

THE BAR *of*
NORTHERN
IRELAND

LEADERS
in LEGAL
EXCELLENCE





- 1 The Bar of Northern Ireland is a thriving profession of self-employed barristers in independent practice with a unique specialism and expertise in **legal advocacy**. Members of the Bar champion the rule of law, serving the administration of justice and the public interest. In exercising their duties both to their clients and the courts, barristers play a vital role in safeguarding the legal rights afforded to all citizens right across Northern Ireland.
- 2 The maintenance of an **independent referral Bar** represents one of the cornerstones of the legal system in this jurisdiction. The existence of a strong and independent Bar is paramount in promoting public confidence in the expert representation provided by barristers. As independent professionals, barristers are free of any external pressures or intrinsic interests other than to serve their clients to the best of their ability, whilst also serving justice and fulfilling their duties to the court. The specialist advocacy skills which they deploy are essential in helping to contribute to the high regard in which our legal system is held around the world.
- 3 Justice is a precious asset; it underpins our democracy, freedoms and civil society. It should never be treated as a costly commodity that must be rationed, or as a benefit or product subject to commercial conventions. Against this background, legal professionals, alongside political representatives and policy makers, have a duty to ensure that access to our system of justice is **available to all**.
- 4 This overview will inform you about the role of the Bar and the unique way in which it serves the **public interest** in Northern Ireland. It also highlights the important work of the profession's representative body, the Bar Council, which is always available to political representatives and policy makers to assist them in the performance of their duties and to provide access to the profession.

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- 5 Barristers provide **specialist legal advice** and advocacy to their clients. They enable individuals, organisations and businesses to exercise their legal rights and fulfil their duties. The Bar's origins in Northern Ireland stretch back to the 1920s and today around 600 self-employed barristers now operate from the Bar Library building in Belfast. Rebuilt in 2003 following a substantial investment of over £20 million by the Bar Council, the Library provides access to training, professional development opportunities, research technology and modern facilities which enhance the expertise of individual barristers and ensure the highest quality of service to clients and the court. The Bar does not receive any external funding to support this model; it is entirely self-sufficient and funds the development and regulation of the profession from its own resources.
- 6 All barristers operating independently from the Bar Library building practice under the **'cab rank' rule**. This requires barristers to accept instructions in any field in which they are competent, regardless of their views of the client or the circumstances of the case. The consequences of all barristers working together from the same building, using the same facilities and sharing this same ethos has helped to facilitate unhindered access to legal representation for a range of causes throughout the history of Northern Ireland. The cohesion and collegiality of the Bar has thus ensured a broad acceptance of the impartiality of the Northern Ireland legal system, thereby aiding the administration of justice, a fact which has been acknowledged on many occasions by the judiciary and successive Governments.
- 7 Today our barristers specialise in practising across all **areas of law** and legal disputes in courts and tribunals right across the UK and the Republic of Ireland. They are engaged for their services in the criminal courts, civil money damages disputes, consumer legal actions, commercial cases, chancery disputes, family breakdown, public and administrative law and provide expert opinions in complex matters of law. Increasingly, barristers are also retained to act in cases outside the conventional courtroom setting such as alternative dispute resolution, tribunals, disciplinary hearings and a broad spectrum of public and private inquiries. The Bar recently opened The Resolution Centre, a bespoke facility to cater for the growing mediation and arbitration market in Northern Ireland.
- 8 **Legal advocacy** supports the effective and efficient operation of our justice system; it is a skill which takes significant time and effort to acquire. The extensive training undertaken by barristers distinguishes them from other members of the legal profession. Barristers with a qualifying degree will complete the Diploma in Professional Legal Studies which is the professional stage of training for the Bar of Northern Ireland before undertaking a 12-month pupillage during which they are required to do extensive mandatory training in advocacy. Ongoing advocacy training also forms a key part of the Bar's continuing professional development education for members throughout their careers at the Bar. A hallmark of the Bar's success in developing these skills is exemplified through the fact that 10% of our barristers have been awarded the rank of Queen's Counsel, an internationally recognised mark of outstanding ability in advocacy and legal skills.
- 9 A career at the Bar requires a commitment to ongoing **learning and self-development** over many years. Members of the Bar give freely of their time to deliver high quality advocacy training to peers and to mentor colleagues in need of support. Many undertake regular pro bono work to represent clients and to support a wide range of charities and voluntary organisations. Members of the Bar's Charity Committee raised £70,000 for The Wellcome Organisation, which delivers a range of support services to homeless people, throughout 2017-18.
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“Effective advocates simplify rather than complicate; can see the wood from the trees and enable others to do so; and thereby can contribute to just outcomes and save court time and public money”.

Independent Criminal Advocacy: Jeffrey Review Report, 2014



- 11 The **independence** of our barristers is of paramount importance and a vital virtue. As independent professionals, their entire purpose is to selflessly serve, fearlessly and rigorously, their clients' interests and to achieve the best possible result, whilst fulfilling their duty to the court. It is in the public interest to maintain and develop the independent Bar. Only an independent group of specialist advocates can guarantee that anyone, no matter how unpopular they or their cause may be, receives the highest standard of expert and impartial representation. As a society with a history of conflict and division, we must guard and protect such independence, never taking it for granted, as it enshrines our rights to access to justice and a fair legal system.
- 12 **The rule of law** is one of the fundamental foundations of any democratic society. It is the principle that the law applies to all and that no-one, including the Government, is above the law. A strong, independent and vibrant legal profession has always been vital to ensuring that the rule of law is upheld in Northern Ireland; the challenges of being a legal professional in a society in conflict have emphasised the very real importance of these foundations in our recent history. The independent Bar still maintains the constitutional principle of the rule of law in courtrooms across this jurisdiction on a daily basis. Barristers regularly appear in court to represent those who are challenging unlawful decision-making by public bodies, a process called judicial review. Their professional independence enables them to speak truth to power when arguing their clients' cases.
- 13 The Bar's reputation for independence means barristers are often asked to conduct inquiries, lead tribunals, and carry out **independent investigations**. One recent example is Brett Lockhart QC who is chairing the independent inquiry panel set up to review the recall of neurology patients by the Belfast Health and Social Care Trust. Meanwhile David Scoffield QC is acting as senior counsel to the independent public inquiry into the Non-domestic Renewable Heat Incentive Scheme.

- 14 We live in **politically charged** times and threats to our democracy are neither historically nor geographically remote; Poland has been the subject of wide-ranging criticism throughout 2018 for reforms, including the forced early retirement of judges, which attempt to bring the country's Supreme Court further under the control of the Government. We must never become complacent about our hard won rights, secured and protected by an independent legal and justice system in Northern Ireland.

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"The existence of an independent Bar is central to the working of the courts and thus the rule of law, and without the rule of law, justice and democracy are nothing".

Lord Clarke, World Bar Conference, 2012





- 16 Access to justice is a **fundamental principle** of the rule of law which protects society's most vulnerable and enables citizens to effectively exercise their rights. Our courts should be accessible to all, not just because individual parties in a dispute can afford it or somehow are considered to deserve the benefit, but because it must be recognised that court rulings serve the whole of society. As Lord Reed observed in his Supreme Court judgment in *UNISON v Lord Chancellor* (2017), "Access to the courts is not ... of value only to the particular individuals involved."
- 17 There needs to be strategic direction and stability in Northern Ireland's **legal aid policy** to ensure that it is properly recognised as an indispensable part of our justice system. Research from the Joseph Rowntree Foundation on Poverty in Northern Ireland in 2018 shows that almost a fifth of our population lives in poverty, including around 220,000 working age adults. The level of dependency upon legal aid directly relates to the prevalence of poverty and social deprivation across our society. Our Department of Justice conducted reviews on access to justice in 2011 and 2015 focusing largely on making cost savings within the system, alongside proposing additional changes to the scope of civil legal aid, levels of representation, money damages, and civil remuneration. This is despite the fact that in recent years spending on publicly funded legal services has continued to fall in Northern Ireland with figures from the Legal Services Agency showing a spend of £79.2 million in 2017-18, reducing from a peak of £106.4 million in 2014-15.
- 18 Access to legal aid has become increasingly restricted in recent years with a substantial rise in the number of personal litigants representing themselves, particularly in the civil and family courts. Without specialist advocates to navigate complex legal issues, cases involving personal litigants inevitably experience delays, cost extra and are more likely to risk injustice. Meanwhile many highly motivated, talented and qualified young barristers who have entered the profession to **serve justice** and help others are struggling to sustain viable practices at the Bar. Given the levels of socio-economic deprivation in parts of our society, it is not surprising that many seek to apply their professional skills and gain early experience in legally aided cases yet they are being denied the opportunities afforded to their predecessors as they embark on their legal careers. This has the potential to create serious long term problems for our justice system.

- 19 Our politicians and policy makers must recognise the value and meaning of justice to our society given the important matters of **public interest** at stake; it matters what happens to children when parents separate or divorce; it matters that those who appear in the Crown Court have proper representation to ensure fair trials; it matters that those who are guilty of crimes are properly prosecuted; and it matters that those who suffer personal injuries or financial loss have effective remedies in our Courts. It is now widely recognised in England and Wales that the withdrawal of legal aid from vast areas of law through the Legal Aid, Sentencing and Punishment of Offenders Act 2012 has resulted in the loss of access to justice for some of the most vulnerable with unresolved legal problems creating other costs for society.

20 "Access to legal advice and representation is a fundamental ingredient of the rule of law, and the rule of law together with democracy is one of the two principal columns on which a civilised modern society is based... access to justice is a practical, not a hypothetical, requirement. And if it does not exist, society will eventually start to fragment".

Lord Neuberger, former President of the Supreme Court, 2017





- 21 The Bar of Northern Ireland aims to provide the **highest standard** of service. Every barrister called to the Bar of Northern Ireland is subject to the Bar's Code of Conduct which sets out the standards of professional conduct and practice required of barristers in this jurisdiction. The competitive Bar Library environment also serves to ensure that there is a supply of excellent quality representation and advocacy thereby affording client choice; barristers must strive to meet these standards in order to receive work. In addition, the Bar Council invests significant resources in the delivery of ongoing professional training and education for barristers. This programme of work represents a vital tool in ensuring the application of consistently high standards of practice and allowing for the regular review of developments in the law in response to the requirements of the profession, clients and others.
- 22 Another quality assurance measure undertaken by the Bar Council is active regulation of the profession. Our **regulatory activity** is discharged by a Professional Conduct Committee which incorporates input from independent lay members. This Committee has extensive powers to impose a range of penalties on a barrister for professional misconduct, including significant fines and suspension or disbarment from practice.
- 23 The Bar welcomes the recently introduced changes to the regulatory system in Northern Ireland, which has been subject to extensive and **independent review** by Government, with a new complaints handling procedure, increased lay participation and enhanced oversight arrangements under the Legal Complaints and Regulation (Northern Ireland) Act 2016. The provisions of the Act are yet to be fully implemented but we have already been engaging constructively with the new Legal Services Oversight Commissioner on our structures for complaints handling.

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“Distancing the professional bodies from complaints handling might diminish their first-hand knowledge of problems arising within the profession and their ability to help members address them at the earliest opportunity... the legal profession in NI should continue to discharge regulatory functions, subject to enhanced oversight arrangements”.

Bain Review, Department of Finance and Personnel, 2006



- 25 Part of a modern and forward-looking legal sector contributing **£250 million** (TheCityUK: Legal Services 2017 Report) to Northern Ireland's economy annually, the Bar is at the forefront of leading excellence with values firmly rooted in principles dedicated to serving justice and the public interest. Therefore it is vital that our public representatives recognise the need to ensure that the institutions which sustain and uphold the rule of law are defended and strengthened, including a healthy independent Bar, to provide high quality advocacy for all and a world-class legal system for Northern Ireland in the years ahead.

FOR MORE INFORMATION ON ANY ASPECT OF THE BAR'S WORK CONTACT:

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