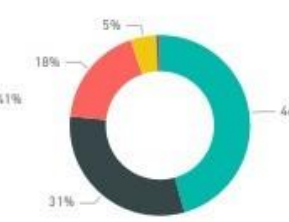
LSRA's powers are likely to remain the same into the future



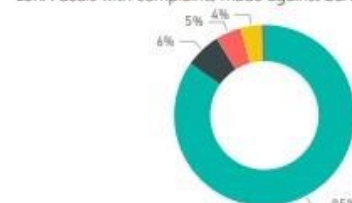
LSRA will positively change the manner in which persons are appointed as Senior Counsel



LSRA has improved standards in the provision of legal services since it was established



LSRA deals with complaints made against barristers in an efficient manner



Q.18a Statements about the Bar of Ireland

Technology provided by The Bar of Ireland meets my current practice needs



Technology provided by The Bar of Ireland is easy and efficient to use



Technology provided by The Bar of Ireland requires further investment in the coming years



The Bar of Ireland has successfully marketed the profession over the last decade



Membership of the Law Library is good value for money



The structure of the Law Library membership subscription model should change



The Council is focusing on the right priorities for its members



The current CPD model provides sufficient education and training



9 Appendices

Barristers' Survey - Quantitative Results

Dashboard
1 Executive Summary
2 Introduction
3 Overview of the Legal ...
4 Overview of The Bar of ...
5 International Benchmarking

6 External Consultation
7 Analysis of internal and ...
8 Pushing the boundaries
9 Appendices



Clients & Income

890

No of respondents

Gender

All

Age

All

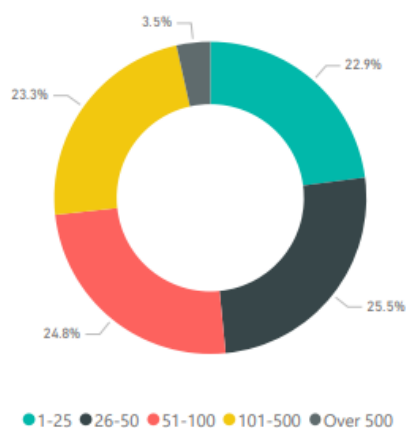
Year of Practice

All

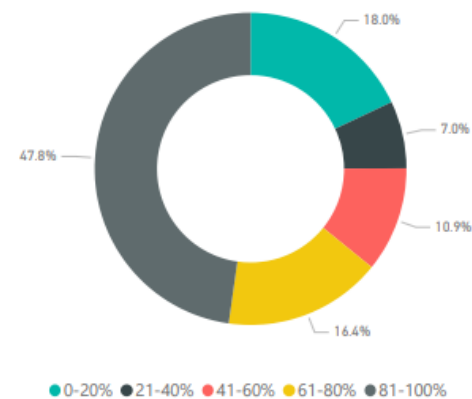
Membership Status

All

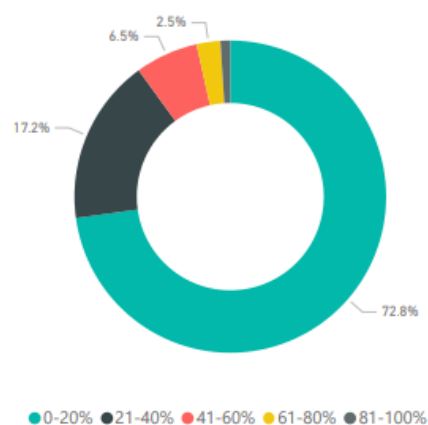
Q.20 Cases briefed annually



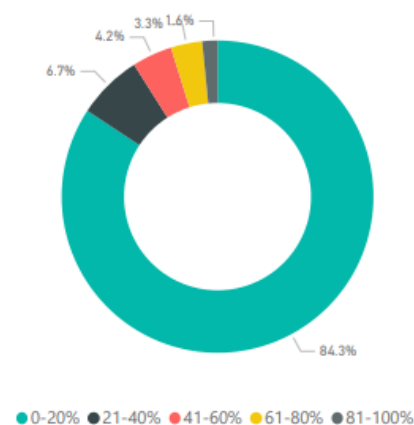
Q.21 Proportion of briefs arising privately via private practitioner



Q.22 Proportion of income generated from non-contentious work



Q.23 Proportion of income generated from work other than as a barrister



9 Appendices

Barristers' Survey - Quantitative Results

Dashboard
1 Executive Summary
2 Introduction
3 Overview of the Legal ...
4 Overview of The Bar of ...
5 International Benchmarking

6 External Consultation
7 Analysis of internal and ...
8 Pushing the boundaries

9 Appendices



Clients & Income

Gender

All

Age

All

Year of Practice

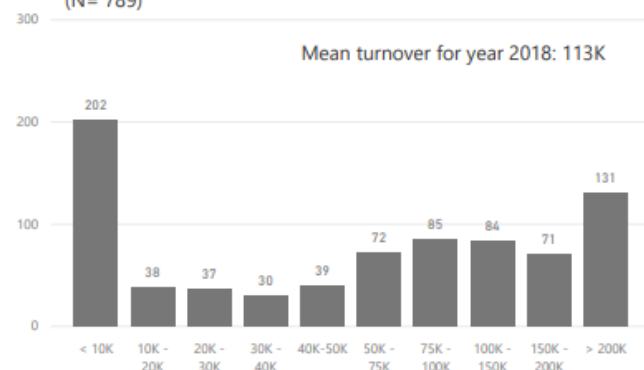
All

Membership Status

All

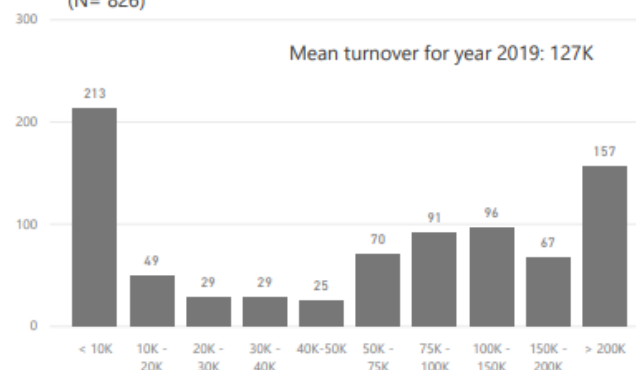
Q.25 Annual turnover for year the 2018

(N= 789)



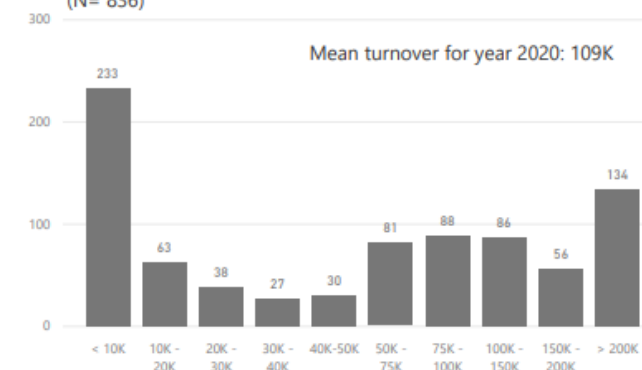
Q.25 Annual turnover for year the 2019

(N= 826)



Q.25 Annual turnover for year the 2020

(N= 836)



Q.26 Fees unpaid and owed for work for the years 2018

(N= 696)



Q.26 Fees unpaid and owed for work for the years 2019

(N= 735)



Q.26 Fees unpaid and owed for work for the years 2020

(N= 768)



9 Appendices

Barristers' Survey - Quantitative Results

Dashboard
1 Executive Summary
2 Introduction
3 Overview of the Legal ...
4 Overview of The Bar of ...
5 International Benchmarking

6 External Consultation
7 Analysis of internal and ...
8 Pushing the boundaries
9 Appendices



The Future

890

No of respondents

Gender

All

Age

All

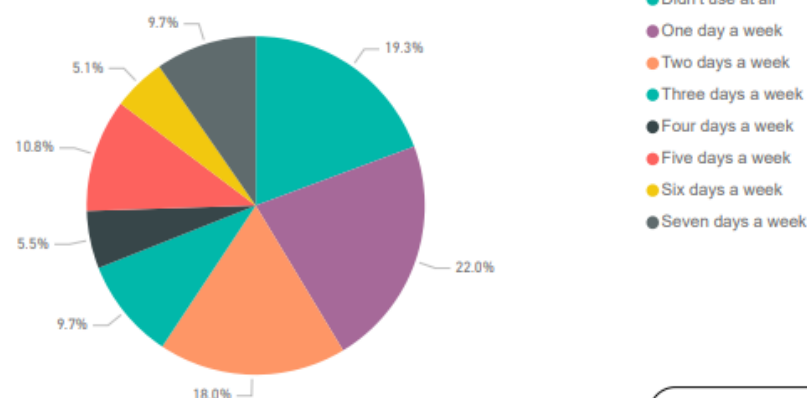
Year of Practice

All

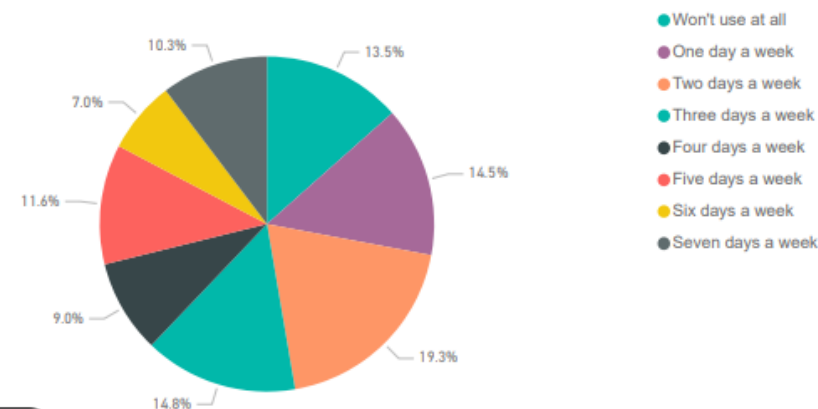
Membership Status

All

Q.7 Prior to the pandemic, how many days did you work from home?



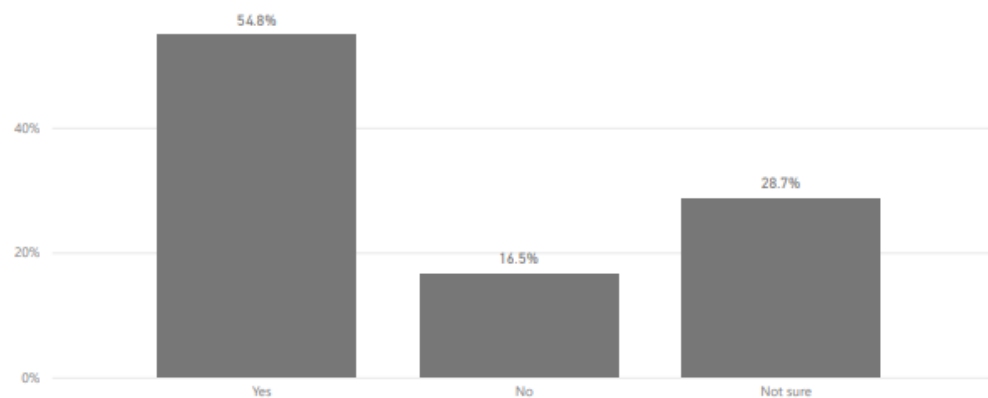
Q.27 Post-pandemic, how many days do you expect to work from home?



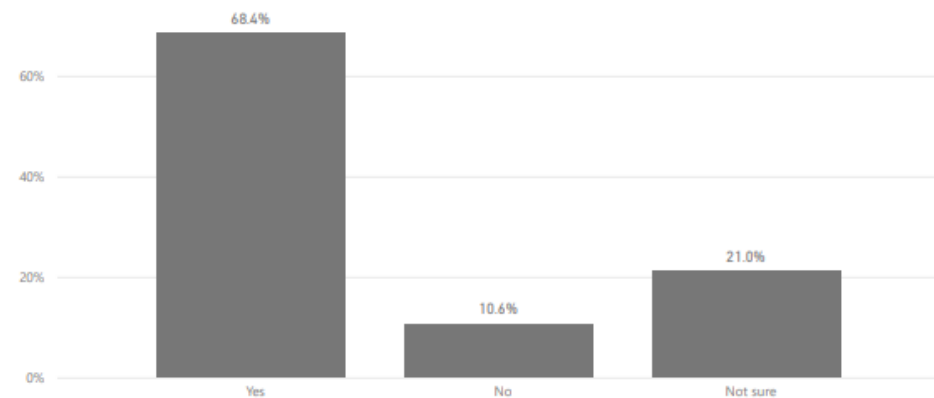
Select Property

Own home

Q.28a Are you willing to diversify your practice over the next decade?



Q.30a Are you concerned about the effect of future legislation on the profession?



9 Appendices

Barristers' Survey - Quantitative Results

Dashboard
1 Executive Summary
2 Introduction
3 Overview of the Legal ...
4 Overview of The Bar of ...
5 International Benchmarking

6 External Consultation
7 Analysis of internal and ...
8 Pushing the boundaries
9 Appendices



Younger Members - Q.31 229

No of Respondents

Gender
All

Age
All

Year of Practice
All

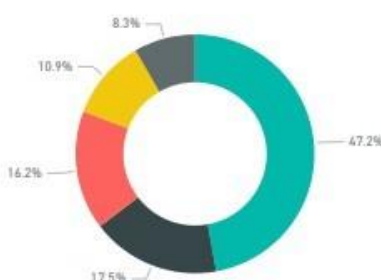
Membership Status
All

● Agree strongly ● Agree ● Neither agree nor disagree ● Disagree ● Disagree strongly

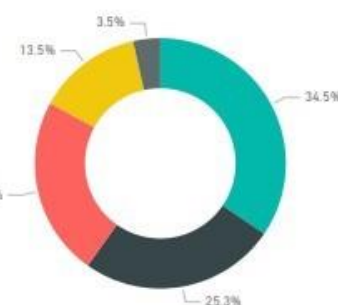
a) I have full access to the services provided by the Law Library



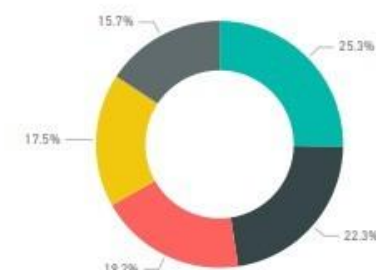
b) Work from the criminal and civil legal aid schemes make up more than 40% of my income



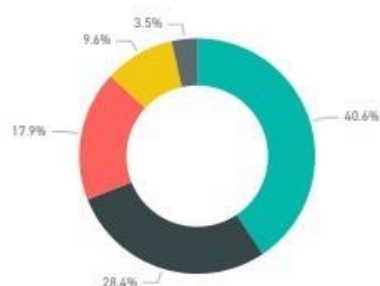
c) I see a future for myself within the profession



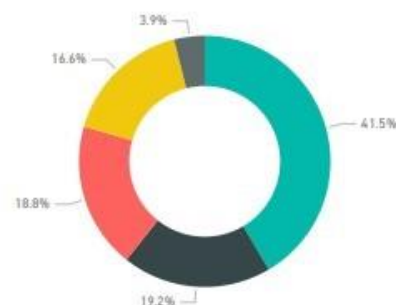
d) I benefitted from the pupil mentor scheme provided by The Bar of Ireland



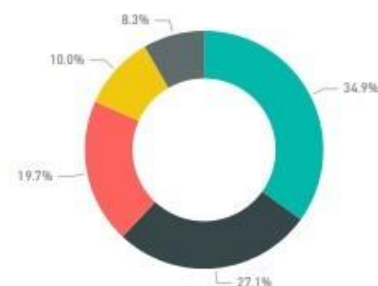
e) As a result of Covid-19, I have missed out on training/mentoring from more senior members



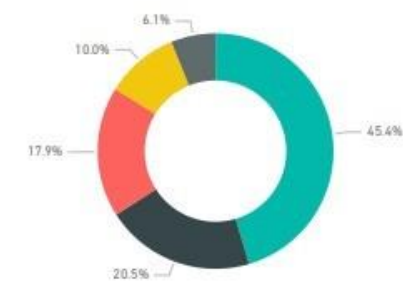
f) I feel comfortable reaching out to colleagues for personal help



g) I feel comfortable reaching out for professional help through the resources provided by The Bar of Ireland



h) I feel a strong sense of collegiality and cooperation with the other members of the Law Library



Appendix 2 – Members' Survey Qualitative Results



9 Appendices

Appendix 2 – Members' Survey Qualitative Results

Dashboard
1 Executive Summary
2 Introduction
3 Overview of the Legal ...
4 Overview of The Bar of ...
5 International Benchmarking

6 External Consultation
7 Analysis of internal and ...
8 Pushing the boundaries

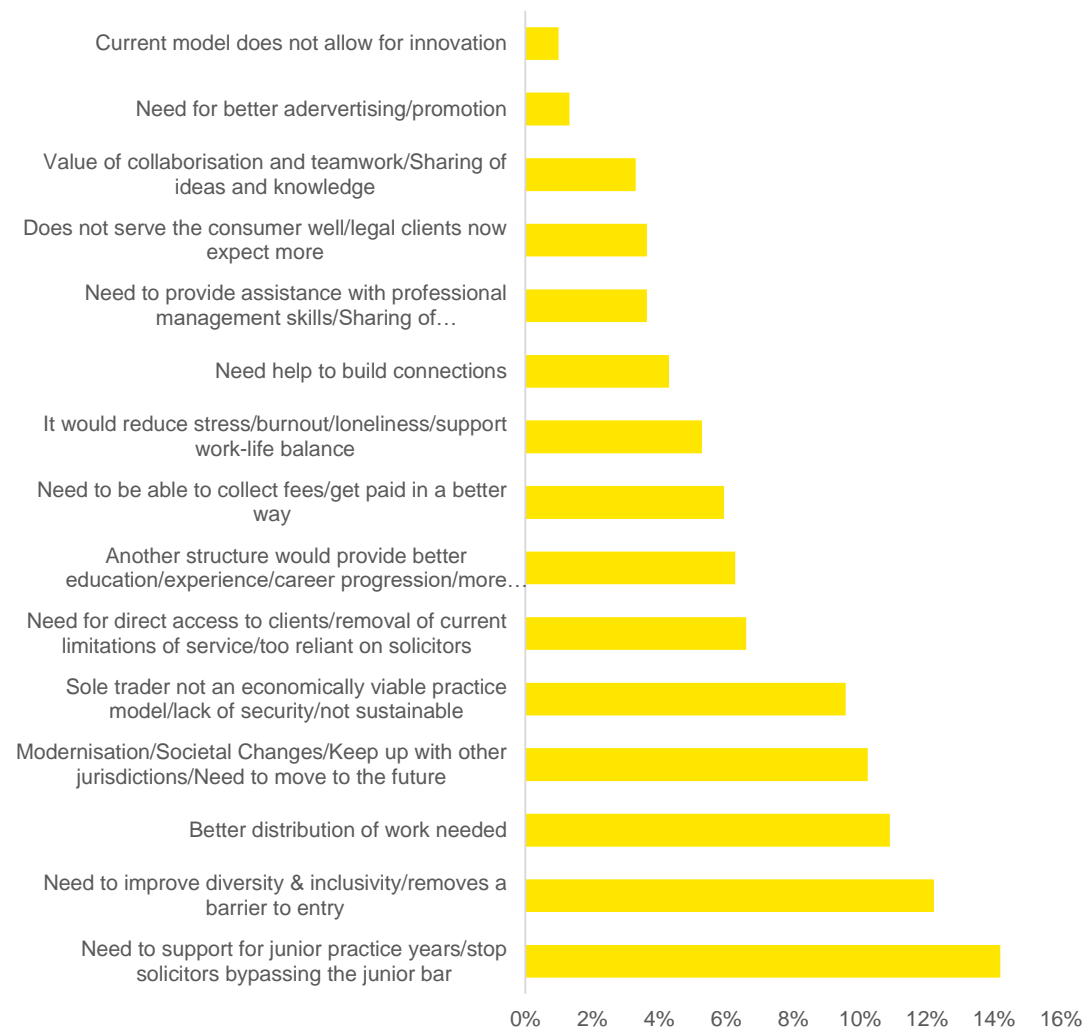
9 Appendices

Q13b - Please elaborate as to why you would like changes to the Independent Referral Bar model? (Top 15 responses included)

n = 303

| | |
|--|-------|
| Need to support for junior practice years/stop solicitors bypassing the junior bar | 14.2% |
| Need to improve diversity & inclusivity/removes a barrier to entry | 12.2% |
| Better distribution of work needed | 10.9% |
| Modernisation/Societal Changes/Keep up with other jurisdictions/Need to move to the future | 10.2% |
| Sole trader not an economically viable practice model/lack of security/not sustainable | 9.6% |
| Need for direct access to clients/removal of current limitations of service/too reliant on solicitors | 6.6% |
| Another structure would provide better education/experience/career progression/more opportunities | 6.3% |
| Need to be able to collect fees/get paid in a better way | 5.9% |
| It would reduce stress/burnout/loneliness/support work-life balance | 5.3% |
| Need help to build connections | 4.3% |
| Need to provide assistance with professional management skills/Sharing of overheads/Economies of scale | 3.6% |
| Does not serve the consumer well/legal clients now expect more | 3.6% |
| Value of collaboration and teamwork/Sharing of ideas and knowledge | 3.3% |
| Need for better advertising/promotion | 1.3% |
| Current model does not allow for innovation | 1.0% |

Q13b - Please elaborate as to why you would like changes to the Independent Referral Bar model? (Top 15 responses included)



9 Appendices

Appendix 2 - Members' Survey Qualitative Results

Dashboard
1 Executive Summary
2 Introduction
3 Overview of the Legal ...
4 Overview of The Bar of ...
5 International Benchmarking

6 External Consultation
7 Analysis of internal and ...
8 Pushing the boundaries
9 Appendices

Q14b - Please elaborate as to why the current structure of the Bar Council should change?

| Q14b - Please elaborate as to why the current structure of the Bar Council should change? | n = 241 |
|---|---------|
| There needs to be greater representation for Young Bar members/Weighted too heavily in favour of Senior Counsel | 23.7% |
| Doesn't accurately reflect members/not diverse/elitist | 20.3% |
| Not a meritocracy/personal preferences get in the way/too political/popularity contest/not transparent | 18.3% |
| Not providing sufficient support for members/too bureaucratic to be effective | 11.2% |
| Not sure what purpose they serve/Their work is pointless/Not fit for purpose/Archaic | 6.6% |
| Far too many sub-groups which causes a loss of organisational focus | 5.4% |
| Too little involvement with members views on occasion | 4.1% |
| Very Dublin centric | 2.5% |
| Excessive costs associated with travel of the Council, etc. | 2.5% |
| Would be better with outside management/executive (people without vested interests) | 2.1% |
| There should be limits on the length of time members can serve on the Council | 1.2% |
| The fee recovery system is not carried out effectively | 1.2% |
| Too small for the size of the profession | 0.4% |
| Too opposed to considering the advantages of a chambers type structure; | 0.4% |



9 Appendices

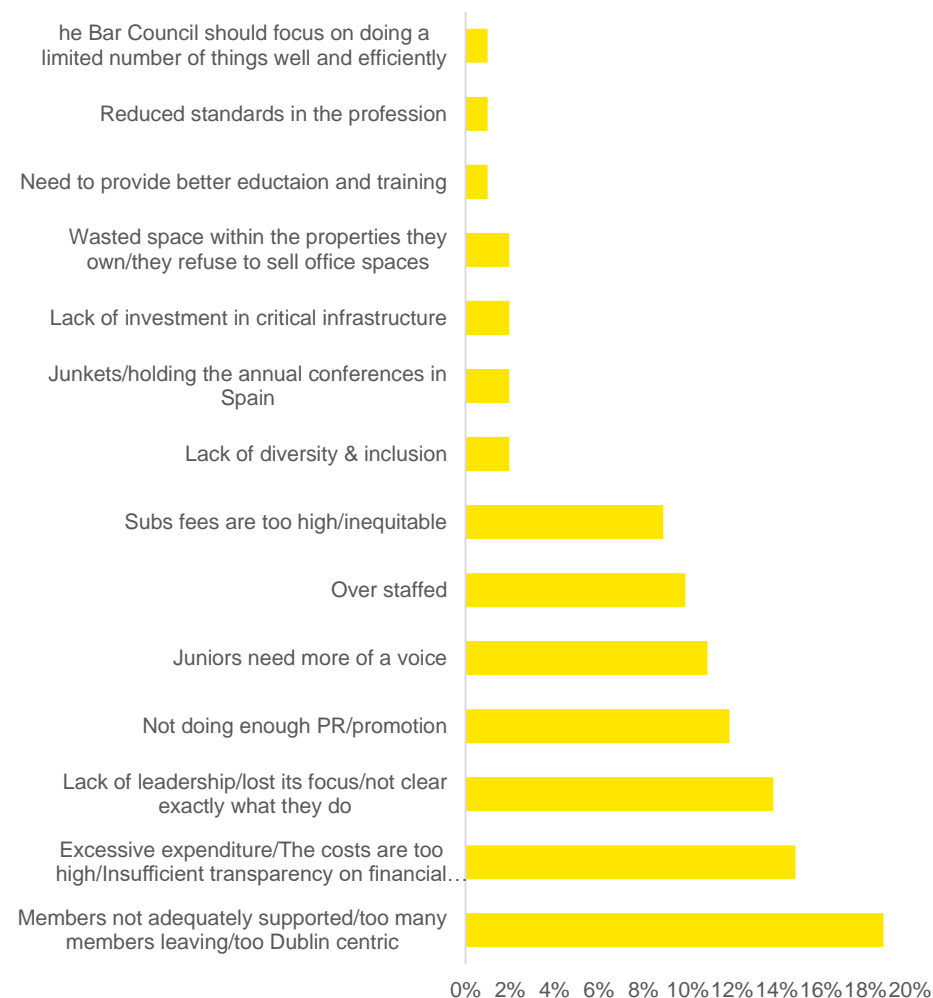
Appendix 2 - Members' Survey Qualitative Results

Dashboard
1 Executive Summary
2 Introduction
3 Overview of the Legal ...
4 Overview of The Bar of ...
5 International Benchmarking

6 External Consultation
7 Analysis of internal and ...
8 Pushing the boundaries
9 Appendices

Q14c - Please elaborate as to why you believe the Bar Council is not acting prudently?

| Q14c - Please elaborate as to why you believe the Bar Council is not acting prudently? | n = 101 |
|--|---------|
| Members not adequately supported/too many members leaving/too Dublin centric | 19% |
| Excessive expenditure/The costs are too high/Insufficient transparency on financial matter | 15% |
| Lack of leadership/lost its focus/not clear exactly what they do | 14% |
| Not doing enough PR/promotion | 12% |
| Juniors need more of a voice | 11% |
| Over staffed | 10% |
| Subscriptions fees are too high/inequitable | 9% |
| Lack of diversity & inclusion | 2% |
| Junkets/holding the annual conferences in Spain | 2% |
| Lack of investment in critical infrastructure | 2% |
| Wasted space within the properties they own/they refuse to sell office spaces | 2% |
| Need to provide better education and training | 1% |
| Reduced standards in the profession | 1% |
| The Bar Council should focus on doing a limited number of things well and efficiently | 1% |



9 Appendices

Appendix 2 - Members' Survey Qualitative Results

Dashboard
1 Executive Summary
2 Introduction
3 Overview of the Legal ...
4 Overview of The Bar of ...
5 International Benchmarking

6 External Consultation
7 Analysis of internal and ...
8 Pushing the boundaries

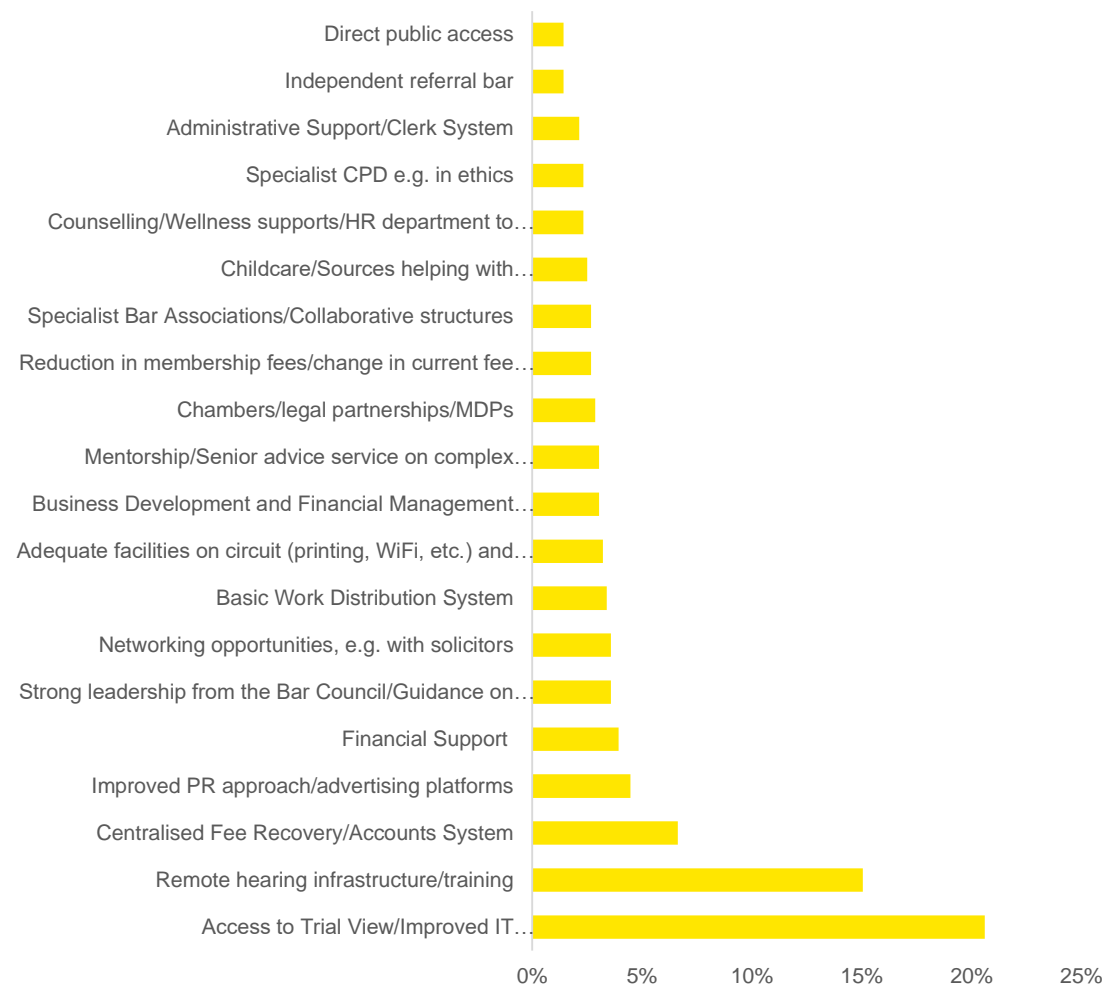
9 Appendices

Q16 - Are there any other resources that you believe will be essential to practice as a barrister into the future? If so, please explain why? (Top 20 responses included)

n = 558

| | |
|--|-------|
| Access to Trial View/Improved IT service/offering/access to all databases online (including the Adobe Pro website) | 20.6% |
| Remote hearing infrastructure/training | 15.1% |
| Centralised Fee Recovery/Accounts System | 6.6% |
| Improved PR approach/advertising platforms | 4.5% |
| Financial Support | 3.9% |
| Strong leadership from the Bar Council/Guidance on LSRA/Better communication with the Courts Service | 3.6% |
| Networking opportunities, e.g. with solicitors | 3.6% |
| Basic Work Distribution System | 3.4% |
| Adequate facilities on circuit (printing, WiFi, etc.) and in CCJ | 3.2% |
| Business Development and Financial Management training | 3.0% |
| Mentorship/Senior advice service on complex cases/Sharing of knowledge | 3.0% |
| Chambers/legal partnerships/MDPs | 2.9% |
| Reduction in membership fees/change in current fee structure | 2.7% |
| Specialist Bar Associations/Collaborative structures | 2.7% |
| Childcare/Sources helping with maternity/paternity/parental leave. | 2.5% |
| Counselling/Wellness supports/HR department to promote better workplace behaviours | 2.3% |
| Specialist CPD e.g. in ethics | 2.3% |
| Administrative Support/Clerk System | 2.2% |
| Independent referral bar | 1.4% |
| Direct public access | 1.4% |

Q16 - Are there any other resources that you believe will be essential to practice as a barrister into the future? If so, please explain why? (Top 20 responses included)



9 Appendices

Appendix 2 - Members' Survey Qualitative Results

Dashboard
1 Executive Summary
2 Introduction
3 Overview of the Legal ...
4 Overview of The Bar of ...
5 International Benchmarking

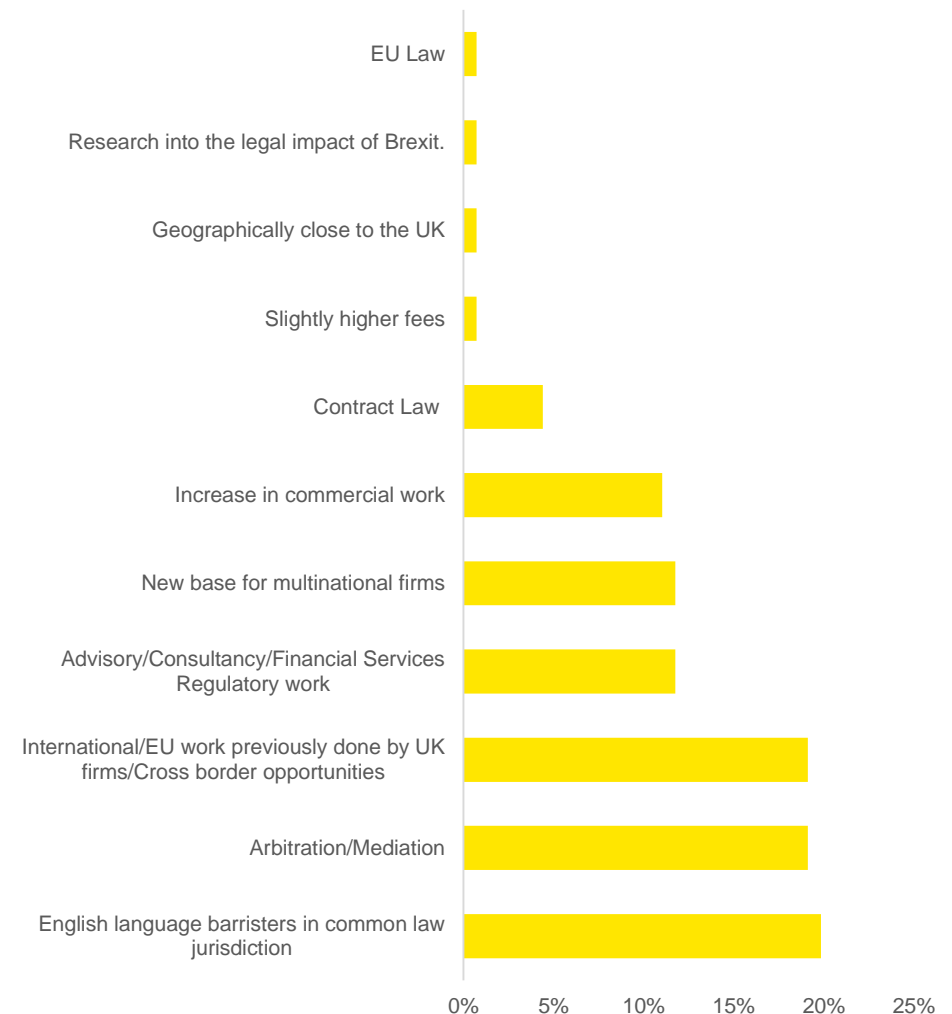
6 External Consultation
7 Analysis of internal and ...
8 Pushing the boundaries
9 Appendices

Q17b - Please elaborate as to what opportunities you believe are provided for the Irish profession by Brexit?

Q17b - Please elaborate as to what opportunities you believe are provided for the Irish profession by Brexit?

n = 136

| | |
|--|-----|
| English language barristers in common law jurisdiction | 20% |
| Arbitration/Mediation | 19% |
| International/EU work previously done by UK firms/Cross border opportunities | 19% |
| Advisory/Consultancy/Financial Services Regulatory work | 12% |
| New base for multinational firms | 12% |
| Increase in commercial work | 11% |
| Contract Law | 4% |
| Slightly higher fees | 1% |
| Geographically close to the UK | 1% |
| Research into the legal impact of Brexit. | 1% |
| EU Law | 1% |



9 Appendices

Appendix 2 - Members' Survey Qualitative Results

Dashboard
1 Executive Summary
2 Introduction
3 Overview of the Legal ...
4 Overview of The Bar of ...
5 International Benchmarking

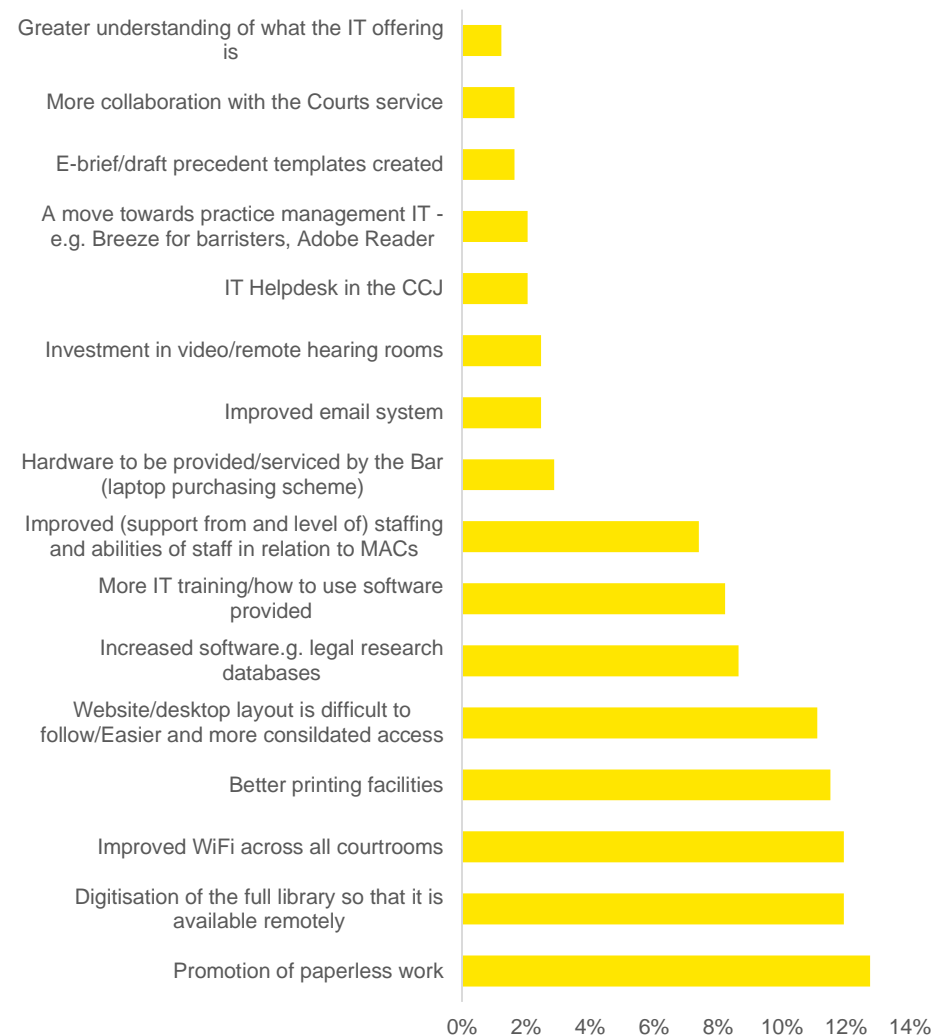
6 External Consultation
7 Analysis of internal and ...
8 Pushing the boundaries

9 Appendices

Q18b - Please elaborate further on how technology provided by The Bar of Ireland could be improved?

Q18b - Please elaborate further on how technology provided by The Bar of Ireland could be improved? n = 243

| | |
|--|-------|
| Promotion of paperless work | 12.8% |
| Digitisation of the full library so that it is available remotely | 11.9% |
| Improved WiFi across all courtrooms | 11.9% |
| Better printing facilities | 11.5% |
| Website/desktop layout is difficult to follow/Easier and more consolidated access | 11.1% |
| Increased software e.g., legal research databases | 8.6% |
| More IT training/how to use software provided | 8.2% |
| Improved (support from and level of) staffing and abilities of staff in relation to MACs | 7.4% |
| Hardware to be provided/serviced by the Bar (laptop purchasing scheme) | 2.9% |
| Improved email system | 2.5% |
| Investment in video/remote hearing rooms | 2.5% |
| IT Helpdesk in the CCJ | 2.1% |
| A move towards practice management IT - e.g. Breeze for barristers, Adobe Reader | 2.1% |
| E-brief/draft precedent templates created | 1.6% |
| More collaboration with the Courts service | 1.6% |
| Greater understanding of what the IT offering is | 1.2% |



9 Appendices

Appendix 2 - Members' Survey Qualitative Results

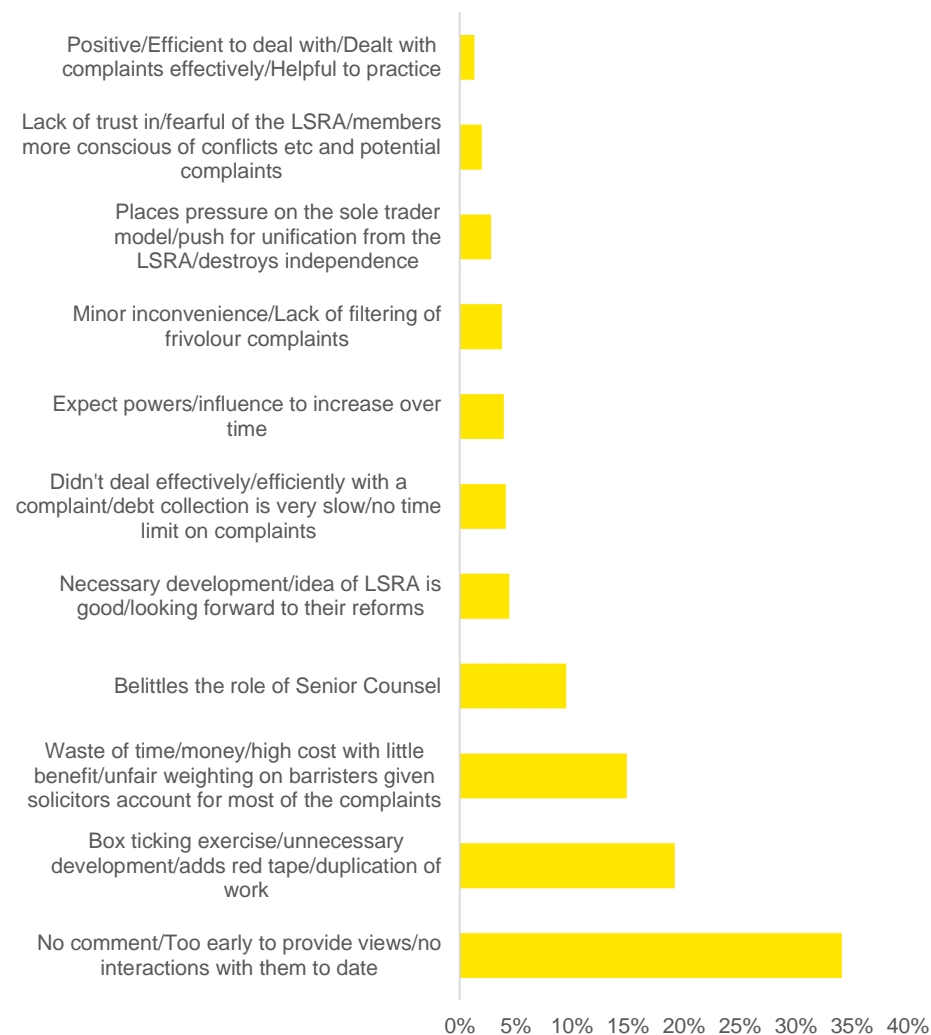
Dashboard
1 Executive Summary
2 Introduction
3 Overview of the Legal ...
4 Overview of The Bar of ...
5 International Benchmarking

6 External Consultation
7 Analysis of internal and ...
8 Pushing the boundaries

9 Appendices

Q19b - Please elaborate further on your views of the LSRA?

| Q19b - Please elaborate further on your views of the LSRA? | n = 610 |
|--|---------|
| No comment/Too early to provide views/no interactions with them to date | 34% |
| Box ticking exercise/unnecessary development/adds red tape/duplication of work | 19% |
| Waste of time/money/high cost with little benefit/unfair weighting on barristers given solicitors account for most of the complaints | 15% |
| Belittles the role of Senior Counsel | 10% |
| Necessary development/idea of LSRA is good/looking forward to their reforms | 4% |
| Didn't deal effectively/efficiently with a complaint/debt collection is very slow/no time limit on complaints | 4% |
| Expect powers/influence to increase over time | 4% |
| Minor inconvenience/Lack of filtering of frivolous complaints | 4% |
| Places pressure on the sole trader model/push for unification from the LSRA/destroys independence | 3% |
| Lack of trust in/fearful of the LSRA/members more conscious of conflicts etc and potential complaints | 2% |
| Positive/Efficient to deal with/Dealt with complaints effectively/Helpful to practice | 1% |



9 Appendices

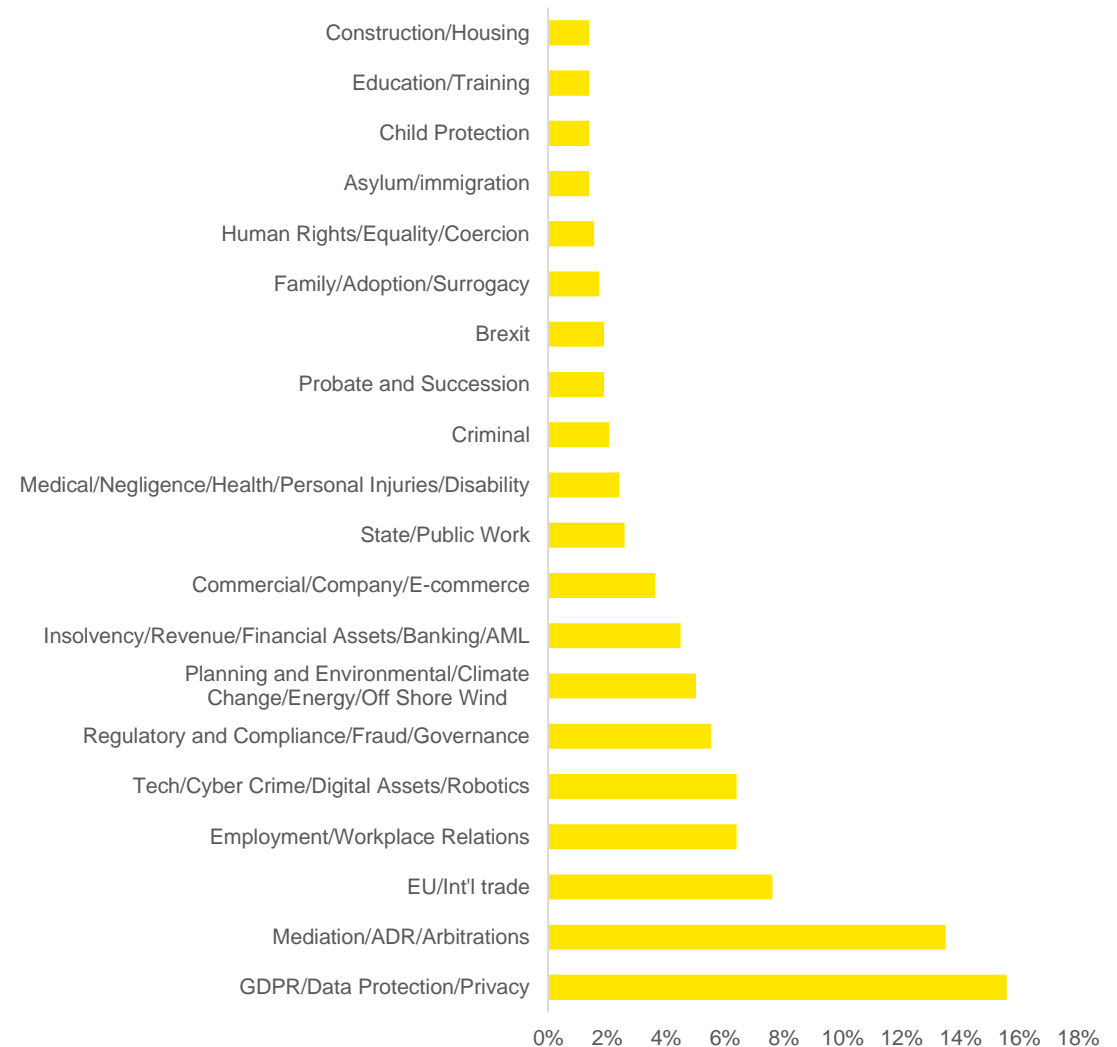
Appendix 2 - Members' Survey Qualitative Results

Dashboard
1 Executive Summary
2 Introduction
3 Overview of the Legal ...
4 Overview of The Bar of ...
5 International Benchmarking

6 External Consultation
7 Analysis of internal and ...
8 Pushing the boundaries
9 Appendices

| Q28b - Please specify what new areas of law? (Top 20 responses included) | n = 578 |
|--|---------|
| GDPR/Data Protection/Privacy | 15.6% |
| Mediation/ADR/Arbitrations | 13.5% |
| EU/Int'l trade | 7.6% |
| Employment/Workplace Relations | 6.4% |
| Tech/Cyber Crime/Digital Assets/Robotics | 6.4% |
| Regulatory and Compliance/Fraud/Governance | 5.5% |
| Planning and Environmental/Climate Change/Energy/Off Shore Wind | 5.0% |
| Insolvency/Revenue/Financial Assets/Banking/AML | 4.5% |
| Commercial/Company/E-commerce | 3.6% |
| State/Public Work | 2.6% |
| Medical/Negligence/Health/Personal Injuries/Disability | 2.4% |
| Criminal | 2.1% |
| Probate and Succession | 1.9% |
| Brexit | 1.9% |
| Family/Adoption/Surrogacy | 1.7% |
| Human Rights/Equality/Coercion | 1.6% |
| Asylum/immigration | 1.4% |
| Child Protection | 1.4% |
| Education/Training | 1.4% |
| Construction/Housing | 1.4% |

Q28b - Please specify what new areas of law? (Top 20 responses included)



9 Appendices

Appendix 2 - Members' Survey Qualitative Results

Dashboard
1 Executive Summary
2 Introduction
3 Overview of the Legal ...
4 Overview of The Bar of ...
5 International Benchmarking

6 External Consultation
7 Analysis of internal and ...
8 Pushing the boundaries

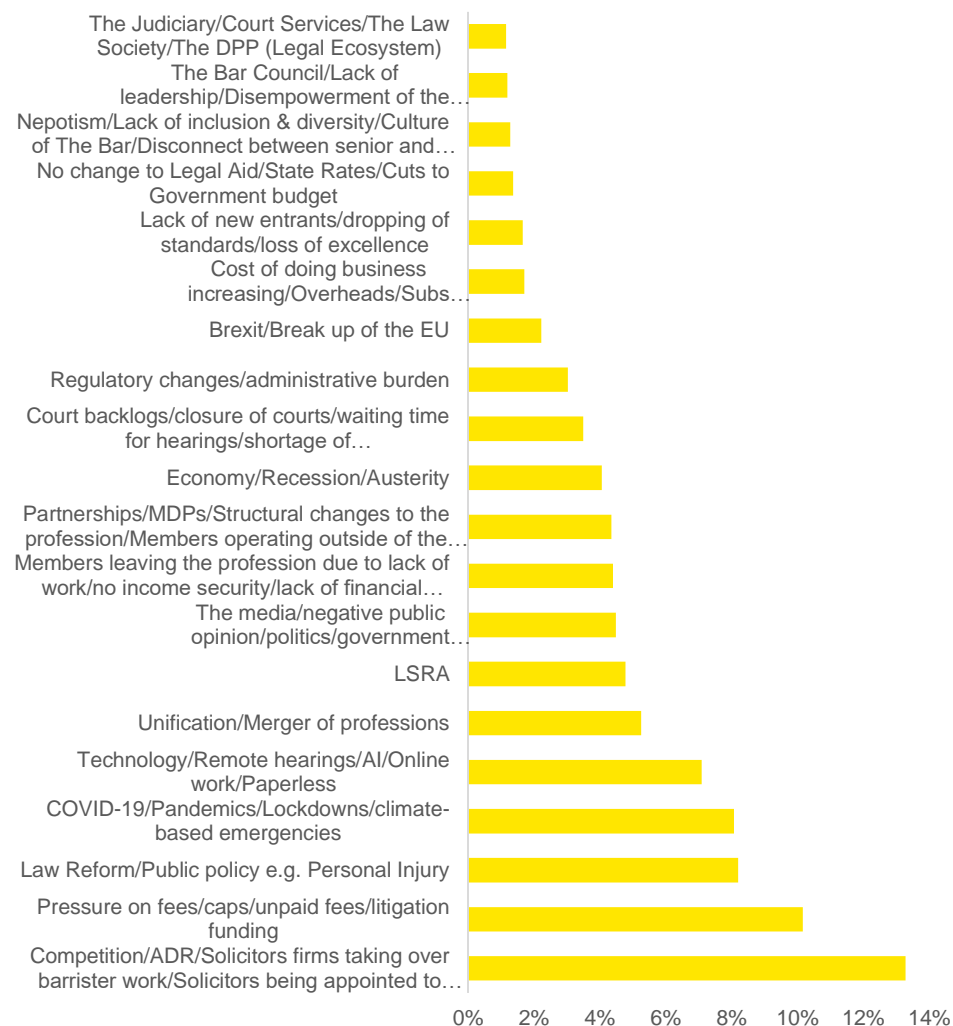
9 Appendices

Q29 - What do you envisage to be the three main disruptors likely to impact the operation of the profession in the future? (Top 20 responses included)

n = 887
Total responses = 2,342

| | |
|--|-------|
| Competition/ADR/Solicitors firms taking over barrister work/Solicitors being appointed to the bench/Solicitors specialising | 13.3% |
| Pressure on fees/caps/unpaid fees/litigation funding | 10.2% |
| Law Reform/Public policy e.g. Personal Injury | 8.2% |
| COVID-19/Pandemics/Lockdowns/climate-based emergencies | 8.1% |
| Technology/Remote hearings/AI/Online work/Paperless | 7.1% |
| Unification/Merger of professions | 5.3% |
| LSRA | 4.8% |
| The media/negative public opinion/politics/government ministers/populism/Sinn Féin/Oireachtas | 4.5% |
| Members leaving the profession due to lack of work/no income security/lack of financial support/difficulty getting off the ground/work focused on an elite few | 4.4% |
| Partnerships/MDPs/Structural changes to the profession/Members operating outside of the LL | 4.4% |
| Economy/Recession/Austerity | 4.1% |
| Court backlogs/closure of courts/waiting time for hearings/shortage of judges/workspace/facilities | 3.5% |
| Regulatory changes/administrative burden | 3.0% |
| Brexit/Break up of the EU | 2.2% |
| Cost of doing business increasing/Overheads/Subscriptions increasing/Taxation changes | 1.7% |
| Lack of new entrants/dropping of standards/loss of excellence | 1.7% |
| No change to Legal Aid/State Rates/Cuts to Government budget | 1.4% |
| Nepotism/Lack of inclusion & diversity/Culture of The Bar/Disconnect between senior and junior members of the Bar | 1.3% |
| The Bar Council/Lack of leadership/Disempowerment of the Bar/Scandal | 1.2% |
| The Judiciary/Court Services/The Law Society/The DPP (Legal Ecosystem) | 1.2% |

Q29 - What do you envisage to be the three main disruptors likely to impact the operation of the profession in the future? (Top 20 responses included)



9 Appendices

Appendix 2 - Members' Survey Qualitative Results

Dashboard
1 Executive Summary
2 Introduction
3 Overview of the Legal ...
4 Overview of The Bar of ...
5 International Benchmarking

6 External Consultation
7 Analysis of internal and ...
8 Pushing the boundaries
9 Appendices

Q30b - You are concerned about the effect future legislation could have on the profession - why is that?

n = 760

| | |
|---|-------|
| Unification/blurring/dismantle of profession (e.g. entitling solicitors to be appointed Senior Counsel) | 18.4% |
| Downward pressure on fees/increased costs/negative impact on income | 14.9% |
| Less work opportunities e.g. through Personal Injury Court Award Reductions/dictating specific fees/counsel not being briefed for remote hearings (e.g. in consent divorce/judicial separations)/Family Courts Bill - granting to the District Court powers of divorce and separation | 14.3% |
| Regulatory changes/LSRA/Intro of PIAB | 9.6% |
| Changes to independent referral bar/Legal Partnerships/MDPs | 9.3% |
| Increased administration/red tape/over cautious approach to representing clients | 7.5% |
| Government Funding/Elections/Political influence | 6.4% |
| Poor Management/Doing something for the sake of change/Decision makers are unqualified/Unintended consequences | 5.0% |
| Changes to advertising/Lack of public understanding/Need for more media work | 4.6% |
| Fear of change/General sense of unease/Uncertainty/Additional stress/workload | 2.4% |
| Alternatives to/reduction in litigation/legal representation/need for legal advice/eroding barrister's competitive advantage | 2.2% |
| Attack on legal aid scheme | 0.9% |
| Lack of understanding of the important role the profession as a whole plays in society | 0.8% |
| Dropped standards/Becoming more business oriented and less about legal specialisation | 1.2% |
| A codification statute could eradicate most of the law and caselaw I rely on in my specialty. There is increasing interference with judicial independence (i.e. personal injuries guidelines) and an attempt to codify a common law system (that relies on the application of judicial discretion) and this is not only detrimental to the bar but also the rights of individuals and access to justice | 0.5% |
| Lack of diversity & inclusion/restricting access to the profession/Work will continue to concentrate within the hands of a few of the elite | 0.9% |
| Less attractive to entrants | 0.4% |
| Client account rules for barristers/changes to how they interact with the public | 0.3% |
| The Workplace Relations Act | 0.1% |
| Brexit | 0.1% |

Q30b - You are concerned about the effect future legislation could have on the profession - why is that?



Appendix 3 – RED C Public Omnibus Survey Results



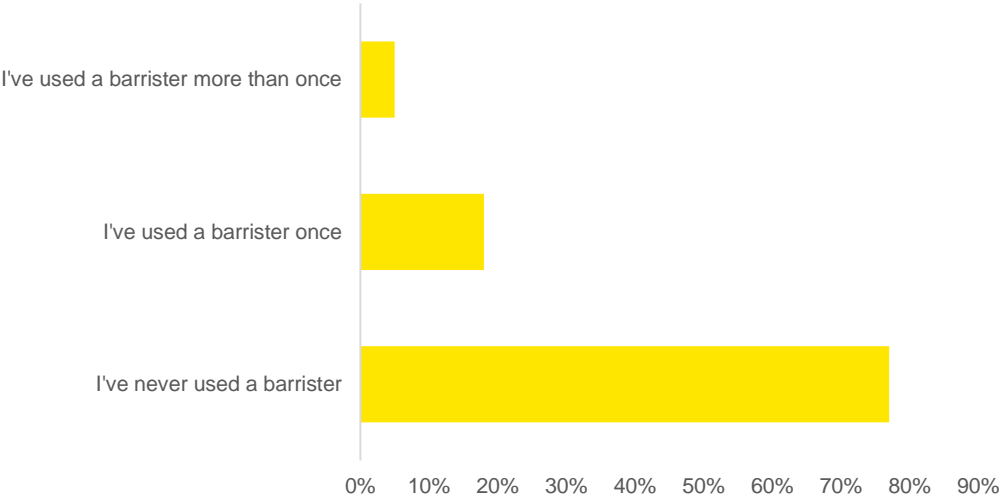
9 Appendices

Appendix 3 - RED C Public Omnibus Survey Results

| | |
|------------------------------|--------------------------------|
| Dashboard | 6 External Consultation |
| 1 Executive Summary | 7 Analysis of internal and ... |
| 2 Introduction | 8 Pushing the boundaries |
| 3 Overview of the Legal ... | 9 Appendices |
| 4 Overview of The Bar of ... | |
| 5 International Benchmarking | |

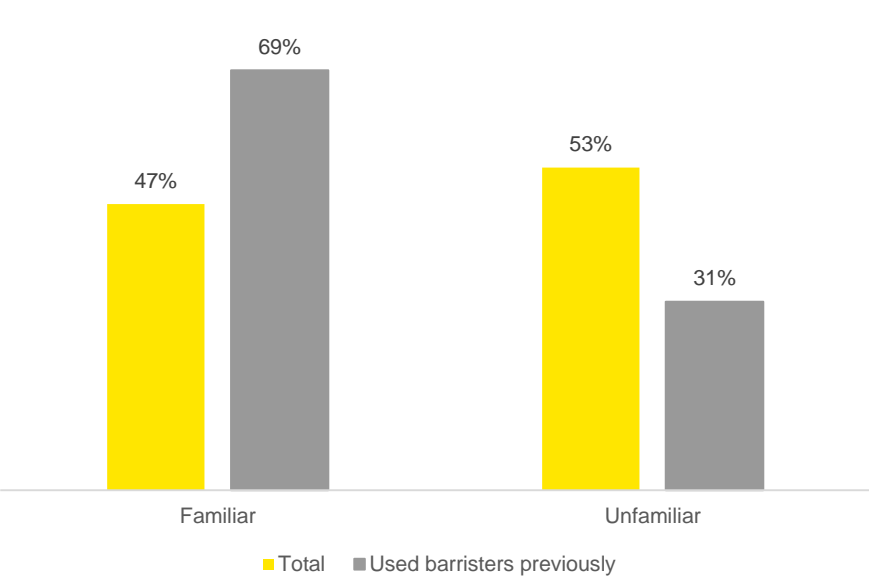
From February 19th to 24th, RED C Research and Marketing Ltd. conducted a public omnibus survey of 1,028 individuals in Ireland across various representative samples of ages, gender, classes, working statuses, level of dependence, marital status, geography and life stage. Within their public omnibus survey, they included a sample of questions in relation to barristers in Ireland. The following results represent the responses received to the survey:

Q1. Which of these best describes your previous experience of using the services of a barrister, either directly or through your solicitor?



| Q1. Which of these best describes your previous experience of using the services of a barrister, either directly or through your solicitor? | |
|---|-----|
| I've never used a barrister | 77% |
| I've used a barrister once | 18% |
| I've used a barrister more than once | 5% |

Q2. How familiar would you say you are with what barristers do and the services they provide?



| Q2. How familiar would you say you are with what barristers do and the services they provide? | | |
|---|----------|------------|
| | Familiar | Unfamiliar |
| Total | 47% | 53% |
| Used barristers previously | 69% | 31% |

9 Appendices

Appendix 3 - RED C Public Omnibus Survey Results

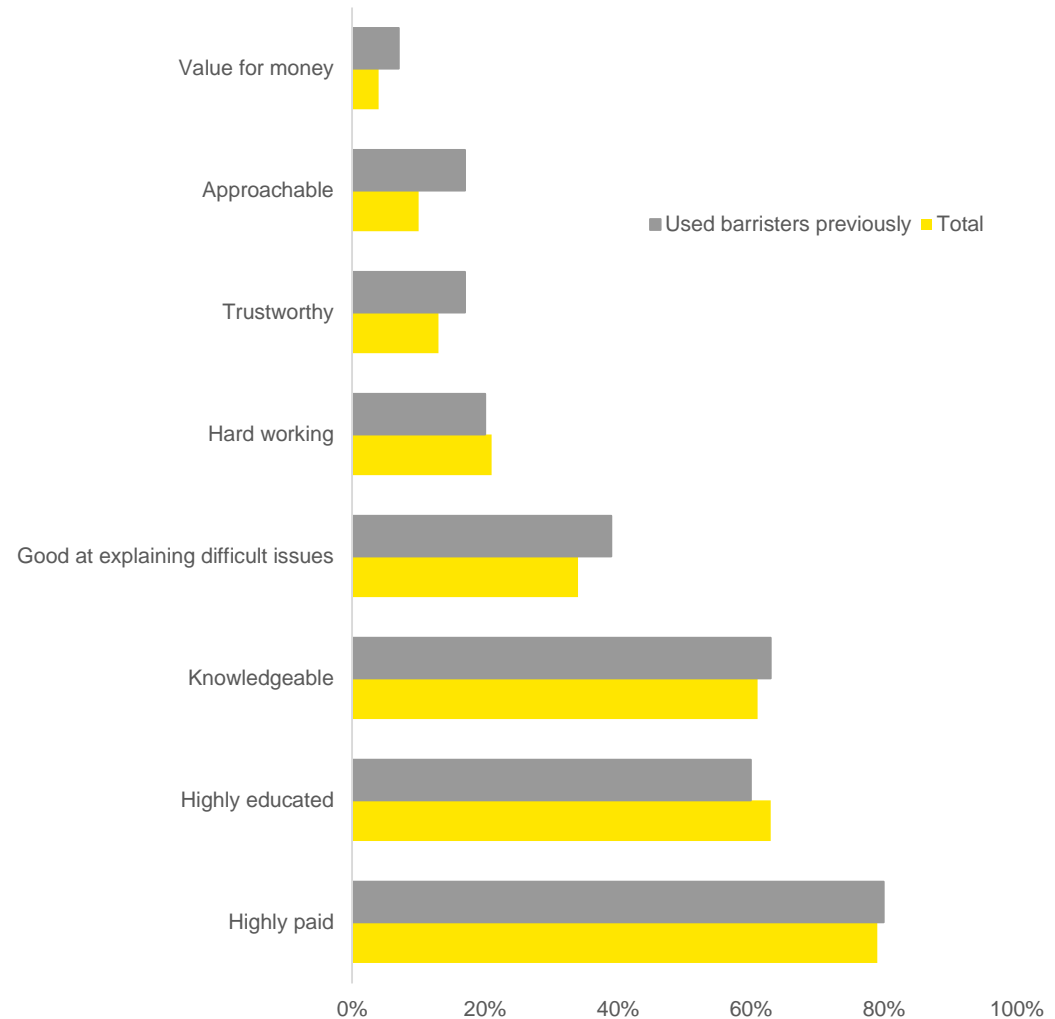
Dashboard
 1 Executive Summary
 2 Introduction
 3 Overview of the Legal ...
 4 Overview of The Bar of ...
 5 International Benchmarking

6 External Consultation
 7 Analysis of internal and ...
 8 Pushing the boundaries
9 Appendices

Q3. Which of the following descriptions would you associate with barristers? Please tick all that apply

| | Total | Used barristers previously |
|-------------------------------------|-------|----------------------------|
| Highly paid | 79% | 80% |
| Highly educated | 63% | 60% |
| Knowledgeable | 61% | 63% |
| Good at explaining difficult issues | 34% | 39% |
| Hard working | 21% | 20% |
| Trustworthy | 13% | 17% |
| Approachable | 10% | 17% |
| Value for money | 4% | 7% |

Q3. Which of the following descriptions would you associate with barristers? Please tick all that apply

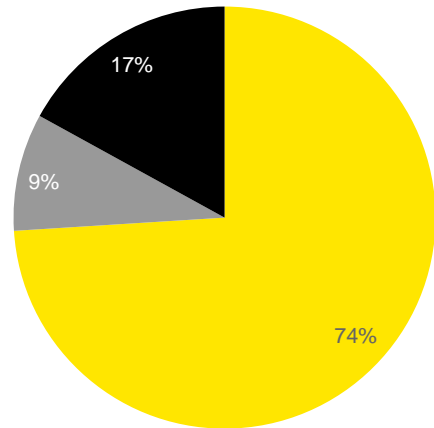


9 Appendices

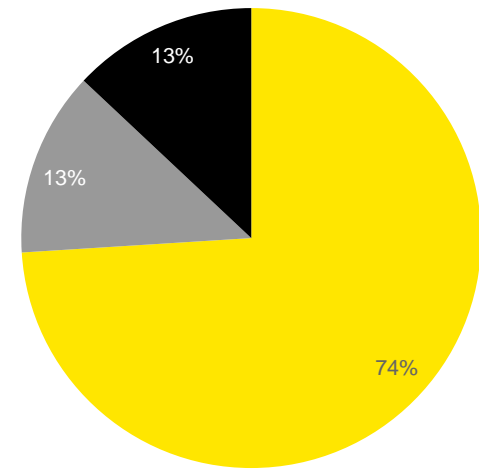
Appendix 3 - RED C Public Omnibus Survey Results

| | |
|------------------------------|--------------------------------|
| Dashboard | 6 External Consultation |
| 1 Executive Summary | 7 Analysis of internal and ... |
| 2 Introduction | 8 Pushing the boundaries |
| 3 Overview of the Legal ... | 9 Appendices |
| 4 Overview of The Bar of ... | |
| 5 International Benchmarking | |

Q4.a If I found myself in a dispute before the Courts, having a barrister is essential to ensure my interests are fully represented

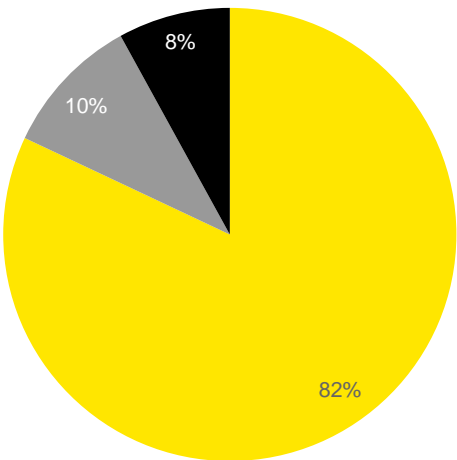


Q4.b Barristers play an important role in defending rights and pursuing social justice



■ Agree ■ Disagree ■ Neutral

Q4.c I assume a barrister would act in your best interests



| Q4.a If I found myself in a dispute before the Courts, having a barrister is essential to ensure my interests are fully represented | |
|---|-----|
| Agree | 74% |
| Disagree | 9% |
| Neutral | 17% |

| Q4.b Barristers play an important role in defending rights and pursuing social justice | |
|--|-----|
| Agree | 74% |
| Disagree | 13% |
| Neutral | 13% |

| Q4.c I assume a barrister would act in your best interests | |
|--|-----|
| Agree | 82% |
| Disagree | 10% |
| Neutral | 8% |

9 Appendices

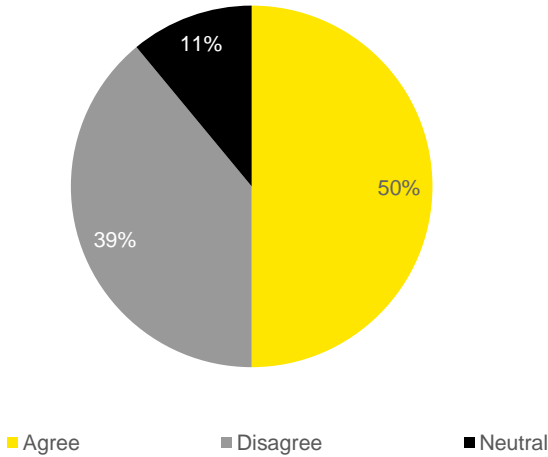
Appendix 3 - RED C Public Omnibus Survey Results

Dashboard
1 Executive Summary
2 Introduction
3 Overview of the Legal ...
4 Overview of The Bar of ...
5 International Benchmarking

6 External Consultation
7 Analysis of internal and ...
8 Pushing the boundaries
9 Appendices

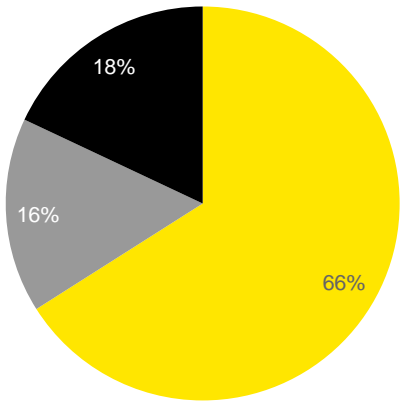
| Q4.d Barristers are only for people with lots of money | |
|--|-----|
| Agree | 50% |
| Disagree | 39% |
| Neutral | 11% |

Q4.d Barristers are only for people with lots of money



| Q4.e I would be comfortable engaging the services of a barrister | |
|--|-----|
| Agree | 66% |
| Disagree | 16% |
| Neutral | 18% |

Q4.e I would be comfortable engaging the services of a barrister



9 Appendices

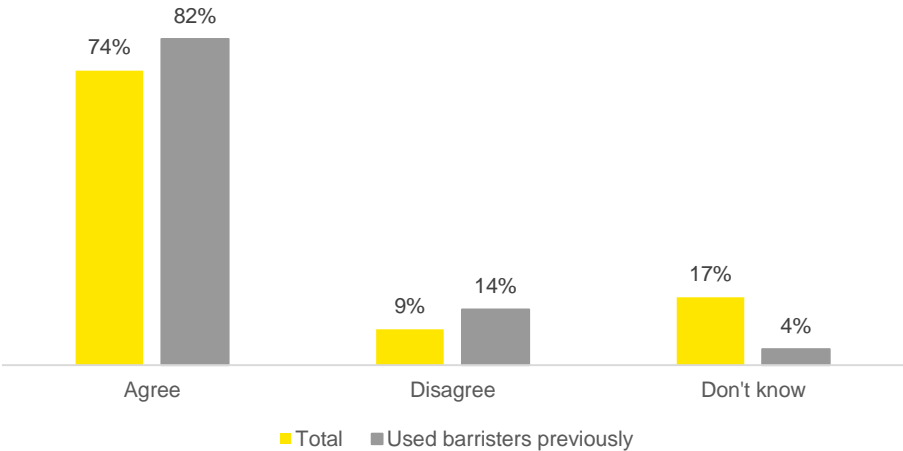
Appendix 3 - RED C Public Omnibus Survey Results

| | |
|------------------------------|--------------------------------|
| Dashboard | 6 External Consultation |
| 1 Executive Summary | 7 Analysis of internal and ... |
| 2 Introduction | 8 Pushing the boundaries |
| 3 Overview of the Legal ... | 9 Appendices |
| 4 Overview of The Bar of ... | |
| 5 International Benchmarking | |

Q4.a If I found myself in a dispute before the Courts, having a barrister is essential to ensure my interests are fully represented

| | Agree | Disagree | Don't know |
|----------------------------|-------|----------|------------|
| Total | 74% | 9% | 17% |
| Used barristers previously | 82% | 14% | 4% |

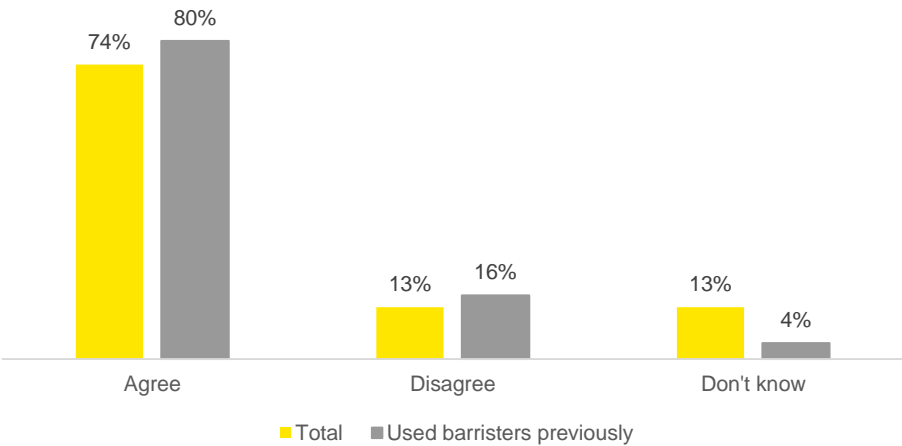
Q4.a If I found myself in a dispute before the Courts, having a barrister is essential to ensure my interests are fully represented



Q4.b Barristers play an important role in defending rights and pursuing social justice

| | Agree | Disagree | Don't know |
|----------------------------|-------|----------|------------|
| Total | 74% | 13% | 13% |
| Used barristers previously | 80% | 16% | 4% |

Q4.b Barristers play an important role in defending rights and pursuing social justice



9 Appendices

Appendix 3 - RED C Public Omnibus Survey Results

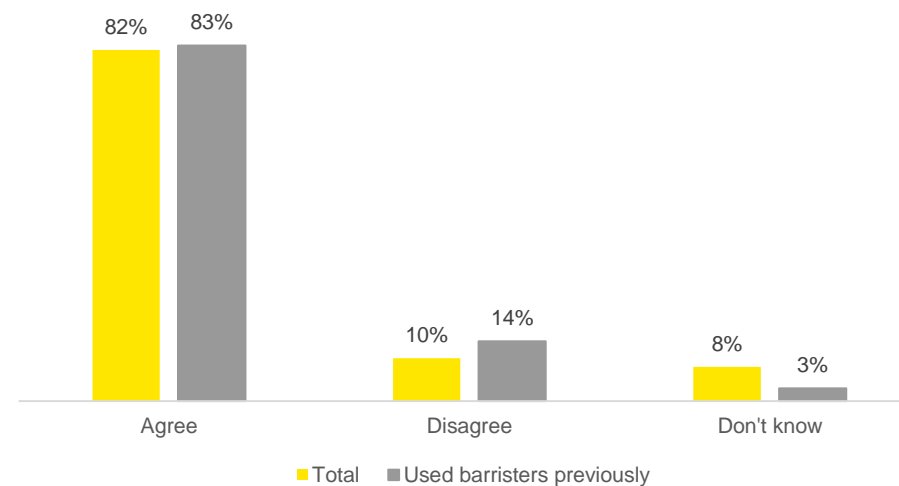
Dashboard
1 Executive Summary
2 Introduction
3 Overview of the Legal ...
4 Overview of The Bar of ...
5 International Benchmarking

6 External Consultation
7 Analysis of internal and ...
8 Pushing the boundaries
9 Appendices

Q4.c I assume a barrister would act in your best interests

| | Agree | Disagree | Don't know |
|----------------------------|-------|----------|------------|
| Total | 82% | 10% | 8% |
| Used barristers previously | 83% | 14% | 3% |

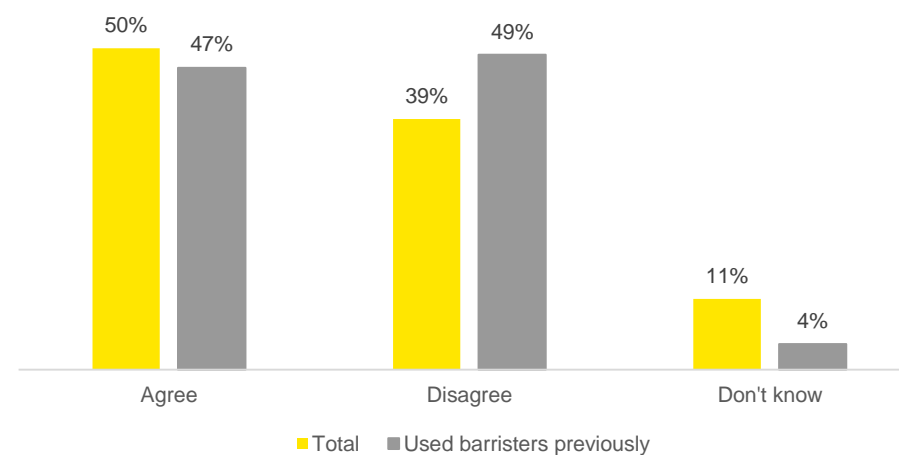
Q4.c I assume a barrister would act in your best interests



Q4.d Barristers are only for people with lots of money

| | Agree | Disagree | Don't know |
|----------------------------|-------|----------|------------|
| Total | 50% | 39% | 11% |
| Used barristers previously | 47% | 49% | 4% |

Q4.d Barristers are only for people with lots of money

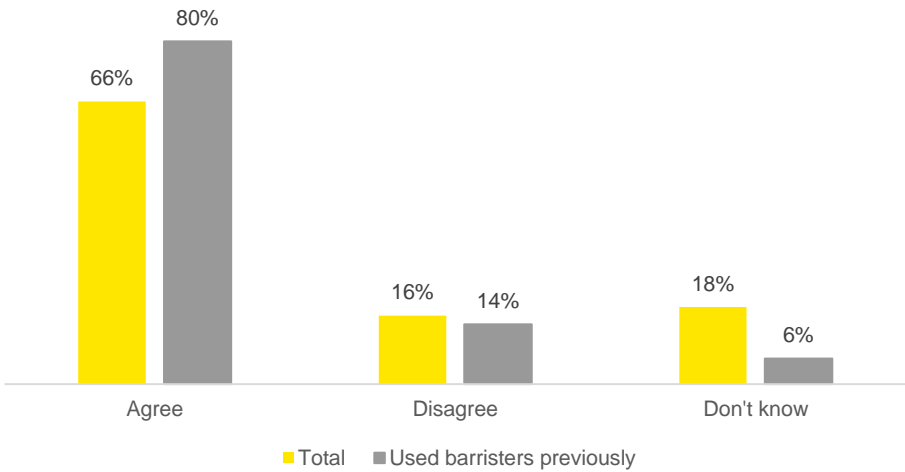


9 Appendices

Appendix 3 - RED C Public Omnibus Survey Results

| | |
|------------------------------|--------------------------------|
| Dashboard | 6 External Consultation |
| 1 Executive Summary | 7 Analysis of internal and ... |
| 2 Introduction | 8 Pushing the boundaries |
| 3 Overview of the Legal ... | 9 Appendices |
| 4 Overview of The Bar of ... | |
| 5 International Benchmarking | |

Q4.e I would be comfortable engaging the services of a barrister



Q4.e I would be comfortable engaging the services of a barrister

| | Agree | Disagree | Don't know |
|----------------------------|-------|----------|------------|
| Total | 66% | 16% | 18% |
| Used barristers previously | 80% | 14% | 6% |

Appendix 4 – Staff Survey Quantitative Results



9 Appendices

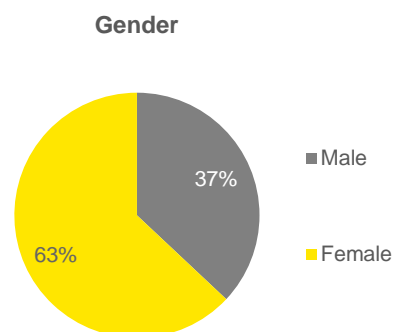
Appendix 4 - Staff Survey Quantitative Results

Dashboard
1 Executive Summary
2 Introduction
3 Overview of the Legal ...
4 Overview of The Bar of ...
5 International Benchmarking

6 External Consultation
7 Analysis of internal and ...
8 Pushing the boundaries
9 Appendices

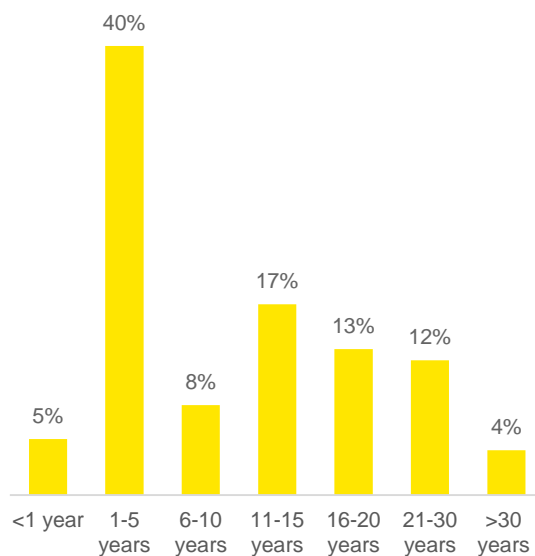
Actual Staff Breakdown

| Gender | |
|--------|-----|
| Male | 37% |
| Female | 63% |



Years of Completed Service

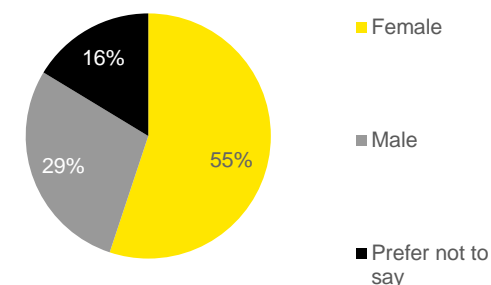
| Completed Service | |
|-------------------|-----|
| <1 year | 5% |
| 1-5 years | 40% |
| 6-10 years | 8% |
| 11-15 years | 17% |
| 16-20 years | 13% |
| 21-30 years | 12% |
| >30 years | 4% |



Survey Response

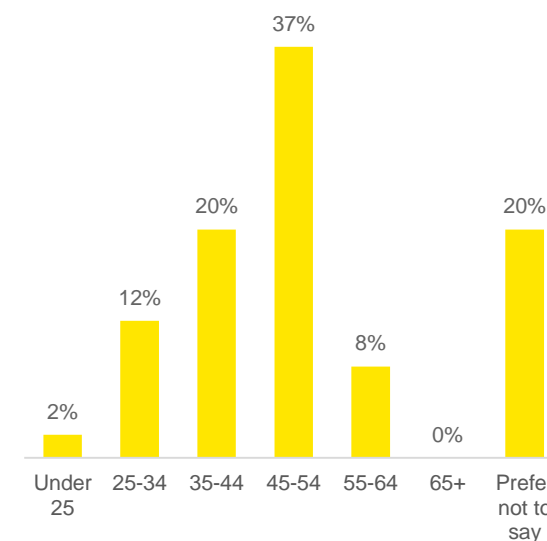
| 1. What is your gender? n = 49 | |
|--------------------------------|-----|
| Female | 55% |
| Male | 29% |
| Prefer not to say | 16% |

1. What is your gender?



| 2. What is your age? n = 49 | |
|-----------------------------|-----|
| Under 25 | 2% |
| 25-34 | 12% |
| 35-44 | 20% |
| 45-54 | 37% |
| 55-64 | 8% |
| 65+ | 0% |
| Prefer not to say | 20% |

2. What is your age?

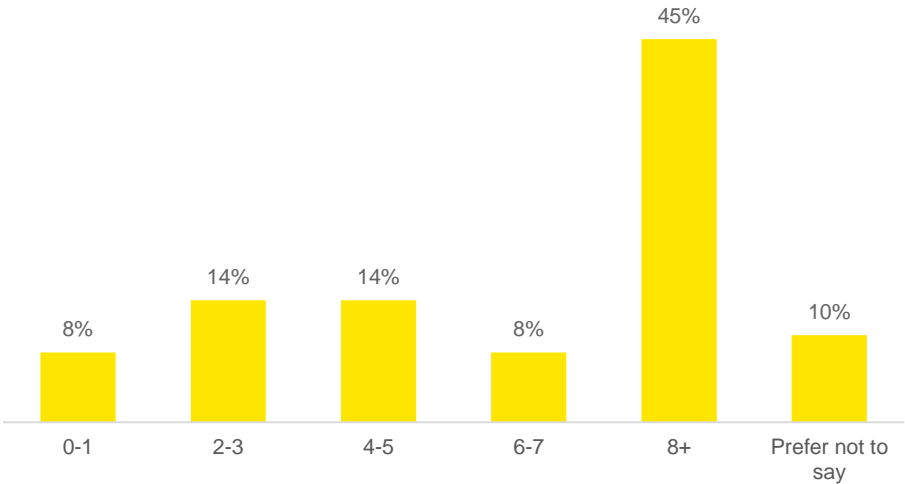


9 Appendices

Appendix 4 - Staff Survey Quantitative Results

| | |
|------------------------------|--------------------------------|
| Dashboard | 6 External Consultation |
| 1 Executive Summary | 7 Analysis of internal and ... |
| 2 Introduction | 8 Pushing the boundaries |
| 3 Overview of the Legal ... | 9 Appendices |
| 4 Overview of The Bar of ... | |
| 5 International Benchmarking | |

3. How many years have you worked for The Bar of Ireland?



| 3. How many years have you worked for The Bar of Ireland? | | n = 49 |
|---|--|--------|
| 0-1 | | 8% |
| 2-3 | | 14% |
| 4-5 | | 14% |
| 6-7 | | 8% |
| 8+ | | 45% |
| Prefer not to say | | 10% |

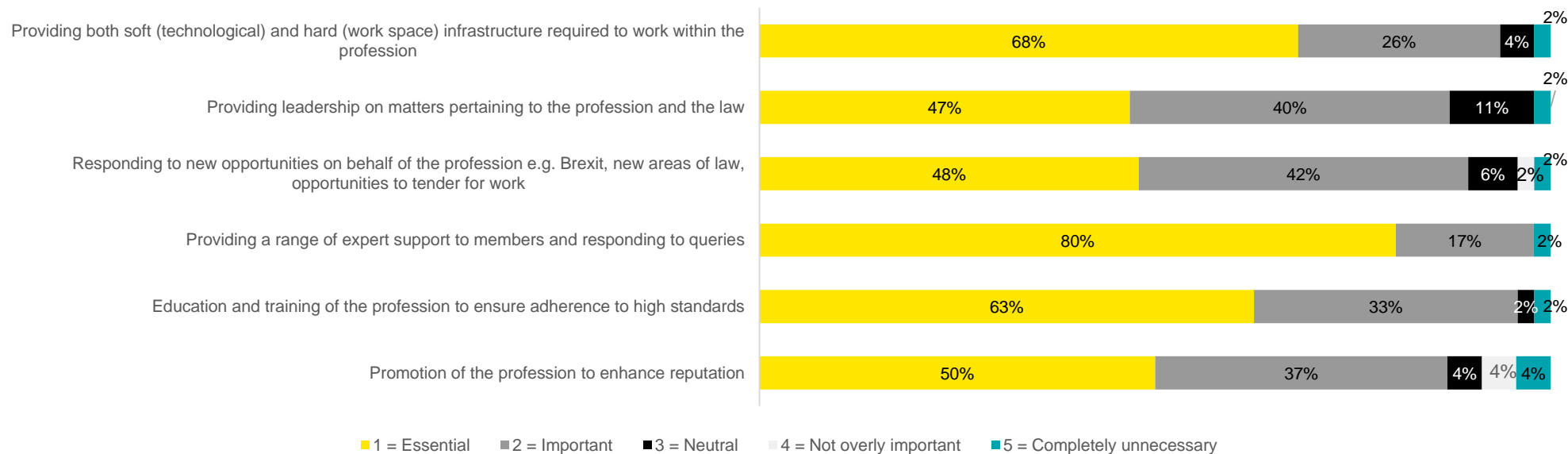
9 Appendices

Appendix 4 - Staff Survey Quantitative Results

Dashboard
1 Executive Summary
2 Introduction
3 Overview of the Legal ...
4 Overview of The Bar of ...
5 International Benchmarking

6 External Consultation
7 Analysis of internal and ...
8 Pushing the boundaries
9 Appendices

4. Looking at this list of activities undertaken on behalf of the profession, please rank them were 1 is essential and 5 is completely unnecessary



3. How many years have you worked for The Bar of Ireland?

n = 48

| | Essential | Important | Neutral | Not overly important | Completely unnecessary |
|---|-----------|-----------|---------|----------------------|------------------------|
| Promotion of the profession to enhance reputation | 50% | 37% | 4% | 4% | 4% |
| Education and training of the profession to ensure adherence to high standards | 63% | 33% | 2% | 0% | 2% |
| Providing a range of expert support to members and responding to queries | 80% | 17% | 0% | 0% | 2% |
| Responding to new opportunities on behalf of the profession e.g. Brexit, new areas of law, opportunities to tender for work | 48% | 42% | 6% | 2% | 2% |
| Providing leadership on matters pertaining to the profession and the law | 47% | 40% | 11% | 0% | 2% |
| Providing both soft (technological) and hard (work space) infrastructure required to work within the profession | 68% | 26% | 4% | 0% | 2% |

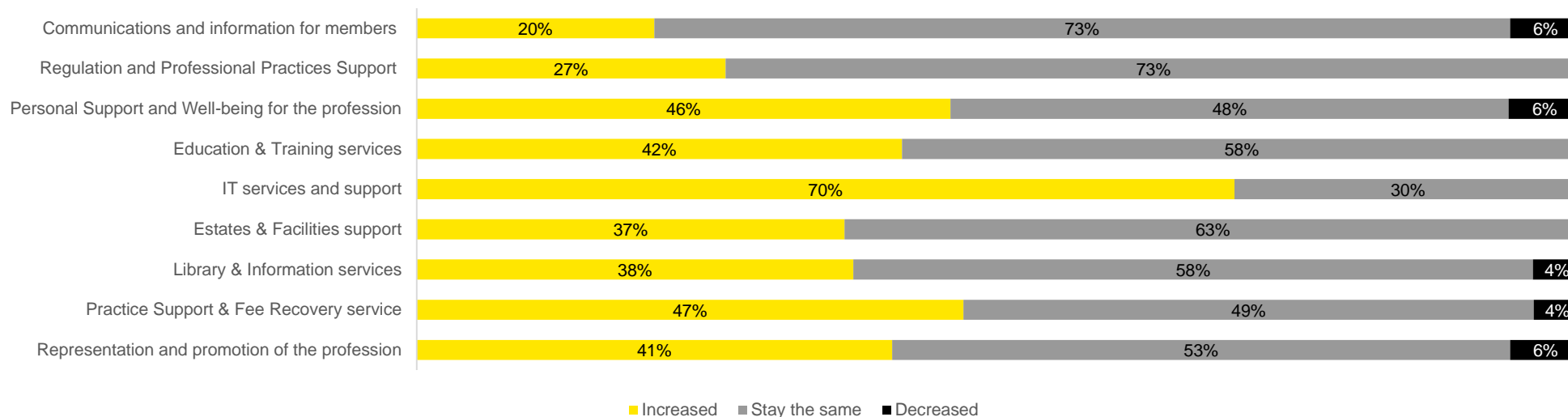
9 Appendices

Appendix 4 - Staff Survey Quantitative Results

Dashboard
1 Executive Summary
2 Introduction
3 Overview of the Legal ...
4 Overview of The Bar of ...
5 International Benchmarking

6 External Consultation
7 Analysis of internal and ...
8 Pushing the boundaries
9 Appendices

5. Looking at this list of member services provided, please indicate if you think our future resources in these functional areas need to be increased, decreased or stay the same



5. Looking at this list of member services provided, please indicate if you think our future resources in these functional areas need to be increased, decreased or stay the same

n = 49

| | Increased | Stay the same | Decreased |
|--|-----------|---------------|-----------|
| Representation and promotion of the profession | 41% | 53% | 6% |
| Practice Support & Fee Recovery service | 47% | 49% | 4% |
| Library & Information services | 38% | 58% | 4% |
| Estates & Facilities support | 37% | 63% | 0% |
| IT services and support | 70% | 30% | 0% |
| Education & Training services | 42% | 58% | 0% |
| Personal Support and Well-being for the profession | 46% | 48% | 6% |
| Regulation and Professional Practices Support | 27% | 73% | 0% |
| Communications and information for members | 20% | 73% | 6% |

9 Appendices

Appendix 4 - Staff Survey Quantitative Results

Dashboard

1 Executive Summary

2 Introduction

3 Overview of the Legal ...

4 Overview of The Bar of ...

5 International Benchmarking

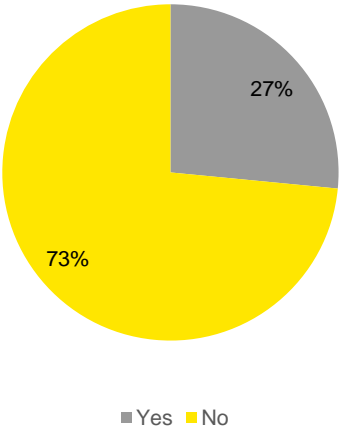
6 External Consultation

7 Analysis of internal and ...

8 Pushing the boundaries

9 Appendices

8. Over the last 12 months, outside of remote working, has there been any other significant changes in your role?



| 8. Over the last 12 months, outside of remote working, has there been any other significant changes in your role? | | n = 49 |
|---|--|--------|
| Yes | | 27% |
| No | | 73% |

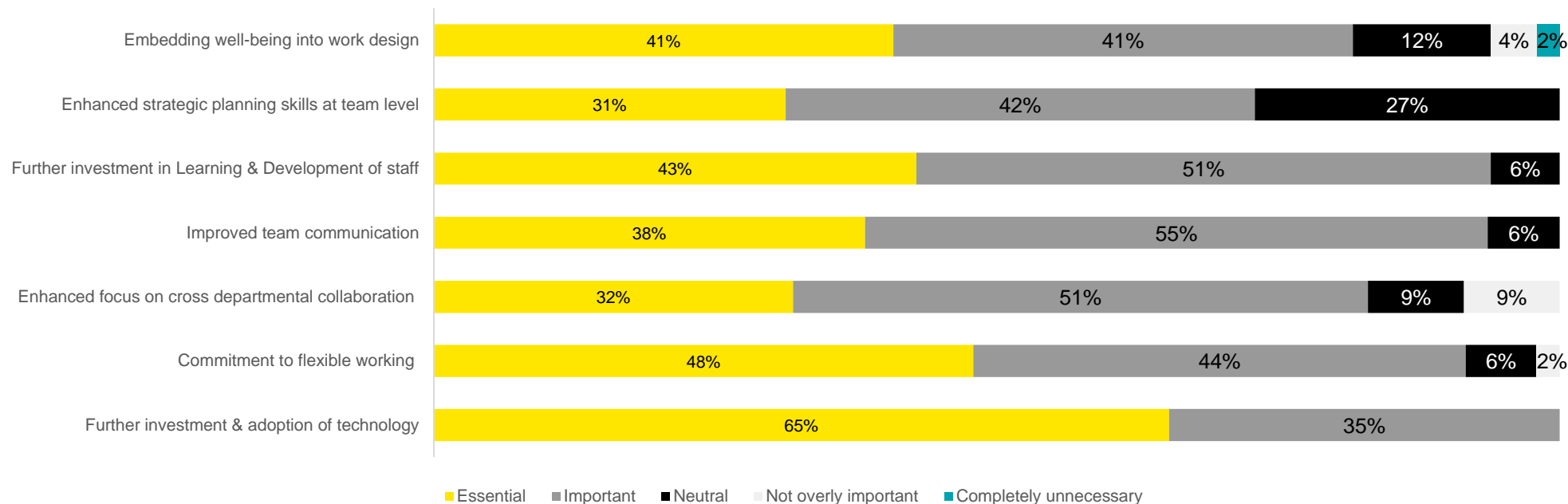
9 Appendices

Appendix 4 - Staff Survey Quantitative Results

Dashboard
1 Executive Summary
2 Introduction
3 Overview of the Legal ...
4 Overview of The Bar of ...
5 International Benchmarking

6 External Consultation
7 Analysis of internal and ...
8 Pushing the boundaries
9 Appendices

10. Please rank the following elements you think we as employees of The Bar of Ireland will require to ensure we are prepared for any future disruptions



10. Please rank the following elements you think we as employees of The Bar of Ireland will require to ensure we are prepared for any future disruptions

n = 49

| | Essential | Important | Neutral | Not overly important | Completely unnecessary |
|---|-----------|-----------|---------|----------------------|------------------------|
| Further investment & adoption of technology | 65% | 35% | 0% | 0% | 0% |
| Commitment to flexible working | 48% | 44% | 6% | 2% | 0% |
| Enhanced focus on cross departmental collaboration | 32% | 51% | 9% | 9% | 0% |
| Improved team communication | 38% | 55% | 6% | 0% | 0% |
| Further investment in Learning & Development of staff | 43% | 51% | 6% | 0% | 0% |
| Enhanced strategic planning skills at team level | 31% | 42% | 27% | 0% | 0% |
| Embedding well-being into work design | 41% | 41% | 12% | 4% | 2% |

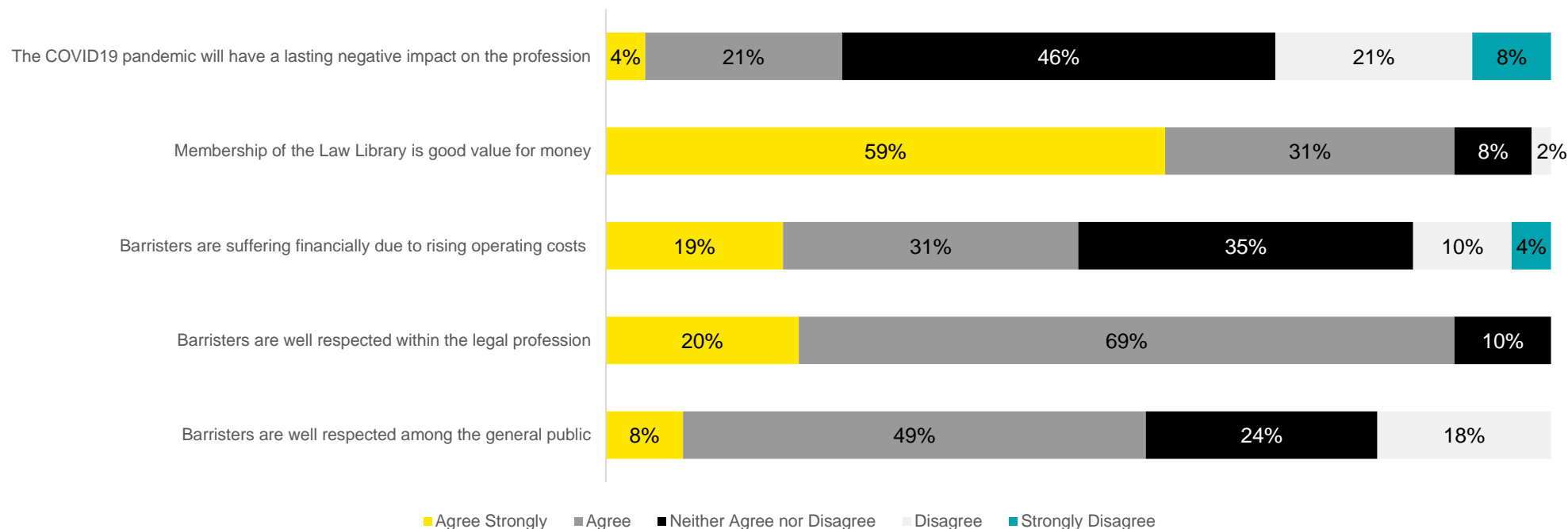
9 Appendices

Appendix 4 - Staff Survey Quantitative Results

Dashboard
1 Executive Summary
2 Introduction
3 Overview of the Legal ...
4 Overview of The Bar of ...
5 International Benchmarking

6 External Consultation
7 Analysis of internal and ...
8 Pushing the boundaries
9 Appendices

11. How much do you agree or disagree with each of the following statements about the profession in general?



11. How much do you agree or disagree with each of the following statements about the profession in general?

n = 49

| | Agree Strongly | Agree | Neither Agree nor Disagree | Disagree | Strongly Disagree |
|---|----------------|-------|----------------------------|----------|-------------------|
| Barristers are well respected among the general public | 8% | 49% | 24% | 18% | 0% |
| Barristers are well respected within the legal profession | 20% | 69% | 10% | 0% | 0% |
| Barristers are suffering financially due to rising operating costs | 19% | 31% | 35% | 10% | 4% |
| Membership of the Law Library is good value for money | 59% | 31% | 8% | 2% | 0% |
| The COVID-19 pandemic will have a lasting negative impact on the profession | 4% | 21% | 46% | 21% | 8% |

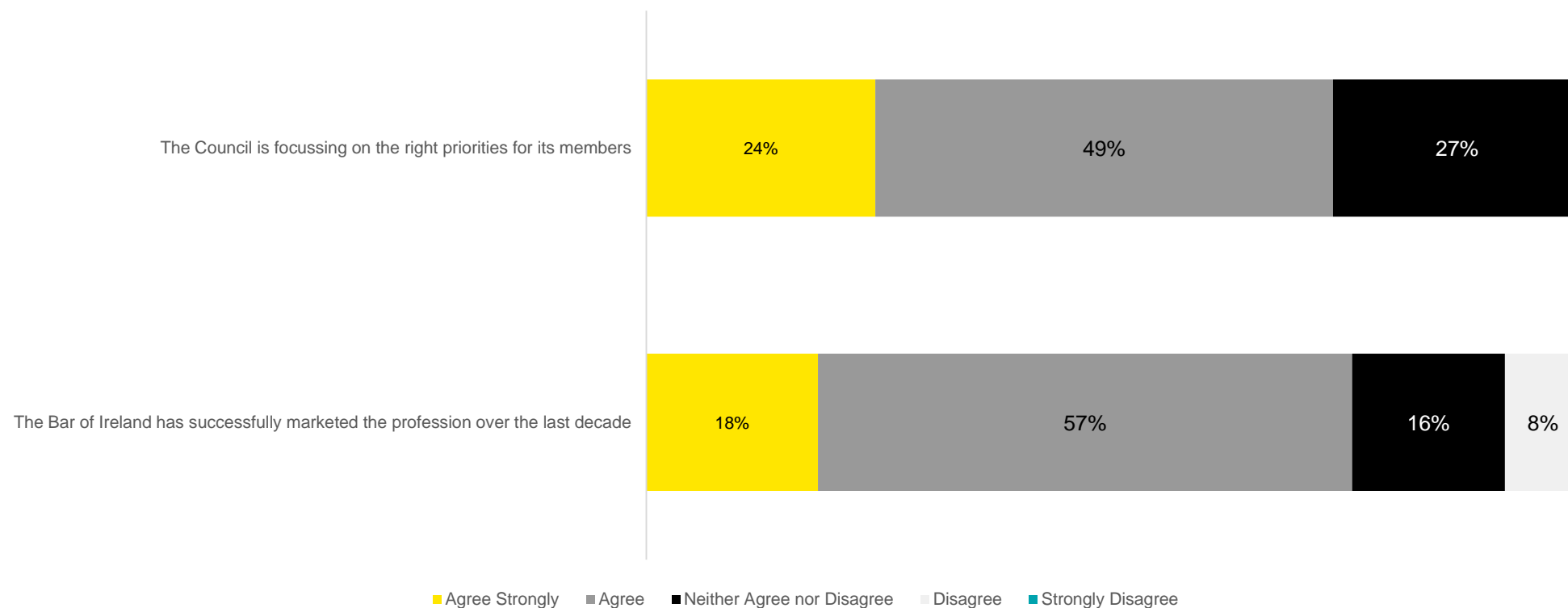
9 Appendices

Appendix 4 - Staff Survey Quantitative Results

Dashboard
1 Executive Summary
2 Introduction
3 Overview of the Legal ...
4 Overview of The Bar of ...
5 International Benchmarking

6 External Consultation
7 Analysis of internal and ...
8 Pushing the boundaries
9 Appendices

14. How much do you agree or disagree with each of the following statements in general?



14. How much do you agree or disagree with each of the following statements in general?

n = 49

| | Agree Strongly | Agree | Neither Agree nor Disagree | Disagree | Strongly Disagree |
|--|----------------|-------|----------------------------|----------|-------------------|
| The Bar of Ireland has successfully marketed the profession over the last decade | 18% | 57% | 16% | 8% | 0% |
| The Council is focussing on the right priorities for its members | 24% | 49% | 27% | 0% | 0% |

Appendix 5 – Acronyms



9 Appendices

Appendix 5 - Acronyms

Dashboard
 1 Executive Summary
 2 Introduction
 3 Overview of the Legal ...
 4 Overview of The Bar of ...
 5 International Benchmarking

6 External Consultation
 7 Analysis of internal and ...
 8 Pushing the boundaries
9 Appendices

| Acronym | Meaning |
|---------|---|
| BCG | Boston Consulting Group |
| BSB | Bar Standards Board |
| CPD | Continuous Professional Development |
| D&I | Diversity and Inclusion |
| DoJ | Department of Justice |
| DPER | Department of Public Expenditure and Reform |
| E&W | England and Wales |
| EAP | Equality Action Plan |
| EPA | Environmental Protection Agency |
| ERC | Education and Resilience Committee |
| FTC | Federal Trade Commission |
| FTE | Full Time Equivalent |
| IBE | International Benchmarking Exercise |
| LL | Law Library |
| LPET | Legal Practitioner Education and Training |
| LSRA | Legal Services Regulatory Authority |
| MIT | Massachusetts Institute of Technology |
| NED | Non-Executive Director |
| NI | Northern Ireland |
| NSW | New South Wales |
| NZ | New Zealand |
| QC | Queen's Counsel |
| SBA | Specialist Bar Association |
| SC | Senior Counsel |
| TBOI | The Bar of Ireland |
| YBC | Young Bar Committee |

**Appendix 6 – Law
Library Annual
Subscription
Rates 2020/21**



Appendix 6 - Law Library Annual Subscription Rates 2020/21

| With Seat / No Seat | Senior Counsel | FJnr | 11Jnr | 10Jnr | 9Jnr | 8Jnr | 7Jnr | 6Jnr | 5Jnr | 4Jnr | 3Jnr | 2Jnr | 1Jnr | Standard Subscription Rates for Legal Year 2020/21 |
|-------------------------------------|----------------|------|-------|-------|------|------|------|------|------|------|------|------|------|--|
| With Seat | | | | | | | | | | | | | | €8,945 |
| | | | | | | | | | | | | | | €6,065 |
| | | | | | | | | | | | | | | €5,835 |
| | | | | | | | | | | | | | | €5,605 |
| | | | | | | | | | | | | | | €5,380 |
| | | | | | | | | | | | | | | €5,140 |
| | | | | | | | | | | | | | | €4,915 |
| | | | | | | | | | | | | | | €4,340 |
| | | | | | | | | | | | | | | €3,760 |
| | | | | | | | | | | | | | | €3,185 |
| | | | | | | | | | | | | | | €2,720 |
| | | | | | | | | | | | | | | €2,265 |
| No Seat | | | | | | | | | | | | | | €2,010 |
| | | | | | | | | | | | | | | €8,515 |
| | | | | | | | | | | | | | | €5,640 |
| | | | | | | | | | | | | | | €5,405 |
| | | | | | | | | | | | | | | €5,180 |
| | | | | | | | | | | | | | | €4,955 |
| | | | | | | | | | | | | | | €4,710 |
| | | | | | | | | | | | | | | €4,490 |
| | | | | | | | | | | | | | | €3,915 |
| | | | | | | | | | | | | | | €3,335 |
| | | | | | | | | | | | | | | €2,870 |
| | | | | | | | | | | | | | | €2,505 |
| Country/Cork Junior Counsel Members | | | | | | | | | | | | | | €2,155 |
| | | | | | | | | | | | | | | €1,900 |
| | | | | | | | | | | | | | | €3,185 |
| | | | | | | | | | | | | | | €3,075 |
| | | | | | | | | | | | | | | €2,955 |
| | | | | | | | | | | | | | | €2,845 |
| | | | | | | | | | | | | | | €2,730 |
| | | | | | | | | | | | | | | €2,605 |
| | | | | | | | | | | | | | | €2,330 |
| | | | | | | | | | | | | | | €2,045 |
| | | | | | | | | | | | | | | €1,750 |
| | | | | | | | | | | | | | | €1,520 |
| | | | | | | | | | | | | | | €1,290 |
| Illness/Carer /Bereavement | | | | | | | | | | | | | | €925 |
| Maternity/Paternity /Adoptive | | | | | | | | | | | | | | €925 |
| First Year Only Entry Fees | | | | | | | | | | | | | | €1,500 |

Source: The Bar of Ireland, *Submission to LSRA on the admissions policies of the legal professions as required by Section 33 of the Legal Services Regulation Act 2015*, February 2021

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