

BACFI Response to the Consultation Paper on The Vocational Stage of Training for the Bar

Introduction

BACFI has been asked to respond to the Consultation Paper and to focus its attention particularly on question 1 and 9. It is also asked whether proposals for greater practitioner involvement are practical.

The response deals with those questions initially but expresses views to a greater or lesser extent on other aspects of the consultation.

Preface and Summary

BACFI fully supports the need for a post degree vocational training course. It is disappointing that the exempting law degree of the University of Northumbria has not been developed by other universities.

If the present course is to be criticised from the point of view of the employed bar it is for being heavily slanted towards self employed practice. This is naturally so as when it was introduced employed practice was still not regarded as on a par with self employed. In part at the instigation of BACFI a number of providers did organise an extra curricular lecture by employed barristers. It is regrettable that these have decreased or been discontinued.

The Future Shape of the Profession – Question 1

BACFI regards the factors outlined here as fundamental. Equally fundamental is the problem of the shortage of pupillages. A few years ago it was felt by the Bar Council that the number of applicants would become less as the message got through to potential students that they could well not obtain a pupillage on completion of the BVC. It was also thought that the availability of pupillages would increase and bring supply and demand into equilibrium. This has failed to happen. The implementation of deferral of call will inevitably mean an increase of what were non practising barristers. This is a problem which portrays the bar in an unattractive light.

BACFI has long advocated alternatives to what for ease may be termed a traditional pupillage. Whilst the implementation of some alternatives have helped, full pupillage in employment, secondment to other approved persons for instance, there is still a major problem.

Mention is made at 22, “Alternative Course Structures” of the 1999 proposal to incorporate part of pupillage into BVC. BACFI supported this then and advocates it now. This should be seen as an optional alternative to a ‘traditional pupillage’ and would be in addition to a one year BVC. It would be a twelve months course aimed at covering the ground covered by a traditional pupillage with the opportunity to take modules which would be aimed at preparing for employed practice. It is not intended to detail such modules here. If the principle were to be accepted there would have to be further detailed discussion and consultation. The intention would be for those taking such an alternative pupillage to spend time in chambers and/or with approved employed barristers and other approved alternatives. As are already allowed under the regulations.

The Law Society is currently reviewing its training regime. It should be investigated whether there may be scope for common elements either for the BVC or for the alternative pupillage course proposed above. It is envisaged that this would be more likely when training for employed practice. Additionally in an era of greater flexibility in the provision of legal services it could facilitate movement between the bar and solicitors and vice versa. There should also be a saving in costs.

Alternative Course Structures Question 11

BACFI supports any move which would focus on “outcomes”. It has put forward such a proposal in its submission to the Richards Working Group on Non-Practising Barristers in relation to an alternative form of pupillage.

It is difficult to comment on “limitations” in this response. Clearly the “outcomes” should be relevant to practice generally but any limits would have to be defined by consultation between those with training expertise and interested parties.

Practitioner Involvement Question 13, 14, 15

Practitioners must have involvement in deciding the outcomes for the BVC course, through the Bar Council. BACFI supports the proposals as set out in Clause 30.

BACFI agrees that practitioner involvement is vital. As stated elsewhere it regrets that BVC providers have retreated from involving the employed bar even at an extra-curricular level.

The involvement of employed barristers is practical. Many do participate by taking students on work experience or mini pupillages and would give time to formalised participation in the BVC.

The level of practitioner involvement in the assessment process on vocational courses should be increased and include employed barristers from a variety of employment backgrounds.

Question 2 “Yes”

Question 3 “Yes” but subject to answers to questions 1, 8 and 9

Question 4 However, BACFI has consistently canvassed for a wider definition of advocacy to include advocacy outside the courtroom. (It is acknowledged that vocational training should focus strongly on the development of written and oral advocacy skills).

It should be recognised that vocational training is for the various types of employed practice as well as self employed which itself is diverse . Currently around a fifth of practising barristers are employed and that proportion is expected to increase. Given this government's desire for greater flexibility and movement within the profession, something BACFI has long advocated, now would be an appropriate opportunity to redefine advocacy but without lowering standards.

Questions 5 and 6. BACFI has no strong views on this save that in a perfect world students would be given a choice of subjects between civil and criminal dependant on which career path they were intending to follow. For practical reasons and cost this is probably no realistic way of achieving this other than different providers specialising in one field of law only.

Question 7. More substantive law would benefit those who had arrived at the BVC via CPE. It is difficult to see how this could be achieved other than by increasing the length of the course and giving exemptions to those with a first law degree as with the old Bar Final examinations.

Questions 8 and 9 Office and Management Skills.

Personal Accounting, income tax and VAT are peripherally relevant to self employed practice even less so for employed practice. Valuable time in the BVC course should not be taken up with them. They are matters which should be addressed in the new practitioner course during pupillage whether "traditional" or the proposed alternatives. The time gained could be better used to teach communication and presentation skills and in particular commercial awareness. Whilst these may be seen as being of greater use for employed practice they would be of benefit in self employed practice.

Question 10 Please see the reply to question 7

Question 12 "Yes"

Question 16 "Yes"

Question 17 There should be common assessment if financially practicable.

Question 18 BACFI supports the views expressed under "Diversity".

Question 19 BACFI believes that the more information which is available, the better. This is subject to it being in a readily understandable form.

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