5 Essex Court 2016 pupillage application round

Preparation for application round

As in previous years, we 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. We have also sought to highlight the high number of successful female members of chambers - both silks (almost 50% of our silks are women, including our Head of Chambers) and juniors, as well as our rankings in the Black Solicitors Network Diversity League Table 2015[1]. We do this both to showcase the existing diversity of Chambers (which our research shows 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 changed the composition of the recruitment panel by co-opting new members of Chambers to the Committee to assist in this year's selection round and to ensure that applications were considered by a cross-section of Chambers with a good mix of those who had experience of previous rounds, and those who brought fresh ideas and perspectives.

All members of the Pupillage Committee have attended the Bar Council's training in fair selection. All those involved in recruitment (including those co-opted to the Committee) have undergone Equality and Diversity training and have studied the Bar Council's Fair Recruitment Guide.

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.

There was a drop in the number of applications we received this year, compared to previous years. Figures across the Bar have not yet been published but anecdotally it appears there has been drop in pupillage applications overall.

Selection for first interview

The selection process followed the same model as previous years, and what follows is very largely taken from previous reports published on our website, which remain valid.

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).

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.

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.

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

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

[1] http://satsuma.eu/publications/DLT2015/

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.

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 4 years, all those selected for interview had gained a 2:1 or first in their degree(s) (and they were evenly divided between 2:1s and firsts). There was a broad mix of law and non-law degrees.

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).

This year several application forms did not give details of important grades. We initially assumed that these had been deliberately omitted. We did not automatically reject these applications but we did "allocate" the lowest grade that the applicant could possibly have secured in order to proceed to their next stage of training. However, before the final selections for interview were made it transpired that this was partly due to an error in the Gateway software (and the omission not being spotted by applicants when they submitted their forms). In the light of this we took a slightly more flexible approach, but we decided not to contact each of the applicants to seek the missing details (though some contacted us).

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.

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.

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 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.

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

29 applicants were selected for interview and 28 were interviewed (one applicant having withdrawn). The interviews took place on 24th and 25th June 2016, save for one interview which was re-arranged to 4th July for compelling reasons.

Each interview lasted for approximately 20 minutes. The same panel interviewed each candidate. The panel consisted of Alan Payne, John Paul Waite, Robert Cohen and Amy Clarke.

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.

Initial questions: Candidate-specific questions were asked based on the written applications. The best candidates answered this question with palpable enthusiasm for work they had completed or events in which they had participated. Candidates who gave concise and well-judged responses focusing on relevant details impressed the panel. Less impressive candidates failed to take the opportunity of expanding upon their written application or gave answers that were too dry.

Problem Question: All candidates were given a choice between two problem questions – one raising issues of defamation, privacy and administrative law in the context of disclosures made by police, the other concerning negligence and the Occupiers' Liability Act.

Only a minority of candidates answered their chosen question with a clear and discernible structure. The panel were concerned by the number of applicants who gave relatively haphazard answers. This criticism applied to both questions.

In each case candidates were asked to identify the best option for their client. The most impressive answers answered this question; less impressive candidates gave a free-wheeling analysis of every potential claim and defence.

In relation to the public law question the best candidates' answers:

- Reflected the question actually asked.
- Appreciated that some of the issues that were academically interesting were of limited practical relevance.
- Understood that the impact of the disclosures that had been made could best be addressed by seeking urgent injunctive relief.
- Recognised that many of the public law issues could be addressed as conventional arguments of illegality, irrationality, and procedural impropriety rather than as a Human Rights Act claim.
- Noticed the potential for there to be limitation issues.

Weaker answers to this problem:

- Focused on the issue of defamation without appropriately considering the other causes of action.
- Failed to consider an injunction when specifically prompted to do so.
- Did not consider the procedure adopted by the public authorities at all.
- Focused entirely on the activities of the police without considering the behaviour of a number of third parties.
- Suggested that the best outcome would be by way of mediated settlement in circumstances in which this was not an appropriate tactic to adopt.

In relation to the negligence and Occupiers' Liability Act question, the best answers:

- Demonstrated fluency with the settled law of negligence and occupiers' liability, citing appropriate authority.
- Appreciated that the central difficulty in the question was showing breach of duty and causation.
- Gave appropriately robust advice on the weakness of the claim.
- Recognised the particular issues associated with ascribing a duty of care to police.
- Focused on the defendant most likely to be liable and able to satisfy a judgment.

Weaker answers to this problem:

- Were not based on a detailed reading of the question: some candidates made assumptions that were directly contradicted by the content of the scenario.
- Had a very poor structure.
- Incorrectly asserted that the police owe a general duty of care to members of the public to prevent crime.
- Skated over the difficulties of showing breach of duty and causation.

- Relied on irrelevant or inappropriate law, such as the Human Rights Act.

Ability to argue a point of view: We asked: "In relation to alleged sexual offences do you feel that anonymity should be accorded to a) victims and b) suspects?" Once the candidate provided an answer we asked them to argue the opposite point of view. We asked candidates to identify the point at which anonymity should be provided (i.e. at charge, upon arrest, or post conviction).

The best candidates understood the nuances of the issue and were able to relate their answers to current events. This included making reference to recent controversy surrounding the private lives of those arrested for historic child sexual abuse. Good answers were also able to draw on fundamental legal principles such as the presumption of innocence and the need for open justice in support of their answer. Weaker answers lacked structure and appeared ill thought through or inconsistent. The weakest candidates appeared not to be aware of the issue, or gave answers lacking in any fluency.

Knowledge of Chambers' practice areas: We asked: "Members of Chambers often deliver talks to groups of police officers and police solicitors. If you were a junior tenant what topic would you pick to talk about, why would you pick that topic, and how would you structure your talk?"

The best answers to this question were based on clear research into Chambers and our core specialty. The very best candidates used this as an opportunity to demonstrate their genuine enthusiasm for our work. Weaker candidates chose topics that had barely any relevance to the police or to this jurisdiction. Other less impressive answers failed to respond to each different element of the question, or gave very generic answers.

Non-legal question: We asked: "A famous and internationally successful screenwriter once said that 80% of success is simply turning up. Assuming this to be true, what makes up the other 20%?" This question was not dispositive of any candidate's success or otherwise. Some candidates dismissed the premise of the question altogether which made for less impressive answers. The better answers demonstrated deftness and lightness of touch: the panel much preferred answers that took the question in the lighthearted spirit that it was asked.

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 or to provide welcome clarification of their application.

Nine candidates were invited for second round interview.

Second round interviews

The interviews took place on 11th, 12th and 13th July. They each lasted for about 25 minutes. The interviewing panel comprised Jeremy Johnson QC, Mark Thomas, Jonathan Dixey and Georgina Wolfe.

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

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.

Advocacy: We provided candidates with a set of instructions, and brief case papers, to address a disciplinary panel on behalf of a police officer as to the appropriate sanction to impose. The papers were loosely based on the activities of the police officer "Nick Johnson" in the "Undercover" BBC television series.

The exercise was designed to test:

- Overall advocacy ability
- How the candidates structure what is effectively a plea-in-mitigation with several elements
- The candidates' persuasive skill
- Candidates' ability to pick stronger points and make them first
- How the candidates react to delicate political issues
- Candidates' awareness of likely sensitivities for a police force (given the forthcoming Public Inquiry into Undercover Policing)

- How candidates deal with difficulties raised by their instructions (ie information that the client thinks is important but, perhaps, is not).

There was a considerable variation in the standard of oral advocacy. The best candidates were clear, realistic, succinct and persuasive in their submissions, acknowledging the true gravamen of the conduct, identifying and prioritising the best arguments in mitigation, not advancing weaker points and responding appropriately to interventions.

One candidate had the sense and composure to check a detail (an abbreviation in the instructions) before embarking on the mitigation. However, having been given the answer to that point the candidate then repeatedly got that point wrong during the mitigation. Some candidates sought to mitigate in favour of the most serious possible outcome.

Ability to argue a point of view and consider policy considerations: We asked: "This year saw the second nation-wide elections for Police and Crime Commissioners. With turn-out below 30%, do you feel the introduction of PCCs can be considered a success?"

The aim of the question was to give candidates the opportunity to express a view on a current controversial police-related issue. We anticipated that strong candidates would be able to talk about some of the difficulties or challenges presented by PCCs, and might be able to demonstrate that they had looked at Chambers' PCC Guidance (which is published on our website). For those who demonstrated less understanding of the scheme, we provided a number of prompting questions.

For all candidates we asked a supplementary question about how PCC decision making might impact on the operational independence of chief officers.

A number of candidates did not really know about what the functions of PCCs are and what they do. We would not necessarily have expected candidates to know that much about PCCs before applying to us, but we would have expected the best second round candidates to have gained that knowledge in researching us for the purpose of second round interviews, partly because they are a key component of the police constitutional structure, and partly because there is, buried not too deeply on our website, a detailed brochure on the law of PCCs. The candidate who gave the best answer to this question identified the policy considerations that lay behind the introduction of PCCs, the functions of PCCs, what tools could be used to measure the success of PCCs against those policy considerations and functions, what the application of those tools would show, and then giving a rounded conclusion.

Practicalities of practice: We asked "if you are awarded tenancy, how will you go about building up your own client base?"

This question was designed to assess the candidates' attitude to practice and commercial awareness. The best candidates showed that they had considered this issue and had thought about how to achieve a high level of client care and satisfaction, as well as working well with clerks, other members of chambers and professional and lay clients.

Final question: We asked: "The James Bond brand is becoming stale. Who would you choose to be the next James Bond to refresh the franchise?" We then asked how the candidate would persuade conservative produces to buy into their choice.

This question was designed to allow candidates to show a bit of character and to end the interview on a light note. It was, though, also intended to explore how candidates could persuade a client to challenge the status quo embrace new ideas.

For the record, Idris Elba and "Jane" Bond both scored highly. One candidate suggested Judi Dench: we thought that might give rise to separation of powers issues.

For the first time this year we offered all second round interviewees individualised feedback. This was well received.

Pupillage retention

We have considered our pupil retention rates as one tool to test our selection criteria. In the last 10 years all except 2 pupils have been offered tenancy. All of the pupils who were offered tenancy accepted, and they all remain members of chambers and have developed successful practices. Each of the 2 pupils who was not offered tenancy secured at least two offers of third-six pupillages from other highly regarded sets of chambers.

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For the Pupillage Committee
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