



**RESPONSE OF THE BAR ASSOCIATION
FOR COMMERCE FINANCE & INDUSTRY (BACFI)
to the Draft Equality and Diversity Policy and Action Plan 2007-2008**

BACFI welcomes the latest Bar Standards Board initiative to identify values which underpin professional excellence in the provision of barristers' services. Looked at as a whole it agrees with the objectives however the following point should be made.

Objective 1

It is stated that 'all aspiring barristers should be able to compete for entry to the profession on merit'. It goes on to make the point that minorities are well represented at pupillage level. It fails to take the next logical step which arises from the fact that there are many BVC students who although able, cannot find a pupillage. The questions which should be asked are 'what is the make up of those who do not obtain a pupillage?' 'Why are they failing to find a pupillage?' 'What can be done to remedy this to ensure diversity?' The monitoring envisaged in paragraph 1.2 should include this information.

Paragraph 1.1.2 refers to training for pupillage selection panels. We feel that the composition of selection panels should also be examined. Anecdotal evidence suggests that panels themselves may not be diverse.

BACFI has long and repeatedly advocated that there should be alternative ways of completing a pupillage to the traditional method. In particular in the BACFI response to the questions posted by the Interim Report of the Entry to the Bar Working Party (Neuburger) in answer to question 21 under 'E Pupillage stage' the following response was given.

There should be alternative types of pupillage or training for barristers. They should be of equal standing. The current form should be maintained although the incorporation of a part or all the first six months into the BVC should be considered. If this were to happen there should be a requirement that some period of that time should be spent in the legal environment where the student proposes to practice.

A further alternative form of pupillage or training would be for the full twelve months to be based with a BVC provider.

It would be of a modular type where targets are set. The trainee would spend time away from college in various suitable legal environments in the same way that pupils may currently spend time away from their pupil supervisor.

Whilst this latter form of training would equate to twelve months it is envisaged that it could and in many cases would take longer to complete subject to an overall time limit and standard. It would open up the possibility of part-time pupillage and give the trainee an opportunity to earn money to fund their pupillage.

Such alternative forms of training would have the benefit of increasing the number of BVC graduates who would obtain a full practising certificate. In particular it would help minority and disadvantaged groups by enabling them to spread their qualification period. If rules on non-bar earnings were to be relaxed, it would assist those from such groups in funding themselves and so open the bar to more diverse backgrounds.

BACFI made similar proposals to the Tuckey and Richards Working Group on the status of what are known as 'non practising barristers'.

It may be said that the above aspect which concerns BACFI and its members in particular is outside the scope of this BSB action plan. We are aware that the Education Committee of the BSB is looking at this particular aspect. However, to ensure a truly diverse profession and to remove the considerable barriers to completing training, we believe there has to be a comprehensive review of the training regime from BVC through to tenancy. It is therefore a relevant consideration for this BSB Action Plan.

We make no comment on Objective 2 which seems to be largely directed at the self-employed bar.

Concerning Objective 3 we support the proposals. We would also add that in its considerations the BSB and its committees should, as far as permitted by the regulatory framework, be prepared to consider alternatives to the normal route of qualification and experience. This will enable the profession to remain truly diverse. There is a concern, of which we are sure the Board is aware, that many very able lawyers are transferring to the solicitors profession because of barriers (whether real or perceived) to obtaining full qualification to practise as barristers.

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