5 Essex Court 2013 pupillage application round

Preparation for application round

1. All members of the Pupillage Committee have undergone Equality and Diversity training, and have studied the Bar Council's 2012 Fair Recruitment Guide (http://www.barcouncil.org.uk/media/165213/recruitment_guide v22_18sept_merged_readonly.pdf).

2. Three members of the Pupillage Committee (including the Head of the Committee) attended the Bar Council's training in fair selection.

3. Members of the Pupillage Committee attended meetings at the Bar Council whilst the new Pupillage Gateway was being developed in order to learn about the new system and to seek to assist in its implementation. We also helped to road test the system before it opened for applications.

4. We did not consider any applications until after the expiry of the (final) deadline for applications. At that point we anonymised and printed off all application forms.

5. We also examined, at the outset, the equalities monitoring information provided, in statistical form, by the Pupillage Gateway. We had made it clear that we particularly encourage applications from all minority groups.

Selection for first interview

6. All members of the Pupillage Committee and one additional member of chambers took part in the selection of applicants for interview.

7. Each application was considered by reference to four criteria. These were academic ability, experience, presentation and other factors. We did not allocate an overall score to each candidate. Instead, we gave box markings for different factors that were designed to measure each of the four criteria.

8. At the outset a small section of the applications was considered in detail by all members of the committee individually. We then met to discuss each of those applicants in detail so as to ensure consistency between different members of the committee. Following this consistency meeting all applications (including the selection that had already been considered) were marked by members of the Pupillage Committee adopting the same consistent criteria. The applications were sifted and applicants were selected for first round interview according to the box markings.

9. Academic ability: The committee took account of A level, degree and post-graduate qualifications, together with any other evidence of academic ability. Very limited weight was given to GCSE results. All those selected for interview had gained a 2:1 or first in their degree(s). Where candidates were clearly mature students, historic school results were given less weight.

10. There were a few applicants with 2:2 degrees and/or poor A level results who had shown academic ability in other ways. As it happens none were selected for interview. But some of them had very strong applications, demonstrating the skills to succeed at the Bar in what they had done since leaving school, and came very close to being selected for interview. It continues to be our approach to require a 2:1 or higher as evidence of academic ability. But this is not inflexible, and where there is compelling alternative evidence of academic ability a 2:2 will not necessarily rule out a candidate.

11. Conversely, there were applicants with a very good (and in some cases exceptionally good) academic record who were not selected because they did not satisfy other criteria (eg they had insufficient advocacy experience, or their form was not sufficiently well presented).

12. Where candidates had yet to complete their degrees the committee took account of grades achieved to date, predicted results provided by tutors and other evidence of intellect such as scholarships and prizes. It counted against the applicant when no grades were provided or where predictions were offered without details as to who had made the prediction and on what basis.

13. <u>Experience:</u> In contrast with academic ability there was a much greater spectrum of experience. The committee took particular account of advocacy experience, mini-pupillages, work for NGOs and other legal and non-legal experience. We considered that a mini-pupillage in a set doing public law and/or civil liberties work was virtually essential, unless the applicant had experience of these areas of work from other activities. Undertaking FRU training (with no evidence of taking on cases) or limited letter writing for Liberty was given little or no weight. Evidence of actual advocacy experience in courts or tribunals (particularly where it was based on more than 2 or 3 cases) was given considerable weight. FRU employment tribunal work was given greater weight than the less demanding social security work available. Mooting and debating were taken into account, but success in national and international competition was naturally more favourably regarded than an individual University moot. A number of candidates told us in detail about moots they had organised, but did not tell us about those they had undertaken, or what level of success they had achieved. We were much more interested in evidence of taking part in moots and debates than organising them.

14. <u>Presentation:</u> There was wide variation in the standard of presentation of application forms. Some applicants with an extremely good academic record were not selected simply because they did not write in a clear or engaging manner. Others with less distinguished records made the very best of what they had and presented their applications in a cogent and attractive manner. Those applications which were well-written and presented scored highly. Those with basic mistakes scored poorly. So did those with ill-judged turns of phrase. We were flattered to be told that we work "in the legal heartthrob of England" and that we have "the best ass possible", but not enough to overlook the authors' lack of judgement.

15. Other factors: Significant weight was attached to our assessment of whether the applicant had a genuine interest in our specialist areas of work and in joining 5 Essex Court. Those who made generic reference to public law or police law, or who simply block copied information from our website without more did not score particularly highly. Applicants who took the trouble to explain, by reference to their experience or academic studies, why they wished to practise in the particular areas or work that are practised at 5 Essex Court and why they were applying to 5 Essex Court in particular were treated more favourably. Some (but limited) weight was given to other factors which demonstrated the applicant's potential as a pupil and, in due course, a member of chambers. These included, for example, sporting or musical achievements which demonstrated the skills required for success at the Bar, or an understanding of the ethos and atmosphere of 5 Essex Court.

First round interviews

16. There were 31 applicants who were selected for interview. The interviews took place on 7th, 8th and 10th June 2013. They each lasted 20 minutes.

17. Each first round interview candidate was assessed by reference to four criteria: legal knowledge, presentation, motivation and communication and interpersonal skills.

18. During the interview we allowed a few minutes for discussion of aspects of the candidate's written application. Whilst this was not as testing for the interviewees as the other questions, we found that this short dialogue nevertheless did give us helpful information about the candidate. We were unimpressed by those who had said on their form they were going to do some FRU work but had still not done so by the time of interview, or professed to having done FRU for many years only for it to be discovered, on questioning, that they had just done one or two cases.

19. We asked candidates to prepare two problem questions for discussion. Both questions were based on the sorts of issues that arise in practice. Those who seemed hesitant or uncertain, or simply ignorant of the legal issues inevitably scored less well than others who were confident in their legal analysis. Candidates were also assessed on how they responded to intervention, whether they were easily swayed from their position or thrown off course by the asking of a supplementary question. The panel were impressed by those candidates who were flexible and responsive in their arguments but also demonstrated an ability to stand their ground. The candidates who performed well were those who identified the relevant causes of action; were able to analyse with confidence how the facts related to the causes of action and could come to a provisional conclusion on the merits of the case. Those who performed very well were those who did all of the above, but who were also able succinctly to point out where further information would be helpful and how that further information, depending on what it was, might affect their analysis of the case; and who gave a view as to the relative strengths and weakness of potential claims.

20. The legal problem question was also helpful to us in assessing candidates' communication and interpersonal skills. The candidates who scored highly structured their answers in a clear and logical fashion and were confident and authoritative in their delivery. Those who scored less well did not organise their responses in an ordered fashion and/or did not appear confident in their own analysis. Finally, all candidates were challenged by the panel during the course of their answers. The better-performing candidates responded thoughtfully and gracefully to the challenges and maintained or modified their answers as appropriate. Candidates who were less successful were those who appeared flustered when challenged. The best candidates gave answers that were not just legally sound but also practically astute, such as inventive tactical approaches and considering potential ethical pitfalls.

21. Many candidates let themselves down by giving extremely long, rambling answers to relatively simple questions. Some also missed obvious causes of action.

22. We asked candidates for their views on whether closed material procedures posed a threat to justice. We then asked them to put forward arguments to support the opposite position.

23. The aim of the question was to test the candidate's ability to argue, without notice, one side of a particular issue.

24. We scored highly those candidates who were able to advance more than one argument in support of the position which they had been asked to take; who were more sophisticated than others in their appreciation of the issues at stake; who were able to demonstrate a good grasp of how arguments might be deployed for and/or against their position. Those candidates who performed best, in our view, were also able to modify or defend their position as appropriate when challenged. Those candidates who scored less well were those who lacked precision in their arguments and/or whose grasp of the issues did not improve significantly despite prompting. Some candidates, particularly those that had strong views on one side or other of the debate, got more credit for how well they argued the opposing point of view than for how they argued in support of their own opinion; if anything, how well they argued for a view that they do not hold was more important. Of course some of the best candidates clearly identified and articulated the strongest arguments on both sides of the argument, without being prompted, but did not forget to express clearly their considered conclusion.

25. We asked candidates to imagine that they were a junior tenant in Chambers who had been requested to provide a talk to pupils on an area that interested them. The purpose of the question was to enable candidates to demonstrate an interest in and/or an awareness of our areas of practice or to reveal if their interests lie elsewhere.

26. Candidates fared better on selecting an area on which to give a talk when they picked something current, of interest to themselves but also linked it back to something that would be of interest to members of chambers. Particularly

good answers included employment status, a case involving a member of chambers handed down the day before the interview and the pending judicial review on the roll out of police tasers. Less impressive answers tended to be poorly structured and/or related to areas that do not apply to our core areas of work.

27. Finally, we asked "Is there anything you were hoping we would ask you which we haven't?" The purpose was to allow each applicant to showcase a prepared answer. Some used the question to excellent effect such as to demonstrate an interest in a pertinent area or to reveal a recent success such as good exam results.

28. Ten candidates were selected for second round interview.

<u>Second Round interviews</u>

29. Second round interviews took place on 8th and 10th July 2013. They each lasted 25 minutes.

30. Each candidate was assessed by reference to four criteria: legal knowledge, presentation, motivation and communication and interpersonal skills.

31. All of those invited to second round interviews had very impressive written applications, with strong (in some cases exceptional) academic credentials and wide ranging (again, in some cases, quite exceptional) relevant experience. They had all excelled in first round interviews.

32. The interview was intended to challenge, and seek to distinguish between, extremely able candidates.

33. Each candidate was asked to undertake an advocacy exercise. This was based on a straightforward scenario: an application to adduce a witness statement late. It was designed to focus on advocacy rather than legal or procedural knowledge. We were looking for candidates who could:
    - (a) Identify clearly at the outset precisely what they were seeking;
    - (b) Explain the background facts clearly and succinctly;
    - (c) Apply the principles underpinning CPR 3.9 (which we provided) appropriately;
    - (d) Draw the counter arguments advanced by the claimant fairly to the court's attention;
    - (e) Recognise that there had been fault on the part of the defendant, but argue persuasively that it would be just to permit the evidence to be adduced (pointing out the lack of prejudice to the Claimant because the information set out in the statement could be readily verified within the available time, but that it was vital to a fair resolution of the issues, and that the Court's sanction could be expressed in less draconian ways than disallowing the evidence altogether).

34. The best candidates managed to do all of this. A very few also made practical suggestions to mitigate the impact on the Claimant (eg that the witness should

be called last so that there would be more time to respond to the evidence). We were less impressed with candidates who made assertions that had no foundation in the instructions we provided.

35. All candidates were asked a question based on a topical issue – whether there should be anonymity for those arrested for criminal offences. We were looking for candidates who had at least a basic understanding of the issues which arise, and were able to discuss these intelligently and appropriately and to argue both sides of the debate.

36. The best candidates were able to argue persuasively for and against the proposal, to identify the relevant issues and what difference it made once a charge had been brought and to respond to challenging questions and different scenarios.

37. We then asked about what role, if any, lawyers acting for public bodies should have in bolstering public confidence. We were looking for candidates who showed some basic current knowledge about the contemporary challenges facing the police and other public bodies, and who understood what particular qualities are required of counsel acting for these organisations. Some candidates struggled with this question. The best candidates recognised the way in which a case is articulated in court (and thereafter reported) can have a wider impact on public confidence. Some candidates also recognised the importance of a lawyer's advisory role, in ensuring that the client is absolutely clear about the legal boundaries for particular types of conduct, and the role that public lawyers can have in upholding the rule of law.

38. We asked candidates where they would like to be in 10 years time. We did not intend this question too seriously, and there was, of course, no right answer. But the answers were revealing. The best candidates were able to show a real understanding of the skills required to succeed at the Bar and the likely profile of career progression at 5 Essex Court.

39. Two applicants were selected for pupillage.

Diversity

40. Chambers is committed to ensuring that all applicants are treated fairly, irrespective of race, religion, gender, sexual orientation, marital status, disability and age. Names and addresses were removed from applications before they were considered. We have carefully monitored the diversity of the field of applicants, and how that correlates with those selected for each round. We remain committed to encouraging applications from all minority groups. We have attended a number of events at universities and law schools in part to spread this message. We were pleased that there was, this year, an increase in the proportion of applicants who were non-white.

41. Chambers has published diversity data in relation to members of chambers on the website (http://5essexcourt.co.uk/diversity-and-equality/). We do not think

it is appropriate to provide an equivalent year by year breakdown of the data of those selected for pupillage. This is because the numbers are so small. This means that (a) it is impossible to draw significant conclusions from one year's data, and (b) it is impossible to anonymise the data. However, over the last 2 years 75% of those selected for pupillage have been female and 25% have been non-white.

JEREMY JOHNSON QC
For the Pupillage Committee
16th March 2014