5 Essex Court 2014 pupillage application round

Preparation for application round

1. Following the 2013 application round we conducted an anonymous survey of all applicants. This was to identify their motivations for applying to us, and their experience of the application process.

2. In advance of the 2014 application round we reviewed the Gateway diversity statistics for our 2013 pupillage applicants, as against data published by the BSB. We also reviewed internal and external feedback, including the feedback from the survey of all 2013 applicants. We have sought to increase the number of applicants from groups who are under-represented at the Bar (particularly by participating in many student events and seeking to dispel some of the myths that surround recruitment). These initiatives were partially successful in the 2013 pupillage round. Chambers has one of the highest proportions of female silks at the Bar (at 50%); women are well represented at every level within Chambers (partly as a result of family/maternity friendly policies, and the support of the clerking team). Non-solicited feedback from the 2013 applicant round suggests that this had been noticed by several applicants (despite it not having been advertised). We will, this year, take part in the Black Solicitors Network Diversity League Table 2015.

3. We also reviewed our pupillage award (which currently stands at £40,000 including guaranteed earnings in second six). All recent pupils have comfortably exceeded the guaranteed earnings, and there was capacity to increase this aspect of the award, as well as seeking Chambers' approval to a more generous overall package. In the event we decided not to do so. We are seeking to recruit prospective tenants, and all recent pupils have, following pupillage, been offered tenancy. Our aim is to recruit applicants who genuinely wish to work at 5 Essex Court, and who are likely to be happy here. Placing too much emphasis on the award risks undermining that aim. Moreover, anonymous feedback from the survey of 2013 applications suggests that the level of our pupillage award was neither a particular attraction nor a particular disincentive. We are, however, conscious of the levels of debt with which many applicants are saddled, as well as the costs of living in London. We will remain flexible as to the payment of the pupillage award, including, where requested, considering an advance of a proportion of the award before the commencement of pupillage.

4. We co-opted two members of chambers to the Committee to assist in the selection round to ensure that applications were considered by a cross-section of chambers.

5. All members (including the two co-opted 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).

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

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

8. We also conducted a preliminary examination, at the outset, of the equalities monitoring information provided, in statistical form, by the Pupillage Gateway.

Selection for first interview

9. All members of the Pupillage Committee took part in the selection of applicants for interview.

10. Two experienced members of the Committee selected a number of applications to be considered by the whole Committee at a meeting to discuss the detail of the paper-sift and to ensure consistency. The applications were selected with the aim of securing a broad range, but with a particular focus on applications which were likely to be at the margins of those who would be selected for first interview (distinguishing between these is the most important, and most difficult, aspect of the paper sift).

11. All members of the Committee independently considered these applications with reference to our published selection criteria. We then held a lengthy meeting to discuss the approach to each of our selection criteria and their application to the "consistency" candidates.

12. Following the "consistency" meeting all applications (including the selection that had already been considered) were assessed by reference to our four published criteria. These are 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.

13. Applicants were selected for first round interview according to the box markings.

14. Academic ability: The primary assessment was made on the basis of degree results. However, we also took account of A level and post-graduate qualifications, together with any other evidence of academic ability that could be gleaned from the totality of the form. We did not attach significant weight to the University attended, and we did not generally attach significance to whether the applicant had studied law as an undergraduate (save that we generally require at least a commendation on the GDL to demonstrate sufficient legal academic ability). Very limited weight was given to GCSE results.

15. We do not automatically reject candidates with a 2:2 degree. But in the absence of very compelling alternative evidence of academic ability (eg results in post-graduate examinations) it is unlikely that an applicant with a 2:2 will secure an interview. This year, as in the last 2 years, all those selected for interview had gained a 2:1 or first in their degree(s).

16. Most applicants had gained a 2:1 rather than a first. There was a broad mix of law and non-law degrees.

17. Academic ability is just one of four criteria and is not sufficient to secure an interview. As in previous years there were applicants with an exceptional academic record (including very high marks in post-graduate legal studies) 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).

18. Experience: We took account of all experience which demonstrated the skills needed to succeed at the Bar, but we particularly looked for evidence of an interest in, and experience of, advocacy. The highest box markings were given to those who had extensive debating and/or mooting experience and success (with success in national and international competition naturally attracting higher gradings than an individual University moot) and who had engaged in oral advocacy in real life cases (eg for FRU). Conversely, those who said that they had "organised" moots or had been "FRU trained" without providing any evidence of actually undertaking advocacy did not score highly under this criterion.

19. Presentation: We work on the basis that the application form is itself a strong indicator of an applicant's work, demonstrating the care and attention that has been applied and the applicant's skills at using language. The vast majority of applications had at least one mistake. Many contained numerous errors, from sentences that simply did not make sense, to mis-spellings of chambers' and/or barristers' names, to incorrect use of language. Applications which were unnecessarily wordy were marked down. The best applications – as with the best written advocacy – were clearly and succinctly written in engaging and persuasive language.

20. Other factors: We assessed whether applicants really understood the areas of Chambers' practice and whether they really were interested in and committed to working in those areas. The principal focus was on the answer to the last question on the form – ie why the applicant was applying to 5 Essex Court. Those who made generic reference to human rights or public law or police law, or who simply block copied information from our website or legal directories without more did not score particularly highly. The most successful applicants identified, by reference to their experience or academic studies, why they wished to practise in particular areas and why they were applying to 5 Essex Court in particular. We also compared applicants' answers to the content of the rest of their application. Applicants who expressed a burning desire to practise human rights law but who had only undertaken pupillages in, eg, criminal sets did not score highly. Those who had undertaken 2 or more

mini pupillages in sets that do similar areas of work to us (and/or had other evidence of their interest for this type of work), and who demonstrated by what they drew out from that experience a real understanding and aptitude for Chambers' areas of work were more successful.

21. 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

22. Thirty applicants were selected for interview. The interviews took place on 20th and 21st June 2014. They each lasted for about 20 minutes. The interview panel consisted of 4 members of the Committee (with the same panel undertaking all first round interviews). The anonymised application forms were made available to all members of the interviewing panel, but these were not separately (re-)assessed: they were used primarily for provoking initial questions in interview and for identifying any gaps in coverage that needed to be explored in interview. Subject to that, performance in interview was assessed without reference to the application forms.

23. Each first round interview candidate was assessed by reference to four criteria: legal knowledge, presentation, motivation and communication and interpersonal skills. Each member of the interview panel was primarily responsible for a separate part of the interview.

24. During the interview we allowed a few minutes for discussion of aspects of the candidate's written application. Those who were able to expand on information provided in their applications (eg by reference to more recent and relevant experience) naturally did better than those who appeared to have forgotten what they had put on their forms or who appeared to have been prone to exaggeration.

25. Problem Question: All candidates were given a choice between two problem questions - one based on a personal injury case, and one based on the use of undercover police officers.

26. The strongest candidates were those that identified from the outset the critical points. In respect of the tort question, some candidates spent a lot of time discussing whether or not there was a duty of care, or whether vicarious liability was likely to be established. They then did not have time to deal with the causation issues posed by the problem (which was where the real battleground was likely to lie) sufficiently fully or at all. In respect of the undercover officer problem some candidates focused on questions of whether or not there might be criminal liability which, whilst interesting, meant they did not have much or any time to deal with the tortious or Convention claims that arose (which, again, were the focus of the problem). In both questions headlining well meant the candidate could flag up the breadth of issues they

had considered but could focus on the key issues in the short time available. Overall, the best candidates had much better structure to their answers and set out a summary of their conclusions at the outset before descending into their analysis.

27. Ability to argue a point of view: We asked: "Towards the end of last year the Justice Secretary said that the European Court of Human Rights had "reached the point where it had lost democratic acceptability". Do you agree?"

28. Lots of candidates were able to give examples of the sorts of cases that had prompted this comment, such as prisoner voting and lifer tariffs, but many only mentioned them when prompted to do so, having given quite theoretical answers first. The better answers were those that used examples of cases to tackle the issues without having to be asked. Also, some candidates gave a good answer initially but struggled with arguing the opposite point of view when they were asked to help the Justice Secretary justify his statement, and even appeared dismissive of having to argue from that perspective. The best candidates were able to argue both sides of the debate persuasively.

29. Non-legal question: We asked "which person, alive or dead, real or fictional, you would most like to go on holiday with? Persuade us to come too."

30. This question was designed to reveal how candidates could think on their feet and also to reveal something of each candidate's character. Many gave answers that seemed to us to be pre-prepared responses to a question asking for a guest for a dinner party and were not so appropriate for a holiday (the Panel was not very keen on the prospect of holidaying with Ayatollah Khomeini, Boadicea, or John Winthrop). Paddington Bear, Beyoncé and David Attenborough (with appropriately persuasive advocacy in support) fared better. Some candidates simply omitted to try to persuade us to come too. The question was not intended to be taken too seriously. It was certainly not the most important question we asked, and obviously there was no "right" answer, but the strongest candidates recognised this was meant to be a holiday, not a dinner party conversation or academic study, and tailored their answers accordingly.

31. Final question: We asked candidates whether there was anything that we hadn't asked them that they wished we had. Again, this was not the most important question and was designed primarily to ensure that all candidates were able to say anything they wished in support of their application. Some used the question to good effect, for example by drawing on their application form and background experience in explaining why they had applied to 5 Essex Court or providing information about achievements or experiences which had occurred after they had submitted their application form.

32. Thirteen candidates were selected for second round interview.

Second Round interviews

33. Second round interviews took place on 30th June, 1st July and 2nd July. They each lasted for about 25 minutes.

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

35. 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: we aim to select 10 candidates for second round interview, but had struggled to keep the number down to 13: that is testament to the strength of the field.

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

37. Performances, of course, differed (as to which see below). But it was an exceptionally strong field. We thought all candidates had the skills to succeed at the Bar, and in Chambers. All had highly impressive applications, but also presented in interview in an extremely attractive and engaged manner, without any hint of arrogance or pomposity. The standards of advocacy in the course of the formal assessment varied (partly because different candidates were at different stages of their training, and we took this into account), but we thought all candidates had the potential to develop into accomplished advocates.

38. Advocacy exercise: We asked candidates to undertake a straightforward plea in mitigation (a police officer who had driven with excess alcohol facing potential dismissal). This was intended as a pure advocacy exercise without any legal content. The standard varied. The best candidates recognised at the outset that this was a very serious offence, with dismissal on the cards, but presented realistic, well-structured and persuasive mitigation, focussing on the most compelling pieces of mitigation. Those who mentioned that the officer's cat had asthma (although it was in the instruction, we were assessing candidates as much on what they left out as on what they included), or that she deserved a "slap on the wrist" did not do so well. As a test of advocacy, however, it was not just the content of the mitigation that mattered but how it was delivered. There were some exceptionally well-crafted and attractively presented pleas.

39. There was an ethical component to the advocacy exercise: although the accused officer had been presented as being of good character the instructions were that the officer had previous misconduct findings for drinking at work. We think that the text book way to deal with this in a real life setting would have been to have a conference with the officer, explain that if they did not reveal the adverse findings then they risked committing a further disciplinary offence, and to secure instructions to put the material before the Panel. This could then be presented to the officers' advantage (it showed their integrity,

and the disciplinary findings were very old and should not have been held against the officer). Many candidates chose not to mention the disciplinary history at all (and for these purposes we treated that as being acceptable). Some put the history before the Panel and mitigated appropriately. A few positively relied on the absence of a disciplinary history. This was misleading and in a real life setting would be unacceptable, albeit for the purposes of selection (and particularly taking into account that not all candidates had undergone the BPTC) it was not treated as being an absolute bar to success.

40. Ability to argue point of view: We asked whether the Riot (Damages) Act 1883 (the basic details of which we explained) remained appropriate in the modern age.

41. We did not expect candidates to be aware of the legislation (and our expectation was met). The question was designed to see how candidates could think on their feet and identify competing policy considerations. The best candidates recognised that it is usually impossible to pursue those responsible for a riot for compensation (because of difficulties in identifying the culprits and enforcing any award) and that the police are responsible for maintaining the peace so that any breakdown in public order shows that the police have failed to discharge that obligation (even if they are not at fault in a tortious sense). They also identified the potential unfairness, the impact on limited resources, the possibility of alternative solutions (such as insurance) and (when prompted) the injustice of applying the Act in the context of a privately run prison. For a discussion of the issues see *Yarl's Wood Immigration Ltd v Bedfordshire Police Authority* [2010] QB 698 and https://www.gov.uk/government/consultations/reform-of-the-riot-damages-act--2.

42. Qualities required of police/government advocate: We asked candidates to design a system for assessing advocates who represent the police and the government (ie an equivalent to QASA for the criminal bar). The question was designed to test whether candidates appreciated the particular skills required to act as an advocate on behalf of the police and the government, how those skills could be tested (and also, potentially, to give candidates an opportunity to demonstrate that they had these skills). Some candidates struggled with the question. We can well understand that it is difficult for those who have yet to enter practice to have a fully developed appreciation of the nuanced differences in style and approach for different types of case and client. Nevertheless, we had anticipated that applicants would have given some thought to this issue. The best candidates were able to show that they had a real appreciation of the particular skills required, and how those skills could be tested and identified.

43. Advocacy in non-legal context: We asked interviewees to persuade us to undertake an activity to alleviate stress and/or lose weight: This was designed to test advocacy and persuasiveness in a completely non-legal and a less formal setting (in part to put those at different stages of training on an equal footing). It also allowed candidates to show us something of their character and to talk about extra-curricular activities which interested them. The best candidates were able to encapsulate in engaging and rich language what it was

about different activities (whether it be running or scuba diving or touch rugby or meditation) that interested them and why we should try it.

44. Final question: We asked interviewees which fictional legal character they would most or least like to emulate. As with the holiday companion question in the first round interview, this was not meant to be taken too seriously and was an opportunity for a more informal discussion. Rumpole featured highly, but so too did a range of other characters. Of course, there was not a right or wrong answer. But the best candidates were able to use the vehicle of fictional legal characters to identify characteristics they admired (and had) which would lead to success at the Bar.

45. Two applicants were selected for pupillage. We also identified reserve candidates who had performed exceptionally well and only missed an offer by the narrowest of margins. In the event the two offers we made were each accepted (and the applicants declined offers from other Chambers). Our reserve candidates (and most if not all of our second round interviewees) secured pupillage in other sets of Chambers.

46. One of the candidates who accepted an offer of pupillage had arranged to undertake a Stage in Brussels during the pupillage year. We agreed to accommodate this by starting the first six early, thereby enabling the Stage to be undertaken without delaying the completion of pupillage.

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