

5 Essex Court 2015 pupillage application round

Preparation for application round

1. Following research and analysis of the diversity breakdown of applicants in previous application rounds, and surveys of applicants, we took part in the Black Solicitors Network Diversity League Table 2015 (see <http://satsuma.eu/publications/DLT2015/>). This was both to showcase the existing diversity of Chambers (which research indicates is a powerful factor in the decisions of many people from groups who are under-represented at the Bar to apply to us) and to demonstrate our commitment to moving towards a demographic that is more representative of the wider community, primarily by recruitment at the pupillage stage. We were ranked sixth in the demographic rankings for all participating chambers and fourth in the rankings of female members for all participating chambers. We did less well in the rankings based on responses to policy and practice questions and we are taking steps to address this. The Black Solicitors Network no longer publishes league tables for male/female QCs in which (at the time of the last survey our ratio was 50:50 and is presently 57:43) we would have been at the top end. Our head of Chambers, Fiona Barton QC, has received a “Women in Law” award, in recognition not just of her personal achievements as a leading silk in her areas of practice, but also in her promotion of women within Chambers such that we have very successful women at every level.
2. Having regard to the Bar Council-led priority of targeting socio-economic diversity, we also took part in the Middle Temple review of the allocation of scholarships and published our contribution on our website (see <http://5essexcourt.co.uk/pupillage-committee-response-middle-temple-funding-allocation-working-group/>). We also continued our involvement with the Bar’s Social Mobility Scheme.
3. As in previous years, we also took part in a number of talks and presentations to potential pupils, and continued use of our twitter account (@pupillages) to continue to try and dispel some of the myths around pupillage applications and to try and encourage applications from groups that are not well represented at the Bar generally, or in our practice areas, or in Chambers particularly.
4. We considered filming and publishing a (mock) pupillage interview. However, this has already been done by the University of Law – see <https://www.facebook.com/UniversityOfLaw/videos/10153849910003550/>. We commend the video to all applicants.
5. We co-opted two members of Chambers to the Committee to assist in the selection round and to ensure that applications were considered by a cross-section of Chambers.
6. 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 Fair Recruitment Guide (http://www.barcouncil.org.uk/media/165213/recruitment_guide_v22_18sept_merged_readonly.pdf).

7. Three members of the Pupillage Committee (including the Head of the Committee) have attended the Bar Council's training in fair selection. The remaining three members of the Committee will undertake the Bar Council's training this year.
8. 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.
9. 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

10. All members of the Pupillage Committee took part in the selection of applicants for interview.
11. The selection process followed the same model as previous years, and what follows is very largely taken from last year's report, which remains valid.
12. One member 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).
13. All members of the Committee independently considered these applications with reference to our published selection criteria.
14. We then held a lengthy meeting to discuss the approach to each of our selection criteria and their application to the "consistency" candidates.
15. 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 – consistent with the approach recommended by the Bar Council – for different factors that were designed to measure each of the four criteria.
16. Applicants were selected for first round interview according to the box markings.
17. 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 undergraduate¹ (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.

18. 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, or a successful career since University which demonstrates academic ability) it is unlikely that an applicant with a 2:2 will secure an interview. This year, as in the last 3 years, all those selected for interview had gained a 2:1 or first in their degree(s) (and they were even split between 2:1s and firsts). There was a broad mix of law and non-law degrees².
19. 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).
20. 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.
21. 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.
22. Other factors: We were looking for evidence, anywhere in the application form, and in any context, which (aside from the other categories set out above) demonstrated that the applicants had the skills and potential necessary to secure a tenancy at 5 Essex Court. We assessed whether applicants really

¹ We have, though, retrospectively analysed the diversity statistics for the last 3 years in relation to this, and they are set out below.

² Again, see the triennial review set out below.

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 specific areas and why they were applying to 5 Essex Court in particular. We also compared 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, for example, criminal sets, did not score highly. Those who had undertaken two or more mini-pupillages in sets that do similar areas of work to us (and/or had other evidence of their interest in 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.

23. 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

24. 27 applicants were selected for interview. The interviews took place on 26th and 27th June 2015. They each lasted for about 20 minutes. The interview panel consisted of Alison Hewitt, Kate Cornell, Russell Fortt and Robert Cohen (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.
25. 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.
26. Initial questions: Candidate-specific questions were asked based on the written applications. The most impressive candidates were warm and enthusiastic, and gave concise but meaningful answers, and were able to expand on information provided in their applications (eg by reference to more recent and relevant experience). Less impressive candidates were more prolix and less articulate. One or two candidates had to resile, under the gentlest of probing, from slightly inflated descriptions that they had given of their previous experiences or degree subjects.

27. Problem Question: All candidates were given a choice between two problem questions - one based on a human rights case concerning failures in a police investigation (which had almost resulted in fatality), the other concerning a negligence/Occupiers' Liability Act case. The human rights case also raised issues of discrimination and unfair dismissal (in that the complainant had been dismissed as a result of scarring she had suffered in the attack) and the negligence case contained a possible issue of limitation.

28. The most impressive candidates applied a clear and logical structure to their responses and addressed the most salient points.

29. In relation to the HRA question the best candidates' answers:

- Recognised that the principal issues concerned the applicability of an ECHR positive obligation, the existence of a duty of care in negligence, and the possibility of an ancillary unfair dismissal/discrimination claim.
- Were aware that Article 2 considerations can arise even if the victim is still alive.
- Understood the intricacies of the decision in *Michael v Chief Constable of South Wales Police* [2015] AC 1732 – a very significant Supreme Court decision in the field of police law which had been mentioned in chambers' website news section.
- Recognised the likely tactical futility of pursuing a serving prisoner for damages, and instead suggested applications to the Criminal Injuries Compensation Scheme.
- Recognised that limitation was an issue, and were able to identify applicable legal principles.
- Understood the possible advantages (in respect of likely damages) of a claim in negligence as opposed to an HRA claim.
- Appreciated the possibility of a discrimination claim based on the protected characteristic of sex.

30. Weaker answers to this problem:

- Lacked structure.
- Failed to recognise the HRA facet of the claim at all (or until heavily prompted).
- Insisted that Article 2 was not engaged as no one had died.
- Were apparently transfixed with proceeding against the attacker and not the Chief Constable.

- Did not address limitation without considerable prompting.
- Disregarded the unfair dismissal and discrimination claims without reason.

31. In relation to the negligence/Occupiers' Liability Act problem the best answers:

- Began with a structured assessment of the various causes of action and defendants.
- Recognised the overwhelming tactical advantage of pursuing the Chief Constable and not the other parties.
- Understood the importance of the distinction between trespassers and visitors for OLA claims.
- Could advance an argument for the claimant being a visitor despite the equivocal invitation she received.
- Were able fluently to address causation concerns, and considered whether the chain of causation had been broken.
- Properly applied principles of vicarious liability.
- Dealt with limitation as an issue.

32. Weaker answers:

- Failed to adopt a coherent and structured approach.
- Became fixated on common law negligence without appreciating the OLA facet.
- Failed to recognise the issue over whether the claimant was a lawful visitor.
- Did not understand the extent of the potential causation problems.
- Only considered one injury.
- Did not notice limitation.

33. Ability to argue a point of view: We asked: "Following his recent appointment Michael Gove has indicated that he is concerned with inequalities in the justice system. Do you agree that we now have a two tier system of justice: one for the rich and one for the poor?" As a follow up question candidates were asked "If Michael Gove asked for your advice on addressing this problem, and had been told by George Osborne that he could not increase spending, what would you suggest?"

34. The best answers appreciated the nuances of Michael Gove's position, committed to an opinion on that position, and used appropriate examples to support their view. Weaker answers involved more equivocation, used surprising or irrelevant examples, and failed to draw distinctions between different areas of the justice system. Many candidates struggled to give a structured answer to this question. A number of candidates ignored the premise of the follow up question ("I would tell him that more money is needed anyway") or showed limited understanding of the issue ("It is not a good idea to encourage cases to settle"). The best answers had an obvious familiarity with the suggestions that Michael Gove has made, and expanded on those suggestions.
35. Knowledge of Chambers' practice areas: We asked "Looking across the breadth of Chambers' practice, are there any areas or issues which we work on that you are especially interested in?" As a follow up: "Looking to the future, what do you consider are the big issues which will arise for police law?"
36. Most (but not all) candidates had a good understanding of the work we do. The best answers showed a genuine appreciation of our practice complete with examples of work we had done. Good candidates were also able to meaningfully comment on the extent to which police law would be changed or developed by, for instance, repeal of the Human Rights Act, wearable video cameras for officers, or continued investigation of historic offences. Less competent answers dwelt on current issues (such as data retention) without much thought to future impact. Some candidates' answers to this question were enormously to their advantage: it became clear that they are genuinely interested in our work.
37. Non-legal question: We asked "What decade of history would you most like to live in? How would you persuade us to come and live at that time as well?" This enabled candidates to show something of their character and interests, and to use the second part of the question to demonstrate their skills of persuasion.
38. Final question: We asked "Are there any questions which you wish we had asked you? What would your answer have been?" This was to ensure that candidates felt that they had an opportunity to say everything they wished to say, and that nothing was missed. On several occasions candidates used it to tell us of valuable post-application successes. One applicant deployed it as an opportunity to address a possible concern we might have had about their manner; this showed compelling self-awareness.
39. Ten candidates were selected for second round interview.

Second round interviews

40. The interviews took place on 8th, 9th and 10th July. They each lasted for about 25 minutes. The interviewing panel comprised Jeremy Johnson QC, Russell Fortt, Georgina Wolfe and Alice Meredith. Russell, who also took part in the

first round interviews, briefed the panel with feedback on each candidate from the first round interviews.

41. Each candidate was assessed by reference to four criteria: legal knowledge, presentation, motivation and communication and interpersonal skills.
42. Initial questions: The initial questions were candidate-specific and were based on the candidate's application form and/or their performance in the first round interviews.
43. Advocacy: We provided candidates with a set of instructions, and brief case papers, to pursue an application to strike out a claim on the grounds that it was out of time and there were no reasonable grounds for bringing the claim. Candidates had 20 minutes in advance of the interview to prepare.
44. There was a considerable variation in the standard of oral advocacy. The best candidates were clear, succinct and persuasive in their submissions, identifying and prioritising the best arguments in support of the application, not advancing weaker points, responding appropriately to interventions and recognising and dealing deftly with an ethical issue that arose as a result of the instructions.
45. Ability to argue a point of view 1: We asked candidates whether they thought the awards of damages against Mirror Group Newspapers for phone hacking (eg £250,000 for Sadie Frost) were justifiable and, if so, why. If candidates answered yes we asked them to reconcile their answers with typical awards for personal injury (Judicial College guideline is around £225,000 for amputation of both legs) and breaches of article 8. If candidates answered no we asked them how such losses should be quantified.
46. Ability to argue a point of view 2: We asked: "Last week a firearms officer was acquitted of the murder of Azelle Rodney, a man he shot dead in 2005. The Commissioner of the Metropolitan Police has since called for a review of the law saying that officers who shoot people in the line of duty need protection. Do you agree? Why?"
47. These question were designed to see how candidates could think on their feet and identify not just the relevant legal principles that were in play but also appreciate and take account of the practical context and the competing policy considerations that arise.
48. Final question: We asked: "Michael Gove decides to close all the courts and put an end to the Bar. You have to consider an alternative career. What would you do?"
49. The question was designed in part to see something of the candidates' characters, but also to give them an opportunity to use the question as a vehicle to demonstrate, by reference to an alternative career path, their skills, experience and talents.

Triennial equalities and diversity review

50. Each year we use the Gateway's equality and diversity statistics to review the demographics of applicants at each stage of the process. One of the difficulties, however, is that the numbers (particularly in relation to final selection for pupillage) are so small that it is difficult to draw meaningful conclusions.
51. This year, we aggregated the figures from each of the last three years to carry out a triennial review.
52. In relation to final selection for pupillage the figures are still small, but they do allow for some analysis to be undertaken. We are content that the demographics for final selection broadly correlate with the demographics for selection for interview. We are not publishing the detailed breakdown of the demographics of those selected for pupillage for reasons of confidentiality (given the small numbers involved). However, we do publish some demographics of members of chambers on our website – see <http://5essexcourt.co.uk/diversity-and-equality/> - as well as detailed profiles.
53. In relation to demographics of those selected for interview compared to applicants (where issues of confidentiality do not arise), the figures are as follows³:

Gender			
	Female	Male	Not Specified
Applications	51%	43%	5%
Interviews	45%	41%	14%

Ethnicity						
	White (all)	Black (all)	Asian (all)	Mixed (all)	Chinese	Other/ not specified/ prefer not to say
Applications	63%	7%	11%	8%	1%	10%
Interviews	69%	1%	8%	4%	0%	18%

³ Not all rows add up to 100%, because of the effect of rounding all figures to the nearest %.

Religion									
	Buddhist	Christian	Hindu	Jewish	Muslim	Sikh	Agnostic	No Religion	Other/Prefer not to say/not specified
Applications	1%	37%	2%	2%	6%	2%	6%	29%	14%
Interviews	1%	30%	3%	2%	2%	0%	10%	29%	24%

Disability			
	Yes	No	Not Specified
Applications	4%	88%	8%
Interviews	0%	85%	15%

Sexuality				
	Heterosexual/Straight	Bisexual	Gay Man / Gay Woman / Lesbian	Prefer not to say / Not specified
Applications	83%	2%	4%	12%
Interviews	74%	2%	5%	18%

Age					
	Less than 25	25 - 34	35 - 44	45 - 54	Not Specified
Applications	31%	24%	5%	2%	37%
Interviews	33%	21%	1%	0%	45%

Child Under 18			
	Yes	No	Not Specified
Applications	7%	85%	8%
Interviews	1%	85%	14%

Primary Carer for Child			
	Yes	No	Not Specified
Applications	4%	59%	37%
Interviews	0%	62%	38%

Caring responsibilities									
	Care for Family Member (Ill health)			Care for Family Member (Old Age)			Primary Carer for Family Member		
	Yes	No	Not Specified	Yes	No	Not Specified	Yes	No	Not Specified
Applications	2%	88%	9%	2%	89%	9%	2%	59%	40%
Interviews	1%	85%	14%	1%	85%	14%	0%	62%	38%

Degree Class						
	First	Upper Second	Lower Second	Third	No minimum	Not Specified
Applications	25%	56%	6%	0%	0%	13%
Interviews	43%	43%	0%	0%	0%	14%

Law Degree			
	Yes	No	Not Specified
Applications	55%	35%	10%
Interviews	35%	47%	18%

Scholarship			
	Yes	No	Not Specified
Applications	42%	46%	13%
Interviews	73%	11%	16%

Attended state school			
	Yes	No	Not Specified
Applications	57%	31%	11%
Interviews	42%	41%	18%

Free School Meals			
	Yes	No	Not Specified
Applications	12%	70%	18%
Interviews	2%	77%	21%

Outreach Program			
	Yes	No	Not Specified
Applications	6%	79%	15%
Interviews	5%	73%	22%

Parental Job									
	Modern Professional	Clerical and intermediate occupations	Senior managers or administrators	Technical and craft occupations	Semi-routine manual and service occupations	Routine manual and service occupations	Middle or junior managers	Traditional professional occupations	Not applicable / Do not know / Not specified
Applications	19%	3%	15%	5%	3%	5%	4%	21%	24%
Interviews	25%	0%	12%	2%	2%	2%	2%	31%	22%

One or Both Parents Have A Degree			
	Yes	No	Not Specified
Applications	51%	37%	12%
Interviews	65%	16%	19%

54. We are carrying out further work in relation to the figures, but they tend to suggest that there is no significant correlation between gender/ethnicity/religion/sexuality/age and the prospects of securing an interview (and, within the limits to which accurate assessment is possible given the sample size, this is then carried through to the prospects of selection).
55. There is a strong correlation between degree result, and receipt of a scholarship, and selection for interview. Those who studied a non-law degree were slightly more successful in securing an interview (but that is not the result of any policy).
56. There is, at least possibly⁴, a weak correlation between socio-economic factors and the prospects of selection. This is a matter of concern, even though the possible correlation does not appear any stronger than for the Bar as a whole (when compared to the Bar Council statistics). We are carrying out further work in relation to this issue. Currently, interview selection is undertaken without reference to these factors. There are certain initiatives that could be adopted to seek to address them, including the possibility of guaranteeing interviews, or pre-interview assessments, to certain categories of applicant. We are not going to implement any change this year, but will keep this under review and re-analyse the figures after this year's recruitment round.

JEREMY JOHNSON QC
 For the Pupillage Committee
 21st April 2016

⁴ The proportion of "not specified" responses makes it difficult to form an assessment. It is such that there might be no correlation at all (or even, possibly, a correlation in the other direction) or that the correlation is stronger than it appears.