



**5 Essex Court
2018 Pupillage
Selection Report**

Since 2012, 5 Essex Court has published a detailed report on its process for selecting pupils. Each year, the report covers the whole process from applications to final interviews. It offers an insight into our Pupillage Committee's deliberations and contains information on the questions we ask and the answers that impress us. The report provides, we hope, a useful guide for anyone seeking pupillage, whether at 5 Essex Court or elsewhere.

*For ongoing useful tips and updates, follow us on Twitter **@pupillages** and our Instagram account **@5essexcourt_pupillages** - recently launched - which aims to capture a slice of life at the Bar and give students and future barristers a unique insight into our working lives.*

Good luck with all your applications.

5 Essex Court 2018 Pupillage Application Round

Preparation for application round

1. We have, for many years, made it clear in our recruitment information that we particularly encourage applications from black and minority ethnic candidates, and from those with non-traditional backgrounds – including, in particular, those from backgrounds that are underrepresented at the Bar.
2. To that end, we continue to take part in a number of initiatives with the aim of dispelling some of the myths about the Bar, and about the pupillage process. This has included members of the Pupillage Committee, junior tenants and pupils taking part in a large number of talks and presentations to students and potential pupils. We have continued to use our twitter account (@pupillages) to continue to try and provide tips and useful information concerning 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 consulted, within Chambers, on the introduction of an Instagram account. Following the completion of this year's round we decided to introduce an Instagram account. It is now up and running – see @5essexcourt_pupillages. It was reported by Legal Cheek - <https://www.legalcheek.com/2018/09/5-essex-court-launches-first-barrister-run-instagram-account/>. Counsel magazine has asked us to write an article about it. Later this year, two junior tenants will be recording a podcast on the topic of pupillage applications in association with Middle Temple which we hope will further this aim.

3. We have also sought to highlight the high number of successful female members of Chambers - both silks (over 50% of our silks are women, including Fiona Barton QC who stepped down as Head of Chambers after serving very successfully for 6 years) and juniors, as well as our rankings in the Black Solicitors Network Diversity League Table 2015¹ and Legal Cheek's "Most" lists. 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 underrepresented 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.
4. We were delighted, in the course of the year, to be awarded Legal Cheek's inaugural "Best Chambers for Training" award for 2018. The award was the result of a survey carried out by Legal Cheek of more than 500 junior barristers, including pupils, at over 60 leading sets about their experience of training at the Bar.
5. This year we have increased our pupillage award. We had not increased our pupillage award for many years. It was substantially less than a number of other Chambers. Both formal (and anonymous) surveys that we have conducted, and informal feedback, had suggested that it did not deter applicants. We receive a very large number of applications each year and our preferred candidates almost always accept offers of pupillage (including where holding offers from other Chambers with higher pupillage awards). We want applicants to apply to us because they want to work in the areas in which we practise and because they will be happy, motivated and fulfilled at 5 Essex Court, rather than because of the amount of the award. We

¹ <http://satsuma.eu/publications/DLT2015/>

are, however, very conscious of the amount of debt that many applicants have accumulated, and the costs of living in, or close to, London. We were also concerned that, notwithstanding the overall results of the surveys that we had carried out, those without independent financial support or means might struggle to service existing debt whilst also managing continuing living expenditure, without an increase in the pupillage award. Moreover, for a number of years all our pupils have earned substantially more than our guaranteed earnings figures. For all those reasons, we decided this year to increase the pupillage award (including guaranteed earnings) to £55,000. This might still be less than a number of chambers, but is well within the top quartile. It is still set at a level where pupils are likely to exceed the guaranteed earnings figures, and will be in a position, at the end of pupillage to have a growing practice. Although we do not fund mini-pupillages, we have also started assisting with travel expenses for those who make applications and for whom the cost might otherwise be prohibitive.

6. As we have done each year, 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. This meant 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.
7. 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 (http://www.barcouncil.org.uk/media/165213/recruitment_guidev22_18sept_merged_readonly.pdf).

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. There was a slight decrease in the number of applications we received this year which we believe was consistent with overall decreases in applications across the Bar.

Selection for first interview

10. The selection process followed the same model as previous years, and what follows is very largely taken from previous reports, which remain valid.
11. 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).
12. All members of the Committee independently considered these applications with reference to our published selection criteria.
13. We then held a lengthy meeting to discuss the approach to each of our selection criteria and their application to the “consistency” candidates.
14. 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.

15. Applicants were selected for first round interview according to the box markings.
16. 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.
17. We do not automatically reject candidates with a 2:2 degree. However, 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 5 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.
18. 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).

19. 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 mooting and/or debating 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. That said, it was not helpful when candidates listed mooting under ‘interests or non-work related’. We felt mooting should appear more naturally elsewhere on the form (indeed we asked a specific question about it) and under the interests section we hoped to see candidates show some evidence of their personality away from law.

20. 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 and we found, overall, a higher number of mistakes than in previous years. 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. As in previous years, misspellings of ‘practice’ and ‘practise’ appeared in around 30% of applications. This was particularly unimpressive where the applicant had stressed their thoroughness or “eye for detail” or where they appeared in the section about why they had

applied to 5 Essex Court and were interested in our practice areas. A number of forms were written in a chatty style, for example they contained lots of abbreviations, and mis-judged humour, that were not really appropriate in a piece of formal writing. We were amused to receive our first application written almost entirely in rhyme, but we did not feel this was the best way for the candidate to convey their written advocacy skills. 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.

21. **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 mini-pupillages in, for example, criminal sets, did not score highly.
22. We consider mini-pupillages to be an important part of an applicant's experience. Through mini-pupillages,

applicants can see what life at the Bar, different practice areas, and individual chambers are really like. Candidates who have undertaken mini-pupillages can make better-informed choices about the chambers to which they apply and can usually demonstrate good reasons for selecting their practice areas. This year we were disappointed to find that many candidates had done only one and in some cases no mini-pupillages. Those who had undertaken 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. We were less impressed by candidates who simply listed off names of members of chambers they had shadowed and courts they had attended; we were much more interested in and impressed by those who were able to describe and analyse what they experienced and learnt during their mini-pupillages.

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 (eg determination, ability to perform under pressure, discipline, good time-management skills), or an understanding of the ethos and atmosphere of 5 Essex Court.

First round interviews

24. Thirty-three candidates were selected for first round interview. The interviews took place on 16th-17th March 2018. One candidate's interview was re-arranged for compelling personal reasons. Each interview lasted about 15 minutes. This was five minutes shorter than in previous years but we felt it was still sufficient time,

and it enabled us to interview more candidates than in previous years. The interview panel consisted of Jeremy Johnson QC, Georgina Wolfe and Jonathan Dixey.

25. Each candidate was asked the same questions:
 - a. A general question about the content of their application form.
 - b. A legal problem question (the candidate choosing 1 question from a choice of 2).
 - c. Should the CPS be obliged to investigate miscarriages of justice as a result of alleged disclosure failings?
 - d. It is said that everyone has a book in them. What would yours be?

26. The first question served as an opportunity for the panel to get to know the candidate and to clarify any matters arising from their application forms. It was generally well answered. The panel were particularly pleased when candidates were able to speak with clarity and enthusiasm about details mentioned on their applications.

27. The legal problem questions were designed to test candidates' legal reasoning. They were based around an incident of a police officer deploying taser but mistakenly directing it towards an innocent bystander, and a police officer publicising details of suspected offenders on social media.

28. It was not necessary to have knowledge of any specific legislation to answer the problem questions and the panel took account of the fact that some candidates were more advanced in their legal studies than others.

29. The best answers to the legal problems:
- a. Provided a well-structured analysis of the problem with appropriate emphasis on the types of legal issue that might arise.
 - b. Identified the critical features of the facts and the issues of law that arose.
 - c. Responded appropriately when challenged on aspects of the analysis.
 - d. In respect of the taser question, recognised the potential of a claim in assault as well as negligence, and clearly identified the ingredients of the torts in play, and what would have to be proved in order to establish liability.
 - e. In respect of the social media question, identified the legal risks and practical ways in which the police officer might be able to achieve the intended aims whilst reducing the level of legal risk.

Weaker answers to the legal problems:

- a. Lacked structure.
 - b. Focused on negligence and gave little attention to the possibility of a claim for assault.
 - c. Required significant prompting to address the Human Rights Act aspects of the scenarios.
 - d. Were confused and did not distinguish sufficiently between different causes of action and the ingredients that would need to be established.
30. Many candidates found the question relating to disclosure failings in criminal litigation challenging. Almost all interviewees thought that potential miscarriages of justice should be investigated. However, many struggled to identify who should carry out such investigations, how one would go about selecting cases for investigation, and what the terms of reference should be.
31. The book question was included to give candidates the opportunity to talk about a less serious and non-legal

issue and perhaps something about which they were deeply interested. In setting this question, we had debated amongst ourselves whether it might disadvantage any groups or give rise to affinity bias on our part: we were comfortable that it did not. We did find to our surprise that many candidates were not familiar with the expression “everyone has a book in them.” We offered candidates clarification where necessary and did not mark anyone down for being unfamiliar with the expression. No candidate gave an answer to this question which altered the panel’s overall view of whether they should be offered a second round interview. In general the best answers demonstrated breadth of interests and character.

32. Finally, each candidate was asked, “Do you have any questions for us or, more importantly, are there any questions which you wish we had asked you?”
33. As in previous years this question proved to be important. It gave several candidates an opportunity to update us on achievements that had arisen after they had submitted their application forms. It also allowed candidates to draw our attention to aspects of their previous experience that were especially relevant to Chambers’ practice areas.
34. Two candidates were interviewed via Skype. The technology worked tolerably well. However, we much prefer – wherever possible – to interview candidates directly and we think that this is to candidates’ advantage.
35. Of the 33 candidates that were interviewed, only 8 were put through for a second round interview. The decision as to which candidates should go through to the next round was unanimous.

Second round interviews

36. The interviews took place on 17th, 18th and 19th April. They each lasted for about 25 minutes. The interviewing panel comprised Jeremy Johnson QC, Kate Cornell, Charlotte Ventham and Beatrice Collier.
37. Each candidate was assessed by reference to four criteria: legal knowledge, presentation, motivation and communication and interpersonal skills.
38. The interview comprised:
 - (1) Questions from the application form.
 - (2) An advocacy exercise (a plea in mitigation for a defendant convicted of burglary, loosely based on "Paddington 2").
 - (3) Presenting an argument as to whether parole board hearings should be in public or private.
 - (4) Giving advice to a Chief Constable as to the retention period for conviction records.
 - (5) Telling the panel about the applicant's greatest (non-legal/non-academic) achievement.
39. Application form: The answers to the application form questions were all pretty flawless. We asked those who had taken a FRU case (or done some other oral advocacy in a tribunal setting) to tell us about a case they had done – the responses were impressive showing a depth of knowledge about the case in question, an ability clearly to identify and communicate the essential issues in the case, and a zeal for oral advocacy.
40. Advocacy: We had deliberately included some (possibly too many) bear traps:
 - (1) We had given interviewees a lot of papers – too much to be able to read and absorb everything in the time available. The intention was to see whether candidates could pick out what was

important and focus on that. Some of the feedback we received was that candidates felt overwhelmed with the amount of material. We will take that on board, but, to an extent, we had intended to put candidates under a degree of pressure and all candidates appeared to us to cope well (albeit some were better than others at discarding the irrelevant points).

(2) The brief said that the defendant maintained his innocence but was prepared to show “genuine” remorse if that would help him. The two positions are inconsistent. Those candidates who relied on remorse inevitably came unstuck under questioning.

(3) The brief said that the true value of the book was much more than the £5 alleged by the prosecution. Positively relying on the low value of the item stolen, in the light of that information, amounts to misleading the court. Those candidates who did so were very significantly marked down.

41. All candidates had a clear structure to their plea, and were highly articulate and persuasive. The best candidates avoided the problems above, stuck to the best points, and gave highly persuasive and imaginative (but the right side of realistic) reasons for not imposing a custodial sentence. Some candidates were a little unrealistic (suggesting that the defendant should perform unpaid work for the complainant, or a fine of £250 when the Defendant had struggled to raise £5). Some candidates submitted that the 4 previous theft convictions were irrelevant when considering the burglary offence. We did not find this persuasive and preferred the approach of candidates who conceded that both involved dishonesty and thought of other ways of reducing the impact of that fact.

42. A very minor point, but nobody got the correct mode of address for a Judge in the Central Criminal Court, and there was too much informal language ('you know', 'kind of', 'is it ok to').

43. Parole board question:

Things candidates did well: demonstrating flexibility in arguing the opposite of what they believed, and being able to come up with multiple points in favour of a position with which they did not agree. Being able to respond quickly and well to probing about points they had not covered. Recognising the nuances and arguing for partial privacy (eg hearing in public save for any parts that are particularly sensitive; or hearing in private but decision in public), for example, as a compromise.

Things candidates did less well: only being able to come up with one point or a very few points. Arguing points apparently for one side which were actually more supportive of the other.

44. Convictions question:

Things done well: actually advising the Chief Constable rather than just musing on the issues (this was testing different skills from the Parole Board question and the advocacy); establishing (either by working it out, or directly asking the Chief Constable) what the Chief Constable wanted to achieve by retaining conviction records, identifying what legal interests are in play (art 8; Data Protection), why proportionality is important (to justify any art 8 interference) and then giving clear and practical advice. Candidates who simply said it was disproportionate because it was a blanket policy (without identifying whether there was a legitimate aim and whether that aim could be achieved in another

way) did less well. Stronger candidates recognised the need for consistency between different Chief Constables, the advantages of bright line rules, the impracticability of individualised consideration to every conviction, but the possibility of applying different retention periods for different categories of offending (and paying particular attention to dangerous offenders), and responded well when the Chief Constable queried the advice that she was being given.

45. It was also good where candidates clarified information before giving an answer, demonstrating that they had recognised the issues and wanted to be sure of the circumstances before answering.
46. We received some feedback about this question after circulating a draft of this report that was sent to candidates. One candidate felt that it was not made sufficiently clear that this question was to be addressed as if it were a conference and had interpreted it as a policy question, and answered it accordingly. The question – which was read out to each candidate - stated ‘You are asked to advise a Chief Constable...What advice would you give?’ We felt this was sufficiently clear to enable candidates to know what was expected. Candidates were not marked down if they did not engage with the questioner as if they were actually in a conference. We did, however, want to see candidates turn their minds to practical, real-world solutions to issues that may be legally complex, and to try and provide some actual advice and consider how to explain and then put into practice often complicated legal principles. Legal analysis was an important part of the question, but so too was turning that analysis into practical advice. Accordingly, questions about why the Chief Constable wanted to keep the records, or exactly how this worked in practice

were positive signs that the candidates were thinking laterally and practically.

47. Achievement:

Things done well: it was good when candidates took the opportunity to show something of themselves that we did not already know, and demonstrated (outside of law/academia) that they had skills which are transferrable to the Bar.

Things done badly: not going far enough afield of the academia/law that we had ruled out – we specifically wanted something non-legal and non-academic, so to go too close to that was a missed opportunity.

48. We offered all second round interviewees individualised feed-back which was provided within a week of the interviews. This was well received.

49. Selection:

We selected two candidates to whom we made offers of pupillage.

JEREMY JOHNSON QC
For the Pupillage Committee
14th October 2018

NOTES:

5essexcourt.co.uk/join-us/pupillage

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