





A CAREER AT THE COMMERCIAL BAR

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WHAT IS THE COMMERCIAL BAR?

he independent Bar is a specialist referral profession offering expert legal advice and advocacy. Barristers practising at the independent Bar are selfemployed but (in most cases) group together into sets of chambers for the purpose of sharing premises and other overheads.

As the law has become more complex, members of the Bar have tended to specialise in particular areas and to form Specialist Bar Associations (SBAs), of which COMBAR is one. COMBAR now has over 1,200 members with 36 member sets of chambers and individual members from 21 sets across London, Liverpool, Manchester, Birmingham, Bristol and Devon.

The members of COMBAR practise commercial law, which is a broad term encompassing a wide range of civil (as opposed to criminal) legal matters. Commercial law is perhaps best summed up as the law which applies to business and financial disputes, and includes the law relating to banking, insurance, sale of goods, shipping, aviation, financial services regulation, companies, insolvency and international arbitration and employment. Commercial barristers may also deal with other areas of

law in which commercial issues arise, including public law, professional negligence, intellectual property, media and entertainment law and construction. Individuals may specialise in particular areas within the broad field of commercial law, and specialism tends to increase with seniority.

'Commercial law is perhaps best summed up as the law which applies to business and financial disputes.'

Commercial barristers are usually instructed by solicitors rather than by a client directly; the services they provide fall into two main areas. First, and most importantly, a barrister is a specialist advocate who will present the client's case in court. Historically, oral advocacy has been the most important element of the presentation of cases but, particularly in the field of commercial law, written advocacy has become more and more important. Secondly, as an expert in the area of commercial law he or she will advise on particular commercial legal issues (frequently, but not always, arising in the context of disputes).

WHY SHOULD YOU CHOOSE A CAREER AT THE COMMERCIAL BAR?

ou are likely to spend most of your life working. It is vital that you enjoy whatever you do. As well as being potentially lucrative, a career at the Commercial Bar is challenging and stimulating, and offers far more independence at an earlier stage than is available to most solicitors.

The Bar is a referral profession. As a commercial barrister, you are sent the most difficult problems that your solicitors have already pondered before seeking counsel's advice. You will sometimes be asked to advise how cases should be run by people much older and more experienced than you. The most interesting problems often come to your desk, with a junior solicitor having put all the relevant papers together for you to consider, which you will be able to do without the distractions of dealing with lay clients or the administrative needs of running a solicitors' firm. It is a great privilege to be in that referral position.

The quality of the work sent to commercial barristers is generally very high. Commercial cases are more likely to be well funded and prepared: the sums at stake are much more likely to justify every stone being turned. You are more likely to be provided with well-ordered papers, proper instructions, and to have sufficient time to prepare. Your solicitors are likely to be thorough

and well supported in their turn. It is no coincidence that many of the important decisions in contract and tort law over the past 30 years have been in commercial cases. These are more likely to involve parties with the resources to take cases to the higher courts and to pay for good quality legal representation to argue novel and complex points of law. Also, the enormous range of complicated factual situations thrown up by commercial legal disputes means that there is often a great variety in the work done by commercial barristers; it is fair to say that other areas of legal practice (such as crime, personal injury or family work) are normally far less varied. Finally, commercial work frequently involves advising and acting for foreign clients, which can provide opportunities for travelling and working abroad from time to time in a commercial barrister's career.

The Bar is also the front line of advocacy. There is no question that as a barrister you will have far more experience of advocacy than most solicitor advocates. Solicitors have had higher rights of audience for over ten years now and there is no suggestion that the independent Bar is under threat; it is still rare for a solicitor advocate to conduct a commercial trial or complex hearing. COMBAR is confident that

'Commercial cases are more likely to be well funded and prepared: the sums at stake are much more likely to justify every stone being turned.'

the specialisation, experience and independence of the Commercial Bar will continue to ensure that it remains the first port of call for advocacy in commercial cases. If you want to be an advocate you should come to the Bar.

For many barristers, self-employment is a huge plus. Not having a boss does not mean that barristers are less likely to work hard. But it does give you a sense of control over when and in what circumstances you work. It is in many ways much more like university than other careers: you are given work to do, and it is up to you to make sure that it is done. There is scope for taking long holidays, but few successful barristers do not work at weekends from time to time.

Finally, but importantly, commercial barristers can also volunteer their time and use their skills as advocates to assist those in need of legal advice and representation but who cannot afford to pay for it and who would otherwise

be unable properly to access the legal system. Most commercial cases will not attract public funding (Legal Aid). The Bar Pro Bono Unit is a charity which helps to find pro bono (free) legal assistance by allocating deserving cases to its panel of over 1,850 volunteer barristers (including over 240 QCs) from all over England and Wales. Barristers can also get involved in various other pro bono schemes and projects nationally and internationally (see www.probonouk.net).

There are also an increasing number of opportunities for students to get involved in pro bono work whilst still at university. Projects range from Street Law programmes to volunteering at law centres. Students should get in touch with the pro bono contact in their law department for more information. In addition, during the final year of a law degree or whilst undertaking the CPE/ PgDL and thereafter, trainee barristers can obtain valuable advocacy experience and use their advocacy skills to assist those cannot afford legal support through the Free Representation Unit (FRU). FRU provides legal advice, case preparation and representation in tribunal mainly for social security and employment law cases for those who could not otherwise afford legal assistance. All FRU's representatives are volunteers who are trained by FRU and work under the supervision of its case workers.

MYTHS ABOUT THE COMMERCIAL BAR

here are a number of myths about the Bar which have been circulating for some time. They should be treated with caution. Here are a few of them.

First Myth: "There is no point becoming a barrister because it is a dying profession"

The truth is that the Commercial Bar is in excellent health and the past 10 years have been its best ever. The introduction of solicitor advocates has not led to a decline in the work coming to the Commercial Bar, and there is no reason to suggest that it will in the future. Figures published by the Commercial Court show a remarkable consistency in the volume of new work over the past 5 years. Clients in commercial cases, which are often high-value and complex, will continue to demand the best specialist advocacy and advice. This is concentrated at the Commercial Bar.

About 80% of all cases in the Commercial Court involve at least one party from outside England and Wales and about half of the cases have no connection with England or Wales, but the parties have chosen to use English lawyers and judges to resolve their disputes. Even more foreigners arbitrate in England. Part of the reason

for that popularity is because of the split profession; London is one of the world's leading arbitration venues.

Further, in 2010 London is going to have the biggest dedicated business court in the world. The new Business Court will maintain and enhance the UK's world-class reputation as the first choice for business law and commercial dispute resolution. For the first time the specialist jurisdictions of the High Court dealing with business disputes will be brought together under one roof. The new Business Court will incorporate work carried out by the Chancery Division, the Commercial Court and the Technology and Construction Court. Within this framework, the Commercial Bar offers tremendous value for money. Barristers' overheads are very low, enabling junior barristers to make a good living at a fraction of the chargeout rate of support staff in firms both domestically and abroad. Specialisation helps both solicitors and the Bar bring business to London.

If one day in the future there is a fused profession – which we have no reason to think there will be – if you qualify as a barrister you will have had years of valuable experience. A change in the structure of the professions will not reduce the demand for that experience.

Second Myth: "Barristers don't make enough money"

While there is undoubtedly pressure on the earnings of the publicly funded Bar, you should bear in mind that commercial law is almost always privately funded. This means that commercial barristers charge the market price. The truth is that most barristers at the Commercial Bar earn a comfortable living and a significant proportion do far better than that. Publications such as the Legal 500 contain estimated figures for barristers' earnings for those who are interested.

Barristers and solicitors have a different earnings curve. At points as a commercial barrister you may be ahead or behind solicitors doing commercial work. Typically, in recent years junior barristers have earned more than assistant solicitors; solicitors who are made partners are likely to have a dramatic increase in their earnings and then be ahead; later on a handful of star commercial Queen's Counsel probably outstrip most partners.

If you are going to be a commercial lawyer, it would be quite wrong to choose which branch of the profession to go into on the basis of money. If you are successful in either branch, you will live very comfortably. The other differences are much more important.

Third Myth: "Choosing to be a barrister is too risky"

There is risk in choosing to come to the Bar. But you need to assess those risks, and the risks in other options, carefully.

The financial uncertainty in choosing the Commercial Bar as a career is not as great as it may seem. There are two years of Bar-specific training to get through: the Bar Vocational Course (BVC) and Pupillage.

BVC: For the BVC year, the four Inns of Court offer substantial scholarships. Details are available from their education and training departments. There are several hundred of these, ranging from a few hundred pounds to up to £20,000. Nearly half of COMBAR chamber members operate schemes to let their future pupils draw down part of their pupillage award in advance during the BVC year. Funding may also be available from the Bar Council Scholarship Trust in the form of interest free loans up to a maximum of £5.000: in some limited cases candidates may be able to obtain Local Authority Grants; in addition, the support4learning website (www.support4learning.org.uk) contains a large number of links to organisations offering grants, awards, bursaries etc.

MYTHS ABOUT THE COMMERCIAL BAR continued

Pupillage: COMBAR sets offer around 100 pupillages annually, with a total funding of about £2.7m. The precise details are available from COMBAR members' websites, but the vast majority of these pupillages are funded in the sum of between £30,000 and £40,000 p.a. The largest awards made by COMBAR sets are up to £45,000 p.a. Half of that money is tax free. Some sets do not count earnings from the second six months of practice in that sum. Many sets also offer guarantees as to earnings in the initial years of practice after pupillage.

Tenancy is a major prize. It affords a level of career security which is more comparable to that offered by a partnership than to being retained as an assistant in a solicitors' firm. Like all major prizes the competition is intense. But this should not deter the most able candidates who are committed to a career at the Commercial Bar. Other organisations have their own uncertainties: for example, on qualification and partnership. By this time many people have spouses, mortgages and children. The frontloading of uncertainty at the Bar is to many a plus, not a minus.

If you don't achieve a tenancy, you will have invested two years and gained a valuable training in return. Having completed pupillage at a good set of chambers is a major selling point on a legal (and a non-legal) CV. Many barristers who have completed pupillage find that they easily obtain jobs at solicitors' firms and in commerce either by retraining as a solicitor (normally it is not necessary to do the LPC and the qualification can be transferred by taking a single examination) or as an employed barrister.

Fourth myth: "I wouldn't fit in"

The work of the Commercial Bar is sufficiently difficult, and the prize of tenancy such a valuable one, that no sensible set of chambers would do anything other than attempt to choose the best candidates. We need the widest range of applicants. It is only ability, and not race, sex, school or social background that we are interested in.

The Commercial Bar has a fine tradition of being open to all, and fiercely meritocratic. The statistics for those coming into the profession as a whole show encouraging trends; currently, 47% of all pupils are female, and 18% are from ethnic minorities (a greater proportion than in society as a whole). Barristers are fiercely individualistic, and the personalities and attitudes of those who make up a set of chambers are frequently very different. No one should have any reason to feel excluded.

Fifth myth: "If I want to do advocacy I should just become a solicitor advocate"

Given that the Bar is a referral profession, barristers and commercial barristers in particular develop specialist knowledge and experience both inside and outside court, which can make a critical difference to the outcome of a particular case. As a commercial barrister as opposed to a solicitor advocate, a practitioner is more likely to develop this specialist knowledge and experience. More generally, a commercial barrister will have greater opportunity for advocacy at many different levels of court. As set out earlier in this brochure, after 10 years of solicitor advocates having higher rights of audience, it is still rare for them to conduct commercial trials or complex hearings. Written and oral advocacy is at the heart of a commercial barrister's professional life, whether it be in court, before arbitration panels, or in tribunals.

From the outset of a commercial barrister's career, a practitioner is given a large amount of responsibility, requiring both practical and academic intelligence and personal integrity. This makes the commercial bar an exciting and rewarding career choice. Solicitor advocates are often part of a much larger organisation and may

not immediately have personal responsibility for all their cases nor appear that regularly in court. As well as through firms of solicitors, barristers also increasingly receive instructions directly from legal departments of large companies and institutions, local government bodies and foreign lawyers.

Sixth myth: "I don't stand a chance unless I've been to Oxford or Cambridge"

This is a common misconception of candidates applying to the commercial bar. At the commercial bar the individual achievement of candidates is the basis upon which pupillage applications and ultimately career success depend, not the university where qualifications were obtained. Intellectual ability is recognised wherever the candidate obtained a degree or post-graduate qualifications.

Also of importance in a candidate's cv are the extra curricular activities undertaken, whether they are immediately referable to advocacy skills (such as public speaking, debating and mooting) or whether they are more general activities and achievements which enhance an individual's interpersonal or leadership skills and experience.



1

The academic stage: obtaining an undergraduate degree either in law or in another subject supplemented by a 'conversion course'.

2

The vocational stage: basic training (provided by the Bar Vocational Course) in the practical skills necessary for practice as a barrister.

3

Pupillage: twelve months of on-the-job training in a set of chambers or another approved legal organisation.

HOW TO QUALIFY AS A BARRISTER AT THE COMMERCIAL BAR

The Academic Stage

There are two main routes to obtaining the academic qualifications necessary to pursue a career as a commercial barrister. For those who want to take the direct route, the academic stage of their training is satisfied by completing a qualifying law degree. The principal alternative is to take a degree in another subject, followed by a 'conversion course' leading either to the Common Professional Examination (CPE) or the Post Graduate Diploma in Law (PgDL) (from chambers' point of view, it makes no difference whether your course is titled CPE or PgDL). A further alternative for non-law graduates is to take a two-year full-time (three-year part-time) Senior Status Law Degree.

Details of all of the institutions offering qualifying law degrees, CPE/PgDL courses and Senior Status Law Degrees are available on the website of the Bar Standards Board, together with application details (www.barstandardsboard.org.uk).

Whether you take an undergraduate degree in law or in another subject, the Bar Council's minimum academic requirement is a 2ii UK Honours degree or its equivalent. In practice, at the Commercial Bar the academic threshold is higher: each member of

COMBAR has its own selection criteria but, as a general rule, they recruit from amongst candidates with first or good upper second-class degrees. Successful candidates often (but by no means always) have postgraduate qualifications, whether from UK institutions or foreign universities.

The academic stage of training ensures that aspiring barristers have a grounding in each of the seven 'foundation' subjects identified by the Bar Council as compulsory areas of study for those entering the profession (contract, tort, property law, equity and trusts, EU law, public law and criminal law). Students on a law conversion course pack these subjects into one intensive year's study (full-time, or two years' part-time), usually leaving only limited room for exploration into other areas of the law. Law undergraduates, on the other hand, have the time – and are usually required – to range further. This does not mean that non-law graduates will be regarded by chambers as secondclass candidates when the time comes to apply for pupillage. Experience tells us time and again that ability and rigour developed in other academic disciplines transfer very successfully to the Commercial Bar and we welcome pupillage applications from law and non-law graduates alike.

If you intend to move straight on to the second and third stages of training without a break, there are some important steps to take before you complete the academic stage:

- You should undertake some mini-pupillages in chambers you may wish to apply to for pupillage
- You must join one of the Inns of Court
- You must apply for a place on the Bar Vocational Course
- You should consider applying to your Inn for funding for your Bar Vocational Course
- You must apply for pupillage

With the exception of applications for mini-pupillage in some chambers, deadlines apply to each of these steps. You will need to familiarise yourself with these deadlines – some fall early in the final year of academic study. As a rule of thumb, you must apply for a place on the Bar Vocational Course one year before you wish to start the course, you must apply to join an Inn no later than six months before you start the Bar Vocational Course, and you must apply for pupillage one and half years before the pupillage starts.

HOW TO QUALIFY AS A BARRISTER AT THE COMMERCIAL BAR continued

The Vocational Stage

Once you have successfully completed your academic studies and have been admitted to one of the Inns of Court, the next stage of training is the vocational stage. This takes the form of the Bar Vocational Course (BVC). Full-time students complete the BVC in one academic year; the part-time course runs for two years.

'The focus is on case preparation, procedural knowledge and written and oral skills.'

The purpose of the BVC is to give prospective barristers a good grounding in the practical skills and knowledge necessary to take them through pupillage and the early months of practice. The focus is on case preparation, procedural knowledge and written and oral skills.

The principal skills taught are legal research and case preparation, opinion writing, drafting of various documents, conference skills, negotiation and advocacy. The main areas of knowledge taught are civil litigation and remedies, criminal litigation and sentencing, evidence, and professional ethics.

You will also study two option subjects (from a choice of six or more subjects which vary from course provider to course provider). Teaching and forms of assessment are tailored to meet the nature of the subjects. For example, the oral skills are often taught in workshops and evaluated using videoed performances of practical exercises; procedural knowledge is usually taught in lectures and assessed using multiplechoice tests.

The Bar Council has validated ten BVC providers across England and Wales to run the BVC. Their contact details (for prospectus and fee information) and details of the timetable for applications are available on the Bar Standards Board website. Applications must be made through the Bar Council's internetbased central applications system, BVCOnline (www.bvconline.co.uk). There is significant competition for places on the BVC (Bar Council figures for the year 2004/2005 show that approximately 2,880 candidates applied with only about 1,690 enrolling) – it is therefore important to ensure that you submit your application in time to be considered in the first round of applications.

In 2007, the cost of the full-time BVC course ranged from £8,500 to £12,770 depending on the institution. Each of the Inns offers a certain number of

scholarships and awards covering part or all of this fee (see Joining an Inn). In addition, a number of COMBAR member sets allow students to whom they have given pupillage to draw down part of their pupillage award during the BVC year. Please visit the websites of the individual members of COMBAR for further information.

Pupillage

■ What is pupillage?

Pupillage is the final stage of training for the Bar. It consists of twelve months' practical, on-the-job training under the supervision of experienced barristers (referred to as pupil supervisors). Upon successful completion of the year, pupils are awarded a full practising certificate by the Bar Council and are eligible to practise as a tenant in a set of chambers.

The structure and content of pupillage varies from chambers to chambers and we are only able to give a general picture here – we encourage you to visit the websites of the individual members of COMBAR for more detailed information. See the COMBAR website www.combar.com for contact details.

The purpose of pupillage is to give pupils a broad but thorough training in the types of work done by their chambers.

Typically, pupils will spend their time with a number of different pupil supervisors in the course of the year to expose them to a variety of chambers' work: it is not unusual for pupils to change supervisor every three months, though in some chambers there are more frequent rotations and, in others, less frequent. During the course of their pupillages, pupils will be expected to complete the Bar Council pupillage checklist used by their chambers (in many COMBAR chambers, this will be the Commercial Pupillage checklist).

'The work of pupils is varied and challenging. They are expected to produce pleadings and opinions in their pupil supervisor's cases as if they were themselves instructed by the client.'

The work of pupils is varied and challenging. They are expected to produce pleadings and opinions in their pupil supervisor's cases as if they were themselves instructed by the client. They attend conferences with clients, and usually accompany their pupil supervisor to court hearings, arbitrations and mediations. They learn by direct experience how to prepare for

HOW TO QUALIFY AS A BARRISTER AT THE COMMERCIAL BAR continued

hearings and to do the necessary legal research. They are not usually expected to undertake extensive photocopying or other administrative tasks – an advantage they enjoy over most trainee solicitors.

Methods of assessment vary considerably from chambers to chambers, but continual assessment in one form or another is undoubtedly a part of every pupillage at the Commercial Bar. Pupils should expect their pupil supervisor to review and discuss their work with them on a regular basis. It is likely that they will also be asked to do work for other, often senior, members of chambers who will evaluate the product and report back to chambers. In some chambers, regular assessed exercises are also set for pupils.

This culminates in the tenancy decision, commonly made between eight and ten months into pupillage, when chambers tell their pupils whether or not they will be offered a tenancy in chambers.

■ How to apply for pupillage

COMBAR sets offer a total of about 100 pupillages annually. Details of these pupillages can be found in a variety of sources: on the websites of the individual members of COMBAR:

in the Pupillages and Awards Handbook published in March each year and available from the Bar Council; on the Bar Council's designated website (www. pupillages.com); and in the various student directories published by, for example, Chambers and Partners (Student Guide to the Legal Profession) and GTI (Target Law).

As you identify the pupillages you intend to apply for, you must check whether the pupillage provider is a member of OLPAS or not (not all members of COMBAR are). OLPAS is an on-line system for administering pupillage applications. During the OLPAS recruitment seasons (which run from March to October), the OLPAS website (www.pupillages.com) contains details of all pupillages currently offered by any set of chambers which participates in the system. It enables pupillage applicants to search for suitable pupillages online, and it incorporates an on-line application form which applicants must use to apply for pupillages offered by OLPAS members. Once an application form has been submitted, applicants and chambers are able to communicate using on-line messages.

The OLPAS system is split into two seasons: Summer and Autumn.
Applicants are allowed to make up to

12 applications for pupillage through OLPAS in each season. Many COMBAR members only participate in the Summer season, so you will need to make sure that you do not miss the applications deadline: the Summer season opens in March, applications close at the end of April and chambers announce their recruitment decisions to applicants at the start of August.

Details of the recruitment procedures and timetables adopted by those COMBAR members who do not participate in the OLPAS system can be found on their individual websites, in the Pupillages and Awards Handbook, and on the Bar Council's designated website (www.pupillages.com). There is no restriction on the number of non-OLPAS sets you are entitled to apply to.

■ Mini-pupillage

A mini-pupillage is a short period of work experience in a set of chambers. It may last for anything from 2 days to 1 week, depending on the chambers. From chambers' point of view, minipupillages can provide an opportunity to gauge the abilities of prospective pupillage applicants over a longer period than is possible in a formal pupillage interview. As a result, some sets of commercial chambers regard mini-pupillages as an important part of

their recruitment process, and a few now require prospective pupils to undertake an assessed mini-pupillage before they can be considered for pupillage.

'For the prospective pupil, mini-pupillages offer an invaluable insight into life at the Commercial Bar and – just as important – into the work and culture of individual sets of chambers within the commercial field.'

For the prospective pupil, minipupillages offer an invaluable insight into life at the Commercial Bar and – just as important – into the work and culture of individual sets of chambers within the commercial field. During a mini-pupillage you will meet members of chambers, you will probably have the opportunity to speak to current and recent pupils about their experiences as trainee barristers, and you will be given a taste of the work done in those chambers.

Given their importance to the recruitment process at the Commercial Bar, you should give careful thought

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to the chambers you apply to for mini-pupillage. You will find more information about mini-pupillages on the websites of the individual members of COMBAR

Joining an Inn

Every student must join one of the Inns of Court before starting the vocational stage of his or her training. There are four Inns: Inner Temple, Middle Temple, Lincoln's Inn and Gray's Inn. Historically, they provided training and accommodation to barristers. Today, many of their educational functions have passed to Bar Vocational Course providers. However, they remain influential societies within the profession and they continue to provide facilities, funding, advice and support to student members. They also retain the power to call students to the Bar entitling them to call themselves 'barrister' and, following completion of twelve months' pupillage, to exercise rights of audience in the higher courts of England and Wales.

Each of the Inns has an education department offering advice to its student members about all aspects of training as a barrister. The Inns also provide a number of useful career-related services including sponsorship schemes (where a student is paired

with a practising barrister who acts as a mentor), marshalling (where students spend a few days sitting with a judge in court), mooting competitions and advocacy training. In terms of facilities, each has a law library, common rooms, a bar, a dining hall (dining survives as a minor aspect of qualification for the Bar – students are expecting to dine on twelve occasions in order to be called to the Bar) and attractive grounds.

'Between them the Inns provide approximately £3.3 million in scholarships.'

Your choice of Inn has no influence on the area of law you practise in subsequently, nor on the chambers you can apply to for pupillage. For some, the choice turns on a comparison of the Inns' respective facilities or ambiance, but for many the determining factor is the scholarships and awards available at the different Inns for the various stages of training. Between them the Inns provide approximately £3.3 million in scholarships. According to a recent survey 36% of BVC students have a scholarship from one of the Inns of Court. Each of the Inns produces a guide to its own scholarships and awards and we recommend that you consider these carefully before choosing which Inn to join.



USEFUL WEBSITES

www.combar.com (this website contains links to the websites of all chambers members of COMBAR)

www.graysinn.info www.innertemple.org.uk www.lincolnsinn.org.uk www.middletemple.org.uk

www.barcouncil.org.uk www.barstandardsboard.org.uk www.pupillages.com www.targetcareers.co.uk/law www.lawcareers.net

www.support4learning.org.uk

www.barprobono.org.uk www.freerepresentationunit.org.uk

