

Guidelines for pupillage training organisations



September 2008

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Introduction

These guidelines are a collection of current documents and regulations, relating to provision of education and training for pupils in pupillage training organisations (“PTOs”), and relevant for the academic year 2008-2009. The Education and Training Team of the Bar Standards Board may be contacted for further details on any aspect of these documents and regulations.

The Bar Standards Board and/or The Bar Council may still contact chambers and PTOs during the year with any issues that come to light and are of importance and with any changes in pupillage regulations that chambers and PTOs must be aware of.

Since 1 November 2006, a set of chambers or any other organisation may only take pupils if it is authorised by the Bar Standards Board as a Pupillage Training Organisation. The term ‘pupillage training organisations’ (or ‘PTO’) is therefore used throughout these guidelines to refer to both chambers and other organisations that are authorised to take pupils.

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Pupillage policy document: purpose of this document and what it should contain

All pupillage training organisations (PTOs) must have a pupillage policy document or documents. A set of chambers or an organisation which has not previously taken any pupils is required to submit a pupillage policy document as part of the process for applying for authorisation as a pupillage training organisation.

The guidance appended to the Code of Conduct and in the Equality and Diversity Code for the Bar state that the document(s) should cover: the types of pupillage on offer, choice of pupils, the number of pupils, roles and duties of pupils and pupil supervisors, details on the finance available to pupils including the payment of travel expenses, the pattern of pupillage, the check list used for pupillage, the method for fairly distributing briefs and other work amongst working pupils, procedures for providing pupils with an objective assessment of their progress at regular intervals during pupillage, chambers complaints and grievance procedures, general policy as to recruitment of tenants and general policy in relation to pupils not taken on as tenants. Where a PTO is not a set of chambers, equivalent information should be supplied.

There is no requirement that all the information be included in the same document and some PTOs may prefer to divide the information between two or more separate documents targeted at different audiences. Applicants for pupillage often require basic information about selection procedure, finance available, pattern of pupillage and selection for tenancy, whereas successful applicants will need a considerable amount of further information about roles and duties of pupil supervisors and pupils and details on what a PTO expects of its pupils.

When preparing a pupillage policy document, PTOs should remember that this document is intended for a newcomer into a set of chambers or an organisation who is not aware of its internal culture and procedures.

1. Guidance on preparing the pupillage policy document

1.1 Selection procedures

All pupillages must be advertised unless a PTO is granted a waiver from the compulsory advertising requirements (See Pupillage Funding and Advertising Requirements 2003).

Chapter 4 of the Equality and Diversity Code for the Bar lays down detailed guidelines for the fair selection of pupils.

Questions to consider when preparing the documentation are:

- *Where are vacancies advertised (eg OLPAS or pupillages.com website)*
- *How are pupils selected for an interview?*
- *What are the minimum selection criteria?*
- *Does a PTO encourage any particular types of applicants eg mature students, those who have undertaken mini-pupillages?*
- *How many pupils are usually recruited each year?*
- *How many first six/second six pupils are likely to be in the PTO at the same time?*

- *If the organisation is a set of chambers does it also recruit third six pupils or squatters who are likely to be in competition for tenancy?*

1.2 Roles and duties of pupils and pupil supervisors

Feedback from pupils indicates that they would welcome practical information about pupillage. It may also prevent problems or assist in resolving any that may arise if expectations are set out clearly in advance.

Questions to consider:

- *What hours are pupils expected to be in chambers/the office?*
- *What is the entitlement to annual leave?*
- *Are there any procedures for taking leave?*
- *Are there any standards of dress and behaviour that would be helpful to make clear at the outset?*
- *Do pupils need advice on the need for confidentiality?*
- *Does a PTO have any internal procedures that pupils should be aware of?*
- *What can pupils expect from pupil supervisors in terms of supervision and feedback?*
- *What will happen if a pupil supervisor is away from chambers or the office?*
- *Is the pupil supervisor responsible for providing regular assessment of progress throughout pupillage?*
- *Is the pupil supervisor responsible for organising when and what work can be done for other members of chambers/PTO?*

1.3 Funding of pupillage

The Pupillage Funding Requirements state that pupils in chambers must receive an award of at least £5,000 in the first six months of pupillage and an award or guaranteed receipts of at least £5,000 for the second six months of pupillage, paid in monthly instalments. Pupils must also be paid for travelling expenses incurred during pupillage and for compulsory pupillage courses. The Code of Conduct requires that pupils should be paid for devilling or any work done for another barrister which because of its value warrants payment, unless the pupil's award or other remuneration is on terms that it is in lieu of payment for any individual item of work.

Questions to consider

- *How much are first six pupils paid and when?*
- *If pupils are not paid by direct debit or standing order, what should they do if they do not receive payment?*
- *Does the chambers pay for any courses other than the compulsory courses? How are pupils reimbursed/paid in advance for any travel expenses?*
- *Are pupils guaranteed earning or receipts in the second six?*
- *Is the guarantee over the whole period or are fees topped up if the pupil earns less than a certain amount at the end of the month?*
- *Is the pupillage award or income guarantee in lieu of payment for any individual item of work?*
- *If not, how are pupils paid for work done for other members of chambers?*
- *Are practising pupils in chambers required to pay clerks fees? If so how much?*
- *Is there someone that the pupil can speak to if he or she is experiencing severe financial hardship?*

- *Is detailed information relating to any charges that pupils might be expected to pay during their second six available to pupils prior to commencing pupillage?*

Although PTOs other than chambers are not covered by the pupillage funding requirements, the pupillage policy document should still give full details of salaries and other payments due to pupils.

1.4 The pattern of pupillage

Pupil supervisors may only take one pupil at a time, unless the Qualifications Committee has granted permission. This is usually only granted in exceptional circumstances (eg where the other pupil supervisors have left the PTO). The Consolidated Regulations permit a pupil, with the permission of his or her pupil supervisor, to spend up to four weeks working with a solicitor or other professional person, whose work is relevant to his pupil supervisor's practice and up to four weeks may be satisfied by a pupil, with the permission of his pupil supervisor, working for a law centre or free representation unit. Placements or exchanges may also be organised between PTOs, provided that the pupil is allocated a supervisor and the Bar Standards Board is notified of the change in pupillage arrangements.

Questions to consider:

- *Do pupils remain with one pupil supervisor throughout the pupillage or do they rotate between different supervisors?*
- *Do pupils spend time with or do work for other members of chambers/office?*
- *Do pupils spend any time in other sets of chambers or organisations?*

1.5 Distribution of work

The guidance appended to the Code of Conduct requires Heads of Chambers to ensure that the distribution of work amongst all members of chambers, working pupils and squatters is carried out without discrimination and in a manner fair to all. The Equality and Diversity Code for the Bar states that the distribution of unnamed work received by chambers and the re-distribution of work between members of chambers to pupils should be systematically monitored. It also recommends that Heads of Chambers should ensure that the distribution of work to working pupils is reviewed every two months. The Equality and Diversity Code for the Bar recommends the use of fees software for this purpose and also contains sample monitoring forms.

Questions to consider:

- *Does the PTO have several pupils in the organisation at the same time?*
- *How is work distributed amongst working pupils?*
- *Is there a specific person who allocates and monitors the amount of work pupils are given?*
- *How is distribution monitored and who by?*
- *Who deals with complaints (if they arise) that work is not distributed fairly?*

1.6 Selection of pupils for tenancy / permanent employment

The Equality and Diversity Code for the Bar states that chambers must have selection procedures in which all applications are considered on an equal and non-discriminatory

footing. Further detailed guidelines are given in Chapter 4 of the Equality and Diversity Code for the Bar.

Questions to consider:

- *Are tenancy/permanent positions advertised?*
- *Where are they advertised?*
- *Are pupillages given with a view to tenancy/permanent employment in PTOs?*
- *Are vacancies open only to current pupils in PTO or are they advertised and open to anybody who fulfils the criteria to apply?*
- *What is normally the criteria for applications for tenancy/permanent employment?*
- *Are interviews held? If so, when?*
- *What is the recruitment procedure?*
- *Are pupils required to submit their completed checklist with the application for tenancy/permanent position?*
- *Will pupils be competing with other pupils for a tenancy/particular position in organisation?*
- *When will pupils be notified of the outcome of tenancy/vacancy decision?*
- *If unsuccessful, does chambers allow pupils to squat after the completion of pupillage?*
- *What happens if a pupil is not taken on as a permanent employee in an organisation?*

1.7 Good practice in pupillage

The Good Practice in Pupillage guide recommends that chambers procedures and expectations be set out as clearly as possible at the outset of pupillage to assist both pupils and chambers. If you would like a copy of Good Practice in Pupillage please contact the Education and Training Team at the Bar Standards Board.

2. Complaints and grievance procedures

Chapter 7 of the Equality and Diversity Code for the Bar states that all chambers should have written grievance procedures that should include procedures for handling complaints of discrimination and harassment. Details should be included in the pupillage policy document. Chapter 7 gives further good practice recommendations. Chambers have been invited to submit any additional relevant documentation and some may have enclosed pupillage procedures. PTOs other than chambers should also have written grievance procedures.

Questions to consider:

- *Does the PTO have a complaints and grievance procedure for pupils?*
- *Have any problems arisen in respect of pupillage? If so, how were these dealt with?*
- *Has the PTO made any amendments to its complaints procedures as a result of a complaint?*
If the Head of Chambers acts as pupil supervisor, is there another person in chambers to whom pupil(s) may turn if they have a complaint to make that relates to their pupil supervisor?

3. Check lists

All pupils must be provided with an appropriate check list. The Bar Standards Board has prepared a “common core” checklist and several Specialist Bar Associations have drafted specialist sections to assist PTOs and pupils to meet their obligations under the Code of Conduct. If none of the specialist sections are appropriate, PTOs may draw up their own

sections to take into account the nature of their work and the type of pupillage that is provided.

Pupil supervisors are required to countersign check lists completed by pupils. All pupils must submit a copy of their completed check list to the Bar Standards Board together with a certificate of satisfactory completion of the second six pupillage.

Questions to consider

- *Which check list does the PTO use? This should be identified in the pupillage policy document.*
- *If the PTO is using its own specialist check list then it should have been approved by the Bar Standards Board and there will be a note to this effect on the any other information section of the form.*
- *If check lists of pupils who completed their pupillage before 2003 have not been retained has the PTO provided a satisfactory explanation as to why not?*
- *Have there been any parts of the check lists which pupils have been unable to complete?*

All items in Part One should have been completed. The Specialist Bar Associations will have indicated with an asterisk any items in Part Two that they consider it essential to cover in the non practising period of pupillage. It is not essential for the pupil to have covered every other item on the check list but a good range should have been covered. Omissions should be noted in Part Three of each check list.

- *If omissions were identified, are adequate steps being taken to overcome any deficiency in training?*

The annual return should give an overview and Part Three of each check list should identify any major omissions and note what action the pupil proposes to take in order to remedy them. The adequacy of the steps being taken depends to some extent on which part of the check list the pupil has been unable to complete. Items marked with an asterisk were those items that Specialist Bar Associations considered essential to cover in the non-practising period of pupillage.

- *What other experience does the PTO offer?*

These will be noted in Part Three of the check lists, the pupillage policy document or other documentation provided by the chambers. Examples include marshalling, in-house education and training etc.

Chambers/PTOs may implement other procedures that they feel are appropriate and suitable for their practice/organisation.

Pupil supervisors

Criteria and procedure to become a pupil supervisor

In order to become a pupil supervisor, the barrister needs to contact his/her own Inn – they will send him/her the application form which he/she will have to complete and submit to his/her own Inn (the application forms vary slightly). The Inn will check that the barrister fulfils the criteria, seek references and then inform the barrister that he/she needs to attend a briefing session for pupil supervisors. The barrister can attend the session at any Inn, they are run several times a year, usually at 5:30pm. Once the barrister has had his/her application approved and attended the briefing session for pupil supervisors, he/she is put on the register of ‘registered pupil supervisors’, held by the Inns and the Bar Standards Board.

To obtain the application form and information on when the briefing sessions are held, please contact the Inn’s student officers. Their contact details are:

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| Lincoln’s Inn The Treasury Office Lincoln’s Inn London WC2A 3LT www.lincolnsinn.org.uk Tel: 020 7405 0138 | Middle Temple The Treasury 2 Plowden Buildings Temple London EC4Y 9AT www.middletemple.org.uk Tel: 020 7427 4800 |
| Gray’s Inn The Treasury 8 South Square Gray’s Inn London WC1R 5EU www.graysinn.org.uk Tel: 020 7458 7900 | Inner Temple Treasury Office Inner Temple London EC4Y 7HL www.innertemple.org.uk Tel: 020 7797 8214 |

A summary of Consolidated Regulations regarding pupil supervisors

Regulations 47 - 50 of the Consolidated Regulations set out the rules regarding eligibility to be registered as and to act as a pupil-supervisor. In summary, a barrister is eligible to be registered as a pupil-supervisor if:

- He/she has practised as either a barrister or a solicitor in either the United Kingdom or another member state of the European Union for at least six of the previous eight years
- He/she is currently practising as a barrister
- He/she has made practice as a barrister his primary occupation for the two years immediately preceding the date of his application
- He/she has been entitled to exercise a right of audience as a barrister for the previous two years

Once registered, a pupil-supervisor may take a pupil if his/her chambers or employer is registered as a pupillage training organisation.

Guidance for pupil supervisors on general obligations and functions

The Pupillage Sub-Committee has issued the following guidance for pupil supervisors on their general obligations and functions.

1. On the first day:
 - (a) Time should be taken to talk to the pupil about practice and the pupillage generally.
 - (b) The pupil should be introduced to clerks, secretarial staff and other persons within the organisation associated with pupillage. There should be an opportunity to discuss what is expected of the pupil during pupillage.
2. During pupillage all pupils must complete further training in advocacy (provided by the pupil's Inn or Circuit) and also attend a course covering a wide range of issues relating to starting out in practice at the Bar (the Advice to Counsel course). Pupils who have not prepared appropriately or who do not commit themselves to participating in the exercises will be regarded as not having attended and will be expected to complete the course again. Where a pupil's performance is particularly weak in any aspect of their advocacy the pupil supervisor may be informed of the problems with the pupil's performance. The pupil supervisor should encourage the pupil to retake the course, where possible, and should identify where extra support is needed. A pupil's improvement in those areas identified as being weak on the course should be taken into account when considering whether to sign the pupil's certification form. Performance on the advocacy course is however only one factor that should be added to a view taken over the six months of pupillage.
3. The pupil supervisor should ensure that the pupil is provided with, and retains, the appropriate check list, and completes it conscientiously and accurately. The pupil supervisor should sign and date the check list and remind the pupil that the check list should be enclosed when submitting the Certificate of Satisfactory Completion of the Practising Six. As part of monitoring of pupillage, check lists will be made available to the Monitoring of Pupillage panels when the PTO is being reviewed as part of this scheme.
4. The pupil should be required to read the pupil supervisor's papers and draft pleadings and other documents, including opinions where applicable. The pupil should also be required to accompany the pupil supervisor to court on sufficient occasions so that the pupil has the opportunity to do all such work and gain all such experience as is appropriate for a person commencing practice in the type of work done by the pupil supervisor, and in particular to enable the pupil to complete the check list.
5. Specific and detailed instruction in pleading should be given, in particular, in relation to those pleadings and other documents which form part of the check list.
6. In conferences:
 - (a) The pupil should read the papers before the conference so that the most can be gained from the conference.
 - (b) The pupil should be informed in advance what is expected from him/her in conference. In particular, if the pupil supervisor does not wish the pupil to speak at all in the conferences, the pupil should be told so.

7. The pupil should attend at least enough conferences to enable him/her to obtain experience as to how to conduct conferences.
8. The pupil should be well grounded in the rules of conduct and etiquette at the Bar.
9. The pupil should be exposed to other members of the chambers or organisation who should have an opportunity to assess his/her work. They should all be given a 'fair crack of the whip' so that if any pupil is not taken on at the end of pupillage it cannot be said that there has been any unfair treatment in comparison with other pupils.
10. All work done by the pupil should be discussed with as much feedback as possible given to the pupil. All conferences and court work should be discussed with the pupil. In the second six months, the pupil supervisor should monitor all work done by the pupil so as to be able to give such guidance as necessary.
11. The pupil should be encouraged to discuss problems and questions relating to practice with the pupil supervisor and other members of the chambers or organisation as they arise.
12. Every pupil supervisor should be aware of the obligation, at the end of each period of pupillage, to provide the pupil with a certificate complying with Regulation 52.1 or 52.2 of the Consolidated Regulations.
13. It should be noted that if a pupil supervisor fails to certify a pupil where it is proper to do so (ie if the pupil has completed his or her pupillage satisfactorily) it is a breach of the guidelines set out in the Code of Conduct.
14. The routes open to pupils who have been unable to obtain a relevant certificate from their pupil supervisor should be made clear ie a certificate may be accepted from the pupil supervisor's Head of Chambers or the Pupillage Training Principal, the person designated by the Head of Chambers or the Pupillage Training Principal as the person in charge of pupillage, or another person acceptable to the Supervisors of the Bench and the Bar Standards Board. If a pupil remains unable to obtain a relevant certificate the pupil may appeal to (a) the Supervisors of the Bench of the relevant Inn and then (b) the Qualifications Committee (Consolidated Regulation 52.3, 52.4, 52.5 and 52.6).
15. If it is clear that a pupil will not be invited to remain in chambers or the organisation at the end of the pupillage, the pupil should be informed of this as soon as possible so that they can begin to make alternative arrangements.
16. Pupil supervisors should familiarise themselves with the Equality and Diversity Code for the Bar, the Pupillage File and the guide to Good Practice in Pupillage.
17. The pupil supervisor should review distribution of work to pupils not less than every two months to ensure male and female pupils of all ethnic groups are given a fair and equal access to all opportunities that are offered to pupils during pupillage. Prompt remedial action should be taken where required.
18. Every pupil supervisor should satisfy themselves that all reasonable steps have been taken to ensure that, during pupillage, no pupil is discriminated against on the grounds of race, colour, ethnic or national origin, nationality, citizenship, sex, sexual orientation, marital status, disability, religion or political persuasion.
19. The following points in relation to grievances should be noted:

- (a) Each PTO must have a written grievance procedure, which should be brought to the attention of each pupil.
- (b) Pupils should be able to raise matters concerning pupillage with a member of the PTO other than their pupil supervisor. That person should be identified in the grievance procedure. The grievance procedure should also set out clearly what needs to be done in order to invoke the procedure and how the procedure operates.
- (c) Ultimately the pupil should be able to take a complaint either to the Head of Chambers or Pupillage Training Principal or to a three-person committee appointed for the purpose of hearing complaints pursuant to the grievance procedure. The final court of appeal should be identified in the grievance procedure.

Registration of pupillage

Pupils must register their pupillage with the Bar Standards Board on the prescribed form, Schedule 14 Part 1. Please see annex 1 for a copy of this form.

Pupils must register their pupillage before their pupillage commences. Together with the registration form, they must also submit the supplementary information survey, a copy of which is attached to the registration form.

Where possible, registration forms should be returned two weeks prior to commencement of pupillage. Please note that pupils will need to state who their pupil supervisor will be and a specific commencement date. It is therefore advisable that such arrangements are made in advance.

You may wish to remind your pupil(s) that their registration will be confirmed by receipt of an e-mail from the Bar Standards Board. If they have not received such a confirmation, they should contact the Bar Standards Board offices.

Before a candidate can commence pupillage he/she must successfully pass the Bar Vocational Course (including all re-sits). Pupils may commence their first six before they are called but they must be called before they commence the second six pupillage.

Pupils are not entitled to supply legal services or exercise any right of audience as a barrister during their first six, except that they may accept a noting brief with the permission of their pupil supervisor or Head of Chambers.

For further information regarding registration please contact Rachel Reeves, Training Compliance Assistant, 020 7611 1444, RReeves@barstandardsboard.org.uk

Changes in pupillage

The Bar Standards Board keeps track of pupils' pupillages and any change during pupillage should be notified, on the prescribed form, Schedule 14 Part 2. Please see annex 2 for a copy of this form. The reverse of the form denotes what constitutes changes in pupillage.

For further information regarding changes in pupillage please contact Rachel Reeves, Training Compliance Assistant, 020 7611 1444, RReeves@barstandardsboard.org.uk

Satisfactory completion of pupillage

Completion of the first six pupillage

On completion of their first six pupillage, pupils have to submit a *Certificate of Satisfactory Completion of Pupillage* form to the Bar Standards Board. Please see annex 3 for a copy of this form. The form needs to be signed by the pupil's pupil supervisor, but the 'final certification' box should be left blank.

On the basis of satisfactory completion of the first six pupillage, pupils are issued with a provisional qualifying certificate.

Completion of the second six pupillage

On completion of their second six pupillage, pupils have to submit another *Certificate of Satisfactory Completion of Pupillage* form to the Bar Standards Board. Together with this form, pupils have to submit a copy of the completed check list. The pupil supervisor should sign both the main certificate and the final certification box.

On the basis of satisfactory completion of the first six pupillage, pupils are issued with a full qualification certificate.

For further information regarding this form please contact Rachel Reeves, Training Compliance Assistant, 020 7611 1444, RReeves@barstandardsboard.org.uk

Appraisals

Appraisals in PTOs

Your PTO may already have a system in place for conducting regular appraisals with pupils. If not, you may wish to introduce a system of running appraisals. The intention of this section is to provide you with a summary of what an appraisal is and suggestions as to how it should be conducted. Sample appraisal forms are shown in annexes 4 and 5. They are enclosed as an example: if you have produced your own forms, please continue to use them. If you would like to shorten/expand or tailor the forms please e-mail aclerk@barstandardsboard.org.uk for an electronic copy of the form.

The appraisal process is an opportunity to give structured and objective feedback to a pupil which should lead to improved performance. It is also an opportunity to get feedback from pupils about how they see their roles, the work they have done and the way in which they are being supervised.

The appraisal is expected to achieve a wide range of objectives, including:

- Reviewing an individual's performance over the previous few months and setting objectives for future performance;
- Identifying pupil's strengths and areas for development;
- Encouraging a pupil to improve their performance where this is necessary;
- Enabling pupil supervisors to provide feedback to pupils.

Pupils should be able to provide the major contribution – it is, after all, their efforts being evaluated. To enable the appraisal to be productive, the pupil must have time to reflect and analyse the circumstances prevailing, before the appraisal takes place. This enables the pupil to identify aspects to be brought up for discussion at the appraisal. It also promotes goodwill and keeps the appraisal objective and constructive.

Pupil supervisors should ensure that they have regular meetings with pupils throughout the year and in particular after the appraisal to discuss progress and follow up any action that should have been taken.

Guidance and good practice for pupil supervisors conducting an appraisal interview

Preparation

A record of the previous performance appraisal can provide you with valuable data. If completed by you it should serve as a useful reminder. If completed by a previous appraiser then you are reading the summary of another person's view and caution should be exercised in interpretation.

If the pupil was previously working in a different role the previous appraisal contents may not be relevant for the new role, although there may be some useful information regarding behavioural aspects of performance.

It must be stressed that the appraisal is not an opportunity to reiterate disciplinary messages or to enact formal procedures; these issues should be dealt with separately.

Self Review

You should encourage the pupil to prepare for the interview by completing a copy of the appraisal preparation form. This is a good way of ensuring the pupil is ready for the interview, has a reasonable understanding of what to expect and obtains a structured approach to self-reflection. It also provides an opportunity for a pre-appraisal briefing.

A sample copy of the Self Appraisal Form is shown in annex 4. If you would like to adapt this form, please e-mail aclerk@barstandardsboard.org.uk for an electronic copy of the form or download a copy from our website.

The pupil should be able to speak freely about his/her pupillage, including the following:

- the contents of his/her current roles and duties;
- the pupil supervisor's role and his/her contribution to the overall objectives of pupillage;
- strengths and weaknesses in relation to the skills, knowledge, abilities and qualities necessary to perform the duties required;
- the resources available to help complete the work;
- motivation, confidence and interest in the tasks assigned to the pupil;
- performance against previously agreed objectives;
- opportunities for improvement;

- ideas for future objectives;
- training and development;
- the effectiveness of training previously received (where appropriate);
- the managerial style of their pupil supervisor;
- relationships with colleagues/members of chambers.

The role of the appraiser

You are expected to play several roles:

- The judge – giving feedback on pupil’s past performance;
- The helper – helping the pupil to plan their future development;
- The partner – working together to plan goals and targets for the next period, for example.

You must take the lead role. You must be objective and leave all personal feelings or prejudices to one side, drawing on real evidence of performance levels. Be aware of your own personality characteristics, which will affect the appraisal interview. Give praise where it is justified. Clarify and summarise the plans that are agreed.

The pupil may wish to use the appraisal to unburden personal problems; in such situations there may be a requirement for a further counselling interview conducted separately from the appraisal itself.

The role of the pupil

Make sure the pupil fully understands the appraisal process before the actual interview. Remember that the interview is for them and about them. They should also have a realistic view of their own performance ascertained through self-appraisal prior to the main appraisal interview (by completing the appraisal preparation form, although this is not compulsory).

Following up the appraisal interview

Shortly after the actual interview you need to complete the appraisal form. Ensure that the pupil signs the form and has the opportunity to make comments. The pupil should be given the opportunity to view your comments. It should then be forwarded to the Chairman of Pupillage Committee in the PTO. The form must be sealed in an envelope and marked “Personal for” when it is being distributed. You must also summarise on paper immediately after the appraisal interview the main points of any discussions which require follow-up action, listing the action which has been agreed. This document should be given a caveat of ‘Private and Confidential’. A copy of this should be given to the individual and the Chairman of the Pupillage Committee in a sealed envelope marked “Personal for” and then you must be seen to carry out agreed action. However, you may find that the pupil simply agrees with the contents of the appraisal, has no comments to make and that there is no action to be taken.

An example of an appraisal form is demonstrated in annex 5. Please e-mail the Pupillage Officer aclerk@barstandardsboard.org.uk for an electronic copy of the form, or download a copy from our website.

Assessments

Through the Monitoring of Pupillage scheme it became apparent that pupils would welcome the opportunity of being assessed at regular intervals (say every three months) during their pupillage. This would enable them to have some understanding of their progress and what difficulties, if any, they may face in tenancy selection.

Many pupils and pupil supervisors felt that the assessment should be formal with a document produced and signed by the assessor or committee of assessors.

Several PTOs already follow such a procedure. If you consider that assessment would have a useful function then it is suggested that you put a procedure in place.

An example of a pro-forma assessment form is shown in annex 6 which you are welcome to adapt and tailor to your own need. If you would like to receive this form via e-mail then please contact the Pupillage Officer on aclerk@barstandardsboard.org.uk or download a copy from our website.

Check lists / work diary

Pupils are required to complete the check list and submit a copy to the Bar Standards Board, together with the final Certificate of Satisfactory Completion of Pupillage.

The check list consists of the 'common core' part which should be completed by all pupils. A copy of this part of the check list can be found in the Pupillage File. In addition, there are specialist parts of the check list (Part V) and each pupil should complete one of them. Pupils can request a copy of one or more of the specialist parts from the Bar Standards Board or download it from the website www.barstandardsboard.org.uk. PTOs may have prepared their own specialist part of the check list in which case pupils should use these.

The check list is a guide for pupils and their pupil supervisors in planning the training that the pupils should receive during their pupillage. It is the duty of every pupil supervisor to ensure that the pupil assigned to them receives a sufficiently broad legal training to deal properly with the type of work that they are likely to experience during their early years in independent practice or in employment.

Pupil supervisors should encourage pupils to keep a work diary to which the check list should cross-refer during their pupillage. This will enable the pupil supervisor to check when a particular assignment was undertaken, in relation to what this was done, who the pupil worked with/for, and how long it took the pupil to complete the work. The work diary will help the pupil to complete the check list more comprehensively.

Pupillage in employment

Pupillage must be undertaken in an authorised PTO. Although most PTOs are chambers, other organisations can apply for authorisation. Where an organisation does not meet the criteria for authorisation as a PTO, it may still be able to offer opportunities for experience that can count towards pupillage through external training or reduction in pupillage.

External training

Organisations which have not been approved by the Bar Standards Board as PTOs may be able to offer external training placements. The following forms of external training may count towards the practising (ie second) six months of pupillage:

- Up to six months of time spent with a solicitor or with an EU lawyer;
- A five months stage in the legal departments of the European Commission in Brussels or Luxembourg;
- Up to six weeks serving as a marshal with a Judge; or
- Such other form of training approved by the Qualifications Committee as appropriate in an individual case.

Please note:

- Prior approval must be obtained from the Qualifications Committee for all external training placements
- External training may only count towards the second six months of pupillage
- External training may only be undertaken after completion of the non-practising period of pupillage and Call.

Reduction in pupillage

The Qualifications Committee has the discretion to reduce pupillage in an individual case if it is satisfied that the individual has obtained some equivalent skills and experience.

Further information and application forms are available from the Bar Standards Board website at <http://www.barstandardsboard.org.uk> Alternatively, you may contact Pauline Smith, the Training Regulations Officer on psmith@barstandardsboard.org.uk for further information.

All pupillages and external placements must be registered with the Bar Standards Board prior to their commencement on the prescribed forms.

Qualified legal practitioners

Several sets of chambers have asked for guidance on the regulations governing pupillages that fall outside the standard form. One of these is where the applicant has been called to the Bar via the qualified legal practitioner route rather than the Bar Vocational Course route.

Qualified Legal Practitioners are applicants who are qualified as solicitors, Northern Irish barristers, Scottish advocates, common law practitioners or legal academics. They may be called to the Bar without the requirement to complete the Bar Vocational Course, but may be required to undertake all or part of a 12 months pupillage. They are not subject to the Pupillage Funding and Advertising Requirements.

Qualified legal practitioners who are required to undertake the Bar Vocational Course and a full 12 months pupillage are required to apply for pupillage on the same basis as BVC graduates, through OLPAS or in accordance with recruitment procedures that a PTO operates. They are subject to Pupillage Funding and Advertising Requirements.

In situations of this kind, the Bar Standards Board places responsibility on the PTO that has recruited the pupil to ensure that the pupillage is advertised and that the selection procedures are fair to all applicants. PTOs have a responsibility to ensure that the person is supervised by a registered pupil supervisor who will have to indicate whether or not the pupillage has been completed satisfactorily.

For further detailed information regarding this please contact Pauline Smith (psmith@barstandardsboard.org.uk) or Joanne Dixon (jdixon@barstandardsboard.org.uk) at the Bar Standards Board.

Deferred pupillages

Over the years, PTOs and prospective pupils have sought advice on deferral of pupillage. It came to light that the Bar Standards Board did not have a policy on deferred pupillages and that PTOs dealt with deferrals in their own way.

The Pupillage Sub-Committee considered the position of several PTOs where pupillages had been deferred, and looked into PTOs which have refused to defer pupillages that have been offered to commence on a particular date.

The Pupillage Sub-Committee concluded that a final decision on whether a pupillage should/should not be deferred should remain at the PTOs discretion as the circumstances of those PTOs that wish to offer a particular pupillage and of those individuals who seek a deferral differ. However, when making a decision on deferral of pupillage the PTO should take into account any discrimination/disability/funding/future tenancy decision issue that might arise and the Pupillage Committee of the PTO as a whole should make decisions on deferrals. If provisions of the Disability Discrimination Act (DDA '95) are applicable then a PTO should be obliged to defer a pupillage even if it operates a 'no deferrals' policy. PTOs might wish to contact the Equality and Diversity Officers at the Bar Standards Board and seek advice if unsure about provisions of legislation.

If a PTO deferred a pupillage and thereby created a pupillage vacancy then the next person on the list should be offered the vacant pupillage: if the list had been exhausted then an advertisement for the vacant pupillage should be placed.

If a PTO deferred a pupillage to, say, the following year, then the PTO may need to consider applying to the Pupillage Funding and Advertising Panel for a waiver from advertising requirements for that pupillage.

Part-time pupillages

Under the current Code it is not possible to offer/undertake pupillage part-time. Any PTO wishing to offer a part-time pupillage would need to seek a waiver from (i) the Qualifications Committee and (ii) the Standards Committee.

If a PTO wishes to consider the possibility of offering pupillage part-time then it is suggested that the following be taken into account:

- Indirect sex discrimination issue if women wanting to do pupillage part-time for childcare reasons were accepted;
- Timing of decisions on tenancies / pupillage positions;
- Pupil supervisors would be tied to a part-time pupil for longer.

Further points which would need to be considered, are:

- Hours of work in a part-time pupillage (if the pupil was undertaking a litigation based pupillage then he/she might not be able to do shorter days - short days would, on the other hand, not represent a problem in several other areas of practice);
- Days of work (could a part-time pupil have fixed days of work (what would happen if an arrangement was for Monday and Tuesday but the pupil worked Mondays, Wednesdays, Fridays?);
- Should there be a minimum/maximum period within which a part-time pupillage should be completed? The Board was of the opinion that it should not be longer than 2 years;
- The BSB took account of the funding regulations. Qualified lawyers and other qualified professionals are excluded from compulsory funding rule and requests for undertaking pupillage might increase;
- The Board was concerned that a pupil who would do a sporadic pupillage would never be able to see a case from the beginning to its completion in detail.

The Bar Standards Board is of the view that that part-time pupillages should, in theory, be possible. However, it is not possible to lay down rules as to when and how they should be undertaken as the requests for part time pupillages are usually based on individual's personal circumstances which need to be looked at in conjunction with the nature of work that the PTO does. It is important that each part-time pupillage is planned in detail in advance.

Pupillage contract

The Bar Standards Board recommends that PTOs draw up a contract before the commencement of pupillage between the PTO and every individual pupil, laying out in detail what the PTO policies and procedures are during pupillage as well as the grounds on which pupillage might be terminated.

An example of how such a contract can be laid out is given on the following pages, however, a PTO may draw up its own.

This contract is made on

Between (name of chambers) and
(name of pupil)

1. The purpose of this contract is to set out the principal duties and responsibilities of the chambers and the pupil in accordance with the Code of Conduct, Consolidated Regulations and guidance issued from time to time by the Bar Standards Board.
2. Chambers agrees to provide training to the pupil in accordance with the requirements of the Bar Standards Board.
3. The pupil agrees to be trained by chambers.
4. Chambers has appointedto be the pupil supervisor who will ensure that training is given in accordance with the requirements of the Bar Standards Board.

Date of commencement and fixed term

5. This contract begins onand continues for six months/twelve months, subject to the provisions for earlier termination.

Undertakings of chambers

Award

6. The chambers will:
 - i. make an award of £.....for the first six months/the full twelve months payable by equal monthly instalments;
 - ii. guarantees that, if, during the practising six months, the pupil's receipts are below the amount of the minimum award prescribed by the Bar Standards Board, the pupil will receive from chambers a sum equal to the difference between the receipts and the minimum award.
 - iii. Reimburse the pupil for reasonable expenses incurred on travel for the purposes of the pupillage.

7. Chambers may delegate all or some of its responsibilities under this contract to a member of chambers including the member of chambers who is the pupil's supervisor. Chambers will inform the pupil of the name or names of those to whom responsibilities have been delegated.
8. Chambers will provide the pupil with an approved Pupillage Checklist at the commencement of pupillage; and:
 - a. Provide the pupil with the necessary instruction and opportunities to complete Part One during the non-practising period of pupillage;
 - b. Provide the pupil with the opportunity to complete the remaining parts including, where appropriate, the opportunities to gain experience of practice;
 - c. Provide the pupil with the opportunity to gain experience of both written and oral advocacy.
9. Chambers will:
 - a. ensure that adequate arrangements are made for the supervision and guidance of the pupil;
 - b. make suitable arrangements to monitor the pupil's progress and provide feedback on progress;
 - c. ensure that there is a fair system for the distribution of work amongst pupils;
 - d. ensure that there are adequate arrangements for dealing with grievances and other difficulties in respect of the pupillage of the pupil and that these are made known to the pupil.
10. Chambers will:
 - a. Permit the pupil leave to attend compulsory training courses prescribed by the Bar Standards Board;
 - b. Pay any fees and expenses incurred by the pupil in attending compulsory training courses prescribed by the Bar Standards Board
 - c. Permit the pupil to take ten days leave in each six month period of pupillage, such leave to include public holidays and days when the chambers are closed but be in addition to leave to attend compulsory courses.

Undertakings of the pupil

11. The pupil will:
 - a. Carry out faithfully and diligently any task of an educational nature or reasonable instructions given by the pupil supervisor or other person to whom responsibility for pupillage matters has been delegated by chambers.
 - b. Treat all information about chambers and clients of its members and those clients' affairs as wholly confidential;
 - c. Keep a proper record of training received and work done;
 - d. Comply with the requirements of the Bar Standards Board;
 - e. Attend courses and interviews as required by chambers and the Bar Standards Board.

Disputes

12. Any dispute about this contract or the conduct of either party in relation to it may be referred to the head of chambers or another person in chambers who must deal with it in two weeks of referral.
13. Wherever possible the parties to any dispute should seek its resolution through the chambers grievance procedures.
14. In the event of the matter being outside the scope of the chambers grievance procedure and not being resolved within two weeks of referral, the matter may be referred by either party to the Bar Standards Board or such person as it may appoint.

Applicable law

15. This contract shall be subject to English Law.

Notice

16. Any notice in respect of matters in this contract must be in writing and given either personally or by post addressed to either party at the address set out in this contract. Where notice is posted, it shall be deemed served two working days after posting.

Termination

17. This contract may be terminated by:
 - a. Agreement between the chambers and pupil.
 - b. Chambers in the event of:
 - i. Serious misconduct by the pupil;
 - ii. Poor performance by the pupil provided that at least one formal written warning about performance has been given prior to the termination.
 - c. One month's notice in writing given by the pupil.
18. The contract will not be terminated by the dissolution of chambers.

Signed by:

On behalf of(Chambers)

Signed:

Pupil

Date

Recruitment of pupils

Introduction

Pupillage is the final stage in training for practice at the Bar and, on its completion, a barrister is entitled to provide legal services and exercise a right of audience in all courts. Recruitment to pupillage is therefore an activity which is of vital importance both to applicants and for the long term health and vitality of the Bar.

The purpose of this section is to assist PTOs to approach recruitment in a responsible and reasonable way and thereby ensure fairness to applicants and a secure future not only for themselves but also for the profession.

This section brings together material from various sources. Some of the requirements are compulsory while others are recommended by the Bar Standards Board. In addition, where appropriate, the section follows the approach adopted by the Law Society in its guide to good practice in the recruitment of trainee solicitors. Wherever possible the status of the material will be made clear in this document. In addition to this section, PTOs must take into account relevant legislation and the provisions of the Equality and Diversity Code for the Bar.

Underlying principles

Acknowledging the legitimate interest of those recruiting pupils to want to select the best, the following principles underlie this section:

- That the Bar should strive to be representative of all sections of society.
- That good equal opportunities practices should permeate the whole recruitment and selection process.
- That the academic demands being faced by potential applicants should be respected.
- That the financial predicament of many students should be taken into account.

The chapter is divided in seven sections. Section One considers promotional activities, Section Two deals with mini-pupillages and work experience, Section Three covers OLPAS, Section Four sets out the rules relating to advertising, Sections Five and Six cover selection and interviews respectively. Section Seven sets out materials on offers and acceptance of offers by prospective pupils.

Section one

Promotional activities

It is recognised that PTOs have a legitimate interest in promoting themselves amongst those who may be interested in joining them. This may take the form of preparation and distribution of printed and electronic materials, the funding of prizes and competitions and the hosting of social events. These activities have a role to play but it needs to be recognised that targeting a single higher education institution (HEI) to the exclusion of all others is not good commercial sense in the long term for the following reasons:

- (i) It cannot be assumed that the best future barristers are only to be found in one institution.
- (ii) An organisation which gains the reputation of recruiting from only one institution may find that, in the longer term, this works against its interests.
- (iii) These activities harm the reputation of the profession as a whole because it lays it open to charges of social elitism.

1. The Bar Standards Board recommends that PTOs keep their promotional activities under review and, in determining priorities, take into account the importance of promoting themselves amongst the widest possible number of potential entrants to the profession.
2. Where a PTO intends to visit a HEI, they should advise the institution's careers service in advance. If possible, invitation to attend any event should be extended to students in any neighbouring HEIs.
3. Promotional activities directed at first or second year undergraduates should focus on careers at the Bar generally as well as a particular PTO or area of specialism.

Section two

Mini-pupillages and work experience

4. A mini-pupillage is often the first experience a person will have of the Bar. PTOs should therefore seek to ensure that the opportunities to take a mini pupillage are made available as widely as possible.
5. PTOs may wish to consider taking positive action to make mini pupillage opportunities available to groups which are under-represented at the Bar.
6. Where a mini-pupillage forms part of the selection procedures for the award of a pupillage, PTOs must advertise its mini-pupillages in accordance with this Guide and comply with the Equality and Diversity Code for the Bar when selecting individuals for a mini-pupillage.

Section three

OLPAS

7. All PTOs are urged to recruit pupils through the OLPAS system.
8. Where a PTO decides that it does not wish to use the OLPAS system, it should avoid any action which, whether directly or indirectly, may undermine or be seen to undermine, the OLPAS system.

Section four

Advertising pupillage vacancies

9. All pupillages which are subject to compulsory funding in accordance with 404(2)(c)(ii) of the Code of Conduct must be advertised.

10. Vacancies must be advertised on the ‘pupillages.com’ or OLPAS website and the advertisement must contain:

- (a) The name and address of chambers;
- (b) The number of tenants;
- (c) A brief statement on the work undertaken by chambers eg “predominately criminal”;
- (d) The procedure for application ie OLPAS or on line to chambers or using a chambers application form with information on where it may be obtained;
- (e) When the pupillage is to commence;
- (f) The date of closure for the receipt of applications;
- (g) The date by which a decision on the award of the pupillage will be made.

11. An advertisement of a pupillage vacancy must be on site for a minimum of two weeks from the date that it has been placed on the site.

12. If the pupillage is unfilled after the recruitment process has taken place, then it must be re-advertised.

Section five

Selection

13. PTOs must formally agree and set out a selection procedure. When developing their selection procedures, PTOs should have regard to any relevant guidance issued by the Bar Standards Board and in particular to the Equality and Diversity Code for the Bar.

14. All pupils should be selected through the same selection procedure. The procedure may make special provision for the selection of persons for non standard pupillages.

15. Where a PTO is not a member of OLPAS, it is recommended that it develops and uses an application form rather than asking for the submission of a curriculum vitae.

16. Decisions on applications should be taken by more than one member of the PTO.

17. All selections should be made against written objective and explicit selection criteria.

Section six

Interviews

18. PTOs should not hold interviews at times when potential applicants may be involved in final preparation for and sitting examinations at an institution of higher education. No offers should be made between 1 May and 31 July.

19. Where interviews or other parts of the selection process take place during term time, PTOs should treat sympathetically any request for an alternative date made by the applicant for academic or other good reason.

20. The conduct of interviews should accord with the Equality and Diversity Code for the Bar and good equal opportunities practices.

21. PTOs should ensure that at least one member of any interview panel has undertaken an appropriate course of training. Members of the panel who have not been trained should be given clear guidance by the PTO on how to conduct themselves when interviewing.

22. Where persons invited to interview live some distance from the PTO, it should give serious consideration to making a contribution towards their travel expenses.
23. Wherever possible, PTOs should advise applicants at interview when they are likely to reach a decision on their pupillage applications.

Section seven

Offers and acceptances

24. The offer of a pupillage and its acceptance by the person to whom it is made will give rise to a legally binding contract for education and training¹.
25. All offers of pupillage must be made by PTOs through OLPAS (if a member) or in writing².
26. The offer of a pupillage must contain the date of commencement, the details of the award to be made to the pupil and such other information as the Bar Standards Board may require.
27. Except with the prior approval of the Bar Standards Board, no offer of a pupillage may be made without including a provision for the payment of an award at the level prescribed by the Bar Standards Board.
28. All offers have to remain open for at least 14 days.
29. No offers can be made before 31st July in the year prior to the student's final year (i.e. during 2nd year for law undergraduates and final year for non-law undergraduates).
30. No PTO is allowed to make offers from 1 May to 31 July
31. For pupillage providers in the OLPAS Summer Season, the closing date for applications is 30 April and offers are to be sent out no earlier than 1 August. For those in the Autumn Season the closing date is 30 September and offers are to be sent out no earlier than 31 October.
32. An applicant should respond as quickly as possible to any offer of pupillage which is made.
33. Applicants should not accumulate offers and may not retain more than two offers for more than seven days³.
34. An applicant who accepts an offer of pupillage should withdraw all other applications for pupillage and make no further applications.⁴
35. All pupilages must be registered with the Bar Standards Board before commencement.

¹ Edmonds v Lawson 2000 CA

² This includes email.

³ Although this is an OLPAS rule, it should apply to all applicants. A similar rule is applied to those in receipt of offers of solicitor's training contracts.

⁴ The Law Society has a similar rule.

Pupillage applicants who have been granted a reduction in pupillage

External training and reduction in pupillage

An individual may apply to the Qualifications Committee of the Bar Standards Board to undertake a period of external training. If the application is approved then the time spent in such training counts against the practising six months of pupillage. The Qualifications Committee determines how much time counts. These applications are made prospectively, and the applicant knows in advance how much time off his/her practising six months he/she will get.

An individual may apply retrospectively for a reduction in pupillage. These applications are made to the Qualifications Committee which determines how much time against either the non-practising or the practising period of pupillage an individual is granted on the basis of legal experience gained elsewhere.

In summary, applications for external training and reduction in pupillage are similar: the former is made prospectively and the latter retrospectively. The number of these applications is large.

Advertising of pupillages

Since January 2003 it has been compulsory for chambers to advertise pupillage vacancies: this rule is part of the Code of Conduct (Annex R, Pupillage Funding and Advertising Requirements 2003).

Individuals who are required to undertake less than a 12 months pupillage often approach PTOs directly, explaining their situation and asking whether the PTO would be prepared to offer them, say three months off their second six months pupillage.

Guidelines to PTOs that are approached by such individuals

Applicants who only need to undertake a 'reduced pupillage' should apply through OLPAS and PTOs should judge their application in the same way as all other applications. It is up to the PTO to decide whether after three months of their second six pupillage they have satisfactorily completed their pupillage. If this is the case, the pupil supervisor should sign the final certification of completion of pupillage and the pupil will be granted their Full Qualification Certificate after three months of their second six pupillage. If the individual is interested in applying for tenancy or a permanent position in that PTO then the PTO may keep the individual on as a third six pupil and deal with their application for tenancy together with all tenancy applications. If they only wish to get a Full Qualification Certificate then they would leave the PTO after three months of their second six pupillage provided that they have successfully completed all parts of training. If the pupil supervisor is not satisfied that the pupil is fit to practise after three months of

practising pupillage, he/she may refuse to sign the final certification and the PTO should allow the pupil to continue in pupillage for up to a further three months, until the pupil has reached the expected standard.

Pupillage funding and advertising requirements 2003

As of 1 January 2003 all pupillages have had to be funded and advertised, in accordance with the Pupillage Funding and Advertising Requirements 2003. The Code of Conduct has been amended to incorporate these requirements, and a copy of the regulations is attached on the following pages.

Payment of travel expenses to pupils

Good practices

A number of pupils reported extremely good practices that were in place for payment of travel expenses, namely:

- Chambers pay a monthly sum in advance to cover travel costs;
- On return from courts pupils submit a form and travel costs are reimbursed the following day;
- When going to a court outside London pupils are paid the cost of predicted travel ticket in advance and any difference is reimbursed promptly on return from court
- London travel card is paid for by chambers;
- Some pupils are contacted in advance of commencement of their pupillage and asked what assistance they would need with regards to financial needs.

Bad practices

Unfortunately more pupils report problems that they had encountered with regards to travel costs. These include:

- No administration is in place for payment of travel costs;
- It is not clear who is to be contacted when travel costs become an issue;
- Pupils are reluctant to ask more than once or twice about the travel reimbursement;
- Sometimes pupils receive half of their travel costs: it is not clear to them whether and why they are expected to pay for the other half;
- The problem appears to be more severe for the second six pupils: they are expected to pay for travel as they go along but they receive the money for which they have billed long after the bill was submitted – as a result of this several pupils have cash flow problems.

Applying for waivers from pupillage funding and advertising requirements

As regards applications for waivers from both pupillage funding and pupillage advertising requirements it is important that chambers applies for a waiver and not the pupil in question (if there is one). The Pupillage Funding and Advertising Panel deals with these applications, and the Pupillage Officer acts as the Secretary to this Panel.

A copy of the Application for a Waiver from Pupillage Funding Requirements and a copy of the Application for a Waiver from Pupillage Advertising Requirements can be found in annexes 7 and 8.

An electronic copy of these forms can be obtained by e-mailing aclerk@barstandardsboard.org.uk

Consolidated regulations of the Inns of Court and the General Council of the Bar

Part V of the Consolidated Regulations deals with Pupillages and entry into practice requirements.

Part V of these regulations states as follows:

PART V

PUPILLAGE AND ENTRY INTO PRACTICE

41 Obligation to Undertake Pupillage

41.1 Unless exempted under Part IV or Part VI of these Regulations, a person who intends to practise as a barrister in accordance with paragraph 202 of the Code of Conduct is required:

- (i) to train as a pupil for an aggregate period of not less than 12 months; and
- (ii) to complete satisfactorily such further training after completion of the Vocational Stage as may be required from time to time by the Bar Standards Board.

41.2 Pupillage shall be divided into two parts:

- (i) the non-practising six months, which, save with the approval in writing of the designated body (which shall, for the purposes of this Part V be the Qualifications Committee subject to any change hereafter in its designation, and which is referred to in this Part V as the Qualifications Committee), shall be undertaken in a continuous period of 6 months in England and Wales; and
- (ii) the practising six months
 - (1) which, save with the approval in writing of the Qualifications Committee, shall be undertaken in a continuous period of six months or with only such intervals (each not exceeding one month) as to ensure that the practising six months is completed within an overall period of nine months;
 - (1) which, save with the approval in writing of the Qualifications Committee, shall not commence before completion of the non-practising six months;
 - (2) which, save with the approval in writing of the Qualifications Committee, shall commence not later than 12 months after the

completion of the non-practising six months;

(4) all of which shall be undertaken after Call; and

(5) which may be undertaken in any Member State.

41.3 The approval of the Qualifications Committee under Regulation 41.2(ii)(1), (2) or (3) may be subject to such conditions as to additional training as the Qualifications Committee deems appropriate having regard to the particular circumstances of the person seeking the approval.

42. **Registration of Pupils**

42.1 On arranging any period of pupillage, which shall include any period of training service under Regulation 46 ("external training"), a pupil shall give notice in writing to the Bar Standards Board in the form specified in Schedule 14 Part 1.

42.2 The Bar Standards Board may refuse to register a pupillage if the arrangements set out in paragraph 404.2(c) of the Code of Conduct have not been complied with.

42.3 Where the Bar Standards Board refuses to register a pupillage, it shall inform the pupil in writing of its decision giving the reasons on which the decision was based.

42.4 It is the duty of each pupil to notify the Bar Standards Board of all material changes in the arrangements for pupillage of such pupil in writing in the form specified in Schedule 14 Part 2.

43 **Commencement of Pupillage**

Subject to Regulation 45, a person who is required by Regulation 41 to train as a pupil may not commence pupillage unless:

either

(1) he has completed the Vocational Stage, and in the case of a person who has completed the Vocational Stage by passing the Bar Examination he has also successfully completed a Vocational Conversion Course or such other training as the Bar Standards Board may require; or

(2) he has been authorised to be called or readmitted to the Bar under Part IV or Part VI of these Regulations and in the case of a person who has been required to take the Aptitude Test or any part of it he has been certified as having passed the Aptitude Test or relevant part thereof:

(3) he has registered his pupillage under Regulation 42.

44 **The Vocational Stage - Stale Qualifications**

44.1 A person may not commence pupillage after the expiration of a period of five years (or such other period as the Bar Standards Board may stipulate) from

the date when that person was certified as having completed and passed a Vocational Course or a Vocational Conversion Course or any relevant part of the Aptitude Test or as having successfully completed any further training which he was required by the Bar Standards Board to undertake before commencing pupillage.

44.2 Such period may be extended by the Bar Standards Board in an individual case for such period and on such terms as it thinks fit including the requirements as to further courses of study or training to be undertaken by the person seeking the extension.

44.3 This regulation shall not apply to persons who registered for the Vocational Course or Vocational Conversion Course or were required to take the Aptitude Test or any section or sections or part or parts thereof before 1st September 1998.

45 [not used]

46 **External Training**

46.1 Pupillage must be spent with one or more pupil supervisors save that with the prior approval of the Qualifications Committee (subject to CR58) all or part of the practising six months of pupillage may be satisfied by any or any combination of the following forms of external training:

- (i) up to six months pupillage may be satisfied by an equivalent period of training spent with a solicitor who is practising in the United Kingdom or in another member State.
- (ii) up to six months pupillage may be satisfied by an equivalent period of training spent with a lawyer qualified and practising in another Member State;
- (iii) six months pupillage may be satisfied by undertaking a “stage” of five months duration or more, in the legal departments of the European Commission in Brussels or Luxembourg, or a “placement” at the European Commission in London;
- (iv) up to six weeks pupillage may be satisfied by serving as a marshal with a Judge of the High Court of Justice or with a Circuit judge;
- (v) up to four weeks pupillage may be satisfied by a pupil, with the permission of his pupil supervisor, working with a solicitor or other professional person whose work is relevant to his pupil supervisor’s practice;
- (vi) up to four weeks pupillage may be satisfied by a pupil, with the permission of his pupil supervisor, working under supervision for a body, such as a law centre or pro bono or free representation unit which supplies legal services to the public without a fee or for a nominal fee;

- (vii) the Qualifications Committee may, in an individual case, recognise such other form of training as satisfying part of pupillage as it considers appropriate having regard to the particular circumstances of the person concerned.
- 46.2 An approved period of external training shall be treated as a period of practising pupillage for the purpose of Regulation 41.2(ii).
- 46.3 External training shall in no case count towards the non-practising six months of pupillage.
- 46.4 A solicitor or a lawyer qualified and practising in another member State with whom a period of training is spent pursuant to Regulation 46.1(i) or (ii) shall be a person whose qualifications experience and place of practice are comparable to those which in the case of a barrister would render him eligible to act as a pupil supervisor, unless in an individual case the Qualifications Committee shall permit a person with different qualifications experience and place of practice to conduct the training.
- 47 **Pupillage**
- 47.1 Pupillage must be undertaken with a registered approved pupil supervisor and in a pupillage training organisation authorised by the Bar Standards Board.
- 47.2 The Bar Standards Board may:
- (i) authorise any chambers, organisation, firm, company or other body as a pupillage training organisation, subject to such terms as the Board may from time to time determine;
 - (ii) refuse to authorise any chambers, organisation, firm, company or other body as a pupillage training organisation;
 - (ii) withdraw such authorisation at any time.
- 47.3 The Bar Standards Board reserves the power to invalidate (in whole or in part) any pupillage where the failures or deficiencies in that pupillage are such that the value of any pupillage training has or is likely to have been seriously compromised, and this power may be exercised irrespective of whether the Bar Standards Board has exercised its power to refuse or withdraw authorisation under regulations 47.2.
- 47.4
- (i) Where the Bar Standards Board refuses or withdraws authorisation under regulation 47.2 or invalidates a pupillage or any part thereof under regulation 47.3, the Bar Standards Board will give notice of its decision in writing to all parties affected by that decision.
 - (ii) A party affected by that decision may apply for a review of such a decision, provided that such application is made to the Bar Standards Board in writing within one month of receipt of notification in writing of the decision.
 - (iii) For the purposes of regulation 47.4(i) and (ii) the following shall be

regarded as a party or parties affected by a decision to refuse or withdraw authorisation or to invalidate a pupillage.

- (a) The chambers, organisation, firm, company or other body in respect of which authorisation has been refused or withdrawn;
- (b) Any person whose pupillage or (where an offer of pupillage has been accepted but the pupillage has not yet commenced) prospective pupillage is or may be affected by a decision to refuse or withdraw authorisation and/or to invalidate a pupillage or any part thereof, and the chambers, organisation, firm, company or other body where such a person has undertaken pupillage or from whom an offer of pupillage has been accepted but the pupillage has not yet commenced.
- (iv) Where the Bar Standards Board refuses or withdraws authorisation under regulation 47.2 or invalidates a pupillage or any part thereof under regulation 47.3, and either there is no application for a review of that decision or following such a review the decision is confirmed, the chambers, organisation, firm, company or other body shall not be entitled to claim any refund or reimbursement of any payment made to any pupil or prospective pupil as the case may be in respect of any pupillage award, pupillage funding, traveling or other payments or expenses.

47.5 A pupil supervisor may not be responsible for more than one pupil at a time save with the approval in writing of the Bar Standards Board.

48 Eligibility for Approval and Registration as a Pupil Supervisor

48.1 In order to be entered on the register of approved pupil supervisors kept by the Bar Council, a Barrister must be approved as a pupil supervisor by his Inn.

48.2 Each Inn shall, from time to time, provide the Bar Standards Board with a list of approved pupil supervisors.

48.3 A practising barrister may apply to his Inn to be approved as a pupil supervisor. An applicant shall at the date of his application:

- (i) have practised in the United Kingdom or another member State as a barrister (other than as a pupil who has not completed pupillage in accordance with these Regulations) or as a member of another authorised body for a period (which need not have been continuous and need not have been as a member of the same authorised body) of at least six years in the previous eight years; and
- (ii) have made his practice his primary occupation and been entitled to exercise a right of audience as a barrister during the two years immediately preceding the date of the application.

48.4 The Masters of the Bench may approve a person as a pupil supervisor even though that person does not satisfy the conditions set out in Regulation 48.3

above provided they are satisfied that he has the necessary experience to be so approved.

48.5 No Queen's Counsel other than an employed barrister may be registered as a pupil supervisor.

48.6 The Bar Standards Board, in consultation with the Inns' Council, shall prescribe what training, if any, shall be undertaken by persons either before or after such persons have been entered on the register of approved pupil supervisors.

48.7 A pupil supervisor who fails to undertake the training prescribed under Regulation 48.6 above, within the time prescribed by the Masters of the Bench, shall not be registered or (if already registered) shall have his name removed from the register of approved pupil supervisors held by the Bar Council.

48.8 An appeal against a refusal to register or removal of a person's name from the register under Regulation 48.7 shall lie to the Qualifications Committee under Regulation 51.

49 **Application for Approval and Registration as Pupil Supervisor**

The procedure as regards applications for approval and registration as a pupil supervisor is as follows:

- (i) An eligible barrister who wishes to act as a pupil supervisor must submit to the Masters of the Bench an application in the form specified in Schedule 8.
- (ii) The application must be supported in the following respects:
 - (a) In the case of a barrister in independent practice, by the applicant's Head of Chambers, and in the case of an employed barrister by a more senior lawyer employed in the same organisation and having direct knowledge of the work of the applicant; or
 - (b) If the applicant is himself the Head of Chambers, or there is no more senior lawyer employed in the same organisation with such direct knowledge, or for any other reason the support referred to in sub-paragraph (a) is not available, by an independent person who is a Master of the Bench of an Inn, a Queen's Counsel, a Leader of a Circuit, a Recorder or Deputy High Court Judge, Treasury Counsel or a person of comparable standing who is able to comment from personal knowledge on the applicant's suitability to act as a pupil supervisor; and
 - (c) In every case, by a second person falling within the requirements in sub-paragraph (b) above.

- (iii) If the Masters of the Bench approve the application, they shall notify the applicant and the Bar Council, which shall cause the applicant to be entered on the register of approved pupil supervisors accordingly.
- (iv) Any approval may be provisional and subject to such terms as the Masters of the Bench may at any time in their discretion impose to ensure that the pupil supervisor is qualified and able to discharge his responsibilities.
- (v) If the Masters of the Bench refuse the application they shall notify the applicant accordingly.
- (vi) An appeal shall lie from such a refusal to the Qualifications Committee in accordance with Regulation 51.

50 **Removal from the Register of Pupil Supervisors**

- 50.1 Any complaint or other matter which appears to affect the fitness of a barrister to continue as a pupil supervisor or the desirability of his continued registration as such, shall be referred to the Masters of the Bench who shall investigate the same, and if thought necessary or desirable, invite the barrister concerned to comment thereon in writing or in person.
- 50.2 The Masters of the Bench may pending the outcome of such enquiries resolve that a barrister's registration as a pupil supervisor be suspended, and shall notify the barrister accordingly.
- 50.3 Having considered any such case, the Masters of the Bench may:
- (i) dismiss the complaint (if any);
 - (ii) take no action;
 - (iii) refer the case to the Conduct Committee of the Bar Standard Board;
 - (iv) if in the opinion of the Masters of the Bench the case is such as to require informal treatment, draw it to the barrister's attention in writing and, if thought necessary, direct him to attend upon the Treasurer or some other person nominated by the Treasurer;
 - (ii) in any case where the conduct disclosed is such as, in the opinion of the Masters of the Bench, to render the barrister unfit to continue as a pupil supervisor, resolve that the barrister be removed from the register or suspended from the register for such period as they may determine.
- 50.4 A barrister shall in any event have his name removed from the register of pupil supervisors if:
- (a) he requests the Bar Council to remove his name from the register;
 - (b) not being an employed barrister, he is appointed as Queen's Counsel;

- (c) he ceases to practise as a barrister or is suspended from practice as a barrister;
- (d) the Masters of the Bench resolve to remove his name from the register because he has not taken a pupil for five years.

50.5 If a resolution is passed for the removal or suspension of a barrister from the register, the Masters of the Bench shall notify the barrister accordingly.

50.6 An appeal shall lie from any resolution for the removal or suspension from the register under Regulation 50 to the Qualifications Committee in accordance with Regulation 51.

51 **Appeal to the Qualifications Committee**

- (a) An appeal under Regulations 48.8, 49 (vi), 50.6 or 52.6 shall be by way of a rehearing.
- (b) Notice of appeal shall be given in writing to the Secretary of the Qualifications Committee.
- (c) Notice of appeal must be served on the said Secretary within 28 days from the date on which notification of the decision or the resolution of the Inn was given to the appellant, provided always that the Qualifications Committee may, on such terms as it thinks fit, extend the period for appeal.
- (d) For the purposes of determining an appeal under this Regulation the quorum shall be three members of the Qualifications Committee.
- (e) The appellant shall be entitled to appear in person or be represented before the Qualifications Committee and (in addition or as an alternative) to submit a written statement of his case.
- (f) Having considered the appeal the Qualifications Committee may:
 - (i) dismiss it; or
 - (ii) allow it unconditionally or subject to conditions.

52 **Qualification Certificates**

52.1 On completion of the non-practising six months of pupillage, a pupil shall obtain from his pupil supervisor a certificate for submission to the Bar Standards Board certifying that he has satisfactorily completed this period. Provided that the pupil has satisfactorily completed such further training as is referred to in Regulation 41.1(ii), on receipt of such certificate, the Bar Standards Board shall forthwith register the same and, if the pupil has been called to the Bar, issue the pupil with a Provisional Qualification Certificate.

52.2 On completion of the practising six months of pupillage, a pupil shall obtain from his pupil supervisor and from any person with whom the pupil has undertaken external training a certificate for submission to the Bar Standards Board certifying that he has satisfactorily completed this period. Provided that the pupil has satisfactorily completed such further training as is referred to in

Regulation 41.1(ii), on receipt of such certificate, the Bar Standards Board shall forthwith register the same and issue the pupil with a Full Qualification Certificate.

52.3 If a pupil is unable to obtain a relevant certificate from his pupil supervisor or from any relevant person, the Bar Standards Board may accept a certificate from the pupil supervisor's Head of Chambers, or from the member of those chambers designated by the Head of Chambers as the person in charge of pupillage, or such other person as is acceptable to the Bar Standards Board, that the pupil has satisfactorily completed the periods specified in Regulation 41.2, provided that the certificate contains an explanation of the reason why the pupil supervisor or any relevant person has not provided such a certificate which is satisfactory to the Bar Standards Board.

52.4 If a pupil supervisor or any other person mentioned in Regulations 52.1, 52.2 or 52.3 refuses to sign a relevant certificate for any reason, the pupil may ask the Qualifications Committee, on the grounds that the signature has been wrongfully withheld, to grant a certificate and to request the Bar Council

- (i) to register the same; and
- (ii) to issue the pupil with a Provisional Qualification Certificate or a Full Qualification Certificate as the case may be.

52.5 On receipt of a certificate under Regulation 52.3 above, or on the grant of a certificate by the Qualifications Committee under Regulation 52.4 above, the Bar Standards Board will issue the pupil forthwith with a Provisional Qualification Certificate or a Full Qualification Certificate as the case may be.

52.6 A pupil who has made an application to the Qualifications Committee and who is dissatisfied with the decision of the Qualifications Committee may request in writing that the Qualifications Committee review its decision and on making such a request shall pay the fee prescribed in Schedule 10.

53 **Duties of a Pupil**

53.1 During each pupillage including any external training it is the duty of the pupil to be conscientious in receiving the instruction given, to apply himself full time thereto, to preserve the confidentiality of every client's affairs, and to comply with the Code of Conduct and with such other rules or guidelines relating to pupillage as may be approved from time to time by the Bar Standards Board in consultation with the Inns' Council.

53.2 Where on the conclusion of a period of pupillage including any external training a pupil does not intend to serve another pupillage or period of external training he shall notify the Records Office of the Bar Council and the Under Treasurer in writing:

- (i) of any tenancy or employment he has secured, giving details of the chambers or employer; or
- (ii) if he has not secured a tenancy or employment, whether he is seeking a tenancy or employment in England and Wales, whether he intends

to practise abroad, or whether he is seeking employment abroad, and in each case shall give all relevant details.

54

Duties of a Pupil Supervisor

The duties of a pupil supervisor are set out in paragraph 804 of the Code of Conduct.

Feedback form on the Guidelines for chambers and pupillage training organisations

1. Is it helpful to pupillage training organisation to receive an annual manual on pupillage matters in the form of such booklet?

2. Are there any particular topics which pupillage training organisations would like included in the booklet?

3. Is there any other way in which the Bar Standards Board could assist pupillage training organisations as regards pupillage arrangements?

Any feedback received will be incorporated in either this booklet or any other form of distribution of information. Please continue on a separate page if required.

Please return to:

Andrea Clerk
The Bar Standards Board
289-293 High Holborn
London WC1V 7HZ

DX: 240 LDE

Thank you

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