

Supporting the Barrister Profession in Northern Ireland: 100 Years and Counting

Abstract: This article by Niamh Burns, Senior Manager for Library & Member Support Services at the Bar of Northern Ireland, provides a brief overview of the history of the Bar of Northern Ireland and an explanation of the Bar Library model and the services it provides. She provides an insight into some of the current issues facing the barrister profession in Northern Ireland, then focuses on what the Bar of Northern Ireland's Library & Information Service is doing to support members of the Bar Library in meeting some of their challenges.

Keywords: barristers; legal profession; bar librarianship; law libraries; Northern Ireland

INTRODUCTION

The Bar of Northern Ireland has recently celebrated its centenary. To mark the occasion the organisation commissioned a number of resources and organised events highlighting the achievements of the many individuals who make up the Bar.

The Government of Ireland Act 1920¹ established a separate Supreme Court of Judicature of Northern Ireland and gave recognition to the creation of a separate Bar of Northern Ireland. That Act preserved the right of all then existing members of the Irish Bar to practise and be members of the Bar of both Northern Ireland and Southern Ireland. Following a meeting on 26 October 1921, the first General Council of the Bar of Northern Ireland was elected.

100 years on, the General Council of the Bar of Northern Ireland, (the Bar Council), remains the body that is responsible for the governance, regulation and representation of the profession. It is comprised of an elected body of 20 practising barristers. Elections for its Chair, Vice Chair, Bursar and General Council take place bi-annually.

Established in 1933 the Bar Library is the professional base for all barristers in independent practice in Northern Ireland. Despite the name, it functions as much more than a Library providing a full range of practice support services which are detailed below. Unlike England and Wales, there is no chambers system to provide practitioner support. Barristers in independent practice in NI are self-employed, relying on the Bar Library for such services.

Under the Bar's current Code of Conduct every barrister in independent practice wishing to practise in Northern Ireland is required to be a member of the Bar Library. This is unless they seek and are granted Exemption from such membership.² The membership

requirement is based on consumer protection. We believe that compulsory membership of the Bar Library better enables the Bar Council to verify and regulate the quality and skills of practising barristers. Ultimately, this benefits their clients.

This model has proven to be a success for those it serves, barristers and consumers. As of 2022 there are approximately 700 full members representing the vast majority of Northern Ireland barristers in independent practice. Only a small minority have exemption from membership. Each of those self-employed members benefit from the advantages that stem from a large collective and collaborative structure.

As a Bar Library member, the barrister has the advantage of having access to a secure, staffed and fully-serviced, modern city centre office environment. It is open 7 days a week and is close to all of the Belfast courts. The Library provides practice support services, some are listed below:

- Specialist Library & Information Services including a staff assisted Enquiry and Research Service; Practice Direction compliant Authority Gathering Service; expert and Practice Direction compliant compilation of eBundles for court; 24/7 access to OLIB, a unique database of NI law; a trade discounted Member Bookshop and Subscription Service; bespoke practice area Current Awareness Services.
- Specialist IT Services including secure hosted email service with dedicated @barlibrary.com email address; 'Bring Your Own Device' setup and configuration; fast, reliable and secure Wifi and internet access; secure online document storage; 24/7 access to Bar of NI Portal; IP telephony.
- Cybersecurity and Data protection services, compliance toolkits and advice.



Figure 1: The Great Hall at the Bar of Northern Ireland.

- A Fees Collection Service.
- Education services including a Continuing Professional Development programme; unrestricted free access to online CPD resources; Pupillage and Master support; advocacy training and seminars; advanced advocacy training; outplacement and career opportunities.
- Specially negotiated deals in Professional Indemnity Insurance; critical illness cover and private health insurance, Bar Library affinity pension scheme.

Membership of the Library also provides an important benefit to barristers in the form of an open and collaborative environment. This facilitates ready access to more experienced colleagues who, embracing the collegiality of the Northern Ireland Bar, are willing and able to provide assistance in mentoring and guidance in the areas of practice in which they specialise.

CURRENT ISSUES IMPACTING THE BAR OF NORTHERN IRELAND

Common to the profession in all jurisdictions, the impact of the Covid-19 Pandemic upon the Bar of Northern Ireland has been immense. The Bar Council and the Library's staff team is rightly proud of the way it reacted to the sudden and unforeseen requirements of an imposition of a national lockdown. Despite this, it continued to deliver services in difficult conditions throughout the extended crisis. Inevitably the effects of the pandemic have taken their toll on the organisation, the professionals that work within it, and those individuals who rely on the provision of advocacy.

Having responsibly guided and serviced the membership throughout the lockdowns, the Bar Council set its mind to learn from its members how it could best future

proof the profession generally. It sought to understand what practical and strategic assistance it could provide to members in the years ahead. Therefore, towards the latter end of 2021, the Bar Council conducted a membership survey. Compared to previous membership surveys, there was a marked increase in the number of respondents. This suggested a real motivation from barristers to express their views, concerns and anxieties to the Bar Council, presumably with an expectation that appropriate positive actions and interventions would be taken to address the concerns articulated. While the general themes of the survey were similar to previous ones, inevitably the question set within each theme related to the contextual environment of practice management in the immediate past 3 years. That is, the survey probed perceptions of practice pre-Covid, practice throughout the height of the pandemic and practices in the 'here and now' as society re-emerges from the Public Health Crisis.

Survey themes and main findings:

• Remote Hearings

Respondents indicated that remote hearings were beneficial for brief mentions or case management. However, online hearings were overwhelmingly not considered suitable for cases of any complexity, cross examination, testing of evidence, sensitive matters and cases where client instruction would be required throughout the course of the proceedings. Nevertheless, it is a commonly understood reality that remote hearings will continue to feature extensively in the future. The Bar Council and Bar Library must find ways to provide appropriate space, technology and services to facilitate the optimal remote hearing experience for barristers and their clients.

- **Remuneration**

Just under 50% of respondents stated they earned less than the pre-Covid period, while only 16% said they earned more than before the pandemic. The results also suggested the earnings of female barristers are two thirds that of male barristers and females experience longer delays in receiving payment than their male colleagues. Given a significant majority of members rely on publicly funded work, it is incumbent on the Bar Council to continue to engage at the highest level with the Department of Justice at Stormont for improvements in both the rates and timeliness of all payments for legally aided work. In a joint media and public affairs campaign with the Law Society it has tried to ensure there is a recognition of the need to make prompt payments to all practitioners reflecting the time and skill of the work involved. The Bar Council also intends to highlight specific issues regarding gender disparity with both the Department of Justice and the Law Society to ensure there is a commitment to equality in terms of instructing and paying of counsel across all practice areas.

- **Library Services**

Nearly 80% of members stated they were satisfied with Bar Library service provision. However, a significant 62% of respondents anticipated a major reduction in the use of the physical facilities. Indeed 46% said they enjoyed the flexibility of being able to work from home as well as in the Bar Library. Based on this feedback the Bar Council intends to conduct a strategic review of the use of space across the Bar Library estate drawing upon external expertise to see how it could be adapted to try and offer the sought-after facilities. These are improved remote hearing spaces, increased desk and office access and more flexible use of areas currently underutilised. The Bar Council will also maintain investment in the development and delivery of remote services via the Bar of Northern Ireland's Portal and App so members have an increased range of bespoke online services available to them.

- **Wellbeing**

Questions around wellbeing were wide ranging and the detail sensitive to the membership. However, it is commonly understood that the sense of Wellbeing has been compromised over recent times and extensive positive action is required to address real concerns. One aspect which was often cited is the perceived loss of connection which was an inevitable consequence of several strict and extended lockdowns. There is tension in trying to resolve this sense of a loss of collegiality given that the survey also shows that members are enjoying the flexibility of being able to work away from the physical Bar Library. Further research to establish appropriate solutions to rebuilding a sense of effective belonging given this peculiar evidential conflict is needed.

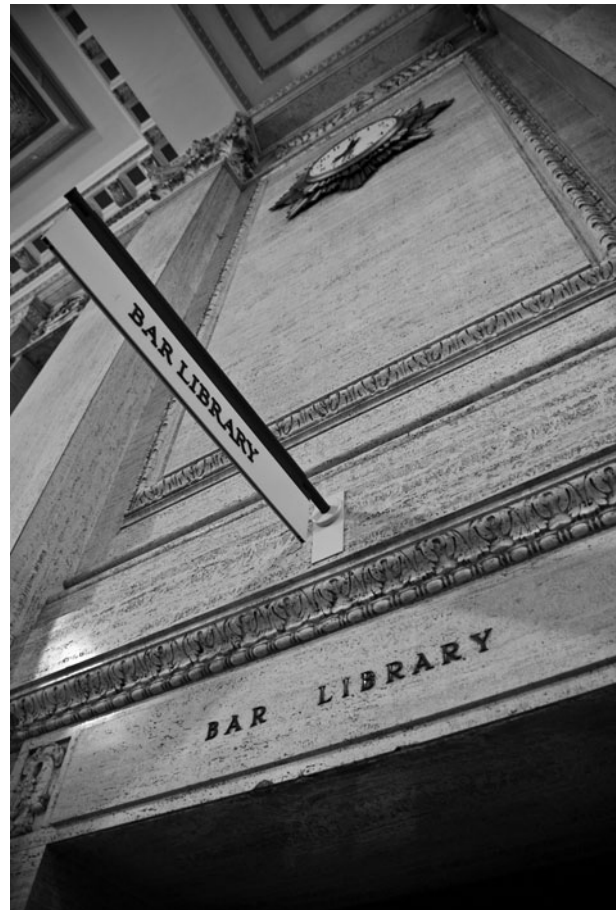


Figure 2: The Bar Library.

To address the actions arising from the Membership Survey the Bar Council must articulate them as objectives in its annual Operational Plan and these objectives must be aligned to the pillars of its Strategy which it routinely revises every 3 years. The current Operational Plan articulates 30 actions, many in response to the survey, resting under the 4 Strategic Aims outlined below.

1. To lead and represent the profession positively and effectively.
2. To have library services that deliver proven and sustainable benefits to members.
3. To uphold the highest standards of regulation, governance and integrity.
4. To be recognised as an inclusive centre of excellence.

WHAT IS THE LIBRARY AND INFORMATION SERVICE (LIS) DOING FOR THE BAR OF NORTHERN IRELAND?

The Bar's Library & Information Service (LIS) is a well-established and recognised membership benefit used by the vast majority of barristers. As will be obvious, the LIS contributions to the organisation speaks to the second of

the Bar Council's 4 Strategic Aims and the LIS managers strive to find ways to continually improve their service offerings to provide sustainable benefits to members.

Over the past three years the LIS team has innovated with a particular energy, taking a determined approach to anticipate the needs of its users in the medium to long term rather than to react to imposed changes driven by external stakeholders. The primary focus of recent innovations is to deliver above and beyond core services. It does this with an eye on the trends for increased digitisation of court materials and finding ways to provide convenient connectivity giving the increased remote working. In light of ever-increasing cyber security threats we gave specific attention to delivering innovative processes that ensure data under the control of the barrister is stored and transmitted securely.

Core Services

The Bar Library's LIS team is small and is made up of six full time staff; A Senior Manager who has responsibility for a broad remit of Member Support Services, an Assistant Librarian who has responsibility for the day to day running of the LIS and four full time equivalent Library & Legal Research Assistants. Until recently the LIS offered 3 core services:

1. *The Legal Enquiry Service:*

This service has been offered to membership for decades, its longevity being testament to its value. It

provides a prompt and reliable response to general legal research enquires such as:

- Finding specific case law,
- Case law subject searches
- Legislation status queries
- Hansard searches
- Textbook advice
- Court Rules research

2. *Provision and maintenance of OLIB, a unique database of Northern Ireland law.*

The online resource is proprietary to the Bar of Northern Ireland and includes continually updated and fully searchable abstracted case law and legislation with electronic links to full text. It also provides the Library collection catalogue and its circulation system, the service being a borrowing Library. OLIB is maintained and updated by the LIS team ensuring it reflects and anticipates the information needs of the membership.

3. *The Bar Library Authority Gathering Service (BLAG)*

The BLAG service, as it has become known to members, was developed in response to the of the issue of the Lord Chief Justice's Practice Direction 6 of 2011 as amended.³ The Direction makes provision for the



Figure 3: Statutes on the shelves at the Bar Library.

submission of legal authorities for use in Court where a detailed hierarchy of caselaw is provided and which must be complied with when submitting legal authorities to the courts. The LIS team has a developed skillset to navigate the hierarchy and has the knowledge and confidence to use the correct resources to build the bundles together skilfully and efficiently. Whilst the BLAG service launched largely as a hard copy authority bundle service, its end product has evolved into a sophisticated digital bundle which now provides the 'bells and whistles' requirements of digital authority bundles required by the Judiciary and articulated in the Lady Chief Justice's recent Practice Direction 2 of 2022.⁴

New Innovations from the LIS

Whilst continuing to deliver its valuable core services the team has also initiated new services in response to several issues currently facing the profession: the rapidly increasing appetite for digital/electronic materials to be used in court as a substitute to hard copy; the focus on data protection and ensuring the membership comply with their obligations as data controllers and the staff as their data processors; the increased number of barristers working outside of the Library and requiring effective, efficient and secure methods to engage with the Bar Library staff.

1. The Optimised Brief and Bundle Service

Over the past 12 months the LIS has developed its Optimised Brief & Bundle Service (OBBS) to complement its BLAG service. OBBS came into being as a reaction to several Northern Ireland Courts and Tribunal Service (NICTS) Practice Directions stipulating specific requirements for submission and formatting of Court Bundles (i.e. not

Authority Bundles) from various court divisions. The organisation took the view that the LIS team, with an intricate knowledge of the stipulations within the Practice Directions, was best equipped with the appropriate skills to compile bundles for court that meet the stringent requirements of the court directions. As with the BLAG service, OBBS began as a hard copy bundle service but is increasingly moving to a position where the majority of bundles created are in digital format. The Bar participated in the NICTS' Digitisation Working Group's pilot where the LIS' digital bundle product was tested by legal teams and judiciary in the live court environment. OBBS is now specifically identified as one of the providers of Practice Direction compliant digital bundles in Practice Direction 2 of 2022.⁵

2. The Virtual Library and Information Service

Our recent member survey demonstrated a decreasing need to use the physical space in the Bar Library as such a large percentage of court business, hearings and consultations continue to be undertaken online. Therefore, pre pandemic, the LIS embarked on an ambitious plan to bring, from concept to delivery, its vision of a Virtual Library and Information Service, v:LIS. Although delayed as a result of operating in crisis management mode the Bar Council launched v:LIS to its membership in June 2021. Allowing for a period of induction and training, the membership have now been fully migrated to use the platform for all LIS requests.

v:LIS, accessible through the proprietary Bar of Northern Ireland Portal and its associated App, is a new and exciting innovation designed to transform the way members interact with their trusted and valued LIS. Playing a key role in the evolution of our service, v:LIS

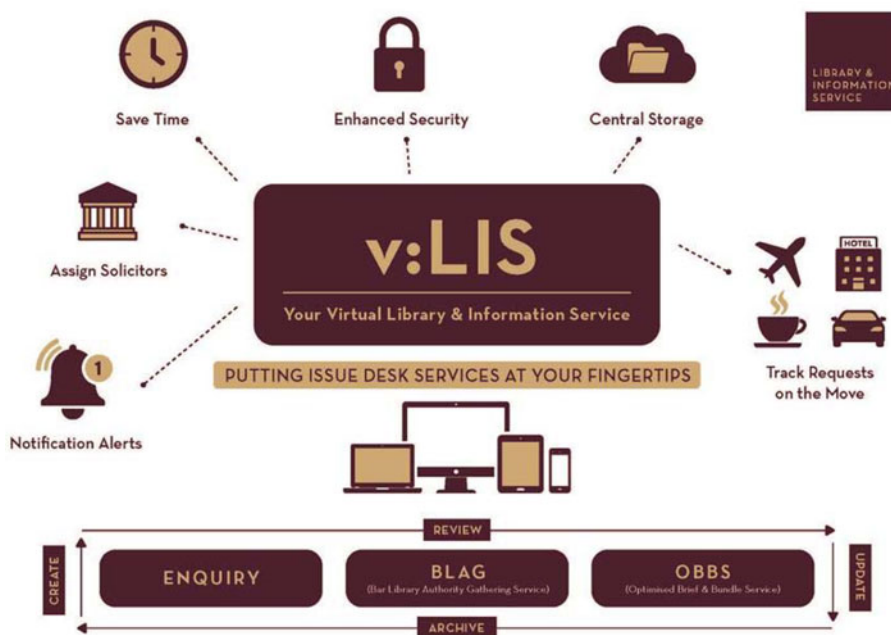


Figure 4: v:LIS.

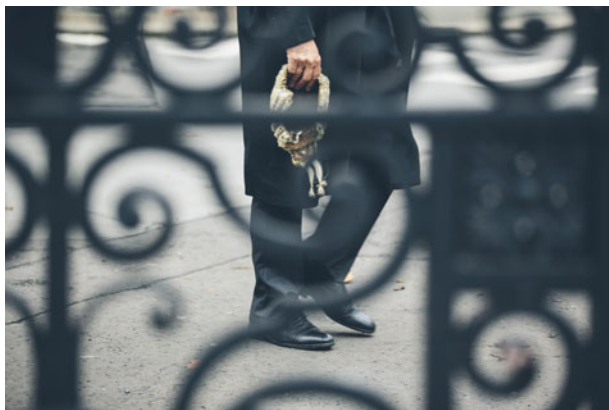


Figure 5: A barrister's wig.

- offers a modern and secure way to conduct business with the LIS team other than the established channel of email communication;
- provides members with a ticketing and tracking system allowing them to be kept fully informed of the progress of their Library & Information Service business.
- provides efficiencies of time to the member in that the initial information scope is much more precise leading to quicker turnaround times.
- keeps members informed of the progress of their service requests via useful and meaningful email and App notifications.
- allows members to review their service requests with meaningful status reports of 'in progress', 'awaiting response' or 'completed' within their own unique v: LIS 'dashboard'.
- allows Members to 'tag' other members or instructing solicitors into their service requests either as a 'contributor' (being part of the conversation thread) or as a 'product viewer' (receiving the final product generated by the request).
- allows members to nominate the tagged contributors and product viewers to accept responsibility for any

costs incurred in seeing the service request through to completion.

- provides a convenient repository to store/archive litigation materials for future use as each case develops.

In a break from tradition, with the launch of OBBS and v: LIS, the Bar Council has, for the first time, allowed instructing solicitors direct access to Bar Library services. Solicitors in Northern Ireland, instructing our members, may now directly register as users of the Bar's Portal and App and initiate requests for e-bundles [OBBS] via v:LIS. This change of approach facilitates cross profession legal teams to work collaboratively in a shared virtual space when building their authority bundles and trial bundles for use in court.

WHERE DOES THE LIS GO FROM HERE?

A newly elected Bar Council will be in term from September 2022 to August 2024. It will be responsible for positively overseeing the actions and interventions required to address the concerns articulated our survey responses. The Member Services Committee, a very active Standing Committee of the Bar Council, will continue to oversee the continuous improvement of the Library & Information Service. Whilst Practice Direction 2 of 2022⁶ provides a description of what functionality e-bundles must have if they are requested by the court, their use is not yet mandatory; rather it is at the discretion of the judge hearing the case. However, the direction of travel of digitisation is clear and there will be no u-turns. The LIS team must be resourced to deliver quality practice direction compliant e-bundles if it is to continue to maximise its value to members. The LIS team sees its future priorities, alongside continuing to deliver core services with excellence, to upskill the membership in the use of digital bundles and to facilitate a secure and collaborative process between Counsel and their instructing solicitors. This will ensure first class bundles are provided to the court for the benefit of all those accessing justice. The LIS team cannot stand still.

Footnotes

¹ The Government of Ireland Act 1920 (10 & 11 Geo. 5 c. 67).

² Rules 1.9 – 1.12.

³ PRACTICE DIRECTION 6/2011 (As amended with effect from 5th September 2012 and 8th January 2016) on Skelton Arguments and Related Documents, Appeal Books and Electronic and Core Bundles.

⁴ PRACTICE DIRECTION NO 2 of 2022 on the Submission and Format of e-bundles.

⁵ Ibid.

⁶ Ibid.

Biography

Niamh Burns is the Senior Manager for Library & Member Support Services at the Bar of Northern Ireland.